



**ORDINARY MEETING OF COUNCIL  
TO BE HELD ON TUESDAY, 21 SEPTEMBER 2004 AT 6.30PM  
LEVEL 3, COUNCIL CHAMBERS**

**A G E N D A**

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NOTE: For full details, see Council's website –  
[www.kmc.nsw.gov.au](http://www.kmc.nsw.gov.au) under the link to Business Papers

**APOLOGIES**

**DECLARATION OF PECUNIARY INTEREST**

**CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING**

**ADDRESS THE COUNCIL**

**NOTE:** Persons who address the Council should be aware that their address will be tape recorded.

**DOCUMENTS CIRCULATED TO COUNCILLORS**

**CONFIRMATION OF MINUTES**

**Minutes of Ordinary Meeting of Council**

File: S02131  
Meeting held 14 September 2004  
Minutes numbered 456 to 468

**MINUTES FROM THE MAYOR**

**PETITIONS**

## REPORTS FROM COMMITTEES

### GENERAL BUSINESS

- i. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to have a site inspection.*
- ii. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to adopt in accordance with the officer's recommendation and without debate.*

**GB.1 148 To 152 Mona Vale Road - Lot Consolidation, Demolition Of Existing Three Dwellings And Associated Structures, Construction Of A Strata Titled 8 Unit SEPP (Seniors Living) 2004 Development With Basement Parking 1**

File: DA0411/04

Ward: St Ives

Applicant: Winter Group Pty Ltd

Owner: PJ Projects No.1 Pty Ltd

To determine Development Application DA0411/04 which seeks consent for the consolidation of 3 lots, the demolition of existing structures on site, and the construction of a Seniors Living development.

**Recommendation:**

Approval.

### EXTRA REPORTS CIRCULATED AT MEETING

### MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

### BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

### QUESTIONS WITHOUT NOTICE

### INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

### CONFIDENTIAL BUSINESS TO BE DEALT WITH IN CLOSED MEETING - PRESS & PUBLIC EXCLUDED

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**Environmental Planning & Assessment Act 1979**  
**(as amended)**

**Section 79C**

*1. Matters for consideration - general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*a. The provisions of:*

- i. any environmental planning instrument, and*
- ii. any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
- iii. any development control plan, and*
- iv. any matters prescribed by the regulations,*

*that apply to the land to which the development application relates,*

- b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c. the suitability of the site for the development,*
- d. any submissions made in accordance with this Act or the regulations,*
- e. the public interest.*

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## DEVELOPMENT APPLICATION

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### SUMMARY SHEET

<b>REPORT TITLE:</b>	148 TO 152 MONA VALE ROAD - LOT CONSOLIDATION, DEMOLITION OF EXISTING THREE DWELLINGS AND ASSOCIATED STRUCTURES, CONSTRUCTION OF A STRATA TITLED 8 UNIT SEPP (SENIORS LIVING) 2004 DEVELOPMENT WITH BASEMENT PARKING.
<b>WARD:</b>	St Ives
<b>DEVELOPMENT APPLICATION N<sup>o</sup>:</b>	DA0411/04
<b>SUBJECT LAND:</b>	148 to 152 Mona Vale Road
<b>APPLICANT:</b>	Winter Group Pty Ltd
<b>OWNER:</b>	PJ Projects No.1 Pty Ltd
<b>DESIGNER:</b>	Winter Group
<b>PRESENT USE:</b>	Residential
<b>ZONING:</b>	Residential 2C
<b>HERITAGE:</b>	No
<b>PERMISSIBLE UNDER:</b>	Ku-ring-gai Planning Scheme Ordinance
<b>COUNCIL'S POLICIES APPLICABLE:</b>	Development Code 1/2003 Housing for Older People and People with a Disability (Seniors Living) 2004
<b>COMPLIANCE WITH CODES/POLICIES:</b>	Satisfactory Level of Compliance
<b>GOVERNMENT POLICIES APPLICABLE:</b>	SEPP (Seniors Living) 2004, SEPP55, SREP20
<b>COMPLIANCE WITH GOVERNMENT POLICIES:</b>	Yes
<b>DATE LODGED:</b>	23 April 2004
<b>40 DAY PERIOD EXPIRED:</b>	2 June 2004
<b>PROPOSAL:</b>	Lot consolidation, demolition of existing three dwellings and associated structures, construction of a Strata Titled 8 unit SEPP (Seniors Living) 2004 development with basement parking.
<b>RECOMMENDATION:</b>	Approval

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**DEVELOPMENT APPLICATION N<sup>o</sup>**      **DA0411/04**  
**PREMISES:**                      **148-152 MONA VALE ROAD**  
**PROPOSAL:**                      **LOT CONSOLIDATION, DEMOLITION OF**  
   **EXISTING THREE DWELLINGS AND**  
   **ASSOCIATED STRUCTURES,**  
   **CONSTRUCTION OF A STRATA TITLED 8**  
   **UNIT SEPP (SENIORS LIVING) 2004**  
   **DEVELOPMENT WITH BASEMENT**  
   **PARKING.**  
  
**APPLICANT:**                      **WINTER GROUP PTY LTD**  
**OWNER:**                              **PJ PROJECTS NO.1 PTY LTD**  
**DESIGNER**                              **WINTER GROUP**

**PURPOSE FOR REPORT**

To determine Development Application DA0411/04 which seeks consent for the consolidation of 3 lots, the demolition of existing structures on site, and the construction of a Seniors Living development.

**EXECUTIVE SUMMARY**

Issues:                                      Access/traffic, refuse collection, stormwater, streetscape, privacy and amenity.

Submissions:                              Two objections received.

Land & Environment Court Appeal:      A deemed refusal application has been lodged with the Land & Environment Court. The hearing for this matter will be on 11 and 12 of October 2004.

Recommendation:                      Approval

**HISTORY**

The site is used for residential purposes. There is no history of the site relevant to the development application.

**Development Application History**

23 April 2004	Application lodged
28 April 2004	Colston Budd Hunt & Kayes Pty Ltd submit Statement of Environmental Effects.
30 April 2004	Colston Budd Hunt & Kayes Pty Ltd submit annexures to the Statement of Environmental Effects.

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10 May 2004 to 11 June 2004	Neighbour notification period.
11 May 2004	Letter sent to applicant requesting the written consent of the intent to grant an easement from the affected downstream property owner. Details were also requested of an internally located garbage area in accordance with DCP40 requirements.
18 May 2004	Reply from Colston Budd Hunt & Kayes Pty Ltd to Council's letter of 11 May 2004 to Winter Group Pty Ltd.
16 July 2004	Receipt of Class 1 application to the Land & Environment Court in relation to the deemed refusal of the development application.
27 August 2004	At the first callover, this matter was set down for hearing on 11 and 12 October 2004.

## THE SITE AND SURROUNDING AREA

### The site

Zoning:	Residential 2C
Visual Character Study Category:	1920-1945
Lot Number:	Lots 30, 31, 36, Lot 29
DP Number:	DP13451, DP658726
Area:	2752m <sup>2</sup>
Side of Street:	Western
Cross Fall:	East-West
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No
Section 94 Contributions:	Yes

The site is known as 148-152 Mona Vale Road, St Ives, being Lot 30, 31 and 36 of DP13451 and Lot 29 of DP658726, and is located on the north-western side of Mona Vale Road, between the intersection of Cowan Road with Mona Vale Road, and the intersection of Pentecost Avenue and Mona Vale Road. The property is large and rectangular shaped and encompasses three existing residential properties. It has an area of 2752m<sup>2</sup>, a frontage of approximately 60 metres to Mona Vale Road, a northern property boundary to Pymble Golf Course of approximately 70 metres, a western boundary of approximately 45 metres, and an eastern property boundary of 42.3 metres.

No. 148 Mona Vale Road supports a two-storey, cement-rendered brick residence and carport. Vehicular access is available from Mona Vale Road.

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No. 150 Mona Vale Road supports a two-storey brick cottage with an in-ground pool and carport. Vehicular access is available from Mona Vale Road.

No. 152 Mona Vale Road supports a two storey brick cottage with an adjoining garage. Vehicular access is available from Mona Vale Road.

The site is not listed as having heritage significance nor is it in the vicinity of a heritage item. However, the site is within an Urban Conservation Area.

### **Surrounding development**

Surrounding development is comprised of a mixture of residential, commercial and special uses. The subject allotments of land are bounded by the Pymble Golf Course on the western side. To the north of the site is a separate SEPP (Seniors Living) site which has recently been approved. This involved properties at 154-158 Mona Vale Road, and is comprised of nine apartments. This application was approved by Council at the meeting of 7 September 2004.

The adjoining property to the south (No. 146 Mona Vale Road) supports a single dwelling house.

### **THE PROPOSAL**

The proposal seeks approval for the consolidation of the three existing allotments, the demolition of the three dwellings and associated structures on site, and the construction of two buildings with basement parking. Eight x three-bedroom strata titled apartments are proposed (four within each building). Vehicular access is from a single entry/exit off Mona Vale Road. This entrance is located mid-way between the buildings.

Basement car parks are provided within both buildings. Six resident parking spaces are available in each building, with two visitor parking spaces. Lift access is also provided to the basements.

The two buildings are described as follows:

#### **Building A (South Wing)**

Building A (Units 1 to 4) is located at the point closest to 146 Mona Vale Road. The block is situated a minimum of 4.17 metres from the front boundary, a minimum of 2.0 metres from the south-western boundary and a minimum of 10.4 metres from the rear boundary adjoining the Golf Course. It is important to note that the building does not align with the property boundary, so the setbacks vary greatly. Vehicular access to the total development will be provided from the common driveway that enters the site from mid-way along the frontage. Building A is separated from Building B by a minimum of 6.5 metres.

#### **Building B (North Wing)**

Building B (Units 5-8) is located closest to 154 Mona Vale Road. The building will be set back from Mona Vale Road by 5.1 metres at its closest point, a minimum of 2.20 metres from the

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northern boundary (adjoining 154 Mona Vale Road), and a minimum of 10.4 metres from the rear boundary adjoining the Golf Course. Again, the building does not align with the property boundary, so setbacks vary greatly.

## **CONSULTATION - COMMUNITY**

In accordance with Council's Notification Policy, owners of surrounding properties were given notice of the application. In response, two letters were received:

1. PJ Harding, Pymble Golf Course
2. Storey and Gough solicitors, on behalf of Mr and Mrs Dolphin, 146 Mona Vale Road.

The submissions raised the following issues:

### ***Concern in regard to any trees being cut down just to provide a better view of the Golf Course.***

Council's Landscape Development Officer supports the proposal. However, it is noted that the perimeter screen planting will need to be increased to visually soften the impact of the development to the neighbouring properties and the adjoining golf course (*refer to Condition 69*).

### ***Concern in regard to the adequacy of the site analysis plan***

Concern has been expressed that the site analysis plan is inadequate and does not adequately show: privacy of adjoining sites (location of windows, private open spaces, location of facing doors and windows); the difference in levels between the site and adjacent properties at their boundaries; major trees on adjacent properties; and the built form and character of adjacent development.

The difference in levels has been distinguished on the northern neighbouring property due to an application having been lodged for that site. With respect to the property at No. 146 Mona Vale Road, levels were provided of the ridge height of the existing dwelling. Levels have also been provided of the proposed units.

A site visit has been carried out to determine impact upon the visual and acoustic amenity of surrounding neighbouring properties and the impact upon windows and private open spaces of adjoining properties and this is addressed below.

The site analysis plan does not provide details of vegetation on neighbouring properties, however, the Site Survey of Existing Trees does provide this information.

### ***Concern as to neighbourhood amenity and streetscape***

Concern has been expressed that the development fails to provide an adequate rear setback ; that the buildings do not positively contribute to the quality and identity of the area; that proposed building A is significantly closer to the side boundary of 146 Mona Vale Road leading to increased height, bulk and scale, and that the proposed building heights are not compatible in scale with adjacent development.



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These points are addressed below. It is considered that the buildings will suitably relate to the character and identity of the area and, likewise, that the setbacks and heights are acceptable.

***Visual and acoustic privacy***

The owners of No. 146 Mona Vale Road contend that the balconies to the south-west of Building A will overlook their property and that as some of these balconies are the only balconies to living spaces this will impact upon their acoustic privacy. It is considered that the balconies will indeed have possible impact on the neighbours privacy. Therefore a condition is recommended to ensure suitable privacy treatment (*refer to Condition 59*).

***Solar access***

The owners of No. 146 Mona Vale Road contend that the development will unduly overshadow their property.

Shadow diagrams have been provided with the application. These demonstrate that the neighbouring property at 146 Mona Vale Road will be overshadowed in the morning but will gain full sunlight from 12pm onwards. This is considered acceptable and meets Council's requirements.

***Visual dominance/separation distances***

There is concern that the development fails to provide for sufficient side setbacks and setbacks between the two buildings. There is further concern that the buildings appear as one from Mona Vale Road.

It is considered that the side setbacks are sufficient to maintain a sense of openness and landscaping between dwellings. The separation distance between the two proposed buildings is also considered to be adequate and ensure that the two dwellings do not read as one.

**CONSULTATION - WITHIN COUNCIL**

**Heritage**

On the basis that the site is within Urban Conservation Area No 16, Council's Heritage Advisor has reviewed the Development Application. His comments are as follows:

*Historically the land was acquired by the Pymble Golf Club with the intention of funding construction of the Golf Course partly through subdivision of part of the land for high quality residences. The estate was offered for sale in June 1925. Only 26 lots sold by 1930. The main development period was in the 1930s.*

*It was intended that the buildings built on the estate would be of high quality and substantial size to continue the tradition of large estates in the area. Lots were sold with a restrictive covenant limiting erection of buildings with the following conditions:*

- *No advertising signs;*
- *Brick or stone with slate or galvanised iron or other approved roofs;*

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- *Must cost not less than one thousand two hundred and fifty pounds;*
- *Must contain a private dwelling house or shop.*
- *Approval from the vendor must be obtained before erecting any building;*
- *Only one main building;*

*Several purchasers in the Estate bought two or more lots with the intention of building grand houses with complimentary gardens to reflect the status of the Golf Club.*

*I inspected the exterior of the subject houses in Mona Vale Road and offer the following comments: No 148 is a large two storey rendered brick house, built c1930s with Art Deco influences. It has a high fence along the Mona Vale frontage and a later addition to the front façade is evident.*

*No 150 is a large face brick two storey house with Art Deco elements. It has a high fence along Mona Vale Road and the drive and paths are crazy pattern stone flagging, similar to other houses in the area. This house has high quality brickwork featuring curved bricks to the chimney and other areas. This house could be considered to have individual aesthetic significance and might reach the threshold for local heritage significance.*

*No 152 is a more recent house set behind a high brick fence.*

*The houses at No 148 & 150 would be graded as contributory to the Pentecost UCA and are consistent with the second phase of development of the Pymble Golf Links Estate. Although Council has not completed the UCA study on this precinct, I believe these houses would be contributory and demolition should be avoided.*

*The neighbouring house at 146 is a fine example of a face brick interwar old English style. The house at 154 is also a fine inter war old English style building, but is painted brick with green roof tiles. The proposed development would not fit well with these buildings.*

*The proposed dwellings are designed in two blocks of four dwellings with basement car parking and lift access. The dwellings are designed to take advantage of the north/east orientation over the golf course with terraces featuring planters and water features. From Mona Vale Road, the buildings would appear as 2 large broad and bulky buildings changing the exiting streetscape from 3 smaller buildings. Due to the fall on the site, the north eastern building (building B) would be lower in the landscape. The proposed fence is consistent with the existing.*

*The proposed Golf Course elevations would present as two large bulky buildings. The elevated presentation would be perceived due to the height of the site in relation to the Golf Course and the basement parking.*

*I can not support demolition of No 148 or No 150 as they are contributory items in the National Trust UCA and their demolition would erode the integrity of the UCA. I am not concerned with the demolition of No 152 as that building is fairly recent and does not date to the earlier (1930s) development of the precinct.*

*If demolition occurs, the proposed buildings from the Mona Vale Road elevation are larger and bulkier than the existing and present as fairly plain but due to the slope on the site and the high fence would not have an unacceptable impact. I am more concerned at the elevation to the golf course which would appear as large bulky buildings and would further erode the integrity of the National Trust UCA. I do not support the scheme for those reasons.*

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**Conclusion**

*I can not support demolition of No 148 or No 150 as they are contributory items in the National Trust UCA and their demolition would erode the integrity of the UCA. I am not concerned with the demolition of No 152 as that building is fairly recent and does not date to the earlier (1930s) development of the precinct.*

*If demolition occurs, the proposed buildings from the Mona Vale Road elevation are larger and bulkier than the existing and present as fairly plain but due to the slope on the site and the high fence would not have an unacceptable impact. I am more concerned at the elevation to the golf course which would appear as large bulky buildings and would further erode the integrity of the National Trust UCA. I do not support the scheme for those reasons.*

It is considered that whilst the existing buildings at No.148 and 150 Mona Vale Road are contributory items in the National Trust Urban Conservation Area. However, such contributory items have no statutory protection. The two dwellings are not listed in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance as heritage items. In the circumstances, it is not considered a valid reason to refuse the application. However, **Condition No. 32** does require a photographic archival of the existing houses.

The presentation of the two buildings to the golf course is considered acceptable given the following considerations:

1. The buildings are stepped down the site and are a maximum of two storeys;
2. The existing and proposed significant tree planting along the rear boundaries together with proposed landscaping will soften the impact upon the golf course;
3. The proposal has a maximum ceiling height of 7.0 metres and a floor space ratio of 0.49:1;
4. The intense landscaping at the rear of the site, combined with the planter boxes located around the terraces, will assist in minimising the impact of the glazing which is presented to the golf course.

**Landscaping**

Council's Landscape Officer has reviewed the Development Application and has commented as follows:

**The site**

*It is proposed to demolish the existing structures and construct two, two storey residential flat buildings with basement car parking, comprising eight (8) units on the existing three allotments with a total area of 2 752sqm with vehicular access from Mona Vale Rd. The site is characterised by a mature landscape setting with predominantly exotic trees and shrubs within formal garden beds and lawn expanses. The site adjoins Pymble Golf Course at the rear (west) with expansive views over the course and surrounds.*

**Impacts on trees/Trees to be removed**

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*The proposed development will result in the removal of seventeen (17) trees and large shrubs of the fifty one (51) identified as being located on or associated with the site. Of the trees proposed for removal the most significant within the site is a mature Celtis australis (Hackberry) #26, located adjacent to the southern (side) site boundary of No. 150 Mona Vale Rd. The tree is approximately 10.0m high and outwardly appears to be in good condition. Celtis spp is identified within Councils Weed Management Policy as an Urban Environmental Weed and is required to be removed as a condition of development consent (**refer to Condition 1**). There is no objection to the trees removal. As evidenced on the development site, this one tree has been the parent for numerous others on site from self seeding, which is why the species has been placed within the Weed Management Policy.*

*Other trees nominated for removal are not significant within the broader landscape. Trees to be removed include numbers 6, 11, 22 and 30 Celtis australis (Hackberry) identified within councils Urban Environmental Weed Policy to be removed as part of DA consent conditions (**refer to Condition 1**).*

*#9 Thuja spp. (Bookleaf Pine), located adjacent to the eastern (front) site boundary of #152 Mona Vale Rd. The tree is approximately 10.0m high and outwardly appears to be in moderate condition. The tree is hindering the growth of other potentially more significant trees.*

*#10 Corymbia citriodora (Lemon scented gum) located within the front garden of 152 Mona Vale Rd. The tree is exempt under councils TPO*

*#s25, 27, 28, 36, 38, 40, 41 and 50 are all exempt under councils TPO due to their size, species and/or location.*

Landscape Plan

*The landscape plan submitted with the application overall, is satisfactory. However it is required that perimeter screen planting be increased to visually soften the impact of the development to the neighbouring properties and the adjoining golf course (**Refer to Condition No. 66**). The landscape plan does not show any treatment along the Mona Vale Rd site frontage with regard to the existing or any proposed walls/fences. As shown/proposed there is NO front fence for the site. Is this really what is proposed? As Mona Vale Rd is a busy six lane arterial road, a substantial front fence is warranted, yet not proposed. Further information is required, and if a wall is proposed it is to be shown on the landscape plan. It is also required that the site accommodate a minimum of fifteen 'canopy' trees able to attain a minimum height of 13.0m, of which two thirds should be native endemic species. The proposal is for four canopy trees to be retained, another eleven (11) canopy trees are required to be planted on site (**refer to Condition No. 67**).*

Tree replenishment

*A total of fifteen (15) canopy trees to satisfy councils Tree Replenishment Policy is required for the site. Four trees exist on site that are to be retained, another eleven (11) are required to be planted on site.*

Drainage Plan

*The submitted drainage plan proposes a drainage line within the critical root zone (CRZ) of a mature Eucalyptus microcorys (Tallowood) located within the front garden of #152 Mona Vale Rd*

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*which has a reduced level (RL) one metre below ground level. This is unacceptable and cannot be supported as there will be substantial adverse tree impacts due to root severance. It is required that the drainage line be relocated to be immediately behind the proposed retaining wall and the pit reduced level (RL) raised one metre (refer to Condition No. 70)*

*Another drainage line with a pipe diameter of 225mm is proposed adjacent to the rear site boundary within the critical root zone (CRZ) of two mature trees located on the adjoining golf course. If approved as proposed this will result in significant root severance which will adversely impact the health of the tree and may cause instability. It is required that no drainage lines be located within 5.0m of either tree (refer to Condition No.55).*

*Subject to conditions the application can be supported.*

With regard to the comments on the front fence, part of the fence is to remain *in situ*, whilst other parts are to be filled in. It is proposed as a condition of consent that further details are submitted detailing the fence (*see Condition No.82*).

**Engineering**

Council's Development Engineer has reviewed the Development Application and has commented as follows:

*This Seniors Living proposal raises concerns for Development Engineers for the following reasons:*

*The proposed access and circulation driveways between the roadway and the two basement parking areas do not satisfy the acceptable intersection sight distance requirements of clause 2.5.2 (c) of Australian Standard 2890.1 - "Off-street car parking". This is in relation to sight distance requirements at circulation roadway and ramp intersections, particularly at the proposed 'T' intersection on the shared access driveways.*

*The proposed 'T' intersection conflict point on the shared access driveway is hazardous for users, particularly senior and disabled drivers who may have slightly slower reaction times. This is having regard to the following issues in respect to the single width approaches and driver sight lines at the proposed 'T' intersection:*

*From the northernmost basement parking area, vehicles will be travelling upwards into the shared driveway intersection point on a grade of 17%, with a solid wall on the right and left.*

*From the southernmost basement parking area, vehicles will be travelling upwards into the shared driveway intersection point on a grade of 14% with a solid wall on the left and the right.*

*From the Mona Vale roadway, vehicles will be travelling downwards into the shared driveway intersection point on a grade of 20% with a solid wall on the left and the right.*

*A vehicle commencing travel down the access driveway from the road would not be aware of a vehicle or vehicles commencing an egress from either or both of the main basement parking areas (given the right angle curves in the access driveways and the alignment of the driveway crossing) and accordingly, such vehicles could not pass on the shared access driveway without the need to reverse back down into a parking area or up into street driveway crossing.*

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*The inside radii of the curved circulation ramps between the two main parking areas and the shared common driveway does not comply with the minimum dimension requirements (4m minimum inside radius) specified in figure 2.9 of Australian Standard 2890.1 - "Off-street car parking". This exacerbates the issues discussed in points (a), (b) and (c) above*

*The Applicant has not provided an adequate internal garbage storage and collection point for the development, having regard to the specific collection requirements of Councils Manager, Waste Services (refer to memo for Colin Wright dated 2 July 2004), and Councils DCP40 for Waste Collection.*

*The proposed Stormwater Concept Plan (refer plans SW-01 and SW-02 by MYD Consulting Engineers, issued 16/04/04) does not comply with Councils Water Management Development Control Plan 47 (adopted March 2004), and specifically the requirement to provide water re-use (toilets and garden irrigation) for Seniors Living development.*

*This is DA has been designed on a 'blank canvass' site. It is considered that under these circumstances there is sufficient justification to require the Applicant to provide adequate and safe amenities for future residents and service providers. As a minimum requirement compliance with documented standards and policies, namely Australian Standard 2890.1 - "Off-street car parking" and Councils DCP 40 Waste Management, is not considered unreasonable or onerous. Further, the precedent of Council officers accepting such non-compliances extends beyond the issues associated with this site alone.*

*Notwithstanding the above, a deemed refusal has been lodged on this site by the Applicant and the matter is proceeding to Court. As I understand, the above issues are the only matters which would be raised in Court. Under these circumstances, and in lieu of recent decisions in Court, the Director, Environment and Regulatory Services has suggested that suitable engineering conditions of consent be applied which address the above issues raised. This may in fact save Council considerable time and resources by expediting the Court process.*

Conditions of consent were therefore recommended and are attached (*refer to Conditions 36-46, 71-80, 90-109*).

## **CONSULTATION OUTSIDE COUNCIL**

### **NSW Police - Ku-ring-gai Traffic Services**

The NSW Police – Ku-ring-gai Traffic Services have made the following comments:

*With reference to the above-referred matter, in principal there are no police objections to this development.*

*However, could consideration be given to conditioning the approval:*

*During demolition and construction, an accredited traffic control person to assist pedestrians crossing the driveway. Using Mona Vale Road on route to the Shopping Centre and nearby Church.*

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*Additional consideration: Mona Vale Road at this location carries a large volume of traffic during weekends and afternoon peak period (sic).*

A suitable condition has been included in the recommendation addressing the abovementioned concerns (*refer to Condition 39*).

## Roads and Traffic Authority

This proposal has been referred to the Roads and Traffic Authority as it is an Integrated Development. The Roads and Traffic Authority have not provided comments on the proposed development.

## PROVISIONS OF RELEVANT LEGISLATION

### 1. Environmental Planning Instruments

#### State Environmental Planning Policy (Seniors Living) 2004

The application requires development consent under the State Environmental Planning Policy (Seniors Living) 2004.

**Clause 18** of SEPP (Seniors Living) 2004 states that development may be carried out only with development consent unless another planning instrument allows the development without consent. The proposed development requires the consent of Council pursuant to the provisions of the Ku-ring-gai Planning Scheme Ordinance.

**Clause 25** of SEPP (Seniors Living) 2004 requires that Council must not consent to a development application made pursuant to this chapter unless satisfied by written evidence of certain site related requirements have been met. Compliance with the requirements is indicated in the table below.

Clause	Requirement	Compliance
Clause 25(1)(2)	Access to shops, banks, other retail and commercial services, community services and the practice of a general medical practitioner.	Yes. The proposal is within 400 metres of St Ives Shopping Centre. Detailed evidence is provided in the Statement of Environmental Effects and the Access Report.

**Clause 27(1)** of SEPP (Seniors Living) 2004 states that Council must not consent to a development application unless satisfied by written evidence that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewerage.

Satisfactory written evidence of the above has been provided by the applicant.

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**Clause 28** of SEPP (Seniors Living) 2004 requires a site analysis be carried out and submitted to the consent authority. A site analysis has been submitted. This analysis, together with other documentation of the development application, provides all the necessary information for assessment purposes under Clause 28 of SEPP (Seniors Living) 2004.

**Clause 30** of SEPP (Seniors Living) 2004 requires that consent must not be granted unless Council is satisfied that adequate regard has been given to the following design principles:

**Neighbourhood amenity and streetscape**

The proposed development will maintain the neighbourhood amenity and appropriate residential character by virtue of the following:

1. The building setbacks which are proposed to Mona Vale Road are varied and articulated, thereby avoiding a lengthy frontage.

The existing front setbacks for 148, 152 and 154 Mona Vale Road are 4.2, 6.0m and 8.0m, respectively (as measured to their garages). This varies, however, due to the angle of the dwellings. The proposed front setbacks are 3.2m to Building A and 5.6m to Building B. Again, this is as measured at the closest point to Mona Vale Road. The main bulk of both buildings does not begin until 9.0 metres from the front boundary.

The setbacks provided will allow for suitable screen planting, as set out within the landscaping plan. The varied setbacks will also allow for some surveillance from the closest units to the pedestrian and vehicular entrance (that being Units 2 and 4).

2. The proposal will present as two individual two storey buildings to Mona Vale Road, of which the first storey and only part of the ground storey will be seen because of the existing and proposed fence.
3. The height of the proposal will be consistent with that of the dwellings to either side of the subject property. The approved SEPP (Seniors Living) development at 154-158 Mona Vale Road has a RHL of RL174.5 to RL175. The dwelling at No. 146 Mona Vale Road has an RL of 177.7. This is consistent with the slope of the land.

The subject sites existing and proposed heights are as follows:

Property No	Existing Ridge Height Levels	Proposed Ridge Height Levels
148 Mona Vale Road	RL175.5	RL174.7
150 Mona Vale Road	RL175.2	RL174.7
152 Mona Vale Road	RL172.4	RL176.6

The height at 152 Mona Vale Road will be higher than before at RL176.6, however, the proposed neighbouring development has a height of 174.5, which is not significantly different.



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4. The proposed development will retain, where reasonable, significant trees.
5. The development proposes sufficient and appropriate landscaping to enhance the landscape character of the streetscape.

**Visual and acoustic privacy**

The designer has considered the visual and acoustic privacy of neighbours and intended residents through the following:

1. Block A (the southern-most block) is located at varying distances from the south-western boundary of No.146 Mona Vale Road. At the closest point it is located at 2.0 metres from the boundary.

The neighbouring dwelling at 146 Mona Vale Road is orientated towards the subject site, with a number of windows and doors looking over the site towards the golf course. For this reason the proposed balcony to the lounge and dining area for Unit 3 does not relate well to the neighbouring dwelling, and would lead to a loss of privacy and amenity for both the neighbouring dwelling as well as the intended residents of Unit 3. Therefore, privacy screens should be installed to avoid any detrimental impact on privacy (*refer to Condition 59*).

Furthermore, Bedroom 3 of Unit 3 would potentially create adverse impact on the privacy and amenity of the neighbouring property at 146 Mona Vale Road. Hi-light windows should be installed to avoid any potential impact on the privacy of the neighbouring property (*refer to Condition 59*).

2. The majority of living areas and private open space areas are located and orientated towards the golf course, with terraces facing the golf course. Where living areas are located to the sides of the units (facing neighbouring development), privacy screens and/or landscaping will avoid any adverse impact. This applies to Unit 3 of Building A (*refer to Condition 59*).
3. The development has its vehicular entry/exit point located in the middle of the site, between the two units. The driveway will not adversely impact upon the acoustic privacy of the neighbours.
4. Planter boxes and water features are provided to the upper floor terraces to Units 3, 4, 7, and 8 to minimise the potential for overlooking into the adjoining terraces at lower levels. This also helps to soften and articulate the appearance of the buildings as perceived from the golf course.

**Solar access and design for climate**

The proposed development will ensure at least 3 hours of daylight to the main living areas and private open space of the adjoining southern property at 146 Mona Vale Road, as no overshadowing from the development will be cast upon the adjoining dwelling from around

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11.30am/12.00pm on 21 June. This is further aided by the provision of the private open space for 146 Mona Vale Road to the rear of the dwelling, which will experience very limited overshadowing.

The future residents of the proposed development will receive adequate daylight to main living and private open space area due to the orientation of the units towards the north/north-west.

### **Stormwater**

The proposal will control and minimise disturbance and impacts of stormwater. Pymble Golf Club, the downstream property, has confirmed that approval would be granted to providing a drainage easement through the golf course.

### **Crime prevention**

Limited visibility of persons approaching the units can be achieved generally due to the orientation of the living areas of the units away from Mona Vale Road, with bedrooms facing Mona Vale Road. Only two of the units (Numbers 2 and 4) will have suitable views of the street and vehicle and pedestrian entries.

The shared entries within each are also not able (from the plans provided) to be locked. This provides some problem for security of residents when in the entrance area. It is suggested that this design be amended through suitable condition ensuring the provision of a locked shared entrance area (*refer to Condition 81*).

The units can also be designed so that approaching persons can be viewed from within by the provision of “peep” holes within the doors to the Units (*refer to Condition 35*).

### **Accessibility**

The proposal is designed so that each unit is accessible by lift from the basement parking area or by pathways from two pedestrian entrances at Mona Vale Road.

The accessibility report submitted in support of the proposal confirms that obvious and safe pedestrian links are provided from the site that provide access to public transport services and local facilities.

Safe and attractive environments for pedestrians and motorists with convenient access and parking for residents and visitors have been provided by the basement carpark and landscaped pathways to unit entries.

### **Waste management**

A centralised waste storage area has been provided at the entranceway to the site. The waste storage area would appear adequate for recycling of materials as required within the SEPP. A condition has also been imposed to ensure that a garbage storage area and collection area is

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provided within the site as required by Council's DCP40 for Waste Collection (*see Condition 71*).

#### Part 4 Development Standards

**Clause 38(i)** provides that a consent authority must not consent to a development application made pursuant to this chapter unless the proposed development complies with the standards specified in this clause.

Clause	Standard	Proposal	Compliance
38(2) - Site size	Minimum 1,000m <sup>2</sup>	2757m <sup>2</sup>	YES
38(3) - Site Frontage	20 metres	60 metres	YES
38(4) - Height in zones where residential flat buildings are not permitted	8 metres or less	Building A – 7.0 metres Building B – 7.0 metres	YES YES
38(4)(b) - Height in zones where residential flat buildings are not permitted	Not more than 2 storeys in height adjacent to a boundary of the site.	2 storeys	YES
38(4)(c) - Height in zones where residential flat building are not permitted	A building located in the rear 25% area of the site must not exceed 1 storey in height.	Does not exceed one storey	YES

**Clause 51** provides that a consent authority must not consent to a development application made pursuant to this chapter unless the proposed development complies with the following standards:

Clause	Standard	Proposal	Compliance
52(2) - Wheelchair access	If the whole of the site does not have a gradient of less than 1:10, a percentage (which is not less than the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the great) of any dwellings must have wheelchair access by a continuous	All dwellings have a continuous path of travel to an adjoining public road with a maximum ramp gradient of 1 in 14.	YES

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Clause	Standard	Proposal	Compliance
	accessible path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents)		
52(4) - Common areas	Wheelchair access to be available to all common areas and facilities.	Wheelchair access available to all common areas.	<b>YES</b>
53 - Identification	If the site includes more than one street, street signage incorporating house numbers must be provided at each intersection.	The site only fronts one street.	<b>NOT APPLICABLE</b>
54 - Security	Pathway lighting must be designed and located to avoid glare.	Proposed ( <i>refer to Condition 114</i> ).	<b>YES</b>
55 - Letterboxes	Must be lockable and situated on a hard standing area and be wheelchair accessible.	A centrally located, lockable, accessible letterbox is proposed adjacent to the entry path ( <i>refer to Condition 114</i> ).	<b>YES</b>
56 - Private car accommodation	Car parking spaces must have: <ul style="list-style-type: none"> <li>be not less than 6m x 3.2m or being capable of adapted.</li> <li>internal clearance of 2.5 metres</li> <li>height at entry 2.3 metres</li> <li>any garage must have a power-operated roller door, or a power point to allow the above at a later date</li> </ul>	Car parking spaces have: <ul style="list-style-type: none"> <li>area 6m x 3.2m</li> <li>internal clearance in excess of 2.5 metres</li> <li>height at entry of 2.4m</li> <li>Proposed as part of the development, and can be conditioned where required.</li> </ul>	<b>YES</b>  <b>YES</b> <b>YES</b> <b>YES</b>
57 - Accessible entry	Every entry must: <ul style="list-style-type: none"> <li>not have a slope that exceeds 1:40</li> <li>comply with clauses</li> </ul>	Slope at entrance does not exceed 1:40. Appropriate door handles can be	<b>YES</b>

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Clause	Standard	Proposal	Compliance
	<p>4.3.1 &amp; 4.3.2 of AS 4299</p> <ul style="list-style-type: none"> <li>have entry hardware which complies with AS 1428</li> </ul>	provided as condition of consent as noted within Statement of Environmental Effects.	
58 - Exterior doors	All external doors to a dwelling must be keyed alike.	Proposed within Statement of Environmental Effects ( <i>refer to Condition 114</i> ).	<b>YES</b>
59 - Interior general	<ul style="list-style-type: none"> <li>internal doors must have a clearance of 800mm</li> <li>internal corridors must have a width of at least 1000mm</li> <li>the width at internal door approaches must be at least 1200mm</li> </ul>	<p>* Internal doors will have a clearance of 800mm.</p> <p>* Internal windows will have a minimum width of 100mm.</p> <p>* Internal door approaches minimum width of 1200mm. (All as proposed within the Statement of Environmental Effects)</p>	<p><b>YES</b></p> <p><b>YES</b></p> <p><b>YES</b></p>
60 - Living room & dining room	<p>A living room in a self contained dwelling must have:</p> <ul style="list-style-type: none"> <li>a circulation space of at least 2250mm in diameter and as set out in clause 4.7 of AS 4299</li> <li>a telephone adjacent to a general power outlet</li> <li>a potential illumination level of 300 lux</li> </ul>	As noted within Statement of Environmental Effects – able to comply with circulation space; telephone and lux levels can be controlled via condition of any consent ( <i>refer to Condition 114</i> ).	<b>YES</b>
61 - Kitchen	<p>A kitchen in a self contained dwelling must have:</p> <ul style="list-style-type: none"> <li>a width of at least 2.7 metres and a clear space between benches of 1450mm</li> <li>a width at door</li> </ul>	Proposal complies as stated in the Statement of Environmental Effects. Can be controlled via conditions of any consent ( <i>refer to Condition 114</i> ).	<b>YES</b>

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Clause	Standard	Proposal	Compliance
	<p>approaches of 1200mm</p> <ul style="list-style-type: none"> <li>• benches that include one work surface that is at least 800mm in length and the height of which can be adjusted from 750mm to 850mm</li> <li>• a tap set that is located within 300mm of the front of the sink and comprises of a lever type mixing tap</li> <li>• a thermostatic mixing valve for the hot water outlet</li> <li>• a cook top with either front or side controls which have a raised cross bar. The stove is also to be provided with an isolating switch</li> <li>• a work surface adjacent to the cook top which is at the same height and at least 800mm in length</li> <li>• an oven that is located adjacent to a work surface the height of which can be adjusted</li> <li>• “D” pull cupboard handles</li> <li>• General power outlets at least one is a double outlet within 300mm of the front of a work surface and one which is for a</li> </ul>		

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Clause	Standard	Proposal	Compliance
	refrigerator which can be readily accessed once installed		
62 - Main bedroom	<p>At least one bedroom within the dwelling must have:</p> <ul style="list-style-type: none"> <li>• an area sufficient to accommodate a wardrobe and a queen sized bed, with an area at least 1200mm wide at the foot of the bed</li> <li>• 2 double general power outlets adjacent to the head of the bed</li> <li>• 1 general power outlet on the wall opposite the bed</li> <li>• a telephone outlet and power outlet next to the bed on the side closest to the door</li> <li>• a potential illumination of 300 lux</li> </ul>	Proposal complies as stated in the Statement of Environmental Effects. Can be conditioned as part of any approval ( <i>refer to Condition 114</i> ).	<b>YES</b>
63 - Bathroom	<p>A bathroom must have:</p> <ul style="list-style-type: none"> <li>• an area that complies with AS 1428</li> <li>• a slip resistant floor</li> <li>• a shower recess at least 1160mm x 1100mm or that complies with AS 1428 or clause 4.4.4 and figures 4.6 and 4.7 of AS4299. the recess shall incorporate the following: <ul style="list-style-type: none"> <li>o no hob</li> </ul> </li> </ul>	Proposal complies as stated in the Statement of Environmental Effects ( <i>refer to Condition 114</i> ).	<b>YES</b>

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Clause	Standard	Proposal	Compliance
	<ul style="list-style-type: none"> <li>○ waterproofing</li> <li>○ floor waste</li> <li>○ the ability to provide a grab rail</li> <li>○ suitable taps</li> <li>○ can accommodate a hand held shower on a slider rail</li> <li>○ can accommodate a folding seat</li> <li>● thermostatic mixing valves to all hot water outlets</li> <li>● a washbasin which complies with AS4299</li> <li>● an illuminated wall cabinet</li> <li>● a mirror</li> <li>● a double power outlet beside the mirror</li> </ul>		
64 - Toilet	<p>A dwelling must have a toilet:</p> <ul style="list-style-type: none"> <li>● that is a visitable toilet in accordance with AS4299</li> <li>● that is installed in accordance with AS1428</li> <li>● has a slip resistant floor surface</li> <li>● the WC pan is located from fixed walls in accordance with AS1428</li> <li>● that can accommodate a grab rail in accordance with AS4299 &amp; AS1428</li> </ul>	Proposal complies as stated in the Statement of Environmental Effects ( <i>refer to Condition 114</i> ).	<b>YES</b>
65 -	A kitchen, main	Proposal complies. All	<b>YES</b>



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Clause	Standard	Proposal	Compliance
Access to kitchen, main bedroom, bathroom & toilet	bedroom, bathroom and toilet must be provided on the ground floor of a multi level dwelling.	units are of single level design.	
66 - Lifts in multi storey buildings	<ul style="list-style-type: none"> <li>Lift access provided to all dwellings above the ground level of the building.</li> </ul>	Proposal complies. Lift access is provided to all levels.	<b>YES</b>
67 - Laundry	<p>A self contained dwelling must have a laundry which:</p> <ul style="list-style-type: none"> <li>has provision for a washing machine</li> <li>has the provision for the installation of a clothes dryer</li> <li>has a clear space in front of appliances of 1300mm</li> <li>has a slip resistant floor surface</li> <li>has an accessible path of travel to any external clothes line.</li> </ul>	Proposal complies as stated in the Statement of Environmental Effects ( <i>refer to Condition 114</i> ).	<b>YES</b>
68 - Storage	<p>A self-contained dwelling must be provided with a linen cupboard:</p> <ul style="list-style-type: none"> <li>that is at least 600mm wide</li> <li>has adjustable shelving</li> </ul>	A complying linen cupboard is provided as stated in the Statement of Environmental Effects ( <i>refer to Condition 114</i> ).	<b>YES</b>
69 - Doors	<p>Door hardware provided for opening doors must be:</p> <ul style="list-style-type: none"> <li>able to be operated with one hand</li> <li>located between 900mm and 1100mm above floor level</li> </ul>	Proposal will be constructed so as to comply with this requirement as stated in the Statement of Environmental Effects ( <i>refer to Condition 114</i> ).	<b>YES</b>
70 - Surface finishes	Balconies and external paved areas must have slip-resistant surfaces.	All paved areas will have slip-resistance surfaces ( <i>refer to Condition 114</i> ).	<b>YES</b>

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Clause	Standard	Proposal	Compliance
71 - Ancillary items	<ul style="list-style-type: none"> <li>switches must be located between 900mm and 1100mm above floor level</li> <li>general purpose outlets must be located at least 600mm above floor level</li> </ul>	Proposal will be constructed so as to comply with this requirement as stated in the Statement of Environmental Effects ( <i>refer to Condition 114</i> ).	<b>YES</b>
72 - Garbage	An outside garbage storage area must be provided in an accessible location.	A garbage storage facility is provided outside at the entrance to the development	<b>YES</b>

**Part 7 – Development standards that cannot be used as grounds to refuse consent – Division 4 – self-contained dwellings**

The following is an assessment of the proposal against the requirements of Clause 81 of the SEPP. The consent authority must not refuse consent of an application on the grounds of the following if compliance is achieved.

Clause (a) – Building height	Height to be less than 8.0 metres	7.0 metres or less	<b>YES</b>
Clause (b) - Density & scale	0.5:1	0.5:1	<b>YES</b>
Clause (c) - Landscaped area	Minimum 30% of the site to be landscape area = 1, 125.9m <sup>2</sup>	Total landscape area = 1,531m <sup>2</sup> (55%)	<b>YES</b>
Clause (d) - Deep soil zones	15% site area (412.8m <sup>2</sup> ) with 2/3 (272m <sup>2</sup> ) being located at the rear of the site with a minimum dimension of 3m.	<ul style="list-style-type: none"> <li>Total deep soil landscaped area 1403 m<sup>2</sup></li> <li>Majority of this deep soil area is located to the rear, and has a minimum dimension of 3m</li> </ul>	<b>YES</b>  <b>YES</b>
Clause (e) - Solar access	Min 70% of dwellings receive minimum 3 hours direct sunlight between 9am-3pm in mid-winter.	All units receive a minimum of 3 hours.	<b>YES</b>
Clause (f) - Private open space for in-fill housing	<ul style="list-style-type: none"> <li>Single level or ground floor dwellings = 15m<sup>2</sup> (incl. Area 3m x 3m accessible from living area)</li> </ul>	Rear terraces vary between 17m <sup>2</sup> and 59m <sup>2</sup> meeting requirements	<b>YES</b>

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	<ul style="list-style-type: none"> <li>All other dwellings = balcony min. 10m<sup>2</sup> (not less than 2m in length and accessible from a living area)</li> </ul>		
Clause (g) - Visitor parking	Where 7 or 8 units are proposed, 2 spaces for visitor parking are required within the development. Maximum parking period of 4 hours is to apply.	2 visitor parking spaces are provided, one in each block of apartments. The parking period can be restricted via signage.	<b>YES</b>
Clause (h) - Parking	0.5 spaces per bedroom 24 x 0.5 = 12	12 resident spaces provided.	<b>YES</b>

**State Environmental Planning Policy No 55 - Remediation of Land**

Under Clause 7 of SEPP 55, a consent authority must not grant approval to any development on land unless it has considered whether the land is contaminated, and if contaminated, it is satisfied the land is suitable in its contaminated or remediated state for the purpose for which development is proposed.

There is no evidence to suggest any potential contamination of the site given the following factors:

1. The subject site and adjoining properties are currently used for residential purposes;
2. The subject site and surrounding land were not previously zoned for industrial or defence purposes; and
3. The subject site and surrounding properties have not been previously used by any potentially contaminating land uses or involved activities that may have posed a threat of contamination.

Accordingly, the site is considered to be suitable in its present state for the proposed residential development.

**Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River**

The site is within the catchment of the Hawkesbury River and, as such, is subject to the provisions of this environmental planning instrument. The aim of the SREP is to “*protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.*”

The SREP requires consideration of a number of matters such as water quality, water quantity, flora and fauna, wetlands and heritage etc.

The proposed development is considered to meet the general strategies of the SREP, however Clause 6 (4) sets out strategies for water quantity whereby the reuse of water is encouraged where possible. Accordingly, rainwater tanks or similar should be incorporated in the proposed development to enable the reuse of stormwater for irrigation purposes. An appropriate condition could be imposed upon any approval to ensure this provision.

### **Ku-ring-gai Planning Scheme Ordinance (KPSO)**

The site is zoned Residential 2(c) under the provisions of Ku-ring-gai Planning Scheme Ordinance and the erection of a residential flat building (as the development is defined pursuant to the KPSO) is prohibited within the zone. However, the provisions of SEPP (Seniors Living) 2004 override the controls of KPSO, and the proposed SEPP (Seniors Living) 2004 development is permissible pursuant to that SEPP.

The provisions of Clause 33 require consideration of the aesthetic appearance of development adjacent to areas of open space and is applicable in this instances given the adjacent golf course.

The design as it faces the golf course is suitable in terms of bulk, scale and articulation and as such the provisions of this clause are satisfied by the proposal. The elevation drawings provided do make the buildings appear dominant, however, when taking into account the landscaping and planters proposed, the development will not be obtrusive.

The provisions of Clause 38B do not allow consent to be granted for development unless a water supply is provided to the development and a suitable drainage system can be provided for the development. The site currently has a water supply and no concerns have been raised by Council's Development Control Engineer with respect to the proposed drainage system.

The provisions of Clause 46(1) restrict the height of development to 7m, however, being in conflict with the height control contained in SEPP (Seniors Living) 2004, the provision is overridden by SEPP (Seniors Living) 2004.

Schedule 9 contains general aims and specific objectives for the Ordinance in relation to residential zones, including the Residential 2c zone. These aims and objectives apply to the development to the extent that they are not inconsistent with the provisions of SEPP (Seniors Living) 2004.

The aims require development to maintain, and where appropriate improve the existing amenity and environmental character of residential zones and permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.

The development is sympathetic and harmonious with adjoining development in relation to architectural design, height, scale and bulk. The proposal maintains the existing amenity and residential character of the locality.

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The relevant objectives require development to maintain reasonable solar access to neighbour's living areas and recreation spaces at specified times, to be sited to minimise loss of privacy, encourage the replacement of tree cover, maintain a reasonable proportion of soft landscaping, be of appropriate size, bulk and scale, be of appropriate architectural character and provide for appropriate vehicular egress. The proposal is acceptable in relation to these objectives.

**Any Draft Environmental Planning Instruments**

No draft environmental planning instruments apply to the assessment of this application.

**Development Control Plan 40 - Waste Management**

The proposal has provided waste storage at the entry to the driveway of the site with the expectation that the bins will be collected by Council's Contractor from this point. The applicant has justified their position on the basis that the site conditions prohibit internal access for vehicles due to the gradient of the land. This was not the case at the adjoining plot of land 154-158 Mona Vale Road, where internal facilities were provided.

The underlining principle in DCP40 in relation to units is to ensure development design:

- a. Prevents large numbers of bins being presented to the street on any one occasion which impacts on the streetscape and public footpath access;
- b. Negates OH &S issues with both operator/public safety (particularly on main roads);
- c. For convenience the location of waste storage areas is within reasonable distance for the occupants of the development;
- d. Allows for vehicles access in and out of the development with undue impact on traffic movements.

In relation to SEPP Seniors Living Policy Clause 72 '*an outside garbage storage area must be provided in an accessible location*', this requirement would also be considered in the context of there being an area which is safe in providing a collection service. With this site being off Mona Vale Road, the risk assessment involving a vehicle stopping for a length of time to service bins on a weekly basis would be determined as high and therefore an alternative method for servicing bins should be provided.

Accordingly, **Condition No. 71** requires the redesign of the refuse collection point prior to release of the Construction Certificate.

**Development Control Plan 43 - Carparking (DCP 43)**

The provisions of SEPP (Seniors Living) 2004 in relation to parking override any other parking requirements where they are in conflict. An assessment of the proposal's parking provision in relation to SEPP (Seniors Living) 2004 is provided previously within this report and the application complies with the controls.

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The application does, however, fail to accord with Australian Standards in relation to carparking and access, and for this reason conditions are recommended to be imposed (*refer to Condition 71*). Further comment on this is provided above within the Development Engineer's comments.

**Housing for Older People and People with a Disability Development Control Code (DCC)**

The DCC became effective on 26 February 2003 and as such is a matter for consideration.

Council's Code for Housing for Older People with a disability is a companion document to State Environmental Planning Policy No.5. This code essentially provides additional information intended to better reflect the needs of elderly and disabled residents within Kuring-gai.

Council is advised that SEPP5 has been abandoned. The new relevant state policy being SEPP (Seniors Living) 2004. Consequently, while this Code relates to SEPP5, it is considered that the principles within the Code should still be considered as part of Council's assessment of this Development Application, as follows:

*Driveway:* The proposal addresses the street appropriately, is of minimal but appropriate width, and minimises the visual impact by providing a landscaped strip along both sides and by curving it slightly. However, the driveway will still require re-designing to accord with Australian Standards and with the needs of Council's waste collectors (*refer to Condition No.71*).

*Facades:* The facades to the development are of suitable bulk, stepped down the site, and are well articulated.

*Entry:* The entry to the building is obvious, with a path from the street directly to the entry.

The high entry points provided from the pedestrian entrances are not ideal and convey a security complex character, which is not part of the established streetscape character nor a desirable element. Whilst the entry points may provide additional security and be functional, the turrets and imposing nature of the entrance provide an undesirable character. For this reason these features should be redesigned to be less prominent and imposing (*refer to Condition 82*).

*Setback:* The front setback is acceptable.

*Garages:* Car parking is underground and, as such, is not visually dominant.

*Fences and walls:* Part of the existing front wall is to remain *in situ*, with the gaps provided by existing driveways to be filled in. There is concern that the proposed front wall will provide a bland frontage with little possibility for planting. This could be remedied through articulation of the frontage and provision of landscaping on the Mona Vale Road side of the fence (*refer to Condition 82*).

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*Front gardens:* The application proposes the retention of planting to the front of the development, in addition to extra planting as required through landscaping conditions (*refer to Condition No. 67*). This is considered suitable to soften and enhance the setting of the development.

*Private open space:* Private open space is relatively level and satisfies the minimum dimension criteria and a suitable level of privacy will be afforded. The private open space is appropriately located in relation to the living areas.

*Common open space:* The proposal provides for a relatively large area of communal open space, to the rear of the site alongside the golf course. The communal open space will be accessible to all residents and is overlooked by all the dwellings.

*Landscaping:* The landscaping has been assessed as satisfactory by Council's Landscape Development Officer.

*Car parking:* The parking provision is acceptable with regard to the Code. However, access provided is not acceptable due to the failure to comply with Australian Standards (as set out below). Compliance with the Australian Standards requires re-design prior to release of the Construction Certificate (*refer to Condition No. 71*).

Two visitor car spaces have been provided in accordance with the Code.

*Energy efficiency:* The proposal is appropriately designed with regard to energy efficiency.

*Privacy:* Privacy is dealt with under the assessment of the development's compliance with SEPP (Seniors Living) 2004.

*Access:* The proposal provides a suitable level of accessibility as required by the Code.

*Lighting:* Appropriate lighting is recommended in the Accessibility Report, the recommendations of which are required by condition (*refer to Condition 114*).

*Utilities:* A suitable sized area is provided for the storage of waste and recycled material. However, the area has been provided at the entrance to the site, where access by Council's waste services vehicle would not be achievable. The application is in conflict with DCP40 for Waste Collection and, as such, a condition is recommended seeking redesign of this element. (*refer to Condition No. 71*).

*Adaptable housing:* The development complies with the requirements of SEPP (Seniors Living) 2004 in terms of adaptable housing.

*Internal design:* The proposal provides a covered entry area. The dwellings are well designed in terms of privacy, convenience of movement and flexibility and allow for views to the areas of private open space and/or communal open space.

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*Support services:* Appropriate support services are available in the area.

**Section 94 Contributions Plan**

The demolition of the existing three (3) houses and creation of a seniors living development comprising 8 units would generate a Section 94 Contribution of \$60,591.05 (*refer to Condition 64*).

**2. Any Matters prescribed by the Regulations**

No other matters prescribed by the Regulations are of relevance to the assessment of this application.

**3. Likely Impacts**

The likely impacts of the development have been assessed throughout this report and are considered to be satisfactory.

**4. Suitability of The Site**

The site is considered to be appropriate for the erection of development pursuant to the provisions of SEPP (seniors living) 2004 and the design and location of the proposal has minimised any detrimental impacts to a reasonable degree.

**5. Any Submissions**

The submissions received in relation to the application have been summarised and addressed previously within this report.

**6. Public Interest**

The proposed development will not result in any significant detrimental impact in relation to the public interest.

**7. Any other Relevant Matters Considerations Not Already Addressed**

There are no other matters for consideration.

**CONCLUSION**

The proposed development will perform adequately, especially given the following.

1. The proposed development will be satisfactory with respect to the provisions of State Environmental Planning Policy (Seniors Living) 2004. It will provide housing for people over the age of 55 and people with a disability in an appropriate building form and location. The housing would be generally consistent with the aims and objectives of the SEPP.



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2. The proposed development will generally satisfy the provisions within Council's environmental planning instruments and development control plans.
3. The design of the development, with the imposition of suitable conditions, will be sympathetic to the streetscape. It will be compatible with the bulk and scale of surrounding dwellings and provide a suitable landscape character.
4. It would not, with the imposition of suitable conditions, adversely impact on the amenity of surrounding residential properties in terms of loss of privacy, overshadowing or loss of views and will support the amenity needs of future residents.

Accordingly, the proposed development is satisfactory with respect to the relevant heads of consideration prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 (as amended). The application is therefore recommended for approval, subject to conditions.

## RECOMMENDATION

That the Council, as the consent authority, grant development consent to DA0411/04 for the consolidation of the three existing lots, the demolition of the three existing dwellings and associated structures, the construction of an 8 unit SEPP (Seniors Living) 2004 development with basement parking, and strata subdivision of the resultant units, on land at 148-152 Mona Vale Road, St Ives, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

## GENERAL CONDITIONS

1. The development to be in accordance with Development Application No.0411/04 and Development Application plans prepared by the Winter Group Pty Ltd, reference numbers DA01 Rev C, DA02 Rev C, DA03 Rev D, DA04 Rev D, DA05 Rev D, DA06 Rev B, DA07 Rev B, DA08 Rev A (all of which dated January 2004) and the Landscape Plan by Westcott Garden Design dated 16/04/04, and lodged with Council on 23 April 2004, except as where amended by the following conditions.
2. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and an Occupation Certificate has been issued.
3. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
4. For the purpose of health and amenity, the disposal of backwash and/or the emptying of a swimming pool into a reserve, watercourse, easement or stormwater drainage system is prohibited. These waters are to discharge via a drainage line into the Sydney Water's sewer. Permission is to be obtained from the Sydney Water prior to the emptying of any pool to the sewer.

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5. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
6. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
7. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.

8. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
9. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
10. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
11. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
12. No rock breaking or other machinery for the excavation, drilling or removal of rock shall be used on the site without the prior approval of the Principal Certifying Authority. Should rock breaking or associated machinery be required, the following details are to be submitted to the Principal Certifying Authority for consideration:
  - a. The type and size of machinery proposed.
  - b. The routes of all trucks to convey material to and from the site.
  - c. A report by a Geotechnical Engineer detailing the measures recommended in undertaking the work so as to prevent any damage to any adjoining or nearby buildings.

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13. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
14. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

15. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
  - a. must preserve and protect the building from damage, and
  - b. if necessary, must underpin and support the building in an approved manner, and
  - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

16. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
17. Any fencing and associated footings shall be constructed entirely within the boundaries of the property.
18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the

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building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
  - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:
    - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
    - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
    - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
  - b. Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.
24. A temporary construction exit and sediment trap to reduce the transport of sediment from the site onto public roads shall be provided before demolition commences.
25. Existing stormwater lines on the site are to be blocked and made inoperable after buildings are demolished so as to prevent the conveyance of silt or sediments into the gutter or street drainage system.
26. All combustible material shall be removed from the site on a daily basis. Material shall not be burnt on the site.
27. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
28. Trees and vegetation on a site shall not be disturbed except with the approval of the Council.
29. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.

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30. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
31. The applicant or builder/developer is responsible for the cost of making good any damage that may be caused to any Council property as a result of work associated with the demolition.
32. A photo record of the buildings to be demolished and vegetation on site is to be submitted to Council for archival purposes.
33. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a. stating that unauthorised entry to the work site is prohibited, and
  - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This clause does not apply to:

- a. building work carried out inside an existing building, or
  - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
34. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
35. "Peep holes" being provided to the entrance doors of all units for personal security.
36. Stormwater runoff from all hard surfaces generating runoff or landscaped areas which are not at natural ground level shall be piped to the interallotment stormwater drainage line benefiting the subject site. The interallotment line is to be covered by the necessary easement for drainage which may exist or need to be created under this consent.
37. A mandatory rainwater re-use tank system, together with the additional on-site stormwater detention/retention requirements described in chapter 6 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
38. For stormwater control a 200mm wide grated channel/trench drain with a heavy-duty removable galvanised grate is to be provided in front of the garage door and connected to the main stormwater drainage system. The channel drain shall have outlet of minimum diameter 150mm to prevent blockage by debris.
39. All public footways and roadways fronting and adjacent to the site are to be maintained in a safe condition at all times during the course of the development works. A safe pedestrian

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circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to the public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where circulation is diverted on to the roadway, clear directional signage and protective barricades must be installed in accordance with AS1742-3 1996 *“Traffic Control Devices for Work on Roads”*. **If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

40. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to eliminate unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority and Council officers.
41. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard 2890.1 – 2004 “Off-Street car parking”.
42. For the purpose of any inspections by Council engineers, the corresponding fees set out in Councils adopted Schedule of Fees and Charges are payable to Council. A re-inspection fee per visit may be charged where work is unprepared at the requested time of inspection, or where remedial work is unsatisfactory and a further inspection is required. Engineering fees must be paid in full prior to any final consent from Council.
43. The Applicant must obtain a **Section 73 Compliance Certificate** under the *Sydney Water Act 1994*. An application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon or telephone 13 20 92. Following application a “Notice of Requirements” will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
44. In order to allow unrestricted access for Council waste collection vehicles to the basement garbage storage area, no doors or gates shall be provided in the access driveways to the basement carpark which would prevent this service.
45. Stormwater quality control measures as described in chapter 8 of Councils Water Management Development Control Plan 47 (DCP47), shall be provided for the development. DCP47 is available in hard copy at Council and on the Council website.
46. The vehicular crossing is to be a minimum of 6 metres wide, splaying out to 8 metres at the kerbline.

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47. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

48. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
49. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
50. No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following, tree/s shall be severed or injured in the process of any site works during the construction period:

<b>Tree</b>	<b>Location</b>	<b>Radius From Trunk</b>
Eucalyptus microcorys (Tallowood)	Adjacent to northwest (rear) site boundary within Pymble Golf Course	5.0m
Grevillea robusta (Silky Oak)	Adjacent to northwest (rear) site boundary within Pymble Golf Course	5.0m
Eucalyptus microcorys (Tallowood)	Adjacent to Mona Vale Rd site frontage	3.0m
Eucalyptus scoparia (Sydney Peppermint) x 2	Mona Vale Rd nature strip	4.0m
Acer palmatum (Japanese Maple)	Adjacent to southern (side) site boundary	3.0m

51. The trees to be retained shall be inspected, monitored and treated when necessary by a qualified Arborist before, during and after completion of development works to ensure their long term survival. Regular reports from the Arborist to the Council shall be required at monthly intervals. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

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52. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
53. On completion of the LANDSCAPE WORKS/TREE PLANTING OR SCREEN PLANTING, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
54. All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.
55. To preserve the ongoing health and vigour of the following trees specified for retention, no excavation is permitted within the specified radius:

Tree	Location	Radius from trunk
Eucalyptus microcorys (Tallowood)	Adjacent to northwest (rear) site boundary within Pymble Golf Course	5.0m
Grevillea robusta (Silky Oak) x 2	Adjacent to northwest (rear) site boundary within Pymble Golf Course	5.0m
Eucalyptus microcorys (Tallowood)	Adjacent to Mona Vale Rd site frontage	3.0m

56. The development is to be designed such that road traffic noise from Mona Vale Road is mitigated by durable materials, in accordance with EPA criteria for new land use developments (The Environmental Criteria for Road Traffic Noise, May 1999). The RTA's Environmental Noise Management Manual provides practical advice in selecting noise mitigation treatments.

Where the EPA external noise criteria would not practically or reasonably be met, the following internal noise objectives for all habitable rooms under ventilated conditions are to be achieved, complying with the requirements of the Building Code of Australia:

- All habitable rooms other than sleeping rooms: 45dB(A) Leq(15hr) and 40dB(A) Leq(9hr), and
- Sleeping rooms: 35dB(A) Leq(9hr)

57. Private garages having a power-operated roller door, or a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.



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58. Prior to the issue of the Construction Certificate, the applicant shall submit for approval of the Principal Certifying Authority, documentary evidence demonstrating that the Plan of Consolidation of Lots 30, 31, 36 in DP13451, and Lots 30, 31, 36, Lot 29 in DP13451, DP658726 has been registered at the Department of Lands.
59. To reduce likely privacy issues from the proposed development the following privacy measures shall be incorporated into the development:
- a. A privacy screen to a minimum height of 1.6m is to be provided to the south and south-western sides of the balcony serving the lounge/dining area of Unit 3, to protect the privacy of the neighbouring property at 146 Mona Vale Road, and to protect the privacy of the intended residents of Unit 3.
  - b. Hi-light windows to a sill height of 1.6m only are to be provided to the windows of Bedroom 3 on the south-western elevation. This is to protect the privacy of the intended residents of Unit 3, and the privacy of the neighbouring property at 146 Mona Vale Road.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

60. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

61. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
62. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs,

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lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

63. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
  - a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
  - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
  - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.
  - d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.
64. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF SIX (6) ADDITIONAL DWELLINGS IS CURRENTLY \$60,591.05. The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - St Ives	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80

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10. Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11. Section 94 Officer for period of Plan 2000-2003	\$118.42

To obtain the total contribution figure the following table of occupancy rates is to be used:

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons
Large dwelling (110 - under 150sqm)	2.75 persons
Very Large dwelling (150sqm or more)	3.5 persons
New Lot	3.5 persons

65. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

The plan shall indicate the planned phases of the construction work, erosion and drainage management, tree protection measures, areas nominated for storing materials, site access and where vehicle parking is proposed, during construction.

66. A revised plan and specification of the proposed landscape works for the site shall be prepared in accordance with Council's Development Control Plan No 38, by a Landscape Designer to enhance the amenity of the built environment and protect the Ku-ring-gai landscape character. The plan must be submitted to Council prior to the release of the Construction Certificate and be approved by Council's Landscape Development Officer prior to the commencement of works.

67. The property shall support a minimum number of fifteen (15) trees that will attain 13.0 metres in height on the site, to preserve the tree canopy of Ku-ring-gai, in accordance with Council's policy of Tree Retention/Replenishment on Residential Allotments adopted 26 April 1988. The existing tree/s, and additional tree/s to be planted, shall be shown on the Landscape Plan/Site Plan. The plan shall be submitted to Council prior to release of Construction Certificate and approved by Council's Landscape Development Officer, prior to commence of work.

The eleven (11) trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

68. A CASH BOND/BANK GUARANTEE of \$10 000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The

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balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has been satisfactorily established and maintained.

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

69. A CASH BOND/BANK GUARANTEE of \$4 000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

The bond will be returned following issue of the final Certificate of Compliance, provided the trees are undamaged.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent, or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

*Tree/Location*

Eucalyptus microcorys (Tallowood)

Adjacent to Mona Vale Rd site frontage

70. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

71. Prior to the issue of the Construction Certificate the Applicant must submit, for approval by the Principal Certifying Authority, revised plans for vehicle access and garbage collection arrangements. The plans must address the requirements of Australian Standard 2890.1 - "Off-street car parking" in the following manner:
- Ensure sight distances at intersection of the circulation roadways comply with 2.5.2 (c) of Australian Standard 2890.1 - "Off-street car parking",
  - Remove the conflict point at the 'T' intersection on the access driveway by widening the circulation roadways to accommodate a two-way vehicle passing area at the common 'T' intersection.
  - Increase the inside curve radius on the curved access driveways to the minimum requirements (4 metres) set out in figure 2.9 of Australian Standard 2890.1 - "Off-street car parking".

In addition, the revised plans must show a garbage storage *and collection* area provided within the site as required by Councils DCP 40 for Waste Collection. This is to prevent the need for kerbside garbage collection from the Arterial Road, which is requirement of Council

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garbage contractors under OH&S obligations. The storage *and collection* area may be provided outside the building footprint, but shall be provided within the site. Further, the Council garbage collection vehicle (assume B99th percentile turning circles) must be able to turn and exit the site forwards upon collection, with a 4-point turn. The revised plans must be prepared by a qualified civil/traffic engineer who must specifically certify on these plans the following:

- The vehicle access and accommodation design requirements of Australian Standard 2890.1 (2004) - "Off-street car parking" are met,
- A garbage storage *and collection* area is provided within to the site and the Council garbage collection vehicle (assume B99th percentile turning circles) is able to turn and exit the site forwards upon collection, with a 4-point turn.
- The parking provisions provided in common areas and within private parking areas comply with the State Environmental Planning Policy for Senior Living (particularly relating to minimum height clearances and space dimensions).

72. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), a Soil and Erosion Control Plan prepared in accordance with the Landcom document "Managing Urban Stormwater – Soils and Construction" (2004). A suitably qualified and experienced civil/environmental engineer or surveyor shall prepare this plan in accordance with the above guidelines and section 8.2.1 of Councils Water Management DCP 47 (available on the Council website).
73. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full construction drawings for the proposed method of achieving Council storage volume requirements for an on-site stormwater detention/retention system. The design shall be generally based on the concept plans SW01, SW02 and SW03 (job P632 issued 16/04/04) by MYD, advanced for construction purposes, except that **retention and reuse measures** shall be incorporated, as well as **water quality measures** as described in Chapter 8 of DCP 47. The retention storage volumes and design shall comply with Councils Water Management DCP 47 (available on the Council website and at Council customer services), the manufacturers' specifications and the relevant plumbing codes. Rainwater tank(s) shall be designed to capture and retain runoff from a minimum 100m<sup>2</sup> roof area for each 5000 litres of storage. Overflow shall revert to the main drainage system. The design and construction plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer and may be incorporated on the overall site drainage plan.
74. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), details for the proposed method of achieving Council requirements for the mandatory re-use of water on the property including garden irrigation, laundry and toilet flushing. The necessary pumping, housing, filtration and general delivery plumbing equipment for re-use shall be shown on this design. The plans, with all supporting documentation, are to be prepared by a qualified and experienced civil/hydraulic engineer. These details may be incorporated on the overall stormwater management plan and design for the retention/detention system.

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75. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), construction design drawings and calculations for the property drainage system components, including stormwater quality control measures. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed for a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) and shall be compatible with the necessary retention and/or detention devices. Plans and calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Councils Water Management Development Control Plan 47 available on the Council website and at Council, and AS 3500.2 - Plumbing and Drainage Code.
76. The Applicant must carry out the following infrastructure works in the Public Road:

*Upgrade footpaths and kerb ramps between the subject site and St Ives Shopping Village to comply with AS1428.1*

Development Consent under the EP&A Act does NOT give approval to these works on Council property. **THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF THE ROADS ACT 1993** for the works in the Public Road, required by this condition. The Construction Certificate must not be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*.

To obtain consent under the *Roads Act 1993* for the infrastructure works on Council property, full engineering drawings (plans, sections and elevations) and specifications for the infrastructure works are to be prepared by a suitably qualified and experienced consulting civil engineer. These must be submitted and approved by Council prior to issue of the Construction Certificate. Construction of the works must proceed in accordance with any conditions attached to the Council *Roads Act 1993* approval.

All works are to be designed in accordance with Council's "Specification for Road and Drainage Works". In addition, the drawings must detail existing services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998).

NOTE 1: A minimum of three (3) weeks will be required for assessment of Roads Act submissions. Early submission is highly recommended to avoid delays in obtaining a Construction Certificate.

NOTE 2: An engineering assessment fee (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees.

NOTE 3: Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided,

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together with a covering letter stating the full address of the property and the accompanying DA number.

77. **Prior** to the issue of a Construction Certificate the applicant shall lodge a \$10,000 bond with Council. This bond is to cover the restoration by Council of any damage to public infrastructure, caused as a result of construction works, in close proximity to the subject development. The bond will also cover the finishing of any incomplete works required in the road reserve under this consent and/or as part of the approved development. The bond shall be refundable following completion of **all** works relating to the proposed development or at the end of any maintenance period stipulated by consent conditions upon approval by Council's Engineers. Further, Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in the following circumstances:
  - a. Where the damage constitutes a hazard in which case Council may make use of the bond immediately, and
  - b. The applicant has not repaired nor commenced repairing the damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works.
78. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), registered title documents demonstrating that the subject site is benefited by the necessary easement(s) for stormwater drainage as far as the approved point of discharge to the public drainage system (within the Golf Course). This information is to include, as a minimum, registered Title documents demonstrating the benefit and burdens, together with the instruments describing the terms of necessary drainage easement (s).
79. Prior to issue of the Construction Certificate the applicant shall submit, for approval by the Principal Certifying Authority (PCA), full hydraulic design documentation for the required interallotment drainage system from the subject property to the approved point of discharge to the public drainage system. Plans are to be prepared by a suitably qualified and experienced consulting civil/hydraulic engineer in accordance with Council's Water Management DCP 47 (available on Councils website and at Customer Services) and the Plumbing and Drainage Code (AS3500). New pipes within the downstream easement drainage system must be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property. The following details must be included:
  - a. Plan view of interallotment system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge,
  - b. The contributing catchment calculations and supporting pipe sizing information,
  - c. Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
  - d. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
  - e. Means to preserve the root systems of trees within seven (7) metres of the drainage system.
80. Prior to issue of the Construction Certificate footpath and driveway levels for the new vehicular crossing between the property boundary and road alignment must be obtained from

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Council. The footpath crossing is to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings". These are issued with alignment levels after completing the necessary application form at Customer Services and payment of the adopted fee.

The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant and the alignment levels fixed by Council may affect these. **Approval of this Development Application is for works wholly within the property. DA consent does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the application documents.**

The design and construction of the layback is to be in accordance with RTA requirements. A detail of this requirement is to be obtained from the Roads and Traffic Authority's Project Services Manager, Traffic Projects Section on (02) 8814 2114. A copy of this detail should be submitted to Council with the driveway levels application. The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations. When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

81. Prior to issue of the Construction Certificate, a revised plan shall be submitted to demonstrate that the shared entrance areas to the two buildings are able to be locked, in accordance with the Crime Prevention Clause 35(b) of SEPP (Seniors Living) 2004.
82. Prior to issue of the Construction Certificate, a revised plan shall be submitted detailing the following:
  - a. A revised front entrance, incorporating lower 'turret' entranceways, and planting to soften the entrance;
  - b. Revised front wall details, incorporating recessed areas for planting.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

83. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
84. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
85. To preserve the following tree/s, no work shall commence until the trunk/s are protected by the placement of 2.0 metre lengths of 50 x 100mm hardwood timbers spaced at 150mm centres and secured by 2mm wire at 300mm spacings. The trunk protection shall be



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maintained intact until the completion of all work on site. Any damage to the tree/s shall be treated immediately by an experienced Horticulturist/Arborist, with minimum qualification of Horticulture Certificate or Tree Surgery Certificate and a report detailing the works carried out shall be submitted to the Principal Certifying Authority:

Tree/Location

Eucalyptus scoparia (Sydney Peppermint)

Mona Vale Rd nature strip

86. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site.

Tree/Location

Radius in Metres

Eucalyptus microcorys (Tallowood)

2.0m

Adjacent to Mona Vale Rd site frontage

Eucalyptus microcorys (Tallowood)

4.0m

Adjacent to north west site boundary within Pymble Golf Course

Grevillea robusta (Silky Oak) x 2

4.0m

Adjacent to north west site boundary within Pymble Golf Course

Fagus sylvatica (Beech)

2.0m

Adjacent to Mona Vale Rd site frontage

87. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
88. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.
89. Council property adjoining the construction site must be fully supported at all times during all excavation, demolition and building construction works. Details of shoring, propping and anchoring of works adjoining Council property, prepared by a qualified Structural Engineer or Geotechnical Engineer, must be submitted for the approval of the Principal Certifying Authority (PCA), before the commencement of the works, and prior to issue of the Construction Certificate. Backfilling of excavations adjoining Council property or any void remaining at completion of construction between the building and Council property must be fully compacted prior to the completion of works.

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90. Prior to the commencement of any works on site and prior to issue of the Construction Certificate the applicant must submit, for review by Council Engineers, a Traffic Control/Parking and Delivery Management Plan. The plan must be prepared by a qualified civil/traffic engineer in accordance with the documents SAA HB81.1 – 1996 – “Field Guide for Traffic Control at Works on Roads – Part 1” and RTA “Traffic Control at Work Sites (1998)”. The following matters must be addressed:

**Heavy vehicle routes**

- a. Safe points of vehicular access to the construction site and details of the proposed route of heavy vehicles servicing the site. Light traffic roads and those subject to a load limit are to be avoided.

**Safe ingress and egress**

- a. How the site will be safely accessed by all vehicles servicing the site including provision for forward ingress and egress and details of traffic control for the site, including provision of a flagperson to control vehicle movements to and from the site.
- b. How safe egress for vehicles will be controlled on those occasions where forward egress is not possible.
- c. How pedestrians will be safely managed across the frontage of the site. **During demolition an accredited traffic controller is to assist pedestrians across the vehicular entrance to the site.**

**Parking control**

- a. The provision of on-site parking for employee, tradesperson and construction vehicles.

**RTA concurrence**

- a. Evidence of consultation with and concurrence of the RTA for the Traffic Control Plan.

**Stages**

- a. The Traffic Control Plan must recognise the different stages of the work, including site establishment, bulk excavation, concrete pours and tradesperson and landscaper access, and specify the traffic management requirements of each stage.

NOTE 1: The Traffic Control Plan shall be submitted to and reviewed by Council, attention Development Engineer. A written acknowledgment from Council shall be obtained prior to the issue of the Construction Certificate. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. Evidence of RTA concurrence, as required above, is to be lodged concurrently with Council.

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NOTE 2: The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

91. The Subdivision Certificate must not be issued until after the Occupation Certificate has been issued for the Unit Development approved under this consent.
92. For release of the Subdivision Certificate, the Applicant shall create a Restriction-on-Use under the Conveyancing Act, restricting the occupation of the premises to:
  - a. People aged 55 years or over, or people with a disability as defined by the provisions of the State Environmental Planning Policy for Seniors Living.
  - b. People who live with such people as defined in (a) above.
  - c. Staff employed to assist in the administration of and provision of services to housing provided in this development.
93. Prior to the release of the Subdivision Certificate the developer shall submit to Council a letter from the energy supply authorities and either Telstra or Optus, confirming that satisfactory arrangements have been made for the provision of underground telephone, power and gas services. Application may be made to Energy Australia Phone No. 13 1525, Agility on 9922 0101 and either Optus, Network Operations, Facsimile No 9837 9060, Phone No 9837 9010, or Telstra Phone No 12 455.
94. For release of the linen plan/issue of the subdivision certificate by the Consent Authority, the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site on-site stormwater detention facilities. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available in Council Water Management DCP47) and to the satisfaction of Council. The location(s) of the on-site detention facilities are to be denoted on the final plan of subdivision.
95. For release of the linen plan/issue of the subdivision certificate by the Consent Authority, the applicant must create a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the site retention and re-use facilities. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of retention and re-use facilities" (available in Council Water Management DCP47) and to the satisfaction of Council. The location of the retention and re-use facilities are to be denoted on the final plan of subdivision.
96. For release of the linen plan/issue of the subdivision certificate, an easement for waste collection is to be created. This is to permit legal access for Council, Council's contractors and their vehicles over the subject property for the purpose of collecting waste from the property. The terms of the easement are to indemnify Council and Council's contractors

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against damages to private land or property whilst in the course of carrying out waste collection services. The terms of the easement are to be generally in accordance with Council's draft terms for an easement for waste collection.

97. Prior to release of the linen plan/issue of the subdivision certificate, the Section 73 Sydney Water compliance certificate **which refers to the subdivision application** must be obtained and submitted to the Consent Authority.
98. All parking spaces and all areas of common property including visitor car parking spaces, on-site detention facilities and on-site retention facilities which are to be common property, must be included on the final plans of strata subdivision.
99. For endorsement of the linen plan / subdivision certificate issue, the Applicant shall submit an original instrument under Section 88B of the Conveyancing Act with the plan of subdivision, plus six (6) copies. This is to create any required easements, rights-of-carriageway, positive covenants, restrictions-on-use or other burdens/benefits as may be required. Ku-ring-gai Council must be named as the authority whose consent is required to release, vary or modify the same.
100. For endorsement of the linen plan/issue of the subdivision certificate, the Applicant shall submit an original plan of subdivision plus six (6) copies, suitable for endorsement by the consent authority. The following details **must** be submitted with the plan of Subdivision and its (5) copies, where Council is to be the consent authority:
  - a. The endorsement fee current at the time of lodgement.
  - b. The 88B Instruments plus six (6) copies,
  - c. A copy of the Occupation Certificate for the residential development,
  - d. The Consulting Engineer's certification of the on-site stormwater detention and retention facilities.
  - e. A copy of all works-as-executed plans required under the consent,
  - f. All Surveyor's and/or Consulting Engineer's certification(s) required under this consent,
  - g. The Section 73 (Sydney Water) Compliance Certificate.

Council officers will check the consent conditions on the subdivision. Failure to submit the required information will delay endorsement of the linen plan, and may require payment of rechecking fees.

Note 1: Plans of subdivision and copies must not be folded.

Note 2: Council will not accept bonds in lieu of completing subdivision works.

Note 3: If the consent authority for the subdivision is not Council, then a copy of all of the above must be provided to Council for its property records.

#### CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

101. Prior to issue of an Occupation Certificate, the following works must be completed:

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- a. Construction of the new driveway crossing and layback in accordance with the levels and specifications issued by Council and RTA,
- b. Removal of all redundant driveway crossings, pipe crossing and/or kerb laybacks. Full reinstatement of these areas to footway, and/or turfed verge and/or kerb and gutter Type SA to the satisfaction of Council and RTA. Reinstatement works shall match surrounding adjacent infrastructure with respect to integration of levels and materials.
- c. Any sections of damaged grass verge are to be fully replaced with a non-friable turf of native variety to match existing.

Any damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired to the satisfaction of Council and RTA. This shall be at no cost to Council or the RTA.

102. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following must be provided to Council (attention Development Engineer):
  - a. A copy of the approved Construction Certificate stormwater detention/retention design for the site, and
  - b. A copy of the works-as-executed drawing of the as-built on-site detention/retention system, and
  - c. The Engineer's certification of the as-built system.

This condition is required so Council may maintain its database of as-constructed on-site stormwater detention systems, and also applies if the Principal Certifying Authority (PCA) is not the Council.

103. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the approved road, footpath and/or drainage works must be completed in the road reserve, in accordance with the Council approved *Roads Act 1993* drawings, conditions and specifications. The works must be supervised by the applicant's designing engineer and the works shall be completed and approved in full to the satisfaction of Council's Engineers. The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council at the hold points noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met in full.
104. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the Section 73 Sydney Water compliance certificate must be obtained and submitted to the Principal Certifying Authority (PCA).
105. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit to the Principal Certifying Authority (PCA) certification from a suitably qualified and experienced traffic/civil engineer, that:
  - a. The dimensions of all as-constructed private carparking spaces meet the dimension requirements of the Seniors Living SEPP (as last amended), and

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- b. The as-constructed carpark complies with the approved Construction Certificate plans, and
  - c. The vehicular headroom requirements of:
    - the Seniors Living SEPP (as last amended) for accessible parking spaces, and
    - Australian Standard 2890.1 - "Off-street car parking", and
    - 2.44m height clearance for waste collection trucks (DCP 40) are met from the public street into and within the applicable areas of the carpark, and
  - d. The gradients of the constructed access driveway from the public street to the basement carpark are in accordance with AS2890.1 and will not result in the scraping of the underside of cars.
  - e. No doors or gates have been provided in the access driveways which would prevent unrestricted access for garbage collection from within the site.
106. Prior to issue of an Occupation Certificate, Certification and a Works-as-Executed (WAE) plan, in relation to the as-built on-site detention/ retention and re-use are to be submitted to the Principal Certifying Authority (PCA) for approval. Certification is to be provided by a suitably qualified consulting civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certificate is to specifically acknowledge compliance of the on-site detention system with the approved Construction Certificate plans and also compliance with the design requirements of appendix 5 in Councils Water Management DCP 47 - "Design of on-site detention systems". The Works-as-Executed details shall be marked in red on the approved Construction Certificate design for the on-site detention system, and shall specifically include:
- As constructed levels in comparison to design levels
  - As built location of all detention devices on the property (plan view) and distances to nearest adjacent boundaries, buildings and easements
  - As built locations of all pits and grates in the detention system, including dimensions.
  - The size of the orifice or pipe control fitted.
  - Dimensions of the discharge control pit and access grates
  - The achieved capacity of the detention storage and derivative calculation.
  - The maximum depth of storage over the outlet control.
  - Top water levels of storage areas and RL's at overflow point(s)
107. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate (and at the completion of works), the applicant shall submit certification from a consulting civil/hydraulic engineer to the Principal Certifying Authority (PCA), that:
- a. Construction of the stormwater drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) has been carried out by a licensed plumbing contractor, and
  - b. The works have been completed in accordance with the approved Construction Certificate drainage plans and the Plumbing and Drainage Code AS3500,.3.2, and
  - c. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

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In addition, a Works-as-Executed (WAE) drawing of the property stormwater drainage system is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority (PCA) prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate. The WAE plan shall show the following as built details, marked in red on the approved construction certificate stormwater drawings:

- a. As built reduced surface and invert levels for all drainage pits and connection points.
- b. As built reduced level(s) at the approved point of discharge to the public drainage system.
- c. Gradients of drainage lines, materials and dimensions.

108. Prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the construction of the required interallotment drainage system must be completed in full. The designing engineer or equivalent professional engineer must supervise the works. At the completion of works, and prior to occupation, issue of an Occupation Certificate or issue of the Final Compliance Certificate, the following shall be submitted to the Principal Certifying Authority (PCA):

- a. Certification from the supervising engineer that the as-constructed works comply with the approved interallotment design documentation, and
- b. A full works-as-executed drawing of the as built drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and
- c. Certification from the surveyor that all drainage structures are wholly contained within the drainage easement(s).

## BUILDING CONDITIONS

109. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
- b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
- c. Retaining walls and associated drainage.
- d. Wet area waterproofing details complying with the Building Code of Australia.
- e. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
- f. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- g. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

110. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.

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111. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.

112. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

113. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - *"Protection of Buildings from Subterranean Termites"* is to be provided.

Council has a non chemical policy for termite control but will consider proposals involving physical barriers in combination with approved chemical systems. Handspraying is prohibited.

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

114. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

- a. Wet area waterproofing details complying with the Building Code of Australia.
- b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
- c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
- d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
- e. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.



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- f. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
- g. A Compliance Certificate that the development complies with the relevant design standards of clauses 52(1), 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 & 71 of State Environmental Planning Policy (Seniors Living) 2004.

K. Lithgow  
**Executive Planner**  
**St Ives Ward**

M Prendergast  
**Manager**  
**Development Assessment**  
**Services**

M Miocic  
**Director**  
**Environment &**  
**Regulatory Services**

**Attachments:**      **Site Location Plan**  
                             **Survey**  
                             **Site Analysis**  
                             **Elevations**  
                             **Shadow Diagrams**  
                             **Landscaping Plan**  
                             **Sections**  
                             **Floor Plans**