

15th December 2020

The General Manager
Northern Beaches Council
PO Box 82
Manly NSW 1655

Dear Sir,

Development Application DA2020/0816
Clause 4.6 variation request – Clause 26(3) of SEPP HSPD
Proposed residential care facility
33 Bassett Street, Mona Vale

This clause 4.6 variation request has been prepared in support of the above development application proposing the demolition of the existing 63 bed nursing home and the construction of a new 118 bed residential care facility with basement parking pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD).

It has been prepared having regard to the architectural plans submitted with the original development application and the “Alternate Footpath” plan, dated 15.12.20, at Attachment 1. This alternate plan shows the realignment of a 30 metre section of footpath which reduces the 1:10 section of existing footpath by 5 metres to a maximum of 25 metres. The plan also nominates an increase in the footpath width to 2 metres and the provision of seating to enable persons using the footpath to rest as necessary.

This clause 4.6 variation has been prepared having regard to the Land and Environment Court judgments in the matters of *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*) at [42] – [48], *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61, and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130.

The requirements for ensuring access to services and facilities by seniors and those with a disability are established in SEPP HSPD and specifically Clause 26, which contains the following provisions:

26 Location and access to facilities

(1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:*

- (a) *shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) *community services and recreation facilities, and*
- (c) *the practice of a general medical practitioner.*

(2) *Access complies with this clause if:*

(a) *the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:*

- (i) *a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
- (ii) *a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
- (iii) *a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or*

(b) *in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development:*

- (i) *that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
- (ii) *that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
- (iii) *that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),*

and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or

- (c) *in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development:*
- (i) *that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
 - (ii) *that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
 - (iii) *that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),*

and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

- (3) *For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*
- (i) *a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
 - (ii) *a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
 - (iii) *a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.*
- (4) *For the purposes of subclause (2):*
- (a) *a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and*
 - (b) *distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.*

The accompanying Statement of Compliance - Access for People with a Disability, dated 1st December 2020, prepared by Accessible Building Solutions confirms that the gradient along the pathway from the site to the public transport services contains a 30 metre section of gradient at 1:10 which exceeds the sectional gradient requirements at clause 26(3) of SEPP HSPD. The non-compliant section of pathway is depicted in Figure 1 over page.

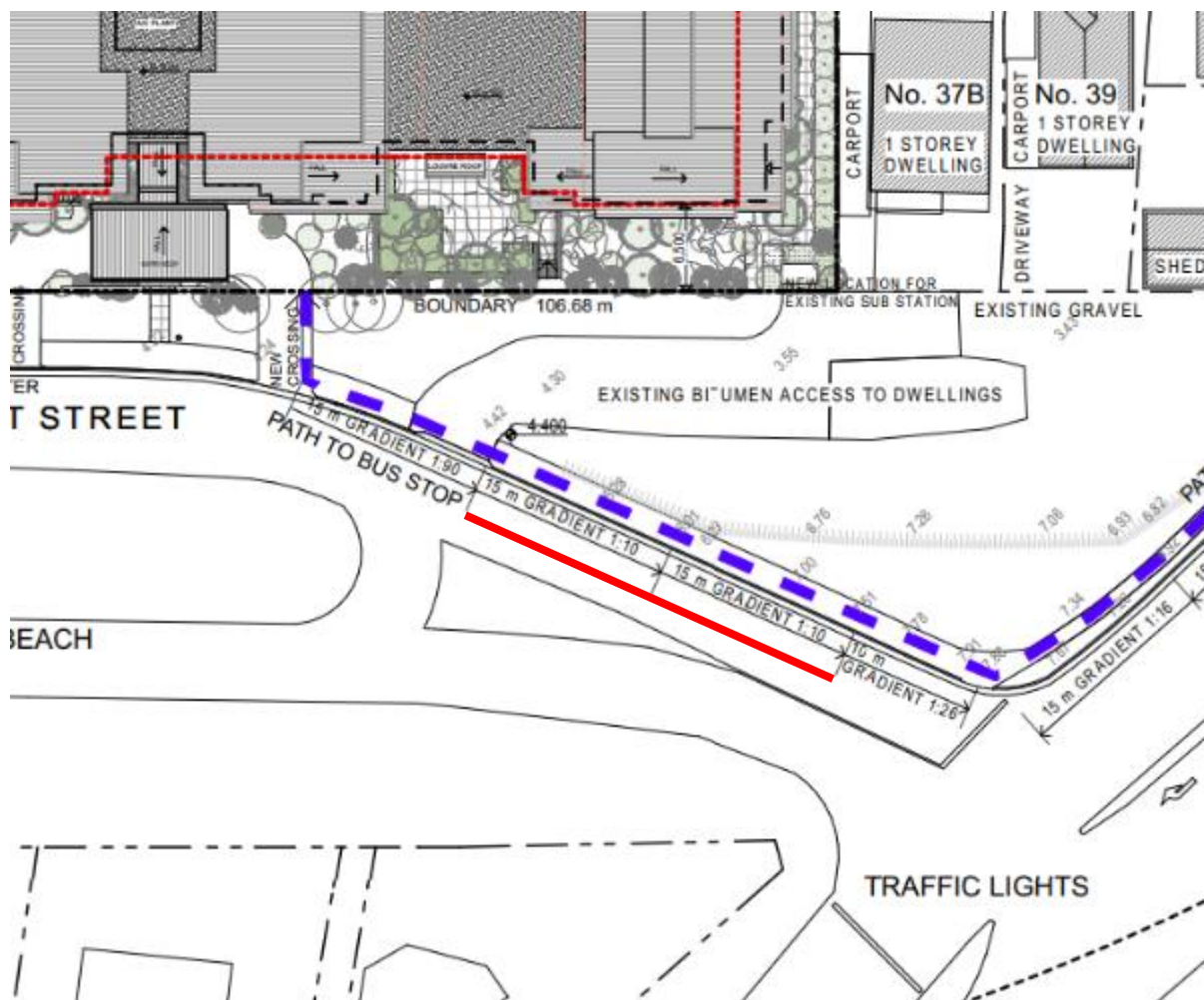


Figure 1 – Plan extract showing the 30 metre section of pathway with a gradient of 1:10 (in red) adjacent to the front boundary of the site

Clause 4.6 of PLEP provides a mechanism by which a development standard can be varied. The objectives of this clause are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Pursuant to clause 4.6(2) consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

In accordance with the findings in the matter of *Malton Road Development Pty Ltd v Hornsby Shire Council [2018] NSWLEC 1265*, clause 26(3) of SEPP HSPD is a development standard to which clause 4.6 of PLEP applies.

Clause 4.6(3) states that consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Clause 4.6(4) states consent must not be granted for development that contravenes a development standard unless:

- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Director-General has been obtained.*

Clause 4.6(5) states that in deciding whether to grant concurrence, the Director-General must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*

- (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Consistency with zone objectives

The subject property is zoned R2 Low Density Residential pursuant to the provisions of PLEP 2014. Residential flat buildings are permissible with consent in the zone. The proposal is consistent with the zone objectives as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

Response: The application proposes the demolition of the existing 63 bed nursing home and the construction of a new 118 bed residential care facility which will provide for the housing needs of the community, in particular seniors and people with a disability, within a low-density residential environment pursuant to SEPP HSPD. The non-compliance with the standard at cl 26(3) of SEPP HSPD does not limit the achievement of this objective in circumstances where the application seeks to replace an existing residential care facility located on the subject property.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Response: This objective is not applicable on the basis that the proposal provides solely for the housing needs of the community pursuant to SEPP HSPD.

- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

Response: This objective is not applicable on the basis that the proposal provides solely for the housing needs of the community pursuant to SEPP HSPD.

Accordingly, Council can be satisfied that, notwithstanding the non-compliance with the standard in cl 26(3) of SEPP HSPD, the development will be consistent with, or not antipathetic to, the zone objectives as outlined.

Consistency with the clause 26(3) HSPD objectives

There are no stated objectives in relation to the clause 26 SEPP HSPD provisions. Notwithstanding, the provisions seek to achieve a suitable access pathway between the site and transport services with a suitable access pathway defined as follows:

*a **suitable access pathway** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and*

In this regard, I consider the implicit objectives of the sectional gradient requirements at clause 26(3) of SEPP HSPD is to ensure that the access pathway between the site and transport services is of a gradient suitable for access by means of electric wheelchair, motorised cart or the like.

In this regard, I rely on the Statement of Compliance - Access for People with a Disability, dated 1st December 2020, prepared by Accessible Building Solutions which contain the expert opinion that:

We are of the opinion that the section of path at 1:10 would not adversely affect a person with a disability from using the path, noting that the requirement for a suitable accessway under the SEPP is for a motorised wheelchair or cart.

That said, the "Alternate Footpath" plan, dated 15.12.20, at Attachment 1 shows the realignment of a 30 metre section of footpath which reduces the 1:10 section of existing footpath by 5 metres to a maximum of 25 metres. The plan also nominates an increase in the footpath width to 2 metres and the provision of seating to enable persons using the footpath to rest as necessary.

Such footpath upgrade will improve safety and suitability of the pathway which will be available for use by the wider community. Further, the proposed rest seating along the path is available for any member of the community to use as needed. This alternate footpath plan provides community benefit.

Under such circumstances, the consent authority can be satisfied that the proposal is consistent with the objectives of the zone and consistent with the implicit objective of the clause 26(3) SEPP HSPD standard and accordingly, pursuant to the first test in Whebe, strict compliance is both unreasonable and unnecessary in this instance.

Sufficient Environmental Planning Grounds

There are sufficient environmental planning grounds to justify the contravention of the clause 26(3) SEPP HSPD standard namely:

- The proposed residential care facility is a high care facility whereby access to services or facilities by residents not available on site occurs primarily via the facilities 8 seat minibus. Residents have on site access to 24 hour medical care, hairdressing/ nail and beauty services, meals, a cinema and a café from which papers, magazines and day to day consumables can be purchased.
- The existing pathway between the site and transport services has been utilised by residents of the existing residential care facility on the site for many years without incident or complaint.
- The overall average gradient of the pathway between the site and transport services does not exceed 1:14. In this regard, clause 26(3) of the SEPP does anticipate sections of pathway at a gradient of 1:10.
- The proposed footpath upgrade as detailed at Attachment 1 will improve the safety and suitability of the pathway for use by the wider community.
- The proposed rest seating along the path is available for the use of all member of the community as needed.
- The Statement of Compliance - Access for People with a Disability, dated 1st December 2020, prepared by Accessible Building Solutions contains the following expert opinion:

We are of the opinion that the section of path at 1:10 would not adversely affect a person with a disability from using the path, noting that the requirement for a suitable accessway under the SEPP is for a motorised wheelchair or cart.

- There are no environmental impacts arising from the non-compliance of the standard.

Approval of the variation would facilitate the orderly and economic use and development of the land consistent with its historical residential care facility use and in doing so achieve objective 1.3(c) of the Act.

Conclusions

Having regard to the clause 4.6 variation provisions of the PLEP, we have formed the opinion:

- a) that development is consistent with the zone objectives, and
- b) that the development is consistent with the implicit objective of the standard, and
- c) that there are sufficient environmental planning grounds to justify contravening the development standard, and
- d) that having regard to (a), (b) and (c) above that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the developments compliance with the zone and implicit standard objectives that approval would not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

As such we have formed the highly considered opinion that there is no statutory or environmental planning impediment to the granting of a variation in this instance.

Please do not hesitate to contact me to discuss any aspect of this submission.

Yours sincerely

Boston Blyth Fleming Pty Limited



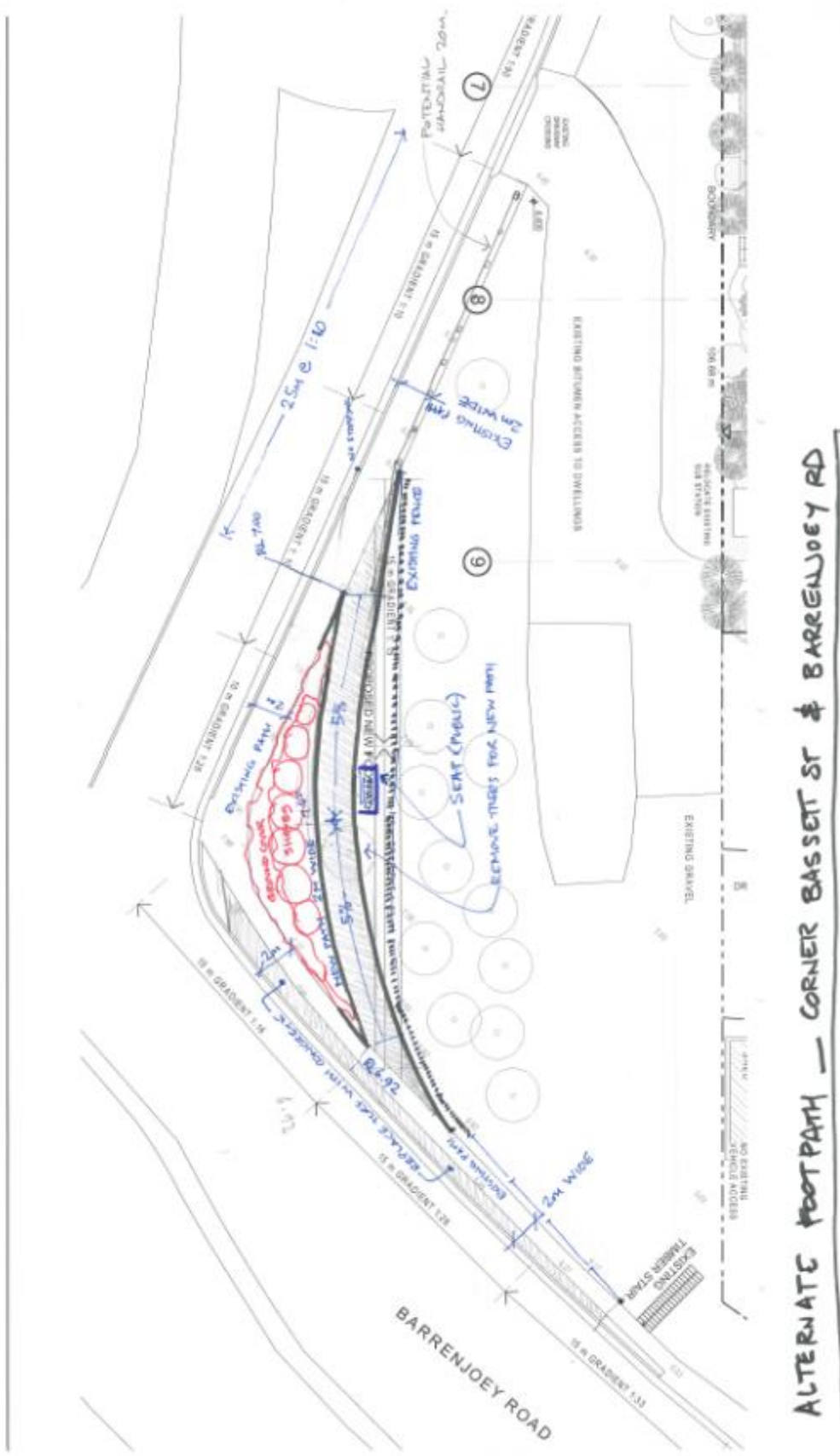
Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director

Attachment 1 "Alternate Footpath" plan dated 15.12.20

Attachment 2 Statement of Compliance - Access for People with a Disability, dated 1st December 2020, prepared by Accessible Building Solutions



ALTERNATE FOOTPATH - CORNER BASSETT ST & BARRENJOEY RD

15.12.20 SCALE 1:200 (A3)

Attachment 2

Document Control

Job No: 220009

Principal Author: Michael Moutrie	Issue.	Revision	Date
Reviewed: Howard Moutrie	-	Original for DA	05-05-2020
	A	Part 26 expanded	01-12-2020



report

**Statement of Compliance
Access for People with a Disability**

Proposed Aged Care Facility
23-25 Bassett St Mona Vale

Accessible Building Solutions
124 Upper Washington Drive
Bonnet Bay NSW 2226

P (office) 0415 255 163
P (Howard) 0414 876 539
P (Michael) 0450 334 995
E michael@absaccess.com.au

Report

Report Type: Statement of Compliance - BCA Access Provisions
Development: Thompson Health Bassett

Introduction:

This report has been prepared to accompany a Development Application and has been based on the following drawings prepared by Gartner Trovato Architects:

A 03	Bus Stop Access Plan
A 04	Basement Plan
A 05	Ground Floor Plan
A 06	First Floor Plan

Limitations and Copyright information:

This report is not to be used for any other purpose than its original intention. The assessment is based on the provided drawings and compliance relies upon the implementation of all the recommendations listed in this report and the works constructed in accordance with AS1428.1-2009 and other latest, relevant standards and regulations applicable at the time of construction.

Assessment is based on the classification/use of the building. If the Class of the building changes to any other building Class, this access report will have to be updated accordingly.

All dimensions mentioned in the report are CLEAR dimensions and are not to be reduced by projecting skirting, kerbs, handrails, lights, fire safety equipment, door handles less than 900mm above FFL (finished floor level) or any other fixtures/fit out elements. Only some numerical requirements from relevant AS (Australian Standards) have been noted in the report, however for further details and for construction purposes refer to the relevant AS, a copy of which can be purchased from SAI Global.

This report and the drawings in this report are a copyright of Accessible Building Solutions and can only be used for the purposes of this particular project and can only be modified by Accessible Building Solutions. This document may also contain Standards Australia Ltd copyrighted material which may not be reproduced.

This report does not assess compliance matters related to WHS, Structural design, Services design, Parts of DDA other than those related to APS or Parts of BCA or Parts of Australian Standards other than those directly referenced in this report.

ABS gives no warranty or guarantee that this report is correct or complete and will not be liable for any loss arising from the use of this report. We are not to be held responsible if LHA comes to a different conclusion about compliance with the Livable Housing Guidelines. At this point of time only LHA is able to confirm whether a project has met all the requirements needed to be awarded a particular Quality Mark.

We have no ability to check for slip resistance of surfaces. All wet areas, parking areas, pavement markings shall have the appropriate slip resistance for the location. We also have no ability to check for wall reinforcements once the walls have already been constructed. The builder is to take full responsibility that these requirements are met as a part of construction being as per requirements of AS1428.1/ AS4299 / AS2890.6/ AS3661/ AS4586

A report issued for DA (development application) is not suitable for use for CC (construction certificate application).

Assessment:

Assessment Criteria DA

This assessment has been undertaken to the extent necessary to issue development consent under the Environmental Planning and Assessment Act. Generally, assessment has been in regard to the capability of the proposal to achieve compliance where there is insufficient information to fully assess if compliance has been achieved. The project documentation should incorporate the requirements as listed in this report to ensure compliance.

Note: At design/drawing stage there is not enough information provided to ensure full compliance as a lot of access requirements depend on fittings and finishes. Where this report lists "capable of compliance" it means that there is nothing to stop full compliance as long as fittings and finishes are completed to the relevant standard

Compliance is required with the following:

- The Access Provisions of the BCA 2019
- The Access To Premises Standard
- AS1428 suite of Standards
- AS2890.6 for car parking
- AS1735.12 for lifts
- Council's DCP relating to Access for People with a Disability

Assessment

The building work comprises of an aged care facility with basement carparking

Under the BCA the building is classified as follows,

- Class 7a (car park)
- Class 9c (aged care building)

The following tables assess compliance with the relevant parts of the BCA and Standards
BCA Assessment

BCA Part D3 Access for People with a Disability BCA D3.1 Requirements for Access for people with a disability SOU refers to Sole Occupancy Unit	
<i>Requirement</i>	Class 7a To and within any level containing accessible carparking spaces.
<i>Compliance</i>	Complies.
<i>Comments</i>	Access has been provided to the basement level containing the accessible car parking spaces by means of a lift. Details to be verified at CC stage of works.
<i>Requirement</i>	Class 9c From pedestrian entrance to 1 level with SOUs, till the entry of doors of those SOUs. To and within 1 of each type of room or space in common use. Where floor is accessed by an AS1428.1 compliant ramp or lift, all SOUs on that level till their entry doors and to and within all common use areas on that level. SOU requirements Not more than 2 SOUs adjacent to each other. SOUs to represent a range of available rooms. <ul style="list-style-type: none"> • 1 to 10 SOUs - 1 accessible SOU • 11 to 40 SOUs - 2 accessible SOUs • 41 to 60 SOUs - 3 accessible SOUs • 61 to 80 SOUs - 4 accessible SOUs • 81 to 100 SOUs - 5 accessible SOUs • 101 to 200 SOUs - 5 accessible SOUs + 1 per 25 (in excess of 100) • 201 to 500 SOUs - 9 accessible SOUs + 1 per 30 (in excess of 200) • More than 500 SOUs- 19 accessible SOUs + 1 per 50 (in excess of 500)
<i>Compliance</i>	Complies.
<i>Comments</i>	Total number of SOUs in the development = 118 Total number of required Accessible SOUs= 6 Total number of provided Accessible SOUs= 6. This will be addressed under a performance solution at CC stage Details to be verified at CC stage of works.
<i>Requirement</i>	In areas required to be accessible, the following is to be provided: <ul style="list-style-type: none"> • Width of accessways shall be min 1M clear, and to be increased for door circulation, turning areas and passing areas as required by AS 1428.1 • Doors shall provide a clear opening of 850mm with a step free threshold and the required circulation spaces, hardware and luminance contrast as required by AS 1428.1 • The separation of doors in airlocks shall comply with AS 1428.1 • Door mats, floor grates and the abutment of different finishes shall comply with BCA and AS 1428.1 • In accessible sole occupancy units, the light switches shall be 30x30mm min size at a height to match the door handles. GPOs shall be located between 600 and 1100mm above the floor and 500mm from an internal corner.
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	All of the above listed requirements are achievable and to be assessed for compliance at verified at CC stage of works.

<i>Requirement</i>	BCA Part D3.2 Access to buildings Accessway is required from; <ul style="list-style-type: none"> • Main pedestrian entry at the site boundary for new buildings • Main pedestrian entry door for existing buildings • Any other accessible building connected by a pedestrian link • Accessible car parking spaces
<i>Compliance</i>	Complies.
<i>Comments</i>	Level access has been provided from the main pedestrian entry at the site boundary. Access has been provided from accessible car parking spaces by means of a lift. Details to be verified at CC stage of works.
<i>Requirement</i>	Accessway is required through: <ul style="list-style-type: none"> • Main entry and • Not less than 50% of all pedestrian entrances and in building with floor area over 500m², non-accessible entry and accessible entry to be not more than 50M apart.
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	The development has only 1 main entry which has been designed to be accessible. Details to be verified at CC stage of works.
<i>Requirement</i>	Where Accessible pedestrian entry has multiple doorways <ul style="list-style-type: none"> • At least 1 to be accessible if 3 provided • At least 50% to be accessible, if more than 3 provided Where doorway has multiple leaves, at least 1 leaf is to have clear opening of 850mm (excluding automatic doors).
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	Where multiple leaf doorways have been used, at least 1 operable leaf is required to provide a clear opening of 850mm with the door circulations spaces as per AS1428.1. Where single hinged doors have been used, the door leaf is required to provide a clear opening of 850mm with the door circulations spaces as per AS1428.1. This is achievable and the door selections are to be verified at CC stage of works.
<i>Requirement</i>	BCA Part D3.3 Parts of buildings required to be accessible Every Ramp (excluding fire-isolated ramp) to be compliant with AS1428.1 and slip resistance of ramp and landings compliant with BCA Table D2.14
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	Detailed features of the ramp will be assessed with the requirements of AS1428.1 at the CC stage of works.
<i>Requirement</i>	Every Walkway to be compliant with AS1428.1
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	Detailed features of the walkways will be assessed with the requirements of AS1428.1 at the CC stage of works. Note: all walkways shall have a barrier or continue for a further 600mm in a different material on each side of the walkway.

<i>Requirement</i>	Step / Kerb ramp if provided is to be compliant with AS1428.1 and Slip resistance of ramp and landings compliant with BCA Table D2.14
<i>Compliance</i>	N/A
<i>Comments</i>	No step / kerb ramps have been identified in the development.
<i>Requirement</i>	Every Stairway (excluding fire-isolated stairway) is to be compliant with AS1428.1 and slip resistance of treads, landings and nosing strips compliant with BCA Table D2.14
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	Where non-fire-isolated stairways have been provided, the features of the stairway will be assessed with the requirements of AS1428.1 at the CC stage of works.
<i>Requirement</i>	Every Fire-isolated Stairway is to be compliant with the relevant sections of AS1428.1 & slip resistance of treads, landings and nosing strips compliant with BCA Table D2.14
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	Where fire-isolated stairways have been provided, the features of the stairway will be assessed with the relevant requirements of AS1428.1 at the CC stage of works.
<i>Requirement</i>	Passing spaces requirement It is a requirement to provide passing spaces in accessways complying with AS1428.1 at maximum 20 M intervals, where a direct line of sight is not available. Space required is width of 1800mmx2800mm (in the direction of travel). Chamfer of 400x400mm is permitted at corners.
<i>Compliance</i>	N/A
<i>Comments</i>	There are no accessways over 20 M lengths in the development where a direct line of sight is not available.
<i>Requirement</i>	Turning spaces requirement It is a requirement to provide turning spaces in accessways complying with AS1428.1 within 2M of the end of accessways where it is not possible to continue travelling and at every 20M intervals. Space required is width of 1540mm x 2070mm (in the direction of travel).
<i>Compliance</i>	Complies.
<i>Comments</i>	Adequate turning spaces have been provided. Details to be verified at CC stage of works.
<i>Requirement</i>	Carpet specifications Carpet if used in areas required to be accessible are to be provided with pile height or thickness not more than 11mm and carpet backing not more than 4mm bringing the total height to a maximum of 15mm.
<i>Compliance</i>	Capable of compliance
<i>Comments</i>	Only applies to carpets provided in the resident use areas. Carpet selections generally take place at CC stage of works. Selection of carpets as specified above will lead to compliance and these selection details are to be verified at CC stage of works.

<i>Requirement</i>	BCA Part D3.4 Exemption Access is not required to be provided in the following areas :
<i>Compliance</i>	<ul style="list-style-type: none"> • where access would be inappropriate because of the use of the area • where area would pose a health and safety risk • any path which exclusively provides access to an exempted area
<i>Comments</i>	For information only.
<i>Comments</i>	Areas such as lift machine rooms, fire services room, and mechanical rooms in the development are exempted from providing access under this clause due to WHS concerns.
<i>Comments</i>	Where exclusive staff only use areas have been nominated in an aged care facility, then the staff only use amenities can be excluded from providing access based on the provisions in this clause.
<hr/>	
<i>Requirement</i>	BCA Part D3.5 Accessible Carparking Parking Service Accessible carparking space need not be provided when a parking service is provided and direct access to any of the carparking spaces is not available to the public.
<i>Compliance</i>	N/A
<i>Comments</i>	
<i>Requirement</i>	Accessible car parking spaces shall have pavement marking in accordance with AS 2890.6.
<i>Compliance</i>	Complies.
<i>Comments</i>	Note: the pavement marking shall have the appropriate slip resistance for the location.
<i>Requirement</i>	In situations where not more than 5 carparking spaces have been provided The car parking space need not be designated, so as to restrict the use of the carparking space only for people with a disability.
<i>Compliance</i>	N/A
<i>Comments</i>	
<i>Requirement</i>	Class 5, 7, 8 or 9c - 1 space per 100 carparking spaces
<i>Compliance</i>	Complies.
<i>Comments</i>	Total number of spaces provided = 39 Total number of Accessible car parking spaces required= 1 Total number of Accessible car parking spaces provided= 2 Car parking spaces are to comply with the requirements of AS2890.6. This is to be verified at the CC stage of works.
<hr/>	
<i>Requirement</i>	BCA Part D3.6 Signage Braille and Tactile signage is required to identify Accessible & Ambulant Sanitary facilities, Fire Exits, areas with Hearing Augmentation and the location of Accessible entrances and toilets
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	

<i>Requirement</i>	<p>BCA Part D3.8 Tactile indicators (TGSIs) TGSIs are required when approaching;</p> <ul style="list-style-type: none"> - Stairways other than fire-isolated stairways and stairways within a SOU of a Class 2 building or a non-accessible SOU of a Class 3 building - Escalators / passenger conveyor / moving walk - Ramp (other than fire-isolated ramps / kerb or step or swimming pool ramps) - Under an overhead obstruction of <2M if no barrier is provided - When accessway meets a vehicular way adjacent to a pedestrian entry (if no kerb / kerb ramp provided at the location) <p>Compliance is required with AS1428.4.1 including Luminance contrast and slip resistance requirements for all TGSIs.</p>
<i>Compliance</i>	Capable of compliance.
<i>Comments</i>	<p>In the proposal, TGSIs are required in the following locations:</p> <ul style="list-style-type: none"> • At <u>top and bottom landings</u> of stairways and 1:14 ramps, <u>600-800mm</u> depth or min 12 discrete cones are required at 300+/-10mm from edge of hazard • At <u>mid landings</u> of stairway and 1:14 ramp, <u>300-400mm</u> depth or min 6 discrete cones are required <u>only where handrails are not continuous</u> or landing is more than 3M • Where accessway meets a vehicular way, 600-800mm depth or min 12 discrete cones are required at 300+/-10mm from edge of hazard. • Under the stairway to warn of overhead obstruction, 600-800mm depth or min 12 discrete cones are required at 300+/-10mm from edge of hazard <p>Details to be verified at CC stage of works.</p>
<i>Requirement</i>	<p>Concession from providing TGSIs in certain buildings In a Class 3 (accommodation for aged), Class 9a (health care), Class 9c (aged care), TGSIs are not required at stairway and ramps, if handrails are provided with a dome button on the top of the handrail, 150+/-10mm from the end of the handrail and of size 4-5mm in height, 10-12mm in diameter.</p>
<i>Compliance</i>	For information only.
<i>Comments</i>	<p>Under the provisions of this Clause, TGSIs are not required to be provided in this development. Details to be verified at CC stage of works.</p>
<i>Requirement</i>	<p>BCA Part D3.11 Limitations on Ramps</p> <ul style="list-style-type: none"> • A series of connecting ramps cannot have a vertical height of 3.6M • A landing for a step ramp cannot overlap a landing for another ramp
<i>Compliance</i>	Complies
<i>Comments</i>	<p>The series of connecting ramps do not exceed a vertical height of 3.6M Details to be verified at CC stage of works.</p>

	BCA Part D3.12 Glazing on Accessways
<i>Requirement</i>	Glazing requirements- Where there is no chair rail, handrail or transom, all frameless or fully glazed doors, sidelights and any glazing capable of being mistaken for a doorway or opening are required to have a glazing strip as per requirements of AS1428.1
<i>Compliance</i>	Capable of compliance
<i>Comments</i>	Applies to full length glazing used in common use areas such as lift lobbies and common passageways and in all commercial use areas. Glazing strip selections are to be verified at CC stage of works.
	BCA Part F Accessible Sanitary Facilities BCA F2.4 Accessible sanitary facilities
<i>Requirement</i>	Accessible unisex toilet is to be provided in accessible part of building such that; <ul style="list-style-type: none"> • It can be entered without crossing an area reserved for 1 sex only • Where male and female sanitary facilities are provided at different locations, Accessible unisex toilet is only required at one of the locations • Even distribution of LH and RH facilities If no lift is required to be provided to a level, then accessible facility is not required on that level.
<i>Compliance</i>	Complies.
<i>Comments</i>	Common use unisex accessible toilet facilities have been provided in the development. Details to be verified at CC stage of works.
<i>Requirement</i>	Accessible unisex toilet are to be designed in accordance with AS1428.1
<i>Compliance</i>	Capable of compliance
<i>Comments</i>	The width and length requirements depend on selected fixtures. Minimum size of an accessible toilet is required to be 1.9M x 2.7M after tiling works. To be verified at CC stage of works.
<i>Requirement</i>	Ambulant use male / female toilets are to be provided if an additional toilet to the Accessible unisex toilet is provided.
<i>Compliance</i>	Complies
<i>Comments</i>	The following Ambulant facilities have been provided 3 Male Ambulant use toilets + 3 Female Ambulant use toilets
<i>Requirement</i>	Ambulant use toilets are to be designed in accordance with AS1428.1.
<i>Compliance</i>	Complies with the width and length requirements
<i>Comments</i>	Minimum size of an accessible toilet is required to be 900mm to 920mm width x 1.62M (dependent on WC pan and location of door to the cubicle) To be verified at CC stage of works.

<i>Requirement</i>	BCA F2.4(a) Accessible unisex sanitary compartments Class 3 / Class 9c aged care 1 within every accessible SOU provided with sanitary compartments. At least 1 when sanitary compartments are provided in common areas.
<i>Compliance</i>	Complies.
<i>Comments</i>	To be verified at CC stage of works. Ensuities to be the subject of a performance solution.

<i>Requirement</i>	BCA F2.4(b) Requirements for Accessible unisex showers as per AS1428.1-2009 Class 3 / Class 9c aged care 1 within every accessible SOU provided with showers and At least 1 for every 10 showers provided in common areas.
<i>Compliance</i>	Complies
<i>Comments</i>	No common use shower facilities have been proposed in the development. Ensuities to be the subject of a performance solution.

BCA Part E Lift Installations

<i>Requirement</i>	In an accessible building, every passenger lift must comply with Tables E3.6(a) and E3.6(b).
<i>Compliance</i>	Capable of compliance
<i>Comments</i>	Lift floor dimensions (excluding stairway platform lift) are listed below. <ul style="list-style-type: none"> • Lifts traveling 12M or under, floor size, 1100mm wide x 1400mm deep • Lifts travelling more than 12M, floor size 1400mm wide x 1600mm deep Details to be verified at CC stage of works.

<i>Requirement</i>	If the effective height of the building is over 12M, at least one of the lifts is required to be a stretcher lift, which is to accommodate a raised stretcher with clear space of not less than 600 x 2000mm long x 1400mm high above FFL.
<i>Compliance</i>	Capable of compliance
<i>Comments</i>	Details to be verified at CC stage of works.

SEPP Seniors Living Part 26 – Access To Facilities

The SEPP requires that services and facilities such as shops, medical practitioners, community facilities are available within 400m of the site or within 400m of public transport which provides access to a location which is within 400m to those facilities. The paths of travel noted above must have an average gradient no steeper than 1:14. The closest bus stop is 145m from the site with the average gradient from the site to the intersection with Barrenjoey Rd being 1:15, though this does include a 30m section at 1:10 and then from the intersection to the bus stop, travelling south, being 1:30. The overall average gradient is 1:22. The length of the 1:10 gradient exceeds the length permitted under Clause 26(3) but it is our experience that legal opinion generally accepts that if the 1:14 rule is satisfied that the subsequent requirements in Clause 26(3) are not applied. The LEC case Malton Road Development v Hornsby Council supports this view. The Court accepted that the overall gradient was less than 1:14 and that the section exceeding the Clause 26(3) requirements did not unduly affect the usability of the path. We are of the opinion that the section of path at 1:10 would not adversely affect a person with a disability from using the path, noting that the requirement for a suitable accessway under the SEPP is for a motorised wheelchair or cart.]

We also note that a " village bus" is also available to take residents to the required facilities.

For the return journey, the bus stop is located on the opposite side of Barrenjoey Rd. Traffic signals permit safe crossing of the road and the gradient of the footpath is 1:48. The travel distance is 180m.

It is considered that the path meets the accessible requirements under the SEPP.

Statement of Compliance

On the basis of the above assessment, I am satisfied that the proposal can achieve compliance with the access provisions of the BCA and the Access to Premises Standard.



Michael Moutrie

ACAA Accredited Access Consultant No 581
Date of report: 05-05-2020

Statement of experience

Howard Moutrie



Qualifications:

- B. Arch (Hons) Registered Architect ARB Reg. No 4550
- ACAA Accredited Access Consultant Reg. No. 177
- OHS Induction Training,
- OHS – Monitoring a Safe Workplace
- Registered Assessor of Livable Housing Australia (License no 10054)
- Registered Changing Places assessor (No 007)

Howard has been or is a member of the following:
Standards Australia ME/64 Committee (Access Standards)
Sutherland Council Design Review Panel
Sutherland Council Access Committee
City of Sydney Access Panel 2010
Building Professionals Board Access Advisory Panel
ACAA Management Committee
ACAA NSW Network of Access Consultants Management Committee

Howard Moutrie is an architect with over 30 years of experience and is an experienced practicing access consultant with over 15 years experience. Howard has contributed for over 10 years on the Standards Australia Disabled Access Committee ME/64, providing input into the AS 1428 suite of Standards and the Adaptable Housing Standard has acted as an expert witness in the Land & Environment Court.

Howard maintains a high level of continuing education programs and has presented at numerous seminars and training sessions including ACAA National Conference, ACAA State Network Seminars, RAIA Network Seminars, Building Designers Association Seminars.

Michael Moutrie



Qualifications:

- ACAA Accredited Access Consultant No 581
- Certificate IV in Access Consulting
- Cert III in Fitness
- OH&S Induction Training Certificate
- Completed the Livable Housing Assessors Course
- Completed the Changing Places Assessor Course

Michael is a member of Camden Council's Access Committee

Combining his background in fitness and travel, Michael has an interest in the application of accessibility to recreational activities and has been involved with the access award winning Wet'n' Wild Sydney, Jamberoo Action Park and numerous Leisure Centres. He has also reviewed the accessibility of popular tourist areas around the world.

Michael maintains a high level of continuing professional education and has published articles in the ACAA Insight magazine.