

**STATEMENT OF  
ENVIRONMENTAL EFFECTS**

Proposed Seniors Housing  
Development

**3 Berith Street**

**WHEELER HEIGHTS**



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# **Statement of Environmental Effects**

## **PROPOSED SENIORS HOUSING DEVELOPMENT**

### **3 BERITH STREET, WHEELER HEIGHTS**

Prepared under instructions from

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## **1.0 INTRODUCTION**

This document forms a component of a development application that proposes the demolition of the existing dwellings and associated site structures and the construction and strata subdivision of a seniors housing development incorporating 2 x 2 bedroom and 4 x 3 bedroom in-fill self-care housing units and basement car parking for 8 vehicles pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD).

The architect has responded to the client brief to provide for a residential development of exceptional design quality which responds appropriately to the constraints and opportunities identified through detailed site and context analysis, including the need to retain a number of trees at the front and rear of the site, whilst maintaining appropriate levels of amenity to the adjoining residential properties and Wheeler Heights Public School to the rear of the site. The final design is also responsive to the minutes arising from formal pre-DA discussions with Council.

Having regard to the detail of the proposal we have formed the considered opinion that the development will not give rise to any unacceptable environmental, streetscape or residential amenity impacts. Consistent with the outcome sought by Council the highly articulated and modulated 1 and 2 storey pavilion style building form assists in maintaining the visual appearance of detached style housing within a landscaped setting.

In preparation of the document consideration has been given to the following statutory planning regime:

- Environmental Planning and Assessment Act, 1979 (“the Act”);
- Warringah Local Environmental Plan 2011 (“WLEP”);
- Warringah Development Control Plan 2011 (“WDGP”);
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (“SEPP HSPD”);
- State Environmental Planning Policy (BASIX) 2004 (“SEPP BASIX”); and
- State Environmental Planning Policy No. 55 (Remediation of Land) (“SEPP 55”).

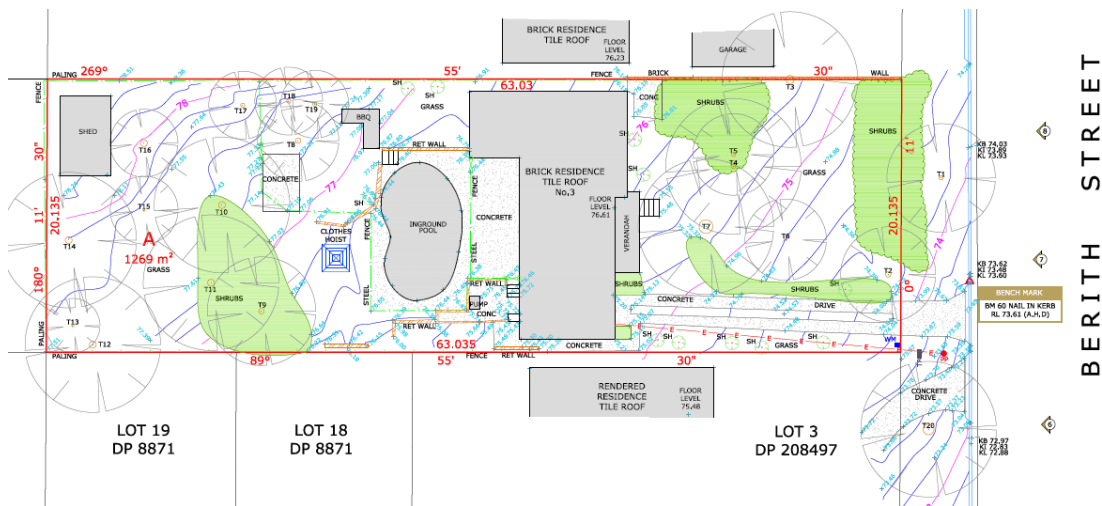
Architectural drawings including floor plans, elevations and sections have been prepared in relation to the development proposed. The application is also accompanied by a survey plan, shadow/ solar diagrams, traffic impact assessment, landscape plans, arborist report, schedule of finishes, preliminary geotechnical assessment, waste management plan, drainage plans, access report, BASIX certificate, BCA report and photomontages.

The proposal is permissible and in conformity with the aims and implicit objectives of SEPP HSPD and the subordinate standards and controls applicable to this form of development on this particular site. The proposed height and density are as anticipated for this form of development with the highly articulated and modulated 1 and 2 storey building form ensuring that the development will not be perceived as inappropriate or jarring having regard to its immediate built form context.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15(1) of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, the subject of this document succeeds on merit and is worthy of the granting of development consent.

## 2.0 SITE DESCRIPTION AND LOCATION

The subject property is legally described as Lot A in DP 203378 and Lot 4 in DP411784, No, 3 Berith Street, Wheeler Heights. The allotment is rectangular in shape having frontage and address to Berith Street of 20.135 metres, depth of 63.035 metres and an area of 1269 square metres. The site falls approximately 5 metres across its surface towards the street frontage and contains a number of trees located towards the front and rear of the site as depicted on the site survey and aerial location/context photograph at Figures 1 and 2 below and over page. The property is not burdened by any easements with all stormwater able to gravity drain to the Berith Street drainage system.



**Figure 1 – Site survey extract**

The property is currently occupied by single storey brick residence with pitched and tile roof and integrated garage accommodation for 1 vehicle accessed via a strip driveway from Berith Street. An inground swimming pool and detached shed are located at the rear of the property with existing vegetation at the front of the site and within the adjacent road reserve screening the property as viewed from the street frontage.





**Figure 2 – Aerial Location/ Context Photograph**

The immediately adjoining properties are occupied by single storey detached dwelling houses some of which have direct frontage and address to either Berith Street or Rose Avenue.

Surrounding development comprises a mix 1 and 2 storey detached residential dwellings with a tennis court located on the grounds of Wheeler Heights Public School located to the rear of the site. On the northern and southern sides of Rose Avenue are St Roses School and Wheeler Heights Public School respectively. On the eastern side of Veterans Parade opposite the 'T' intersection of Rose Avenue is the local Wheeler Heights Shopping Centre.

The subject property is located approximately 380 metres to the west of the Wheeler Heights Shopping Centre located on Veterans Parade and within 400 metres of bus stops along Rose Avenue and Veterans Parade.



**Figure 3** – View of the subject site from Berith Street.



### **3.0 DEVELOPMENT PROPOSAL**

This document forms a component of a development application that proposes the demolition of the existing dwellings and associated site structures and the construction and strata subdivision of a seniors housing development incorporating 2 x 2 bedroom and 4 x 3 bedroom in-fill self-care housing units and basement car parking for 8 vehicles pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD). It is also proposed to construct an accessible pathway from the subject site to the existing footpath in Rose Avenue.

The scope of works is depicted on architectural plans A01 to A12 prepared by Barry Rush and Associates Pty Limited. Specifically, the application provides for the following built form outcome:

#### **Basement Level**

This floor plate incorporates car parking for 8 vehicles all of which are accessible for persons with a disability. The geometry of the basement enables vehicles to enter and exit the site in a forward direction by way of a driveway and ramp from Berith Street. The basement also incorporates bicycle parking, plant room/s and storage areas for each apartment.

Internal lift and external stair access are provided to the residential floor plates above.

#### **Ground Level**

This level of the development incorporates 2 detached pavilions separated by a communal courtyard area. The front pavilion is 2 storeys in height and at the ground floor level contains 2 x 3 bedroom apartments with direct access from the street facing living rooms to private deck areas. The retention of a number of trees at the front of the site places the front building alignment some 14.410 metres from the Berith Street boundary. Each apartment is fully self-contained and accessed via communal walkway down the centre of the pavilion.

The rear pavilion is single storey in height and contains 2 x 2 bedroom apartments with rear facing courtyards accessed from the adjacent open plan living spaces. Each apartment is fully self-contained and accessed via the communal walkway down the centre of the front pavilion and through the landscaped communal open space in the centre of the site.

All apartments have living, dining, kitchen, bathroom, laundry and bedroom accommodation with direct access to the adjacent private open space areas.

### **First Floor Level**

The front pavilion is 2 storeys in height with the upper level containing 2 x 3 bedroom apartments with direct access from the street facing living rooms to private deck areas. Each apartment is fully self-contained and accessed via communal elevated walkway in the centre of the pavilion.

Integrated privacy screening is provided to the first floor private open space and side boundary facing windows where necessary to prevent direct overlooking opportunity between apartments and into the living and private open space areas of the adjacent properties.

The proposal also involves the implementation of an enhanced and integrated site landscape regime as depicted on the landscape plans prepared by Greenland Design Landscape Architects with the required tree removal identified and appropriately addressed in the accompanying arborist advice prepared by Margot Blues. The landscape proposal incorporates appropriate deep soil perimeter landscape treatments which will soften and screen the development and ensure that the 1 and 2 storey buildings sit within a landscape setting.

The acceptability of the site excavation proposed has been addressed in the accompanying preliminary geotechnical assessment prepared by Jack Hodgson Consultants with accessibility dealt with in the accompanying access report prepared by Accessibility Solutions. No objection is raised to the recommendations contained within these reports forming appropriate conditions of development consent.

All stormwater will be gravity drained to the Berith Street drainage system via the required on-site stormwater detention system as detailed on the accompanying stormwater drainage plans prepared by Taylor Consulting.

## **4.0 STATUTORY PLANNING FRAMEWORK**

### **4.1 General**

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 79C of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined together with any steps to mitigate against any potential adverse environmental impacts.

### **4.2 Warringah Local Environmental Plan 2011**

#### **4.2.1 Zone and Zone Objectives**

The subject property is zoned Residential R2 Low Density pursuant to Warringah Local Environmental Plan 2011. Dwelling houses are permissible with consent in the zone. As such, this form of development is permissible in the zone pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD).

The stated zone objectives are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

The proposed development meets the relevant zone objectives by providing housing which will meet the needs of the community. The height and scale of the development is responsive to context, compatible with that of adjoining development and will not result in unacceptable or jarring residential amenity or streetscape impacts.

WLEP 2011 also contains other provisions applicable to development on the land and although such provisions cannot derogate from SEPP HSPD consideration has been given as follows.

#### 4.2.2 Height of buildings

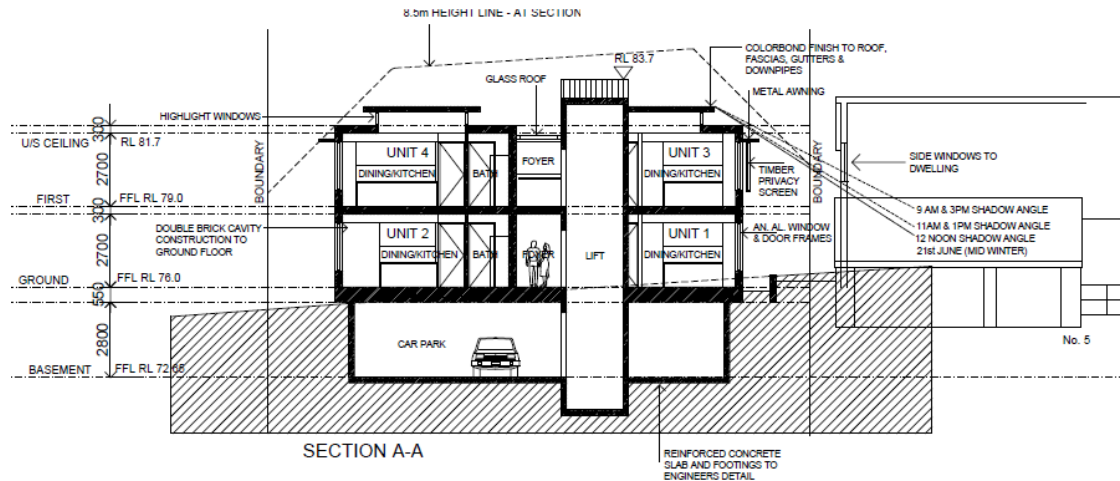
The subject application is made pursuant to the provisions of SEPP HSPD which contains development standards in relation to building height. Whilst the SEPP HSPD building height provisions prevail over the clause 4.3 WLEP height standard an assessment against the latter numerical provision is considered appropriate. In this regard clause 4.3 states that the height of a building on any land is not to exceed 8.5 metres. The stated objectives of such control are as follows:

- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

**Building height** (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

We confirm that the building has a maximum overall height of 7.5 metres measured to the top of the lift overrun with the balance of the development sitting comfortably below the 8.5 metre height control as depicted in Figure 4 over page. Having regard to the stated objectives of the standard we note:

- The height, bulk and scale of the highly articulated 1 and 2 storey pavilion style building form is compatible with the height and scale of surrounding and nearby development noting that SEPP HSPD anticipates a medium density building form within a low density residential environment;
- The height of the development does not give rise to any unacceptable residential amenity impacts in terms of views, privacy or solar access;



**Figure 4** – Plan extract showing relationship of building to 8.5 metre height standard.

- The height of the development will not give rise to adverse impact on the scenic quality of Warringah's coastal and bush environments with the building not being readily discernible as viewed from Narrabeen Lakes or its immediate environs due to intervening built form and landscape elements;
- The height of the development will not be perceived as inappropriate or jarring in its context as viewed from public places such as parks and reserves, roads and community facilities.
- Consistent with the conclusions reached by the Senior Commissioner in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, we have formed the considered opinion that most observers would not find the proposed development offensive, jarring or unsympathetic to the Berith Street streetscapes or having regard to the built form characteristics of development within immediate proximity of the site including the recently approved seniors housing development (DA2016/0621) at No's 30 and 34 Rose Avenue.

The streetscape and physical impacts of the development have been found to be acceptable with appropriate levels of residential amenity maintained to adjoining properties. The proposal satisfies the numerical standard and its associated objectives and accordingly there is no statutory impediment to the granting of consent.



#### **4.2.3 Development on sloping land**

Pursuant to Clause 6.4 WLEP 2011 the subject site falls under Area A on the Landslip Risk Map which is defined by a slope of less than 5 degrees. In this regard, the application is accompanied by a geotechnical site investigation report prepared by Jack Hodgson Consultants Pty Limited.

The report addresses the extent of excavation proposed and confirms that subject to standard excavation support methodology that the level of excavation proposed is acceptable. No objection is raised to a condition requiring compliance with the findings of such report. Council can be satisfied that the clause 6.4 WLEP 2011 provisions have been achieved.

### **4.3 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

The following section of this report assesses the proposal against the relevant provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

#### **4.3.1 Aims of Policy**

The stated aims of the SEPP are to encourage the provision of housing that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

The policy indicates that these aims will be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in the policy, and*
- (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

This report clearly and comprehensively demonstrates that the development is of good design and achieves the aims, development criteria and standards prescribed by the Policy and responds positively to the characteristics of the site through the design initiatives adopted including the highly articulated and pavilion style 1 and 2 storey building form and the maintenance of a generous landscaped curtilage.

### **4.3.2 Land to Which Policy Applies**

Section 4 of the SEPP states that this policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

- (a) development for the purpose of any of the following is permitted on the land:*
  - (i) dwelling-houses,*
  - (ii) residential flat buildings,*
  - (iii) hospitals,*
  - (iv) development of a kind identified in respect of land zoned special uses.*

The allotment, the subject of this application, is zoned primarily for urban purposes on which dwelling houses are a permissible use.

As the sites are not classified as environmentally sensitive land as identified in Schedule 1, or zoned for industrial purposes, the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 apply.

### **4.3.3 Key Concepts**

The development proposes the provision of self contained dwellings to be used permanently for seniors or people with a disability. The proposed dwellings are self-contained as defined in clause 13 of the SEPP.

### **4.3.4 Site Compatibility Criteria**

The subject application is not one to which the application of a site compatibility certificate applies pursuant to clause 25 of the SEPP.

### **4.3.5 Site-related Requirements**

#### **Location and access to facilities**

Pursuant to clause 26 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 to:

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

These access provisions have been addressed in detail in the access report, dated 15<sup>th</sup> October 2018, prepared by Accessibility Solutions (NSW) Pty Limited with such report containing the following conclusions:

*Following a review of the plans and documentation it is my opinion that the proposed development complies with the accessibility and adaptability requirements of the State Environment Planning Policy - Housing for Seniors or People with a Disability in the following manner;*

- *The development demonstrates compliance with the minimum requirements of visitability by virtue of 100% of the self contained dwellings that will have wheelchair accessible pathways from an adjoining road or internal road as required by schedule 3 clause 2(2); and*
- *Accessibility of the self-contained dwellings (100%) and compliance with the design standards of schedule 3; and*
- *Provision of communal amenities that will be wheelchair accessible and benefit the lifestyle of future residents also demonstrate compliance with AS1428 and clauses 38(b), schedule 3 clause 2(3); and*
- *Provision of well designed parking for residents and visitors in accordance with schedule 3 clause 5, clause 50(h) and 38(b); and*
- *Provision of appropriate access to public transport to access an appropriate range of shops and services to comply with clauses 26 and 38 of the SEPP HS, subject to the footpath installation on Berith Street as listed within the report.*

Accordingly, Council can be satisfied that the proposed development meets the location and access to facilities requirements as outlined.

### **Bush fire prone land**

Pursuant to Clause 27 a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land – vegetation category 2” or “Bush fire prone land – vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled *Planning for Bushfire Protection*, dated December 2001.

The subject site is not identified as bushfire prone land.

## **Water and sewer**

Pursuant to clause 28 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 the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.

The subject site currently contains a dwelling house that is connected to a reticulated water and sewage system. The proposed development will connect to these existing systems. The proposal can comply with the water and sewer provision requirements as outlined.

## **Compatibility Criteria for Certain Development to which Clause 24 does not apply**

Having regard to the compatibility consideration at clause 25(5)(b)(i), (iii) and (v) we have formed the following opinions:

The height, bulk and scale of the highly articulated 1 and 2 storey pavilion style building form is compatible with the height and scale of surrounding and nearby development noting that SEPP HSPD anticipates a medium density building form within a low density residential environment.

The height and form of the development does not give rise to any unacceptable residential amenity impacts in terms of views, privacy or solar access. The proposal complies with the threshold standards pertaining to height, FSR and landscaped area and is fully compliant with the setback provisions applicable to development within the R2 Low Density Residential zone with setbacks of between 2.5 and 3 metres maintained to both side boundaries. Such setbacks far exceed those suggested within the document titled *“Seniors Living Policy: Urban Design Guidelines for Infill Development”*.

Having regard to the detail of the proposal we have formed the considered opinion that the development will not give rise to any unacceptable environmental, streetscape or residential amenity impacts. Consistent with the outcome sought by Council the highly articulated and modulated 1 and 2 storey pavilion style building form assists in maintaining the visual appearance of detached style housing within a landscaped setting.



Consistent with the conclusions reached by the Senior Commissioner in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191, we have formed the considered opinion that most observers would not find the proposed development offensive, jarring or unsympathetic to the Berith Street streetscape or having regard to the built form characteristics of development within immediate proximity of the site.

To that extent it can be reasonably concluded that the proposal is compatible with its surroundings having regard to the applicable assessment criteria.

#### **4.3.6 Design Requirements**

##### **Site analysis**

Pursuant to clause 30 of the SEPP a site analysis plan accompanies this application. An aerial photograph of the subject site and its immediate surrounds is contained in Section 2.0 of this report. The relevant issues are discussed as follows:

##### **The Site**

###### *(a) Site Dimensions*

Comment: These are detailed on the accompanying survey plans prepared by Donovan Associates.

###### *(b) Topography*

Comment: The site falls proximally 5 metres across its surface in a north westerly direction enabling gravity drainage to the Berith Street frontage.

###### *(c) Services*

Comment: The proposed development will connect to existing services.

###### *(d) Existing vegetation*

Comment: The application is accompanied by a site survey and arborist advice/ plan which collectively show the location and species of existing trees relative to property boundaries.

###### *(e) Micro climates*

Comment: The site has good solar orientation and has exposure to prevailing breezes.

*(f) Location of site features*

Comment: The existing site structures and features are depicted on the accompanying survey plan. The site does not contain any heritage items.

*(g) Views:*

Comment: No scenic views are currently available from the subject site due to the topography of the site and intervening built form and landscape elements.

*(h) Overshadowing*

Comment: The site obtains good levels of solar access throughout the day due to orientation and subdivision pattern.

**Surrounds of the site**

*(a) Neighbouring buildings*

Comment: The neighbouring buildings are shown on the accompanying survey plan. The built form characteristics of adjoining development are described in section 2.0 of this statement.

*(b) Privacy*

Comment: Good levels of privacy are currently afforded to the immediately adjoining residential and school properties.

*(c) Walls built to the site's boundaries*

Comment: No walls are currently built to the site boundaries.

*(d) Difference in levels*

Comment: The associated levels are shown on the site survey. There is currently no significant change in levels between properties.

*(e) Views and solar access*

Comment: No scenic views are currently available from the subject site due to the topography of the site and intervening built form and landscape elements. All adjoining properties receive good levels of solar access throughout the day to living and private open space areas.

*(f) Major trees*

Comment: The adjoining properties do not contain any trees or vegetation the location of which would impact on the design or siting of development on the subject site as detailed in the accompanying arborist advice.

*(g) Street frontage features*

Comment: The street frontage is characterised by open landscape front yards with driveway access to attach and detached car parking structures.

*(h) Built form and character of adjoining development*

Comment: The built form characteristics of adjoining development are described in section 2.0 of this statement. The locality benefits from nearby open space recreational areas.

*(i) Heritage features*

Comment: The subject properties are not heritage listed nor within the vicinity of any heritage items.

*(j) Direction and distance to local facilities*

Comment: As previously indicated, the subject properties are located approximately 380 metres to the west of the Wheeler Heights neighbourhood shops located on Veterans Parade and within 400 metres of bus stops along Rose Avenue and Veterans Parade.

*(k) Public open space*

Comment: The site is located within walking distance of the Narrabeen Lakes and a plethora of open space recreational areas.

*(l) Adjoining bushland and environmentally sensitive land*

Comment: There is no immediately adjoining bushland or environmentally sensitive land.

*(m) Sources of nuisance*

Comment: Other than potential traffic noise associated with the adjacent road network there are no immediate sources of nuisance.

The proposed development has been developed having regard to the above site analysis and accompanying plan.

## Neighbourhood amenity and streetscape

Pursuant to clause 33 the proposed development should:

- (a) *recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area, and*

Comment: Having regard to the detail of the proposal we have formed the considered opinion that the development will not give rise to any unacceptable environmental, streetscape or residential amenity impacts. Consistent with the outcome sought by Council the highly articulated and modulated 1 and 2 storey pavilion style building form assists in maintaining the visual appearance of detached style housing within a landscaped setting.

As previously indicated the building has been designed to respond to the built form context in which it is located which is eclectic in nature containing both street fronting and battle-axe allotments. Consistent with the conclusions reached by the Senior Commissioner in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191, we have formed the considered opinion that most observers would not find the proposed development offensive, jarring or unsympathetic to the Berith Street streetscapes or having regard to the built form characteristics of development throughout the immediate locality.

The physical impacts of the development have been found to be acceptable with appropriate levels of amenity maintained to adjoining residential properties. To that extent it can be reasonably concluded that the proposal is compatible with its surroundings.

- (b) *retain, compliment and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in the local environmental plan, and*

Comment: The subject properties are not heritage listed or located within proximity of a heritage item.

- (c) *maintain reasonable neighbourhood amenity and appropriate residential character by:*

- (i) *providing building setbacks to reduce bulk and overshadowing, and*

Comment: The application proposes side boundary setbacks to both boundaries of between 2.445 and 3 metres with a communal open space area between pavilions providing a clear and significant visual break in the building form as viewed from both adjoining properties. We also note that both elevated first floor living rooms and open space balconies are oriented to the street frontage preventing direct overlooking into the adjoining properties. Further, the majority of setback areas available for deep soil landscaping as depicted on the accompanying landscape plans prepared by Greenland Design Landscape Architects.

These setbacks are contextually appropriate and well in excess of those prescribed by the “*Seniors Living Policy: Urban Design Guidelines for Infill Development*”. The setbacks proposed provide for a compliant building envelope circumstance, appropriate spatial separation between properties and well dimensioned deep soil landscape opportunities around the entire perimeter of the development.

The setbacks proposed, coupled with the sensitive design and orientation of internal living and outdoor open space areas will ensure that appropriate levels of aural and visual privacy are maintained to adjoining properties. Further, the shadow diagrams clearly demonstrate that well in excess of 3 hours of solar access will be maintained to the principal living and outdoor open space areas of neighbouring properties between 9:00am and 3:00pm on 21<sup>st</sup> June.

- (ii) *using building form and siting that relates to the site’s land form, and*

Comment: The building forms step down the site in response to topography.

- (iii) *adopting building heights at the street frontage that are compatible in scale with adjacent development, and*

Comment: The development maintains a 1 and 2 storey presentation as viewed from the adjacent properties consistent with anticipated in the zone.

- (iv) *considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*

Comment: No buildings are to be located on the boundary.



- (d) *be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*

Comment: The proposal maintains a 14.410 metre front setback to Berith Street with such setback dictated by the desire to retain Tree 4 at the front of the property. Such setback is commensurate with that established by the 2 immediately adjoining properties.

- (e) *embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*

Comment: The existing site landscaping will be supplemented and enhanced in conjunction with the proposed development. These landscape elements are shown on the landscape concept plans prepared by Greenland Design Landscape Architects.

- (f) *retain, wherever reasonable, major existing trees, and*

Comment: The proposal also involves the implementation of an enhanced and integrated site landscape regime as depicted on the landscape plans prepared by Greenland Design Landscape Architects. with the required tree removal identified and appropriately addressed in the accompanying arborist advice prepared by Margot Blues. The landscape proposal incorporates appropriate deep soil perimeter landscape treatments which will soften and screen the development and ensure that the 1 and 2 storey buildings sit within a landscape setting.

- (g) *be designed so that no building is constructed in a riparian zone.*

Comment: Not applicable.

### **Visual and acoustic privacy**

Pursuant to clause 34 the proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

- (a) *appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*

Comment: The proposal maintains appropriate levels of both aural and visual privacy through appropriate building design and orientation of internal living and elevated private open space areas and the provision of fixed privacy screens where considered necessary.

These elements will prevent direct overlooking opportunity within a 9 metre radius of adjoining living and open space areas. Intervening landscape elements will achieve secondary privacy attenuation.

- (b) *ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

Comment: This has been addressed through building design and landscaping.

### **Solar access and design for climate**

Pursuant to clause 35 the proposed development should:

- (a) *ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*

Comment: The accompanying shadow diagrams (Plan A10) clearly demonstrate that the orientation of the site, location of proposed built form elements, spatial separation maintained between adjoining properties and topography will ensure that the development will not unreasonably shadow any adjoining properties at any time during the day. In this regard, we note that the west facing living room and front courtyard area of No. 5 Berith Street will continue to receive solar access between 12 noon and 3pm on 21<sup>st</sup> June with the majority of the rear yard open space area continuing to receive solar access throughout the day.

Further, the orientation of the apartments and associated living and private open space areas within the development will ensure that 5 of the 6 apartments or 83% (all except apartment 5) will receive 3 hours of solar access between 9am and 3 pm on 21<sup>st</sup> June.

- (b) *involving site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

Comment: As previously indicated, the orientation of the apartments and associated living and private open space areas within the development will ensure that 5 of the 6 apartments or 83% (all except apartment 5) will receive 3 hours of solar access between 9am and 3 pm on 21<sup>st</sup> June.

## Stormwater

Pursuant to clause 36 the proposed development should:

- (a) *control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by finishing driveways surfaces with semi impervious material, minimising the width of paths and minimising paved areas, and*

Comment: All stormwater will be gravity drained to the Berith Street drainage system via the required on-site stormwater detention system as detailed on the accompanying stormwater drainage plans prepared by Taylor Consulting Engineers.

- (b) *include, where practicable, on-site stormwater detention or re-use for second quality water uses.*

Comment: Please refer to the accompanying drainage plans prepared by Taylor Consulting Engineers.

## Crime prevention

Pursuant to clause 37 the proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (a) *site planning that allows, from inside each dwelling, general observation of the street, the site and approaches to the dwellings entry, and*

Comment: These design principles have been considered and detailed with the development application. Appropriate levels of casual surveillance are achieved to publicly accessible spaces from all apartments. All basement car parking and publicly accessible areas will be appropriately lit at night with the and landscape designs minimising potential concealment and entrapment opportunities.

- (b) *where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*

Comment: No shared entries are proposed.

- (c) *Providing dwellings designed to allow residents to see who approaches their dwelling without the need to open the front door.*

Comment: These design principles have been considered and detailed with the development application. Good levels of casual surveillance are achieved from all apartments.

### **Accessibility**

Pursuant to clause 38 the proposed development should:

- (a) *have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*

Comment: This has been addressed in detail within the Access Report prepared by Accessibility Solutions (NSW) Pty Limited a copy of which accompanies this application.

- (b) *provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

Comment: The proposal incorporates the required quantum of resident spaces in safe and convenient basement parking facilities.

The compliance of such parking outcome is addressed in detail in the Access Report prepared by Accessibility Solutions (NSW) Pty and Traffic Impact Assessment prepared by Apex Engineers with such report containing the following conclusions:

*APEX Engineers were engaged by Melissa Zhou to provide a traffic impact assessment as a part of the development application (under SEPP SL Housing) for the proposed 6 unit (2 x 2 bedroom units + 4 x 3 bedroom units) seniors' living development at 3 Berith Street in Wheeler Heights.*

*The local vicinity of the subject site is primarily of residential nature. The subject site is serviced by a number of bus routes, which can be accessed from bus stops located within a 5 minute walking radius of the subject site. As such, it was concluded that prospective tenants can carry out most trips via public transport, eliminating the need for driving trips.*

*A parking provision assessment was undertaken in accordance with the State Environmental Planning Policy (Housing for Seniors or People With a Disability) 2004 and the State Environmental Planning Policy (Affordable Rental Housing) 2009.*

*Based on the parking rates presented in the State Environmental Planning Policy (Housing for Seniors or People With a Disability) 2004, the proposed development should provide 8 car parking spaces (all disability accessible car spaces). Based on the parking rates presented in the State Environmental Planning Policy (Affordable Rental Housing) 2009, for land within an accessible area, the proposed development should provide 8 car spaces.*

*The proposed development includes provision for 8 car spaces (all of which are disability accessible car spaces) – which satisfies the requirements obtained from both policy documents considered above. The proposed car parking design was assessed with reference to AS 2890.1 and AS 2890.6. It was found that the proposed design was compliant with the relevant design requirements.*

*The daily and peak hour trip generations for the proposed development were determined from the trip rates stipulated for medium density residential developments in the Guide to Traffic Generating Developments (RMS NSW TDT 2013/04). Using the rates offered within this guide, a weekday peak hour rate of 3 trips and a daily trip rate of 30 trips was established. This number of trips are considered minimal and are unlikely to eventuate into any adverse impacts to the local road network.*

*In light of the above, the proposed development is expected to accommodate its parking demand and will impose generally negligible traffic impacts to the local road network.*

### **Waste management**

Pursuant to clause 39 the proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

Comment: The development incorporates appropriately sized and conveniently accessed garbage storage facilities within a dedicated area located within 6 metres of the street frontage. The application is also accompanied by a waste management plan.



### 4.3.7 Development standards to be complied with

#### Minimum sizes and building height

Pursuant to clause 40 a consent authority must not consent to a development application unless the proposed development complies with the standards specified in this clause:

##### Site size

*The size of the site is at least 1,000 square metres, and*

Comment: The area of the site is 1269 square metres and as such complies with the development standard.

##### Site frontage

*The site frontage is at least 20 metres wide measured at the building line, and*

Comment: The property has a width measured at the building line of 20.135 which is compliant with this standard.

#### Height in zones where residential flat buildings are not permitted

- (a) *the height of all buildings in the proposed development must be 8 metres or less, and*

Comment: We note that for the purpose of this clause height is defined as follows:

**height** *in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.*

In this regard, we refer to Figure 4 and the balance of the plan bundle which confirm that the height of all buildings in the proposed development do not exceed 8 metres measured from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point in strict accordance with the standard.

- (b) *a building that is adjacent to a boundary of the site must be not more than 2 storeys in height, and*

Comment: In relation to storeys we confirm that the development is a maximum 1 and 2 stories in height in strict accordance with this standard.

- (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*

Comment: The rear pavilion is single storey in height thus satisfying this standard.

#### **4.3.8 Standards that cannot be used to refuse development consent for self-contained dwellings**

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling on any of the following grounds:

- ***building height:*** *if all proposed buildings are 8 metres or less in height,*

Comment: This matter has been addressed in detail in section 4.3.7 of this report with strict compliance achieved.

- (b) ***density and scale:*** *if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,*

Comment: The proposal provides for a gross floor area of 727sqm representing an FSR of 0.57:1. Such FSR exceeds the standard however we note that there is no FSR standard applicable to residential development pursuant to WLEP 2011. That said, having regard to the merits of the proposal as reflected by the development's density and scale, we consider that strict compliance is both unreasonable and unnecessary for the following reasons:

- Consistent with the outcome sought by Council the highly articulated and modulated 1 and 2 storey pavilion style building form assists in maintaining the visual appearance of detached style housing within a landscaped setting.
- The development sits comfortably below the 8.5 metre WLEP 2011 height of buildings standard and also below the 8 metre ceiling height standard with SEPP HSPD;
- The landscaped area exceeds the minimum 30% landscape and 15% deep soil SEPP HSPD standard with complimentary and compatible setbacks provided to all boundaries.

- The proposed development will not give rise to any unacceptable residential amenity impacts in terms of privacy, view loss, overshadowing or visual bulk.
- The integrated site landscape regime proposed will soften and screen the building when viewed from the street and neighbouring residential properties.
- The development will increase the supply of housing for seniors and people with a disability within immediate proximity of a neighbourhood centre.
- Consistent with the conclusions reached by Senior Commissioner Roseth in the matter of Project Venture Developments v Pittwater Council (2005) NSW LEC 191 we have formed the considered opinion that most observers would not find the proposed development offensive, jarring or unsympathetic in a streetscape context nor when assessed against the built form characteristics of development within the sites visual catchment. Accordingly, it can be reasonably concluded that the proposal is compatible with its surroundings.
- Having regard to the matter of Veloshin v Randwick City Council [2007] NSWLEC 428 this is not a case where the difference between compliance and non-compliance is the difference between good and bad design.

It has been determined that the GFA/FSR has been appropriately distributed across the site having regard to the relationship of the proposal to the established built form arrangement on adjoining properties and the maintenance of appropriate residential amenity and streetscape outcomes.

- (c) **landscaped area:** *if a minimum of 30% of the area of the sites is to be landscaped,*

Comment: The application provides for a total landscaped area of 485.6sqm or 38% of the site area as depicted on plan A05 with such quantum in strict accordance with the standard.

- (d) **Deep soil zones:** *if, in relation to that part of the site that is not built upon, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site. Two thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*

Comment: The application provides for a total deep soil landscaped area of 239sqm or 18.8% of the site area with such areas in excess of 3 metres in both directions and located adjacent to both side boundaries to accommodate deep soil perimeter/ intervening landscaping. Strict compliance is achieved.

- (e) **solar access:** *if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*

Comment: As previously indicated, the orientation of the apartments and associated living and private open space areas within the development will ensure that 5 of the 6 apartments or 83% (all except apartment 5) will receive 3 hours of solar access between 9am and 3 pm on 21<sup>st</sup> June. Strict compliance is achieved.

- (f) **private open space for in-fill self-care housing:** *if:*

- (i) *in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and*

Comment: All apartments have compliant areas of private open space as detailed on plan A05.

- (h) **parking:** *if at least the following is provided:*

- (i) *0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider.*

Comment: Based on 16 bedrooms the proposal requires 8 car parking spaces. The proposal provides for 8 accessible resident spaces in strict accordance with such control.

#### 4.4 COMPLIANCE TABLE- SEPP (HSPD) 2004

The table below provides a summary of details in respect to compliance with standards that apply to this development proposal.

| SUMMARY OF COMPLIANCE WITH STANDARDS                           |   |  |                                  |
|--|---|--|----------------------------------|
| Standard   | Required  | Provided   | Complies                         |
| Location, Facilities and Support Services (Clause 26 SEPPHSPD) | Site within 400m of transport that can provide access to Facilities and Support Services  | Refer to accompany access report.  | Yes                              |
| Building Frontage (Clause 40(3) SEPPHSPD)                      | Minimum street frontage of 20 metres wide at building line.   | >20 metres at building alignment.  | Yes                              |
| Wheelchair Access Requirements (Schedule 3)                    | 100% access to road or internal driveway; 10% access to adjoining road; 100% access to common areas and facilities; 100% adaptable to disabled persons requirements | 100% access to road or internal driveway; greater than 10% access to adjoining road; 100% access to common areas and facilities; 100% adaptable to disabled persons requirement. Refer to accompany access report. | Yes                              |
| Height (Clause 40(4) SEPPHSPD)                                 | <8.0m<br>2 storeys at boundary.<br>Single storey in rear 25% of site.   | <8.0m<br>2 storeys<br>Single in rear 25%   | Yes<br>Yes<br>Yes                |
| FSR (Clause 50(b) SEPPHSPD)                                    | Threshold of 0.5:1  | 0.57:1   | Exceeded but acceptable on merit |
| Landscaped Area (Clause 50(c) and (d) SEPPHSPD)                | Minimum 30% of site as landscaped area.<br>Deep soil zone –15% of site area.  | 38% of site landscaped.<br>18.8% deep soil zone.   | Yes<br>Yes                       |
| Parking total 22 bedrooms (Clause 50(h) SEPPHSPD)              | 8 resident spaces   | 8 accessible resident spaces   | Yes                              |
| Neighbour amenity and streetscape (Clause 33 SEPPHSPD)         | Attractive residential environment  |  | Satisfactory                     |
| Visual and Acoustic Privacy (Clause 34 SEPPHSPD)               | Appropriate site planning and acceptable noise levels   |  | Satisfactory                     |

|  |   |  |              |
|--|---|--|--------------|
| Solar Access<br>(Clause 35<br>SEPPHSPD)        | Adequate daylight to living<br>areas of neighbours and<br>sun to POS                                |  | Satisfactory |
| Stormwater<br>(Clause 36)                      | Minimise stormwater run-<br>off.  |  | Satisfactory |
| Crime Prevention<br>(Clause 37<br>SEPPHSPD)    | Personal property security<br>for residents and visitors<br>and encourage crime<br>prevention.      |  | Satisfactory |
| Accessibility<br>(Clause 38<br>SEPPHSPD)       | Access to public transport,<br>parking and disabled<br>access to all aspects of the<br>development. |  | Satisfactory |
| Waste<br>Management<br>(Clause 39<br>SEPPHSPD) | Waste facilities that<br>maximise recycling.  |  | Satisfactory |

#### 4.5 Compliance Table- Warringah DCP 2011

|                        | Control                      | Proposed              | Compliance   |
|------------------------|------------------------------|-----------------------|--|
| Side Boundary Setback  | Min 900mm                    | Min 2.445 – 3m        | YES  |
| Front Building Setback | Min 6.5m                     | 14.410m               | YES  |
| Rear Building Setback  | Min 6 metres                 | 5.050 to 6.735 metres | NO<br>Acceptable on merit. Refer to commentary below |
| Building Envelope      | 4 metres/ 45 degree envelope | Complies              | YES  |

The balance of the DCP provisions pertaining to traffic access and safety, parking, stormwater, erosion and sedimentation, excavation, waste management, private open space, access to sunlight, privacy, building bulk and landslip risk have been addressed previously in this report in response to the SEPPHSPD considerations.

In relation to the rear setback we note the breaching elements are single storey in nature such that there will be no unacceptable residential amenity impacts in terms of privacy, solar access or visual bulk with the property to the rear occupied by a tennis court associated with Wheeler Heights Public School. In this regard, a dense 3 metre wide deep soil landscape zone is provided along the rear boundary to provide appropriate visual screening between land uses with the minor variation sought offset by generous setbacks to the street and the visual break in the building massing achieved through the introduction of a large communal open space area between building pavilions.

Such variation succeeds on merit having regard to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development.

#### **4.6 State Environmental Planning Policy No.55 – Remediation of Land**

State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to carrying out of any development on that land. In this regard, the likelihood of encountering contaminated soils on the subject site is extremely low given the following:

- Council's records indicate that site has only been used for residential uses.
- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.
- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed residential development. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

#### **4.7 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the residential component of the development and aims to encourage sustainable residential development.

A BASIX certificate accompanies the development application and demonstrates that the proposal achieves compliance with the BASIX water, energy and thermal efficiency targets.



#### **4.8 Matters for Consideration Pursuant to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 as amended**

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15(1) of the Environmental Planning and Assessment Act 1979(as amended). Guidelines (*in italic*) to help identify the issues to be considered have been prepared by the Department of Urban Affairs and Planning. The relevant issues are:

##### **4.8.1 The provision of any planning instrument, draft environmental planning instrument, development control plan or regulations.**

This report clearly and comprehensively addresses the statutory regime applicable to the application and demonstrates that the proposed land use is complimentary and compatible with the character of the immediate area. The development is permissible in the zone and complies with the relevant statutory planning regime as detained within this report.

##### **4.8.2 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economical impacts in the locality.**

###### *Context and Setting*

i) *What is the relationship to the region and local context on terms of:*

- *the scenic qualities and features of the landscape?*
- *the character and amenity of the locality and streetscape?*
- *the scale, bulk, height, mass, form, character, density and design of development in the locality?*
- *the previous and existing land uses and activities in the locality?*

These matters have been discussed in detail in the body of the report.

ii) *What are the potential impacts on adjacent properties in terms of:*

- *relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)?*
- *visual and acoustic privacy?*
- *views and vistas?*

- *edge conditions such as boundary treatments and fencing?*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be acceptable and within the scope of the built form controls.

#### *Access, transport and traffic*

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *travel demand?*
- *dependency on motor vehicles?*
- *traffic generation and the capacity of the local and arterial road network?*
- *public transport availability and use (including freight rail where relevant)?*
- *conflicts within and between transport modes?*
- *traffic management schemes?*
- *vehicular parking spaces?*

These issues have been discussed in detail in the report. It has been determined that the development provides adequate carparking facilities and will not significantly increase traffic generation.

#### *Public domain*

The proposed development will have no additional impact on the public domain (ie roads, parks etc.).

#### *Utilities*

This matter has been discussed in detail in the body of his report.

#### *Flora and fauna*

These issues have been discussed in detail in the body of the report. The landscape concept plans accompanying this application proposes additional planting and landscaping treatments which will maintain the landscape quality of the site and locality generally.

#### *Waste*

Normal domestic waste collection applies to this development with waste collection areas provided within 6 metres of both property frontages.

### *Natural hazards*

Potential landslip and excavation hazard have been addressed in the accompanying geotechnical report.

### *Economic impact in the locality*

The proposed development will not have any significant impact on economic factors within the area other than short term employment opportunities during construction.

### *Site design and internal design*

i) *Is the development design sensitive to environmental conditions and site attributes including:*

- *size, shape and design of allotments?*
- *the proportion of site covered by buildings?*
- *the position of buildings?*
- *the size (bulk, height, mass), form, appearance and design of buildings?*
- *the amount, location, design, use and management of private and communal open space?*
- *landscaping?*

These matters have been discussed in detail earlier in this report. The potential impacts are considered to be minimal and within the scope of the policy controls.

ii) *How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation?*
- *building fire risk – prevention and suppression/*
- *building materials and finishes?*
- *a common wall structure and design?*
- *access and facilities for the disabled?*
- *likely compliance with the Building Code of Australia?*

The proposed development can comply with the provisions of the Building Code of Australia as detailed in the accompanying report prepared by Private Certifiers Australia. The proposal complies with the relevant standards pertaining to health and safety.

### *Construction*

i) *What would be the impacts of construction activities in terms of:*

- *the environmental planning issues listed above?*
- *site safety?*

The application is accompanied by a waste management plan prepared in accordance with Council requirements. We anticipate Council applying standard conditions with regards to the amelioration of construction related impacts.

#### **4.8.3 The suitability of the site for the development.**

*Does the proposal fit in the locality?*

- *are the constraints posed by adjacent developments prohibitive?*
- *would development lead to unmanageable transport demands and are there adequate transport facilities in the area?*
- *are utilities and services available to the site adequate for the development?*

The adjacent development does not impose any unusual or impossible development constraints. The site is well located with regards to public transport and utility services. The development will not cause excessive or unmanageable levels of transport demand.

*Are the site attributes conducive to development?*

The site being of moderate grade, adequate area, and having no special physical or engineering constraints is suitable for the proposed development.

#### **4.8.4 Any submissions received in accordance with this Act or the regulations.**

It is envisaged that the consent authority will appropriately consider any submissions made in relation to the proposed development.

#### **4.8.5 The public interest.**

It is considered that the development is sensitive both to the natural and built environments and will cater for a clear demand for this form of housing on the Northern Beaches given its aging population. Approval is in the public interest.

## **5.0 CONCLUSIONS**

The proposal is permissible and in conformity with the aims and implicit objectives of SEPP HSPD and the subordinate standards and controls applicable to this form of development on this particular site. The proposed height and density are as anticipated for this form of development.

The architect has responded to the client brief to provide for a residential development of exceptional design quality which responds appropriately to the constraints and opportunities identified through detailed site and context analysis, including the need to retain a number of trees at the front and rear of the site, whilst maintaining appropriate levels of amenity to the adjoining residential properties and Wheeler Heights Public School to the rear of the site. The final design is also responsive to the minutes arising from formal pre-DA discussions with Council.

Having regard to the detail of the proposal we have formed the considered opinion that the density and scale of the proposal as reflected by FSR will not give rise to any unacceptable environmental, streetscape or residential amenity impacts. In this regard the floor space has been appropriately distributed across the site having regard to the relationship of the proposal to the established built form arrangement on adjoining properties and the maintenance of appropriate residential amenity and streetscape outcomes. Consistent with the outcome sought by Council the highly articulated and modulated 1 and 2 storey pavilion style building form assists in maintaining the visual appearance of detached style housing within a landscaped setting.

Further, consistent with the conclusions reached by the Senior Commissioner in the matter of *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, we have formed the considered opinion that most observers would not find the proposed development offensive, jarring or unsympathetic to the Berith Street streetscape or having regard to the built form characteristics of development within immediate proximity of the site including the recently approved seniors housing development (DA2016/0621) at No's 30 and 34 Rose Avenue.

In relation to the rear setback we note the breaching elements are single storey in nature such that there will be no unacceptable residential amenity impacts in terms of privacy, solar access or visual bulk with the property to the rear occupied by a tennis court associated with Wheeler Heights Public School. In this regard, a dense 3 metre wide deep soil landscape zone is provided along the rear boundary to provide appropriate visual screening between land uses with the minor variation sought offset by generous setbacks to the street and the visual break in the building massing achieved through the introduction of a large communal open space area between building pavilions.

Such variation succeeds on merit having regard to section 4.15(3A)(b) of the Act which requires Council to be flexible in applying such provisions and allow reasonable alternative solutions that achieve the objects of DCP standards for dealing with that aspect of the development

Having given due consideration to the matters pursuant to Section 4.15(1) of the Environmental Planning and assessment Act, 1979 as amended, it is considered that there are no matters which would prevent Council from granting consent to this proposal in this instance.

Yours faithfully

**Boston Blyth Fleming Town Planners**

A handwritten signature in black ink, appearing to read 'Greg Boston', is written over a horizontal line.

**Greg Boston**

B Urb & Reg Plan (UNE) MPIA  
**Director**