

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2018/1667 |
| Responsible officer: | Lashta Haidari |
| Land to be development (Address) | Lot 2615, DP 752038, No. 181 Allambie Road, Allambie Heights |
| Proposed Development: | Partial demolition works and construction of a Seniors Housing Development |
| Zoning: | Warringah Local Environmental Plan 2011 - R2 Low Density Residential |
| Development Permissible: | Yes (Pursuant to SEPP HSPD 2004) |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Local Planning Panel (NBLPP) |
| Land and Environment Court Action: | No |
| Owner: | Department of Lands |
| Applicant: | Allambie Heights Village Ltd |
| Application lodged: | 11 October 2018 |
| Integrated Development: | Yes (Bushfire) |
| Designated Development: | No |
| State Reporting Category: | Residential – Seniors Living |
| Notified: | 7 November to 10 December 2018 |
| Advertised: | 10 November 2018 |
| Submissions Received: | 43 |
| Recommendation: | Refusal |
| Estimated Cost of Works: | \$16,376,387 |

Executive Summary

The Development Application (DA) seeks consent for part demolition works and construction of 24 independent living units (ILU's) within two individual blocks under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD 2004). The site has been used for social housing since 1966 and presently consists of 55 serviced self-care units. Therefore, the total number of units onsite will be increased to 79 under this proposal.

The proposed development is to be situated behind the existing 2 storey buildings which front Allambie Road, but generally remaining on the eastern half of the site. The site is owned by the Department of Industry-Lands (Crown Land) and it is currently leased to Allambie Heights Village.

Under the provisions of Warringah Local Environmental Plan 2011 (WLEP 2011), the subject site is within the R2 Low-Density Residential Zone. The proposed development is defined as "seniors housing", which is a prohibited land use under the WLEP 2011, however, the proposal is made permissible in the R2 zone pursuant to the SEPP HSPD 2004.

The application was referred to internal departments of Council and external authorities. The NSW Rural Fire Service (RFS) has declined to issue their General Terms of Approval (GTA) due to insufficient information to properly assess the application and determine its suitability. Therefore, the consent authority is prevented from issuing consent under the provisions of Section 4.45 of the *Environmental Planning and Assessment Act, 1979*.

There are a number of other referral issues raised in relation to the proposed development, which also form reasons for refusal, in that the application is deficient in identifying the relevant environmental impacts associated with the subject site.

Notwithstanding the above issues and the recommendation for refusal, the remainder of the assessment has found that the proposal is generally acceptable and can be supported subject to conditions. In this regard, the assessment has found that the proposed development is satisfactory from an urban design and planning perspective with regards to its character, built form and landscape setting.

The applicant has lodged a request under Clause 4.6 of the WLEP 2011 for a variation to the building height development standard under the SEPP HSPD 2004.

The variation to the building height control is up to 0.65m above the permissible height of 8.0m, representing a relatively minor variation of 8.1%. The variation is considered acceptable largely due to the topography of the land and is offset by other aspects of the development. The variation is not considered to result in excessive bulk and scale and does not result in adverse shadow and amenity impacts on surrounding properties. The height variation does not result in additional floor space in terms of a non-compliant storey.

The public exhibition of the DA resulted in 43 individual submissions, all of which raised concerns with the proposed development. The majority of the submissions raised concerns with regards to the environmental aspects of the proposal. The issues raised in the submissions have been addressed in the "Public Notification" section of this report.

Based on a detailed assessment of the proposal against the applicable planning controls, it is recommended that the Northern Beaches Local Planning Panel (NBLPP) refuse the application for the reasons provided in the recommendation section of this report.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979, and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal

SITE DESCRIPTION

The subject site is generally rectangular, with long northern and southern boundaries and narrow western and eastern boundaries. The site is known as No. 181 Allambie Road, Allambie Heights, and has a legal description of Lot 2615 in DP 752038. The land has total area of 3.72 hectares (37,200m²).



Figure 1 – Location Map

The site slopes in a westerly direction and contains large areas of bushland for approximately half of the area of the site, being the western portion. Bushland also extends along the northern boundary of the site adjacent to an existing Sydney Water pipeline corridor.

The site is currently occupied by an aged care facility known as William Charlton Village, which provides seniors housing in the form of two (2) older style U-shaped buildings. The existing buildings are located on the eastern portion of the site and include ILUs in 2 storey walk-up buildings, administration/staff buildings and detached outbuildings. Vehicular access to the site is via Allambie Road and also Martin Luther Lane to the south.

The site is adjoined on its southern boundary by another seniors development, also operated by Allambie Heights Village, that provides a variety of ILUs, assisted living units, dementia care and a full range of catering, recreation, transportation and administration facilities. Located to the north of the site is a Sydney Water pipeline corridor, which runs parallel to the northern boundary of the subject site and is surrounded by bushland. Further to the north of the pipeline is a retirement village known as Fred Hutley Village, which comprises a range of affordable ILUs.

The bushland to the west and south-west of the site forms part of the Manly Dam Catchment and is under the ownership of the Crown.

SITE HISTORY

Pre-Lodgement Meeting

A pre-lodgement meeting (PLM) was held with Council relating to the current proposal on 21 November 2017.

Development Application

The application was lodged with Council on 10 November 2018.

Initial assessment of the proposal revealed a number of problematic issues with the application, which were presented to the applicant in a letter dated 25 February 2019. The applicant was invited to withdraw the application, with a view to preparing the required information, then re-submitting a new application at a later date.

In response, the applicant chose to lodge the additional information on 11 March 2019 in an attempt to address the concerns raised without withdrawing.

The following additional information was submitted:

- Bushfire Assessment Report by D. B. Macarthur J.P
- Total Earth Care response to RFS Referral
- Total Earth Care response to Riparian Referral
- Jackson Teece Architects response to Urban Design Referral
- Woods and Grieve Engineers response to Engineering Referral

This report is based on the amended information that was submitted on 11 March 2019.

PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for a senior's housing development, which consists of partial demolition works, site preparation works, the removal of trees and the construction of a 2 storey development comprising 24 independent living units to be used for seniors housing in two separate blocks (known as Building A and Building B).

Specifically, the development includes the following works:

- **Building A** – provides for a total of 8 units over two storeys (4 units per floor). Units are accessible from two lifts located on the parking level.
- **Building B** – provides for total of 16 units over two storeys (8 units per floor). Ground floor units are accessible directly from the parking level, through private courtyards. First floor units are accessible by two lifts and raised walkways above ground floor courtyards.

- **Carparking** - the carpark provides 30 resident parking spaces, which includes 2 visitor parking spaces and a loading bay.
- **Access** – existing vehicular access to the site is via Martin Luther Place and the existing internal driveway. A new loop road is proposed to extend from this internal driveway to the parking area for the proposed development.
- **Landscape works** - the landscape design comprises new tree plantings, turf areas, feature rock outcrops, a 4-hole putting golf course and community activity areas and structures.



Figure 2 – Site Plan showing new buildings behind existing U-shaped buildings
(Source: Jackson Teece)



Figure 3 – Photomontage showing south-western elevation (Source: Jackson Teece)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 are:

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See the discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15(1) (a)(ii) – Provisions of any draft environmental planning instrument | No Draft Environmental Planning instruments apply to the proposed development. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan 2011 (WDCP 2011) applies to this proposal. |
| Section 4.15 (1) (a)(iiia) - Provisions of any Planning Agreement or Draft Planning Agreement | None Applicable. |
| Section 4.15 (1) (a)(iv) - Provisions of the regulations | Clause 98 of the Environmental Planning and Assessment Regulation 2000 states that a prescribed condition of consent is that the work is to be undertaken in accordance with the Building Code of Australia (BCA). If the application is approved a condition of consent could be included in the recommendation to ensure that the proposal complies with the BCA. |

| Section 4.15 'Matters for Consideration' | Comments |
|--|--|
| <p>Section 4.15 (1) (b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p> | <p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the relevant sections in this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable.</p> <p>(ii) The development will provide housing designed specifically for seniors or people with a disability and therefore the development ensures that the housing stock caters for a broad cross section of the community. The proposed development will not therefore have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use.</p> |
| <p>Section 4.15(1) (c) – The suitability of the site for the development</p> | <p>The suitability of the site in terms of likely impacts on the environment and amenity has been discussed in detail in the various section of this report. In summary, the suitability of the site for the development as proposed in its current form remains uncertain, due to fact that the proposal has not conclusively addressed the environmental impacts of the proposed development.</p> <p>Furthermore, the suitability of the site for additional seniors housing in this size, scale and form has not been established as the NSW RFS has not issued a Bush Fire Safety Authority as required for a 'Special Fire Protection Purpose' development, and given the environmental significance of the site and area and lack of information provided to determine its impacts and mitigation measures.</p> <p>Therefore, a conclusive determination that the site is suitable cannot be made at this stage.</p> |
| <p>Section 4.15 (1) (d) – any submissions made in accordance with the EP&A Act 1979 or EP&A Regulations 2000</p> | <p>In regards to public submissions please refer to the discussion on "Notification & Submissions Received" within this report.</p> |

| Section 4.15 'Matters for Consideration' | Comments |
|---|---|
| <p>Section 4.15(1) (e) – The public interest</p> | <p>The public interest has been considered as part of the application process.</p> <p>Overall, the public interest is best served by the thorough and consistent application of the requirements of the relevant planning controls, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised and/or managed.</p> <p>The proposal has been assessed against the provisions of the relevant planning controls and is deemed to be unacceptable in terms of its impact on the natural environment. On this basis, the approval of the application is not consistent with maintaining and protecting the public interest.</p> |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan 2011.

As a result of the public exhibition of the application, Council received 43 submissions as follows:

| Name: | Address: |
|----------------------------------|--|
| Mr David Anthony Parsons | 7 Canea Crescent ALLAMBIE HEIGHTS NSW 2100 |
| Marjorie Colman | 24 Island Parade NORTH NARRABEEN NSW 2101 |
| Adrian Fellowes | 83 Campbell Parade MANLY VALE NSW 2093 |
| Malcolm John Fisher | 37 King Street MANLY VALE NSW 2093 |
| Karen Montgomery | 15/9 Jodie Court MERMAID WATERS NSW 4218 |
| Mrs Robin Anne Oxenbury | 117 Carawa Road CROMER NSW 2099 |
| Shauna Wilson | 21/29-31 Collins Street ST MARYS NSW 2760 |
| Ms Virandathi Asha Kovel | 24 King Street MANLY VALE NSW 2093 |
| Adrian Breakspear | 1 / 49 Eurobin Avenue MANLY NSW 2095 |
| Belinda Clarke | 2 Seebrees Street MANLY VALE NSW 2093 |
| Ms Nicole Edson Bates-Brownsword | 1 Buna Place ALLAMBIE HEIGHTS NSW 2100 |
| Rovert Remin | 138 Grandview Drive NEWPORT NSW 2106 |
| Leonie Gail Cowan | 37 King Street MANLY VALE NSW 2093 |
| Ms Linda Jozy Sutton | 2 / 65 Addison Road MANLY NSW 2095 |
| Mrs Sandra Shergill | 10 Iona Avenue WEST PYMBLE NSW 2073 |

| Name: | Address: |
|---|--|
| Mr Robert Allen Peck | 106 Bangaroo Street NORTH BALGOWLAH NSW 2093 |
| Kathryn Mary Burton | 1 Pitt Street MANLY VALE NSW 2093 |
| Mr Grahame Wilfrid Collier | 23 Urunga Street NORTH BALGOWLAH NSW 2093 |
| Denise Keen | 29 / 80 Evans Street FRESHWATER NSW 2096 |
| Mr Michael Houston | 12 Palm Parade NORTH NARRABEEN NSW 2101 |
| Mr Raymond James Cox | 3 Austin Avenue NORTH CURL CURL NSW 2099 |
| Rebecca Anne Tissington | 16 A Gladys Avenue FRENCHS FOREST NSW 2086 |
| Emily Ann Fewster | 25 Tottenham Street NORTH BALGOWLAH NSW 2093 |
| Ms Rozetta Mary Payne | 28A Prince Street MOSMAN NSW 2088 |
| Save Manly Dam Catchment Committee | 13 Mildred Avenue MANLY VALE NSW 2093 |
| Mrs Ann Frances Collins | 41 Gordon Street MANLY VALE NSW 2093 |
| Mrs Sandra Madeline Hudspith | 1 / 10 Hilltop Crescent FAIRLIGHT NSW 2094 |
| Ann Elizabeth Sharp | 77 Brighton Street CURL CURL NSW 2096 |
| Withheld | NORTH MANLY NSW 2100 |
| Mr Brett Hart | 1 Pitt Street MANLY VALE NSW 2093 |
| Mr Samuel Wilkins | 25 Oconnors Road BEACON HILL NSW 2100 |
| S Rick | |
| Ms Tiziana Beninati | 13 Nenagh Street NORTH MANLY NSW 2100 |
| Robyn Ball | 35/6 Murray Street LANE COVE NORTH NSW 2066 |
| Irene Tims | |
| Mr Angus Noel Dunn | 13 Riverview Parade NORTH MANLY NSW 2100 |
| Ali Fleming | 25 Ryrie Avenue FORESTVILLE NSW 2087 |
| Mr Jeffrey William Keating | 34 Bangaroo Street NORTH BALGOWLAH NSW 2093 |
| Mr Peter Joseph McGee | 2 / 141 Griffiths Street BALGOWLAH NSW 2093 |
| Ms Nicole Sally Butcher | 3 / 7 Reddall Street MANLY NSW 2095 |
| Mr Nick Reid | 25 Eurobin Avenue MANLY NSW 2095 |
| Mrs Susan Narelle Byrne Miss Ellin Byrne | 7 Arana Street MANLY VALE NSW 2093 |
| Jacqueline Ruth Marlow | 154 Woorarra Avenue ELANORA HEIGHTS NSW 2101 |

Assessment of Residents Issues

The matters raised within the submissions have been considered and addressed as follows:

1. Insufficient parking

Concerns have been raised that there is insufficient parking provided for the development.

Comment:

The parking requirements for the development are stipulated under the provisions of SEPP HSPD 2004. An assessment of the car parking provisions for the development and having regard to the location of the site has been undertaken.

In summary, the amount of car parking is sufficient for the development, as addressed elsewhere in this report.

Accordingly, this issue does not warrant the refusal of the application.

2. Impact of construction on existing residents (noise, dust, amenity)

Concern is raised regarding the excavation and construction impacts associated with the development and the potential impact on adjoining development.

Comment:

With regards to excavation and construction management, appropriate conditions to minimise impact can also be imposed on a consent should this application be considered for approval.

Therefore, this issue should not be given determining weight

3. Impact on the Natural Environment

A significant number of submissions received have raised concerns in relation to the impact of the development on the environment. Particularly, the following specific concerns have been raised:

- *Impact on threatened flora and fauna in the area and Manly Dam Catchment and sensitive bushland surrounds;*
- *Extensive tree removal as a result of Asset protection Zones;*
- *The existing landscape area provides a transition between the bushland and existing buildings;*
- *Bushland and riparian buffer areas in Manly Dam Catchment should be zoned E2 for conservation not R2 (residential);*
- *Surrounding detention basins adversely affected (Manly Warringah War Memorial Park and Manly Dam);*
- *Extensive excavation will intercept subsurface flow and result in irreversible changes to the natural hydrology of the site; and*
- *Natural features of the subject site should be protected.*

Comment:

These issues are addressed in the Natural Environment Section and the NSW RFS comments in the referrals section of this report. In summary, the impacts on the natural environment are found to be unsatisfactory and for reasons of lack of certainty and so this issue is included as a reason for refusal.

4. Development is not suitable for this Site

Concerns have been raised that the site is Crown Land and should be maintained as open space and used for bushwalking and picnic areas. In addition, a submission received has raised concern that the development is inconsistent with the current lease agreement for the site.

Comment:

The site is owned by the Department of Industry – Lands and is currently leased to Allambie Heights Village. The site is zoned R2-Low Density Residential and seniors housing development is

permissible under the SEPP HSPD 2004 and the applicant has lodged the application with valid owners consent from the Department of Lands.

Therefore, the issue as it relates to the lease agreement and whether the site should be used for public recreation purposes are not matters for Council to consider as part of this application.

Therefore, this issue should not be given determining weight.

5. Bushfire/Bushland Impacts

Concerns have been raised that the location of this type of development within an area that is bushfire prone is dangerous, due to the limited mobility of residents. In addition, concerns have been raised that the Asset Protection Zones (APZ) required for the development will impact on the environmental qualities of the site and its surrounds.

Comment:

The site is identified as Bushfire Prone Land. A Bushfire Assessment Report was submitted with the application. A Biodiversity Development Assessment Report, Vegetation Management Plan and an assessment of the bushland implications of the bushfire assessment was provided by Total Earth Care. In the reports, recommendations are provided to ensure the safety of the residents of the facility in accordance with the provisions of 'Planning for Bush Fire Protection 2006' as published by the NSW Rural Fire Service (NSWRFS).

However, as detailed in the referral response from the NSWRFS, in order to satisfy the requirements of 'Planning for Bush Fire Protection 2006' and in order to obtain a Bushfire Safety Authority, the NSWRFS has requested additional information to properly assess the application and to confirm that the development is suitable on this site.

In this regard, the NSWRFS has not issued a Bushfire Safety Authority for the development.

Accordingly, this matter forms a reason for refusal.

6. Visual impacts and Impact on War Memorial area (Heritage)

Concerns have been raised in relation to the visual impact of the development from the many vantage points within the Manly-Warringah War Memorial Park. The submissions has also raised concern in relation to the impact of the development on the War Memorial Area, which is heritage listed.

Comment:

The applicant has not submitted a visual impact assessment, however the proposed development is unlikely to have any significant visual impact when viewed from the Manly dam catchment area extending to the west of the site. In fact, the impact will not be any worse than the development that is already located on the site.

The issue of the impact of the development on the War Memorial Area is addressed under the WLEP 2011 section of this report and found to be acceptable.

Therefore, this issue should not be given determining weight.

7. Not consistent with the requirements of SEPP (HSPD) 2004

The submissions received have raised concerns that the development does not comply with the following provisions of the SEPP:

- Clause 12 is not addressed
- Development is not compatible with the surrounding land uses
- Development exceeds the maximum height standard

Comment:

The issues raised have been discussed at length under the SEPP HSDP 2004 section of this report. In summary, it has been found that the development is consistent with the character of the area as required by the provisions of SEPP 65 and SEPP HSPD 2004 and the non-compliance in relation to the 8.0m height is supported in this instance.

Clause 12 of the SEPP is not applicable to the proposed development.

Therefore, the specific issues raised in relation to the SEPP should not be given determining weight.

8. Insufficient Community Consultation

Concern is raised that the development has not undergone sufficient community consultation. In particular, concern has been expressed that details of the application were not notified to an adequate number of residents.

Comment:

The WDCP requires advertising in the Manly Daily and for adjoining properties to be notified by letter. However, the letter notification can be extended at the discretion of the relevant Council officer should it be warranted due to the potentially wider impacts of the development.

The notification associated with the subject DA was extended to all properties that were likely to be affected by the development. Other residents were captured by the advertisement in the Manly Daily.

The public exhibition of the application was carried out in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan 2011.

Therefore, this issue should not be given determining weight.

9. Inconsistent with the R2 Zone Objectives

Concerns have been raised that the proposed development is incompatible with the objectives and future form of development envisaged for the zone.

Comment:

The proposal's consistency with the objectives of the R2 zone is considered under the WLEP 2011 section of this report. In summary, the proposed development has been found to be consistent with the objectives of the zone and this issue should not be given determining weight.

10. Affordable Housing

Submissions have been made that the proposed development is not affordable so there is no benefit to the local community.

Comment:

The proposed development seeks consent under the provisions of SEPP HSPD 2004 which does not specify requirements for affordable housing.

Therefore, this issue should not be given determining weight.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

| Internal Referral Body | Comments |
|--|---|
| Building Assessment - Fire and Disability upgrades | <p>Approval (subject to conditions)</p> <p>No objections to proposed construction of 24 independent living units and Community Building (pool/facilities building), car parking and associated works.</p> <p>Proposal is capable of compliance with the National Construction Code via an 'Alternate Solution' and is therefore acceptable with condition/s.</p> |
| Development Engineers | <p>Approval (subject to conditions)</p> <p>A Development Engineering assessment has been undertaken for the protection of the development from overland flows. The submitted Overland Flow Flooding & Stormwater letter dated 5/3/19 indicates that no works will be undertaken within the existing drainage channel. Please refer to Council's Coast & Catchments section for comments with respect to impact on the watercourse.</p> <p>No objections are raised to the proposed development, subject to conditions.</p> |
| Health and Protection (Food Premises, Skin Pen.) | <p>Approval (subject to conditions)</p> <p>No objections subject to conditions.</p> |
| Landscape Officer | <p>Approval (subject to conditions)</p> <p>The Arborist's Report and landscape plans provided with the application are noted.</p> <p>The DA is considered acceptable with regard to the relevant controls relating to landscape issues, subject to conditions. I defer to the comments of Council's Natural Environment section for comments regarding impacts on natural bushland and systems.</p> |
| Natural Environment (Bushland and Biodiversity) | <p>Refusal</p> |

| Internal Referral Body | Comments |
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| | <p>The proposed development footprint is in proximity to the western portion of the site, which is covered with high quality native vegetation. Direct and indirect impacts to native vegetation will result from tree removals, clearing and modification for asset protection zones, sewer infrastructure and ongoing management of native vegetation and fauna habitat as part of the overall bushfire management measures.</p> <p>The application in its current format is not supported due to unacceptable impacts to the natural environment. The location and design of the proposed development does not satisfy the objectives and/or requirements of the Warringah Development Control Plan 2011, including:</p> <ul style="list-style-type: none"> • E2 Prescribed Vegetation • E5 Native Vegetation • E6 Retaining unique environmental features, and • E7 Development on land adjoining public open space. <p>The proposed development will directly and indirectly impact native vegetation and fauna habitat, including threatened species or vegetation communities with potential for a “<i>serious and irreversible impact</i>” as mapped on the Biodiversity Values Map. The application included an amended Biodiversity Development Assessment Report (BDAR) however additional impacts mainly in relation to the required asset protection and proposed sewer construction have not been adequately addressed.</p> <p>The development is located on land adjoining public open space, and should protect, preserve and enhance the native bushland and natural qualities adjoining the Park, and not threaten the protection or preservation of the bushland. The Asset Protection Zone (APZ) requirements of the NSW Rural Fire Service, as detailed in their correspondence dated 3 May 2019, will require extension of the APZ into the adjoin RE1 zoned land, and this is not supported. A section of the site is mapped as waterways and riparian lands, and any asset protection zone (APZ) should avoid and minimise impacts on the riparian area.</p> <p>In addition to an amended BDAR, the application must include an amended Biodiversity Management Plan prepared in accordance with Council guidelines that will protect native vegetation on the subject property. The RFS also require a Plan of Management in relation to the bushfire management actions.</p> <p>The development should be designed and sited to reduce impacts to native bushland within and adjoining the site. The location of</p> |

| Internal Referral Body | Comments |
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| | <p>habitable buildings should be concentrated within the eastern portion of the site and located close to the existing buildings in order to maximise separation distances from the adjoining hazard and utilise shielding provided by the existing development adjoining to the south. The sewer connection should be relocated to the east of the existing man-made drainage line, with construction through the existing cleared areas to connect with an existing sewer access chamber within the Park at the rear of the Martin Luther Hostel.</p> <p>The proposed works to improve the local habitat associated with the eastern drainage channel are supported, and it is accepted that these works may result in better water management, including improved flow rates, better aquatic habitat, healthier bushland and a reduced weed seed source to the important Curl Curl Creek catchment downstream. The management of vegetation within the proposed 10-metre wide riparian corridor can also form part of the asset protection zone between the bushland on the western portion of the site upslope of the existing road, and this was discussed during the pre-lodgement meeting.</p> <p>Based on the comments above, the development application is recommended for refusal, as it does not satisfy the Warringah Development Control Plan 2011 requirements.</p> |
| <p>Natural Environment (Riparian Lands/Creeks)</p> | <p>Refusal</p> <p>According to the Warringah Creek Management Study 2004, the site possess a first order stream, which flows in a southerly direction. The creek forms part of the Curl Curl Creek/Manly Dam catchment and according to the Creek Management Study is a Category A Catchment which is characterised as:</p> <p><i>“very high ecological value; with less than 10% connected impervious area. This provides a high level of connectivity of natural vegetation in the floodplain and riparian zone of Curl Curl Creek and reasonable habitat for dispersal of native terrestrial fauna species. Geomorphic diversity is also very high, providing a wide range of habitats and supporting excellent native species richness. Curl Curl Creek and its tributaries also provide high landscape and passive recreation value to the area”.</i></p> <p>In addition, the catchment is known habitat to a range of native and threatened fauna species including Red Crowned Toadlet.</p> <p>The APZ of the proposed development extends into riparian lands, contrary to Council's DCP and Protection of Waterway and Riparian Lands Policy. The applicant was advised during the Pre-Lodgement Meeting process that this is unlikely to be supported.</p> |

| Internal Referral Body | Comments |
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| | <p>On this basis, the development application is recommended for refusal.</p> |
| <p>Parks, reserve, beaches, foreshore</p> | <p>Approval (subject to conditions)</p> <p>No objections subject to conditions.</p> |
| <p>Strategic Planning (Section 94 Contribution)</p> | <p>Approval</p> <p>The Applicant has identified that they are exempt from the provision of development contributions under the Northern Beaches Council Contributions Plan 2018.</p> <p>The Ministerial Direction issued by the NSW Minister for Planning dated 14 September 2007 identifies that development contributions are not applicable to DA's made by social housing providers. A social housing provider is defined in the SEPP (Affordable Rental Housing) 2009 as, among other things, a not-for-profit organisation that is a direct provider of rental housing to tenants.</p> <p>The Applicant has provided, in Appendix F of the Statement of Environmental Effects, ATO confirmation that the Applicant (Allambie Heights Village Ltd) is a registered charitable organisation. A search of the Australian Government charitable organisations register has confirmed that this registration is still current.</p> <p>On this basis I support the requested exception to development contributions in accordance with the NSW Ministerial Direction.</p> |
| <p>Strategic Planning - Urban Design</p> | <p>Approval</p> <p>The revised and further developed drawings represented by perspectives demonstrate the previous Urban Design issues have been addressed.</p> <p>The articulation and modulation of the balconies assist to delineate an individual identity for the residences and provide a sense of separation and clarity to the proposed development.</p> <p>The issues of mass, scale and form are addressed adequately and as such the proposed development can be supported.</p> |
| <p>Traffic Engineer</p> | <p>Approval</p> <p>The proposed development (as depicted in Annexure A for reference), includes the construction of infrastructure and other works required to facilitate the proposed senior living development consisting of 24 dwellings.</p> |

| Internal Referral Body | Comments |
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| | <p>The proposed development has the following features relevant to this Traffic and Parking Impact Assessment:</p> <ul style="list-style-type: none"> • 24 x two-bedroom seniors living units distributed across two apartment buildings; • Construction of an ancillary Pool building; • Construction of an ancillary putting golf course; • 30 x resident parking spaces located in a basement / lower ground level carpark and one (1) car wash bay on the ground floor; • 16 x visitor parking spaces with 2 provided within the basement / lower ground level carpark and the remaining 14 provided on ground level; • Construction of an emergency egress road to the north of the site. <p>All vehicular access to the site will be from the proposed two-way driveway off Martin Luther Place with the exception of waste collection and loading by vehicles up to a Small Rigid Vehicle (SRV) which will utilise the driveway of the adjacent William Charlton Village site which is located at the intersection of Allambie Road/Mortain Avenue.</p> <p>Traffic: The general peak generation period of a Seniors Living Development does not coincide with the Network Commuter Peak Period. As such, the impact of the traffic volumes is deemed negligible on the local traffic network.</p> <p>Parking: The parking numbers are in surplus of the SEPP and DCP requirements. As such, no objections are raised.</p> |
| Waste Officer | <p>Approval (subject to conditions) No objection raised to the proposal.</p> |

| External Referral Body | Comments |
|------------------------|--|
| Ausgrid: (SEPP Infra.) | <p>No Response Received</p> <p>The proposal was referred to Ausgrid. No response has been received within the 21-day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p> |
| Aboriginal Heritage | <p>Request for more Information - (can be addressed by condition)</p> <p>The Aboriginal Heritage Office (in an e-mail dated 12/11/2018) indicated there are known Aboriginal sites in the area. No sites are</p> |

| External Referral Body | Comments |
|--|--|
| | <p>recorded in the current development area, however, the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites.</p> <p>The Aboriginal Heritage Office recommends a preliminary inspection ('Due Diligence' under the <i>National Parks and Wildlife Act 1974</i>) by a qualified Aboriginal heritage professional. The assessment would provide information on what potential Aboriginal heritage issues exist on the land and recommendations for any further action if required.</p> <p>The requirement of the Aboriginal Heritage Officer can be addressed by way of conditions, if the application is considered for approval.</p> |
| <p>Integrated Development NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)</p> | <p>Refusal</p> <p>The application was referred to the NSW RFS as Integrated Development.</p> <p>Section 100B of the Rural Fires Act 1997 enables the Commissioner of the NSW RFS to issue a Bush Fire Safety Authority for 'Special Fire Protection Purpose' development. Section 100B (6) of that Act identifies Seniors Housing (within the meaning of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004) as such development.</p> <p>In their response on 3 May 2019, the NSW RFS advised that they are not in a position to properly assess the application and require additional information to accurately assess the impact of the proposal on the environment.</p> |
| <p>Natural Resources Access Regulator (NRAR)</p> | <p>Approval (No GTA required)</p> <p>NRAR has reviewed the Application as an integrated development under the provisions of section 4.47 of the EPA Act.</p> <p>NRAR by letter dated 4 February 2019 advised that a Controlled Activity approval under the <i>Water Management Act 2000</i> (WM Act) will not be required and no further assessment by NRAR is needed.</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All relevant Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of relevant Environmental Planning Instrument's (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

State Environmental Planning Policies (SEPPs)

Further consideration is required for the following State policies:

SEPP 55 - Remediation of Land

SEPP 55 establishes State-wide provisions to promote the remediation of contaminated land.

SEPP 55 states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals. The Managing Land Contamination: Planning Guidelines were prepared to assist councils and developers in determining when the land has been at risk.

Clause 7 of the SEPP requires that a consent authority must not grant consent to a development unless it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or will be after undergoing remediation) for the proposed use.

Council's records indicate that the site has been used for residential (Seniors Housing) purposes for a significant period of time and there is no history that indicates any contamination may have taken place since the establishment of the current development. It is therefore considered that the site poses no risk of contamination and as such no further consideration is required under Clause 7(1) (b) and (c) of the *SEPP 55*.

SEPP (Infrastructure) 2007

Clause 45 – Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any DA (or an application for modification of consent) for any development carried out:

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation;*
- *Within 5m of an overhead power line;*
- *Includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.*

The application was referred to Ausgrid under clause 45(2) of SEPP Infrastructure.

To date, no response has been received and it is assumed that Ausgrid does not raise any objection nor impose any conditions.

Clause 102 - Roads and Maritime Service (RMS)

With regards to requirements of Clause 104(2) (b) and Schedule 3 of the SEPP, the development does not have a capacity for 200 or more motor vehicles. Therefore, SEPP Infrastructure does not apply in this respect and does not require the referral of the application to the RMS.

SEPP (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD 2004)

SEPP HSPD 2004 commenced on 31 March 2004 and aims to increase the supply and diversity of housing for aged or disabled persons, to make efficient use of existing infrastructure and to encourage the provision of seniors housing development that will be of good design.

The following section of this report provides an assessment of the proposal against the relevant criteria and standards specified in this Policy:

Chapter 1 – Preliminary

The aims of the SEPP are set out in Clause 2 and are as follows;

This Policy aims to encourage the provision of housing (including residential care facilities) 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.*

Comment: The proposal is consistent with the aims of the SEPP, in that the proposal will increase the supply and diversity of residences that meet the needs of seniors or people with a disability and is of a good design.

The proposal makes efficient use of existing infrastructure and services. The site is well serviced by existing public transport and is located within 400m of the nearest bus stop.

When considering the proposal against the aim of achieving good design, the proposal must be considered in context with other provisions of the SEPP. The SEPP encourages seniors housing to be of a good design outcome, which maintains and minimises the impacts on the amenity and character of the area.

The proposed built form effectively minimises impacts on the amenity and character of the area as detailed later within the assessment, and is considered to be of a good design.

The proposal has been found to be consistent with the aims of the SEPP and is supported in this instance.

Chapter 2 – Key Concepts

The proposal is for seniors living and ancillary uses, which are to be occupied by seniors or people with a disability as provided by the SEPP. On this basis, it is considered that the proposal is consistent with Chapter 2 of the SEPP.

Chapter 3 – Development for Seniors Housing

Chapter 3 of the SEPP contains a number of development standards applicable to the development application made pursuant to the SEPP. Clause 18 of the SEPP outlines the restrictions on the occupation of seniors housing and requires that a condition is to be included in the consent if approved to restrict the types of people who can occupy the development. A condition could be included in the consent if it is to be approved.

Part 1a - Site Compatibility Certificates

Clause 24 Site Compatibility Certificates required for certain development applications

The requirement of Clause 24 is not applicable to the proposed development.

Part 2 - Site Related Requirements

| Development Criteria | | | |
|----------------------|--|---|----------|
| Clause | Requirement | Proposal | Complies |
| 26(1) | Satisfactory access to: a) Shops, banks 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. | The subject site has satisfactory access to: a) Shops, banks 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. | Yes |
| 26(2) | Access complies with this clause if: a) The facilities and services referred are located at a distance of not more than 400m from the site or b) There is a public transport service available to the residents not more than 400m away. | The subject site is an existing Seniors Housing site and is located within 400m of various bus stops on Allambie Road and these stops are accessible by means of a suitable access pathway. | Yes |
| 27 | If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines. | The site is identified as being bushfire prone and has been assessed as a “ <i>Special Fire Protection Purpose</i> ”. In this regard, the NSW RFS has reviewed the proposal including the requirement of this clause and has declined to issue their GTA’s due to insufficient information. Therefore, the proposal is inconsistent with the requirement of this Clause. | No |

| Development Criteria | | | |
|----------------------|---|--|----------|
| Clause | Requirement | Proposal | Complies |
| 28 | Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. | The site has been operating as a seniors housing for a significant period of time and is fully serviced by potable water and sewer Infrastructure. The proposal is satisfactory with regards to the requirements of Clause 28. | Yes |
| 29 | The consent authority to consider certain site compatibility criteria for development applications to which Clause 24 does not apply. | The proposed development is not found to be consistent with the requirement of Clause 25 (5) (b) (ii), as the proposal will have impacts on its natural environment and due to insufficient information submitted with the application, the proposal is found to be unacceptable in this regard. | No |

Clause 30 A Site Analysis is to be provided

The site analysis information accompanying the application is considered satisfactory in terms of the requirements of Clause 30.

Clause 31 Design of In-Fill Self-Care Housing

Pursuant to Clause 31, in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

The key principles of the policy have been reviewed and the proposed development is considered to enhance internal site amenity and respond appropriately to its context for the reasons stipulated within the following sections of this report.

Clause 32 Design of Residential Development

In accordance with Clause 32 of the SEPP, a consent authority must not consent to a development application made pursuant to this Chapter, unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 of Part 2.

The following table outlines compliance with the principles set out in Division 2, Part 3 of the SEPP.

| Control | Requirement | Proposed | Compliance |
|---|---|--|------------|
| Clause 33 Neighbourhood amenity and streetscape | a) Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area. | The proposed development is considered to appropriately respond to the existing character of the area. The substantial articulation of the built form relates favourably to its context and will positively contribute to the quality and identity of the site, which is already used for seniors development, and the locality. | Yes |

| Control | Requirement | Proposed | Compliance |
|---------|---|--|------------|
| | | <p>The current proposal represents a satisfactory design outcome for the site and locality from that presently existing on the site by virtue of a modern contemporary design that exhibits adequate articulation and good façade treatment.</p> | |
| | <p>b) Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that is identified in a local environmental plan.</p> | <p>The development site is not within a Heritage Conservation Area, however, the site is located in the vicinity of a heritage conservation area being 'Manly Dam and Surrounds'.</p> <p>The proposed development is not considered to introduce any significant adverse impacts on the heritage significance of the adjoining conservation area given the physical separation of the site from Manly Dam and its surrounds.</p> | Yes |
| | <p>c) Maintain reasonable neighbour amenity and appropriate residential character by;</p> <p><i>Providing building setbacks for reducing bulk and overshadowing,</i></p> <p><i>Using building form and siting that relates to the site's land form,</i></p> <p><i>adopting building heights at the street frontage that are compatible in scale with adjacent development</i></p> <p><i>Considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.</i></p> | <p>The siting and location of buildings within the site have had due regard to the front building line, side setbacks and has provided sufficient landscape buffers in order to preserve the amenity of the adjoining properties in terms of privacy, solar access, and view lines.</p> <p>The development is found to be consistent with the requirements of this Clause.</p> | Yes |

| Control | Requirement | Proposed | Compliance |
|--------------------------------------|---|--|------------|
| | 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. | <p>The proposed setbacks to the front of the development and the extent of landscaping provided within the setback are considered satisfactory to minimise the visual impact of the development.</p> <p>The articulation and stepping of the built form are sympathetic to the character in the area and provides an effective and sensitive transition between the subject development and surrounding development.</p> | Yes |
| | e) Embody planting that is in sympathy with, but not necessarily the same as, another planting in the streetscape. | The proposal includes areas of landscaping which are consistent and sympathetic to the existing provision of landscaping throughout the streetscape. | Yes |
| | f) Retain, wherever reasonable, major existing trees. | The impact of the proposed development on existing trees has been assessed by Council's Landscape officer and found to be acceptable. | Yes |
| | g) Be designed so that no building is constructed in a riparian zone. | The proposed buildings are not located within a riparian zone, however the APZ associated with the proposed building has the potential to impact on the riparian zone as discussed in the referral section of this report. | No |
| CL 34 Visual and acoustic privacy | <p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p> <p>Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p> | <p>The development has been designed to maintain a reasonable level of acoustic and visual privacy between properties.</p> <p>Appropriate building setbacks and effective use of privacy treatments maintain a satisfactory level of privacy to adjoining properties.</p> | Yes |

| Control | Requirement | Proposed | Compliance |
|---|---|---|------------|
| Clause 35 Solar access and design for climate | The proposed development should 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. | The proposed development will allow for adequate levels of daylight to living areas of residents and neighbours as required by the SEPP. | Yes |
| Clause 36 Stormwater | Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water reuse. | The application has been reviewed by Council's Development Engineer who raises no objections to the proposal subject to appropriate conditions being imposed, should the application be considered worthy of approval. | Yes |
| Clause 37 Crime prevention | <p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>a) Site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>b) Where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and</p> | <p>The proposal will provide a satisfactory level of personal property security for residents and visitors, which has been designed to discourage crime.</p> <p>The ongoing maintenance of the development is subject to a private arrangement with the body corporate of the proposal.</p> | Yes |

| Control | Requirement | Proposed | Compliance |
|-------------------------------|--|--|------------|
| | c) Providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door. | | |
| Clause 38 Accessibility | 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 b) Provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors. | The proposal provides safe and obvious pedestrian links from the site that provides access to public transport, services or local facilities. The proposal provides a safe environment for pedestrians and motorists with convenient access and car parking for residents and visitors. | Yes |
| Clause 39 Waste Management | The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities. | Council's Waste Officer has reviewed the proposal and has raised no objection with regards to waste facility provided for the development. | Yes |

Part 4 - Development standards to be complied with

Clause 40 – Development standards – Minimum Sizes and Building Height

Pursuant to Clause 40(1) of the SEPP a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposal complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of the SEPP.

| Control | Required | Proposed | Compliance |
|---------------|--------------------|---|------------|
| Site Size | 1000m ² | 37,200m ² | Yes |
| Site frontage | 20.0m | The site has a frontage greater than 20.0m wide | Yes |

| Control | Required | Proposed | Compliance |
|-----------------|---|---|---|
| Building Height | 8.0m or less (measured vertically from ceiling of top most floors to ground level immediately below). | The building height is 8.65m, which exceeds the control by 0.65m (maximum) at various sections of the building. | No* Refer to Clause 4.6 objection |
| | A building that is adjacent to a boundary of the site must not be more than two storeys in height. | Buildings adjacent to the northern and southern property boundaries are two storeys in height | Yes |
| | A building located in the rear 25% of the site must not exceed one storey in height (development within 15.51m of the rear boundary). | No new work will encroach upon the rear 25% of the site. | Yes |

*The non-compliance with Clause 40 is addressed in detail Clause 4.6 of WLEP 2011 section of this report.

Clause 41 - Standards for hostels and self-contained dwellings

Clause 41 prescribes various standards concerning accessibility and useability having regard to relevant Australian Standards. The applicant has submitted a report and checklist prepared by an accredited access consultant verifying that the proposal will comply with the relevant standards. These standards may be reinforced via suitable conditions of consent, should the application be worthy of approval.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

Clause 50 prescribes that consent to development for the purpose of self-contained dwellings must not be refused on the grounds of building height, density and scale, landscaped area, deep soil zones, solar access and parking, if certain numerical standards are met. The following table outlines compliance with the standards specified in clause 50 of SEPP (HSPD):

| Control | Required | Proposed | Compliance |
|-------------------|--|--|------------------------------------|
| Building Height | 8.0m or less (measured vertically from ceiling of topmost floor to ground level immediately below). | 8.65m | No (refer to Clause 4.6) |
| Density and scale | 0.5:1 or less | 0.16:1 | Yes |
| Landscaped area | 30% of the site area is to be landscaped (1,925sqm required) | 7,578m ² | Yes |
| Deep soil zone | 15% of the site area and two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3.0m. | Over 14,680m ² is provided, which is well in excess of 15% of the site area | Yes |

| | | | |
|--------------------|--|---|-----|
| Solar Access | 70% of the dwellings of the development to receive a minimum of 3 hours of direct sunlight between 9am and 3pm in mid-winter | Over 70% of apartments receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter | Yes |
| Private open space | 15m ² of private open space per dwelling not less than 3m long and 3m wide. | All the units are provided with the minimum 15m ² of private open space | N/A |
| Parking | 0.5 car spaces for each bedroom. 0.5x 48 bedroom = 24 spaces required | 30 spaces provided | Yes |

Chapter 4 – Miscellaneous

The proposed development is consistent with the provisions contained in Chapter 4. The site is not on “*environmentally sensitive land*”, is not affected by amendments to other SEPPs, and the special provisions do not apply to the land.

SEPP 65 - Design Quality of Residential Apartment Development

The proposed development is required to comply with SEPP 65 and the associated Apartment Design Guide (ADG), due to part of the proposed car parking level being more than 1.2m above ground level with two storey residential above the car park, therefore the development is in-part a three (3) storey development.

Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a Design Verification Statement from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires that, in determining a development application for consent to carry out development to which SEPP 65 applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- a) *The advice (if any) obtained from the design review panel, and*
- b) *The design quality of the development when evaluated in accordance with the design quality principles, and*
- c) *The ADG.*

DESIGN REVIEW PANEL

Northern Beaches Council does not have an appointed Design Review Panel.

DESIGN QUALITY PRINCIPLES

Photomontage of the Proposal

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The subject site and adjoining sites on the western side of Allambie Road has been developed as seniors housing development for a significant period of time and therefore the proposed additions to the development are considered to appropriately respond to the existing character of the area.

The revised scheme contains substantive articulation of the built form that relates favourably to the existing village and will positively contribute to the quality and identity of the site.

Council's Urban Designer has assessed the revised proposal as being satisfactory in terms of context and character.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

The proposed development, which involves new buildings towards the rear of the site, will not result in any significant change to the visual catchment of the locality.

The overall height and scale of the proposed building (as revised) is not considered excessive and is consistent with development that currently exists on this site and on the adjoining site to the south.

The building bulk is considered satisfactory in relation to the massing of the buildings, which are broken up by significant variation of the building form. The external colour scheme and finishes are such that the buildings will blend with the surrounding natural environment to reduce the visual impact.

Council's Urban Designer has assessed the revised proposal as being satisfactory in terms of built form and scale.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

The planning controls under WLEP 2011 and the WDCP 2011 do not specify a maximum housing density for the zone. However, SEPP HSPD 2004 specifies a maximum density in the form of an FSR control of 0.5:1 under Clause 50, which is comfortably met by the proposal, at 0.16:1.

The proposed density is satisfactory, as the development fits comfortably within the site and its local context. The overall height and scale of the proposed development is not considered excessive and is consistent with the remainder of the development that will be retained within the site.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The proposed works include part demolition and excavation works to accommodate the new development.

In this regard, a condition of consent would appropriately be imposed requiring the submission of a Construction Management Plan (CMP) and a Waste Management Plan (WMP), detailing the handling, disposal and recycling of demolition and excavation materials, should the application be considered for approval.

In addition, a BASIX certificate for the development has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.

Comment:

The landscape plans submitted with the application provide for a high quality landscape outcome for the site, which will ensure that the proposed development is characterised by a landscape setting that is consistent with the size and scale of development and enhance the landscape qualities of this part of the site and locality.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The development has been assessed against the various amenity requirements of the ADG and the development is capable of complying with the relevant controls.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The application is not accompanied by a formal Crime Risk Assessment as required by the ADG.

Generally, the development provides safe and secure vehicular and pedestrian access, which is separated from all vehicular access points. All apartments provide balconies and windows which provide passive surveillance over the village and public road.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The development involves the provision 24 apartments, in the form of three bedroom units that will be occupied by seniors or people with the disability, which is considered to be a positive outcome in terms of providing a diversity in the type of housing within a locality with an ageing population.

Accordingly, it is considered that the proposal satisfies this principle.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The proposed development is considered to be appropriate in terms of the composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the resultant building. The development positively responds environment and context, contributing in an appropriate manner to the character and visual quality of the area.

Council's Urban Designer has assessed the revised proposal as being satisfactory in terms of aesthetics.

Accordingly, it is considered that the proposal satisfies this principle.

APARTMENT DESIGN GUIDE

SEPP 65 also requires consideration of the ADG prepared by NSW Department of Planning and Environment in 2015. The ADG includes development controls and best practice benchmarks for achieving the good design consistent with the design principles of SEPP 65.

The following table outlines the proposal's consistency with the ADG:

| Criteria / Guideline | Comments |
|--|--|
| Part 3 Siting the Development | |
| Site Analysis | Consistent |
| Does the development relate well to its context and is it sited appropriately? | A context plan is provided to accompany the application. The building form reflects the current character as anticipated by the SEPP. |

| <p>Orientation</p> <p>Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?</p> | <p>Consistent</p> <p>The proposal development is located behind the existing development on site and will not be visible from the street.</p> | | | | | | | | | | | | |
|--|--|---------------------------------|---------------------------------|-----------------------------|---|----|---|----|----------------------------------|----|---|----|---|
| <p>Public Domain Interface</p> <p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p> | <p>Consistent</p> <p>The development has been found to transition well.</p> | | | | | | | | | | | | |
| <p>Communal and Public Open Space</p> <p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> 1. Communal open space has a minimum area equal to 25% of the site; 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter). | <p>Consistent</p> <p>The site as a whole provides a significant amount of communal space, which is considered satisfactory.</p> | | | | | | | | | | | | |
| <p>Deep Soil Zones</p> <p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="178 1330 831 1816"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table> | Site area | Minimum dimensions | Deep soil zone (% of site area) | Less than 650m ² | - | 7% | 650m ² – 1,500m ² | 3m | Greater than 1,500m ² | 6m | Greater than 1,500m ² with significant existing tree cover | 6m | <p>Consistent</p> <p>In excess of 7% of the site area is deep soil zone.</p> |
| Site area | Minimum dimensions | Deep soil zone (% of site area) | | | | | | | | | | | |
| Less than 650m ² | - | 7% | | | | | | | | | | | |
| 650m ² – 1,500m ² | 3m | | | | | | | | | | | | |
| Greater than 1,500m ² | 6m | | | | | | | | | | | | |
| Greater than 1,500m ² with significant existing tree cover | 6m | | | | | | | | | | | | |

| <p>Visual Privacy Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="173 445 837 786"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p> | Building height | Habitable rooms and balconies | Non-habitable rooms | Up to 12m (4 storeys) | 6m | 3m | Up to 25m (5-8 storeys) | 9m | 4.5m | Over 25m (9+ storeys) | 12m | 6m | <p>Consistent</p> <p>The proposed building separation is satisfactory.</p> |
|---|--|-------------------------------|---------------------|-----------------------|----|----|-------------------------|----|------|-----------------------|-----|----|---|
| Building height | Habitable rooms and balconies | Non-habitable rooms | | | | | | | | | | | |
| Up to 12m (4 storeys) | 6m | 3m | | | | | | | | | | | |
| Up to 25m (5-8 storeys) | 9m | 4.5m | | | | | | | | | | | |
| Over 25m (9+ storeys) | 12m | 6m | | | | | | | | | | | |
| <p>Pedestrian Access and entries</p> <p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p> | <p>Consistent</p> <p>The development provides level pedestrian access to all floor levels from the basement car parking area.</p> | | | | | | | | | | | | |
| <p>Vehicle Access</p> <p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p> | <p>Consistent</p> <p>The proposed vehicular access has been assessed by Council's Traffic Engineer who has raised no objections to the proposal in terms of the location of the vehicular access.</p> | | | | | | | | | | | | |

| | |
|--|---|
| <p>Bicycle and Car Parking For development in the following locations:</p> <ul style="list-style-type: none"> • On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or • On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre. <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p> | <p>Consistent</p> <p>An assessment of car parking provision, having regard to SEPP HSPD 2004 and location of the site, has been undertaken.</p> <p>In summary, the amount of car parking is sufficient for the development, as addressed elsewhere in this report.</p> |
| <p>Part 4 Designing the Building</p> | |
| <p>Amenity</p> | |
| <p>Solar and Daylight Access</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> • Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter; • A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. | <p>Consistent</p> <p>Over 70% of the proposed units will receive the required amount of sunlight.</p> |

| <p>Natural Ventilation The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> • At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed; • Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. | <p>Consistent</p> <p>Over 60% of the units are naturally cross-ventilated.</p> | | | | | | | | | | | | |
|---|--|--|-----------------|------|---------------|------|---------------------------|--|--------------|--|--------------------------------|--|---|
| <p>Ceiling Heights Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="177 965 834 1697"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For two storey apartments</td> <td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td> </tr> <tr> <td>Attic spaces</td> <td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td> </tr> <tr> <td>If located in mixed used areas</td> <td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td> </tr> </tbody> </table> | Minimum ceiling height | | Habitable rooms | 2.7m | Non-habitable | 2.4m | For two storey apartments | 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. | Attic spaces | 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. | If located in mixed used areas | 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. | <p>Consistent</p> <p>The floor to ceiling heights of the apartments within the development meet the minimum 2.7m as required by the ADG.</p> |
| Minimum ceiling height | | | | | | | | | | | | | |
| Habitable rooms | 2.7m | | | | | | | | | | | | |
| Non-habitable | 2.4m | | | | | | | | | | | | |
| For two storey apartments | 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. | | | | | | | | | | | | |
| Attic spaces | 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. | | | | | | | | | | | | |
| If located in mixed used areas | 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. | | | | | | | | | | | | |

Apartment Size and Layout

Apartments are required to have the following minimum internal areas:

| Apartment type | Minimum internal area |
|----------------|-----------------------|
| Studio | 35m ² |
| 1 bedroom | 50m ² |
| 2 bedroom | 70m ² |
| 3 bedroom | 90m ² |

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.

Habitable room depths are limited to a maximum of 2.5 x the ceiling height.

In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.

Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).

Living rooms or combined living/dining rooms have a minimum width of:

- 3.6m for studio and 1 bedroom apartments;
- 4m for 2 and 3 bedroom apartments

The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.

Consistent

The minimum size of all bedrooms is consistent with the requirements of this Clause.

| <p>Private Open Space and Balconies</p> <p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="175 448 836 698"> <thead> <tr> <th>Dwelling Type</th> <th>Minimum Area</th> <th>Minimum Depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p> | Dwelling Type | Minimum Area | Minimum Depth | Studio apartments | 4m ² | - | 1 bedroom apartments | 8m ² | 2m | 2 bedroom apartments | 10m ² | 2m | 3+ bedroom apartments | 12m ² | 2.4m | <p>Not Applicable</p> <p>The private open space requirement is stipulated under SEPP HSPD 2004.</p> |
|---|---|---------------------|-------------------|-------------------|----------------------|-----------------|----------------------|-----------------|-----------------------|----------------------|--|----|-----------------------|------------------|------|--|
| Dwelling Type | Minimum Area | Minimum Depth | | | | | | | | | | | | | | |
| Studio apartments | 4m ² | - | | | | | | | | | | | | | | |
| 1 bedroom apartments | 8m ² | 2m | | | | | | | | | | | | | | |
| 2 bedroom apartments | 10m ² | 2m | | | | | | | | | | | | | | |
| 3+ bedroom apartments | 12m ² | 2.4m | | | | | | | | | | | | | | |
| <p>Common Circulation and Spaces</p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p> | <p>Consistent</p> <p>The maximum number of apartments off a circulation core on a single level is less than eight.</p> | | | | | | | | | | | | | | | |
| <p>Storage</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="175 1265 836 1485"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m²</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m²</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p> | Dwelling Type | Storage size volume | Studio apartments | 4m ² | 1 bedroom apartments | 6m ² | 2 bedroom apartments | 8m ² | 3+ bedroom apartments | 10m ² | <p>Consistent (subject to condition)</p> <p>The proposed building includes resident storage areas for all units within the building and as well as within the basement levels.</p> <p>A condition of consent could be imposed, if the application was recommended for approval to ensure the proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective units.</p> | | | | | |
| Dwelling Type | Storage size volume | | | | | | | | | | | | | | | |
| Studio apartments | 4m ² | | | | | | | | | | | | | | | |
| 1 bedroom apartments | 6m ² | | | | | | | | | | | | | | | |
| 2 bedroom apartments | 8m ² | | | | | | | | | | | | | | | |
| 3+ bedroom apartments | 10m ² | | | | | | | | | | | | | | | |
| <p>Acoustic Privacy</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p> | <p>Consistent (subject to condition)</p> <p>The nature of the proposed use is unlikely to generate significant noise emissions associated with the occupation of the development, with the exception of air conditioning systems. A suitable condition could be imposed if the application was worthy of approval.</p> | | | | | | | | | | | | | | | |
| <p>Noise and Pollution</p> <p>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</p> | <p>Consistent</p> <p>The noise and pollution impact of the development is satisfactory.</p> | | | | | | | | | | | | | | | |

| Configuration | |
|---|--|
| <p>Apartment Mix</p> <p>Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.</p> | <p>Consistent</p> <p>The apartment mix is satisfactory.</p> |
| <p>Facades</p> <p>Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.</p> | <p>Consistent</p> <p>The development is respectful of the surrounding character, therefore the facade treatment is considered to be appropriate to enhance the streetscape and character of the area.</p> |
| <p>Roof Design</p> <p>Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Test whether the roof space can be maximised for residential accommodation and open space.</p> | <p>Consistent</p> <p>The roof design of the development responds to the adjacent building and is considered to be satisfactory.</p> |
| <p>Landscape Design</p> <p>Was a landscape plan submitted and does it respond well to the existing site conditions and context.</p> | <p>Consistent</p> <p>Landscape plans have been submitted with the application, providing detailed plans for the landscape treatment and is satisfactory.</p> |

| <p>Planting on Structure When planting on structures the following are recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="172 443 839 1348"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m³</td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m³</td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m³</td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </tbody> </table> | Plant type | Definition | Soil Volume | Soil Depth | Soil Area | Large Trees | 12-18m high, up to 16m crown spread at maturity | 150m ³ | 1,200mm | 10m x 10m or equivalent | Medium Trees | 8-12m high, up to 8m crown spread at maturity | 35m ³ | 1,000mm | 6m x 6m or equivalent | Small trees | 6-8m high, up to 4m crown spread at maturity | 9m ³ | 800mm | 3.5m x 3.5m or equivalent | Shrubs | | | 500-600mm | | Ground Cover | | | 300-450mm | | Turf | | | 200mm | | <p>Consistent Refer to Principle 5 above and Landscape referral comments.</p> |
|--|---|-------------------|-------------|---------------------------|-----------|-------------|---|-------------------|---------|-------------------------|--------------|---|------------------|---------|-----------------------|-------------|--|-----------------|-------|---------------------------|--------|--|--|-----------|--|--------------|--|--|-----------|--|------|--|--|-------|--|--|
| Plant type | Definition | Soil Volume | Soil Depth | Soil Area | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Large Trees | 12-18m high, up to 16m crown spread at maturity | 150m ³ | 1,200mm | 10m x 10m or equivalent | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Medium Trees | 8-12m high, up to 8m crown spread at maturity | 35m ³ | 1,000mm | 6m x 6m or equivalent | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Small trees | 6-8m high, up to 4m crown spread at maturity | 9m ³ | 800mm | 3.5m x 3.5m or equivalent | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Shrubs | | | 500-600mm | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Ground Cover | | | 300-450mm | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Turf | | | 200mm | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Awning and Signage Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.</p> | <p>Not Applicable The DA does not propose any awning or signage.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Performance</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Energy Efficiency Have the requirements in the BASIX certificate been shown in the submitted plans?</p> | <p>Consistent A BASIX certificate report has been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | |
|---|---|
| <p>Water Management and Conservation</p> <p>Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?</p> | <p>Consistent</p> <p>Water management and conservation through the means of retention of stormwater for reuse has been assessed as compliant and further, compliance with the supplied BASIX Certificate can be conditioned, if the application considered for approval.</p> |
| <p>Waste Management</p> <p>Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.</p> | <p>Consistent</p> <p>Subject to condition.</p> |
| <p>Building Maintenance</p> <p>Incorporates a design and material selection that ensures the longevity and sustainability of the building.</p> | <p>Consistent</p> <p>The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.</p> |

Warringah Local Environment Plan 2011

| | |
|---|---|
| Is the development permissible? | Yes |
| After consideration of the merits of the proposal is the development consistent with: | |
| Aims of the LEP? | <p>No*</p> <p>The proposal in its current is found to be inconsistent with the aims of the WLEP 2011.</p> <p>In this regard, Council's assessment in relation to critical issues of bushland, biodiversity, riparian and bushfire, indicate that the proposal does not satisfactorily protect, conserve and manage biodiversity and the natural environment of the site.</p> |
| Zone objectives of the LEP? | Yes |

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|---------------------|-------------|--|-------------|---------------------|
| Height of Buildings | 8.5m | The height of 8.65m is addressed under the SEPP HSPD 2004 section of this report | 1.77% | N/A (refer to SEPP) |

Compliance Assessment

| Clause | Compliance with Requirements |
|--|------------------------------|
| 2.7 Demolition requires consent | Yes |
| 4.3 Height of buildings | N/A |
| 4.6 Exceptions to development standards | Yes |
| 5.3 Development near zone boundaries | Yes |
| 5.8 Conversion of fire alarms | Yes |
| 5.9 Preservation of trees or vegetation | Yes |
| 5.9AA Trees or vegetation not prescribed by development control plan | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | Yes |

Detailed Assessment

Zone R2 Low-Density Residential

| Land use definition: WLEP 2011 | Permitted or Prohibited |
|--------------------------------|---|
| Senior's Housing | Prohibited [Permissible via SEPP HSPD 2004] |

The underlying objectives of the R2 Low-Density Residential zone:

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

The development will provide self-contained dwellings designed specifically for seniors or people with a disability and therefore the development ensures that the housing stock caters for a broad cross-section of the community.

The proposed design of the development has sought to minimise the impact on the adjoining low-density residential environment, through the incorporation of landscape buffers, generous setbacks and recessed facades.

The development is considered to be consistent with this objective.

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

The proposal does not provide any other land use, therefore this objective is not applicable to the proposed development.

- ***To ensure that low-density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.***

The landscape plans submitted with the application provide for an improved and high-quality landscape outcome for the site, which will ensure that the proposed development is characterised by a landscape setting.

The development is considered to be consistent with this objective.

ASSESSMENT OF CLAUSE 4.6 VARIATION REQUEST

The application has been lodged pursuant to SEPP HSPD 2004, which contains a Building Height Development Standard, which prevails over the height standard within WLEP 2011.

The following assessment of the request to vary the requirements of Clause 40 – Building Height of SEPP HSPD 2004 is assessed under the provision of Clause 4.6 taking into consideration the questions established in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*.

Clause 40 (4) (a) of SEPP HSPD 2004

A request to vary the development standard for the 8.0m building height limit has been made under clause 4.6 in relation of clause 40 (4) (a) of the SEPP HSPD 2004, as mentioned earlier in this report.

The development proposes a maximum height of 8.65m (to the underside of the ceiling), which does not comply with the 8.0m height requirement by 0.65m, which equates to an 8.1% variation to the building height standard.

Clause 4.6, 'Exceptions to development standards of the standard instrument LEP' is the mechanism by which an applicant's request to vary a development standard can be considered. Clause 4.6 provides flexibility in applying certain development standards on the following grounds:

1. *The objectives of this clause are as follows:*
 - a) *To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - b) *To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development 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.*
3. *Development 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 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.*

4. *Development 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 the concurrence of the Director-General has been obtained.*

The provisions of clause 4.6 fall into two distinct parts, those for which the consent authority must be 'indirectly satisfied' (clause 4.6(4)(a)(i)) through the clause 4.6 variation request and those for which the consent authority must be "directly satisfied" (clause 4.6 (4)(a)(ii)).

If the consent authority finds that the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority cannot be satisfied that the development will be in the public interest for the purposes of clause 4.6(4)(a)(ii) and cannot uphold the clause 4.6 variation request.

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The appropriate methodology for the consideration of this question is enunciated in the decision of Chief Justice Preston in *Wehbe v Pittwater Council*. In this decision, the Chief Justice summarised the case law on the consideration of this question and expressed the view that there are five ways in which an applicant may demonstrate that compliance with a development standard is unreasonable or unnecessary.

Applicant's Written Request

The Applicant's written request of Clause 4.6 as contained in the Statement of Environmental Effects or Clause 4.6 Report argues, in part:

- In terms of bulk and scale, the proposed development has a two storey form which is visually compatible with existing two storey built form on the site located to the east at William Charton Village, which will be retained. The two storey form is also compatible with the built form and scale of buildings on adjoining allotments, including the site to the south which is also a Seniors Housing development.*
- The building height breach can be attributed in part to site topography which slopes significantly from north to south. The development has been designed to respond to topography by terracing building mass, however where height breaches occur they are largely unavoidable without incorporating level changes throughout the development, which is not desirable in a development housing the elderly, where level graded access is necessary.*
- The proposal will provide a well-designed and appropriate independent living development which will not create a significant impact on adjoining properties.*

The Applicant's written request (attached to this report) has demonstrated that the objectives of the development standard are achieved. As discussed below, the non-compliance is considered to be minor and found to be consistent with the objectives of the standard.

1. Whether there are sufficient environmental planning grounds to justify contravening the development standard

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ stated:

- i. *The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
- ii. *The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The applicant's justification has been prepared on the grounds of there being sufficient environmental planning grounds. As such, the grounds for the variation that are particular to the circumstances of the proposed development are that the site is sloping and the proposed height responds to the existing topography. In view of the particular circumstances of this case, strict compliance with Clause 4.3 of the LEP is considered to be both unnecessary and unreasonable on the following environmental planning grounds:

- The proposal is consistent with the intent of Clause 4.3 which is to maintain the character of the area. The proposal achieves this outcome, notwithstanding the proposed numerical variation;
- In this instance, it is considered that removal of the non-complying elements to achieve strict compliance would not result in an improved planning outcome – the additional height does not cause any material impact in terms of privacy or view loss to neighbouring residential areas, or adverse overshadowing to residential properties or the public domain. The variation results in an improved internal amenity for the occupants of this development and a built form in keeping with adjoining development and in essence would result in a better planning outcome;
- The development has been designed to respond to the topography by 'terracing' the building mass, where the height breaches occur they are largely unavoidable without incorporating level changes throughout the development, which is not possible in an seniors housing development, where level graded access is necessary; and
- The amenity of adjoining properties is not significantly impacted on by the non-compliance, and the proposed non-compliance will not result in any view impacts.

Objectives of the development standard

There are no underlying objectives of the standard within Clause 40 of SEPP HSPD 2004, therefore it is appropriate for the purpose of this assessment to use the underlying objectives as prescribed by Clause 4.3 – ‘Height of Buildings’ of the WLEP 2011 to relevantly determine the suitability of the non-compliance associated with the proposed development.

The objectives of Clause 4.3 are as follows:

- (a) *To ensure that buildings are compatible with the height and scale of surrounding and nearby development***

Comment:

It is not uncommon for senior’s housing developments to be somewhat different in character, form or scale to the types of development generally envisaged in R2 Low Density Residential Zones. The development within the site, through its historical development, is already inconsistent with the general built form principles of the R2 zoning.

The proposed built form and breaking-up of the building mass will ensure the development fits comfortably within its local context. The overall height and scale of the proposed development is not considered excessive and is consistent with the remainder of the development that will be retained within the site.

The proposed development is considered to be compatible with the height and scale of surrounding and nearby development. The substantial articulation of the built form relates favourably to the scale and height of surrounding and nearby development.

The proposed height and scale of the buildings is considered to be an improved design outcome for the site and is consistent with that envisaged for the site.

The development is considered to be consistent with this objective.

- (b) *To minimise visual impact, disruption of loss of privacy and loss of solar access***

Comment:

The proposed development raises no significant external amenity impacts on adjoining developments in terms of loss of views, privacy or overshadowing.

The development is considered consistent with this objective.

- (c) *To minimise the adverse impact of development on the scenic quality of Warringah’s coastal and bush environments.***

Comment:

The development will not have an unreasonable impact on the scenic quality of the area covered by the WLEP 2011 and its coastal and bush environments. The buildings are broken-up through variation of the building form and use of appropriate colours and finishes, which are consistent with the surrounding coastal and bush environment and will assist in reducing any impact on these environments.

- (d) *To manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.***

Comment:

The substantial articulation of the built form, including the breaking-up of the mass of the buildings, and the use of high-quality materials and finishes, will ensure the development will not have an unreasonable visual impact when viewed from the adjoining and nearby public spaces.

2. *Public interest – Development consistent with the zone objectives and objectives of the development standard*

In assessing the variations sought, consideration must be given to the consistency of the proposal with the underlying objectives of the R2 Low Density Residential zone.

An assessment of the proposed development against the objectives of the R2 Low Density Residential zone is provided under the zoning section of this report, where it was found that the proposed development is consistent with the zone objectives.

Public Benefits

The proposed variation to the height control of the SEPP HSPD 2004 does not result in a loss of amenity to the adjoining properties and is therefore considered to be acceptable particularly when balanced against the benefits of the development which are:

- The redevelopment of the site that will provide visual and amenity improvements to the area;
- The additional building height will not reduce privacy, increase overshadowing or present unacceptable visual impacts to surrounding properties. The shadow diagrams accompanying the application demonstrate that appropriate solar access will be retained to the adjoining properties; and
- It is considered that the proposed height variation will not be contrary to the public interest.

The assessment above demonstrates that the proposal is consistent with the objectives of the building height standard.

Concurrence of the Director-General

Clause 4.6(4) (b) requires that the concurrence of the Director-General has been obtained.

Circular PS 18-003, issued on 21 February 2018, advised that Local Planning Panels may assume the Secretary's concurrence where development standards will be contravened.

Clause 5.10 – Heritage Conservation

The site is located in the vicinity of an item of heritage significance being a heritage conservation area, namely "*Manly Dam and Surrounds*" identified under the WLEP2011 as Number "C9".

The proposed development will not significantly impact on the heritage significance of the adjoining Conservation Area for the following reasons:

- The change in levels between the Conservation Area and the subject site;
- The fact that a seniors development already exists on the site; and
- The substantial buffer between the proposal and the conservation area.

Warringah Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | Complies |
|---|--------------|--|----------|
| B1 Wall Height | 7.2m | The height 8.43m is covered by SEPP (HSPD) 2004 | N/A |
| B5 Side Boundary Setbacks | 0.9m - North | 9.04m (Roof of Building A) | Yes |
| | 0.9m - South | 2.77m (Activity terrace) | Yes |
| B7 Front Boundary Setbacks | 10.0m | 59.44m (Roof of Building A) | Yes |
| B9 Rear Boundary Setbacks | 6.0m | 153.49m (Pool Building) | Yes |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 50% | The LOS is 65.99% (24608.6sqm), however landscaping is covered by SEPP (HSPD) 2004 | N/A |

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| A.5 Objectives | Yes | Yes |
| R2 Side Boundary Envelope Exceptions | Yes | Yes |
| B5 Side Boundary Setbacks | Yes | Yes |
| Side Setbacks - R2 | Yes | Yes |
| B7 Front Boundary Setbacks | No | Yes |
| R2 - All another land in R2 Zone | Yes | Yes |
| Front Boundary Exceptions - All Zones | Yes | Yes |
| B9 Rear Boundary Setbacks | Yes | Yes |
| All another land under R2 | Yes | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | Yes | Yes |
| C4 Stormwater | Yes | Yes |
| C5 Erosion and Sedimentation | Yes | Yes |
| C6 Building over or adjacent to Constructed Council Drainage Easements | Yes | Yes |
| C7 Excavation and Landfill | Yes | Yes |
| C8 Demolition and Construction | Yes | Yes |
| C9 Waste Management | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|---|
| D3 Noise | Yes | Yes |
| D6 Access to Sunlight | Yes | Yes |
| D7 Views | Yes | Yes |
| D8 Privacy | Yes | Yes |
| D9 Building Bulk | Yes | Yes |
| D10 Building Colours and Materials | Yes | Yes |
| D11 Roofs | Yes | Yes |
| D12 Glare and Reflection | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| D20 Safety and Security | Yes | Yes |
| D21 Provision and Location of Utility Services | Yes | Yes |
| D22 Conservation of Energy and Water | Yes | Yes |
| E1 Private Property Tree Management | Yes | Yes |
| E2 Prescribed Vegetation | No | No |
| E5 Native Vegetation | No | No |
| E6 Retaining unique environmental features | No | No |
| E7 Development on land adjoining public open space | No | No |
| E8 Waterways and Riparian Lands | No | No (refer to discussion in the referrals section) |
| E10 Landslip Risk | Yes | Yes |

Detailed Assessment

Clause - D6 Access to Sunlight

Site Specific Requirement

Clause 35 under SEPP (HSPD) 2004 establishes precedence for solar access over the WDCP 2011 and states that development is to ensure that adequate daylight is received to the main living areas of neighbours in the vicinity and residents receive an adequate provision of sunlight to substantial areas of private open space.

In the addition to the above, the development is also assessed against the requirements of clause D6 of the WDCP 2011.

Impact on the Adjoining Properties

The shadow diagrams submitted with the application show that the shadow cast by the proposed development will generally fall within or marginally beyond the boundaries of the site. Therefore, the impact of the proposed development on the adjoining properties is found to be satisfactory.

Impact on the proposed development

The shadow diagrams indicate that the development will result in overshadowing of varying degrees to the new buildings on site, including the newly proposed internal courtyard. However, given the density of the existing and proposed development, it is considered that direct sunlight at all times of the day is unachievable and that a degree of overshadowing is both inevitable and unavoidable.

In this regard, the proposed development is found to satisfy the solar access requirements of the SEPP (HSPD) 2004 and WDCP 2011.

Clause D9 - Building Bulk

Clause D9 seeks to minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.

In respect to the requirements of this Clause, Council's Urban Designer has reviewed the proposed development and has assessed the proposal with respect to building bulk and has raised no objection to the design of the development. Accordingly, it is considered that proposal represents good design and innovative architecture and will enhance the urban environment. The visual impact of the building will be positive.

The proposal is found to be satisfactory in relation to the objectives of this Clause.

Clauses - E2 Prescribed Vegetation, E5 Native Vegetation, E6 Retaining unique environmental features, and E7 Development on land adjoining public open space

Council's Natural Environment sections (Biodiversity) do not support the proposed development due to the significant deficiencies in the application and uncertainties regarding the potential impact on the development on the bushland within the site and within the adjoining public land.

Based on the assessment provided by Council's Natural Environment Sections, the application is recommended for refusal.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

This section requires a range of matters to be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

Section 1.3 of the EPA Act, 1979 contains the relevant provisions for the assessment of biodiversity issues for all applications. The matters for consideration under section 1.3 include a range of matters that must be considered and Council is required to adopt a conservative approach in its determination of the biodiversity value.

In this case, the assessment of this application has found that the application is deficient in identifying and addressing the management and mitigation of the relevant environmental impacts associated with redevelopment of this site. Therefore, the application is recommended for refusal on this basis.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention through Environmental Design.

POLICY CONTROLS

The proposal is not subject to the application of Council's Section 94A Development Contributions Plan for reason as discussed in the referral section of this report.

CONCLUSION

The assessment of the application has been carried out having regard to the provisions of Section 4.15 of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP 55, SEPP HSPD 2004, SEPP 65, SEPP Infrastructure, WLEP 2011, the relevant codes and policies of Council, including the relevant provisions of the WDCP 2011.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions.

The assessment of this application has found that the application is deficient in identifying the relevant environmental and ecological impacts associated within the subject site, as identified by relevant expert's comments in the referrals section of this report. The NSW RFS has also indicated that there is insufficient information submitted with the application to assess the bushfire management issues associated with the proposed development and has declined to issue its GTA's.

Notwithstanding the above, in terms of the remainder of the assessment, including the planning, urban design, character, landscaping, traffic, stormwater, services infrastructure and noise it has found that the proposal has significant merit and can be supported on these grounds.

The development includes non-compliances with the 8.0m Height of Buildings Development Standard as prescribed under Clause 40 (4) (a) of the SEPP (HSPD) 2004. It is noted that the non-compliance is generally a result of the sloping topography of the site. The variations sought have been assessed under the provisions of Clause 4.6 of the WLEP 2011 where it is found that:

- 1) The proposal is relation to the non-compliance is considered to be consistent with the objectives of the Development Standard and the R2 zone in the WLEP 2011.
- 2) The proposed development is considered to be in the public interest and the proposal is considered to be consistent with the objectives of the Development Standard.
- 3) That there are sufficient environmental planning grounds to justify contravening the development standard; and
- 4) That compliance with the development standard is both unreasonable (due to the topography of the site) and unnecessary (in that full compliance would not necessarily result in a better outcome) in the circumstances of the case.

The public exhibition of the DA resulted in 43 individual submissions, all of which raised concerns with the proposed development. The majority of the submissions raised concerns with regards to environmental impact, incompatibility with the surrounding character of the area, non-compliance with various aspects of SEPP HSPD 2004 and construction related impacts. The issues raised in the submissions have been addressed in the "Public Notification" section of this report.

As a direct result of the application and the consideration of the matters detailed within this report, it is recommended that the Northern Beaches Planning Panel, as the determining authority, refuse this application for the reasons detailed within the "Recommendation" section of this report.

RECOMMENDATION (REFUSAL)

That the Northern Beaches Planning Panel, as the relevant consent authority pursuant to Clause 4.16 (1) (a) of the EP&A Act 1979 (as amended), refuse to grant consent to Development Application No. DA2018/1667 for partial demolition works and construction of a Seniors Housing Development at Lot 2615, DP 752038, No. 181 Allambie Road, Allambie Heights for the following reasons:

1. Pursuant to Section 4.45 of the Environmental Planning and Assessment Act, 1979, the NSW Rural Fire Service has not granted its General Terms of Approval that are required in order for the development consent to be granted.
2. The proposed development is unsatisfactory in respect to Section 4.15 of the Environmental Planning and Assessment Act, 1979, as the application is found to be inconsistent with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 with regards:
 - a) The proposed development does not satisfy Clause 27 due to the absence of the General Terms of Approval from the NSW Rural Fire Service; and
 - b) The proposed development is inconsistent with the requirements of Clause 29 in relation to its impact on the natural environment as stipulated in Clause by 25 (5) (b) (ii).
3. Pursuant to Section 4.15 (1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the aims and objectives of the Warringah Local Environmental Plan 2011, in that insufficient information is provided with the application to fully and properly assess the environmental impacts on the site and adjoining lands.
4. Pursuant to Section 4.15 (1)(a) of the Environmental Planning and Assessment Act, 1979 and Clause 12(1)(a) of the Warringah Development Control Plan 2011, the development is inconsistent with the following Clauses:
 - a) Clause E2 Prescribed Vegetation;
 - b) Clause E5 Native Vegetation
 - c) Clause E6 Retaining unique environmental features;
 - d) Clause E7 Development on land adjoining public open space; and
 - e) Clause E8 Waterway and Riparian Land