

STATEMENT OF ENVIRONMENTAL EFFECTS

**FOR THE PROPOSED DEMOLITION OF THE EXISTING STRUCTURES
AND THE CONSTRUCTION OF A MULTI DWELLING DEVELOPMENT
PURSUANT TO
SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

LOCATED AT

34 ADAMS STREET, FRENCHS FOREST

FOR

PRATTENMOORE PTY LTD



**Prepared
November 2019**

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1.0 Introduction

This Statement of Environmental Effects accompanies architectural plans prepared by Gartner Trovato Architects, on behalf of Prattenmoore Pty Ltd to detail the proposed demolition of the existing structures and the construction of a multi dwelling development comprising 4 dwellings pursuant to SEPP (Housing for Seniors or People with a Disability) 2004 at **34 Adams Street, Frenchs Forest**.

The details prepared to accompany the subject proposal are identified as Project Number 1918, Revision B dated 27 November 2019, and comprises the following sheets:

A.00	Cover Sheet
A.01	Site Plan/Site Analysis
A.02	Ground Floor
A.03	First Floor
A.04	Elevations
A.05	Sections
A.06	Shadow Diagrams
A.07	External Finishes/Photomontage

Recently, Development Application No - 2018/1292 "*Demolition works and Construction of a Seniors Housing Development*" was approved by Council under delegated authority on 4 February 2019.

Subsequently, Development Application – DA2019/1023 for "*Demolition works and Construction of a Seniors Housing Development*" was lodged with Council on 16 September 2019.

As a result of issues identified in Council's assessment of DA2019/1023, the application was withdrawn on 7 November 2019.

Council's concerns have been addressed and the proposed design prepared by Gartner Trovato Architects has been amended accordingly, with the following summary (See **Section 2.0 – Recent History** over) outlining the proposed amendments and the additional supporting information to address the issues raised in the previous assessment.

The subject proposal has been amended to include an additional unit within a modest one and two storey development which is in keeping with the bulk and scale of development in the locality, whilst providing suitable areas of soft landscaping and private open space on the site.

The subject site exhibits non-compliances with the controls within Clause 40 of SEPP (HSPD) in relation to the lot size and required frontage width when measured at the building line and these issues are discussed within the SEPP 1 & Clause 4.6 submissions accompanying this Statement.

Clause 40 (2) requires a minimum lot size of 1000m². The subject allotment has an area of 917.2m². The variation is 82.8m² or 8.28%.

Clause 40(3) requires a minimum site width of 20m, measured at the building line. The site width at the building line is 19.81m. The variation is 190mm or 0.95%.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

In preparation of this document, consideration has been given to the following:

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2000*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy No 55 (Remediation of Land)*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Warringah Local Environmental Plan 2011*
- *Warringah Development Control Plan*

2.0 Recent History

Council's correspondence of 5 November 2019 identified the following concerns resulting from the assessment of DA2019/1023:

1. Vehicular & Pedestrian Access

Clause C2 (Traffic, Access & Safety) of WDCP 2011

The proposed driveway design does not demonstrate consistency with the objectives of clause C2 of WDCP 2011 and is not supported, with concerns relating to the following aspects of the design:

- a. The driveway does not provide a passing facility, which is required due to both the length of the proposed driveway and due to the amount of dwellings the driveway is proposed to service.*
- b. A separate path of travel to each individual dwelling and to/from the mailboxes and garbage area has not been provided, as required by SEPP HSPD and the Seniors Living Policy.*
- c. The manoeuvring space associated with Garage 4 does not comply with AS2890.1.*
- d. The driveway levels adjacent to Garage 1 and Garage 2 do not align, creating an unacceptable hazard at the junction of the two garage doors.*

Design Response

The revised driveway and parking design detailed in Sheet A.02 dated 27 November 2019 addresses Council's concerns and is accompanied by a revised Traffic & Parking Assessment Report prepared Terrafic Pty Ltd, Reference No 19043 dated 23 November 2019.

The revised Traffic & Parking Assessment confirms that adequate passing opportunity for vehicles available within the areas of the driveway in front of the garages, which achieve a minimum width of 5.710m.

A separate path of travel from the dwellings to the mailboxes and bin areas has been provided, with the pedestrian access delineated from the driveway through the use of a separate paved surface treatment.

A swept path analysis has been provided by Terraflow Pty Ltd (See page 17 of the traffic report) to confirm that adequate manoeuvring access in accordance with AS/NZS2890.1:2004 is provided to the garage for Dwelling 4.

The driveway levels transition between Garage 1 & Garage 2 has been resolved to ensure that there is no conflict or hazard.

2. Off-Street Parking

Clause 41 (Standards for hostels and self-contained dwellings) of SEPP HSPD

The proposed development does not provide parking spaces in accordance with the current provisions of AS2890.6, as prescribed by SEPP HSPD. Furthermore, the proposed parking spaces are also inconsistent with AS4299, being the less onerous alternate solution that may be supported by Council in instances where consistency with AS2890.6 cannot be achieved.

Concern is also raised with regard to the amount of car parking spaces proposed, noting that the proposed dwellings contain tv/media rooms that can be readily used as bedrooms. The proposed dwellings are considered to be more reasonably described as 3 bedroom dwellings, requiring 1.5 car spaces per dwelling.

Design Response

The revised architectural plans provide for each dwelling to have access to a garage with a minimum width of 3.8m, which will achieve compliance with AS 4299 & exceeds the minimum requirement of 5% of the total number of parking spaces to be designed to be able to achieve a minimum width of 3.8m, as required by SEPP HSPD, Schedule 3, Clause 5.

The layout of the proposed first floor level has been revised to remove the tv/media rooms, with the area replaced by open loft spaces.

3. Water Management

Clause C4 (Stormwater) of WDCP 2011

The application was not supported by a DRAINS model to demonstrate consistency with Council's Water Management Policy LP 850 and clause C4 of WDCP 2011.

Design Response

A revised Stormwater Management Plan has been prepared by Barrenjoey Consulting Engineers Pty Ltd, Job No 190802, Drawing No SW1 DA Rev A dated 26 November 2019.

A DRAINS model is included with the DA submission.

4. Front Setback

Clause B7 (Front Boundary Setbacks) of WDCP 2011

The proposed location of the on-site detention system is not supported, resulting in inconsistency with clause B7 of WDCP 2011. The proposed design of the onsite detention basin, which features the incorporation of canopy trees within the basin, is also not supported by Council.

Design Response

The revised Stormwater Management Plan prepared by Barrenjoey Consulting Engineers Pty Ltd, Job No 190802, Drawing No SW1 DA Rev A dated 26 November 2019 notes the relocation of the OSD facility to be repositioned under the driveway.

Sheet A.02 prepared by Gartner Trovato has been similarly amended to reflect the relocation of the OSD facility.

5. Plant equipment & BASIX Commitments

SEPP (Building Sustainability Index: BASIX)

Clause D21 (Provision and Location of Utility Services) of WDCP 2011

The architectural plans do not demonstrate the location of necessary plant equipment, or the matters prescribed by the BASIX Certificate provided to support the application.

Design Response

A revised NATHERS and BASIX Assessment has been prepared by Efficient Living Pty Ltd.

The revised architectural plans prepared by Gartner Trovato demonstrate the relevant BASIX Commitments.

6. Rear Setback

Clause 40 (Development standards – minimum sizes and building height) of SEPP HSPD

Clause B9 (Rear Boundary Setbacks) of WDCP 2011

The proposed building and areas of private open space are overly dominant of the 6m rear setback area, inconsistent with the provisions of clause B9 of WDCP 2011. Furthermore, the application appears to be inconsistent with the single storey limitation for buildings within the rear 25% of the site, with an encroachment shown on the upper floor plan. The single storey limitation is a development standard, and a request to vary this development standard has not been forthcoming.

Design Response

The revised architectural plans confirm that the 6m rear setback area will be predominantly landscaped, with in excess of 50% of the rear setback area to be provided as soft landscaping

A revised Landscape Plan has been prepared by Formed Gardens, Job No FG 18 610, Drawing No 001 Revision F dated 25 November 2019 which details the proposed surface finishes and planning, in order to achieve the Objectives of Clause B9 of WDCP 2011.

The revised architectural plans also conform that the proposed development will not exceed a single storey height within the rear 25% of the site as required by SEPP HSPD.

7. Private Open Space & Accessibility

Clause 41 (Standards for hostels and self-contained dwellings) of SEPP HSPD

Clause 50 (Self-Contained Dwellings) of SEPP HSPD

Clause D2 (Private Open Space) of WDCP 2011

Clause D6 (Access to sunlight) of WDCP 2011

The architectural plans are inconsistent with the landscape plans with respect to the area of private open space provided for each of the dwelling proposed. In particular, the landscape plans are inconsistent with the minimum 3m dimension prescribed by both WDCP 2011 and SEPP HSPD.

Further concern is raised in regard to the proposed surface treatment of the areas of private open space and access paths to clotheslines, noting that a gravel surface does not comply with wheelchair access requirements.

The application also fails to demonstrate that all areas of private open space receive 3 hours of solar access between 9am and 3pm in midwinter, as prescribed by clause D6 of WDCP 2011, with particular concern regarding the area of private open space associated with Dwelling 1.

Design Response

The revised architectural plans and landscape plans are in agreement as to the areas of private open space. The proposed open space areas will have a minimum dimension of 3m x 3m, with an all-weather paved surface treatment to facilitate safe and convenient access for all occupants within the open space and to the clothes lines.

In response to Council's concerns regarding solar access being available to all areas of private open space, we refer you to clause 50(e) of SEPP-HSPD, being the "cannot be refused" standards clause that indicates that only 70% of dwellings require 3 hours of solar access to the private open space areas.

The development provides for Dwellings 2, 3 & 4 to achieve the required solar access to all of the private open space areas, with a reduced extent of solar access available to the private open space areas of Dwelling 1.

On balance, the development achieves the requirements of SEPP HSPD.

8. Variations to development standards

Clause 40 (Development standards – minimum sizes and building height) of SEPP HSPD

The application is reliant upon variations to both the minimum lot size and lot width requirements of SEPP HSPD. The proposal is unresolved, and the application has not satisfactorily demonstrated that the

site is suitable for the density proposed. As such, the requested variations to these development standards are not supported in light of the current proposal.

Design Response

In our opinion, the revised architectural design prepared by Gartner Trovato Architects and the supporting consultant's information successfully addresses the concerns raised by Council in its assessment of DA2019/1023.

As stated in the attached SEPP 1 submissions, the suitability of the proposed design for the site and the supporting consultant's information has satisfactorily demonstrated that the site can be readily developed for the intended Seniors Living use, notwithstanding the non-compliance with the lot size and lot width controls.

3.0 Property Description

The subject allotment is described as 34 Adams Street, Frenchs Forest, being Lot 18 within Deposited Plan 21872 and is zoned R2 Low Density Residential within the provisions of the Warringah Local Environmental Plan 2011.

The site does not contain any heritage items, nor is it within a conservation area.

The land is noted as being within Landslip Area A. This matter will be discussed in further detail within this report.

No other hazards have been identified.

4.0 Site Description

The land is currently developed with a single storey fibro dwelling with a tile roof and is located on the northern side of Adams Street. The site falls approximately 2.38m from the rear, northern boundary towards the street.

The site is irregular in shape, with a front boundary to Adams Street of 19.81m, eastern and western side boundaries of 41.15m and 51.45m respectively, and an angled rear boundary length of 22.335m. The total site area is 917.2m².

Vehicular access is available to an existing single carport via an existing concrete driveway from Adams Street.

The property has a general fall to the south, with stormwater from the site to be directed to the street gutter in Adams Street.

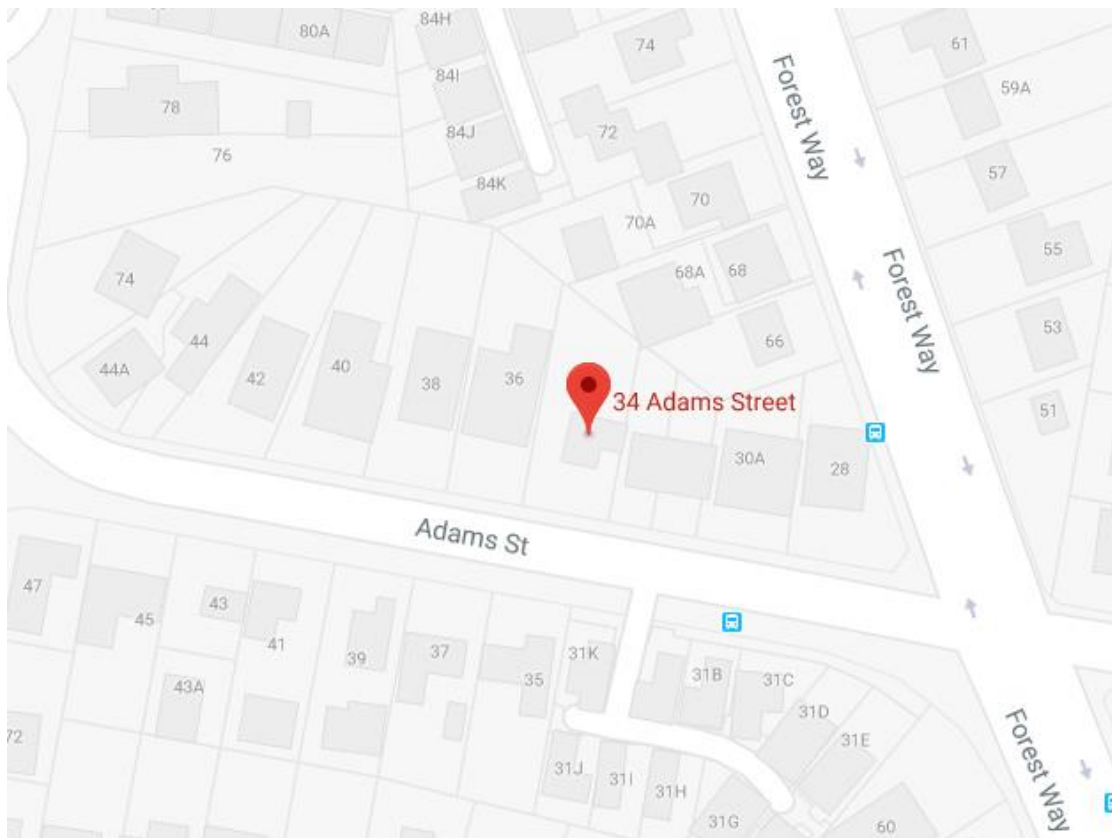
The neighbouring properties are similarly developed with one and two storey dwellings, with an existing attached dual occupancy dwelling adjoining to the east at No 32 Adams Street.

Multi dwelling housing is common in the immediate area, with two storey medium density development comprising eleven units opposite the site at No 27-33 Adams Street (See Figure 7).

Recent Seniors Living developments have been constructed nearby at:

- No 76 Prince Charles Road - 5 dwellings (Deferred Commencement Consent – DA 2018/1078)
- 80 Prince Charles Road – 5 dwellings (See Figures 8 & 9) . *Note: A variation of 8.55% to the 20m site width control was granted under DA 2008/0537 by WDAP Meeting of 10 December 2008.*
- 81 Prince Charles Road – 5 dwellings
- 82-84 Prince Charles Road – 14 dwellings (Figures 8 & 9).

The details of the site are as indicated on the survey plan prepared by TSS Total Surveying Solutions, Job No. 172343, dated 14 November 2017, which accompanies the DA submission.



**Fig 1: Location of Subject Site
(Source: Google Maps)**



Fig 2: View of subject site, looking north from Adams Street



Fig 3: View of adjoining two storey dual occupancy development at No 32 Adams Street, looking north



Fig 4: View of adjoining single residence at No 36 Adams Street, looking north



Fig 5: View of streetscape to the west of the site, looking north-west



Fig 6: View of general streetscape opposite the site, looking south-east



Fig 7: View of existing two storey medium density development comprising eleven units at 27-33 Adams Street, looking south-east from subject site.



Fig's 8 & 9: Views of recently constructed nearby Seniors Living developments at No's 80 & 82-84 Prince Charles Road, looking east

5.0 The Surrounding Environment

The general vicinity of the site is characterised by a variety of residential development of one and two storeys in height and of a variety of architectural styles. The varying age of development in the area has resulted in a mix of materials and finishes, with the development in the area generally presenting a consistent setback to the public domain.

The adjoining development on the northern side of Adams Street comprises a mix of single dwellings and dual occupancy development, with multi dwelling development opposite the site on the southern side of Adams Street.

The surrounding area is undergoing change and renewal, with medium density development in the form of townhouses or Seniors Living development becoming common.

The general scale, form and appearance of the proposal has been resolved to replicate a similar rhythm and style to the existing single residential development within the locality.

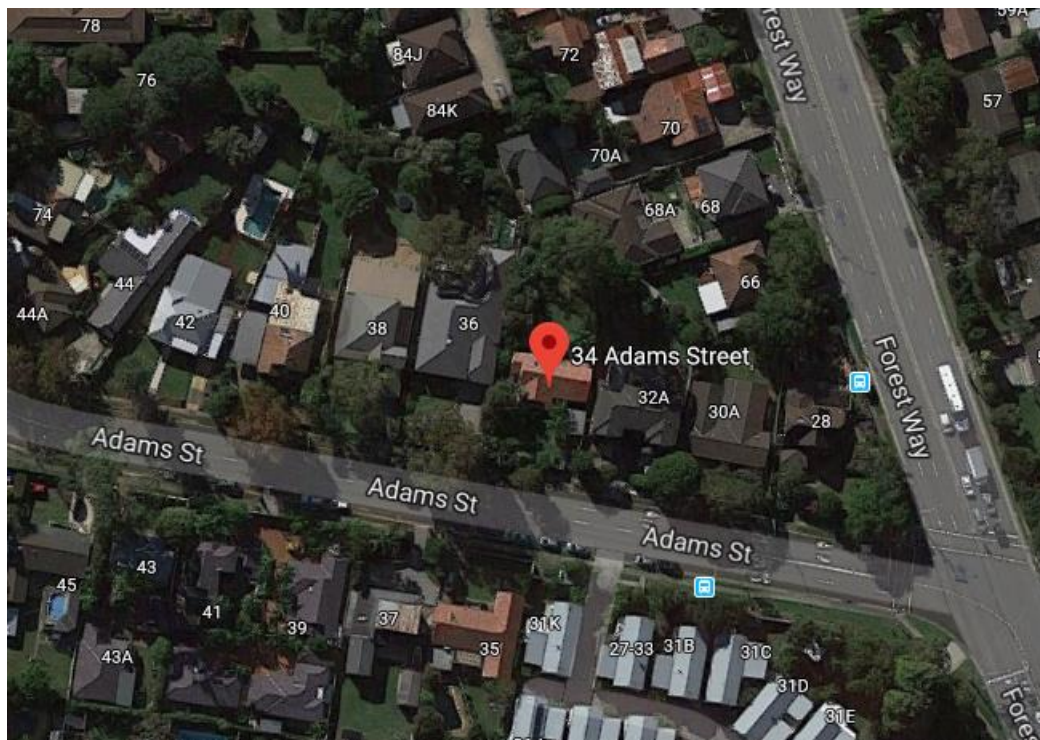


Fig 10: Aerial view of site and immediate locality
(Source: Google Maps)

6.0 Proposed Development

As detailed within the accompanying plans the proposal seeks approval for the proposed demolition of the existing structures and the construction of 4 dwellings pursuant to SEPP (Housing for Seniors or People with a Disability) 2004.

The proposal comprises a mix of 4 x semi-detached villa style housing. The townhouses are contained within a single building comprising two levels. Each of the dwellings are provided with an attached single garage with a minimum width of 3.8m.

The proposed building is to be constructed of a mixture of rendered fibre cement sheet & timber cladding and metal roofing. The proposed external finishes have been detailed in Sheet A.07.

The proposed dwellings comprise the following:

Dwelling 1	
Ground Floor	Entry, dining/living area, kitchen, laundry, bedroom, bathroom, internal access stairs and garage
First Floor	Bedroom, bathroom and open loft area
Dwelling 2	
Ground Floor	Entry, dining/living area, kitchen, laundry, bedroom, bathroom, internal access stairs and garage
First Floor	Bedroom, bathroom and open loft area
Dwelling 3	
Ground Floor	Entry, dining/living area, kitchen, laundry, bedroom, bathroom, internal access stairs with storage below and garage
First Floor	Bedroom, bathroom and open loft area
Dwelling 4	
Ground Floor	Entry, TV room, dining/living area, kitchen, laundry, bedroom, bathroom, internal access stairs and garage
First Floor	Bedroom and bathroom

Each dwelling is provided with a minimum of one area of private open space comprising of a secure courtyard and associated yard areas. These areas are generally located so as to receive access to the northern sun and are directly accessible from the internal living areas.

Vehicular access to the respective garages is to be via a new driveway accessed from Adams Street.

Each dwelling is provided with a single car space within an enclosed garage with a minimum width of 3.8m.

The proposed driveway has been configured so as to allow all vehicles to enter and leave the site in a forward direction. Passing for vehicles entering and leaving the site is available within the driveway, forward of the garages.

The proposed pedestrian entry points are to be incorporated to the perimeter of the driveway, with transition grades to facilitate access for persons with a disability. A separate pedestrian pathway has been provided to give safe access to the letterboxes and bin storage area.

In addition to the construction of the proposed dwellings, the subject site is also proposed to be landscaped as detailed in the Landscape Plans prepared by Formed Gardens, Job No FG 18 610, Drawing NO 001 Revision F dated 25 November 2019 and which accompanies this application. The landscaping proposed includes the planting of extensive screening vegetation around the boundaries of the site and replenishment trees to the front and rear of the site.

A new front fence to the front boundary is to be provided with a general height of 1.2m and comprising vertical painted timber battens and rendered masonry panel to include the letter boxes.

The proposal also provides for the detailed management of stormwater from the site. In this regard a Stormwater Management Plan has been prepared for the site by Barrenjoey Consulting Engineers, Drawing No. SW1, dated 26 November 2019, which is consistent with both the requirements of Council and BASIX.

The stormwater management plan provides for an OSD facility under the driveway, with the overflow from the system directed to the street gutter in Adams Street.

The development indices applying to the proposal are set out below:

Site Area	917.2m²
Gross Floor Area (Clause 50 (b) SEPP HSPD) Max 0.5:1 or 458.6m ²	455m ² or 0.496:1
Landscaped Area: (Clause 50 (c) SEPP HSPD) Min 30% or 275.16m ²	34.7% or 318.33m ²

7.0 Zoning and Development Controls

7.1 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Background

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) came into effect on the 31st March 2004 and replaced the previous State Environmental Planning Policy (SEPP) No. 5 – Housing for Older People or People with a Disability.

The aim of this policy is to:

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

The SEPP allows for the provision of this form of housing on land zoned for urban purposes. The subject land is zoned R2 – Low Density Residential under the Warringah Local Environmental Plan 2011 and the proposal is therefore considered to be permissible upon this site with the consent of the Council.



Fig 11: Extract of Warringah Local Environmental Plan 2011 Zoning Map

The subject application proposes development of the subject site for a purpose defined under the SEPP as being 'self-contained dwellings'. A 'self-contained dwelling' is defined as;

a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

The subject application provides for a total of four (4) self-contained dwellings which satisfy this definition.

In support of the proposal it is submitted that the majority of older people are similar to the community at large and generally have no immediate need for support services on-site, being able to seek external support services when needed. For this reason, developments such as the proposal do not require the provision of on-site services, instead the policy requires that they be located within easy access to the types of support services and facilities required by older or disabled persons.

The site is located within approximately 150m of the nearest bus stop on Forest Way, serviced by regular buses to Sydney CBD, Chatswood and Belrose.

The nearby Northern Beaches Hospital Precinct will provide medical support services within close proximity to the site.

Part 2 – Site Related Requirements

Clause 26 - Location and Access to Facilities

Clause 26(1) provides that Council must be satisfied by written evidence that residents of the proposed development will have access (in accordance with subclause 2) 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."*

In this regard the SEPP defines "access" at Clause 26(2).

It is my opinion that the subject site complies with the requirements of this Clause as detailed below.

The subject site is 600m walking distance from Forestway Shopping Centre, which contains shops, banks and a medical centre.

As discussed in the Traffic and Parking Impact Statement prepared by Terraffic Pty Ltd and dated 23 November 2019, the site is well served by local public transport links, comprising (over):

Route 141	Austlink to Manly via Frenchs Forest & Seaforth
Route 193	Warringah Mall to Austlink via Frenchs Forest
Route 260	Terrey Hills to North Sydney
Route 270	Terrey Hills to City QVB
Route 271	Belrose to City QVB
Route 274	City QVB to Davidson via Frenchs Forest
Route 279	Frenchs Forest to Chatswood
Route 281	Davidson to Chatswood
Route 282	Davidson & Belrose to Chatswood
Route 283	Belrose to Chatswood
Route 284	Duffy's Forest to Terrey Hills & Chatswood

Glen Street Library is located 1.5km from the site. Bus services 271 and 283 provide regular services with direct access to the library.

It is understood that the gradients and pathways of the routes accessing the bus stops will comply with the requirements of Clause 26(2)(a) of the SEPP as levels convenient access is provided to and from the site.

On this basis, it is submitted that the proposed development and the nominated access to public transport satisfy the requirements of the SEPP.

The proposal is therefore considered to satisfy the requirements of Clause 26 of the SEPP.

Clause 27 – Bushfire Prone Land

The subject site is not identified as comprising bushfire prone land on Council's Bushfire Prone Land Map.

Therefore, the provisions of Planning for Bushfire Protection do not apply to the subject application.

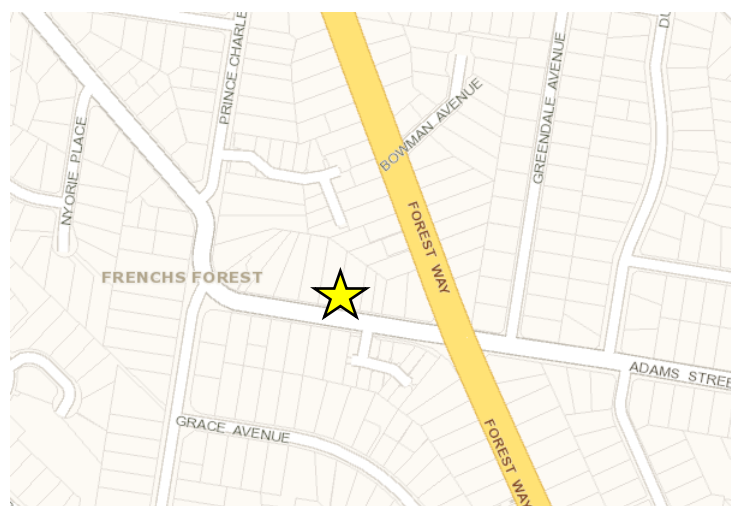


Fig 12: Extract of Warringah Bushfire Prone Land Map 2016

Clause 28 – Water & Sewer

Water and sewer is currently available to the site as evidenced by the existing development on site. The new development will be similarly connected to local water and sewer services.

Part 3 – Design Requirements

Clause 30 – Site Analysis

Clause 30 provides as follows;

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.*
- (2) A site analysis must;*
 - (a) contain information, where appropriate, about the site and its surrounds as described in subclauses (3) and (4), and*
 - (b) be accompanied by a written statement (supported by plans including drawings of section and elevations, and in the case of the proposed development on land adjoining land zoned primarily for urban purposes, and aerial photograph of the site):*
 - (i) explaining how the design of the proposed development has regard to the site analysis, and*
 - (ii) explaining how the design of the proposed development has regard to the design principles set out in Division 2.*

A detailed site analysis plan has been prepared by Gartner Trovato Architects and forms part of the plans accompanying this application. The site analysis plan should be read in conjunction with the site survey and arborist report.

It is considered that these documents when read in conjunction with this Statement of Environmental Effects and the supporting consultant reports satisfy the requirements of Clause 30 of the SEPP.

Clause 31 – Design of In-fill Self Care Housing

In determining a development application made pursuant to this Chapter to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004.

In response to this requirement it is advised that the proposal has been designed having regard to these Guidelines and it is considered that the proposal achieves an appropriate level of compliance with its requirements and is of a good design. An assessment of the proposal under the Urban Design Guideline is provided as Appendix 3.

Clause 32 – Design of Residential Development

Clause 32 of the SEPP requires that consent must not be granted unless Council is satisfied that adequate regard has been given to the following design principles:

Clause 33 – Neighbourhood amenity and streetscape

The proposal has been designed so as to have minimal impact upon the neighbourhood amenity & streetscape of the locality. In this regard the proposal is provided with front setbacks which are considered to be generally consistent with the setback controls for residential development as outlined in Council's DCP and recently constructed development in the vicinity of the site.

In addition to the above the proposal provides for a built form which is compatible with the form of development located within the vicinity of the site. The proposal is considered compatible with development within the vicinity of the site and which comprises predominantly single and larger two storey dwellings. The proposal is also provided with side and rear setbacks which are consistent with the surrounding development.

The proposed dwellings are provided with appropriate separation from surrounding habitable areas and will allow for appropriate levels of amenity to be provided to the surrounding dwellings.

As detailed, the proposal will see the removal of up to thirteen trees, of which four have higher retention value. In order to compensate for the tree removal, the Landscape Plan prepared by Formed Gardens will include the replacement planting of locally occurring canopy trees and perimeter hedge and screen planting to enhance the landscape character of this development.

In relation to neighbourhood amenity it is considered that the proposal will not result in any unreasonable impacts to adjoining properties particularly as a result of overshadowing or a loss of privacy and will provide for appropriate levels of amenity for future residents.

In my view the proposal will result in dwellings that will be of a form and scale compatible with the existing character of this location.

Clause 34 – Visual and acoustic privacy

The development has been designed having regard to the visual and acoustic privacy of both the future residents of the development together with the adjoining property owners. This has primarily been achieved through the provision of appropriate setbacks to the side and rear property boundaries and the considered location and design of the buildings on the site.

The proposal incorporates additional vegetation to screen the dwellings (as identified on the Landscape Plans submitted) which augmented with the existing landscaping and proposed building design will assist in maintaining privacy.

In terms of internal visual privacy for future occupants of this development measures such as overall layout, window location and privacy measures have all been incorporated into the design so as to ensure that there will be appropriate amenity provided to future residents of the development and the residents of neighbouring properties.

Clause 35 - Solar access and design for climate

The SEPP requires that the design of the proposed development ensures adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space.

Shadow diagrams have been prepared in support of the proposed development. Given the orientation of the allotment and the modest two storey design, the proposal will ensure that the properties adjoining the site will continue to receive compliant solar access and will not be unreasonably overshadowed by the proposal.

In relation to the provision of appropriate solar access to the future residents of the development it is considered that the dwelling design and orientation will ensure that all dwellings will receive compliant solar access.

It is considered that the proposed development satisfies the requirements of this design element.

Clause 36 - Stormwater

The proposal also provides for the detailed management of stormwater from the site. In this regard a Stormwater Management Plan has been prepared for the site by Barrenjoey Consulting Engineers, dated 26 November 2019 and is consistent with both the requirements of Council and BASIX. The proposal provides for a rainwater re-use tanks and an on-site detention tank located under the driveway with any overflow from the system directed to the street gutter in Adams Street.

Clause 37 - Crime Prevention

The occupants of the development will be provided with a secure living environment. Appropriate lighting and security measures will be incorporated into the construction of the development. Dwelling 1 is orientated towards the front of the site and includes a habitable room having views of the street, pedestrian pathway and frontage of the site.

The proposed development is also proposed to be provided with a secure entry and each dwelling is provided with a secure courtyard or terrace area.

Clause 38 - Accessibility

The proposal has been designed so that each unit is accessible by a wheelchair bound person via suitably graded pathways entries as detailed in the Access Report prepared by ABE Consulting, Job No 9226, dated 3 December 2019 which is included as part of this submission.

The site is therefore considered to be provided with appropriate vehicular and pedestrian access and letter box facilities.

Clause 39 - Waste Management

The proposal includes the provision of a bin storage area, which is located forward of the building to allow the bins to be presented on the street for collection, and will be serviced by Council's waste

contractor.

Part 4 – Development Standards

Clause 40 – Development Standards – minimum sizes and building height

Clause 40 (1) provides that a consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this Clause.

Clause	Standard	Proposal	Compliance
Clause 40(2) – Lot Size	Minimum 1,000m ²	Site Area: 917.2m ²	No – refer to submission pursuant to SEPP 1 & Clause 4.6
Clause 40(3) – Site Frontage	Minimum 20m measured at the building line.	The site has a frontage of 19.81m to Adams Street.	No – refer to submission pursuant to SEPP 1 & Clause 4.6
Clause 40(4) – Height in zones where residential flat buildings are not permitted	(a) 8 metres or less (b) No more than 2 storeys adjacent to a boundary (c) Max. 1 storey in rear 25% of site	6.78m 2 storeys 1 storey in rear	(a) Yes (b) Yes (c) Yes

Clause 41 - Self-contained dwellings – standards concerning access and useability

Clause 41 of the SEPP states:

- 41. A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.*

A detailed assessment of the proposal against the requirements of this Division is contained within the Access Report prepared by Access Report prepared by ABE Consulting, Job No 9226, dated 3 December 2019 and which is included as part of this application.

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

This clause provides additional standards for self-contained dwellings which is summarised over:

Clause	Standard	Proposal	Compliance
Clause 50(a) – Building Height	Buildings not to exceed 8.0m in height	6.78m	Yes
Clause 50(b) – Density and Scale	Floor Space Ratio not to exceed 0.5:1	0.49:1 or 455m ²	Yes

Clause	Standard	Proposal	Compliance
Clause 50(c) – Landscaped Area	30% of site area to be landscaped (275.16m ²)	318.33m ² or 34.70%	Yes
Clause 50(d) - Deep Soil Zones	15% of the site area (137.58m ²) With two thirds (91.72m ²) at the rear	231m ² or 25.1% and 137.83m ² at the rear	Yes Yes
Clause 50(e) – Solar Access	70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	All dwellings receive minimum 3 hours solar access to internal living areas and to private open space.	Yes
Clause 50(f) – Private Open Space	15m ² of private open space per dwelling at ground floor 10m ² in case of any other dwelling	All dwellings exceed minimum required private open space area.	Yes
Clause 50(h) – Parking	0.5 spaces per bedroom (4 spaces required)	4 resident spaces	Yes

Summary

The proposal is therefore considered to comply with the requirements of this SEPP.

7.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposal meets water, thermal and energy standards required by BASIX.

A BASIX Certificate and NATHERS Thermal Comfort assessment has been prepared by Efficient Living Pty Ltd and submitted with the development application.

7.3 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the land is contaminated.

Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

7.4 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The SEPP commenced on 25 August 2017 and replaced Clause 5.9 of Warringah Local Environmental Plan 2011.

The aims of the SEPP are detailed in Clause 3 and note:

The aims of this Policy are:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

An Arboricultural Assessment Report has been prepared by Hugh the Arborist, Revision B dated 25 November 2019, which addresses the trees within the site.

The proposal addresses the potential impacts on sixteen (16) trees within the site, with thirteen (13) trees to be removed and further three (3) trees to be retained and recommendations provided to ensure the remaining trees are retained and protected throughout the works.

Of the trees that are suggested for removal, Trees # 5, 7, 11 & 15 are Category A trees (higher retention value) and located within the building footprint, so they cannot be viably retained with the proposed development.

A further nine trees being removed as a result of the development include Trees 2, 3, 4, 6, 8, 9, 12, 13 and 14 are noted as Category Z (lower retention value) and comprise exempt species and exotics.

In order to re-establish an appropriate tree canopy to the site, the proposal is supported by a Landscape Plan prepared by Formed Gardens, which details the replacement planting of a large, locally occurring canopy tree within the rear yard of the site, with an additional *Melaleuca Leucadendra sp.* to be provided within the front setback.

The proposed landscaping schedule includes substantial screening planting as perimeter hedges and understory planting which will assist in maintaining privacy for the dwelling owners and neighbours and softening the visual appearance of the proposed built form.

The proposal is therefore considered to be consistent with the aims of the SEPP.

7.5 Warringah Local Environmental Plan 2011

The land is zoned R2 Low Density Residential under the provisions of the WLEP 2011.



Fig 13: Extract of Warringah Local Environmental Plan 2011 Zoning Map

The proposed multi dwelling development is not permissible in the R2 zone under the provisions of the Warringah Local Environmental Plan 2011.

However, the proposed multi dwelling development is permissible in the zone under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The development of and use of the land for residential purposes is consistent with the zone objectives, which are noted as:

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

It is considered that the proposed development will be consistent with the desired future character of the surrounding locality for the following reasons (over):

- The proposal provides for a modest one and two storey development, which will be consistent with and complement the existing low and medium density residential development within the

locality.

- The proposed development respects the scale and form of other new development in the vicinity and therefore complements the locality. The proposal provides for the construction of a new multi dwelling development which will be set back from the street and provide a modulated and articulated façade to the street elevation.
- The proposal will provide for new landscape plantings throughout the site, to soften the built form of the development and maintain consistency with the landscaped character of the locality.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any impact on long distance views.

Clause 4.3 – Height of buildings

The dictionary supplement to the LEP notes building height to be:

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

The building height limit for development in this portion of Frenchs Forest is 8.5m. The proposed development will present a maximum height of 6.78m, which readily complies with this control.

Clause 6.2 – Earthworks

The proposal will not require any substantial excavation to accommodate the proposed development. The works will be carried out in accordance with the recommendations of the consulting Structural Engineer, and therefore satisfy the provisions of this clause.

Clause 6.4 – Development on Sloping Land

The site is noted as Landslip Risk Class A on Council's Landslip Risk Map. The proposal will not require any substantial excavation to accommodate the proposed development. The works will be carried out in accordance with the recommendations of the consulting Structural Engineer, and therefore satisfy the provisions of this clause.

There are no other clauses of the WLEP 2011 that are considered to be relevant to the proposed development. It is considered that the proposal achieves the requirements of the WLEP.

7.6 Warringah Development Control Plan

The relevant numerical and performance based controls under WDCP are discussed below:

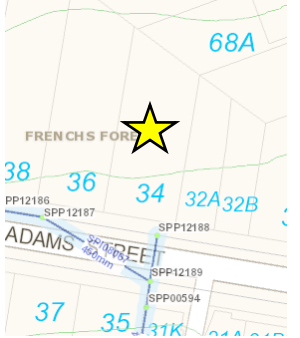
Part B – Built Form Controls			
Standard	Required	Proposed	Compliance
B1 – Wall heights	Max wall height 7.2m	Max proposed wall height 5.9m	Yes
B2 – Number of storeys	N/A		N/A
B3 – Side Boundary Envelope and Side Setback	45 degrees from 4m	The proposal complies with the building envelope control, as noted on the submitted elevations.	Yes
B4 – Site Coverage	Not applicable		N/A
B5 – Side Boundary setbacks	R2 zone – 0.9m	<u>East</u> U1 – 1m to 3.0m U2 – 1m to 3.0m U3 – 1.3m to 7.1m U4 – 7.1m <u>West</u> U1 – 6.06m U2 – 6.06m to 6.410m U3 – 6.06m U4 – 1.06m – 6.06m	Yes Yes Yes Yes Yes Yes Yes Yes
B6 – Merit assessment of Side Boundary Setbacks	Merit assessment of side setbacks		N/A
B7 – Front Boundary Setbacks	Min 6.5m	Minimum proposed setback 6.5m to Dwelling 1. A letter box area is conveniently located at the front boundary and is incorporated within a 1.2m high vertical timber batten fence with rendered masonry panel to include the letter boxes which provides some privacy and acoustic protection from road	Yes

		nose for the occupants and will still allow for casual surveillance of the street.	
B8 – Merit assessment of front boundary setbacks	Not applicable		N/A
B9 – Rear Boundary Setbacks	Min 6m	<p>Minimum proposed setback 4.522m, which presents a minor variation to this control.</p> <p>The objectives of this control read as follows:</p> <ul style="list-style-type: none"> • <i>To ensure opportunities for deep soil landscape areas are maintained.</i> • <i>To create a sense of openness in rear yards.</i> • <i>To preserve the amenity of adjacent land, particularly relating to privacy between buildings.</i> • <i>To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.</i> • <i>To provide opportunities to maintain privacy between dwellings.</i> <p>Compliance with this control is constrained by the angled nature of the rear boundary. The proposal presents two minor point encroachment on the rear setback control,</p>	Yes – on merit

		<p>with the remaining portion of the northern elevation.</p> <p>The proposal complies with the required setbacks for residential development in the R2 Zone, with the bulk and scale of the dwellings intended to replicate modest single dwellings. The proposal will not visually dominate the streetscape or the neighbouring properties.</p> <p>The proposal will not result in any unreasonable loss of amenity for neighbouring properties in terms of privacy, views or solar access.</p> <p>Suitable areas of soft landscaping are available, and the otherwise generous setbacks maintain a sense of openness throughout the site and as viewed from the streetscape.</p>	
B10 – Merit Assessment of rear boundary setbacks	Merit assessment noted on map		N/A
B11 – Foreshore Building Setback	Not applicable		N/A
B12 – National Parks Setback	Not applicable		N/A
B13 – Coastal Cliffs Setback	Not applicable		N/A

B14 – Main Roads Setback	Not applicable		N/A
B15 – Minimum Floor to Ceiling Height	Not applicable		N/A
Part C – Siting Factors			
C2 – Traffic, Access and Safety	Vehicular crossing to be provided in accordance with Council's Vehicle Crossing Policy	New vehicle crossing provided in accordance with Council's requirements	Yes
C3 – Parking Facilities	<p>1.2 car spaces x 4 dwellings = 4 spaces 1 visitor space per 5 units = 1 space</p> <p>Total = 5 spaces</p> <p>Garages not to visually dominate façade Parking to be in accordance with AS/NZS 2890.1</p>	<p>4 car spaces are provided for the development, in accordance with this provision. However, visitor parking is not provided.</p> <p>The objectives of this control read as follows:</p> <ul style="list-style-type: none"> • To provide adequate off street carparking. • To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place. • To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces. <p>As outlined in the Traffic and Parking Assessment Report prepared by Terraflow Pty Ltd dated 23 November 2019 the proposal complies with the parking requirements of the</p>	Yes – on merit

		<p>SEPP (Housing for Seniors or People with a Disability) 2004.</p> <p>The proposed garages are integrated into the design of the development and scale and will not dominate the façade.</p> <p>The provision of parking is therefore considered worthy of support on merit.</p>	
C3A – Bicycle Parking and End of Trip Facilities		No bike storage provided	No
C4 – Stormwater	Hydraulic Design to be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments and Minor Works Specification	A Stormwater Drainage Plan has been prepared by Barrenjoey Consulting Engineers Pty Ltd, Drawing No SW1 dated 26 November 2019, to detail the proposed stormwater provisions and accompanies the DA submission.	Yes
C5 – Erosion and Sedimentation	Soil and Water Management required	<p>Suitable erosion control measures will be provided to contain sediment runoff during the demolition and construction works.</p> <p>The erosion control measures will remain in place until the completion of the construction works.</p>	Yes
C6 – Building over or adjacent to Constructed Council Drainage Easements	Subject site is in the vicinity of Council's stormwater infrastructure	The site is not affected by any Council infrastructure.	N/A

			
C7 – Excavation and Landfill	Site stability to be maintained	The proposal will not require any substantial disturbance to the site. The works will be carried out in accordance with the consulting Structural Engineer.	Yes
C8 – Demolition and Construction	Waste management plan required	Waste management measures to be employed as detailed in submitted Waste Management Plan	Yes
C9 – Waste Management	Waste storage area to be provided	Residential bin storage area is located within front setback within a formal bin enclosure.	Yes

Part D – Design			
D1 – Landscaped Open Space and Bushland	Minimum required landscaped area of 40% or 366.88m ²	Proposed landscaped area is 318.33m ² or 34.7%.	Yes – on merit
D2 – Private Open Space	<p>All apartments to have access to private open space with a minimum area of 35m² and minimum width 3m</p> <p><i>(NB – It is noted that SEPP HSPD Clause 50 (f) requires a minimum of 15m² of open space per dwelling, with a minimum width and length of 3m, which the proposal will comfortably exceed).</i></p>	<p>U1 – 15.75m² U2 – 16.35m² U3 – 48m² U4 – 137m²</p> <p>Units 3 and 4 comply with this control, however Units 1 & 2 presents a minor shortfall to the required private open space area. These units have additional private pen space which does not fully meet the minimum 3m criteria.</p> <p>The objectives of this control are as follows:</p> <ul style="list-style-type: none"> • To ensure that all residential development is provided with functional, well located areas of private open space. • To ensure that private open space is integrated with, and directly accessible from, the living area of dwellings. • To minimise any adverse impact of private open space on adjoining buildings and their associated private open spaces. • To ensure 	<p>Yes – on merit Yes – on merit Yes Yes</p>

		<p><i>that private open space receives sufficient solar access and privacy.</i></p> <p>Notwithstanding the minor variation to the private open space requirements, all units will have suitable areas of functional private open space which are directly accessible from the internal living areas.</p> <p>The private open space areas receive good access to the northern sun.</p>	
D3 – Noise	<p>Mechanical noise is to be attenuated to maintain adjoining unit amenity.</p> <p>Compliance with NSW Industrial Noise Policy Requirements</p>	No significant mechanical equipment required.	N/A
D4 – Electromagnetic Radiation	Not applicable		N/A
D5 – Orientation and Energy Efficiency		<p>The design has regard for the energy and water conservation principles by providing for appropriate solar access to the living spaces for the dwellings.</p> <p>A BASIX Certification has been provided for the development and the construction will achieve the commitments identified in the BASIX report.</p>	Yes

D6 – Access to sunlight		Shadow diagrams have been provided to support the proposed development. The shadow analysis confirms that the subject and neighbouring properties will receive suitable solar access in accordance with Council's controls.	Yes
D7 – Views		The subject site and surrounding properties do not currently receive any significant views. The proposal is therefore not anticipated to have any view loss implications.	Yes
D8 – Privacy	The proposal will not reduce the privacy of the nearby residential units.	<p>The primary internal living spaces are provided at the ground floor level. The proposed living and dining rooms within Dwellings 1, 2 and 3 are well set back from the side boundaries, thereby minimising opportunities for overlooking. The proposal is therefore not considered to result in any privacy impacts for neighbouring dwellings.</p> <p>Dwelling 4 has a living room with a northern orientation to the rear yard, which is suitable separated from the rear boundary and provides for excellent outdoor amenity and</p>	Yes

		privacy for the occupants.	
D9 – Building Bulk	This clause requires buildings to have a visual bulk and architectural scale that is consistent with structures on nearby and adjoining properties and not to visually dominate the street or surrounding spaces	<p>The proposed multi dwelling development is modest in bulk and scale. The proposal readily complies with the statutory height limit, and will not visually dominate the streetscape.</p> <p>The units have been provided in a detached and semi-detached format to minimise bulk.</p> <p>The proposal is therefore considered to be consistent with the scale of development in the locality.</p>	Yes
D10 – Building Colours and materials		The proposed colours and finishes of the new work are sympathetic to the locality.	Yes
D11 – Roofs	The LEP requires that roofs should not dominate the local skyline.	<p>The proposed multi dwelling development will comprise low pitched skillion roof forms which complement existing surrounding development in the locality.</p> <p>Eaves are provided for sun shading.</p>	Yes
D12 – Glare and Reflection	Glare impacts from artificial illumination minimised. Reflective building materials to be minimised	The proposed colours and finishes will not have any problematic illumination or reflective materials.	Yes

D13 – Front Fences and Front Walls	Front fences to be generally to a maximum of 1200mm, of an open style to complement the streetscape and not to encroach onto street	<p>The proposal will provide for a 1.2m vertical timber batten style front fence with rendered masonry panel to include the letter boxes, together with additional supplementary planting within the front setback area. The existing street tree will be protected and retained.</p> <p>The 1.2m height to the fence will provide for improved acoustic protection to Dwelling 1, whilst still allowing for casual surveillance to the street area for security to the public domain.</p>	Yes – on merit
D14 – Site Facilities	<p>Garbage storage areas and mailboxes to have minimal visual impact to the street</p> <p>Landscaping to be provided to reduce the view of the site facilities</p>	<p>Residential bin storage is located within an area adjacent to the driveway at the front of the site, with the waste enclosure to be set back In excess of 6.5m from the street boundary.</p> <p>Direct access from the bin storage area is available to Adams Street for waste removal.</p> <p>Letterbox facilities are provided at the street boundary, adjoining the driveway entry.</p>	Yes
D15 – Side and Rear Fences	Side and rear fences to be maximum 1.8m and have regard for	Fencing will have regard for the Dividing Fences Act 1991	Yes

	Dividing Fences Act 1991		
D16 – Swimming Pools and Spa Pools	Pool not to be located in front yard or where site has two frontages, pool not to be located in primary frontage. Siting to have regard for neighbouring trees.	N/A	N/A
D17 – Tennis Courts	N/A		N/A
D18 – Accessibility	Safe and secure access for persons with a disability to be provided where required	Equitable access to the development and allocated car parking to be provided for persons with a disability.	Yes
D19 – Site Consolidation in the R3 and IN1 Zone	N/A		N/A
D20 – Safety and Security	Buildings to enhance the security of the community. Buildings are to provide for casual surveillance of the street.	The proposed works, including the proposed 1.2m high vertical timber batten fence with rendered masonry panel to include the letter boxes at the front boundary will retain casual surveillance and security opportunity to overview the street area. Dwelling 1 has a living room at the ground and first floor levels, that will directly overlook the street.	Yes
D21 – Provision and Location of Utility Services	Utility services to be provided	Normal utility services are available to the site	Yes
D22 – Conservation of Energy and Water	Compliance with SEPP BASIX	A BASIX report is provided to support the proposed design.	Yes
D23 – Signs	Building identification signage to be appropriate for	No signage proposed	N/A

	<p>proposed use and not to impact on amenity of surrounding locality.</p> <p>Signs not to obscure views vehicles, pedestrians or potentially hazardous road features or traffic control devices.</p>		
Part E – The Natural Environment			
E1 – Private Property Tree Management	<p>Arboricultural report to be provided to support development where impacts to trees are presented</p>	<p>As discussed, an Arboricultural Assessment Report has been prepared by Hugh the Arborist, dated 25 November 019, which addresses the trees within the site.</p> <p>The proposal addresses the potential impacts on sixteen (16) trees within the site, with thirteen (13) trees to be removed and further three (3) trees to be retained and recommendations provided to ensure the remaining trees are retained and protected throughout the works.</p> <p>Of the trees that are suggested for removal, Trees # 5, 7 11 & 15 are Category A trees (higher retention value) and located within the building footprint, so they cannot be viably retained with the proposed development.</p> <p>A further nine trees are being removed as a</p>	Yes

		<p>result of the development and include Trees 2, 3, 4, 6, 8, 9, 12, 13 and 14 and are noted as Category Z (lower retention value) and comprise exempt species and exotics.</p> <p>In order to re-establish an appropriate tree canopy to the site, the proposal is supported by a Landscape Plan prepared by Formed Gardens, which details the replacement planting of a large, locally occurring canopy tree within the rear yard of the site, with an additional <i>Melaleuca Leucadendra</i> sp. to be provided within the front setback.</p> <p>The proposed landscaping schedule includes substantial screening planting as perimeter hedges and understory planting which will assist in maintaining privacy for the dwelling owners and neighbours and softening the visual appearance of the proposed built form.</p>	
E2 – Prescribed Vegetation	Not identified on map		N/A
E3 – Threatened species, populations, ecological communities	Not identified on map		N/A
E4 – Wildlife Corridors	Not identified on map		N/A
E5 – Native Vegetation	Not identified on map		N/A

E6 – Retaining unique environmental features	Not identified on map	No significant features within site	Yes
E7 – Development on land adjoining public open space	Not identified on map		N/A
E8 – Waterways and Riparian Lands	Not identified on map		N/A
E9 – Coastline Hazard	Not identified on map		N/A
E10 – Landslip Risk	Identified on map as Area A.	The proposal will not require any substantial cut and fill to accommodate the new works. The works will therefore be carried out in accordance with the recommendations of the consulting Structural Engineer.	Yes
E11 – Flood Prone Land	Not identified on map		N/A

8.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979

8.1 The provisions of any environmental planning instrument

The proposal is subject to the provisions of the Warringah Local Environmental Plan 2011 and SEPP (Housing for Seniors or People with a Disability) 2004. It is considered that the provisions of these environmental planning instruments have been satisfactorily addressed within this report and that the proposal achieves compliance with the relevant provisions.

There are no other environmental planning instruments applying to the site.

8.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

It is not considered that there are any draft environmental planning instruments applying to the site.

8.3 Any development control plan

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.1593A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular we consider that the minor variation to the private open space area requirements is a reasonable alternative solution to compliance where a suitable design outcome with appropriate residential amenity has been provided for the occupants.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

The development respects the streetscape character objectives of the DCP and will provide a cohesive and sympathetic addition to the site which will make a positive contribution to the area.

8.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No matters of relevance are raised in regard to the proposed development.

8.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),

No matters of relevance are raised in regard to the proposed development.

8.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

It is considered that the proposal, which seeks consent for the demolition of existing structures and construction of a multi dwelling development comprising 4 dwellings pursuant to SEPP (Housing for Seniors or People with a Disability) 2004, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area is compatible with and will complement the character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's LEP and DCP.

8.7 The suitability of the site for the development

The site is considered suitable for the proposed development.

The proposal will provide for a new multi dwelling development without having a detrimental impact on the amenity of the adjoining properties or any impact on the streetscape.

8.8 Submissions made in accordance with this Act or the regulations

This is matter for Council in the consideration of this proposal.

8.9 The public interest

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

9.0 Conclusion

The proposal provides for the demolition of existing structures and construction of a multi dwelling development comprising four dwellings pursuant to SEPP (Housing for Seniors or People with a Disability) 2004 which will not have any detrimental impact on the adjoining properties or the locality.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

VAUGHAN MILLIGAN

Town Planner

Grad. Dip. Urban and Regional Planning (UNE)

Appendix 1: SEPP 1 Submission

Appendix 2: Clause 4.6 Submission

Appendix 3: Design review under Seniors Living Policy - Urban Design Guidelines for infill development

APPENDIX 1 - SEPP No 1 SUBMISSION

MINIMUM SITE AREA & SITE WIDTH

OBJECTION PURSUANT TO STATE ENVIRONMENTAL PLANNING POLICY NO. 1

VARIATION OF A DEVELOPMENT STANDARD REGARDING THE MINIMUM LOT SIZE AND WIDTH AS DETAILED IN CLAUSE 40 OF THE STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004

For: Proposed demolition of existing structures and construction of a multi dwelling development comprising 4 dwellings pursuant to SEPP (Housing for Seniors or People with a Disability) 2004

At: 34 Adams Street, Frenchs Forest

Applicant: Prattenmoore Pty Ltd
C/- Vaughan Milligan Development Consulting Pty Ltd

1.1 Introduction

This objection is made pursuant to the provisions of Clause 6 of State Environmental Planning Policy No. 1 (SEPP No. 1). In this regard it is requested Council support a variation with respect to compliance with the minimum lot size and width controls described in Clause 40 of the SEPP (Housing for Seniors or People with a Disability) 2004.

This SEPP 1 submission has been prepared to address the principles adopted by the Land & Environment Court in *Winten Property Group v North Sydney [2001] NSWLEC 46* and as further considered in *Wehbe v Pittwater Council (2007) NSWLEC 827*.

In accordance with these principles, an objection under SEPP No 1 should respond to the following questions:

- Is the control to be varied a development standard?
- What is the underlying object or purpose of the development standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(1) and (11) of the Environmental Planning and Assessment Act 1979? (*recently revised as Section 1.3*)
- Is compliance with the standard unreasonable or unnecessary in the circumstances of the case?
And
- Is the objection well founded?

This submission will address these questions.

1.2 Development Standard to which the Objection relates

This objection relates to the minimum lot size and width controls described in Clause 40 of the SEPP (Housing for Seniors or People with a Disability) 2004.

Clause 40 (2) requires a minimum lot size of 1000m². The subject allotment has an area of 917.2m². The variation from the control is 82.8m² or 8.28%.

Clause 40(3) requires a minimum site width of 20m, measured at the building line. The site width at the building line is 19.81m. The variation from the control is 190mm or 0.95%.

1.3 Is the control to be varied a development standard?

Clause 40(2) restricts the minimum lot size to 1000m² and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act. The subject site has an area of 917.2m², and therefore presents a minor variation of 8.28% to this control.

Clause 40(3) restricts the site frontage to a minimum of 20m and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act. The site has a frontage of 19.81m to Adams Street, and therefore presents a minor variation of 0.95% from the control.

The controls of Clause 40 are considered to be development standards as defined in the Environmental Planning and Assessment Act, 1979.

1.4 What is the underlying object or purpose of the development standard?

There are no stated aims or objective for the controls within Clause 40.

It is assumed that the underlying purpose of the development standard is to control the size and width of sites which accommodate housing for seniors or people with a disability, with a view to achieving the desired outcomes contained within the Clause 2 – Aims of Policy.

The Clause 2 – Aims of Policy are detailed as:

- (1) 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.*
- (2) These aims will be achieved by:*
 - (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
 - (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*

- (c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

Clause 31 Design of infill self-care housing provides direction for a consent authority to take into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development. An assessment of the proposal in accordance with the guidelines is included as Appendix 3.

The Objective of Chapter 3 of SEPP (Housing for Seniors or People with a Disability) 2004 are detailed as:

The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

Notwithstanding the non-compliance with the required minimum site width and allotment size, the proposal is permissible in the R2 Low Density zone and similar in scale and form to the surrounding developments.

The proposed density to provide for four modest dwellings, is not an overdevelopment of the land as evidenced by the compliant FSR & landscaped area criteria.

The proposed height and density are as anticipated for this form of development and the attractive and well-modulated one and two storey building form with low pitched roofing is complimentary and compatible with its context.

The project architect has achieved the client's brief to design an appropriate residential development which responds appropriately to the constraints and opportunities of the site. The occupants of the future dwellings will have high levels of amenity, without unreasonably compromising the existing privacy and amenity of the adjoining properties.

The development provides compliant off-street parking with no adverse parking or traffic related impacts as detailed within the accompanying Traffic and Parking Impact Assessment prepared by Terraffix Pty Ltd.

The proposed design confirms that the site area of 917.2m² & site width of 19.81m do not unreasonably constrain the opportunity to provide for a high quality Seniors Living development, with excellent levels of residential amenity for the future occupants.

If the lot area and site width and lot area were to be compliant with the controls, the additional 82.2m² in site area and 190mm in site width would not significantly alter the level of amenity afforded to the design and the future occupants when compared to the proposal before Council.

1.5 Is compliance with the development standard consistent with the aim of SEPP No. 1?

The aim of SEPP No. 1 is to:

Provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

In this regard the objects of Section 5(a)(i) and (ii) of the Act are:

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) The promotion and co-ordination of the orderly and economic use and development of land;*

In this regard it is considered that the development standard is not consistent with the aim of SEPP No. 1 as it does not allow flexibility in the application of the planning control, as the proposal seeks to provide for the demolition of existing structures and construction of a multi dwelling development comprising 4 dwellings to provide housing for seniors.

The size and width of the subject site is below the minimum subdivision lot size and width controls of Clause 40 of SEPP (Housing for Seniors or People with a Disability) 2004.

The objects of Section 5 will be achieved through a flexible application of the development standard.

1.6 Why compliance with the standard is unreasonable or unnecessary in the circumstances of this case.

It is unreasonable and unnecessary to require strict compliance with the development standard as the proposal provides for the construction of a new multi dwelling development for seniors, which through a well-modulated and functional and attractive design, is proved to be suitable for the subject site.

The controls within Clause 40 provide a minimum subdivision lot size in this locality of 1000m², and a minimum lot width of 20m.

It is considered that the proposal achieves the SEPP Aims and Objectives for the following reasons:

- The proposal provides for a multi dwelling development containing 4 dwellings, and will present as a single dwelling to the street. Gartner Trovato Architects have provided a high quality design. The proposal will therefore be in keeping with the residential character of the locality.
- The proposal increases the housing stock in the area, whilst catering for seniors by locating the development in an accessible area within close proximity of commercial and medical services, together with bus stops with regular bus services to Chatswood and Sydney CBD.

- The proposal meets the needs of residents by providing for new dwellings with excellent internal and external amenity.

Given the proposed development is compatible with the existing surrounding development and as the relevant Aims and Objectives are satisfied, Council's support of the variation to the minimum lot size and width control is requested in this instance.

For the above reasons it would therefore be unreasonable and unnecessary to require strict compliance with the standard.

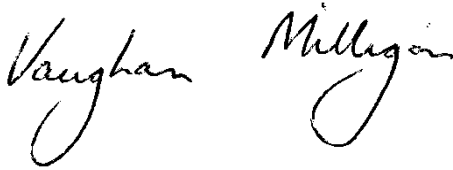
1.7 Conclusion

This development proposes a departure from the minimum lot size and width controls, with the site having an area of 917.2m² (variation of 8.28%) and a frontage of 19.81m (variation of 0.95%).

This objection to the minimum allotment size and width as specified in Clause 40 of the SEPP (Housing for Seniors or People with a Disability) 2004 adequately demonstrates that the objectives of the standard will be met without the need for strict adherence to the requirements for the site to be at least 1000m² in area or 20m in width.

The proposed development respects Council's built form controls and is in keeping with the predominant scale, form and style of the existing surrounding development and therefore the development is appropriate for the site and locality.

Strict adherence to the minimum lot size and width controls would be unreasonable and unnecessary in the circumstances of this case and it is reasonable and appropriate to vary the standards to the extent proposed.

A handwritten signature in black ink, reading 'Vaughan Milligan'. The signature is written in a cursive, flowing style.

VAUGHAN MILLIGAN

Town Planner

APPENDIX 2 – CLAUSE 4.6 SUBMISSION

MINIMUM SITE AREA & SITE WIDTH

**WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF THE STANDARD INSTRUMENT WARRINGAH
LOCAL ENVIRONMENTAL PLAN 2011**

**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE MINIMUM LOT SIZE AND WIDTH AS
DETAILED IN CLAUSE 40 OF THE STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR
SENIORS OR PEOPLE WITH A DISABILITY) 2004**

For: Proposed demolition of existing structures and construction of a multi dwelling development comprising 4 dwellings pursuant to SEPP (Housing for Seniors or People with a Disability) 2004
At: 34 Adams Street, Frenchs Forest
Applicant: Prattenmoore Pty Ltd
C/- Vaughan Milligan Development Consulting Pty Ltd

1.0 Introduction

This written request is made pursuant to the provisions of Clause 4.6 of Warringah Local Environmental Plan 2011. In this regard it is requested Council support a variation with respect to compliance with the minimum lot size and width controls described in **Clause 40** of the SEPP (Housing for Seniors or People with a Disability) 2004.

2.0 Background

Clause 40(2) restricts the minimum lot size to 1000m² and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act. The subject site has an area of 917.2m², and therefore presents a minor variation to this control.

The variation from the control is 82.8m² or 8.28%.

Clause 40(3) restricts the site frontage to a minimum of 20m and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act. The site has a frontage of 19.81m to Adams Street, and therefore presents a minor departure from the control.

The variation from the control is 190mm or 0.95%.

The controls of Clause 40 are considered to be development standards as defined in the Environmental Planning and Assessment Act, 1979.

3.0 Purpose of Clause 4.6

The Warringah Local Environmental Plan 2011 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the LEP should be assessed. These cases are taken into consideration in this request for variation.

4.0 Objectives of Clause 4.6

The objectives of Clause 4.6 are as follows:

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

The development will achieve a better outcome in this instance as the site will provide for construction of a Seniors Living development which is consistent with the stated Objectives of the R2 Low Density Residential Zone, which are noted as:

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

As sought by the zone objectives, the proposal will provide for additional housing that will meet the needs of the community and which has been designed to be sensitive to the location and the topography of the locality.

The proposal includes modulated wall lines and a consistent palette of materials and finishes in order to provide for high quality development that will enhance and complement the locality.

Notwithstanding the non-compliance with the minimum site area and minimum site width, the new works will provide an attractive residential development that will add positively to the character and function of the local residential neighbourhood.

5.0 Onus on Applicant

Clause 4.6(3) provides that:

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

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

This submission has been prepared to support our contention that the development adequately responds to the provisions of 4.6(3)(a) & (b) above.

6.0 Justification of Proposed Variation

There is jurisdictional guidance available on how variations under Clause 4.6 of the Standard Instrument should be assessed in *Initial Action Pty Ltd vs Woollahra Municipal Council [2018] NSWLEC 11* & *Samadi v Council of the City of Sydney [2011] NSWLEC 1199*.

Paragraph 27 of the Samadi judgement states:

Clause 4.6 of LEP 2013 imposes four preconditions on the Court in exercising the power to grant consent to the proposed development. The first precondition (and not necessarily in the order in cl 4.6) requires the Court to be satisfied that the proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)). The second precondition requires the Court to be satisfied that the proposed development will be consistent with the objectives of the standard in question (cl 4.6(4)(a)(ii)). The third precondition requires the Court to consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(a) and cl 4.6(4)(a)(i)). The fourth precondition requires the Court to consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court finding that the matters required to be demonstrated have been adequately addressed (cl 4.6(3)(b) and cl 4.6(4)(a)(i)).

Precondition 1 - Consistency with zone objectives

The proposed Seniors Living development and the use of the land within the R2 Low Density Residential Zone is consistent with the zone objectives, which are noted as:

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

It is considered that notwithstanding the noncompliance with the lot size and width controls, the proposed alterations and additions to the existing dwelling will be consistent with the individual Objectives of the R2 Low Density zone for the following reasons:

- ***To provide for the housing needs of the community within a R2 Low Density Residential environment.***

The R2 Low Density Residential Zone contemplates low density residential uses on the land. The housing needs of the community are appropriately provided for in this instance through the proposed construction of a multi dwelling development to provide accessible housing for seniors in a form which respects the predominant height and scale of the surrounding dwellings.

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

The development does not suggest any alternate land uses and this Objective is not directly relevant to the residential proposal. However, the proposed accommodation will provide accessible housing for seniors in a locality serviced by public transport, and in close proximity of local services.

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

The proposed multi dwelling development has been designed to present as a modest one and two storey single dwelling form to Adams Street, in a manner which will retain the single dwelling character of the site and the immediate area.

Further, the modulation of the front façade and side elevations where visible from the public domain minimises the visual impact of the development and respects the existing single dwelling form.

The proposal will be consistent with and complement the existing detached style single dwelling housing within the locality and the wider Warringah area.

The site will maintain a generous area of soft landscaping, with new plantings provided as detailed in the submitted Landscape Plan and will therefore maintain the balance between landscaping and built form.

Accordingly, it is considered that the site may be further developed with a variation to the prescribed maximum building height control, whilst maintaining consistency with the zone objectives.

Precondition 2 - Consistency with the objectives of the standard

There are no stated aims or objective for the controls within Clause 40.

It is assumed that the underlying purpose of the development standard is to control the size and width of sites which accommodate housing for seniors or people with a disability, with a view to achieving desired outcomes contained within the Clause 2 – Aims of Policy.

The Clause 2 – Aims of Policy are detailed as:

- (1) *This Policy aims to encourage the provision of housing (including residential care facilities) that will:*
 - (d) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
 - (e) *make efficient use of existing infrastructure and services, and*
 - (f) *be of good design.*
- (2) *These aims will be achieved by:*
 - (d) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
 - (e) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
 - (f) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

Clause 31 Design of infill self-care housing provides direction for a consent authority to take into consideration the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development. An assessment of the proposal in accordance with the guidelines is included as Appendix 3.

The Objective of Chapter 3 of SEPP (Housing for Seniors or People with a Disability) 2004 is detailed as:

The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

Notwithstanding the non-compliance with the required minimum site width and allotment size, the proposal is will achieve the desired aims and objectives of the SEPP HSPD.

The proposal is permissible in the R2 Low Density zone and similar in scale and form to the surrounding developments.

The proposed density to provide for four modest dwellings, is not an overdevelopment of the land, as evidenced by the compliant FSR & landscaped area criteria.

The proposed height and density are as anticipated for this form of development and the attractive and well-modulated one and two storey building form with low pitched roofing is complimentary and compatible with its context.

The project architect has achieved the client's brief to design an appropriate residential development which responds appropriately to the constraints and opportunities of the site. The occupants of the future dwellings will have high levels of amenity, without unreasonably compromising the existing privacy and amenity of the adjoining properties.

The development provides compliant off-street parking with no adverse parking or traffic related impacts as detailed within the accompanying Traffic and Parking Impact Assessment prepared by Terraffic Pty Ltd.

The proposed design confirms that the site area of 917.2m² & site width of 19.81m do not unreasonably constrain the opportunity to provide for a high quality Seniors Living development, with excellent levels of residential amenity for the future occupants.

If the lot area and site width and lot area were to be complaint with the controls, the additional 82.2m² in site area and 190mm in site width would not result in a significantly different design to the current proposal before Council.

Precondition 3 - To consider a written request that demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

It is unreasonable and unnecessary to require strict compliance with the development standards as the suitability of the site to accommodate an appropriate development is evident in the high quality design prepared by Gartner Trovato Architects.

As previously outlined, it is considered that the proposal achieves the Clause 2 - Aims of Policy and Clause 14 – Objective of Chapter and non-compliance with the required minimum site area and minimum site width is justified in this instance for the following reasons:

- The proposed works will maintain consistency with the general height and scale of residential development in the area and the character of the locality.
- The proposed height and the overall scale of the new works will maintain suitable amenity and appropriate solar access for the subject site and neighbouring properties.

In the *Wehbe* judgment (*Wehbe v Warringah Council [2007] NSWLEC 827*), Preston CJ expressed the view that there are 5 different ways in which a SEPP 1 Objection may be well founded and that approval of the Objection may be consistent with the aims of the policy. These 5 questions may be usefully applied to the consideration of Clause 4.6 variations (over): -

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

Comment: Yes. Refer to comments under 'Justification of Proposed Variation' above which discusses the achievement of the objectives of the standard.

2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

Comment: It is considered that the purpose of the standard is relevant but the purpose is satisfied.

3. *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

Comment: Compliance does not defeat the underlying object of the standard development; however, compliance would prevent the approval of an otherwise supportable development.

Furthermore, it is noted that development standards are not intended to be applied in an absolute manner; which is evidenced by clause 4.6 (1)(a) and (b).

4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

Comment: It is not suggested that Council as a consent authority has shown any indication to abandon the development standards through its actions in granting consents in relation to the standards and particular, the requirement for a minimum width of 20m.

It is noted that DA 2008/0537 or 5 dwellings was considered by the Warringah Development Assessment Panel Meeting of meeting of 10 December 2008. The proposal sought consent for a Seniors Living development comprising five dwellings, on a site with a width of 18.29m, or a departure from the standard of 1.71m or 8.55%.

The subject site has recently gained consent for three Seniors Living dwellings under DA 2018/1292.

The subject proposal is seeking a departure from the minimum 20m lot width standard of 0.95%.

As the architectural design provides for a compatible and complementary scale and form, with a modest dwelling density of four dwellings for the site which will ensure that the proposal respects the single residential appearance and rhythm of the locality, the proposal is considered to be reasonable.

5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Comment: The development standard is applicable to and appropriate to the zone.

For the above reasons it would therefore be unreasonable and unnecessary to cause strict compliance with the standards.

Precondition 4 - To consider a written request that demonstrates that there are sufficient environmental planning grounds to justify contravening the development standard and with the Court [or consent authority] finding that the matters required to be demonstrated have been adequately addressed

The development is justified in this instance for the following reasons:

As sought by the zone objectives, the proposal will provide for additional housing that will meet the needs of the community and which has been designed to be sensitive to the location and the topography of the locality.

The proposal includes modulated wall lines and a consistent palette of materials and finishes in order to provide for high quality development that will enhance and complement the locality.

Notwithstanding the non-compliance with the minimum site area and minimum site width, the new works will provide an attractive residential development that will add positively to the character and function of the local residential neighbourhood.

The development will maintain a compatible scale relationship with the existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.

Having regard to the above, it is considered there are sufficient environmental planning grounds to justify a variation of the development standards within Clause 40 of SEPP HSPD for minimum site area and minimum site width.

In the recent 'Four2Five' judgement (*Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90*), Pearson C outlined that a Clause 4.6 variation requires identification of grounds that are particular to the circumstances to the proposed development. That is to say that simply meeting the objectives of the development standard is insufficient justification of a Clause 4.6 variation.

It should be noted that a Judge of the Court, and later the Court of Appeal, upheld the Four2Five decision but expressly noted that the Commissioner's decision on that point (that she was not "satisfied" because something more specific to the site was required) was simply a discretionary (subjective) opinion which was a matter for her alone to decide. It does not mean that Clause 4.6 variations can only ever be allowed where there is some special or particular feature of the site that justifies the non-compliance. Whether there are "sufficient environmental planning grounds to justify contravening the development standard", it is something that can be assessed on a case by case basis and is for the consent authority to determine for itself.

The recent appeal of *Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7* is to be considered. In this case the Council appealed against the original decision, raising very technical legal arguments about whether each and every item of clause 4.6 of the LEP had been meticulously considered and complied with (both in terms of the applicant's written document itself, and in the Commissioner's assessment of it). In February of this year the Chief Judge of the Court dismissed the appeal, finding no fault in the Commissioner's approval of the large variations to the height and FSR controls.

While the judgment did not directly overturn the *Four2Five v Ashfield* decision an important issue emerged. The Chief Judge noted that one of the consent authority's obligation is to be satisfied that "the applicant's written request has adequately addressed ...that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case ...and that there are sufficient environmental planning grounds to justify contravening the development standard." He held that this means:

"the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary".

Accordingly, when assessed against the relevant Objects of the Environmental Planning & Assessment Act 1979, (NSW) outlined in s1.3, the following environmental planning grounds are considered to be sufficient to allow Council to be satisfied that a variation to the development standard can be supported:

- The proposed design confirms that the site area of 917.2m² & site width of 19.81m do not unreasonably constrain the opportunity to provide for a high quality Seniors Living development, with excellent levels of residential amenity for the future occupants, which promotes the orderly & economic use of the land.
- Similarly, the proposed development will provide for an appropriate level of family accommodation and improved amenity within a built form which is compatible with the streetscape of Adams Street which also promotes the orderly and economic use of the land.
- The proposal is considered to promote good design and amenity to the local built environment as appropriate views, solar access and privacy will be maintained for the neighbouring properties.

The above are the environmental planning grounds which are the circumstance which are particular to the development which merit a variation to the development standard.

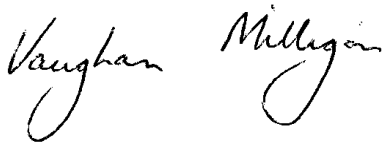
7.0 Conclusion

This development proposes a departure from the minimum lot size and width controls, with the site having an area of 917.2m² (variation of 8.28%) and a frontage of 19.81m (variation of 0.95%).

This written request to vary the minimum allotment size and width as specified in Clause 40 of the SEPP (Housing for Seniors or People with a Disability) 2004 adequately demonstrates that the objectives of the standard will be met without the need for strict adherence to the requirements for the site to be at least 1000m² in area or 20m in width.

The proposed development respects Council's built form controls and is in keeping with the predominant scale, form and style of the existing surrounding development and therefore the development is appropriate for the site and locality.

Strict adherence to the minimum lot size and width controls would be unreasonable and unnecessary in the circumstances of this case and it is reasonable and appropriate to vary the standards to the extent proposed.

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VAUGHAN MILLIGAN

Town Planner

APPENDIX 3 - DESIGN REVIEW UNDER SENIORS LIVING POLICY - URBAN DESIGN GUIDELINES FOR INFILL DEVELOPMENT

SENIORS LIVING POLICY

Urban Design Guidelines for infill development

The following assessment considers the NSW Governments' Urban Design Guidelines:

1. RESPONDING TO CONTEXT

The proposal seeks consent for a one and two storey multi dwelling development within the Frenchs Forest locality, within an area that is zoned R2 Low Density Residential under the Warringah Local Environmental Plan 2011.

The local context is characterised by a predominantly one and two storey residential scale with a mix of single and medium density uses. The proposed development will present a compatible height and scale to the other medium density uses in the vicinity, with a streetscape appearance which reflects the single residential form and rhythm facing Adams Street.

The lot has a gentle slope and given its slight slope to Adams Street, will provide for functional driveway access with generous landscaped area surrounding the development.

The area is conveniently located to the Forestway and Glenrose Shopping and Commercial Precincts and as recognised by Council in its R2 Low Density Residential zoning, has been identified for range of low density housing opportunities.

2. SITE PLANNING AND DESIGN

Design principles and better practice

General

- *Site design should be driven by the need to optimise internal amenity and minimise impacts on neighbours. These requirements should dictate the maximum development yield.*
- *Cater for the broad range of needs from potential residents by providing a mix of dwelling sizes and dwellings both with and without assigned parking. This can also provide variety in massing and scale of built form within the development.*

Built form:

- *Locate the bulk of development towards the front of the site to maximise the number of dwellings with frontage to a public street*
- *Parts of the development towards the rear of the site should be more modest in scale to limit the impact on adjoining properties*
- *Design and orient dwellings to respond to environmental conditions:*

- *orient dwellings on the site to maximise solar access to living areas and private open space (see figure 2)*
- *Locate dwellings to buffer quiet areas within the development from noise*

Comment

This application proposes to provide four dwellings in a one and two storey villa style built form and with driveway access to the detached single storey garages.

The dwellings have the opportunity to overlook either the primary frontage to Adams Street or the driveway and pedestrian access.

All dwellings enjoy a north-easterly/north-westerly aspect and will have excellent access to sunlight throughout the day.

Trees, landscaping and deep soil zones;

Maintain existing patterns and character of gardens and trees:

- *retain trees and planting on the street and in front setbacks to minimise the impact of new development on the streetscape*
- *retain trees and planting at the rear of the lot to minimise the impact of new development on neighbours and maintain the pattern of mid-block deep soil planting*
- *retain large or otherwise significant trees on other parts of the site through sensitive site planning*
- *where it is not possible or desirable to retain existing trees, replace with new mature or semi-mature trees*

Improve amenity by increasing the proportion of the site that is landscaped area by:

- *increasing the width of landscaped areas between driveways and boundary fences, and between driveways and new dwellings*
- *providing pedestrian paths*
- *reducing the width of driveways*
- *providing additional private open space above the minimum requirements*
- *providing communal open space*
- *increasing front, rear and .or rear setbacks*
- *providing small landscaped areas between garages, dwelling entries, pedestrian paths, driveways, etc.*

Provide deep soil zones for absorption of run-off and to sustain vegetation, including large trees

- *it is preferable that at least 10% of the site area is provided as a single area at the rear of the site, where there is the opportunity to provide a mid-block corridor of trees within a neighbourhood*

- *where the pattern of neighbourhood development has deep soil planting at the front of the site, it may be desirable to replicate this pattern.*

Minimise the impact of higher site cover on stormwater runoff by:

- *using semi-pervious materials for driveways, paths and other paved areas*
- *using on-site detention to retain stormwater on site for re-use.*

Parking, garaging and vehicular circulation:

- *Consider centralised parking in car courts to reduce the amount of space occupied by driveways, garages and approaches to garages.*
- *Where possible maintain existing crossings and driveway locations on the street.*

SEPP Controls

Minimum site area: 1000m²

Minimum site width: 20 metres

Development cannot be refused if:

- *proposed buildings do not exceed 8 metres in height*

Comment

As discussed with the SEPP 1 & Clause 4.6 submissions which accompany this assessment, the site width of 917.2m² and site width of 19.81m provide non-compliances with the SEPP controls of 8.28% & 0.95% respectively.

All dwellings are comfortably less than 8m in overall height control to the ceiling level.

Accordingly this application complies with the requirements of this control.

- *the floor space ratio does not exceed 0.5:1*

Comment

This development will provide for a maximum FSR of 0.49:1 which complies with the control.

- *the landscaped area is a minimum of 30% of the site*

Comment

Please refer to earlier comments under the SEPP heading that indicates that the proposed total hard/soft landscaped area will be 318.33m² or 34.7% and comfortably exceeds the 30% minimum specification as indicated on the Landscape Plan prepared by Formed Gardens. Accordingly this application meets the landscaped area requirements.

- *the deep soil zone area is a minimum of 15% of the site (must have minimum dimension of 3 metres and it is preferable that two thirds of the deep soil area is at the rear of the site)*

Comment

The deep soil zone to be 25.1% of the site area as indicated on the Landscape Plan and accordingly this application meets the requirements of the control.

- *0.5 resident parking spaces per bedroom are provided*

Comment

This application proposes 4 x 2 bedroom dwellings, with four resident spaces within single, enclosed garages.

The control requires a minimum of four resident parking spaces and accordingly the parking provision complies with the SEPP controls.

Additional site-related requirements requiring access to services, bush fire land, and water and sewerage are contained in Clauses 25 to 27

Comment

The site is not located in a bush fire area and will be serviced by water and sewerage.

3 IMPACTS ON STREETSCAPE

Design principles and better practice

Objectives

The design objectives in relation to streetscape impacts are:

- *To minimise impacts on the existing streetscape and enhance its desirable characteristics*
- *To ensure that new development, including the built form, front and side setbacks, trees, planning and front fences, is designed and scaled appropriately in relation to the existing streetscape*
- *To minimise dominance of driveways and car park entries to the streetscape*
- *To provide for a high level activation and passive surveillance to the street*

Built form

Reduce the visual bulk of the development by:

- *breaking up the building massing and articulating building facades*
- *allowing breaks in rows of attached dwellings*

- *using variation in materials, colours and openings (doors, windows and balconies) to order building facades with scale and proportions that respond to the desired contextual character*
- *setting back upper levels behind the front building facade*
- *where it is common practice in the streetscape, locating second storeys within the roof space and using dormer windows to match the appearance of existing dwelling houses*
- *reducing the apparent bulk and visual impact of a building by breaking down the roof into smaller roof elements*
- *using roof pitch sympathetic to that of existing buildings in the street*
- *avoiding uninterrupted building facades including large areas of painted render.*

Comment

This application as indicated earlier will reduce the visual bulk through the articulation of the building facades, variation of roof forms through stepping of ridge lines, use of different construction materials and colours, differing opening sizes and projecting wall elements.

Trees, landscaping and deep soil zones:

Retain existing trees and planting in front and rear setback and the road reserve:

- *where this is not possible or not desirable use new planting in front setback and road reserve*
- *plant in front of front fences to reduce their impact and improve the quality of the public domain.*

Comment

There are no significant trees within the site or the road reserve that are worthy of retention. The landscape plan prepared by Formed Gardens details a managed re-planting of the site, with significant screen planting to the perimeter of the site.

Residential amenity:

- *Clearly design open space in front setbacks as either private or communal open space.*
- *Define the threshold between public and private space, for example by level change.*
- *Design dwellings at the front of the site to address the street.*
- *Provide a high quality transition between in public and private domains by:*
 - *designing pedestrian entries where possible to be directly off the street*
 - *for rear residents, providing a pedestrian entry that is separate from vehicular entries*
 - *designing front fences to provide privacy where necessary, but also allow for surveillance of the street*
 - *ensuring that new front fences have a consistent character with front fences in the street*
 - *orienting mailboxes obliquely to the street to reduce visual clutter and the perception of multiple dwellings*
 - *locating and treating garbage storage areas and switchboards so that their visual impact on the public domain is minimised.*

Comment

The landscape plan prepared by Formed Gardens details how the proposal meets the control requirements.

The waste storage area is conveniently located at the front of the site and well screened from the street. Waste can be readily transferred to the kerb for collection by Council's waste contractors.

It is considered that the proposed design meets the requirements of this control.

Parking, garaging and vehicular circulation:

Avoid unrelieved, long, straight, driveways that are visually dominant by:

- *varying the alignment of driveways to avoid a "gunbarrel" effect*
- *setting back garages behind the predominant building line to reduce their visibility from the street*
- *considering alternative site designs that avoid driveways running the length of the site,*

Comment

As previously discussed, the car parking is to be provided in an attached, enclosed single storey garages with the garage door opening to be perpendicular to the street to reduce the visual dominance of the garaging.

The driveway will gain access from Adams Street, with the perimeter of the driveway to the western boundary articulated and the yard provided with landscaping to reduce any "gunbarrel" effect.

It is considered that the application meets the requirement of the control.

Minimise the impact of driveways of streetscape by:

- *terminating vistas with trees, vegetation, open spaces or a dwelling, not garages or parking (see figure 3)*
- *using planting to soften driveway edges*
- *varying the driveway surface material to break it up into a series of smaller spaces (for example to delineate individual dwellings)*
- *limiting driveway widths on narrow sites to single carriage width with passing point*
- *providing gates at the head of driveways to minimise visual "pull" of the driveway*

Comment

The driveway does not propose any gates to the street entry, with only low level (1200mm vertical slat style fencing) fencing to the front boundary area.

As discussed, the driveway is not visually prominent and is accessed from the primary street frontage.

Where basement car parking is used minimise in impact of the entry by:

- *reducing the width where possible to single vehicle width rather than double*
- *locating it to one side of the site, not the centre where it is visually prominent*
- *recessing it from the main building facade*
- *where a development has a secondary street frontage, providing vehicular access from the secondary street*
- *providing security doors to avoid the appearance of a “black hole” in the streetscape*
- *returning facade material into the visible area of the car park entry.*

Comment

N/A – The proposal does not incorporate basement parking.

Locate or screen all parking to minimise visibility from the street

Comment

The proposed garaging is set back from Adams Street and by maintaining a single storey height, will not be visually prominent when viewed from any adjoining public space.

Landscape screen planting is to be provided between the bin storage area and the Adams Street frontage.

SEPP Controls

For development proposed in a residential zone where residential flat buildings are not permitted:

- the height of all buildings in the proposed development must be 8 metres or less,*
- a building that is adjacent to a boundary of the site must be not more than 2 storeys in height*

Comment

As indicated earlier, the proposed maximum height of this development is to be less than 8m and one and two 2 storeys in height and therefore will be compliant with this control.

4. IMPACT ON NEIGHBOURS

Objectives

The design objectives in relation to minimising impacts on neighbours are:

- *To minimise impacts on the privacy and amenity of existing neighbouring dwellings*
- *To minimise overshadowing of existing dwellings and private open space by new dwellings*
- *To retain neighbour's views and outlook to existing mature planting and tree canopy*
- *To reduce the apparent bulk of development and its impact on neighbouring properties.*
- *To provide adequate building separation*

Design principles and better practice

Built form:

Design the relationship between buildings and open space to be consistent with the existing patterns in the block:

- *where possible maintain the existing orientation of dwelling "fronts" and "backs" (see figure 4a)*
- *where the dwelling must be orientated at 90 degrees to the existing pattern of development, be particularly sensitive to the potential for impact on privacy of neighbours.*

Protect neighbour's amenity by carefully designing the bulk and scale of the new development to relate to the existing residential character, for example:

- *setting upper storeys back behind the side or rear building line.*

Reduce the visual bulk of roof forms by breaking down the roof into smaller elements, rather than having a single uninterrupted roof structure.

Design second storeys to reduce overlooking of neighbourhood properties, for example by:

- *incorporating them with the roof space and providing dormer windows*
- *offsetting openings from existing neighbouring windows or doors.*

Reduce the impact of unrelieved walls on narrow side and rear setbacks by limiting the length of the walls built to these setbacks.

Comment

The proposed design of the dwellings will provide for the traditional frontage to be from Adams Street. The units will gain access from the western elevation and all facades have been designed to provide for an articulated, interesting appearance.

The upper levels will have the potential to overlook the lower courtyards of their own units , with direct overlooking of neighbouring dwellings managed through the sensitive location of windows and use of high sills.

It is considered that the design basis adopted meets the intention of this control.

Trees, landscaping and deep soil zones:

Use vegetation and mature planting to provide a buffer between new and existing dwellings

Locate deep soil zones where they will provide privacy between new and existing dwellings

Planting in side and rear setbacks can provide privacy and shade for adjacent dwellings.

For new planting, if possible, use species that are characteristic of the local area.

Comment

The landscape plan prepared by Formed Gardens details compliance with the controls

Residential amenity:

Protect sun access and ventilation to living areas and private open space of neighbouring dwellings by ensuring adequate building separation.

Design dwellings so that they do not directly overlook neighbour's private open space or look into existing dwellings.

When providing new private open space minimise negative impacts on neighbours, for example by:

- *locating it in front setbacks where possible*
- *ensuring that it is not adjacent to quiet neighbour uses, for example bedrooms*
- *designing dwellings around internal courtyards*
- *providing adequate screening*

Where side setbacks are not large enough to provide useable private open space, use them to achieve privacy and soften the visual impact of new development by planting screen vegetation.

Comment

This application seeks to provide for the modest one and two storey form, which allows for the northern face of the buildings and the rear unit to receive excellent solar access.

It is considered that the suitable building setbacks and the proposed landscaping treatment in the setback areas will ensure that the current levels of amenity enjoyed by the neighbouring properties will be maintained.

- *Parking, garaging and vehicular circulation:*
- *Provide planting and trees between driveways and side fences to screen noise and reduce visual impacts*
- *Position driveways so as to be a buffer between new and existing adjacent dwellings.*

Comment

The car parking is to be provided in a single storey garage for each unit. Further, the landscape plan prepared by Formed Gardens details the introduction of significant planting to the front and side setback areas.

SEPP Controls

In zones where residential flat buildings are not permitted, development of the rear 25% of the site must not exceed one storey.

Comment

This application proposes to provide for a one storey development to within 4.522m of the rear boundary. The 25% of the site depth zone extends from 12.86m to the rear boundary.

Rules of Thumb

Where side setbacks are less than 1.2 m, a maximum of 50% of the development should be built to this alignment.

The length of unrelieved wall along narrow side or rear setbacks should not exceed 8 metres

Living rooms of neighbouring dwellings should receive a minimum 3 hours direct sunlight between 9.00-3.00 in mid-winter neighbouring dwellings

Solar access to the private open space of neighbouring dwellings should not be unreasonably reduced.

Comment

The proposed side setbacks will all exceed 1.2 metres.

The orientation of the site is that the northern face of all dwellings and the adjoining developments to the east and west will all enjoy excellent solar access.

Given the articulated form of the development, together with the modest scale and overall height as viewed from the surrounding properties, the proposal is considered to successfully achieve the objectives of the control.

5. INTERNAL SITE AMENITY

Design principles and better practice

Built form:

Design dwellings to maximise solar access to living areas and private opens spaces.

In villa or townhouses style development, provide dwellings with sense of individual identity through building articulation, roof form and other architectural elements, and through the use of planting and building separation:

- *provide buffer spaces and/or barriers between the dwellings and driveways, or between dwellings and communal areas*
- *use trees, vegetation, fencings or screening devices to establish curtilages for individual dwellings.*

Comment

The development faces north, therefore all living areas have been, where practicable, orientated to receive solar access throughout the day.

The living areas and principal private open space areas will receive sunlight access throughout the day

The design of the development allows for buffer spaces between dwellings, with the rear yards and dwelling entries separated by planting or fencing, which is detailed in the landscape plan.

Design dwelling entries so that they:

- *are clear and identifiable from the street or driveway*
- *provide a buffer between public/communal space and private dwellings*
- *provide a sense of address for each dwelling*
- *are orientated to not look directly into other dwellings*

Comment

All dwellings have clear, identifiable entries from the driveway from Adams Street.

The entries are oriented to restrict direct overlooking to the neighbouring dwellings.

Parking, garaging and vehicular circulation:

Locate habitable rooms, particularly bedrooms, away from driveways, parking areas and pedestrian paths:

- *where this is not possible use physical separation, planting screening devices or louvers to achieve adequate privacy.*

Avoid large uninterrupted areas of hard surface (driveways, garages walls). Small areas of planting can break these up and soften their “hard edge” appearance.

Comment

All car parking is to be located in a single level garages within the ground floor footprint.

The living spaces and private open spaces are not unduly affected by the driveway and complemented by planting zones to maintain the amenity to the yard areas, as detailed within the landscape plan prepared by Formed Gardens.

Screen parking from views and outlooks from dwellings.

Comment

As previously discussed, the car parking is to be provided in an enclosed single storey garages which are set back from Adams Street and screened by landscaping.

Reduce the dominance of areas of vehicular circulation and parking by considering:

- *single rather than double width driveways with passing bays*
- *communal car courts rather than individual garages*
- *single rather than double garages*
- *tandem parking or a single garage with single carport in tandem*
- *the provision of some dwellings without any car parking for residents without cars*

Comment

See above comments in relation to car parking which address these issues.

Residential amenity:

Provide distinct and separate and vehicular circulation on the site:

- *where this is not possible shared driveway/pedestrian paths should be wide enough to allow a vehicle and a wheelchair to pass safely*
- *provide pedestrian routes to all public and semi-public areas including lobbies, dwelling entries, communal facilities and visitor parking spaces.*

Comment

As previously discussed, all car parking is to be provided in enclosed single garages, with access from Adams Street.

The shared vehicle/pedestrian paths are adequate for safe movement by cars and pedestrians.

Ensure that adequate consideration is given to safety and security by:

- *avoiding ambiguous spaces in building and dwelling entries that are not obviously designated as public or private*
- *minimising opportunities for concealment by avoiding blind or dark spaces between buildings, near lifts and foyers and at the entrance to or within indoor car parks*
- *clearly defining thresholds between public and private spaces (for example by level change, change in materials, fencing, planting and/or signage).*

Comment

The landscape plan details the proposed landscape layout and indicates that there will not be any opportunities for concealment by providing “blind or dark areas”. Additionally, the architectural drawings clearly demonstrate that no opportunities will be provided as blind or dark spaces between buildings, with the entries clearly defined.

A low level 1.2m high vertical timber batten fence with rendered masonry panel to include the letter boxes define the public and private areas.

Provide private open space that:

- *generous in proportion and adjacent to the main living areas of the dwelling (living room, dining room or kitchen)*
- *is oriented predominantly north, east or west to provide solar access*
- *comprises multiple spaces for larger dwellings*
- *uses screening for privacy but also allows casual surveillance when located adjacent to public and communal areas (including streets and driveways)*
- *provides both paved and planted areas when located at ground level*
- *retains existing vegetation where practical*
- *uses pervious pavers where private open space is predominately hard surfaces, to allow for water percolation and reduced runoff.*

Comment

Please refer to the Landscape Plan that demonstrates compliance with the requirements of this control.

Site and/or treat common services facilities such as garbage collection areas and switchboard to reduce their visual prominence to the street or to any private or communal open space.

Comment

The architectural plans indicate that letter box facilities and a suitable waste storage area is provided adjacent to the Adams Street frontage, which in the case of the bin enclosure, is well screened from the street by landscape planting to reduce any visual dominance.

SEPP Controls

Development cannot be refused if:

- *living rooms and private open spaces for a minimum of 70% of dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in midwinter-cl.81(e)*
- *private open space is not less than 15 square metres and minimum dimension 3 metres for ground floor dwellings; 10 square metres and minimum dimension 2 metres for other dwellings; or 6 square metres and minimum dimension 2 metres for other dwellings with only one bedroom-cl. 81(f)(i-ii)*

Comment

For details on private open space please refer to the landscape plans and architectural plans, which demonstrate compliance with these controls.

Rules of Thumb

Separation of 1.2 metres should be achieved between habitable rooms and driveway or car parks of other dwellings:

- *this can be reduced if adequate screening is provided.*

Comment

All car parking is provided in enclosed single garages, which are well separated from the living rooms of the development and in excess of 1.2m from other dwellings.

Conclusion

In view of the above assessment, it is considered that the development achieves compliance with the relevant controls of the Seniors Living Policy and Urban Design Guidelines for Infill Development.