

**STATEMENT OF
ENVIRONMENTAL EFFECTS**

Proposed Seniors Housing
Development

44 Rose Avenue

WHEELER HEIGHTS



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Statement of Environmental Effects

PROPOSED SENIORS HOUSING DEVELOPMENT

44 ROSE AVENUE, WHEELER HEIGHTS

Prepared under instructions from

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1.0 INTRODUCTION

This document forms a component of a development application that proposes the construction and strata subdivision of a seniors housing development incorporating 6 x 3 bedroom in-fill self-care townhouse/ villa style dwellings and basement car parking for 11 vehicles pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (“SEPP HSPD”).

We note that a similar scheme involving the consolidation of the land with No. 43 Lantana Avenue and the construction of seniors housing across the development site (DA2017/0662) was approved by the Northern Beaches Local Planning Panel on 7th May 2018. This revised scheme no longer includes this adjoining property however does adopt the townhouse form and detailing of the previously approved works on this particular site with the exception of the rear boundary setbacks which have been increased to comply with the setback provisions of Warringah Development Control Plan 2011 (WDCP).

We note that the residential amenity outcomes achieved through approval of the previous scheme are maintained with the driveway realigned to address visual amenity and headlight spill concerns expressed by the owners of No. 46 Rose Avenue who share the benefit of the existing right of carriageway from Rose Avenue. We also note that approval in principle has been obtained from the owners of No. 43 Lantana Avenue for the creation of the proposed drainage easement as depicted on the accompanying hydraulic plans.

The architect has responded to the client brief to provide for a residential development of exceptional design quality which responds appropriately to the constraints and opportunities identified through detailed site and context analysis whilst maintaining appropriate levels of amenity to the adjoining and nearby residential properties. The final design is also responsive to the minutes arising from formal pre-DA discussions with Council in relation to the previously approved scheme (DA2017/0662) and issues raised during discussions with a number of immediately adjoining property owners pertaining primarily to potential privacy, construction and traffic/ parking related impacts.

The issue of privacy has been comprehensively addressed through the maintenance of appropriate spatial separation and the adoption of a townhouse/ villa house typology which places all living areas at ground floor level and the provision of secondary landscape screening elements. The development provides compliant off-street parking with no adverse parking or traffic related impacts as detailed within the accompanying Assessment of Traffic and Parking Implications prepared by TTPA.

Having regard to the detail of the proposal we have formed the considered opinion that the development will not give rise to any unacceptable environmental, streetscape or residential amenity impacts with the driveway designs incorporating sufficient landscaping and visual interest to prevent a “gun barrel” presentation. Consistent with the outcome sought by Council the highly articulated and modulated 1 and 2 storey stepped building form assists in maintaining the visual appearance of detached style housing within a landscaped setting.

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

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

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

The proposal is permissible and in conformity with the aims and implicit objectives of SEPP HSPD and the subordinate standards and controls applicable to this form of development on this particular site. The proposed height and density are as anticipated for this form of development with the battle-axe nature of the development and its highly articulated and modulated 1 and 2 storey building form ensuring that it will not be discernible as viewed from the street and complimentary and compatible with its context.

Whilst the proposal requires the consent authority to give favourable consideration to a minor variation to the clause 40(4)(c) SEPP HSPD standard limiting development located in the rear 25% area of the site to a maximum of 1 storey in height, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the attainment of an appropriate contextual fit through the adoption of a single storey mid-block form to reduce the overall scale and massing of the development as viewed from surrounding properties. Sufficient environmental planning grounds existing to support the variations proposed with the accompanying clause 4.6 variation requests well founded.

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

2.0 SITE DESCRIPTION AND LOCATION

The subject property is legally described as Lot 4 in DP 203378 No 44 Rose Avenue, Wheeler Heights (the subject site). We also note that the application proposes driveway realignment works on Lot 3, DP 203378, No. 46 Rose Avenue, Wheeler Heights. The subject site is irregular in shape with an access handle from Rose Avenue affording pedestrian and vehicular access to the main body of the allotment. The subject site has an area of 1569 square metres and falls approximately 2.5 metres across its surface in a northerly direction towards the rear of the site. The site contains a number of trees and landscape elements as depicted on the site survey and aerial location/context photograph at Figures 1 and 2 below and over page.

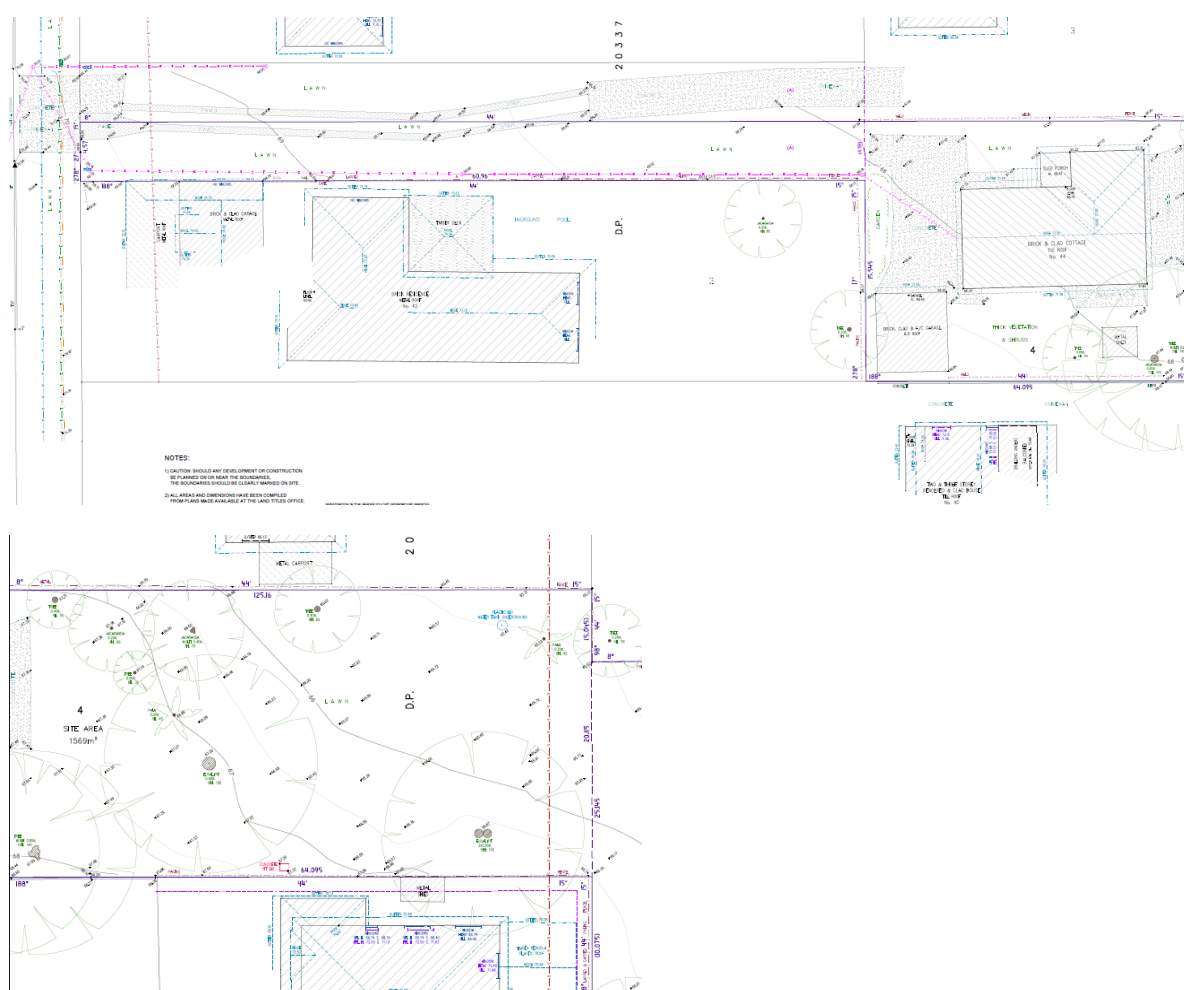


Figure 1 – Site Survey

The property is currently vacant which due to its battle-axe location is not readily discernible in a streetscape context. Vehicular and pedestrian access to the property is via an existing shared reciprocal right of carriageway from Rose Avenue with the proposal relying on this existing lawful access arrangement.

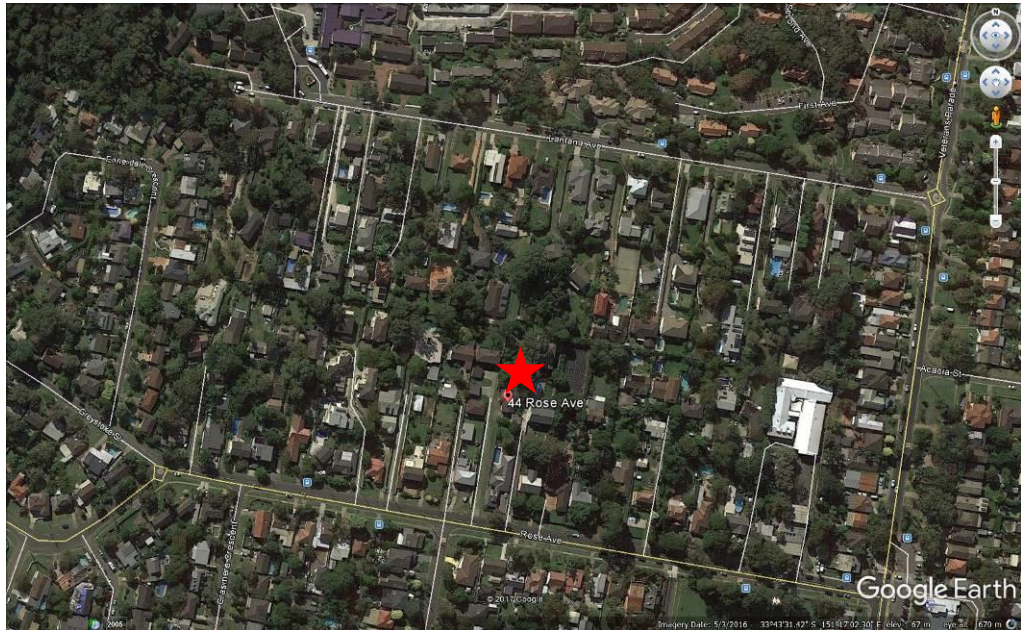


Figure 2 – Aerial Location/ Context Photograph

The immediately adjoining properties are occupied by one and two story detached dwelling houses some of which have direct frontage and address to either Rose or Lantana Avenues and others which are located on battle-axe allotments.

Development along each side of Rose Avenue comprises a mix 1 and 2 storey detached residential dwellings. To the east on the northern and southern sides of Rose Avenue are the St Roses School and Wheeler Heights Public School respectively. On the eastern side of Veterans Parade opposite the 'T' intersection of Rose Avenue is the local Wheeler Heights Shopping Centre.

The subject property is located approximately 330 metres to the west of the Wheeler Heights neighbourhood shops located on Veterans Parade and within 400 metres of bus stops along Rose Avenue, Lantana Avenue and Veterans Parade.



Figure 3 – View looking south down the Rose Avenue access handle and towards the immediately adjoining 1 and 2 storey detached dwelling houses.

3.0 DEVELOPMENT PROPOSAL

This document forms a component of a development application that proposes the construction and strata subdivision of a seniors housing development incorporating 6 x 3 bedroom in-fill self-care townhouse/ villa style dwellings and basement car parking for 11 vehicles pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ("SEPP HSPD").

The scope of works is depicted on architectural plans A00 to A12 prepared by Barry Rush and Associates Pty Limited with a draft plan of strata subdivision prepared by Cope Lethbridge also accompanying this application. Specifically, the application provides for the following built form outcome:

Basement Level

This floor plate incorporates car parking for 9 residential cars within secured garages and 2 visitor car parking spaces. The geometry of the basement enables vehicles to enter and exit the site in a forward direction.

The existing access handle is of adequate width to accommodate a pedestrian entrance pathway of compliant gradient and a bin storage area located within 6 metres of the Rose Avenue property boundary as required by Council. Internal lift and stair access are provided to the ground level above.

Ground/ First Floor Level

These floor plates incorporate 4 x 2 storey townhouses and 2 x single level villa style dwellings all of which have ground-level private open space orientated towards the western and northern property boundaries. All dwellings have living, dining, kitchen, bathroom, laundry and bedroom accommodation with the townhouses incorporating additional first floor bedroom and bathroom areas overlooking a large internalised void.

The residential accommodation is accessed from the basement via stairs and lift and a communal pathway running along the eastern boundary of the development and linking to the Rose Avenue frontages.

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

The acceptability of the site excavation proposed has been addressed in the accompanying Geotechnical report prepared by Crozier Geotechnical Consultants with accessibility dealt with in the accompanying Access Report prepared by Accessibility Solutions. No objection is raised to the recommendations contained within these reports forming appropriate conditions of development consent.

We also note that approval in principle has been obtained from the owners of No. 43 Lantana Avenue for the creation of the proposed drainage easement as depicted on the accompanying hydraulic plans prepared by Civil and Structural Engineering Design Services Pty Limited.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 General

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15C of the Environmental Planning & Assessment Act, 1979 as amended. Those matters which are required to be addressed are outlined together with any steps to mitigate against any potential adverse environmental impacts.

4.2 Warringah Local Environmental Plan 2011

4.2.1 Zone and Zone Objectives

The subject property is zoned Residential R2 Low Density pursuant to Warringah Local Environmental Plan 2011. Dwelling houses are permissible with consent in the zone. As such, this form of development is permissible in the zone pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (“SEPP HSPD”). The property is not heritage listed or located within a heritage conservation area.

The stated zone objectives are as follows:

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

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

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

4.2.2 Height of buildings

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

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

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

We confirm that the building has a maximum overall height of 6.45 metres measured to the eastern roof edge of townhouse 5 with the balance of the development sitting comfortably below the 8.5 metre height control as depicted in Figure 4 over page. Having regard to the stated objectives of the standard we note:

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

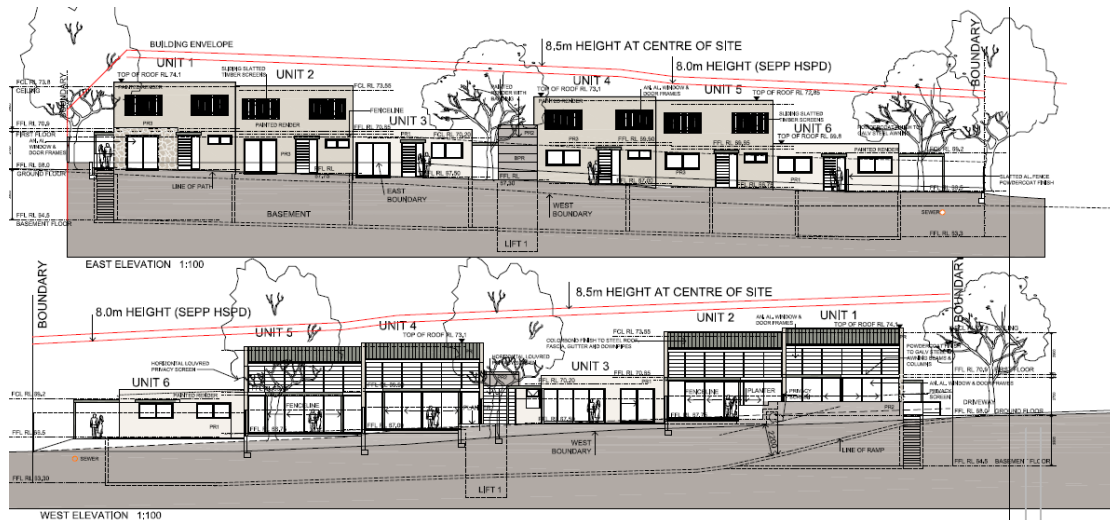


Figure 4 – Plan extract showing relationship of building to 8.5 metre height standard.

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

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

4.2.3 Development on sloping land

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

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

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

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

4.3.1 Aims of Policy

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

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

The policy indicates that these aims will be achieved by:

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

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

4.3.2 Land to Which Policy Applies

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

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

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

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

4.3.3 Key Concepts

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

4.3.4 Site Compatibility Criteria

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

4.3.5 Site-related Requirements

Location and access to facilities

Pursuant to clause 26 a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access to:

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

These access provisions have been addressed in detail in the access report, dated 29th January 2019, prepared by Accessibility Solutions (NSW) Pty Limited with such report containing the following conclusions:

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

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

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

Bush fire prone land

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

The subject site is not identified as bushfire prone land.

Water and sewer

Pursuant to clause 28 a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.

The subject site currently contains dwelling houses that are connected to a reticulated water and sewage system. The proposed development will connect to these existing systems. The location of the sewer line is indicated on the site survey. The proposal can comply with the water and sewer provision requirements as outlined.

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

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

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

The height and form of the development does not give rise to any unacceptable residential amenity impacts in terms of views, privacy or solar access the battle-axe nature of the proposed development ensuring that the development is not readily discernible in a streetscape context.

The proposal complies with the threshold standards pertaining to height, FSR and landscaped area and is fully compliant with the setback provisions applicable to development within the R2 Low Density Residential zone.

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

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

4.3.6 Design Requirements

Site analysis

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

The Site

(a) Site Dimensions

Comment: These are detailed on the accompanying survey plans prepared by Bee and Lethbridge surveyors.

(b) Topography

Comment: The site falls proximally 2.5 metres across its surface in a northerly direction.

(c) Services

Comment: The proposed development will connect to existing services.

(d) Existing vegetation

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

(e) Micro climates

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

(f) Location of site features

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

(g) Views:

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

(h) Overshadowing

Comment: The sites obtain good levels of solar access throughout the day due to their orientation.

Surrounds of the site

(a) Neighbouring buildings

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

(b) Privacy

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

(c) Walls built to the site's boundaries

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

(d) Difference in levels

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

(e) Views and solar access

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

(f) Major trees

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

(g) Street frontage features

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

(h) Built form and character of adjoining development

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

(i) Heritage features

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

(j) Direction and distance to local facilities

Comment: As previously indicated, the subject property is located approximately 330 metres to the west of the Wheeler Heights neighbourhood shops located on Veterans Parade and within 400 metres of bus stops along Rose Avenue and Veterans Parade.

(k) Public open space

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

(l) Adjoining bushland and environmentally sensitive land

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

(m) Sources of nuisance

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

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

Neighbourhood amenity and streetscape

Pursuant to clause 33 the proposed development should:

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

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

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

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

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

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

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

Comment: The application proposes setbacks to the western boundary of between 3.0 and 6.120 metres and between 3.0 and 4.2 metres to the eastern boundary with the majority of setback areas available for deep soil landscaping as depicted on the accompanying landscape plans prepared by Trish Dobson.

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

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

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

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

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

Comment: The development maintains a 1 and 2 storey presentation as viewed from the adjacent access handles consistent with that established by adjoining development.

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

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

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

Comment: The battle-axe nature of the development allotment ensures appropriate setbacks to both street frontages.

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

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

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

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

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

Comment: Not applicable.

Visual and acoustic privacy

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

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

Comment: The issue of privacy has been comprehensively addressed through the maintenance of appropriate spatial separation and the adoption of a townhouse/ villa house typology which places all living areas at ground floor level and the provision of secondary landscape screening elements.

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

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

Solar access and design for climate

Pursuant to clause 35 the proposed development should:

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

Comment: The accompanying shadow diagrams (Plan A12) clearly demonstrate that the orientation of the site, location of proposed built form elements, spatial separation maintained between adjoining properties and topography will ensure that the development will not unreasonably shadow any adjoining properties at any time during the day.

Further, the orientation of the apartments/ townhouses and associated living and private open space areas will ensure that 100% of the apartments will receive 3 hours of solar access between 12 noon and 3 PM on 21st June.

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

Comment: As previously indicated 100% of apartments/ townhouses will receive a minimum of three hours of solar access between 12 noon and 3pm on 21st of June with 100% of all apartments/ townhouses also naturally cross ventilated.

Stormwater

Pursuant to clause 36 the proposed development should:

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

Comment: Approval in principle has been obtained from the owners of No. 43 Lantana Avenue for the creation of the proposed drainage easement as depicted on the accompanying hydraulic plans prepared by Civil and Structural Engineering Design Services Pty Limited.

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

Comment: Please refer to the accompanying drainage plans prepared by Civil and Structural Engineering Design Services Pty Limited.

Crime prevention

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

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

Comment: These design principles have been considered and detailed with the development application. Appropriate levels of casual surveillance are achieved to public open spaces from all units/ townhouses noting the battle-axe arrangement of the subject development. All basement car parking and public accessible areas will be appropriately lit night with the and landscape designs minimising potential concealment and entrapment opportunities.

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

Comment: No dwellings have shared access arrangements.

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

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

Accessibility

Pursuant to clause 38 the proposed development should:

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

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

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

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

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

The traffic and parking assessment undertaken for the proposed medium density residential housing development at 44 Rose Avenue, Wheeler Heights has concluded that:

- *the traffic generation of the proposed development will not present any adverse traffic implications*
- *the proposed parking provision will adequately serve the demand associated with the development*
- *the proposed vehicle access, internal circulation and parking arrangements will be appropriate*

Waste management

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

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

4.3.7 Development standards to be complied with

Minimum sizes and building height

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

Site size

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

Comment: The area of the entire development site is 1569 square metres and as such complies with the development standard.

Site frontage

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

Comment: The portion of the development Lot upon which the proposed buildings are located has a width measured at the building line of 20.115 metres which is compliant with this standard.

Height in zones where residential flat buildings are not permitted

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

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

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

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

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

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

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

Comment: These provisions apply to the subject site. We confirm that the upper level of townhouse 5 breaches the rear 25% of the site area by a maximum of 1 metre as depicted on plan A06 an extract of which is at Figure 5 over page.

This represents a non-compliance of 6.2%.

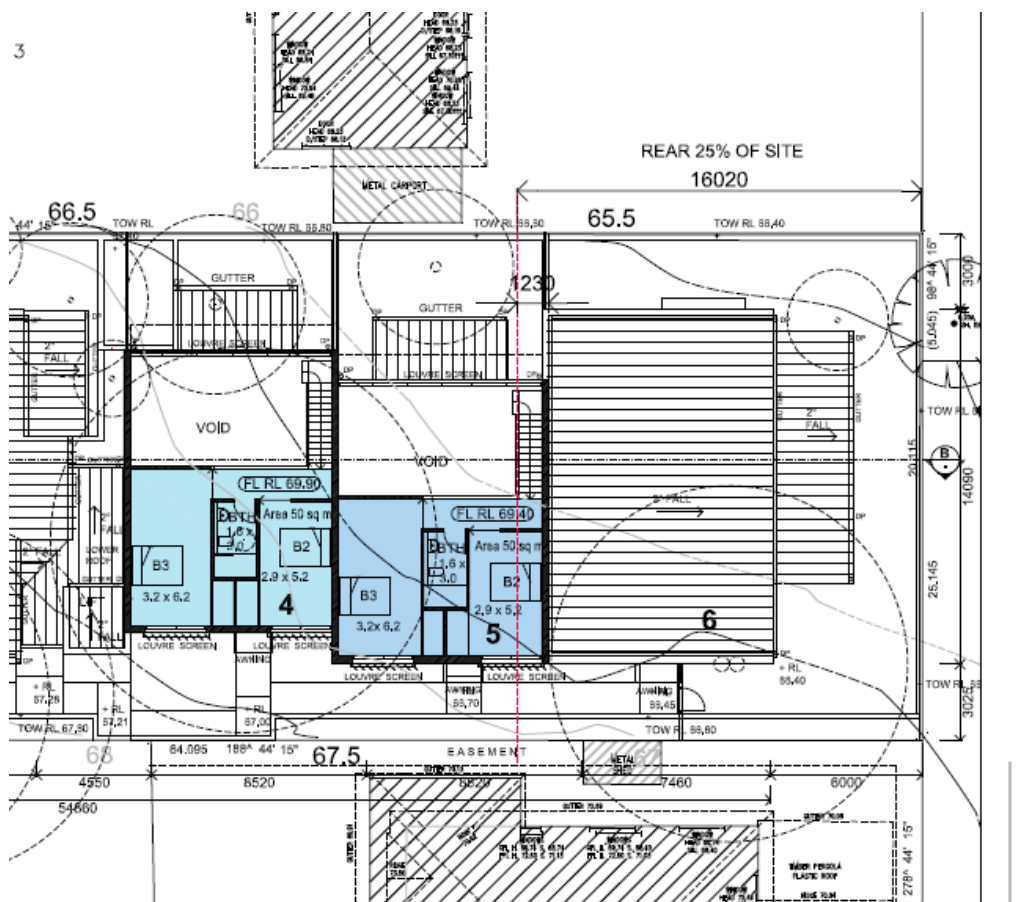


Figure 5 – Plan extract showing rear 25% of site area.

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

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

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

This clause applies to the clause 40(4)(c) provision of SEPP HSPD.

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

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

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

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

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

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.*

Clause 4.6 Claim for Variation

Zone and Zone Objectives

The subject property is zoned Residential R2 Low Density pursuant to WLEP 2011. Dwelling houses are permissible with consent in the zone. As such, this form of development is permissible in the zone pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (“SEPP HSPD”). The property is not heritage listed or located within a heritage conservation area.

The stated zone objectives are as follows:

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

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

Accordingly, Council can be satisfied that the proposed development is permissible with consent and consistent with the objectives of the R2 Low Density Residential zone as outlined.

Height of Buildings Standard and Objectives

The development standard to which this objection relates is Clause 40(4)(c) of SEPP HSPD which contains provisions relating to building height. Clause 40(4)(c) provides that a building located in the rear 25% area of the site must not exceed 1 storey in height.

There are no objectives specified in Clause 40 however in relation to this standard however in the matter of *Manderrah Pty Limited v Woollahra Municipal Council and Anor [2013] NSWLEC 1196* a request to vary the standard at cl 40(4)(c) was considered by Tuor C.

In considering the objective of the development standard, Tuor C concluded the following:

70 The primary objective of cl 40(4)(c) is to limit the bulk and scale of a building to protect the amenity of the rear of adjoining properties. Placing built form into the rear of a property which generally forms part of its open space and adjoins the open space of other properties to the side and rear can have significant impacts on amenity not only from loss of solar access, privacy and views but also from the presence of increased or new building bulk and the removal of landscaping.

This conclusion has more recently been adopted by Dickson C in *Jigaro Pty Limited v City of Paramatta Council* [2018] NSWLEC 1568.

In this regard, given the consistency in the approach adopted by the Court in relation to the objective of this standard such objective has been used as the basis for the assessment of the variation sought in this instance.

Having regard to the developments performance when assessed against this objective we have formed the considered opinion that strict compliance is both unreasonable and unnecessary for the following reasons:

- We note that WDCP prescribes a rear setback of 6 metres being an alignment at which a 2 storey dwelling house could be constructed on the allotment. The breaching first floor wall element maintains a 15.020 metre setback from the rear boundary of the property with no north facing windows proposed to prevent overlooking to the northern rear property.
- The immediately adjoining properties at the rear of the site are all battle-axe allotments and to that extent do not reflect a traditional subdivision patterns in terms of street facing front yards and traditional rear yards. In response to such context, a single storey building element has also been introduced mid block to generally align with the rear yard of No. 40 Rose Avenue such that reasonable privacy and visual relief is afforded to the rear yards of both No. 40 and 40A as anticipate by the objective of the standard.

- In this regard, we note that No. 40A has a primary rear setback of 6 metres with a roofed pergola extending from the rear facade to approximately 1 metre from the rear boundary. This places the breaching first floor element some 9 metre from the rear yard of this adjoining property with such spatial relationship preventing a direct line of sight between the breaching first floor element and this rear yard area.
- A similar built form and privacy outcome is afforded to the western adjoining property No. 46 Rose Avenue it being noted that deep soil landscape opportunity exists adjacent to each boundary within the rear 25% of the site for secondary landscape visual/ privacy attenuation measures.

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.

The proposal is consistent with the implicit objectives of the standard as outlined and accordingly strict compliance is both unreasonable and unnecessary under the circumstances.

In this regard the consent authority can be satisfied that the objective of the standard is satisfied and that sufficient environmental planning grounds exist in support of the variation namely the better planning outcome achieved, and facilitated through the minor variation sought, through the provisions of a secondary mid-block single storey element in response to the established built form context.

Conclusions

Having regard to the clause 4.6 variation provisions we have formed the considered opinion:

- a) that the contextually responsive development is consistent with the zone objectives, and
- b) that the contextually responsive development is consistent with the objective of the height of buildings standard, and
- c) that there are sufficient environmental planning grounds to justify contravening the development standard, and

- d) that having regard to (a), (b) and (c) above that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case, and
- e) that given the developments ability to comply with the zone and height of buildings standard objective that approval would not be antipathetic to the public interest, and
- f) that contravention of the development standard does not raise any matter of significance for State or regional environmental planning.

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

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

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

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

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

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

Comment: The proposal provides for a gross floor area of 770 sqm as detailed on plan A10 representing an FSR of 0.49:1. Such FSR complies with the 0.5:1 threshold and as such density and scale cannot be used as a reason for refusal of the application.

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

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

Comment: The application provides for a total landscaped area of 506.1sqm or 32.2% of the site area as depicted on plan A10 with such quantum in strict accordance with the standard.

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

Comment: The application provides for a total deep soil landscaped area of 236.5sqm or 15.1% of the site area with such areas in excess of 3 metres in both directions and located adjacent to both side boundaries to accommodate deep soil perimeter/ intervening landscaping.

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

Comment: As previously indicated, the orientation of the apartments/ townhouses and associated living and private open space areas will ensure that 100% of the apartments will receive 3 hours of solar access between 12 noon and 3pm on 21st June.

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

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

Comment: All apartments/townhouses have compliant areas of private open space as detailed on plan A10.

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

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

Comment: Based on 18 bedrooms the proposal requires 9 car parking spaces. The proposal provides for 11 accessible resident spaces in strict accordance with such control.

4.4 COMPLIANCE TABLE- SEPP (HSPD) 2004

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

SUMMARY OF COMPLIANCE WITH STANDARDS			
Standard	Required	Provided	Complies
Location, Facilities and Support Services (Clause 26 SEPPHSPD)	Site within 400m of transport that can provide access to Facilities and Support Services	Refer to accompany access report.	Yes
Building Frontage (Clause 40(3) SEPPHSPD)	Minimum street frontage of 20 metres wide at building line.	>20 metres at building alignment.	Yes
Wheelchair Access Requirements (Schedule 3)	100% access to road or internal driveway; 10% access to adjoining road; 100% access to common areas and facilities; 100% adaptable to disabled persons requirements	100% access to road or internal driveway; greater than 10% access to adjoining road; 100% access to common areas and facilities; 100% adaptable to disabled persons requirement. Refer to accompany access report.	Yes
Height (Clause 40(4) SEPPHSPD)	<8.0m 2 storeys at boundary. Single storey in rear 25% of site.	<8.0m 2 storeys No rear boundary	Yes Yes N/A
FSR (Clause 50(b) SEPPHSPD)	Threshold of 0.5:1	0.49:1	Yes
Landscaped Area (Clause 50(c) and (d) SEPPHSPD)	Minimum 30% of site as landscaped area. Deep soil zone –15% of site area.	32% of site landscaped. 15.1% deep soil zone.	Yes Yes
Parking total 22 bedrooms (Clause 50(h) SEPPHSPD)	9 resident spaces	9 accessible resident spaces plus 2 visitor spaces	Yes
Neighbour amenity and streetscape (Clause 33 SEPPHSPD)	Attractive residential environment		Satisfactory

Visual and Acoustic Privacy (Clause 34 SEPPHSPD)	Appropriate site planning and acceptable noise levels		Satisfactory
Solar Access (Clause 35 SEPPHSPD)	Adequate daylight to living areas of neighbours and sun to POS		Satisfactory
Stormwater (Clause 36)	Minimise stormwater run-off.		Satisfactory
Crime Prevention (Clause 37 SEPPHSPD)	Personal property security for residents and visitors and encourage crime prevention.		Satisfactory
Accessibility (Clause 38 SEPPHSPD)	Access to public transport, parking and disabled access to all aspects of the development.		Satisfactory
Waste Management (Clause 39 SEPPHSPD)	Waste facilities that maximise recycling.		Satisfactory

4.5 Compliance Table- Warringah DCP 2011

Site Area 1115 m ²	Control	Proposed	Compliance
Side Boundary Setback	Min 900mm	All setbacks well in excess of control	YES
Front Building Setback	Min 6.5m	Battle-axe allotments	N/A
Rear Building Setback	Min 6 metres	6 metres	YES
Building Envelope	4 metres/ 45 degree envelope	Complies	YES

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

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

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

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

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

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

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

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

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

4.8 Matters for Consideration Pursuant to Section 79C (1) of the Environmental Planning and Assessment Act 1979 as amended

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

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

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

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

Context and Setting

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

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

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

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

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

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

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

Access, transport and traffic

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

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

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

Public domain

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

Utilities

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

Flora and fauna

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

Waste

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

Natural hazards

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

Economic impact in the locality

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

Site design and internal design

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

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

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

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

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

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

Construction

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

- *the environmental planning issues listed above?*

- *site safety?*

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

4.8.3 The suitability of the site for the development.

Does the proposal fit in the locality?

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

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

Are the site attributes conducive to development?

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

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

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

4.8.5 The public interest.

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

5.0 CONCLUSIONS

The proposal is permissible and in conformity with the aims and implicit objectives of SEPP HSPD and the subordinate standards and controls applicable to this form of development on this particular site. The proposed height and density are as anticipated for this form of development with the battle-axe nature of the development and its highly articulated and modulated 1 and 2 storey building form ensuring that it will not be discernible as viewed from the street and complimentary and compatible with its context.

We note that a similar scheme involving the consolidation of the land with No. 43 Lantana Avenue and the construction of seniors housing across the development site (DA2017/0662) was approved by the Northern Beaches Local Planning Panel on 7th May 2018. This revised scheme no longer includes this adjoining property however does adopt the townhouse form and detailing of the previously approved works on this particular site with the exception of the rear boundary setbacks which have been increased to comply with the setback provisions of Warringah Development Control Plan 2011 (WDCP).

We note that the residential amenity outcomes achieved through approval of the previous scheme are maintained with the driveway realigned to address visual amenity and headlight spill concerns expressed by the owners of No. 46 Rose Avenue who share the benefit of the existing right of carriageway from Rose Avenue. We also note that approval in principle has been obtained from the owners of No. 43 Lantana Avenue for the creation of the proposed drainage easement as depicted on the accompanying hydraulic plans.

Having regard to the detail of the proposal we have formed the considered opinion that the development will not give rise to any unacceptable environmental, streetscape or residential amenity impacts with the driveway designs incorporating sufficient landscaping and visual interest to prevent a “gun barrel” presentation. Consistent with the outcome sought by Council the highly articulated and modulated 1 and 2 storey stepped building form assists in maintaining the visual appearance of detached style housing within a landscaped setting.

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

Whilst the proposal requires the consent authority to give favourable consideration to a minor variation to the clause 40(4)(c) SEPP HSPD standard limiting development located in the rear 25% area of the site to a maximum of 1 storey in height, strict compliance has been found to be unreasonable and unnecessary having regard to the particular circumstances of the case including the attainment of an appropriate contextual fit through the adoption of a single storey mid-block form to reduce the overall scale and massing of the development as viewed from surrounding properties. Sufficient environmental planning grounds existing to support the variations proposed with the accompanying clause 4.6 variation requests well founded.

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

Yours faithfully

Boston Blyth Fleming Town Planners



Greg Boston

B Urb & Reg Plan (UNE) MPIA

Director