

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0552
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Responsible Officer:	Lashta Haidari
Land to be developed (Address):	Lot 2615 DP 752038, 181 Allambie Road ALLAMBIE HEIGHTS NSW 2100
Proposed Development:	Demolition works and construction of a Seniors Living Development
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Allambie Heights Village Ltd Department Of Lands
Applicant:	Allambie Heights Village Ltd

Application Lodged:	28/05/2020
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	06/07/2020 to 20/07/2020
Advertised:	05/06/2020
Submissions Received:	110
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 17,920,858.00
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Executive Summary

The application seeks consent for the construction of 24 independent living units under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 (HSPD) 2004. The site has been used for the purposes of social housing (55 units) since 1966, hence the the total number of units on the site will be 79 units.

A previous application (DA2018/1667) was submitted in 2018 and was referred to the Northern Beaches Local Planning Panel (NBLPP). The current application is similar in nature to this earlier application, with the exception of changes such as the relocation of the communal area and removal of the golf course. On 12 June 2019, the NBLPP deferred the matter on the grounds that approval by the

NSW RFS had not been provided.

Subsequently, the RFS issued their approval, which was subject to conditions requiring substantial amendments to the proposal. The NBLPP resolved to refuse the application on 3 September 2019, due to the amendments required.

The proposed development is situated behind existing buildings fronting Allambie Road. The site is owned by the Department of Industry – Lands (Crown Land) and is currently leased to Allambie Heights Village.

Under the provisions of Warringah Local Environmental Plan 2011 (WLEP 2011), the subject site is within the R2 Low Density Residential zone. The proposed development is defined as Seniors Housing, which is prohibited under the WLEP 2011, however, the proposal is made permissible by virtue of SEPP (HSPD) 2004.

The application was referred to internal departments and external authorities. Council's Natural Environment Team does not support the application due to the impact on remnant bushland caused by the Asset Protection zones required under Planning for Bushfire Protection.

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

The applicant has lodged a request under Clause 4.6 of the WLEP 2011 to vary the building height development standard under the SEPP (HSPD) 2004. The proposed building height is up to 0.65m above the permissible height of 8.0m under the SEPP, representing a variation of 8.1%. The variation is considered acceptable largely due to the topography of the land, the lack of adverse impacts and it is offset throughout the development. Specifically, the variation is not considered to result in excessive bulk and scale, does not result in adverse shadow and amenity impacts on surrounding properties and there is no impact on streetscape or the visual and scenic quality of the locality. Incidentally, the height variation does not result in an additional floor level.

The public exhibition of the application resulted in 110 submissions, all of which raised concerns with the proposed development. The majority of the submissions raised concerns with regards to environmental aspects of the proposal on bushland and biodiversity and generally on the Manly Dam catchment. The issues raised in the submissions have been addressed in the "Public Notification" section of this report.

On balance, the assessment of the proposed seniors housing development on this site against the applicable planning controls and related legislation reveals that it is still unable to be recommended for approval, owing to the adverse impact on remnant bushland and biodiversity values of adjoining land.

Therefore, the application is recommended for refusal for the reasons detailed in the recommendation section of this report.

PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the demolition works and construction of a seniors housing

development, which consists of partial demolition works, site preparation works, the removal of trees and the construction of an 24 independent units in two separate blocks (known as Building A and Building B) to be occupied as seniors housing.

Specifically, the development includes the following:

- **Building A** – 8 units over two storeys (4 units per floor) . Units are accessible from two lifts located on the parking level.
- **Building B** – 16 units over two storeys (8 units per floor). Ground floor units are accessible directly from the parking level, through private courtyards. First floor units are accessible by two lifts and raised walkways above ground floor courtyards.
- **Carparking** - the carpark provides 30 resident parking spaces, which includes 2 visitor parking spaces and a loading bay.
- **Access** – existing vehicular access to the site is via Martin Luther Place and the existing internal driveway. A new loop road is proposed to expand from this internal driveway to the parking area for the proposed development.
- **Landscape works** - The landscape design comprises new tree plantings, turf areas, and community activity areas and structures.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Local Environmental Plan 2011 - 2.3 Zone objectives and Land Use Table

Warringah Local Environmental Plan 2011 - 5.10 Heritage conservation

Warringah Development Control Plan - D6 Access to Sunlight

Warringah Development Control Plan - D9 Building Bulk

Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation

Warringah Development Control Plan - E2 Prescribed Vegetation

Warringah Development Control Plan - E5 Native Vegetation

Warringah Development Control Plan - E6 Retaining unique environmental features

Warringah Development Control Plan - E7 Development on land adjoining public open space

SITE DESCRIPTION

Property Description:	Lot 2615 DP 752038 , 181 Allambie Road ALLAMBIE HEIGHTS NSW 2100
Detailed Site Description:	<p>The subject site is generally rectangular, with long northern and southern boundaries, and narrow western and eastern boundaries. The site is located at No. 181 Allambie Road, Allambie Heights, and has a legal description of Lot 2615 in DP 752038. The land has total area of approximately 3.72 hectares (37,200m²).</p> <p>The site slopes in a westerly direction and contains large areas of bushland for approximately half of the area of the site, being the western portion. Bushland also extends along the northern boundary of the site adjacent to an existing Sydney Water pipeline.</p> <p>The site is currently occupied aged care facility known as William Charlton Village, which provides seniors housing development. The existing buildings are located on the eastern portion of the site and include ILUs in 2 storey walk-up buildings, administration/staff buildings and detached outbuildings. Vehicular access to the site is via Allambie Road and also Martin Luther Lane, to the south.</p> <p>The site adjoins on its southern boundary is another seniors development also operated by Allambie Heights Village, that provides a variety of ILUs, assisted living units, dementia care and a full range of catering, recreation, transportation and administration facilities. Located to the north of the site is a Sydney Water pipeline, which runs parallel to the northern boundary of the subject site and is surrounded by bushland. Further to the north of the pipeline is a retirement village known as Fred Hutley Village, which comprises a range of affordable ILUs.</p> <p>The bushland to the west and south west of the site forms part of the Manly Dam catchment and is under the ownership of the Crown.</p>

Map:



SITE HISTORY

Pre-lodgement Meeting

A pre-lodgement meeting (PLM) was originally held with Council relating to the proposed development of the site as seniors housing on 21 November 2017.

Development Application DA2018/1667

This was the original application and was submitted in 2018 and referred to the Northern Beaches Local Planning Panel (NBLPP) for determination. The subject application is similar in nature to this application with the exception of changes such as relocation of the communal area and removal of the golf course.

On 12 June 2019, this application was deferred by the NBLPP as it still had not received the required approval from the NSW RFS.

The NSW RFS finally issued approval (General Terms of Approval) to the proposal, subject to conditions. However, the panel refused the application on 3 September 2019 on the grounds that the conditions of approval required substantial amendments to be made to the proposal.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The public interest has been considered as part of the application process. Overall, the public interest is best served by the consistent application of the requirements of the relevant planning controls, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised and/or managed. The proposal has been assessed against the provisions of the relevant planning controls and is deemed to be unacceptable in terms of its impact on the natural environment. On this basis, the proposal is not considered to be in the public interest.

Section 4.15 Matters for Consideration'	Comments
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Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Clause 98 of the Environmental Planning and Assessment Regulation 2000 states that a prescribed condition of consent is that the work is to be undertaken in accordance with the Building Code of Australia (BCA). If the application is approved a condition of consent could be included in the recommendation to ensure that the proposal complies with the BCA.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the relevant sections in this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable.</p> <p>(ii) The development will provide housing designed specifically for seniors or people with a disability and therefore the development ensures that the housing stock caters for a broad cross section of the community. The proposed development will not therefore have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	<p>The suitability of the site in terms of likely impacts on the environment and amenity has been discussed in detail in the various section of this report. In summary, the suitability of the site for the development as proposed in its current form remains uncertain, due to fact that the proposal has not fully addressed the environmental impacts of the proposed development.</p> <p>In this regard, under the circumstances, the site is not considered to be suitable for this particular form and scale of development, given that Council's Biodiversity Team do not support the proposal due to the environmental impacts caused by the Asset Protection Zones (APZ's).</p>

Section 4.15 Matters for Consideration'	Comments
	Therefore, a conclusive determination that the site is suitable cannot be made at this stage.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>The public interest has been considered as part of the application process. Overall, the public interest is best served by the consistent application of the requirements of the relevant planning controls, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised and/or managed. The proposal has been assessed against the provisions of the relevant planning controls and is deemed to be unacceptable in terms of its impact on the natural environment (bushland).</p> <p>On this basis, the proposal is not considered to be in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

See assessment under the referral for *Integrated Development – NSW Rural Fire Service - Rural Fires Act (s100B Subdivisions and Special Fire Protection Purposes under)*

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 06/07/2020 to 20/07/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 110 submission/s from:

Name:	Address:
Terese Lynette Norman	34 Binalong Avenue ALLAMBIE HEIGHTS NSW 2100
Kristian Bruneteau	Address Unknown
Terrence Flower	Address Unknown
Janice Saxby	23 The Circle NARRAWEENA NSW 2099
Karen Montgomery	15/9 Jodie Court MERMAID WATERS NSW 4218
Benjamin Foster	33 Ronald Avenue GREENWICH NSW 2065
Ms Virandathi Asha Kovel	24 King Street MANLY VALE NSW 2093
Mr Benjamin Rodney Wicks	32 Monserra Road ALLAMBIE HEIGHTS NSW 2100
Ms Tiziana Beninati	13 Nenagh Street NORTH MANLY NSW 2100
Dr Nathan Lo	Address Unknown
Ms Leonie Gail Cowan	37 King Street MANLY VALE NSW 2093

Name:	Address:
Ms Nicole Peta Rando	14 B Bate Avenue ALLAMBIE HEIGHTS NSW 2100
Ryan Stokes	10 Hopetoun Avenue CHATSWOOD NSW 2067
Ms Margaret Joan Grant	60 Owen Stanley Avenue ALLAMBIE HEIGHTS NSW 2100
Ms Elise Bland	58 / 16 Mona Vale Road MONA VALE NSW 2103
Victoria Jane Heaton	27 Headland Road NORTH CURL CURL NSW 2099
Shona Marjorie McKenzie	106 A Clontarf Street NORTH BALGOWLAH NSW 2093
Margaret Ritchie	Address Unknown
Matthew Skellett	17 Berry Avenue GREEN POINT NSW 2251
Wendy Gleen	Address Unknown
Mrs Louise Vera Langley	10 / 45 Sturdee Parade DEE WHY NSW 2099
Harry Moxham	1 Inglebar Avenue ALLAMBIE HEIGHTS NSW 2100
Aidan Masters	Address Unknown
Ms Angela Mary Penn	30 Marinella Street MANLY VALE NSW 2093
Belinda Batty	Address Unknown
Mrs Julie-Ellen Harvey	26 Delaigh Avenue NORTH CURL CURL NSW 2099
Mr Ryan Ho	6 Arnhem Road ALLAMBIE HEIGHTS NSW 2100
Ms Edwina Laginestra	22 Wyndora Avenue FRESHWATER NSW 2096
Ms Janine Andrea Dawson	4 / 226 Sydney Road FAIRLIGHT NSW 2094
Dorien Mergan	Address Unknown
Mrs Kathryn Mary McLean	2 Wonga Street NORTH BALGOWLAH NSW 2093
Mrs Nicole Ruth Margetts	18 Condover Street NORTH BALGOWLAH NSW 2093
Lyne Croteau	Address Unknown
Kris De Laine	Address Unknown
Heike Roth	21 Tottenham Street NORTH BALGOWLAH NSW 2093
Georgina Ball	Address Unknown
Mr Giles Adam Knapman	17 Mons Road NORTH BALGOWLAH NSW 2093
Mrs Anne-Marie Pickard	2 A Abingdon Street NORTH BALGOWLAH NSW 2093
Graham Lathleiff	Address Unknown
Adam Williams	Address Unknown
Mr Malcolm John Fisher	37 King Street MANLY VALE NSW 2093
Rachel Fleming	10 / 17 - 19 Boronia Street DEE WHY NSW 2099
Ms Judith Claire Bennett	C/- Jesmac Home Improvements 2/16 Dale Street BROOKVALE NSW 2100
Mrs Ellie Robertson	93 Derna Street HOLSWORTHY NSW 2173
Lucy Sternhell	7 Martin Street FRESHWATER NSW 2096
Mr Victor Petersen	15 Bluegum Crescent FRENCHS FOREST NSW 2086
Ms Leicia Petersen	15 Bluegum Crescent FRENCHS FOREST NSW 2086
Mr Michael Houston	12 Palm Parade NORTH NARRABEEN NSW 2101
Mrs Sue Diane Anderson	PO Box 755 AVALON BEACH NSW 2107
Ms Pamela Jannice Rawling	1 / 32 Brighton Street FRESHWATER NSW 2096
Belinda Clarke	2 Seebrees Street MANLY VALE NSW 2093

Name:	Address:
Adrian Breakspear	1 / 49 Eurobin Avenue MANLY NSW 2095
Mr Adrian David Fellowes	83 Campbell Parade MANLY VALE NSW 2093
Mrs Susan Patricia Kelly	20 Gloucester Street NORTH BALGOWLAH NSW 2093
Marta Zibarte	9 / 26 The Crescent MANLY NSW 2095
Mrs Eira Wynn Janet Battaglia	50 / 8 Koorala Street MANLY VALE NSW 2093
Rhys John Collins	41 Gordon Street MANLY VALE NSW 2093
Chloe Hurt	12 / 11 - 15 Spring Cove Avenue MANLY NSW 2095
Mrs Denise Mary Keen	29 / 80 Evans Street FRESHWATER NSW 2096
Mr Terrance Keith Le Roux	3 / 6 Jackson Street BALGOWLAH NSW 2093
Mr Bruce Richard Wilson	45 Southern Cross Way ALLAMBIE HEIGHTS NSW 2100
Robyn West	22 Headland Road NORTH CURL CURL NSW 2099
Mrs Victoria Sharp	10 Churchill Crescent ALLAMBIE HEIGHTS NSW 2100
Ms Jennifer Joan Forster	PO Box 888 BALGOWLAH NSW 2093
Dr Cornelia Donata Eva Johanna Harris	Lot 2671 Morgan Road BELROSE NSW 2085
Nicola Navena Andrews	2 Austin Avenue NORTH CURL CURL NSW 2099
Mr Stephen Gray	Address Unknown
Amelia Burgess	Address Unknown
Mrs Keelah Lam	36 Lauderdale Avenue FAIRLIGHT NSW 2094
Ms Valerie Helen Hutt	5 Southern Cross Way ALLAMBIE HEIGHTS NSW 2100
Mrs Ann Ginette Priestley	6 / 120 Addison Road MANLY NSW 2095
Mrs Jennifer Mary Cullen	PO Box 88 CHURCH POINT NSW 2105
Ms Bronwyn Morris	22 Quinton Road MANLY NSW 2095
Mrs Tanya McAllan	33 Wyuna Avenue FRESHWATER NSW 2096
Mrs Emma Wilson	54 Innes Road MANLY VALE NSW 2093
Ms Julia Barbara Walsh	11 Arana Street MANLY VALE NSW 2093
Mrs Susan Narelle Byrne	7 Arana Street MANLY VALE NSW 2093
Ms Rozetta Mary Payne	28A Prince Street MOSMAN NSW 2088
Martine Cooper	Address Unknown
Ms Paloma Llamazares	18 Sandy Bay Road CLONTARF NSW 2093
Miss Ellin Byrne	7 Arana Street MANLY VALE NSW 2093
Mr David Marshall Lyndon James	3 Bolwarra Road NORTH NARRABEEN NSW 2101
Ms Anne Mary Corbett	37 A Wilson Street FRESHWATER NSW 2096
Jacquelyn Johnson	1/79 Myrtle Street CHIPPENDALE NSW 2008
Sonya Ku	Address Unknown
Emily Ann Fewster	25 Tottenham Street NORTH BALGOWLAH NSW 2093
Mr Raymond James Cox	3 Austin Avenue NORTH CURL CURL NSW 2099
Ms Paula Tracey Cowan	36 Playfair Road NORTH CURL CURL NSW 2099
Ishbel Cullen	Address Unknown

Name:	Address:
Ann Elizabeth Sharp	77 Brighton Street CURL CURL NSW 2096
Nature Conservation Council of NSW	LEVEL 2 301 KENT Street SYDNEY NSW 2000
Jacqueline Marlow	154 Woorarra Avenue ELANORA HEIGHTS NSW 2101
Mr Kevin John Collins	41 Gordon Street MANLY VALE NSW 2093
Miss Diane Carolyn Willman	49 Upper Beach Street BALGOWLAH NSW 2093
Gesiena De Haan	35 A King Street MANLY VALE NSW 2093
Ronald De Haan	35 A King Street MANLY VALE NSW 2093
Mr Greg Wallis	19 Foam Street FRESHWATER NSW 2096
Save Manly Dam Catchment Committee Inc	Address Unknown
Ms Jill Green	6 Harrington Avenue WARRAWEE NSW 2074
Mrs Helen Louise Johnston	66 Woolgoolga Street NORTH BALGOWLAH NSW 2093
Mrs Ann Frances Collins	41 Gordon Street MANLY VALE NSW 2093
Mr David Sydney Palmer	57 Parkland Road MONA VALE NSW 2103
Mr Norman Raven Monshall Ms Jean Harris	10 Tamworth Place ALLAMBIE HEIGHTS NSW 2100
Carolina Gomes	Address Unknown
Mrs Jocelyn Mary Christensen	78 Frenchs Forest Road East FRENCHS FOREST NSW 2086
Ms Rachael Anne Shupe	44 / 41 Roseberry Street MANLY VALE NSW 2093
Mrs Julie Regalado	11 Harvey Street SEAFORTH NSW 2092
Geoff Mckay	Address Unknown
Mr Matthew McKeown	2 Larissa Road ALLAMBIE HEIGHTS NSW 2100
Ms Gillian Marie Gan	17 Mortain Avenue ALLAMBIE HEIGHTS NSW 2100

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

1. Insufficient Parking

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

Comment:

The parking requirement for the development is stipulated under the provisions of SEPP (HSPD) 2004. An assessment of the car parking provision and location on the site has been undertaken. In summary, the amount of car parking is adequate for the development, as addressed elsewhere in this report.

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

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

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

Comment:

With regards to excavation and construction management, appropriate conditions to minimise impact can be imposed on a consent should this application be approved by the Panel.

Therefore, this issue should not be given determining weight

3. Impact on the Natural Environment

A significant number of submissions raised concerns in relation to the impact of the development on the natural environment. The following specific concerns were raised:

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

Comment:

This issue is addressed in the relevant referral sections by Council's Natural Environment Section and the NSW RFS referral comments. In summary, the impacts on the natural environment are found to be unsatisfactory and this reason is included as a reason for refusal.

4. Development is not Suitable for this land

Concerns have been raised that, as the site is Crown Land, it should be maintained as public open space, and be available for bushwalking and picnic areas. A submission also raised concern that the development is inconsistent with the current lease agreement for the site.

Comment:

The site is owned by Department of Industry - Lands and is currently leased to *Allambie Heights Village*. The site is zoned to permit a seniors housing development, and the applicant has lodged the application with valid owners consent from the Department.

The issue as it relates to the lease agreement and whether the site should be used for public recreation purposes is not a matter for Council to consider as part of the assessment of the application.

Therefore, this issue should not be given determining weight.

5. Bushfire Impact

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

Comment:

The site is identified as bushfire prone land. A Bushfire Report accompanies the application. In the

report, recommendations are provided to ensure the safety of the residents of the facility in accordance with the provisions of 'Planning for Bush Fire Protection 2006' as published by the NSW Rural Fire Service (NSWRFS).

Further, as detailed in the referral response from the NSWRFS under the 'Referrals' section in this report, the Service is supportive of a license agreement along with Sydney Water, to manage the Asset Protection Zone.

However, Council's Natural Environment team does not support the proposal due to the environmental impact caused by the Asset Protection Zones.

Accordingly, this matter forms a reason for refusal.

6. Visual Impacts, Height of Buildings and Impact on the War Memorial Area (Heritage)

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

Comment:

The application was not accompanied by a specific visual impact assessment, however the siting of the proposed development within the site and when viewed from the War Memorial Area is unlikely have any significant visual impact. In fact, the impact will not be any worse than the existing development on the subject site and the adjoining site to the south.

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

A Clause 4.6 variation request has been provided in relation to the building height and this has sufficiently justified contravention of the building height standard. An assessment of this can be found in the building height section of this report.

Therefore, this issue should not be given determining weight.

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

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

- *Clause 12 of SEPP not addressed;*
- *Not compatible with the surrounding land uses*
- *Exceeds the maximum height requirement*

Comment:

The issues above are discussed at length in the SEPP (HSDP) section of this report. In summary, it has been found that the development is consistent with the character of the area, as required under the provisions of SEPP 65 - Design Quality of Residential Apartment Development and SEPP HSPD and the non-compliance in relation to the 8.0m height is supported in this instance.

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

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

8. Insufficient Community Consultation

Concern was raised that the application was not the subject of sufficient community consultation. In particular, concerns are expressed that details of the application were not notified to enough residents.

Comment:

The Northern Beaches Community Participation Plan and the EPA Regulation 2000 requires adjoining properties to be notified by letter. The extent of the letter notification can be extended at the discretion of the responsible Council officer, should it be warranted due to the potential impacts of the development.

The notification was carried out to all properties that were considered to be potentially impacted by the development. Residents beyond that notified area are captured by the advertisement on Council's website.

The public exhibition of the application was carried out in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Northern Beaches Community Participation Plan.

Therefore, this issue should not be given determining weight.

9. Inconsistent with the R2 Zone Objectives

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

Comment:

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

10. Affordable Housing

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

Comment:

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

Therefore, this issue should not be given determining weight.

11. Crown Land

The proposal is inappropriate for Crown Land.

Comment:

Owner's consent has been provided by the Department of Lands for the lodgement of the application and a lease agreement is already in place.

12. Traffic

Submissions have raised concern in regard to the impact the proposal would have on surrounding traffic issues including Allambie Road.

Comment:

Council's Traffic Officer has assessed the application and is supportive of the proposal, subject to conditions. This is partly due to the general peak generation period for a Seniors Living development not coinciding with the Network Commuter Peak Period.

13. Aboriginal Heritage

Submissions have raised concern in regard the lack of an Aboriginal Due Diligence Report.

Comment:

The application was referred to Council's Aboriginal Heritage Officer who has recommended a preliminary due diligence inspection be undertaken prior to any works commencing onsite. If approval is to be given, an appropriate condition can be imposed on the consent.

14. Construction Impacts

Submissions have raised concern in regard to the impacts of construction.

Comment:

If the application is to be approved, conditions should be imposed to mitigate/manage construction related impacts.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>Supported (Subject to conditions) The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Environmental Health (Food Premises, Skin Pen.)	<p>Supported (subject to conditions) No objection subject to conditions.</p>
Landscape Officer	<p>Supported (subject to conditions) The Arborist's Report and Landscape Plans submitted with the application are noted.</p> <p>The Arborist's Report indicates that of the 107 trees assessed, 85 are to be removed. The trees incorporate local native, non local native, exotic and exempt species.</p> <p>The Landscape Plan indicates replanting of 89 trees in addition to</p>

Internal Referral Body	Comments
	<p>shrub and groundcover planting and native bushland regeneration areas.</p> <p>The proposed works are generally in the area of already developed land. The proposed planting indicated on the landscape plans is not objected to in general terms.</p> <p>It is noted that Asset Protection Zone requirements of the RFS impact upon proposed planting densities and remnant bushland areas.</p> <p>I would defer to the comments of Council's Bushland and Biodiversity section regarding environmental impacts of the development across the site and adjoining lands.</p> <p>No objections are raised to approval with regard to landscape issues subject to conditions as recommended.</p>
NECC (Bushland and Biodiversity)	<p>Not Supported</p> <p>The proposed development footprint is in proximity to the western portion of the site which is covered with high quality native vegetation. Direct and indirect impacts to native vegetation will result from tree removals, clearing and modification for asset protection zones, sewer infrastructure, passive recreation, with increased and ongoing management of native vegetation and fauna habitat as part of the overall bush fire management measures.</p> <p>The application included a Biodiversity Development Assessment Report (BDAR) that has quantified the biodiversity values of the land and applied the avoid, minimise and offset hierarchy and assessed the direct and indirect impacts associated with the proposed development. While the potential impacts of the most recent development design have been reduced from that of the previous application, the development in its current format is not supported due to unacceptable impacts to the natural environment. The location and design of the proposed development does not satisfy the objectives and/or requirements of the Warringah Development Control Plan 2011, including</p> <ul style="list-style-type: none"> • E2 Prescribed Vegetation • E5 Native Vegetation • E6 Retaining unique environmental features, and • E7 Development on land adjoining public open space. <p>The proposed development will directly and indirectly impact native vegetation and fauna habitat, including threatened species or vegetation communities with potential for a serious and irreversible impact as mapped on the Biodiversity Values Map. The development is located on land adjoining public open space, and should protect, preserve and enhance the native bushland and natural qualities of the adjoining the Park, and not threaten the protection or preservation of the bushland and fauna habitats. Additional impacts</p>

Internal Referral Body	Comments
	<p>that require further assessment, and potentially additional biodiversity offsets, have not been adequately addressed as described below.</p> <p>The Asset Protection Zone (APZ) requirement of 85 metres to the south-west increases the extent and ongoing reliance of vegetation management of land within the adjoining public reserve. The adjoining public reserve has some existing asset protection requirements, both as a result of a historic agreement with the adjoining development and the Fire Management Plan requirements. However, to achieve the full 85m setback (Manly Dam APZ (4) as shown in Map 2 of the Bush Fire Management Plan (Total Earth Care Feb 2020)), the development relies on the modification of native vegetation to create an asset protection zone beyond what currently exists. Parts of the proposed APZ within the Reserve are currently managed as a strategic fire advantage zone, and this does not meet the requirements of an APZ and would result in additional impacts which are not supported.</p> <p>In addition, the impacts of the proposed APZ within the adjoining Sydney Water land to the north (APZ (3) of Map 2), relies on the written agreement of Sydney Water, and the impact to native vegetation and threatend species habitat has not been assessed in the BDAR.</p> <p>A section of the site is mapped by Council as waterways and riparian lands, and any asset protection zone (APZ) should avoid and minimise impacts within the riparian area. However I note that the proposed design and management in this area has been supported by Councils Riparian referral body.</p> <p>Finally, the inclusion of pedestrian walkways into the native bushland area of the site mapped on the Biodiversity Values map is not supported, and these elements should be deleted.</p> <p>Based on the comments above, the development application is recommended for refusal as it does not satisfy the Warringah Development Control Plan 2011 and NSW Biodiversity Conservation Act 2016 requirements.</p>
NECC (Development Engineering)	<p>Supported (subject to conditions) No objection to the proposed development subject to conditions.</p>
NECC (Riparian Lands and Creeks)	<p>Supported (subject to conditions) According to the Warringah Creek Management Study 2004, the site possesses a first order stream, which flows in a southerly direction. The creek forms part of the Curl Curl Creek/Manly Dam catchment and according to the Creek Management Study is a Category A Catchment which is characterised as “very high ecological value; with less than 10% connected impervious area. This provides a high level of connectivity of natural vegetation in the floodplain and riparian zone of Curl Curl Creek and reasonable habitat for dispersal of native terrestrial fauna species. Geomorphic diversity is also very high, providing a wide range of habitats and supporting excellent native species richness. Curl Curl</p>

Internal Referral Body	Comments
	<p>Creek and its tributaries also provide high landscape and passive recreation value to the area".</p> <p>In addition, the catchment is known habitat to a range of native and threatened fauna species including Red Crowned Toadlet.</p> <p>The proposed development application is showing a better building integration in the site setting than the previous projects.</p> <p>The main building is now set further away from the creek line and the proposed infrastructure arrangement is generally offering a wider buffer.</p> <p>Note that the riparian is still within the APZ zone and the proposal is not fully satisfying the Council's DCP and Protection of Waterway and Riparian Lands Policy, however the water quality treatment chain (bioretention and pond) and the proposed vegetation regeneration might mitigate the impact of the APZ zone. It is recommended that the planting list is amended by an ecologist for (1) the bioretention to maintain a functional system (2) regeneration mix with native species/ local provenance.</p> <p>On this basis, the development application is acceptable.</p>
NECC (Water Management)	<p>Supported (subject to conditions)</p> <p>Additional information has been received and reviewed. The documentation is conforming with Council request. Environment & Climate Change is generally satisfied with the revisions and is therefore supportive of the proposal, subject to conditions.</p>
Parks, reserves, beaches, foreshore	<p>Supported (subject to conditions)</p> <p>No objections are raised to approval subject to conditions providing for protection of Council public assets as provided.</p>
Strategic and Place Planning (Urban Design)	<p>Supported</p> <p>The proposal seeks approval for a scheme revised (DA 2018/1667) in accordance with the recommendations of the Northern Beaches Local Planning Panel (NBLPP) on the grounds that insufficient information was provided to properly and fully assess the environmental impacts as a result of the RFS prescribed Asset Protection Zones (Section 4.15 (1)(a) of the Environmental Planning and Assessment Act 1979 (NSW)) and inconsistency with Clause 12(1)(a) of the Warringah Development Control Plan 2011, in particular the following clauses:</p> <ul style="list-style-type: none"> • Clause E2 Prescribed Vegetation; • Clause E5 Native Vegetation; • Clause E6 Retaining unique environmental features; and • Clause E7 Development on land adjoining public open space. <p>And that the required revisions would substantiate a significantly</p>

Internal Referral Body	Comments
	<p>different proposal.</p> <p>As a result of the application of the required 85m APZ setback the revised scheme proposes moving the communal activity centre further to the east with the provision of a landscaped open space including spaces for varying levels of occupation and interaction with the natural environment and mediates the transition between built form and the natural bushland setting adequately.</p> <p>Urban Design is satisfied with the revisions and is therefore supportive of the proposal.</p>
Traffic Engineer	<p>Supported (subject to conditions)</p> <p>The proposed development (as depicted in Annexure A for reference), includes the construction of infrastructure and other works required to facilitate the proposed senior living development consisting of 24 dwellings. The proposed development has the following features relevant to this Traffic and Parking Impact Assessment:</p> <ul style="list-style-type: none"> • 24 x two-bedroom seniors living units distributed across two apartment buildings; • Construction of an ancillary Communal building; • 30 x resident parking spaces located in a basement / lower ground level carpark and one (1) car wash bay on the ground floor; • 17 x visitor parking spaces with 2 provided within the basement / lower ground level carpark and the remaining 15 provided on ground level; • Construction of an emergency egress road to the north of the site. <p>All vehicular access to the site will be from the proposed two-way driveway off Martin Luther Place with the exception of waste collection and loading by vehicles up to a Small Rigid Vehicle (SRV) which will utilise the driveway of the adjacent William Charlton Village site which is located at the intersection of Allambie Road / Mortain Avenue</p> <p>It should be noted that the development was previously submitted under DA2018/1667.</p> <p>After discussion with Council's Planners, it is noted that the new DA seeks to reduce the scale of the development by deleting one (1) component and no further amendments.</p> <p>Therefore, Council's Traffic Team raise no further objections subject to the revised conditions.</p>
Waste Officer	<p>Supported</p> <p>No objection subject to conditions.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The following comments were provided by an Ausgrid:

External Referral Body	Comments
	<p><i>Ausgrid has no objection with the proposed development as long as we can still maintain access through the existing roadway from pole FF48711 on the western side of the property.</i></p>
Aboriginal Heritage Office	<p>The Aboriginal Heritage Office (in an e-mail dated 12/11/2018) indicated there are known Aboriginal sites in the area. No sites are recorded in the current development area, however, the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites.</p> <p>The Aboriginal Heritage Office recommends a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional. The assessment would provide information on what potential Aboriginal heritage issues exist on the land and recommendations for any further action if required.</p> <p>The requirement of the Aboriginal Heritage officer can be addressed by way of conditions, if the application is worthy of approval.</p>
<p>Integrated Development – NSW Rural Fire Service - Rural Fires Act (s100B Subdivisions and Special Fire Protection Purposes under)</p>	<p>The application was referred to the NSW RFS as Integrated Development.</p> <p>Section 100B of the Rural Fires Act 1997 enables the Commissioner of the NSW RFS to issue a Bush Fire Safety Authority for 'Special Fire Protection Purpose' development. Section 100B (6) of that Act identifies Seniors Housing (within the meaning of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004) as such development.</p> <p>In their response on 31 Jul 2020, the NSW RFS advised the following:</p> <p><i>"Subject to Northern Beaches Council management of the Manly Warringah War Memorial Park (specifically APZ 3) identified in Figure 6 – Prescribed Fire Management Zones in the document Manly Warringah War Memorial Park Fire Regime Management Plan 2006. This bush fire safety authority is also subject to the provision of a licence agreement being provided by Sydney Water allowing Allambie Heights Village Ltd and its nominated Bushfire Management subcontractors to manage the portion of Sydney Water controlled land, situated immediately north of 181 Allambie Road Allambie Heights 2100."</i></p> <p>Associated conditions of consent were also provided.</p> <p><u>Sydney Water Letter</u></p> <p>Sydney Water have provided which gives support for a license agreement to Allambie heights Village Ltd and nominated Bushfire management contractors for the purpose of an Asset Protection zone.</p>
<p>Nominated Integrated Development – Natural Resources Access Regulator - Water Management Act</p>	<p>The Natural Resources Access Regulator (NRAR) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), the proposed works are exempt from the need to obtain a controlled</p>

External Referral Body	Comments
2000 (s91 Controlled Activity Approval for works within 40m of watercourse)	<p>activity approval and no further assessment by this agency is necessary.</p> <p><u>Controlled Activity Not Required</u> The proposed works are not located on waterfront land as defined by the WM Act - The proposed works are greater than 40m from top of bank of the watercourse.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

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

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

Council's records indicate that the site has been used for residential (Seniors Housing) purposes for a long period of time. It is therefore considered that the site poses no risk of contamination and as such no further consideration is required under Clause 7(1) (b) and (c) of the SEPP 55.

SEPP 65 - Design Quality of Residential Apartment Development

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

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

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

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

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a Design Verification Certificate from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires:

(2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

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

DESIGN REVIEW PANEL

Northern Beaches Council does not have a SEPP 65 Design Review Panel. Since the DA was lodged, a Design and Sustainability Advisory Panel (DSAP) has been put in place, but this application was lodged too early in the process for the DSAP to be used.

DESIGN QUALITY PRINCIPLES

Principle 1: Context and Neighbourhood Character

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

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important

for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The site has been used for seniors housing for a significant period of time and therefore the proposed development is considered to appropriately respond to the existing character of the area. The substantive articulation of the built form relates favourably to the existing village and would positively contribute to the quality and identity of the site, which is existing and established. Accordingly, it is considered that the proposal satisfies this principle.

Principle 2: Built Form and Scale

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

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

Comment:

The proposed development, which involves new seniors housing buildings towards the rear of the site, would not result in any significant change to the character of development on the site or in the locality.

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

Building bulk is considered acceptable, with the massing of the buildings being broken-up by variation in the building form. The external colour scheme and finishes would blend with the surrounding natural environment to reduce visual and scenic impact.

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

Principle 3: Density

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

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

Comment:

The planning controls under WLEP 2011 and the WDCP 2011 do not specify a maximum housing density for the site. The appropriate density is determined by how the development responds to the Design Quality Principles of SEPP 65, and the relevant controls contained within the WLEP 2011.

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

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

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.

Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The proposed works include part demolition and excavation work to accommodate the new development. In this regard, a condition can be imposed on any consent requiring the submission of a Construction Management Plan (CMP), detailing the disposal and recycling of demolition and excavation materials.

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

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

Principle 5: Landscape

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

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

Comment:

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

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

Principle 6: Amenity

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

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

Comment:

The development has been assessed against the various amenity provisions of the Apartment Design Guideline (ADG), where it has been found that the development is capable of satisfying the relevant objectives and outcomes.

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

Principle 7: Safety

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

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

Comment:

The application is not accompanied by a formal Crime Risk Assessment as required by the ADG. However, the development provides secure access, which is separated from all vehicular access points and all apartments provide balconies and windows which provide passive surveillance over the village and public road.

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

Principle 8: Housing Diversity and Social Interaction

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

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

Comment:

This principle essentially requires design to respond to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community.

The development is to be occupied by seniors or people with the disability, which is considered to be a positive outcome in terms of providing a diversity type of housing within a locality which has an ageing population.

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

Principle 9: Aesthetics

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

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

Comment:

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

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

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP 65.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	Consistent A context plan is provided to accompany the application. The building form reflects the current character as anticipated by the SEPP for the site.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent The proposed development is located behind the existing development on site and won't be visible from street.
Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Consistent The development has been found to transition well.
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)	Consistent The site has whole provide significant amount of communal space, which is considered satisfactory.
Deep Soil Zones	Deep soil zones are to meet the following minimum requirements:	Consistent In excess of 7% of the site

	<table border="1"> <thead> <tr> <th>Site area</th> <th>Minimum dimensions</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6m</td> </tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td> <td>6m</td> </tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>area is deep soil zone.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m ²	-	7%												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													
<p>Visual Privacy</p>	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Consistent</p> <p>The proposed building separation is found to be satisfactory.</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p>Pedestrian Access and entries</p>	<p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p>Consistent</p> <p>The development provides level pedestrian access to all floor levels from the basement car parking area.</p>												
<p>Vehicle Access</p>	<p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p>Consistent</p> <p>The proposed vehicular access has been assessed by Council's Traffic Engineer who has raised</p>												

		no objections to the proposal in terms of the location of the vehicular access.
Bicycle and Car Parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Consistent</p> <p>An assessment of car parking provision, having regard to SEPP (HSPD) and location of the site has been undertaken.</p> <p>In summary, the amount of car parking is sufficient for the development, as addressed elsewhere in this report.</p>
Part 4 Designing the Building		
Amenity		
Solar and Daylight Access	<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter. 	<p>Consistent</p> <p>Over 70% of the proposed units were received the required amount of sunlight.</p>
Natural Ventilation	<p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. 	<p>Consistent</p> <p>Over 60% of the units are naturally cross-ventilated.</p>
Ceiling Heights	Measured from finished floor level to finished	Consistent

ceiling level, minimum ceiling heights are:

Minimum ceiling height	
Habitable rooms	2.7m
Non-habitable	2.4m
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use

The floor to ceiling heights of the apartments within the development meet the minimum 2.7m as required by the ADG.

Apartment Size and Layout

Apartments are required to have the following minimum internal areas:

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

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

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

Consistent

The minimum size of all bedroom is consistent with the requirement of this Clause.

Private Open Space and Balconies

All apartments are required to have primary balconies as follows:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m ²	-
1 bedroom apartments	8m ²	2m
2 bedroom apartments	10m ²	2m
3+ bedroom apartments	12m ²	2.4m

The minimum balcony depth to be counted as contributing to the balcony area is 1m

Not Applicable

The private open space requirement is stipulated under SEPP (HSPD) 2004.

Common Circulation

The maximum number of apartments off a

Consistent

and Spaces	circulation core on a single level is eight.	The maximum number of apartments off a circulation core on a single level is less than 8										
Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="438 521 1061 853"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m²</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m²</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	<p>Consistent (subject to condition)</p> <p>The proposed building includes resident storage areas for all units within the building and as well as within the basement levels.</p> <p>A condition of consent could be recommended, if the application was recommended for approval to ensure the proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective units.</p>
Dwelling Type	Storage size volume											
Studio apartments	4m ²											
1 bedroom apartments	6m ²											
2 bedroom apartments	8m ²											
3+ bedroom apartments	10m ²											
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	<p>Consistent (subject to condition)</p> <p>The nature of the proposed use is unlikely to generate significant noise emissions associated with the occupation of the development, with the exception of air conditioning systems. A suitable condition could be imposed if the application was worthy of approval in relation to A/C systems</p>										
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.											
Configuration												
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent The noise and pollution impact of the development is satisfactory.										
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Consistent The ground level apartments of the development is satisfactory.										
Facades	Ensure that building facades provide visual	Consistent										

	interest along the street and neighbouring buildings while respecting the character of the local area.	The development is respectful of the surrounding character, therefore the facade treatment is considered to be appropriate to enhance the streetscape and character of the area.																														
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Consistent The roof design of the development responds to the adjacent building and is considered to be satisfactory.																														
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent Landscape plans have been submitted with the application, providing detailed plans for the landscape treatment and found to be satisfactory.																														
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table border="1" data-bbox="422 1209 1077 2139"> <thead> <tr> <th>Plant type</th> <th>Definition</th> <th>Soil Volume</th> <th>Soil Depth</th> <th>Soil Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m³</td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m³</td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m³</td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Consistent Refer to Principle 5 above and Landscape referral comments.
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																												
Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent																												
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Shrubs			500-600mm																													
Ground Cover			300-450mm																													

	Turf		200mm	
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.			Not Applicable
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.			Not Applicable The DA does not propose any awning or signage and as such, this clause is not considered in the assessment of this application.
Performance				
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?			Consistent A BASIX certificate report has been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?			Consistent Water management and conservation through the means of retention of stormwater for reuse has been assessed as compliant and further, compliance with the supplied BASIX Certificate can be conditioned, if the application was recommended for approval.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?			Consistent Subject to condition
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?			Consistent The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 934623M_04).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	45	45

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

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

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) as the development is for Seniors Housing.

Chapter 1 – Preliminary

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

This Policy aims to encourage the provision of housing (including residential care facilities) that will:

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

Comment:

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

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

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

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

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

Chapter 2 – Key Concepts

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

Chapter 3 – Development for seniors housing

Chapter 3 of SEPP HSPD contains a number of development standards applicable to development applications made pursuant to SEPP HSPD. Clause 18 of SEPP HSPD outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is approved the required condition would need to be included in the consent. The following is an assessment of the proposal against the requirements of Chapter 3 of SEPP (HSPD).

Development Criteria			
Clause	Requirement	Proposal	Complies
PART 2 - Site Related Requirements			
26(1)	Satisfactory access to: (a) shops, banks and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner	The subject site has satisfactory access to: a) Shops, banks and other retail and commercial services that residents may reasonably require, and b) Community services and recreation facilities, and c) The practice of a general medical practitioner.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400 metres away.	The subject site is an existing Seniors Housing site and is located within 400m of various bus stops on Allambie Road and these stops are accessible by means of a suitable access pathway.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is identified as being bushfire prone and has been assessed as a "special fire protection purpose". In this regard, the NSW RFS has reviewed the proposal including the requirement of this clause and provided conditions of consent.	Yes
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage	The site has been operating as senior's housing for a significant period of time and is fully serviced by potable water and sewer	Yes

Development Criteria			
Clause	Requirement	Proposal	Complies
	infrastructure.	Infrastructure. The proposal is satisfactory with regards to the requirements of Clause 28.	
29	<p>Consideration must be given to whether the proposal is compatible with the surrounding land uses having regard to the following criteria specified in Clauses 25(5)(b)(i), 25(5)(b)(iii), and 25(5)(b)(v):</p> <p>i) the natural environment and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development and any proposed financial arrangements for infrastructure provision,</p> <p>v) the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</p>	The proposed development is not found to be consistent with the requirement of Clause 25 (5) (b) (ii) as the proposal will have impacts on its natural environment and due this impact, the proposal is found to be unacceptable.	No
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis is provided.	Yes

Clause 31 Design of in-fill self-care housing

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

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

Clause 32 Design of residential development

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

of Part 2.

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

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity of the area.	<p>The proposed development is considered to appropriately respond to the existing character of the area. The substantive articulation of the built form relates favourably to its context and will positively contribute to the quality and identity of the site, which is already used for senior's development.</p> <p>The current proposal represents a satisfactory design outcome for the site and locality from that presently existing on the site currently by virtue of articulation and façade treatment.</p>	Yes
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that are identified in a local environmental plan.	<p>The development site is not within any Heritage Conservation Area, however, the site is located in the vicinity of an item of heritage significance being a heritage conservation area being 'Manly Dam and Surrounds'.</p> <p>The proposed development is not considered to introduce any significant adverse impacts on the heritage significance of the adjoining conservation area given the physical separation of the site from Manly Dam and its surrounds.</p>	Yes
	c. Maintain reasonable neighbour amenity and appropriate residential character by; (i) providing building setbacks to reduce bulk and overshadowing (ii) using building form and siting that relates	<p>The siting and location of buildings within the site has regard to the front building line, side setback and has provided sufficient landscape buffer in order to preserve the amenity of the adjoining properties in terms of privacy, solar access, and view lines.</p> <p>The development is found to</p>	Yes

Control	Requirement	Proposed	Compliance
	<p>to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, (iv) and considering, where buildings are located on the boundary, the impact of the boundary walls on neighbors.</p> <p>d. Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,</p> <p>e. embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p> <p>f. retain , wherever reasonable, major existing trees, and</p> <p>g. be designed so that no building is constructed in a riparian zone.</p>	<p>be consistent with the requirements of this Clause.</p> <p>The proposed setbacks to the front of the development and the extent of landscaping provided within the setback are considered satisfactory to minimise the visual impact of the development. The articulation and stepping of the built form are sympathetic to the character in the area and provides an effective and sensitive transition between the subject development and surrounding development.</p> <p>The proposal includes areas of landscaping which are consistent and sympathetic to the existing provision of landscaping throughout the streetscape.</p> <p>The impact of proposed development on existing trees have been assessed by Council's Landscape officer and found to be acceptable.</p> <p>The proposed buildings is not located within a riparian zone and Council's Riparian officer is satisfied with the proposal, subject to conditions.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) Appropriate site	The development has been designed to maintain a reasonable level of acoustic and visual privacy between properties. Appropriate building setbacks and effective use of privacy	Yes

Control	Requirement	Proposed	Compliance
	<p>planning, the location and design of windows and balconies, the use of screening devices and landscaping, and (b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>treatments maintain a satisfactory level of privacy to adjoining properties.</p>	
<p>CL35 Solar access and design for climate</p>	<p>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 (b) involve 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.</p>	<p>The proposed development will allow for adequate levels of daylight to living areas of residents and neighbours as required by the SEPP.</p>	<p>Yes</p>
<p>CL 36 Stormwater</p>	<p>Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.</p>	<p>The application has been reviewed by Council's Development Engineer who raises no objections to the proposal with appropriate conditions being imposed, should the application be worthy of approval.</p>	<p>Yes</p>
<p>CL 37 Crime prevention</p>	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows</p>	<p>The proposal will provide a satisfactory level of personal property security for residents and visitors, which has been designed to encourage crime prevention.</p> <p>The ongoing maintenance of</p>	<p>Yes</p>

Control	Requirement	Proposed	Compliance
	<p>observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>the development is subject to a private arrangement with the body corporate of the proposal.</p>	
CL 38 Accessibility	<p>The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>The proposal provides safe and obvious pedestrian links from the site that provides access to public transport, services or local facilities. The proposal provides a safe environment for pedestrians and motorists with convenient access and car parking for residents and visitors.</p>	Yes
CL 39 Waste management	<p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Council's Waste Officer has reviewed the proposal and has raised no objection with regards to waste facility provided for the development.</p>	Yes

Part 4 - Development standards to be complied with

Clause 40 – Development standards – minimum sizes and building height

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

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

Control	Required	Proposed	Compliance
Site Size	1000 sqm	37,200m ²	Yes
Site frontage	20 metres	The site has a frontage greater than 20.0m wide	Yes
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	The building height exceeds the 8m by 0.65m maximum at various sections of the building.	No* (Refer to Clause 4.6 Variation)
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height.	Buildings adjacent to the northern and southern property boundaries are two storeys in height.	Yes
	A building located in the rear 25% of the site must not exceed 1 storey in height (development within 15.51 metres of the rear boundary).	No new work will encroach upon the rear 25% of the site.	Yes

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

Clause 41 Standards for hostels and self contained dwellings

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

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

In accordance with Clause 50 of SEPP HSPD a consent authority must not refuse consent to a development application made pursuant to Chapter 3 for the carrying out of development for the purpose of a self contained dwelling on any of the grounds listed in Clause 50.

The following table outlines compliance with standards specified in Clause 50 of SEPP HSPD.

Control	Required	Proposed	Compliance
Building height	8.0m or less (Measured vertically from ceiling of topmost floor to ground level)	8.65m	No (refer to Clause 4.6)

Control	Required	Proposed	Compliance
	immediately below)		
Density and scale	0.5:1	0.16:1	Yes
Landscaped area	30% of the site area is to be landscaped (1925sqm)	7,580sqm	Yes
Deep soil zone	15% of the site area Two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3 metres.	Over 14,680sqm is provided, which is well in excess of 15% of the site area	Yes
Solar access	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	Over 70% of apartments receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	Yes
Private open space	(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 (ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres	All the units are provided with the minimum 15m ² of private open space.	N/A

Control	Required	Proposed	Compliance
	(or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area		
Parking	0.5 car spaces for each bedroom. 0.5x 48 bedroom = 24 spaces required	30 spaces provided	Yes

Chapter 4 – Miscellaneous

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

SEPP (Infrastructure) 2007

Ausgrid

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

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The following comments were provided by an AUSGRID officer:

"Ausgrid has no objection with the proposed development as long as we can still maintain access through the existing roadway from pole FF48711 on the western side of the property."

Clause 102 - Roads and Maritime Service (RMS)

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

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	The height requirement is covered by SEPP (HSPD) 2004	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
2.3 Zone objectives and Land Use Table	Yes
2.7 Demolition requires consent	Yes
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

2.3 Zone objectives and Land Use Table

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

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

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

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

The development is considered to be consistent with this objective.

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

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

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

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

The development is considered to be consistent with this objective.

4.6 Exceptions to development standards

ASSESSMENT OF CLAUSE 4.6 VARIATION REQUEST

Clause 4.6 of WLEP 2011 applies to the proposed development as the overall height of all buildings exceeds the 8.5m height limit. However, the application has been lodged pursuant to SEPP (HSPD) 2004, which contains a Building Height Development Standard, which prevails over the height standard within WLEP 2011.

A recent judgement of the NSW LEC in *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 provides direction to the consent authority that they may need to themselves in fact form a view as to whether the matters in Clause 4.6(3) (a) and (b) are met and not simply rely on the applicant to do so. It is not enough for the applicant to simply cover the matters or that an argument had been advanced.

As such the following assessment against Clause 4.6 and presents both the applicant's argument and an assessment of that argument to ensure that Clause 4.6 is wholly considered:

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

A request to vary the development standard for the 8m building height limit has been made under clause 4.6 in relation of clause 40 (4) (a) of the SEPP (HSPD) 2004, as mentioned earlier in this report.

The development proposes a maximum height of 8.65m, which varies the 8.0m height requirement by 0.65m that equates to a 8.1% variation to the building height standard as stipulated by SEPP (HSPD) 2004.



Figure 1- showing the non-compliance with 8m height (8m height limit indicated in blue), source: Architectural Plans (DA-902), prepared by Jackson Teece

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

(1) The objectives of this clause are as follows:

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

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental

planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

clause 40 of SEPP (HSPD) 2004 development standard is not expressly excluded from the operation of this clause.

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

1) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

2) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) Assessment

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report) has demonstrated that the objectives of the development standard are achieved. The non-compliance is found to be inconsistent with the objectives of the standard as detailed in the later section of this report.

(a) That there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

“As to the second matter required by cl 4.6(3) (b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.”

Section 1.3 of the EPA Act reads as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants:*
 - (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
 - (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Applicant’s Written Request

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

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

Assessment Officers Comments

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

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

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

Conclusion on Environmental Planning Grounds

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Accordingly, is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) Assessment

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(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

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the R2 - Low Density Residential zone .

Assessments against these objectives are provided below.

Objectives of the Development Standard

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

The objectives of Clause 4.3 are as follows:

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

Comment:

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

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

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

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

The development is considered to be consistent with this objective.

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

Comment:

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

The development is considered consistent with this objective.

(c) To minimise the adverse impact of development on the scenic quality of Warringah’s coastal

and bush environments.

Comment:

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

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

Comment:

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

What are the Underlying Objectives of the Zone?

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

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

Conclusion

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

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

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

Clause 4.6 (4) (b) (Concurrence of the Secretary) Assessment

cl. 4.6(4) (b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS-18-003, as issued by the NSW Planning and Environment on 21 February 2018, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument.

In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to clause 40 of SEPP (HSPD) 2004 Development Standard can be assumed by the Local Planning Panel.

5.10 Heritage conservation

The site is located in the vicinity of an item of heritage significance being a heritage conservation area, namely “Manly Dam and Surrounds” identified under the LEP as Number C9. The proposed development is not considered to introduce any significant adverse impacts on the Heritage significance of the adjoining Conservation Area for the following reasons:

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

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	The height is covered by SEPP (HSPD) 2004	N/A	N/A
B5 Side Boundary Setbacks	0.9m	In excess of 0.9m to both north and south boundaries	N/A	Yes
B7 Front Boundary Setbacks	10.0m	The new development provides in excess of 10m	N/A	Yes
B9 Rear Boundary Setbacks	6.0m	The proposed development will not encroach on the rear setback area.	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	50%	The LOS is covered by SEPP (HSPD) 2004	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	No	No
E5 Native Vegetation	No	No
E6 Retaining unique environmental features	No	No
E7 Development on land adjoining public open space	No	No
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D6 Access to Sunlight

Site Specific Requirement

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

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

Impact on the Adjoining Properties

The shadow diagrams submitted with the application show that the shadow cast by the proposed development will generally fall within or marginally beyond the boundaries of the site. Therefore, the

impact of the proposed development on the adjoining properties is found to be acceptable.

Impact on the proposed development

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

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

D9 Building Bulk

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

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

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

E1 Preservation of Trees or Bushland Vegetation

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

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

E2 Prescribed Vegetation

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

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

E5 Native Vegetation

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

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

E6 Retaining unique environmental features

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

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

E7 Development on land adjoining public open space

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

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

The assessment of the application has been carried out having regard to the provisions of Section 4.15

of the EP&A Act, 1979, the provisions of relevant EPIs, including SEPP 55, SEPP (HSPD) 2004, SEPP Infrastructure, WLEP 2011, the relevant codes and policies of Council, including the relevant provisions of the WDCP 2011.

The proposal seeks approval for a revised scheme, which is generally based on the previous DA2018/1667. The Northern Beaches Local Planning Panel refused the original DA on the grounds that insufficient information was provided to properly and fully assess the environmental impacts as a result of the RFS prescribed Asset Protection Zones (Section 4.15 (1)(a) of the Environmental Planning and Assessment Act 1979 (NSW)) and inconsistency with Clause 12(1)(a) of the Warringah Development Control Plan 2011.

It is noted that the 85m APZ in the revised scheme is less impacting on remnant bushland due to the shifting of the communal activity centre further to the east on the site, however, the assessment reveals the impacts are still significant and unacceptable, as outlined in the assessment comments provided by Council's Natural Environment Team.

On balance, the natural environment issues are problematic to the point that they constitute reasons why the application is being recommended for refusal. This is despite the fact that the planning, urban design, character, landscaping, traffic, stormwater, services infrastructure and noise assessments reveal the application has significant merit on those grounds.

The development contains non-compliances with the 8.0m Height of Buildings Development Standard as prescribed under Clause 40 (4) (a) of the SEPP (HSPD). The variations sought have been assessed under the provisions of Clause 4.6 of the WLEP 2011 and the departure from the development standard is supported for the reasons mentioned in the Clause 4.6 section of this report.

The public exhibition of the DA resulted in 110 submissions, all of which raised concerns with the proposed development. The majority of the submissions raised concerns with regards to environment impact, incompatibility with character, non-compliance with SEPP (HSPD) 2004 and construction related impacts. The issues raised in the submissions have been addressed in the "Public Notification" section of this report and the natural environment related concerns are concurred with and form reasons for refusal.

Accordingly, it is recommended that the Northern Beaches Local Planning Panel refuse the application for the reasons detailed within the "Recommendation" section of this report.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT the Northern Beaches Local Planning Panel, on behalf of Northern Beaches Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/0552 for the Demolition works and construction of a Seniors Living Development on land at Lot 2615 DP 752038, 181 Allambie Road, ALLAMBIE HEIGHTS, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
2. Pursuant to Section 4.15 (1)(a) of the Environmental Planning and Assessment Act, 1979 and Clause 12(1)(a) of Warringah Development Control Plan 2011, the development is inconsistent with the following Clauses as follows:

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