

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/1805
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Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot A DP 379308, 4 Alexander Street COLLAROY NSW 2097
Proposed Development:	Demolition works and construction of a seniors housing development
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes, under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	Yes
Owner:	East Coast Property Development Pty Limited
Applicant:	East Coast Property Development Pty Limited

Application Lodged:	07/10/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	23/02/2022 to 02/03/2022
Advertised:	27/10/2021
Submissions Received:	63
Clause 4.6 Variation:	4.3 Height of buildings: 5.8%
Recommendation:	Refusal

Estimated Cost of Works:	\$ 5,246,223.00
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EXECUTIVE SUMMARY

The development application subject of this Assessment Report relates to a proposal for the construction of a seniors housing development comprising five (5) self-contained dwellings. The application is being report to the Northern Beaches Local Planning Panel for determination due to the extent of public interest, the applicability of the State Environmental Planning Policy (Design Quality of Residential Apartment Development), and as the proposal seeks to breach development standards under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (HSPD)) by more than 10%.

The application is made pursuant to SEPP (HSPD), which at the time of lodgement, was the prevailing environmental planning instrument applicable to this type of development that would otherwise be prohibited under the WLEP 2011.

The exhibition of the application attracted submissions from 61 households, including 51 submissions who were in support, and ten (10) who objected to the proposal. The submissions in support largely revolved around the benefits of providing denser and focused residential accommodation in this location. The submissions received objecting to the proposal raised concerns about impacts on the amenity of surrounding properties, including solar access, views, visual and acoustic privacy and on-street car parking.

The matters raised in the submissions are detailed in this report, and in summary it is found that those particular matters are not of such severity that would warrant the refusal of the application.

The proposal seeks to vary two (2) development standards pursuant to the SEPP (HSPD), including; Clause 40(3) relating to the width of the site frontage (190mm under the minimum) and Clause 40(4)(b) relating to the two-storey limitation in any one place. These variations are considered under Clause 4.6 of the Warringah Local Environmental Plan 2011 and, based on the applicants justification and written statement, are supported.

The proposal has been generally supported by Council's Design and Sustainability Advisory Panel, with modifications arising out of the review, which have been incorporated into the revised plans. Those plans were re-notified to surrounding properties.

During the course of this assessment, the applicant filed a Class 1 Appeal in the Land and Environment Court of NSW against Council's 'Deemed Refusal' of the application. At the time of writing this report, no conciliation conferencing had occurred in relation to this appeal.

The proposed development generally complies with the applicable planning controls under SEPP HSPD and the WLEP 2011. However, the proposal does not satisfy the flood planning and waste management requirements under the Warringah Development Control Plan 2011. The proposal cannot be conditioned to satisfy these flood and waste management matters, hence the application cannot be supported and is recommended for **REFUSAL**.

PROPOSED DEVELOPMENT IN DETAIL

Development Consent is sought for demolition works and the construction of a seniors housing development comprising five (5) apartments made pursuant to the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Specifically, the proposal involves the following:

- Demolition of all structures on-site including dwelling, sheds, driveway and fencing.
- Removal of nine (9) trees for the site, (eight (8) of which are exempt due to height, species or being dead, and one (1) identified as a native canopy tree in poor health with low landscape significance, and a short useful life expectancy.
- Excavation works to a maximum depth of approximately 2.7m.
- Construction of a part-two / part-three storey development comprising of five (5) x three (3) bedroom apartments over a partial basement level containing nine (9) car parking spaces, generally to be finished in off-form concrete, textured render, metal cladding, sandstone cladding and aluminium framed glazing.
- Planting of 15 new trees, 180 new shrubs, hedges and accent plants and new grasses and groundcovers throughout.

The apartments are all in the large range, being between 126m² and 151m², equating to an overall FSR of 0.65:1.

During the course of this assessment, revised plans were received in response to comments received from Council's Development Engineers, Waste Officer and Design and Sustainability Advisory Panel. The additional information submitted in relation to flooding and waste have not resolved to the concerns to the satisfaction of Council's Development Engineers or Waste Management sections.

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 - 4.3 Height of buildings
- Warringah Development Control Plan - B7 Front Boundary Setbacks
- Warringah Development Control Plan - C3 Parking Facilities
- Warringah Development Control Plan - C9 Waste Management
- Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting
- Warringah Development Control Plan - D7 Views
- Warringah Development Control Plan - E11 Flood Prone Land

SITE DESCRIPTION

Property Description:	Lot A DP 379308 , 4 Alexander Street COLLAROY NSW 2097
Detailed Site Description:	<p>The subject site is legally identified as Lot A in Deposited Plan 379308 and is known as 4 Alexander Street, Collaroy.</p> <p>The site falls within the R2 Low Density Residential zone pursuant to the Warringah Local Environmental Plan 2011.</p> <p>The site is generally rectangular in shape with a width of</p>

24m and a depth of 51m equating to an surveyed area of 1,199sqm. The northeastern corner of the site adjacent to Alexander Street is dissected by a different small lot measuring approximately 4m in width by 16m in depth.

The site presently accommodates a large single storey detached dwelling house with two large sheds to the rear of the site. The site has paving throughout and is generally in a dilapidated state, likely due to it being vacant.

The site is bound by other detached dwelling houses in the R2 zone to the south and west, and the majority of those sites are on allotments smaller than the subject site. North and east of the site is land zoned for B2 Local Centre uses, accommodating a heritage listed cinema, shop top housing developments and other commercial offerings.

Topographically the site is reasonably flat with a rise of approximately 3.5m over a 50m distance from front to rear (north to south). There are no noteworthy topographical features on the land.

The site has vegetation throughout, particularly a cluster of trees located in the southeastern corner of the site. As described elsewhere in the report, all but one of the trees on the site is identified as 'exempt'. The one other tree is native, but has been found to be in a poor condition.

Map:



SITE HISTORY

The land has been used for residential purposes for a long period of time and the dwelling has existed on the site since at least 1943.

Prelodgement Meeting - Planning Proposal

A prelodgement meeting for a Planning Proposal (PLM2020/0114) was held with Council in 2020 to discuss the option of rezoning the site from R2 Low Density Residential to B2 Local Centre. Council was not supportive of the proposal to rezone the land and no further actions were taken by the applicant.

No prelodgement meeting was held in respect to the current development application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See 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. The proposal does not satisfy the flooding requirements under the WDCP 2011.
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)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A 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.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
	<p><u>Clause 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter may be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is not considered suitable for the proposed development based on the failure to satisfy the flooding requirements for the development under the WDCP 2011.
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	The assessment revealed that the proposed development does not satisfy the flooding requirements and would place future occupants of the development at risk, hence it would be contrary to the public interest to approve the application.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 23/02/2022 to 02/03/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 63 submission/s from:

Name:	Address:
Mrs Diana Louise Sier	113 Carawa Road CROMER NSW 2099
Marc Ernest Sier	5 / 1 Eastbank Avenue COLLAROY NSW 2097
Mr William John Buckle	29 Beach Road COLLAROY NSW 2097
Mr Terence Patrick Donoghue	18 Eastbank Avenue COLLAROY NSW 2097
Mr Steven Gamble	20 Coutts Crescent COLLAROY NSW 2097
Mr Craig Jervis	24 Alexander Street COLLAROY NSW 2097
Mr Robert Jeffrey Robinson	114 Claudare Street COLLAROY PLATEAU NSW 2097
Araquem Paiva Ferreira Junior	12 / 119 Oaks Avenue DEE WHY NSW 2099
Mr William Joseph Barden	67 Brighton Street CURL CURL NSW 2096
Annabelle Sue Chapman	15 Ralston Road PALM BEACH NSW 2108
Mr James Anthony Jennings	10 Summit Avenue DEE WHY NSW 2099
Hannah Walsh	Address Unknown
Mr Mitchell Pax Trim	4 / 1172 Pittwater Road NARRABEEN NSW 2101
Craig Bannister	20 Bonner Avenue MANLY NSW 2095
David Morgan	28 Mildred Avenue MANLY VALE NSW 2093
Tim Donlan	3 / 40 Ocean Street NARRABEEN NSW 2101
Mr Cameron Stewart Lanceley	12 Eastbank Avenue COLLAROY NSW 2097
Mr Timothy Michael Parker	10 Cumberland Avenue COLLAROY NSW 2097
Mr Timothy James Trelayne Brown	14 Pine Street MANLY NSW 2095
Mr Lucas Allan Laxale	94 Park Street MONA VALE NSW 2103
Mr Michael Thomas Adams	4 / 21 - 21 Pine Avenue BROOKVALE NSW 2100
Mr Jake Gordon Butcher	6 Waterview Street MONA VALE NSW 2103
Mr Kenneth Charles Talbot-Sapsford	7 Mariposa Road BILGOLA PLATEAU NSW 2107
Mr Christopher Mark Montgomery	10 Ocean Grove COLLAROY NSW 2097
Mr Graham Leslie Atkins	4 Whitney Street MONA VALE NSW 2103
Mr Adam William Bate	9 / 27 Ocean Avenue NEWPORT NSW 2106
Mr Nicholas Alexander Williamson	4 Judith Place CROMER NSW 2099
Mr Bruce Ian Nicholas	18 James Wheeler Place WHEELER HEIGHTS NSW 2097
Jason Jenkins	20 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097

Name:	Address:
Mr Stephen Colin Crawford	6 Bushrangers Hill NEWPORT NSW 2106
Luke Preston	Address Unknown
Ms Anita Irma Gibbs	5 Eastbank Avenue COLLAROY NSW 2097
Mr Manus John McFadyen	8 / 4 Queens Parade NEWPORT NSW 2106
Sue Williams	Address Unknown
Mr Milford Mackay James	68 A Binburra Avenue AVALON BEACH NSW 2107
Mr Aaron James Johnstone	9 Fuller Street COLLAROY PLATEAU NSW 2097
Jenna Louise Nicholas	18 James Wheeler Parade COLLAROY NSW 2097
Mr James Dakin	1 Brissenden Avenue COLLAROY NSW 2097
Mr Peter Gordon Jenkins	1 / 1135 - 1137 Pittwater Road COLLAROY NSW 2097
Ivan Tulich	15 / 1 Eastbank Avenue COLLAROY NSW 2097
Withheld Withheld	COLLARROY NSW 2097
Withheld Withheld	7 Eastbank Avenue COLLAROY NSW 2097
Eleanor Lamb	1 Alexander Street COLLAROY NSW 2097
Mr Leslie George Galbraith	146 Barrenjoey Road MONA VALE NSW 2103
Mr Russell Dominic Pettit	23 Banksia Street DEE WHY NSW 2099
Joshua Louder	12/65 Holtermann Street CROWS NEST NSW 2065
Mr Mark Deere-Jones	26 Garden Street NORTH NARRABEEN NSW 2101
Dr Wade Brett	3 Eastbank Avenue COLLAROY NSW 2097
Mrs Angela Marguerite Brown	10 McNamara Road CROMER NSW 2099
Ms Carol Pamela Crawford	11 / 22 - 26 The Avenue COLLAROY NSW 2097
Mr Brian Leslie Frederick Curtis	11 / 22 - 26 The Avenue COLLAROY NSW 2097
Mr Bruce Davison	15 Alexander Street COLLAROY NSW 2097
Ray Smith	1123 Pittwater Road COLLAROY NSW 2097
Mr David Hugh Macintosh	12 Beach Road COLLAROY NSW 2097
John Corr	15 / 32 - 34 Bonner Avenue MANLY NSW 2095
Andreas Lehr	20 Alexander Street COLLAROY NSW 2097
Michael Healey	3 / 1 Alexander Street COLLAROY NSW 2097
Les Walden	66 Castle Circuit SEAFORTH NSW 2092
Mrs Natasha Rose Howell	7 Athene Place COLLAROY PLATEAU NSW 2097
Michael Birch	18 / 4 8 Darley Road MANLY NSW 2095
Michael Thomas	88 Cutler Road CLONTARF NSW 2093
Mr Miguel Angel Ranzetta Ms Jacquelyn Archer	7 Alexander Street COLLAROY NSW 2097

Name:	Address:
Georgina Ann Redfern	C/- McGrath Property Management Shop 4 1073 Pittwater Road COLLARROY NSW 2097
Withheld	COLLARROY NSW 2097

First Public Exhibition

During the first round of exhibition of the development application, a total of 61 submissions were received, with 51 of those submissions being in support of the application and ten (10) raising concerns.

The 51 submissions in support generally wrote of the need for additional seniors housing and were supportive of the proposed built form.

The issues raised in the ten (10) submissions objecting to the proposal are as follows:

- Amenity - Solar access, visual and acoustic privacy, view loss including height poles
- SEPP (HSPD) in R2 zone
- Building height, setbacks and visual bulk
- Construction impacts
- Car parking
- Vegetation impacts

The matters raised within the submissions are addressed as follows:

- **Amenity - Solar Access, Visual and Acoustic Privacy, View Loss and Height Poles**

Comment

Concerns were raised in submissions received that the proposal may impact on the amenity of existing residents by way of loss of sunlight, increased visual and acoustic intrusion and a loss of views. Some submissions have requested height poles to be erected.

These matters are all individually discussed elsewhere in this report. In summary, the development is found to have no unreasonable impacts to solar access of neighbouring properties and affords an appropriate degree of visual and acoustic privacy to neighbours. The assessment determined that height poles are not warranted in these circumstances, as the views to be impacted are best described as "outlooks" of the site itself and neighbouring properties in Alexander Street to the west. The outlooks that will be impacted/lost are understood and further clarity is not required to make a proper assessment.

On balance, the concerns raised in regards to the above matters do not warrant the refusal of the application.

- **SEPP (HSPD) in R2 Low Density Residential Zone**

Comment

Submissions received raised objection in relation to a seniors housing development in the R2 Low Density Residential zone.

Development of this kind is permitted in the R2 zone pursuant to the SEPP (HSPD) which prevails over Council's Local Environmental Plan.

This matter does not hold determining weight in the assessment of the application.

- **Building Height, Setbacks and Visual Bulk**

Comment

Concerns were raised in the submissions that the building is too tall and too close to the boundaries of the site.

These matters are discussed in detail under the relevant parts of this report. In summary, the setbacks proposed are acceptable and significantly greater than what a single dwelling would need to provide, and the building height is technically compliant with the prevailing standards, and only exceeds Council's LEP controls for the lift shaft. On balance, these concerns do not warrant the refusal of the application.

- **Construction Impacts**

Comment

Concerns were raised in submissions that the demolition, excavation and construction of the development may give rise to impacts upon neighbours.

Some construction impacts are inevitable. The demolition of a building and excavation of a site does create noise and can cause dust to be created. Similar impacts can occur in relation to the construction. However, these impacts can be mitigated and managed by appropriate measures being employed through the conditions of consent, this requiring the relevant standards to be met and practices to be followed.

- **Carparking**

Comment

Concerns were raised in submissions that the development will lead to increased parking congestion in the street.

The proposal provides for a compliant provision of carparking, and residents will be exempt for any Parking Permit Scheme. It is not considered that the development will unreasonably impact on the existing provision of carparking in the street.

- **Tree Removal and Vegetation impacts**

Comment

Concern were raised that the proposal is removing trees and an excessive amount of vegetation from the site.

The site presently accommodates nine (9) trees and a large amount of bush/scrub overgrowth. Of the nine trees, eight (8) have been identified as "Exempt" and can therefore be removed without Council approval. One of the trees is a native canopy tree that is identified as being in poor health and is of low significance, and is recommended for removal by the applicants Arborist.

Council's Landscape Officer also raises no objection to the proposed tree removal for the reason stated above. It is considered that upon completion of the development, a more cohesive and mature landscaping of the site will occur, which will be significantly better (in terms of quantum, quality and variety) than the existing vegetation on site.

Second Public Exhibition

The second round of exhibition attracted no new submissions.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p>The proposal was presented to the DSAP on 25 November 2021.</p> <p>Generally, the panel were supportive of the character, bulk and scale, layout and design of the proposal. A number of recommendations were made by the Panel, which are detailed in the attached DSAP Report.</p> <p>The applicant made the following amendments in response to the DSAP comments (as shown in red highlights in the plans):</p> <ol style="list-style-type: none"> 1. <i>Bin storage area and hydrant booster relocated to within proximity of the main entrance providing convenient access for the residents and waste contractors.</i> 2. <i>Double bin storage doors replaced with a single 1200mm wide door.</i> 3. <i>The bin storage area has been sized to accommodate 7 x 240 Litres residential bins with a 1m wide isle.</i> 4. <i>Apartment G.01 and the entrance pathway have been reconfigured to address the concern raised by DSAP in relation to the proximity of the entrance pathway to the windows of Bed 3. The reconfiguration and introduction of the courtyard has not only appropriately address privacy but has also facilitated enhance solar access to this apartment through the redistribution of floor space.</i> 5. <i>Direct street access is provided to the front courtyard of Unit G.01 as suggested by DSAP.</i> 6. <i>Apartments 1.01 and 2.01 have been reconfigured to reflect the modified floor plan layout of G.01.</i> 7. <i>The introduction of additional east and west facing fenestration to Apartment 2.01 to enhance cross ventilation and the reconfiguration of the kitchen to enhance circulation.</i>

Internal Referral Body	Comments
	<p>8. <i>A minor increase in the depth of the awning to the balcony of Apartment 201.</i></p> <p>9. <i>An increase in the amount of rooftop PV as suggested by DSAP.</i></p> <p>The applicant advises that the only recommendation that has not been incorporated into the revised plans is in relation to the skylights. The Panels concern was as follows:</p> <p><i>"Skylights to Units 1.02 and 1.03 are inadequate. These should be changed to operable clerestory windows designed to optimise passive shading with appropriate overhangs and/or shading devices. It would appear quite easy to achieve this given the blank walls of Bedrooms 1 and 3 in Unit 2.01."</i></p> <p>The current design, which incorporates skylights for both units, is considered satisfactory.</p>
Building Assessment - Fire and Disability upgrades	<p>Supported, with conditions</p> <p>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 (Acid Sulphate)	<p>Supported, with conditions</p> <p>Detailed site investigation describes a low risk of acid sulfate soils (ASS) being present at the site. Given the "Class" (4) of the site, and the extent of the excavations, the results of the soil samples demonstrate:</p> <ul style="list-style-type: none"> · a (close to) neutral pH in field, unlikely presence of ASS; · $pH_{FOX} > 4.4$, unlikely PASS (potential Acid Sulfate Soils); yet · the difference between pH_F and pH_{FOX}, being > 1, may indicate the presence of PASS (Potential Acid Sulfate Soils). <p>Given that sand is the predominant soil beyond 0.5 BGL, we have only minor concern of PASS presence and support the development proposal with a condition.</p>

Internal Referral Body	Comments
Environmental Health (Contaminated Lands)	<p>Supported, with conditions Proposal is supported. Detailed site investigation demonstrates some contaminants that to be removed from the site by way of remediation according with standard industry practices and relevant legislation e.g. SEPP 55, Contaminated Land Management Act 1997, waste regulations and asbestos removal guidelines.</p>
Landscape Officer	<p>Supported, with conditions This application is for the demolition of an existing residential dwelling, and the construction of a new housing development for seniors or people with a disability. The proposed development comprises of five three-bedroom apartments, with underground parking and new landscape works.</p> <p>Councils Landscape Referral section has assessed for compliance with the following relevant controls and policies:</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability), 2004 - <i>Clause 33 Neighbourhood amenity and streetscape</i>; and <i>Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings</i>, • Seniors Living Policy - Urban Design Guidelines for Infill Development - <i>Clause 2 Site Planning and Design</i>; and <i>Clause 3 Impacts on Streetscape</i>, • Warringah Local Environmental Plan 2011, • Warringah Development Control Plan 2011 - <i>D1 Landscaped Open Space and Bushland Setting</i>; and <i>E1 Preservation of Trees and Bushland Setting</i>. <p>The Statement of Environmental Effects provided with the application notes that a number of existing trees are to be removed as a result of proposed works, and for this reason, an Arboricultural Impact Assessment has been provided.</p> <p>This Arboricultural Impact Assessment has identified a total of nine trees, all of which are located within the site boundaries and are proposed to be removed. Majority of the existing trees within the site are located along the eastern boundary, largely towards the rear of the site. It is noted that an additional two trees located towards the southern boundary at the rear of the site are shown on the Site Survey, however these have not been assessed by the Arboricultural Impact Assessment as they have previously been removed. Of the nine trees identified in the Arboricultural Impact Assessment, eight trees, Trees No. 1, 2, 3, 4, 5, 6, 8 and 9, have been identified as being exempt either due to height, species or being dead, and can therefore be removed without Council's approval. The remaining tree, Tree No. 7, is a native canopy tree that has been identified as being in poor health with low landscape significance and a short useful life expectancy, and for this reason has been proposed to be removed. Due to the current condition of this tree, and that the Landscape Plan</p>

Internal Referral Body	Comments
	<p>has proposed several replacement tree plantings, no major concerns are raised with its proposed removal. It is further noted that a number of additional trees are located outside of the site boundaries in adjoining properties, however these appear to be largely clear of proposed works and not are not anticipated to be negatively impacted. The retention of these trees is vital to satisfy control E1, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", "to effectively manage the risks that come with an established urban forest through professional management of trees", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".</p> <p>A Landscape Plan has been provided with the application, with proposed works including the in-ground and on-slab planting of trees, shrubs, accents, grasses and groundcovers.</p> <p>Generally, the proposed landscape works appear to be beneficial as it is evident proposed works seek to enhance the landscape amenity of the site, whilst ensuring compensatory canopy trees are incorporated to replace those trees removed. In addition, the significant planting in the side and rear setbacks, alongside the use of on-slab planters with spill over planting, provides valuable built form mitigation and softening, particularly when viewed from neighbouring properties. To further reinforce the proposed planting scheme and mitigate the bulk and scale of the built form, it is recommended that an additional tree be incorporated into the front setback, alongside those already proposed, adjacent to the pedestrian entryway in the north-west corner of the site. This is particularly important considering the proposed works seek to increase the overall scale and height of the built form when compared to that of the existing dwelling. Slight concern is also raised with some of the proposed plant species, specifically the use of <i>Rhaphiolepis indica</i> 'Snow Maiden' as this has been identified as an environmental weed and is therefore considered undesirable. For this reason, it is recommended that this be substituted for a native alternative. Moreover, slight concern is raised with the use of <i>Elaeocarpus reticulatus</i> not because of the species, rather the mature height of this tree and its potential to further impact solar access on the adjoining properties to the east. For this reason, it is recommended that this tree be substituted for a smaller tree or shrub, providing greater solar access to the adjoining property, whilst simultaneously providing built form mitigation and valuable privacy screening. Rather than the need for the applicant to re-submit an amended Landscape Plan, the need for the above species change can be addressed through conditions of consent. The completion of these landscape works, inclusive of the required species change, is necessary to satisfy control D1, as key objectives of this control include "to enable planting to maintain and enhance the streetscape", "to provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the dwelling", as well as "to enhance privacy between buildings".</p>

Internal Referral Body	Comments
	<p>In terms of the State Environmental Planning Policy (Housing for Seniors or People with a Disability), 2004, with respect to <i>Clause 33 Neighbourhood amenity and streetscape</i>, development should, according to sub-clause (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, sub-clause (f) retain, wherever reasonable, major existing trees, and, sub-clause (g) be designed so that no building is constructed in a riparian zone. In addition, with respect to <i>Clause 34 Visual and acoustic privacy</i>, development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by (a) appropriate site planning, the location and design of window and balconies, the use of screening devices and landscaping. Upon further review of the proposal, it is evident that sub-clause (e) of Clause 33 has been satisfied, as the proposed landscape scheme seeks to utilise a variety of locally native canopy trees, alongside shrubs and understorey planting that relate to the broader landscape character of the locality, whilst being sympathetic to those in the immediate vicinity. Sub-clause (g) has not directly been satisfied as the proposal seeks to remove all trees within the boundary, however, as these trees have been identified as exempt and are not significant in nature, no major concern is raised. Similarly, sub-clause (g) has indirectly been satisfied as proposed works are not located within a riparian zone. The landscape component of Clause 34 has also been fulfilled, as the Landscape Plan demonstrates significant screen planting is to be incorporated on the ground floor along each boundary, as well as in raised on-slab planters on the first and second floors to prevent overlooking of neighbouring properties.</p> <p>Additionally, under the State Environmental Planning Policy (Housing for Seniors or People with a Disability), 2004, with respect to <i>Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings</i>, a consent authority must not refuse consent to the development application made pursuant to this chapter for carrying out of development for the purpose of self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds: (c) landscaped area if - (i) in the case of a development application made by a social housing provider - a minimum 25 square metres of landscape area per dwelling is provided, or (ii) in any other case - a minimum 30% of the area of the site is to be landscaped, (d) deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres. The Landscape and Architectural Plans provided illustrate a total landscape area of 30%, of which 19% is deep soil. This is compliant with the minimum requirements outlined in sub-clause (c) (ii) and (d), with a significant area dedicated to deep</p>

Internal Referral Body	Comments
	<p>soil planting. A large portion of the rear setback has been dedicated a deep soil zone, with a minimum dimension of approximately 3 metres at its smallest, and 4 metres at its largest. In addition, a large deep soil zone has also been allocated within the front setback. This area provides valuable deep soil area to establish large canopy trees which are necessary to mitigate and soften the bulk and scale of the dwelling. Considering the above information, the proposal appears to be compliant against the State Environmental Planning Policy (Housing for Seniors or People with a Disability), 2004.</p> <p>Furthermore, with relation to the Seniors Living Policy 'Urban Design Guidelines for Infill Development', the objectives of this policy are largely synonymous with that of the State Environmental Planning Policy. The two primary clauses that relate to landscape include <i>Clause 2 Site Planning and Design</i>; and <i>Clause 3 Impacts on Streetscape</i>. The objectives of Clause 2 include "to retained existing natural features of the site that contribute to the neighbourhood character", "to provide high levels of amenity for new dwellings", "to maximise deep soil and open space for mature tree planting, water percolation and residential amenity" as well as "to minimise the physical and visual dominance of car parking, garaging and vehicular circulation". The key objectives of Clause 3 include "to minimise impacts on the existing streetscape and enhance its desirable characteristics", "to ensure that new development, including the built form, front and side setbacks, trees, planting and front fences, is designed and scaled appropriately in relation to the existing streetscape". As discussed above, the proposed landscape works seek to compensate tree removal with the planting of new native canopy trees, as well as improve the overall amenity of the site through the implementation of layered planting to enhance the privacy of the site and its immediate neighbours. For this reason, the proposal appears to be compliant and achieve the key objectives of this design policy.</p> <p>The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape plans provided, inclusive of the required species changes.</p>
NECC (Coast and Catchments)	<p>Supported, with conditions</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act 2016; • State Environmental Planning Policy (Coastal Management) 2018 (clauses 14 & 15); and • Relevant LEP and DCP clauses. <p>The application meets the requirements of the relevant Environmental Planning Instruments and policies.</p>
NECC (Development Engineering)	<p>Not Supported</p>

Internal Referral Body	Comments
	<p>Updated Comments 4/3/22</p> <p>An assessment of the Overland Flood Report and amended architectural plans, the Woolacotts Flood report has confirmed that the 1 in 100 AEP level is 4.73m AHD. This is derived from the ponding level at the intersection of Alexander Street and Pittwater Road and aligns with Councils flood mapping from the Council LGA study. The Woolacotts report has two recommended options as follows:</p> <p>Option 1 – Flood Gate</p> <p><i>Install flood gates to the entry points at all site access openings. The top of flood gate is to be equal to the Flood Planning Level (FPL).</i></p> <p><i>As detailed within Northern Beaches Council Local Environment Plan (LEP) 2011, The Flood Planning Level (FPL) is considered as the 1% AEP top water level +</i></p> <p><i>500mm freeboard. Based on the ponding external to the site within the intersection, we consider the FPL for the proposed site as RL 4.73.</i></p> <p><i>The architectural plans prepared PBD Architects with revision B dated 17/02/2022 are deemed acceptable in terms of appropriately addressing the flood impacts.</i></p> <p>Option 2 – Ground Floor Levels</p> <p><i>The ground floor level of the proposed development is to be raised equal to the FPL (RL 4.73).</i></p> <p><i>To ensure protection of the proposed development from the risk of inundation from</i></p> <p><i>localised overland flow, the proposed retail and habitable floor levels are to be a</i></p> <p><i>minimum +150mm above the highest adjacent existing boundary level, and no less than the FPL detailed above.</i></p> <p><i>A DRAINS analysis is undertaken to determine whether the proposed system has sufficient capacity.</i></p> <p>Comments: The fundamental issue with option one is that as the amended architectural plans detail the FFL of ground floor unit one as RL 2.78 which does not comply with the flood controls as outlined in</p>

Internal Referral Body	Comments
	<p>Section E11 of the WDCP 2011 which require in clause C1 all new floor levels to be at or above the FPL and or the PMF. The plans detail flood gate protection to this unit which is not in accordance with the DCP controls. Option two may be acceptable to Council.</p> <p>The recently LEC approved development (DA2020/1453) at 4 Collaroy Street & 1 Alexander street has all habitable unit floor levels well above the FPL.</p> <p>Additionally, the flood report has not addressed clauses A1 and A2 that requires demonstration that there are no adverse impacts of the development on flood levels , no adverse impacts on surrounding properties and no net loss of flood storage.</p> <p>Also Council require the submission of the DRAINS hydrological/hydraulic model for review as referenced in the Woolocotts flood report.</p> <p>The application is not supported.</p> <p>Comments 7/2/22</p> <p>The proposed stormwater report prepared by C & M consulting engineers was reviewed and the following further information is required:</p> <ol style="list-style-type: none"> 1) Submission of a stormwater drainage plan detailing the provision of On Site Detention in accordance with Council water management policy for development. 2) Submission of a DRAINS model for Council review including design summary parameters. Please note the pre existing condition is to be set at state of nature. <p>Additionally Councils overland flow mapping indicated the property is affected by overland flow and as such a Overland flow hydrological/hydraulic study is to be provided in accordance with the design parameters and relevant chapters of Australian Rainfall and Runoff 2019. Councils preferred model is DRAINS and the study is also to be in accordance Councils Water Management Policy for Development.</p>
NECC (Water Management)	<p>Supported, with conditions</p> <p>The application meets the minimum requirements of the relevant Environmental Planning Instruments and policies.</p> <p>Stormwater harvesting (rainwater tanks) and reuse for irrigation of the landscape area is highly recommended.</p>

Internal Referral Body	Comments		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	The proposal has been referred to Heritage as the subject property adjoins a heritage item		
	<p>Item I22 - Collaroy Cinema (facades and interiors) - 1097 Pittwater Road, Collaroy</p>		
	Details of heritage items affected		
	Details of the item as contained within the Warringah inventory is as follows:		
	<p><u>Statement of Significance</u> A rare surviving example of an inter-war art deco cinema. Displays high integrity of fabric & use. One of few operating art deco cinemas in Sydney. Historically provides evidence of the early recreational & social role of the Collaroy commercial area.</p>		
	<p><u>Physical Description</u> Smooth rendered masonry cinema building with high stepped parapet and "streamlined" decorative detailing. Building curves around the corner. Corrugated iron roof. Prominent cinema sign, similar to original.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register		
RAIA Register of 20th Century Buildings of Significance	No		
Other	N/A		
Consideration of Application			
<p>The proposal seeks consent for a new part 2 and part 3 storey seniors living development. The heritage item is located immediately to the east of the site at the corner of Alexander Street and Pittwater Road. The heritage item has a detailed presentation to these streets and a plain rear presentation towards the subject site.</p>			
<p>The proposal has adopted a much larger setback to Alexander Street than the heritage item which has a nil setback. This larger</p>			

Internal Referral Body	Comments
	<p>front setback is supported by Heritage as it reduces visual impact to the heritage item from the east and west as well as allows room for some landscaping to soften the new development. It is noted that there is a partial three storey component to the development however it is setback further into the site and its proposed roof heights remain below the main roof height of the heritage item. This means the new upper most level wont be visible from the east above the heritage item and Heritage raises no objections to this component.</p> <p>The proposal also a large eastern setback at the front of the site where it adjoins the heritage item due to the proposed driveway and the irregular lot subdivision (Lot B in DP 379308). This approach is supported by Heritage as it means there is sufficient space afforded to the item and the building bulk has been pulled away from it.</p> <p>Lastly Heritage notes that the overall design of the building has picked up some design element from the Art Deco styling of the heritage item, particularly in the rounded corners and horizontal lines in the concrete. Heritage raises no objections to this approach.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of WLEP.</p> <p>Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p> <p>Further Comments</p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 9 October 2021</p>
Traffic Engineer	<p>Supported, with conditions</p> <p>The proposed development involves the demolition of the existing dwelling house on site and the construction of a new seniors living residential development, comprising a total of 5 x three (3) bedroom dwellings.</p> <p>Traffic:</p> <ul style="list-style-type: none"> · Traffic generation as per the updated TfNSW traffic generation guidelines TDT 2013/04a: <ul style="list-style-type: none"> - 0.4 peak hour vehicle trips per dwelling. $0.4 \times 5 = 2$ vehicle trips / peak hour

Internal Referral Body	Comments
	<ul style="list-style-type: none"> - Existing traffic generation about 1 vehicle/hour - Therefore nett increase in traffic due to the development = 2-1= 1 vehicle /hour <p>Traffic impact is not significant.</p> <ul style="list-style-type: none"> · Demolition and Construction Traffic Management Plans are required. <p>Public transport availability</p> <p>Available on Pittwater Road about 180 m from the subject site.</p> <p>Parking:</p> <ul style="list-style-type: none"> · Required <ul style="list-style-type: none"> - As per SEPP 0.5 space / bedroom, So required number of spaces = 0.5 X 15 = 7.5 · Provided: <ul style="list-style-type: none"> - Proposing 9 spaces. Includes 7 accessible compliant parking and 2 spaces with a 3.8m width. <p>Parking requirements are satisfied.</p> <p>Access and circulation swept paths:</p> <ul style="list-style-type: none"> · Access: <ul style="list-style-type: none"> - Vehicular access to the basement parking area is provided via a new driveway located off Alexander Street. - The driveway width is 3.6 m. - Exit/Entry in a forward direction

Internal Referral Body	Comments
	<ul style="list-style-type: none"> · Swept paths <ul style="list-style-type: none"> - Not provided. Swept paths are required and need to be provided by considering accessible vehicle standards. <p>Pedestrian safety: Vehicular entry and building entry are separated.</p> <p>No safety concerns.</p> <p>Servicing: Normal domestic waste collection applies. On-street waste collection is deemed acceptable.</p> <p>Ongoing</p> <p>All facilities should be maintained throughout the lifetime of the project.</p> <p>Conclusion Given the above, the development proposal can be approved with conditions.</p>
Waste Officer	<p>Waste Management Assessment</p> <p>Recommendation – Refusal. The resolution of the following waste issues will be reported to the Panel separately.</p> <p>This proposal does not comply with Northern Beaches Council’s Waste Management Guidelines. To comply with these guidelines the following requirements must be met.</p> <p>Specifically - Chapter 4 – Ongoing Waste management for three or more dwellings, including:</p> <p>Residential waste storage room design and access</p> <p>Access to the bin storage room is to be a flat, smooth path with a non-slip surface (concrete is good) with a maximum gradient of 1 in 8.</p> <p>Any doors fitted on the waste storage area, pathway and access must be:</p>

Internal Referral Body	Comments
	<p>a) Able to be latched in an open position for servicing without obstructing access and manoeuvring of bins</p> <p>b) Unobstructed by any locks and security devices</p> <p>c) Openable in an outward direction.</p> <p>The doors to the bin storage area must not open in the path of pedestrians or service staff accessing the bin storage area.</p> <p>To improve access, the applicant may choose to:</p> <ul style="list-style-type: none"> • Replace the double doors that accesses the bin storage area with a single 1200mm wide door that can be latched in the open position to the wall that backs on to the garden providing unobstructed access to service staff needing to manoeuvre bins. <p>Bin Storage and Bin allocation</p> <p>The residential waste storage area must be able to accommodate 7 x 240 litre residential bins: 2 x garbage, 2 x paper recycling, 2 container recycling bins, 1 x vegetation bin. The dimensions for each bin are: · Depth: 750mm · Width: 600mm · Height: 1080mm</p> <p>The room can be designed so that there is an isle a minimum of 1m wide between each row of bins or between a single row of bins and a wall.</p> <p>The current waste storage room configuration requires some bins to be double stacked in the room. Stacked bins are inaccessible to residents wanting to dispose of waste. It is unacceptable for the waste collection staff to have to shuffle bins around to access the bins needed for collection.</p> <p>Bin Room Facilities</p> <p>A tap for washing out the waste storage room is to be provided. The tap must not obstruct aisles, access ways and placement of bins. Wash water to be drained to the garden or sewer.</p> <p>The Waste storage area must not be used to store any other items including bulky goods and can't be used for any other infrastructure including gas meters, water meters, air con plant, etc.</p>

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

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. It has been identified that the site may have some minor contaminates, however Council's Environmental Health officer is satisfied that these can be safely removed as required via condition. In this regard, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined, the proposed development is for the erection of a part-two/part-three storey seniors housing development, comprising five (5) self-contained dwellings and basement car parking.

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 the Development Application stage. This documentation has been submitted by the Applicant.

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 (ADG).

DESIGN REVIEW PANEL

The proposal was reviewed by Council's Design and Sustainability Advisory Panel (DSAP), noting that Council does not have a SEPP 65 Design Review Panel.

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 proportions, architecture and landscape response of the proposal is considered to be contextually appropriate for the site which acts as a transitional barrier between the Local Centre and cinema to the east, and the detached dwellings to the west. In that sense, it is found that the design appropriately responds to the built and legislative context of the land and will positively contribute to the overall neighbourhood character.

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

Whilst the proposed land use is different to the neighbouring low density residential land uses, being a medium density type of development, it must be acknowledged that despite the nature and scale of the

building, a detached dwelling house could be constructed of greater dimensions on the same site. In that respect, the proposal provides significantly greater side and rear setbacks than what is required on the site, and is lesser in height (generally) than what could be constructed under the LEP. The site is also larger than many adjoining properties, which inherently lends itself to accommodate a building larger than those on neighbouring sites.

Given the above, the scale and proportions of the building are assessed as being acceptable. The facade detailing, fenestrations and landscaped solution further enhance the design of the proposal and ensure that the building will be congruous with the streetscape.

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 provision of five (5) apartments on the site is considered to be a reasonable density given the fact that the apartments are all well appointed and generous in size, and given the location of the site being proximate to services, public transport and recreational areas.

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 proposal provides a satisfactory degree of passive sustainability measures, including good solar, cross-ventilation and shading and also includes built sustainable solutions such as water harvesting and photovoltaic cells on the roof.

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, coordinating 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 building is surrounded by landscaping on all sides in a manner which is more formalised than most other buildings in Alexander Street. The quality of proposed landscaping is considered to be high and will enhance the site and the wider streetscape and character. The landscaping will also enhance the quality of accommodation afforded to future residents.

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

As described in the following assessment against the provisions of the ADG, the development will provide a high level of amenity to future occupiers without unreasonably compromising the amenity of neighbours.

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 level of documentation submitted at DA stage is satisfactory and sufficient to show that the building is capable of providing a safe environment for residents and the public.

Principle 8: Housing Diversity and Social Interaction

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

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

Comment

The development is situated in a zone that is dominated by detached dwelling houses, and sits adjacent to a zone that accommodates (inter alia) shop top housing developments. The addition of five (5) x three (3) bedroom apartments is considered to provide diversity commensurate to the dominant housing typology and will afford an appropriate level of social interaction.

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

For the reasons detailed throughout this report, the development as a whole is considered to exhibit a good standard of architecture in terms of its massing, proportions and materiality, will enhance the streetscape and character of the locality, and is of good design that will afford a high level of amenity for future occupants without being to the detriment of existing neighbours.

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 The development is sited appropriately on the land commensurate with the prevailing planning controls and contextually relates to the setbacks and heights of adjacent buildings.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent The development is orientated northwards to the street to optimise solar access within the development and to adjoining properties.
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 proposal has a fence along the front boundary to provide security without creating a sense of enclosure on the public footpath.
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)	Inconsistent (satisfactory on merit) No communal open space is provided in the development, however that shortfall is deemed acceptable because of the generously proportioned private balcony and garden areas, and because of the

developments proximity to the beach and beach reserves.

Deep Soil Zones

Deep soil zones are to meet the following minimum requirements:

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	

Consistent

19%

Visual Privacy

Minimum required separation distances from buildings to the side and rear boundaries are as follows:

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

Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.

Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.

Consistent

At Level 1, the development provides side setbacks of 3.0m and rear setbacks of 12.0m which, when coupled with neighbouring building setbacks, exceed the minimum required separation distances (6.0m).

Unit 1.01 to the front of the building is generally north facing and has hard screening to its flank edges. Units 1.02 and 1.03 to the rear have landscaping and fencing between their flank windows and side boundaries.

Unit 2.01 on the topmost floor of the development has side setbacks of 6m to the west, 8.7m to the east (from primary windows) and 12.9m to the rear (from the outer edge of the

		<p>balcony). These distances are all significantly in excess of the required setbacks under the SEPP, and are significantly greater than the setbacks that would be required under the DCP (0.9m to the sides, and 6.0m to the rear).</p> <p>The south facing balcony from Apartment 2.01 is not considered likely to impact on neighbouring amenity given that it is only accessible from bedrooms, is not the primary outdoor area of the apartment and will have landscape screening.</p> <p>The spatial separation afforded to occupants and neighbours, combined with the building layout and the landscape treatment result in there being no unreasonable visual privacy impacts.</p>
<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>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>Bicycle and Car Parking</p>	<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</p>	<p>Consistent</p>

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.

The car parking needs for a development must be provided off street.

Parking and facilities are provided for other modes of transport.

Visual and environmental impacts are minimised.

Part 4 Designing the Building

Amenity

Solar and Daylight Access

To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:

- 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.

Consistent
 The project architect contends that 100% of the proposed apartments will receive the requisite amount of solar access between 9am and 3pm on the winter solstice.

Concern was raised by Council's DSAP as to whether this was accurate, or whether it was reliant on solar access via skylights (particularly for Units 1.02 and 1.03).

The kitchens and living rooms of these two apartments have windows on both the southern, and eastern and western (respective) facades. Given that the adjacent site to the west accommodates a single storey house, and that the site to the east is undeveloped (commensurate to its potential), the proposal is considered to comply.

In the event that these two neighbouring sites were developed to a similar capacity as this building, it is possible that the level of solar access to this

	<ul style="list-style-type: none"> • A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter. 	<p>building would decrease. However, that decrease is not considered to be tantamount to harming amenity as the units are all generously proportioned and have windows on at least three sides allowing light penetration into the building. The gardens would remain in the sun.</p> <p>The provision of skylights, whilst not considered a primary light source under the ADG, do in reality provide a high level of solar access to ensure that apartments are not dark.</p> <p>Consistent</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>										
Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="440 1675 1062 2139"> <thead> <tr> <th colspan="2">Minimum ceiling height</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30</td> </tr> </tbody> </table>	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	<p>Consistent</p>
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Apartment Size and Layout	<p>Apartments are required to have the following minimum internal areas:</p> <table border="1"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Consistent
	Apartment type	Minimum internal area										
	Studio	35m ²										
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	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Consistent										
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Consistent										
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Consistent										
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Consistent										
Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	Consistent											
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	Consistent											
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Consistent											
Private Open Space and Balconies	All apartments are required to have primary balconies as follows:	Consistent										

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

For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.

Consistent

Common Circulation and Spaces

The maximum number of apartments off a circulation core on a single level is eight.

Consistent

For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

N/A

Storage

In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

Consistent

Dwelling Type	Storage size volume
Studio apartments	4m ²
1 bedroom apartments	6m ²
2 bedroom apartments	8m ²
3+ bedroom apartments	10m ²

At least 50% of the required storage is to be located within the apartment.

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.

Consistent

The proposal includes a secondary bedroom located adjacent to the driveway, and a master bedroom located above the driveway.

It is not anticipated that occupants of the development would come and go in the later hours of the night / morning on such a frequent basis that it would cause a nuisance to future occupiers of other

		apartments. Appropriate sound attenuation through quality windows and landscape buffering are considered sufficient to ameliorate any occasional acoustic nuisance.
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent
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
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Consistent The one ground floor apartment is surrounded by fencing and has a private garden to the front. The driveway and pathway to the site benefit from passive surveillance from other units. It is considered that the apartment achieves an appropriate degree of amenity and safety.
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The building is considered to be a high quality design that appropriately transitions in scale between the heritage listed cinema building and the low-density residential neighbourhood to the west.
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
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Consistent
Planting on	When planting on structures the following are	Consistent

Structures	<p>recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="424 371 1074 1323"> <thead> <tr> <th data-bbox="424 371 536 450">Plant type</th> <th data-bbox="536 371 683 450">Definition</th> <th data-bbox="683 371 799 450">Soil Volume</th> <th data-bbox="799 371 935 450">Soil Depth</th> <th data-bbox="935 371 1074 450">Soil Area</th> </tr> </thead> <tbody> <tr> <td data-bbox="424 450 536 674">Large Trees</td> <td data-bbox="536 450 683 674">12-18m high, up to 16m crown spread at maturity</td> <td data-bbox="683 450 799 674">150m³</td> <td data-bbox="799 450 935 674">1,200mm</td> <td data-bbox="935 450 1074 674">10m x 10m or equivalent</td> </tr> <tr> <td data-bbox="424 674 536 898">Medium Trees</td> <td data-bbox="536 674 683 898">8-12m high, up to 8m crown spread at maturity</td> <td data-bbox="683 674 799 898">35m³</td> <td data-bbox="799 674 935 898">1,000mm</td> <td data-bbox="935 674 1074 898">6m x 6m or equivalent</td> </tr> <tr> <td data-bbox="424 898 536 1122">Small trees</td> <td data-bbox="536 898 683 1122">6-8m high, up to 4m crown spread at maturity</td> <td data-bbox="683 898 799 1122">9m³</td> <td data-bbox="799 898 935 1122">800mm</td> <td data-bbox="935 898 1074 1122">3.5m x 3.5m or equivalent</td> </tr> <tr> <td data-bbox="424 1122 536 1200">Shrubs</td> <td data-bbox="536 1122 683 1200"></td> <td data-bbox="683 1122 799 1200"></td> <td data-bbox="799 1122 935 1200">500-600mm</td> <td data-bbox="935 1122 1074 1200"></td> </tr> <tr> <td data-bbox="424 1200 536 1279">Ground Cover</td> <td data-bbox="536 1200 683 1279"></td> <td data-bbox="683 1200 799 1279"></td> <td data-bbox="799 1200 935 1279">300-450mm</td> <td data-bbox="935 1200 1074 1279"></td> </tr> <tr> <td data-bbox="424 1279 536 1323">Turf</td> <td data-bbox="536 1279 683 1323"></td> <td data-bbox="683 1279 799 1323"></td> <td data-bbox="799 1279 935 1323">200mm</td> <td data-bbox="935 1279 1074 1323"></td> </tr> </tbody> </table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		
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Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features	Consistent																																			
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A The existing building on site does not appear to be in a condition that would warrant it capable of adaptive reuse for a seniors housing development.																																			
Mixed Use	<p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	N/A No mixed use development is proposed.																																			
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design	N/A The proposal does not include any signage or																																			

	and contribute to the identity of the development. Signage must respond to the existing streetscape character and context.	awnings over the public domain.
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent
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
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
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent

STANDARDS THAT CANNOT BE USED TO REFUSE DEVELOPMENT CONSENT

Clause 30 of SEPP 65 Standards that cannot be used as grounds to refuse development consent or modification of development consent states that:

(1) If an application for the modification of a development consent or a development application for the carrying out of development to which this Policy applies satisfies the following design criteria, the consent authority must not refuse the application because of those matters:

- (a) if the car parking for the building will be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide,
- (b) if the internal area for each apartment will be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in Part 4D of the Apartment Design Guide,
- (c) if the ceiling heights for the building will be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Note. The Building Code of Australia specifies minimum ceiling heights for residential flat buildings.

Comment

The development application is not being recommended for refusal on any of these grounds.

(2) Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to:

- (a) the design quality principles, and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria.

(3) To remove doubt:

- (a) subclause (1) does not prevent a consent authority from refusing an application in relation to a matter not specified in subclause (1), including on the basis of subclause (2), and
- (b) the design criteria specified in subclause (1) are standards to which clause 79C (2) of the Act applies.

Note. The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant or modify development consent.

Comment

The development application is not being recommended for refusal on any grounds of the ADG.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1232829M dated 07 September 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0006428810 dated 07 September 2021).

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

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	45	46

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 the construction of five (5) self-contained dwellings for seniors or people with a disability. An assessment against the relevant provisions of SEPP (HSPD) follows.

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 development seeks to provide five high-quality dwellings for seniors or people with a disability on an unusually large parcel of land in an accessible location. Notwithstanding any numerical non-

compliances as discussed later in this report, the premise of the application is supported and on balance the proposal is considered to achieve the aims of the SEPP (HSPD).

Chapter 2 – Key Concepts

Comment

The development is appropriately described as in-fill self-care housing falling under the umbrella term of self-contained dwellings, as permitted under the SEPP (HSPD).

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 development provides satisfactory access to shops, banks and other retail and commercial services as required, as well as community services and recreation facilities, and a GP. The site is proximate to the Collaroy Beach local centre area.	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 400metres away.	The site is located within 400m of a bus stop that is regularly serviced throughout the day and not. The adjoining commercial area also accommodates a number of services and uses that will contribute to the amenity of residents.	YES
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The site is not located within bushfire prone land.	N/A
28	(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or	The site is capable of being connected to a reticulated water system and sewerage infrastructure. Evidence of this infrastructure is detailed on the accompanying survey plan.	YES

Development Criteria			
Clause	Requirement	Proposal	Complies
	disposal of sewage.		
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>	<p>This clause applies as Clause 24 (Site compatibility certificate) does not apply.</p> <p>The site is situated within an urban context comprised by commercial developments to the north and east and low density residential developments to the south and west. The transitional scale of this development in terms of its proportions and density represent an appropriate development for the vicinity given existing uses.</p> <p>The provision of landscaped area is generally consistent with what can reasonably be expected to be provided on adjacent sites.</p> <p>The proposed development, by virtue of its proportions, form and character is not considered likely to prejudice the amenity or development potential of surrounding sites.</p>	YES
PART 3 - Design Requirements – Division 1			
30	A site analysis is provided.	A site analysis is provided in the submitted architectural plans and Statement of Environmental Effects.	YES

Clause 31 Design of in-fill self-care housing

Pursuant to Cause 31 of SEPP 9HSPD), 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 provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* have been taken into consideration in the assessment of the application against the design principles set out in Division 2, Part 3 of SEPP (HSPD). A detailed assessment of the proposal against the requirements of Seniors Living Policy is undertaken hereunder.

Section	Requirements	Comment
1. Responding to context	Built Environment – New development is to follow the patterns of the existing residential neighbourhood in terms of built form.	Proportionately, the subject development site is larger in area than the adjoining residential sites to south and west. Therefore, whilst the scale of the development is

Section	Requirements	Comment
	<p>Policy environment – Consideration must be given to Councils own LEP and/or DCPs where they may describe the character and key elements of an area that contribute to its unique character.</p>	<p>larger than a traditional dwelling house, the land it sits on is also larger, which enables the development to be visually congruous with neighbouring properties. Further, the transitional nature of the site being between a detached house, a heritage listed cinema complex and large shop top housing developments lends itself to accommodating a development of a greater scale than the houses to the west, but a lesser scale than the commercial and residential blocks to the east.</p> <p>The WLEP 2011 and WDCP 2011 do not have any specific locality statements as such, but rather seek to define an appropriate character through the applicable built form controls. An assessment of these factors can be found later in this report under Part B of the WDCP 2011.</p>
<p>2. Site Planning and design</p>	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise the impact of new development on neighbourhood character -Minimise the physical and visual dominance of car parking, garaging and vehicular circulation. 	<p>The proposal is a well-designed residential building integrated within a landscaped setting. The landscaped characteristics of the proposal, combined with the material palette and proportions of the development ensure that any negative impact on neighbourhood character is minimise.</p> <p>The car parking entrance is considered to be appropriately discreet commensurate to other solutions along the street. Parking and circulation is hidden from public view.</p>
<p>3. Impacts on streetscape</p>	<p>Objectives of this section are to:</p> <ul style="list-style-type: none"> -Minimise impacts on the existing streetscape and enhance its desirable characteristics -Minimise dominance of driveways and car park entries in streetscape. 	<p>The primary desirable characteristic of Alexander Street is the landscaped frontages of houses, however this character has somewhat been eroded by the dominance of car parking both within those frontages, and on the street.</p> <p>The design of the development ensures that the frontage of the site is densely landscaped and does not</p>

Section	Requirements	Comment
		provide any car parking within the frontage. In that respect, the proposal enhances the desirable characteristics of the streetscape and minimises the dominance of driveways and car park entries in the streetscape.
4. Impacts on neighbours	The proposal is generally in accordance with the requirements of this section.	The proposal is not found to have any unreasonable impacts on neighbours as expanded upon (where necessary) in the WDCP 2011 section of this report and in the below table against the criterion of Division 2 of the SEPP.
5. Internal site amenity	Objectives of this section are to: - Provide safe and distinct pedestrian routes to all dwellings and communal facilities.	Appropriate internal amenity and circulation is provided for occupants and their guests.

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 the SEPP.

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.	The design recognises the prevalence of landscaping along Alexander Street which contributes to a low-scale and residential appearance.	YES
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that re identified in a local environmental plan.	Whilst the adjacent cinema building is a listed heritage asset (externally and interiors), the western facade of that building facing the site is in poor condition and does not contribute to its heritage value. The development of this site and new landscaping can only enhance the existing facade.	YES
	c. Maintain reasonable neighbour amenity and	The development provides reasonable neighbour amenity and is of an	YES

Control	Requirement	Proposed	Compliance
	<p>appropriate residential character by;</p> <p>(i) providing building setbacks to reduce bulk and overshadowing</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development,</p> <p>(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>appropriate residential character as established elsewhere in this report under the provisions of the Apartment Design Guide pursuant to SEPP 65.</p> <p>The proposed front building line is consistent with the established pattern of buildings in the streetscape, and with Council's DCP.</p> <p>The landscape plan has been assessed as satisfactory and, subject to conditions recommended by Council's Landscape Officer, the planting will be in sympathy with the streetscape.</p> <p>See comments from Council's Landscape Officer.</p> <p>Achieved.</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>
CL34 Visual and acoustic privacy	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p>	<p>The development is considered to provide an acceptable level of visual and acoustic privacy to both occupants of the development itself, and to neighbouring buildings.</p>	<p>YES</p>

Control	Requirement	Proposed	Compliance
	<p>(a) Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>(b) Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>Whilst Apartment 2.01 (the top floor unit) does have a large (30sqm) south facing balcony that looks towards neighbouring properties, that balcony is secondary to the large (50sqm) north facing balcony on the other side of the apartment. The balcony is also only accessible from bedrooms. Further, sightlines from this balcony to neighbouring heights are heavily obscured by existing vegetation, and will be further obscured once the vegetation required to be planted under this consent establishes.</p>	
<p>CL35 Solar access and design for climate</p>	<p>The proposed development should:</p> <p>(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</p> <p>(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>This matter is discussed in greater detail elsewhere in this report under the Apartment Design Guide's assessment criteria but in summary, the proposal is considered to provide acceptable solar access appropriately designed for the climate.</p>	<p>YES</p>
<p>CL36 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>Council's Development Engineers are satisfied with the proposed stormwater solution.</p>	<p>YES</p>
<p>CL37 Crime prevention</p>	<p>The proposed development should</p>	<p>Access to the development is via a secure lobby. The front</p>	<p>YES</p>

Control	Requirement	Proposed	Compliance
	<p>provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>garden areas and access pathways are overlooked by the apartments within the development itself which provide for nature passive surveillance of the surrounding area.</p> <p>The individual apartments can be designed with 'peep holes' in the doors to see who is standing at them.</p>	
CL38 Accessibility	<p>The proposed development should:</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>The site is afforded a reasonably level footpath from its frontage to the Pittwater Road shops, amenity and bus stops. That pedestrian environment is considered to be appropriately safe and comfortable for pedestrians.</p> <p>Internally within the site an adequate provision of safe and easy-to-navigate pedestrian amenity is provided.</p>	YES
CL39 Waste management	<p>The proposed development should be provided with waste facilities that</p>	<p>The waste storage room will provide appropriate recycling facilities as required.</p>	YES

Control	Requirement	Proposed	Compliance
	maximise recycling by the provision of appropriate facilities.		

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	1,199 sqm	Yes
Site Frontage	20 metres	19.81 metres	No (See Clause 4.6 discussion elsewhere in this report)
Building Height	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	Less than 8.0 metres	Yes
	A building that is adjacent to a boundary of the site must not be more than 2 storeys in height	Part-two / Part-three storeys in height adjacent to eastern boundary	No (See Clause 4.6 discussion elsewhere in this report)
	A building located in the rear 25% of the site must not exceed 1 storey in height	The rear 25% of the site only accommodates a portion of the building that is one storey in height, topped with a balcony which is not counted as a storey.	Yes

Clause 41 Standards for hostels and self contained dwellings

In accordance with Clause 41 a consent authority must not consent to a development application made pursuant to Chapter 3 unless the development complies with the standards specified in Schedule 3 for such development. The following table outlines compliance with the principles set out in Schedule 3 of SEPP HSPD.

Control	Required	Proposed	Compliance
Wheelchair Access	If the whole site has a gradient less than 1:10, 100% of the dwellings	Capable of complying as secured via condition.	YES

Control	Required	Proposed	Compliance
	<p>must have wheelchair access by a continuous path of travel to an adjoining public road. If the whole of the site does not have a gradient less than 1:10 the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10 or 50% whichever is the greater.</p>		
Security	<p>Pathway lighting (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) Must provide at least 20 lux at ground level</p>	<p>Capable of complying as secured via condition.</p>	<p>YES</p>
Letterboxes	<p>Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel, and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry.</p>	<p>Capable of complying as secured via condition.</p>	<p>YES</p>
Private car accommodation	<p>(a)Carparking space must comply with AS2890 (b)One space must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power operated door or there must be a power point and an area for motor or control rods to enable a</p>	<p>Capable of complying as secured via condition.</p>	<p>YES</p>

Control	Required	Proposed	Compliance
	power operated door to be installed at a later date.		
Accessible entry	Every entry to a dwelling must comply with Clause 4.3.1 and 4.3.2 of AS4299	Capable of complying as secured via condition.	YES
Interior general	Widths of internal corridors and circulation at internal doorways must comply with AS1428.1.	Capable of complying as secured via condition.	YES
Bedroom	At least one bedroom within each welling must have: (a) An area sufficient to accommodate a wardrobe and a queen size bed (b) A clear area for the bed of at least 1200 mm wide at the foot of the bed and 1000mm wide beside the bed between it and the wall, wardrobe or any other obstruction. (c) Power and telephone outlets and wiring described in Clause 8 of Schedule 3.	Capable of complying as secured via condition.	YES
Bathroom	The bathroom is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of complying as secured via condition.	YES
Toilet	The toilet is to comply with the requirements described in Clause 9 of Schedule 3.	Capable of complying as secured via condition.	YES
Surface finishes	Balconies and external paved areas must have slip resistant surfaces.	Capable of complying as secured via condition.	YES
Door hardware	Door handles and hardware for all doors must be provided in accordance with AS4299.	Capable of complying as secured via condition.	YES
Ancillary items	Switches and power points must be provided in accordance with	Capable of complying as secured via condition.	YES

Control	Required	Proposed	Compliance
	AS4299.		
Living & dining room	A living room must have a circulation space in accordance with Clause 4.7.1 of AS4299, and a telephone adjacent to a general power outlet. Also a living and dining room must have a potential illumination level of at least 300 lux.	Capable of complying as secured via condition.	YES
Kitchen	The kitchen must comply with the requirements of Clause 16 of Schedule 3	Capable of complying as secured via condition.	YES
Access to kitchen, main bedroom, bathroom & toilet	The kitchen, main bedroom, bathroom and toilet must be located on the entry level.	Capable of complying as secured via condition.	YES
Laundry	The laundry must comply with the requirements of Clause 19 of Schedule 3.	Capable of complying as secured via condition.	YES
Storage	A self-contained dwelling must be provided with a linen storage in accordance with Clause 4.11.5 of AS4299	Capable of complying as secured via condition.	YES
Garbage	A garbage storage area must be provided in an accessible location.	Capable of complying as secured via condition.	YES

Part 5 Development on land adjoining land zoned primarily for urban purposes

This part is not applicable to the subject site.

Part 6 Development for vertical villages

This part is not applicable to the proposed development.

Part 7 Development standards that cannot be used as grounds to refuse consent

Clause 46 Inter relationship of Part with design principles in Part 3

Clause 46 of SEPP HSPD states that nothing in Part 7 permits the granting of consent pursuant to the Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

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

dwellingings

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	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below)	The development has a building height (measured from the underside of the topmost level ceiling to the ground level immediately below) of less than 8.0 metres.	YES
Density and Scale	0.5:1	0.65:1.	NO
Landscaped Area	30% of the site area is to be landscaped	The site provides a landscaped area of 365sqm, equivalent to 30% of the site area.	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.	The site provides a deep soil zone of 230sqm equivalent to 19.1% of the site area. Two thirds of deep soil zones are located to the rear of the site.	YES
Solar Access	Living rooms and private open spaces for a minimum of 70% of the dwellingings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter	This matter is discussed in greater detail elsewhere in this report under the Apartment Design Guides assessment criteria. In summary, the proposal is considered to provide acceptable solar access appropriately designed for the climate. The proposal is not being recommended for refusal on this basis.	YES
Private Open Space	(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in	Each dwelling is afforded significant private open space in the forms of balconies, terraces and gardens,	YES

Control	Required	Proposed	Compliance
	<p>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</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (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</p>	<p>varying from 31sqm to 199sqm.</p>	
Parking	<p>(i) 0.5 car parking spaces for each bedroom where the development application is made by a person other than a social housing provider.</p>	<p>15 bedrooms provided requiring eight car parking spaces. Nine spaces provided.</p>	<p>YES</p>
Visitor Parking	<p>None required if less than 8 dwellings</p>	<p>Five dwellings proposed.</p>	<p>N/A</p>

STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

Since the lodgement of this development application on 7 October 2021, the new State Environmental Planning Policy (Housing) 2021 ("Housing SEPP") was adopted and supersedes the SEPP (HSPD).

The new Housing SEPP includes standards for seniors housing development, however as the application was lodged prior to the coming into force of the new instrument (being 26 November 2021) a savings provision pursuant to Schedule 7 states that the former provisions of a repealed instrument (being the SEPP (HSPD)) continue to apply.

Accordingly, an assessment against the provisions of the Housing SEPP is not required in this instance.

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 proposal was referred to Ausgrid who raised no objections and provided no requirements.

Transport for NSW (TfNSW)

Clause 104 and Schedule 3 of the SEPP requires that the following development(s) are referred to the RMS as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Apartment or residential flat building	300 or more dwellings	75 or more dwellings

Note: Under Clause 104(2) of the SEPP, 'relevant size of capacity' is defined as meaning:

“(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road - the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection - the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.”

Comment

TfNSW has reviewed the application and raises no objection to the application as it is unlikely to have a significant impact on the classified road network.

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

14 Development on land within the coastal use area

- (1)
 - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*
 - (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
 - (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment

The proposed development does not change any existing access arrangements to Collaroy Beach and will not be visible from the ocean. The development does not overlook the beach nor will it overshadow the beach. The development is not considered likely to have any impacts on coastal processes or the users of the beach.

As such, it is considered that the application complies with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Warringah Local Environmental Plan 2011

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings*	8.5m	Parapet: 8.5m	-	Yes

		Lift overrun: 9.0m	0.5m	No*
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*Note: Clause 50 of the SEPP (HSPD) prevails over Clause 4.3 of the WLEP 2011 and provides for a maximum building height of 8.0m (measured to the underside of the top-most ceiling).

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.6 Exceptions to development standards	Yes
5.3 Development near zone boundaries	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

4.6 Exceptions to development standards

SEPP (HSPD) CLAUSE 40(3) ASSESSMENT

Clause 40 of SEPP (HSPD) incorporates Development Standards pertaining to minimum sizes and building height for seniors housing developments.

Of note in this Clause is subclause (3) which reads:

(3) Site Frontage: *The site frontage must be at least 20 metres wide measured at the building line.*

The proposed development breaches this development standard as the width of the site frontage measured at the building line is 19.81m ,which herein is the subject of this Clause 4.6 exception assessment:

Development Standard:	SEPP (HSPD) cl.40(3)
Requirement:	The site frontage must be at least 20 metres wide measured at the building line
Proposed:	19.81 metres
Percentage Variation to Requirement:	0.95% or 0.19 metres

Assessment of Request to Vary a Development Standard

The following assessment of the variation to SEPP (HSPD) Clause 40(3) development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to Development Standards

(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

SEPP (HSPD) Clause 40(3) 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:

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

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

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (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 as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the

development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) 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.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are 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.

The applicants written request argues, in part:

- that the objectives and purposes of the standard are achieved.
- that the proposal complies and exceeds the requirements of the setback controls under the WDCP 2011.
- that strictly enforcing compliance with the control would not promote the orderly or economic development of the land.
- that by allowing the variation to be approved, Council will be promoting good design of seniors housing in an appropriate location.

The grounds raised by the applicant are concurred with and it is assessed that the 190mm variation

sought will not be discernible and will have no adverse impact. The site widens to 24.0m where adjacent to shop top housing developments to the east which provides a spatial separation far greater than what is required under the DCP (0.9m).

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

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).

Therefore, Council is 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 SEPP (HSPD) Clause 40(3) development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of the Development Standard

SEPP (HSPD) Clause 40(3) does not contain any specific objectives pertaining to the requirements of the control. It can only be assumed that the intent of the control is to ensure that development denser than a single dwelling house is on a site wide enough to cater for the access and services required for such a facility. The prescribed width could also be assumed as necessary to ensure that the side boundary setbacks of the development are compatible with and congruous to those of adjoining dwelling houses.

In the absence of any specific objectives or any comparable objectives, it is concluded that the proposed variation achieves the assumed intent of the standard.

Zone Objectives

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

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

Comment

The development provides for five (5) new dwellings on a large lot and is surrounded by a landscaped curtilage. Notwithstanding the variation sought to Clause 40(3), the proposal

maintains a low density appearance and is contextually compatible with the street.

It is considered that the development satisfies this objective.

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

Comment

The proposal provides for residential accommodation in a residential zone. The proposed apartments and site provide sufficient services and facilities to cater for the day to day needs of residents.

It is considered that the development satisfies this objective.

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

Comment

The development provides an appropriate provision of well designed landscaping and has a compliant degree of open space and deep soil zones in accordance with the SEPP that will enhance the site and the overall street, and will over time, partially screen the development from public view.

It is considered that the development satisfies this objective.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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 PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, 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 the SEPP (HSPD) cl. 40(3) Development Standard is assumed by the Local Planning Panel.

SEPP (HSPD) CLAUSE 40(4)(b) ASSESSMENT

Clause 40 of the SEPP (HSPD) incorporates Development Standards pertaining to minimum sizes and building height for HSPD developments.

Of note in this Clause is subclause (4)(b) which reads:

(4) Height in zones where residential flat buildings are not permitted If the development is

proposed in a residential zone where residential flat buildings are not permitted—

.....

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must not be more than 2 storeys in height

note: The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

Development Standard:	SEPP (HSPD) cl.40(4)
Requirement:	No more than two storeys in height adjacent to a boundary
Proposed:	Part two / Part three
Percentage Variation to Requirement:	100% (one storey)

Below are two figures taken from the applicant's Clause 4.6 variation request which show (with red bolded line) the portion of buildings adjacent to a boundary that are more than two storeys in height:

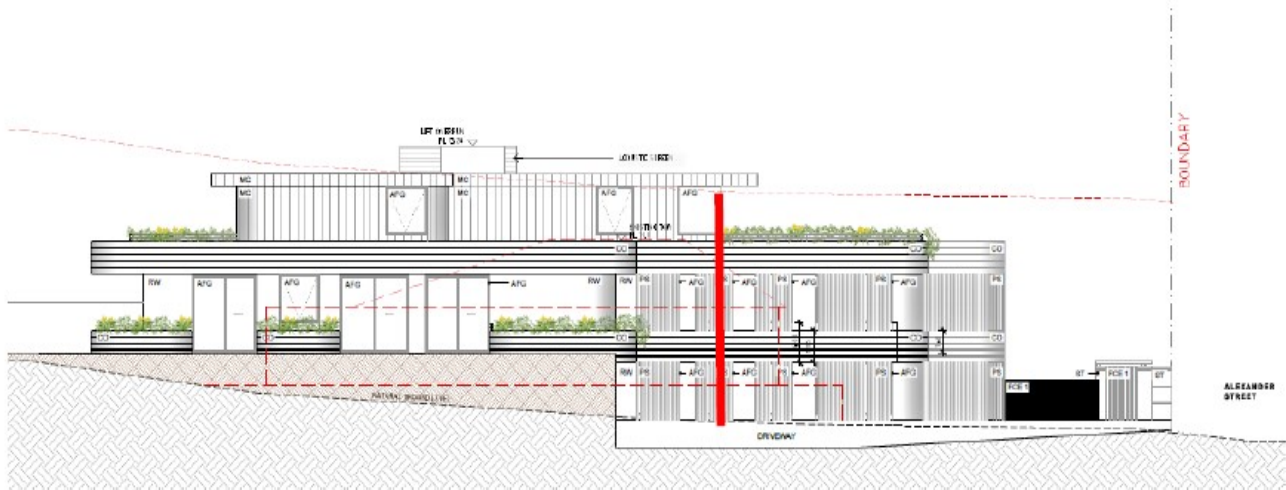


Figure 1 - Plan extract showing the 3 storey building height as viewed from the east

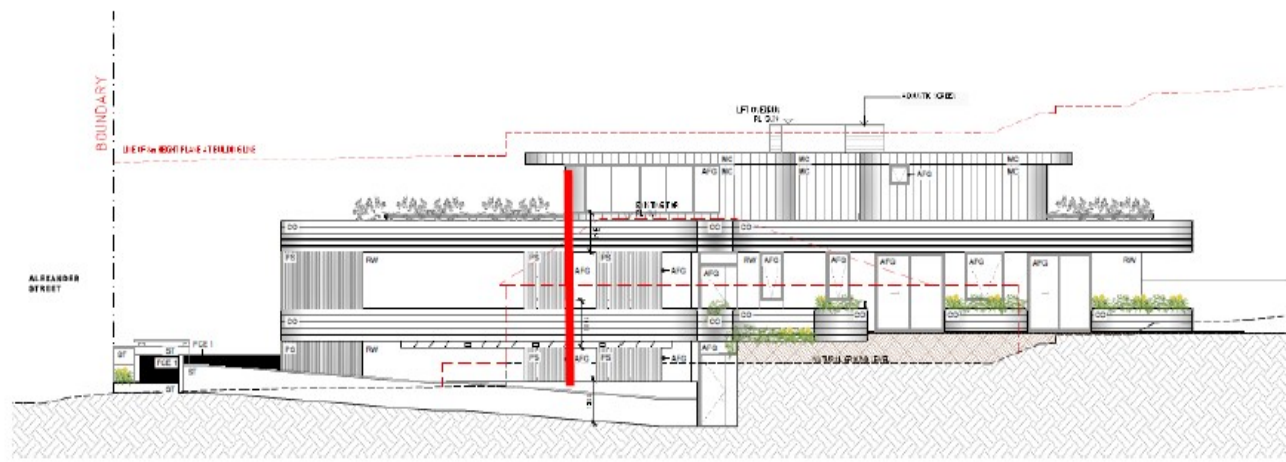


Figure 2 - Plan extract showing the 3 storey building height as viewed from the west

Assessment of Request to Vary a Development Standard

The following assessment of the variation to SEPP (HSPD) Clause 40(4)(c) development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to Development Standards

- (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:

SEPP (HSPD) Clause 40(4)(c) 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:

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

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

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

(a) the consent authority is satisfied that:

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

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

(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 as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) 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.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are 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.

The applicants written request argues, in part:

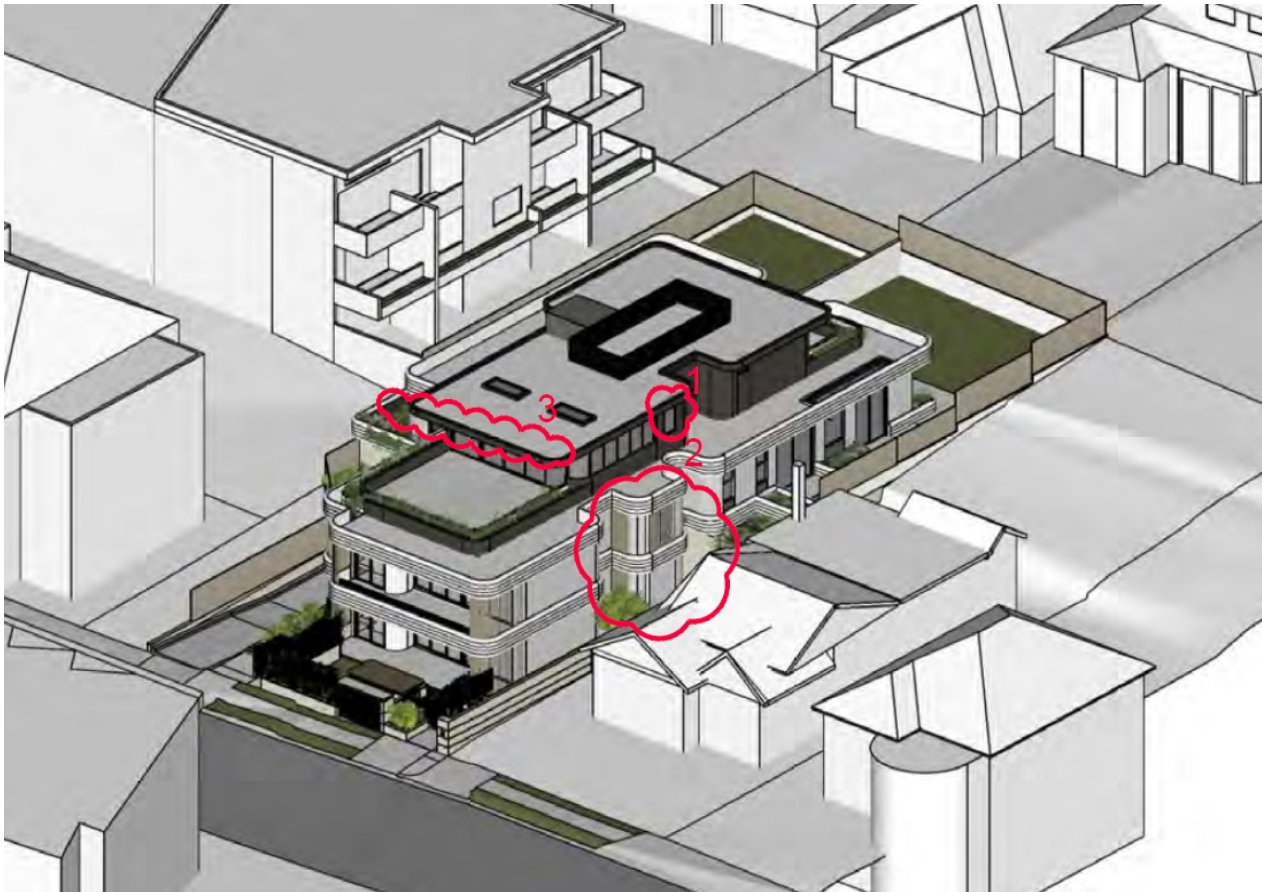
- that the objectives and purposes of the standard are achieved.
- that the underlying purpose of the standard is not relevant to the development.
- that the proposal complies with the setback controls under the WDCP 2011.
- that the building height (except for the liftshaft) complies with the WLEP 2011.
- that the WDCP 2011 does not contain a storey limit control. A three storey dwelling could be constructed on the site.
- that the non-compliance is not directly attributable to any impacts on adjacent land.

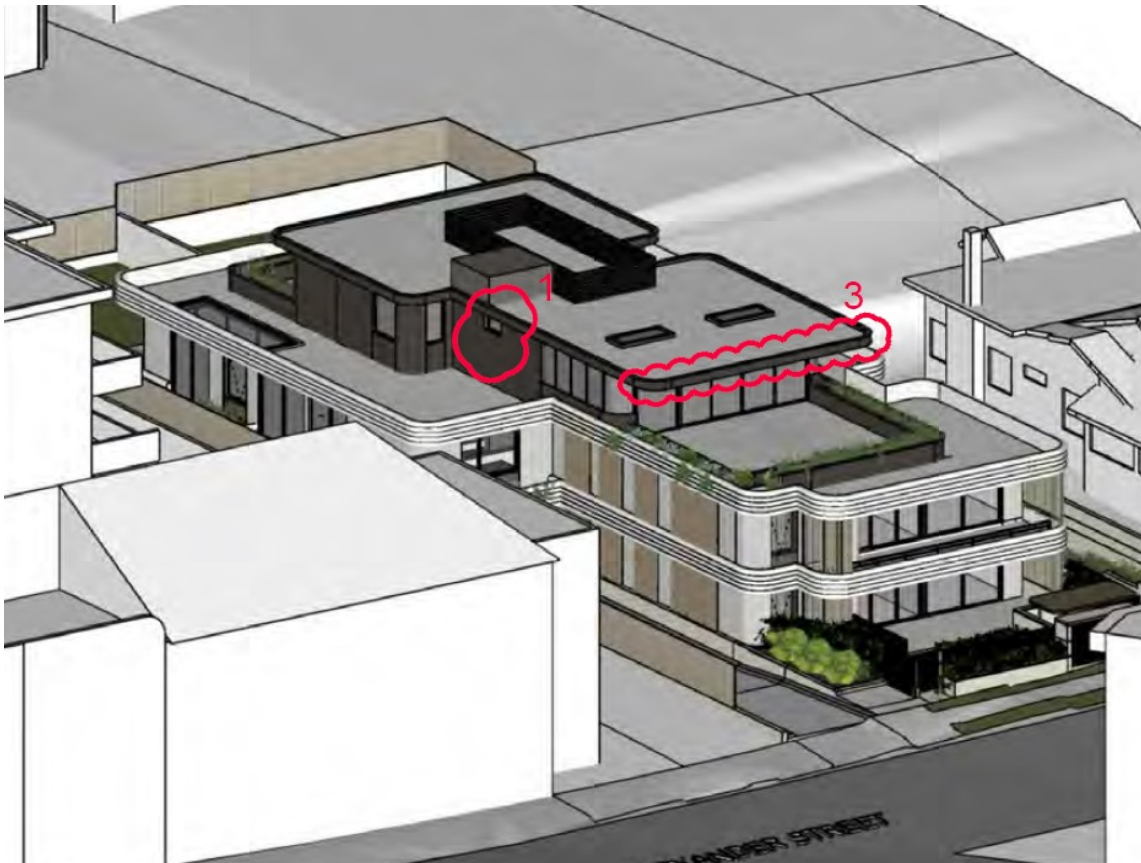
The topmost floor of the proposed development is the offending portion of the building with respect to cl.40(4)(b). That floor is stepped in from the outer edges of the floor below and finished with a different facade material to visually break up the building. The extent of areas where the building is perceived as three (3) storeys when adjacent to a boundary is relatively minor compared to the totality of the building. It is concurred with that there is no meaningful planning reason to ensure compliance with the control is maintained as the building is well designed and set off the boundaries significantly greater than what is required.

The building does not appear to have an abrupt change in height. The change in height is negotiated

sensibly with the topography of the land, materiality and terraces.

For clarity, the submitted 'birds eye shadow diagram' provides a good three dimensional depiction of the offending elements (NB: red highlights are not relevant to this discussion):





In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

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).

Therefore, Council is 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 SEPP (HSPD) Clause 40(4)(b) development standard and the objectives of the R2 Low Density Residential zone. An assessment against these objectives is provided below.

Objectives of the Development Standard

SEPP (HSPD) Clause 40(4)(b) does not contain any specific objectives pertaining to the requirements of the control. The control states that "[T]he purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape."

In the absence of any specific objectives, it has been determined that an assessment of the proposal against the underlying objectives of the Clause 4.3 Height of Building development standard is necessary, as it is the most relevantly aligned development standard pertaining to height.

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

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

Comment:

The proposed development predominantly appears as a two (2) storey structure around the perimeter of the building with a recessed third floor. The architectural typology of the proposal is consistent with a typology that could be expected to be found in a residential street.

The height of the development is generally consistent with neighbouring properties, if not lesser. The majority of the building height sits below the 8.5m building height control (under WLEP 2011) with the exception of the lift shaft which reaches 9.0m. The height of the development remains congruous with residential properties on sloping sites.

The site itself is larger than most surrounding sites within the R2 zone, which ensures that whilst the proportions of the building are larger than that of a dwelling house, they are proportionally and contextually appropriate given the increased land size.

b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The R2 zone is subject to a 6.5m front building setback control which, generally, development along the street follows. The proposal provides for a 14.5m setback at ground level, and a 28.7m setback at first floor level to the front boundary. These significant setbacks minimise any perceived visual impact of the development.

The works overall are not found to result in any detrimental disruption of views, loss of privacy or loss of solar access to neighbouring properties.

c) to minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

As described throughout this report, the proposal is well designed and is of a reasonable density and proportions commensurate to the lot size and proximity to local centre facilities. These proportions and the overall architecture of the proposal are found to be enhancing to the Alexander Street streetscape and do not compromise the scenic quality of the environment.

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

Comment:

For the reasons described above pertaining to the front setback distances, combined with the details of the Landscape Plan, it is considered that from the streetscape the buildings overall proportions would not be readily visible, and even less-so when the vegetation matures over time. From Alexander Street the building has an appropriate visual impact.

Zone Objectives

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

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

Comment:

The development provides for five new dwellings on a large site surrounded by a landscaped curtilage. The proposal maintains a reasonably low density without impacting on the amenity of neighbours and provides for new housing.

It is considered that the development satisfies this objective.

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

Comment:

The proposal provides for residential accommodation in a residential zone. The proposed apartments and site provide sufficient services and facilities to cater for the day to day needs of residents.

It is considered that the development satisfies this objective.

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

Comment:

The development provides a compliant provision of landscaped open space in accordance with the SEPP.

It is considered that the development satisfies this objective.

Conclusion

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density Residential zone.

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 PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning & Infrastructure, 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 the SEPP (HSPD) cl. 40(4)(b) Development Standard is assumed by the Local Planning Panel.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall Height	7.2m	< 7.2m in any one point		Yes
B3 Side Boundary Envelope	east - 4.0m	No encroachments		Yes
	west - 4.0m	No encroachments		Yes
B5 Side Boundary Setbacks	east - 0.9m	Basement - 1.5m First floor - 3.0m to 8.8m Second floor - 6.7 to 8.8m		Yes Yes Yes
	west - 0.9m	Basement - 1.5m First floor - 3.0m Second floor - 6.2m		Yes Yes Yes
B7 Front Boundary Setbacks	north - 6.5m	Bin & Booster enclosure - nil Terrace - 6.6m Building - 9.7m	100%	No Yes Yes
B9 Rear Boundary Setbacks	south - 6.0m	Ground floor - 11.9m First floor - 15.7m		Yes Yes
D1 Landscaped Open Space (LOS) and Bushland Setting	40% (479.6m ²)	30% (365m ²)	24.2%	No*

*Note: SEPP (HSPD) landscape area controls prevail over Council's DCP and therefore no further assessment on this non-compliance is required.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	No	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	Yes
D1 Landscaped Open Space and Bushland Setting	N/A	N/A
D2 Private Open Space	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
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes
D15 Side and Rear Fences	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	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes
E11 Flood Prone Land	No	No

Detailed Assessment

B7 Front Boundary Setbacks

Description of Non-compliance

Whilst the whole of the building complies with the prescribed 6.5m front boundary setback control, the residential waste room encroaches within this setback, which was done by the Applicant in order to comply with Council's waste requirements, and therefore does not comply with Clause B7.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying

Objectives of the Control as follows:

- *To create a sense of openness.*

Comment

The waste storage room is an open structure bound by landscaping and required booster hydrants at the street facing elevation. The proportions of the structure are minor compared to that of the overall development and, give those proportions, will appear subservient to the landscaped frontage of the site. On that basis a sense of openness is retained.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment

Other properties along Alexander Street and other nearby roads have a variety of structures located within the front setback area and thus the proposed open style waste storage room maintains the visual continuity and pattern of buildings in the street.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment

The proposal as a whole is a significant enhancement to the visual quality of the street by virtue of the high quality architectural design and landscape plan.

- *To achieve reasonable view sharing.*

Comment

The development as a whole is not found to result in any unreasonable impacts on reasonable view sharing.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C3 Parking Facilities

The car parking ratio provided under SEPP (HSPD) prevails over Appendix 1 of the WDCP 2011 but in any event, the proposal complies with both ratios and is therefore considered to provide an appropriate provision of car parking facilities.

C9 Waste Management

The application is accompanied by a detailed on-going waste management plan, however no details of the material disposal from the demolition of existing structures, or excavation of land has been provided and therefore, a condition of consent is recommended requiring such to be provided to the private certifying authority prior to the issue of construction certificate.

D1 Landscaped Open Space and Bushland Setting

Clause 50(c) and (d) of SEPP (HSPD) prevail over Clause D1 of the WDCP 2011 and therefore no

further assessment on this clause is required.

D7 Views

Several properties to the east of the subject site along Pittwater Road have raised concerns pertaining to view loss in their submissions, and the bulk of those submissions are from ground floor units. Photographs have been provided from a number of these units and an inspection has been undertaken.

The objecting properties currently have an outlook over the subject site, and that outlook (whilst currently obscured by the overgrown nature of the subject site) consists of trees and buildings on Alexander Street.

From these properties, it is considered that what they see is better described as an 'outlook' rather than a 'view'. It is further considered that the proposal does not unreasonably impact on this outlook, and would provide landscaping to enhance it commensurate to the existing outlook.

It is therefore concluded that the impact on outlook is acceptable and is consistent with what could have been reasonably expected to be developed on the site.

E11 Flood Prone Land

The proposed development does not comply with the requirement for the habitable (apartment) floor levels of the building to be at or above the Flood Planning Level (FPL).

The Applicants consultant has advised as follows:

The flood report has identified a Flood Planning Level (FPL) for development on the site of RL 4.73.

The flood report identifies that the provision of floodgates to the entry points and all site access openings with the top of the floodgate being equal to the FPL as being an acceptable flood mitigating measure.

During a flooding event residents will be able to shelter in place.

The architectural plans have been amended to nominate floodgates to the driveway and entrance pathway together with a front garden wall with a height of RL 4.73 being the identified FPL. Landscaping is proposed in front of this front garden wall to soften and screen it in a streetscape context. These plans also resolve the residual waste management issues. A copy of these plans is attached.

We note that the proposed flood attenuation measures are the same as approved by the Land and Environment Court immediately opposite the site at No. 1 Alexander Street involving the construction of a shop top housing development.

The self-activating flood barriers will remain below finished surface level other than during a flooding event with the integrated flood barrier garden wall at the front of the property maintaining a height which is complimentary and compatible with other front walls and fencing within the site's visual catchment. That is, the proposed flood attenuation measures will not compromise the design quality of the development or result in inappropriate or jarring streetscape consequences.

As detailed in the Referral Comments from Council's Development Engineering section has reviewed the proposal, including the Flood Report by Woolacotts Consulting Engineers and the proposal to install flood gates as an alternate solution to placing the floor levels at or above the FPL is not supported.

The proposal does not satisfy the provisions of the WDCP 2011 and will constitute a reason for refusal of the application.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2021.

A monetary contribution of \$52,462 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$5,246,223.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of SEPP (HSPD) Clause 40(3) and 40(4)(b) has adequately addressed and demonstrated that:

a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case;
and

b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Summary of Conclusions

The proposed development has significant architectural and design merit, and appropriately responds to the transitional nature of the site being bound by a cinema, shop top housing developments and detached dwelling houses and presents as a well-designed and proportioned building. Also, the variations sought to the development standards are supported with respect to the context, setting and amenity and do not detract from the merits of the overall application.

Furthermore, the Design and Sustainability Advisory Panel reviewed the proposal and was generally supportive of the urban design and sustainability aspects of the project and the majority of the recommendations made by the Panel have been incorporated into the revised scheme.

Finally, the residents concerns raised in response to the public exhibition have been considered in the assessment of this application and do not warrant refusal of the application.

However, there are fundamental concerns in relation to the manner in which the proposed development addresses the flood planning requirements of the WDCP 2011, and the waste management requirements have also not been resolved. These outstanding matters cannot be addressed by conditions of consent.

Accordingly, on balance, whilst the proposal is worthy of support on urban design and planning grounds, there are fundamental concerns remaining in relation to flooding and waste, and so the application cannot be supported and is recommended for refusal.

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 DA2021/1805 for the Demolition works and construction of a seniors housing development on land at Lot A DP 379308,4 Alexander Street, COLLAROY, 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 provisions of Part E11 - Flood Prone Land of the Warringah Development Control Plan 2011.