



Planning Direction Pty. Ltd.
Town Planning & Development Services

STATEMENT OF ENVIRONMENTAL EFFECTS

**Proposed Nursing Home accommodating up
to 138 Beds**

at

No 181 Forest Way Belrose

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1.0 INTRODUCTION

This statement of environmental effects has been prepared to accompany a development application, which is being submitted to Northern Beaches Council. The applicant seeks development consent to undertake the following development on land known as No 181 Forest Way Belrose:

- Demolition of an dwelling and associated structures;
- Construction of a purpose built nursing home complex accommodating 138 beds; associated facilities include a basement and ground level of car parking for 50 on-site vehicles; and an at-grade service vehicle area and bus parking space inclusive of fire truck access to the rear of the site; and
- The removal of approximately 45 trees.

It is noted that the subject site falls within a deferred area pursuant to Warringah LEP 2011. Accordingly the proposal has been prepared in accordance with the provisions of Warringah Local Environmental Plan 2000. As the subject site is identified as a 'deferred matter' there is no development control plan applicable to the proposal. This statement of environmental effects is intended to assist Northern Beaches Council in its assessment of the development application and includes;

- A description of the site and the locality and a description of the proposed development;
- A description of the statutory framework in which the development application will be assessed inclusive of the local planning instruments, State Environmental Planning Policy - Seniors Living and the provisions of the Environmental Planning and Assessment Act 1979; and
- Conclusions in respect of the proposed development.

It is noted that the proposed development is *integrated development* and will require referral on the basis of bushfire, frontage to an arterial road and being situated within 40m of a threatened species.

This statement of environmental effects should be considered in conjunction with the development plans and associated documents prepared by:

- Survey plan prepared by *Bee and Lethbridge Surveyors*;
- Architectural plans prepared by *Morrison Design Partnership*;
- Bushfire Report prepared by *Travers Bushfire and Ecology*;
- Flora and fauna assessment prepared by *Cumberland Ecology*;
- Archaeological due diligence assessment by *dsca*;
- Arboricultural impact assessment report prepared by *Sturt Noble and Associates*;
- Preliminary sewer and water connection advice from *Acor Consultants*;
- BCA report by *Blackett, Maguire and Goldsmith Pty Ltd*;
- Traffic report prepared by *Traffix*;
- Environmental site assessment prepared by *Envirotech*;
- Landscape plan prepared by *Sturt Noble and Associates*; and
- Geotechnical investigation prepared by *JK Geotechnics*.

1.1 Background

The applicant's representatives attended 3 pre-lodgement meetings with Council staff prior to lodging a development application No DA2017/0697 with Council on the 17th July 2017.

Prior to lodging the development application, Council officers acknowledged that the proposed use is permissible and has indentified various matters for consideration relating to environmental, traffic, bushfire, archaeological and design.

Council representatives also confirmed that the subject site is identified as a 'deferred matter' pursuant to Warringah LEP 2011 and that the development may be made pursuant to Warringah LEP 2000 or SEPP (housing for Seniors or People with a Disability) 2004. The proposed development is therefore made pursuant to WLEP 2000 noting that some provisions of the SEPP are applicable.

It is further noted that there are no DCP controls relating to a deferred matter. The Northern Beaches Council website on the WLEP 2011 FAQ page notes as follows: -

The new DCP controls will not apply to the deferred land. At this time, there are no DCP controls governing deferred land. Please refer to LEP 2000.

It is understood that Council had received a previous application for development at the site - DA2001/1757 for 84 self-contained dwellings, private bus service, roads, drainage etc. The application was refused and an Appeal lodged to the L&E Court, which was subsequently discontinued – no hearing.

Issues which arose with the previous DA2001/1757 assessment related to built form, bushland removal, topographical constraints, DFC – Low Intensity/Low Impact, Impact on landforms/extent of excavation suitability of the site, remoteness of site, garbage facilities, RMS issues with safe access from Forest Way/works required.

The subject proposal differs from the previous application as it relates specifically to a nursing home complex providing specialist care services. A comprehensive package of supporting documents and plans is submitted as part of the development application addressing all relevant considerations and information deficient with prior applications.

After a preliminary assessment by Council of the submitted development application, a letter dated 28th of September 2017 was generated outlining issues, which needed to be addressed. The application was withdrawn with the intent of furnishing Council with the additional information.

Issues raised by Council and addressed in this revised submission can be summarised as follows:

NSW Rural Fire Service/Bushfire Protection

A revised bush fire report has been prepared, which specifically addresses issues raised by the Rural Fire Service.

The main changes to the design relate to the provision of a fire trail adjacent to the southern and eastern building façade and the revised location of the northern fire trail access to avoid impacting environmental constraints (page 1 bushfire report).

Improved fire truck access around the site/ proposed building and fire fighting measures in the event of a bush fire have been proposed.

Vehicle Access to the Site from Forest Way

RMS has identified the need for a deceleration slip lane across the frontage of the site ensuring vehicles approaching the site can do so without disrupting the typical flow of traffic along Forest Way. The proposal has been revised to incorporate the slip lane design as per RMS requirements.

Environmental Issues

More detailed reporting has been undertaken in response to the additional information required by Council.

Stormwater

The stormwater design has been amended to ensure that the main detention tank is not under the building. Detailed plans have been prepared addressing Council issues inclusive of addressing the deceleration lane.

Amenity/Side Boundary Setback

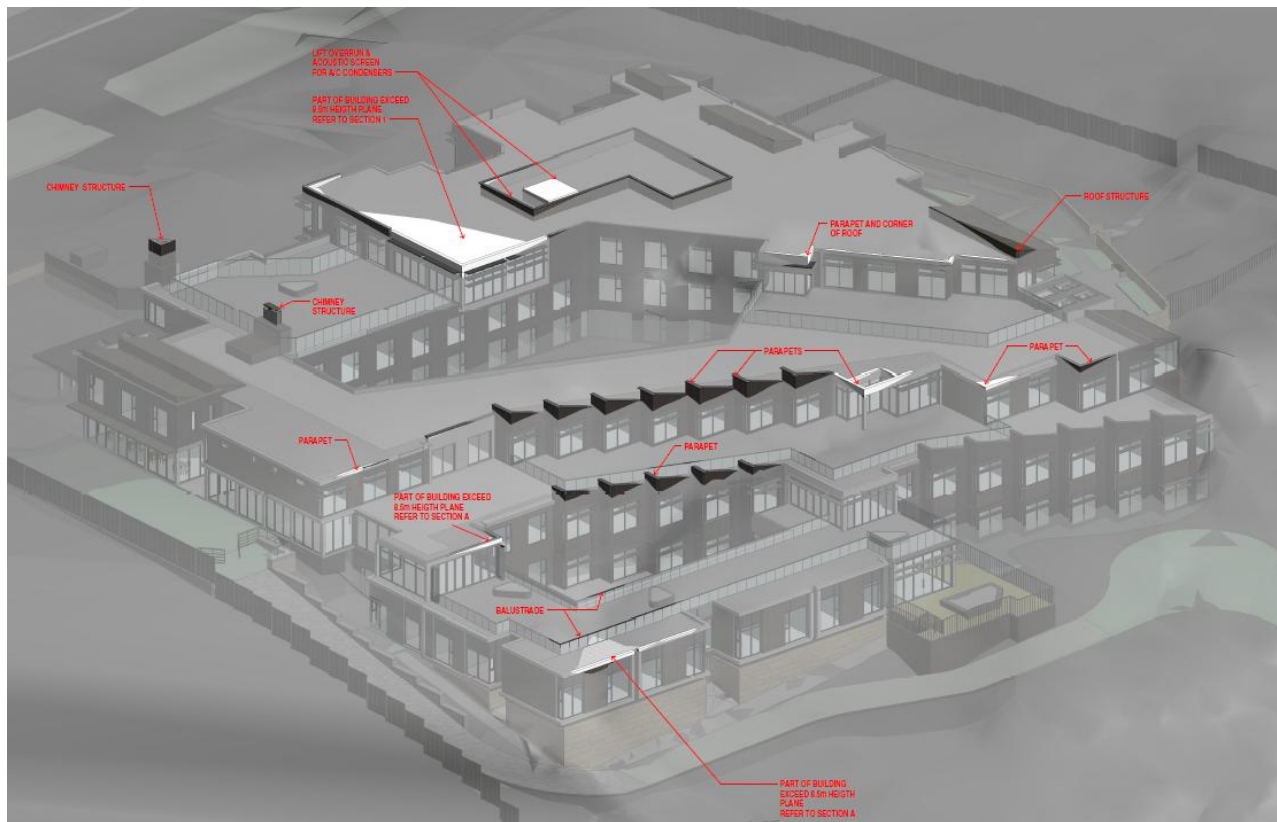
The outdoor seating and site facilities have been removed from the side setback and landscaping reinstated.

Warringah LEP 2000

(A) Bulk and scale - The proposed development has been modified to improve the extent of articulation along the facades and rooftop to better meet the desired future character locality statement. A more detailed explanation and justification for the proposal is provided under Section 4.3 of this report.

(B) Building Height - The proposed building height has been reviewed in part to minimise the extent of non-compliance particularly across the frontage to Forest Way. Further justification for the minor non-compliance with the building height control is provided under Section 4.6 of this report.

Provided below is an indication of the protruding elements into the building height plane

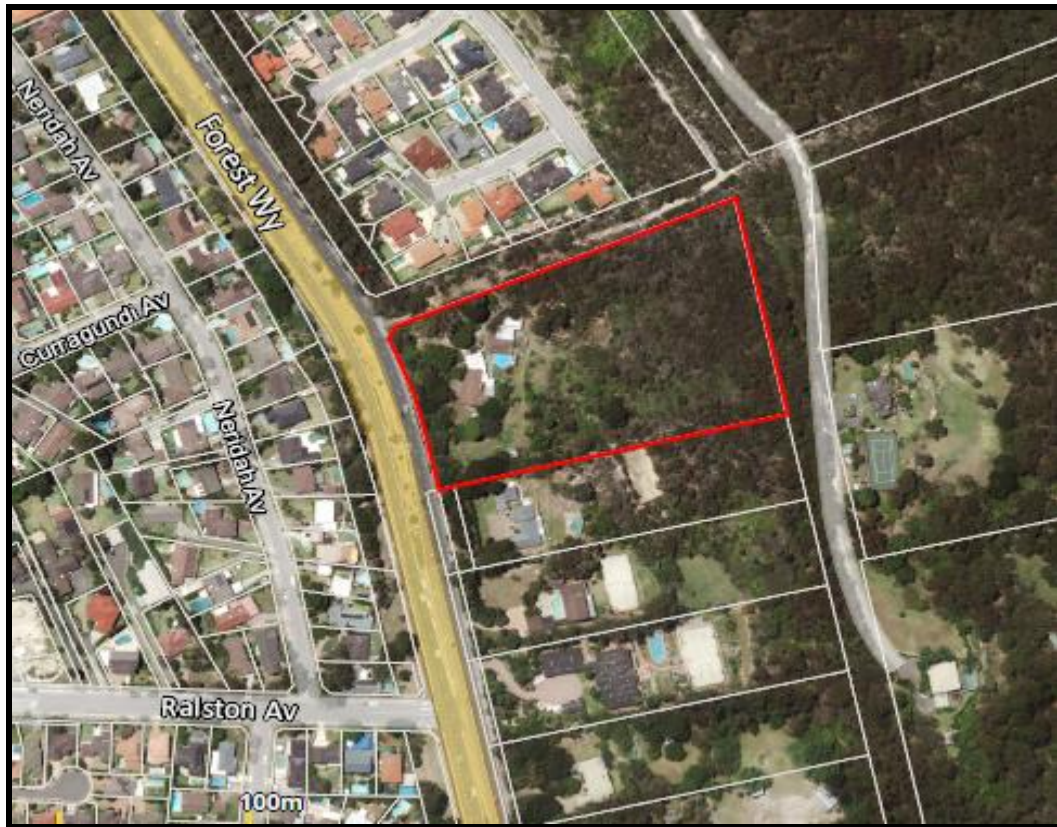


2.0 SITE AND CONTEXT

2.1 Subject Site

The subject site is situated on the eastern side of Forest Way and is known as No 181 Forest Way Belrose.

The subject site is legally identified as Lot 3 in Deposited Plan No 805710.



Locality Plan

The subject site is a large (near) regular shaped single lot with dimensions of 91m across the frontage to Forest Way, 195m along the western boundary to the unformed road, 189m along the east boundary and 127m across the rear boundary.

The subject site has a total area of **2.117 hectares**. Currently erected on the land is a large free-standing dwelling. This dwelling is not heritage listed nor is it in a heritage conservation area.

Vehicle access to the dwelling is currently gained from a driveway off the Crown Road, which runs along the northern boundary of the site. Given that the Crown Road is unformed for the most part and includes/is near significant vegetation, vehicle access to service the proposed development was not pursued.

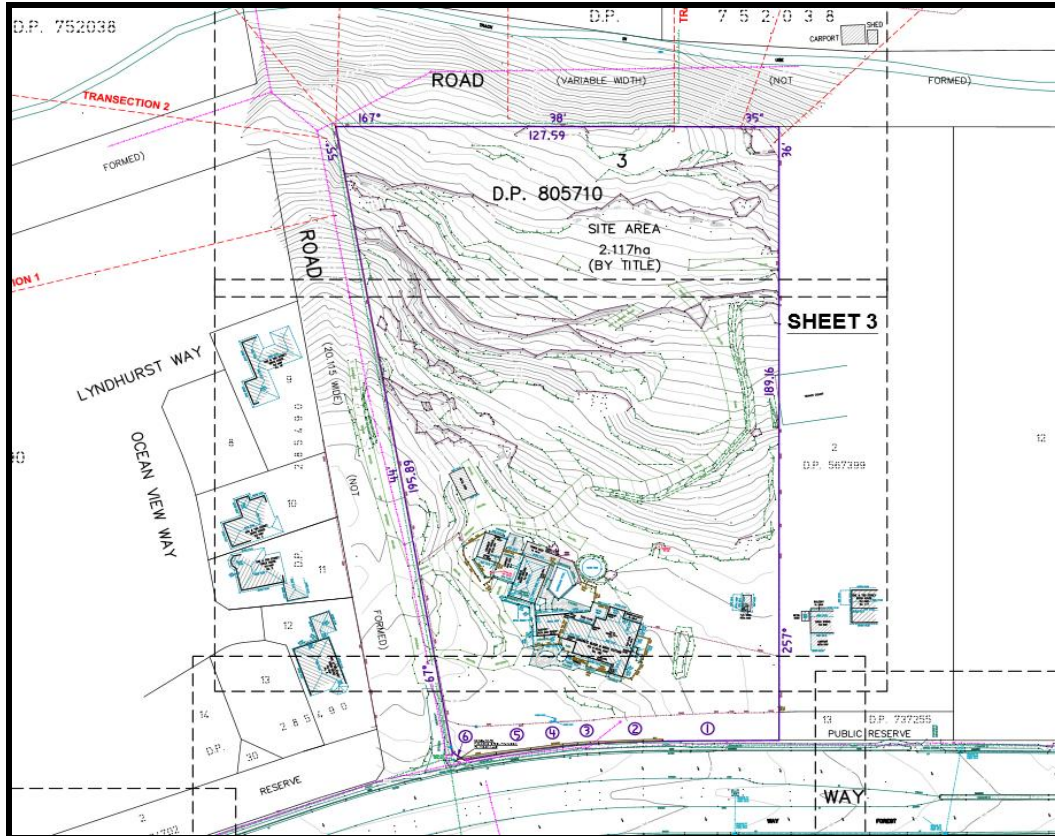


Subject Site

The subject site effectively 'sits' on a ridgeline being Forest Way. The site falls towards the rear boundary from the street with a notable ledge running across the site mid-block.

The site has been subject to previous land clearing and earthworks. The proposed building is sited within the exposed portion of the higher building platform nearest to Forest Way.

The subject site benefits from distant ocean views given its elevation, which provides a remarkable outlook to the north-east including intermittent bushland views. Such provides an ideal tranquil setting for a nursing home complex to the benefit of its elderly residents.



Survey plan

The subject site is identified as bushfire prone land and is situated within a riparian zone.

A bushfire hazard report accompanies the development plans identifying buffers and making recommendations on the use of appropriate building materials. The bushfire assessment in part recommends that the proposed development is possible provided the radiant heat from nearby fuel sources can be reduced along the northern boundary. In this regard the report recommends the construction of a 2.2m high colour bond fence along the northern boundary and a route around the building for fire truck access to the rear of the site.

It is noted that the subject site contains some Duffys Forest endangered ecological community (mainly undergrowth) and adjoins the same. The flora and fauna report for the site notes in part that *“There is no significant impact predicted to occur to threatened species, populations or communities as a result of the proposed development. Therefore, the preparation of a Species Impact Statement (SIS) is not warranted. A*

referral to the Commonwealth Department of the Environment, under the EPBC Act is also not warranted.”

The proposed development is acceptable taking into consideration bushfire, flora and fauna considerations.

An arboriculture impact assessment accompanies the development plans. The report notes that 86 trees are located in the vicinity of the proposed development and have been assessed. were assessed of which 26 are exotic species, 20 Australian native trees and 40 endemic trees. 15 trees are exempt and can be removed without the consent of Council.

A total of 45 trees require removal to facilitate the proposed development. Accordingly consent is required to remove a total of 45 trees as per the arboriculture impact assessment accompanying the development plans and the proposed landscape plan and planting strategy.

2.2 Site Context

The site is situated on the northern periphery of a low density residential precinct. The precinct is characterised by detached dwellings on typical building allotments interspersed with some large dwellings situated on large semi-rural type allotments similar to the subject site. There are also a number of large retirement village complexes situated along Forest Way such as the 'Glenaeon nursing home' and retirement complex to the north and the 'Belrose Country Club Retirement Village' situated to the south. It is evident that the precinct is appropriate and attractive as a passive environment for elderly living.

Other uses include a Community Title subdivision, a school and plant nurseries

The site is well-serviced by public transport, with regular bus services running along Forest Way. The Forest Way and Glenrose shopping complexes are also within close proximity to the subject site.

Existing development in the immediate proximity of the subject site comprises:

- Immediately adjoining the subject site to the north is an unformed Crown Road. It is understood that no works are likely to be undertaken to the unformed road in the future owing to the existence of sensitive vegetation within and close to its corridor.
- Further to the north is a series of dwellings on regular sized building allotments situated some distance away from the subject site. These dwellings and the subject site are separated by an unused/unformed Crown road. Access to this northern site is gained through a cul-de-sac subdivision layout with access off Forest Way some distance away. These adjoining dwellings are a substantial distance away from the subject site and accordingly the proposed development will have no discernible impact on these properties in terms of privacy and overshadowing. Viewing between properties is limited owing to the dense vegetation separating the sites.



View of unformed road at the intersection of Forest Way

- Adjoining the subject site to the south is a similar large allotment with a large part single and part two storey dwelling with associated recreational facilities such as a swimming pool and tennis court known as No 179 Forest Way, Belrose.

This adjoining dwelling is well setback from the common boundary and it is noted that the subject development is proposed to be setback 10m from the common southern boundary. The proposed setback combined with the existing dwelling setback and low scale nature of the proposed development will ensure that issues relating to privacy and overshadowing are adequately addressed. Upon the completion of the proposed development and re-landscaping of the site, viewing between properties will also be limited.



Adjoining Southern Dwelling

Privacy considerations are also well resolved through design, the orientation of windows and bedroom layouts.

- Adjoining the site to the east is National Park leading down towards Oxford Falls Valley.

A significant benefit to the site and the nursing home use is the advancement of the Northern Beaches hospital precinct located nearby at Frenchs Forest.

3.1 Design Approach

The proposed development has been confined to the elevated building platform at the front of the site close to Forest Way. The proposed development has been designed to maximise nearby bushland and distant ocean views.

The proposed development has been kept to a domestic scale in terms of building height as desired by the planning controls. Only minor encroachments into the building height plane occur due to the change in topography and variance to the roof treatment.



Street elevation

The applicant has been mindful of retaining established significant trees around the perimeter of the site and maintaining reasonable clearance from root zones. It is proposed to retain and embellish the natural vegetative surrounds to assist in screening the proposed development when viewed from the roadway and adjoining properties.

Vehicle access is currently proposed directly from Forest Way in the vicinity of an existing layback near the southern boundary of the site. A deceleration land has been included in the design across the frontage of the site to satisfy RMS requirements. Vehicles arriving at the site will reach a turning and set-down area and driveway ramp leading down to a basement level car park. The set-down area will service ambulance drop offs and pick-ups, bus parking, food and general deliveries. The location of the driveway at this location is logical and appropriate as it maximises sight lines and utilises an existing clearing.

Concept stormwater and drainage plans accompanying the proposed development confirming that stormwater can be readily directed via gravity feed to the existing drainage system in Forest Way.

The use will be serviced by a in-house small bus for the benefit of immobile patients. Local daily trips will be made to the nearby shops and to attend medical appointments.

3.2 Proposal in Detail

The proposal relates to the provision of a 138 bed nursing home.

The proposed development is able to sit comfortably on the top half of the site away from the escarpment and has been stepped and tiered to follow the natural contours of the land. The proposal has been significantly scaled back from any previous applications for the subject site.



Car Parking Level and lower ground of nursing home

The project numerical controls can be summarised as follows:

PROJECT INFORMATION

OVERALL			
SITE AREA : 21,188sqm BED NUMBER: 138 BEDS CAR PARKING: 50 CARS + 1 BUS			
LEVELS- RL'S(AHD)			
LOWER GROUND FLOOR (LGF)	=+ 163.100		
GROUND FLOOR (GF)	=+ 167.200		
FIRST FLOOR (FF)	=+ 170.500		
SECOND FLOOR (SF)	=+ 173.800		
SECOND FLOOR CEILING	=+ 176.50		
FLOOR TO FLOOR HEIGHT (GENERAL)	= 3.3m & 4.1 m (LGF)		
GROSS FLOOR AREAS			
LOWER GROUND FLOOR (LGF)	=2,138m ² LEP	=1,212m ²	SEPP
GROUND FLOOR (GF)	=2,309m ² LEP	=2,309m ²	SEPP
FIRST FLOOR (FF)	=2,555.8m ² LEP	=2,555.8m ²	SEPP
SECOND FLOOR (SF)	=1,099.5m ² LEP	=1,099.5m ²	SEPP
TOTAL GFA (EXCL CARPARK)	=8,102.3m ² LEP	=7,176.3m ²	SEPP
CARPARK	=1,442.49m ² LEP		
BED NUMBERS(138) INCL ROOM WITH DOUBLE BEDS			
LGF	=27		
GF	=35		
FF	=53 (INCL. 20 DEMENTIA)		
SF	=23		
PARKING & LOADING			
VISITOR PARKING	:18		
ACCESSIBLE PARKING	:2		
STAFF PARKING	:30		
BUS PARKING	:1		
AMBULANCE PARKING	:1		
LOADING BAY	:1		
LANDSCAPE			
BUILDING FOOTPRINT	=3943m ²		
DRIVEWAY	=608.56m ²		
LANDSCAPE GFA LEP	=15,206.9m ²		
LANDSCAPE GFA SEPP	=15,894.5m ²		

3.3 Amenity Considerations

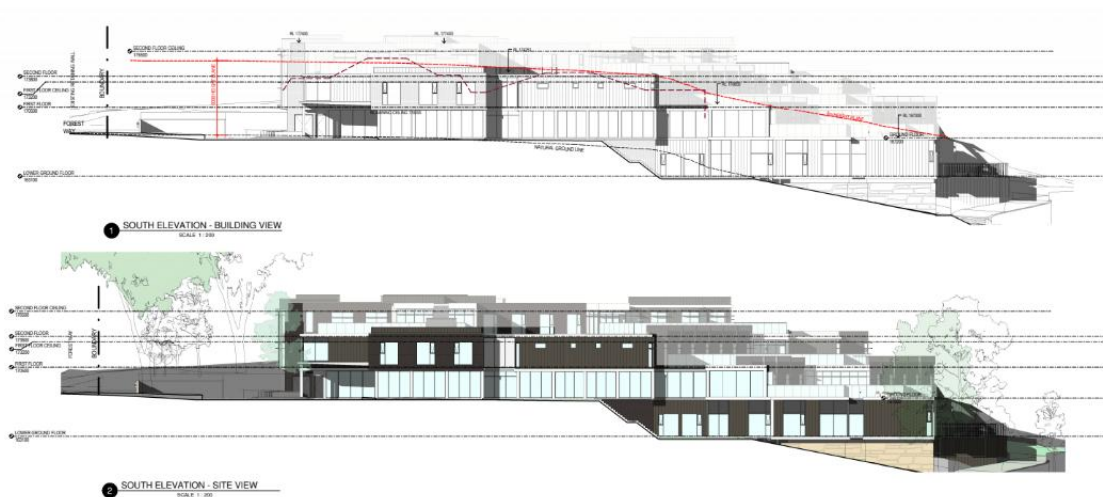
Relationship to neighbouring properties

Building height and Overshadowing/privacy Implications

In terms of building height only minor departures are sought from the control by roof feature elements and part of the ceiling to the dining area.

There will be no direct overshadowing of neighbouring properties given the setbacks employed with the design and separation between buildings.

Ample solar access will continue to reach the adjoining northern, eastern (bushland) and southern properties during the winter solstice.



Depiction of the southern elevation and tiering to follow natural ground contours

With regards to privacy, it is noted that the proposed building has been substantially articulated along its side boundaries and windows have been offset and recessed to maximise separation between buildings. The proposed development retains a low scale and will be largely obscured from view from the street frontage and neighbouring properties.

In the context of the zone, reasonable measures have been implemented in the design to minimise privacy loss to the adjoining residential properties and in the future desired context. The outlook from the proposed building/respective rooms is directed towards the street and

the rear taking advantage of distant views rather than towards the adjoining properties. Substantial northern and southern side boundary setbacks are proposed to retain the development away from established vegetative areas. The outlook towards the side boundaries will be partially screened by suitable landscape planting and existing vegetation. No issues arise in terms of privacy loss.

Internal amenity

Each room will be furnished with a private bathroom, potential for two beds and an external window. Common dining, lounge and recreation areas will be provided for the benefit of patrons.

Sitting and visitor waiting areas are also proposed.

The development will gain sufficient sunlight access into rooms and common areas through design initiatives. Common areas will be conducive to passive recreational use. In particular a central courtyard is provided and supplemented by common external terraces for elderly patients to enjoy the outdoors.

Internal living areas of all rooms receive reasonable solar access and/or daylight from an external window also allowing natural ventilation. Support rooms such as a gym, hair and spa and cafe are also provided for the convenience of residents and visitors alike on lower levels.

Disabled access

The proposed development has been specifically designed to facilitate wheelchair access throughout the building through the provision of a number of lifts connecting to the foyer and all levels of the building. A level entry foyer is provided at ground level. The proposed development complies with DDA guidelines in terms of disabled access.

Streetscape

The design solution provides suitable articulation of all elevations and provides a reasonable balance of horizontal and vertical elements.

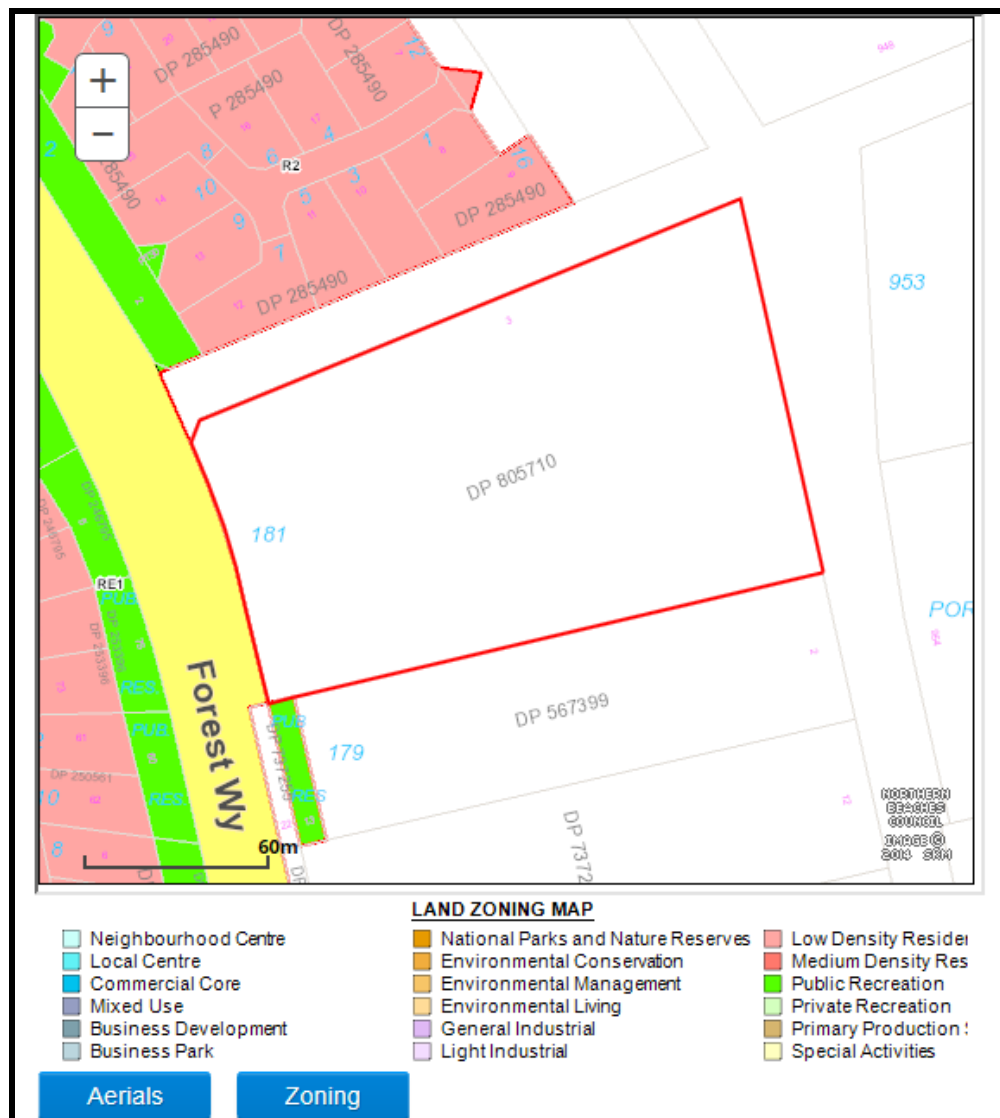
The proposed development will be a feature building in its environment with a high degree of articulation and modulation proposed to present as a series of connecting buildings rather than a bulky commercial development. The substantive setbacks particularly from Forest Way and the existing and proposed landscaping will enhance the building's presentation to the street and the side boundaries.

Neutral tones and finishes complimentary to the surrounding natural environment have been adopted to lessen any potential impacts given the naturally landscaped setting.

4.0 PLANNING INSTRUMENTS AND PERMISSIBILITY

4.1 Permissibility

The subject site falls within a deferred area under the Warringah Local Environmental Plan 2011.



Clause 1.3 of the WLEP 2011 states the following:

- (1) This Plan applies to the land identified on the Land Application Map.
 (1A) Despite subclause (1), this Plan does not apply to the land identified on the Land Application Map as “Deferred matter”.

Accordingly the planning provisions reverts to that of Warringah LEP 2000. The subject site is understood to be zoned B2 Oxford Valley under Warringah LEP 2000 (Deferred Lands).

The proposed development is defined as **Housing for Older People or People with a Disability** pursuant to Warringah LEP 2000 as follows: - *housing for older people or people with disabilities means residential accommodation which is or is intended to be used permanently as housing for the accommodation of older people or people with disabilities, whether or not it is also used to accommodate people who live with older people or people with disabilities, or staff who are employed to assist in the administration of and provision of services to such housing. Housing for older people or people with disabilities may consist of a residential care facility, a hostel or a grouping of 2 or more self-contained dwellings, or a combination of these, but does not include a hospital or a group home.*

The proposed residential care facility or nursing home accords with the above definition. Pursuant to Warringah LEP 2000 'Housing for Older People or People with a Disability' is identified as **Category 2** development and is permissible with development consent.

4.2 Warringah LEP 2000

It is noted that clause 5 of the LEP 2000 states the following:

5 What effect has this plan on other environmental planning instruments?

(1) Except as provided by subclause (2), the following environmental planning instruments do not apply to the land to which this plan applies while this plan has effect:

State Environmental Planning Policies Nos 1, 4, 5, 6, 9, 11, 19, 21, 22, 33, 35, 44, 45 and 56,

Sydney Regional Environmental Plans Nos 9, 20 and 21, Warringah Local Environmental Plan 1985.

(2) Any development applications submitted before, but not finally determined when this plan took effect for the land to which they relate,

are to be determined as if those other environmental planning instruments continue to have effect and as if this plan had been exhibited but had not been made.

(3) Any development application submitted, but not finally determined, before the commencement of a relevant amending plan is to be determined as if the relevant amending plan had been exhibited but had not been made.

(4) In subclause (3):

It is understood that consideration of the application can be made pursuant to WLEP 2000 and that only certain provisions of State Environmental Planning Policy 2(Housing for Seniors or People with a disability) 2004 apply. A discussion relating to the relevant provisions of the Policy will be provided under Section 5.0 of this report.

The subject site is also said to contain Threatened Species and Bushfire Prone Land. Other issues may relate to Riparian Land and Aboriginal Heritage (Area 1). These considerations are addressed under separate cover accompany the development plans. The subject site is mostly cleared in the location of the proposed development and the development can proceed subject to conditions in this regard.

Development pursuant to Warringah LEP 2000 must also accord with the desired future character of the locality and relevant development standards. The subject site is situated within the **B2 Oxford Falls Valley Locality** and the desired future character for the precinct is as follows:

4.3 Locality Statement and Development Standards

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Comment:

The proposed development is not housing per se however the building can be sensitively provided for on-site by indenting and articulating the facades, stepping the built form to follow the natural contours of the land and presenting the impression of a collection of interconnected modules to resemble a detached housing form.

The proposed development adopts a varied building height which in the main complies with the maximum height control established for the precinct. Minor departures from the maximum building height are contained centrally within the building. In addition, large setbacks are adopted with the view of retaining perimeter vegetation to ensure the proposed built form is subservient to its environment. The proposed development sits comfortably within the established building zone running along Forest Way and is proposed on that part of the site which least disturbs the bush land and natural rock outcrops.

The proposed development will not be obvious from a public place or private residence. In view of the above and in consideration of the Architectural treatment of elevations, the building is consistent with the desired future character established for the precinct considering the land use proposed on-site.

As noted *Housing for older people or people with disabilities* is listed as a category 2 use subject to satisfying the following:

(c) on land that adjoins a locality primarily used for urban purposes and on which a dwelling house is permissible, where there is no maximum housing density if the development is for the purpose of "housing for older people or people with a disability" and the development complies with the minimum standards set out in clause 29.

Comment:

The subject site adjoins the C1 Middle Harbour Suburbs Locality immediately to the west and the north and adjoins the B11 Forest Way Village Locality (retirement housing) to the south. Both localities permit housing in an urban environment. Each locality does not have a maximum housing density in relation to housing for older people or people with a disability and both localities are primarily relate to typical urban uses. Accordingly the proposal can be assessed as Category 2 development and is permissible with consent.

Other relevant development standards within the locality statement are addressed as follows: -

Building height

Buildings are not to exceed 8.5 metres in height, where height is the distance measured vertically between the topmost point of the building (not being a vent or chimney or the like) and the natural ground level below.

Buildings are not to exceed 7.2 metres from natural ground level to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas located wholly within a roof space), but this standard may be relaxed on sites with slopes greater than 20 per cent within the building platform (measured at the base of the walls of the building), provided the building does not exceed the 8.5 metre height standard, is designed and located to minimise the bulk of the building and has minimal visual impact when viewed from the downslope sides of the land.

Comment:

The proposed development is in part non-compliant with the building height with the maximum departure being 0.88m. A variation from this development standard is therefore sought. It is noted that the Local Environmental Plan 2000 repeals the previous SEPP No.1 which allowed for certain variations to development standards. The LEP however has an in-built variation mechanism in Clause 20.

The variation to the height control is justified in this instance and a justification for the variation from the standard is provided pursuant to Clause 20 on page 52 of this report.

Front building setback

Development is to maintain a minimum front building setback.

The minimum front building setback to all roads is 20 metres. On corner allotments fronting Forest Way or Wakehurst Parkway the minimum front building setback is to apply to those roads and the side setback is to apply to the secondary road.

The minimum front building setback area is to be densely landscaped using locally occurring species of canopy trees and shrubs and be free of any structures, carparking or site facilities other than driveways, letterboxes and fences.

Comment:

The proposed development is setback a minimum of 20m from Forest Way in accordance with the development standard. There are no structures proposed within the front setback area. The proposed hard stand area at the entry for vehicle manouevring - drop-off and pick-up will be suitably screened and embellished with landscaping.

Rear and side building setback

Development is to maintain minimum rear and side building setbacks.

The minimum rear and side building setback is 10 metres.

The rear and side setback areas are to be landscaped and free of any structures, car parking or site facilities other than driveways and fences.

Comment:

The proposal has a minimum side setback of 10m to the southern side boundary and a setback well in excess of 10m to the northern side boundary taking into account the bushfire buffer zone. The rear setback is well in excess of 10m (min 99.5m) given the development is situated on the higher level front portion of the allotment with the site dropping towards the rear boundary. The proposal accords with the setback requirements of the LEP.

Landscaped open space

The minimum area of landscaped open space is 30 per cent of the site area.

To measure an area of landscaped open space:

(a) impervious surfaces such as driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks and the like and any areas with a width or length of less than 2 metres are excluded from the landscaped open space area, and

(b) the water surface of swimming pools and impervious surfaces that occur naturally such as rock outcrops are included in the landscaped open space area, and

(c) landscaped open space must be at ground level, and

(d) the minimum soil depth of land that can be included as landscaped open space is 1 metre.

Comment:

Significant landscaping is retained and will be provided on site. The proposal accords with the landscape requirements with 70% of the site area provided as natural and/or introduced landscaping.

4.4 Specific Clauses of the WLEP 2000

Pursuant to the Category 2 land use table Clause 29 states - ***On what grounds can applications for housing for older people or people with disabilities not be refused?*** A comment in relation to each of these grounds follows: -

- (1) *This clause does not apply to land within the B6 War Veterans locality.*
- (2) *Consent for development for the purpose of housing for older people or people with disabilities cannot be refused on the grounds of:*
 - (a) ***building height***
if all proposed buildings are 8 metres or less in height when measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point, or

Comment:

The proposed development is effectively cut into the terrain with a lower ground level (semi-basement) and two levels above provided in a stepped configuration. Accordingly the proposal appears to have only two storeys in height above natural ground level particularly across the frontage of the site. The proposed development however in part encroaches into the maximum permissible building height plane for parts of the building up to 0.88m. A variation to this development standard is sought pursuant to Clause 20 of the LEP is provided on page 52 within this statement of environmental effects.

- (b) ***density and scale***
if the density and scale of the buildings, when expressed as a floor space ratio is:
 - (i) *0.5:1 or less, except as provided by subparagraph (ii), or*
 - (ii) *0.75:1 or less, for hostels and residential care facilities located within 400 metres walking distance of a public transport node (being a public transport facility such as a railway station, bus stop, or ferry wharf, that is serviced on a frequent and regular basis in daylight hours), or*

Comment:

The subject site is situated within close proximity of a number of bus stops along Forest Way both on the eastern side of the road and opposite. The nearest bus stop to the site is approximately 90m from the southern corner with another bus stop situated approximately 100m to the north from the northern corner of the site. In addition a private bus service for residents of the complex will operate on a daily basis shuttling residents to shopping and banking facilities.



Bus stops situated near the site on Forest Way

Accordingly an FSR of 0.75:1 is applicable to the proposed development. The proposal has a total gross floor area of 8,102.3m² or an effective compliant FSR of 0.38:1 in accordance with the development standard.

(c) **landscaped area**

if a minimum of 35m² of landscaped area per dwelling and 25m² of landscaped area per hostel or residential care facility bed is provided, or

Comment:

A minimum landscaped area of 3,700sqm is required for a 138 bed residential care facility (nursing home). The proposed development will retain a landscaped area of 15,206.9sqm or 72% of the site and include introduced landscaping well in excess of the minimum requirement in accordance with the development standard.

(d) parking

if at least the following is provided:

- (i) in the case of a hostel or residential care facility, at least 1 parking space for each 10 beds in the hostel or residential care facility, and 1 parking space for each two persons to be employed in connection with the development and on duty at any one time, and 1 parking space suitable for an ambulance, and*
- (ii) in the case of dwellings, at least 0.5 car space for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider, or 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, the Department of Housing or a local government or community housing provider, or*

(e) visitor parking

if, in the case of development that comprises less than 8 dwellings and is not situated on a clearway, no visitor parking is provided within the development, or

Comment:

The control requires a minimum of 14 car spaces based on 1 space per 10 beds and staff parking.

A total of 50 car parking spaces are provided on-site allowing for staff and visitors to the facility, well above the minimum criteria. Also provided is a bus and ambulance parking bay and a loading dock. Cars can also manoeuvre and leave the site in a forward direction.

(f) landscaped areas

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 clause 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 (preferably located at the rear of the site) of not less than the width of the site multiplied by 15% of the length of the site, or

Comment:

Significant deep soil areas will remain on site in excess of the minimum requirement.

(g) *private open space for in-fill housing*

if:

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

(ii) in the case of any other dwelling, there is a balcony with an area of not less than 6 square metres, that is not less than 1.8 metres in length and that is accessible from a living area.

Comment:

Large common open space areas are provided in the form of terraces and courtyards. Such will adequately service the residents.

Clause 40 of the LEP states the following:

Housing for older people or people with disabilities and lists the following considerations:

Support services:

Development for the purpose of housing for older people or people with disabilities must provide residents with adequate 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.

Access is adequate only if:

(a) the facilities and services referred to above are located at a distance of not more than 400 metres from the site of the proposed development, or

(b) there is a transport service available to the residents who will occupy the proposed development:

(i) that is located at a distance of not more than 400 metres from the site of the proposed development, and

(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the relevant facilities or services, and

(iii) that is available both to and from the proposed development during daylight hours at least once per day from Monday to Friday (both days inclusive).

The consent authority must not consent to development for the purpose of housing for older people or people with disabilities on land that adjoins land in a locality used primarily for urban purposes unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have reasonable access to:

(a) home delivered meals, and

(b) personal care and home nursing, and

(c) assistance with housework.

In deciding whether the level of access residents have to each facility and service listed above is reasonable (whether provided by the management or by an external service provider) the consent authority will consider the following:

- the type of housing proposed and the needs of the people who are most likely to occupy that type of housing, and*
- whether the type or scale of housing proposed could, or may reasonably be expected to, provide some facilities and services on-site in a cost-effective manner, and*
- the affordability of any relevant facility or service.*

If infrastructure for a facility or service is provided as part of the development, it will be available to residents when the housing is ready for occupation. In the case of a staged development, the buildings and

works comprising the infrastructure can be provided proportionately according to the number of residents in each stage.

Comment:

As previously noted the subject site is located within close proximity of regular bus services which provide direct access to Glenrose shopping village and Forestway shopping centre.

As the facility will also be catering for the elderly and those not particularly mobile, a private bus service will operate from the facility providing regular daily access to support services such as shops, banks, medical practitioners etc in accordance with the requirements of Clause 40.

Wheelchair access:

Development for the purpose of housing for older people or people with disabilities must comply with the following access standards:

(a) site gradient

(i) if the whole of the site has a gradient of less than 1:10, 100% of the hostel or residential care facility beds and 100% of the dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, or

(ii) if the whole of the site does not have a gradient of less than 1:10, a percentage (which is not less than the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and which in this subparagraph is called the specified minimum percentage) of any hostel or residential care facility beds and the specified minimum percentage of any dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, and

Comment:

The proposed development accords with the Australian Standards and the Disability and Discrimination Act with regards to wheelchair access as required pursuant to Clause 40 of the LEP.

(b) road access

at least 10% of any hostel or residential care facility beds and at least 10% of any dwellings which meet the requirements of paragraph (a) must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road, and

Comment:

Wheel chair access is provided throughout the building via lifts and level grades of travel.

(c) common areas

access must be provided so that a person using a wheelchair can use common areas and common facilities associated with the development, and

Comment:

Common areas have been designed to accord with the DDA and will comply accordingly.

(d) adaptability

10% of any hostel or residential care facility beds and 10% of any dwellings which meet the requirements of paragraph (a) must also have, or be capable of being modified so that they have, wheelchair access by a continuous path of travel (within the meaning of AS 1428) to all essential areas and facilities inside the hostel, residential care facility or dwellings, including a toilet, bathroom, bedroom and a living area.

Comment:

The proposed development has lift access to each level and wheelchair access is able to be provided to each room accordingly. In excess of 10% of bedrooms can be classified as accessible.

Clause 42 of the LEP relates to **Construction sites** and states the following:

Construction sites are not to unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment.

In particular:

- adequate areas are to be allocated for the handling and storage of materials which are safe and do not interfere with pedestrian and traffic movement,*
- the timing, frequency, and routes of construction vehicle movements are to be safe and minimize impact on roads, pedestrian and traffic movement and surrounding residents,*
- construction waste is to be minimised, legally handled, transported and disposed of,*
- dedicated safe pedestrian access is, at all times, to be provided around the site, and*
- construction sites will be managed to ensure air and water borne pollutants such as noise, dust, odour and liquids and the like are minimised.*

Comment;

A construction management plan will be prepared and submitted as part of the construction certificate. The construction management plan will address conditions of consent relating to tree protection, traffic management and environmental considerations.

Clause 43 of the LEP relates to **Noise** and states the following:

Development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the occupants.

Comment:

The use will not be a major noise emitter and the building will be appropriately acoustically treated.

Clause 44 of the LEP relates to **Pollutants** and states the following:

No development is to be carried out which, when in operation and when all measures proposed to minimize its impact on the locality have

been employed (including measures to isolate the use from existing or likely future development on other land in the locality), would result in the emission of atmospheric (including odours), liquid or other pollutants which would unreasonably diminish the amenity of adjacent properties, the locality or waterways.

Comment:

The use will not emit pollutants. Waste from the site will be appropriately managed.

Clause 52 of the LEP relates to **Development near park, bushland reserves and other public open spaces** and states the following:

Development adjacent to parks, bushland reserves and other public open spaces, including land reserved for public open space, is to complement the landscape character and public use and enjoyment of that land.

In particular:

- where appropriate, housing is to front public open spaces,*
- public access to public open spaces is to be maximized,*
- buildings are to be located to provide an outlook to public open spaces, without appearing to privatise that space,*
- development is to provide a visual transition between open space and buildings including avoiding abutting public open spaces with back fences,*
- views to and from public open spaces are to be protected, and*
- buffers for bushfire protection are to be provided on private land and not on public land.*

Comment:

The subject site backs onto bushland. The building has been strategically designed to capture views of the bushland and beyond.

The building is suitably distant from the bushland and appropriate fire protection zones and measures have been implemented.

Clause 53 relates to **Signs** and states the following:

The number, size, shape, extent, placement and content of signs are to be limited to the extent necessary to:

- allow the reasonable identification of the land use, business, activity or building to which the sign relates, and*
- ensure that the sign is compatible with the design, scale and architectural character of the building or site upon which it is to be placed, and*
- ensure that the sign does not dominate or obscure other signs or result in visual clutter, and*
- ensure that the sign does not endanger the public or diminish the amenity of nearby properties.*

Comment:

Signage will form part of a separate application upon receipt of development consent for the building/use.

Clause 54 of the LEP relates to **Provision and location of utility services** and states the following:

If proposed development will involve a need for them, utility services must be provided to the site of the development, including provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage. Utility services including service structures, plant and equipment are to be located below ground or be designed to be an integral part of the development and

suitably screened from public places or streets. Where possible, underground utility services are to be provided in a common trench.

Habitable buildings must be connected to Sydney Water Corporation's sewerage system if within a locality where the density is one dwelling per 1,050m² or greater. On other land, the consent authority may consider onsite disposal of effluent where the sewerage systems or works are able to operate over the long term without causing unreasonable adverse effects.

Comment:

Investigations have been conducted in relation to the availability of utility services. All essential utility services are available and connection is feasible subject to augmentation.

Clause 56 of the LEP relates to **Retaining unique environmental features on sites** and states the following:

Development is to be designed to retain and complement any distinctive environmental features of its site and on adjoining and nearby land. In particular, development is to be designed to incorporate or be sympathetic to environmental features such as rock outcrops, remnant bushland and watercourses.

Comment:

All unique features on and around the site have been identified via the respective environmental studies and preserved as part of the development proposal.

Clause 57 of the LEP relates to **Development on sloping land** and states the following:

On sloping land, the height and bulk of development, particularly on the downhill side, is to be minimised and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope.

In particular:

- the amount of fill is not to exceed more than 1 metre in depth,*
- and*
- fill is not to spread beyond the footprint of the building, and*
- excavation of the landform is to be minimised.*

The geotechnical stability of sloping land to support development is to be demonstrated. Consent must not be granted for development involving the erection of a structure, including additions to an existing structure, on land identified as being potentially subject to landslip on the Landslip Hazard Map unless the consent authority has considered a

report from a suitably qualified engineer as to the geotechnical stability of the land to support such development and an assessment of stormwater prepared by a suitably qualified hydraulic engineer.

Comment:

The subject site experiences a cross fall in the site away from the road. A geotechnical report has been commissioned and accompanies the application. The design has been informed by the technical findings.

The building has been appropriately tiered and stepped to follow the natural contours of the land.

In addition a storm water design has been prepared demonstrating the ways in which the site can be adequately drained.

Clause 58 of the LEP relates to **Protection of existing flora** and states the following:

Development is to be sited and designed to minimize the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species.

Comment:

Flora and fauna investigations has been conducted and findings documented under separate cover.

Clause 61 relates to **Views** and states the following:

Development is to allow for the reasonable sharing of views.

Comment:

The subject site benefits from sitting along a ridgeline being Forest Way. No views enjoyed by adjoining properties will be interrupted as a result of this development. Future residents on-site however will benefit from bushland and distant water views.

The site is suitably distant from Narrabeen Lagoon to have a visual impact.

Clause 62 relates to **Access to sunlight** and states the following:

Development is not to unreasonably reduce sunlight to surrounding properties.

Comment:

No overshadowing issues arise to the detriment of adjoining properties.

Clause 65 relates to **Privacy** and states the following:

Development is not to cause unreasonable direct overlooking of habitable rooms and principal private open spaces of other dwellings.

Comment:

No privacy issues arise given the nature of the use, its orientation to the front and rear of the site and the substantial separation of buildings in the vicinity of the site.

Clause 66 relates to **Building bulk** and states the following:

Buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise.

In particular:

- side and rear setbacks are to be progressively increased as wall height increases,*
- large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief, and*
- appropriate landscape plantings are to be provided to reduce the visual bulk of new building and works.*

Comment:

The proposed building is proportionate to its boundaries and substantial lot size. The building has been articulated and modulated to present as connecting detached structures resembling the scale of buildings prominent in the locality.

Importantly the building will be concealed from view for the most part by existing and proposed vegetation along the front and side boundaries. Generous setbacks are proposed from all boundaries. The proposed building height while partially non compliant, retains a typical scale of building typically found in the locality.

Depicted below is a series of perspective drawings indentifying the scale and proportions of the building relative to fencing and vegetation.



A view of the development from the intersection of Forest Way and the Crown Road. Below is an image as seen from Forest Way



It is evident that the scale of the development has been suitably contained to a domestic scale.

The use of varied colours and finishes assists to break up built form and provide a depth to the elevations to create a perception of a series of buildings. The bulk and scale of the development needs to be considered relative to the use and the importance of the facility from a strategic planning sense.

In balanced consideration, the proposed building is reasonable and suitably located on the fringe of the dense urban population.

Clause 67 of the LEP relates to **Roofs** and states the following:

Roofs are to complement the local skyline. Lift overruns and other mechanical equipment is not to detract from the appearance of roofs.

Comment:

A contemporary roof form is proposed with punctuations created by chimney flutes, plant and a saw tooth roof finish. The roof form is also stepped with the built form to negotiate the terrain and reduce building bulk.

Clause 68 of the LEP relates to **Conservation of energy and water** and states the following:

Development is to make the most efficient use of energy and water.

Comment:

Noted and will form part of the consideration under the construction certificate.

Clause 69 relates to **Accessibility – public and semi public buildings** and states the following:

The siting, design and construction of premises available to the public are to ensure an accessible continuous path of travel, so that all people can enter and use the premises. Such access is to comply with the requirements of the Disability Discrimination Act 1992 of the Commonwealth and with Australian Standard AS 1428.2—1992, Design for access and mobility—Enhanced and additional requirements— Buildings and facilities.

Comment:

An access and BCA report has been commissioned and is submitted under separate cover addressing the consideration.

Clause 70 of the LEP relates to **Site facilities** and states the following:

Site facilities including garbage and recycling bin enclosures, mailboxes and clothes drying facilities are to be adequate and convenient for the needs of users and are to have minimal visual impact from public places.

Comment:

Site facilities such as waste storage and handling, laundry services and location of mail boxes are detailed on the architectural plans and supporting documents.

Clauses 71, 72 73 74 and 75:

Clause 71 relates to **Parking facilities (visual impact)**

Parking facilities (including garages) are to be sited and designed so as not to dominate the street frontage or other public spaces.

Clause 72 relates to **Traffic access and safety**

Vehicle access points for parking, servicing or deliveries, and pedestrian access, are to be located in such a way as to minimize:

- traffic hazards, and*
- vehicles queuing on public roads, and*
- the number of crossing places to a street, and*

- *traffic and pedestrian conflict, and*
- *interference with public transport facilities.*

Clause 73 relates to Onsite loading and unloading

Facilities for the loading and unloading of service, delivery and emergency vehicles are to be approximate to the size and nature of the development. Onsite facilities are to be screened from public view and designed so that vehicles may enter and leave in a forward direction.

Clause 74 relates to Provision of carparking

Adequate offstreet carparking is to be provided within the subject property boundaries having regard to:

- *the land use, and*
- *the hours of operation, and*
- *the availability of public transport, and*
- *the availability of alternative carparking, and*
- *the need for parking facilities for courier vehicles, delivery/service vehicles and bicycles.*

Clause 75 relates to Design of car parking areas

Car parking, other than for individual dwellings, is to:

- *avoid the use of mechanical car stacking devices, and*
- *not be readily apparent from public spaces, and*
- *provide safe and convenient pedestrian and traffic movement,*
and
- *include adequate provision for manoeuvring and convenient access to individual spaces, and*
- *where possible, enable vehicles to enter and leave the site in a forward direction, and*
- *incorporate unobstructed access to visitor parking spaces, and*
- *be landscaped to shade parked vehicles, screen them from public view, assist in microclimate management and create attractive and pleasant spaces, and*
- *provide onsite detention of stormwater where appropriate, and make reasonable provision for the carparking needs of people with physical disabilities.*

Comment:

Please refer to the traffic report submitted under separate cover. The proposed on-site car parking is suitably contained in a basement level and hard surfacing has been minimised.

A detailed consideration has been given to on-site parking, loading, waste management and access.

Clause 76 of the LEP relates to **Management of stormwater** and states the following:

Stormwater runoff from development is to discharge to a Council drainage system approved by the Council for the purpose and is to have minimal impact on any receiving stormwater infrastructure, watercourse, stream, lagoon, lake, waterway or the like. Water quality control measures are to be provided in accordance with the Northern Beaches Stormwater Management Plan.

Comment:

Please refer to the storm water design submitted under separate cover.

Clause 77 relates to **Landfill** and states the following:

Landfill is to have no adverse impact upon the visual and natural environment or adjoining and surrounding properties.

Comment: Noted.

Clause 78 of the LEP relates to **Erosion and sedimentation** and states the following:

Development is to be sited and designed, and related construction work carried out, so as to minimise the potential for soil erosion.

Comment:

Please refer to the erosion and sediment plan submitted under separate cover.

Clause 83 relates to **Development of known or potential archaeological sites** and states the following:

Before granting an application for consent to development on an archaeological site or a potential archaeological site (except if such development does not disturb belowground relics and any aboveground relics would not be adversely affected), the consent authority must consider a heritage impact statement explaining how the proposed development would affect the conservation of the site and any relic known or reasonably likely to be located at the site.

Comment:

Please refer to the archaeological report submitted under separate cover.

4.5 Other Schedules, principles and standards

Schedule 5 - State Policies - Bushland in Urban Areas

It is State policy to protect and preserve bushland within urban areas because of:

- (a) its value to the community as part of the natural heritage, and*
- (b) its aesthetic value, and*
- (c) its value as a recreational, educational and scientific resource and, specifically:*
 - (i) to protect the remnants of plant communities which were once characteristic of land now within an urban area, and*
 - (ii) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the longterm, and*
 - (iii) to protect rare and endangered flora and fauna species, and*
 - (iv) to protect habitats for native flora and fauna, and*
 - (v) to protect wildlife corridors and vegetation links with other nearby bushland, and*
 - (vi) to protect bushland as a natural stabiliser of the soil surface, and*
 - (vii) to protect bushland for its scenic values, and to retain the unique*

visual identity of the landscape, and
(viii) to protect significant geological features, and
(ix) to protect existing landforms, such as natural drainage lines, watercourses and foreshores, and
(x) to protect archaeological relics, and
(xi) to protect the recreational potential of bushland, and
(xii) to protect the educational potential of bushland, and
(xiii) to maintain bushland in locations which are readily accessible to the community, and
(xiv) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.

Schedule 6 Preservation of bushland

The need to preserve and protect bushland should be considered in the context of:

- its value to the community as part of the natural heritage, and*
- its aesthetic value, and*
- its value as a recreational, educational and scientific resource, and*
- the following specific aims:*
 - (a) to protect the remnants of the plant communities which were once characteristic of land now within an urban area,*
 - (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the longterm,*
 - (c) to protect rare and endangered flora and fauna species,*
 - (d) to protect habitats for native flora and fauna,*
 - (e) to protect wildlife corridors and vegetation links with other nearby bushland,*
 - (f) to protect bushland as a natural stabiliser of the soil surface,*
 - (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,*
 - (h) to protect significant geological features,*
 - (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,*
 - (j) to protect archaeological relics,*
 - (k) to protect the recreational potential of bushland,*
 - (l) to protect the educational potential of bushland,*

(m) to maintain bushland in locations which are readily accessible to the community,

(n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.

Comment:

The following reports have been commissioned to address the above:

- Bushfire Report prepared by ***Travers Bushfire and Ecology***;
- Flora and fauna assessment prepared by ***Cumberland Ecology***;
- Archaeological due diligence assessment by ***dsca***;

The subject site and its identified location has been deemed to be reasonable and suitable for the development/use.

Schedule 8 - Site Analysis

The purpose of a site analysis is to identify and explain graphically:

- *the key influences on the design, and*
- *the site planning for the proposal and how the development will relate to the immediate locality.*

A site analysis must be to scale and should identify development opportunities and constraints. It should influence the design to minimise negative impacts on the amenity of adjoining development and to complement the desired character of the locality.

The extent of information included in a site analysis should reflect the issues that need to be considered in assessing the development proposal.

At its most exhaustive, a site analysis would document the site in terms of:

- *contours and existing vegetation,*
- *buildings (including any which could be retained),*
- *views to and from the site,*
- *location of windows and private open space within adjoining properties,*
- *access and connection points,*
- *drainage and utility services,*

- *orientation, microclimate and noise sources,*
 - *where relevant, any contaminated soils and filled areas,*
 - *fences, boundaries and easements,*
 - *soil and geological characteristics,*
 - *rock outcrops,*
 - *flood affectation,*
 - *bushfire hazard, and*
 - *any other notable features,*
- and the surrounds in terms of:*
- *the location and use of adjacent and opposite buildings and outbuildings,*
 - *abutting secluded private open space and habitable room windows which have outlooks towards the site, particularly those within 9m of the site,*
 - *views and solar access enjoyed by adjacent residents,*
 - *major trees on adjacent properties, particularly those within 9m of the site,*
 - *location and height of walls built to the boundary of the site,*
 - *characteristics of any adjacent public open space,*
 - *identification of sensitive downslope/downstream ecosystems requiring protection,*
 - *street frontage*
- features, such as poles, street trees, kerb crossovers, bus stops and services infrastructure,*
- *the built form and character of adjacent and nearby buildings and works, including characteristic fencing and garden styles,*
 - *direction and distances to local shops, schools, public transport, parks and community facilities, and*
 - *the difference in levels between the subject land and adjacent properties.*

The site analysis must be accompanied by a written statement explaining how the development's design relates to the analysis.

If a site analysis relates to a proposed subdivision, it should demonstrate how future development proposals would satisfy the general principles of development control in Part 4 and the relevant Locality Statement.

Comment:

A detailed site analysis has been conducted prior to finalising the design. The process has been informed also by expert investigation as detailed previously.

To assist Council in its assessment a model and perspective drawings has been prepared demonstrating the means in which the building reasonably 'fits' within its context.

Schedule 16 Principles and standards for housing for older people or people with disabilities

(1) Identification

If the site includes more than one street, street signage incorporating house numbers must be provided at each intersection.

(2) Security

Pathway lighting:

- (a) must be positioned at low height to avoid glare, and*
- (b) must provide at least 50 lux at ground level.*

(3) Letterboxes in multi-dwelling developments

Letterboxes for multi-dwelling developments:

- (a) must be lockable, and*
- (b) must be located together in a central location adjacent to the street entry, and*
- (c) must be situated on a hard standing area and have wheelchair access by a continuous path of travel (within the meaning of AS 1428).*

(4) Private car accommodation

If car parking (not being car parking for employees) is provided:

- (a) each car parking space must be not less than 6 metres 3.2 metres or the design of the development must be such as to enable the size of the car parking space to be increased to an area of not less than 6 metres 3.2 metres, and*
- (b) any garage or carport must have an internal clearance of at least 2.5 metres as measured from the finished floor level of the garage or carport, and*

(c) any garage must have a power-operated roller door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.

(5) Accessible entry

Every entry (whether a front entry or not) to a hostel, residential care facility or dwelling, not being an entry for employees:

- (a) must not have a slope that exceeds 1:40, and*
- (b) must comply with clauses 4.3.1 and 4.3.2 of AS 4299, and*
- (c) must have an entry door handle and other hardware that complies with AS 1428.*

(6) Exterior: general

All external doors to any one dwelling must be keyed alike.

(7) Interior: general

Internal doors must have a clearance of at least 820 millimetres.

Internal corridors must have a width of at least 1 000 millimetres.

The width at internal door approaches must be at least 1 200 millimetres.

(8) Living room and dining room

A living room in a self-contained dwelling must have:

- (a) a circulation space:*
 - (i) of at least 2 250 millimetres in diameter, and*
 - (ii) as set out in clause 4.7 of AS 4299, and*
- (b) a telephone adjacent to a general power outlet.*

A living room and dining room must have a potential illumination level of at least 300 lux.

(9) Kitchen

A kitchen in a self-contained dwelling must have:

- (a) a width of at least 2.7 metres and a clear space between benches of at least 1 450 millimetres, and*
- (b) a width at door approaches of at least 1 200 millimetres, and*
- (c) benches that include at least one work surface:*
 - (i) that is at least 800 millimetres in length, and*
 - (ii) the height of which can be adjusted from 750 millimetres to 850 millimetres, and*
- (d) a tap set:*

- (i) that is located within 300 millimetres of the front of the sink, and*
- (ii) that is a capstan tap set or that comprises lever handles or a lever mixer, and*
- (e) a thermostatic mixing valve for the hot water outlet, and*
- (f) cook tops:*
 - (i) with either front or side controls, and*
 - (ii) with controls that have raised cross bars for ease of grip, and*
 - (iii) that include an isolating switch, and*
- (g) a worksurface adjacent to the cook top and at the same height and that is at least 800 millimetres in length, and*
- (h) an oven that is located adjacent to a worksurface the height of which can be adjusted, and*
- (i) "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and*
- (j) general power outlets:*
 - (i) at least one of which is a double general power outlet within 300 millimetres of the front of a worksurface, and*
 - (ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.*

(10) Main bedroom

At least one bedroom within a self-contained dwelling must have:

- (a) an area sufficient to accommodate a wardrobe and a queen-size bed with a clear area at least 1 200 millimetres wide at the foot of the bed, and*
- (b) 2 double general power outlets on the wall where the head of the bed is likely to be, and*
- (c) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and*
- (d) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and*
- (e) a potential illumination level of at least 300 lux.*

(11) Bathroom

A bathroom must have:

- (a) an area that complies with AS 1428, and*
- (b) a slip-resistant floor surface, and*
- (c) a shower:*

- (i) the recess of which is at least 1 160 millimetres 1 100 millimetres, or that complies with AS 1428, or that complies with clause 4.4.4 and Figures 4.6 and 4.7 of AS 4299, and*
- (ii) the recess of which does not have a hob, and*
- (iii) that is waterproofed in accordance with AS 3740, and*
- (iv) the floor of which falls to a floor waste, and*
- (v) that can accommodate a grab rail that complies with Figure 4.6 of AS 4299 and AS 1428, and*
- (vi) that has a tap set that is a capstan tap set or that comprises lever handles and that has a single outlet, and*
- (vii) that has the tap set positioned so as to be easily reached from the entry to the shower, and*
- (viii) that can accommodate an adjustable, detachable hand-held shower rose mounted on a slider grab rail or a fixed hook, and*
- (ix) that can accommodate a folding seat that complies with Figure 4.6 of AS 4299, and*
- (d) thermostatic mixing valves for all hot water outlets, and*
- (e) a washbasin with clearances that comply with Figure 4.4 of AS 4299, and*
- (f) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it, and*
- (g) a mirror, and*
- (h) a double general power outlet beside the mirror.*

(12) Toilet

A dwelling must have a toilet:

- (a) that is a visitable toilet within the meaning of clause 1.4.12 of AS 4299, and*
- (b) that is installed in compliance with AS 1428, and*
- (c) that has a slip-resistant floor surface, and*
- (d) the WC pan of which is located from fixed walls in accordance with AS 1428, and*
- (e) that can accommodate a grab rail that complies with Figure 4.5 of AS 4299 and AS 1428.*

(13) Access to kitchen, main bedroom, bathroom and toilet In a multi-storey self-contained dwelling:

- (a) the kitchen, main bedroom, bathroom and toilet must be located on the ground floor, or*

(b) if the kitchen, main bedroom, bathroom and toilet are not located on the ground floor, the ground floor living space must be able to be altered so as to accommodate them, or

(c) if the kitchen, main bedroom, bathroom and toilet are located on a floor above the ground floor, the stairs to the higher floor:

(i) must be equipped with a stair climber that is capable of being used by a person in a wheelchair, or

(ii) must be sufficiently wide to enable the installation of a stair climber that is capable of being used by a person in a wheelchair.

(14) Laundry

A self-contained dwelling must have a laundry:

(a) that has provision for the installation of an automatic washing machine, and

(b) that has provision for the installation of a clothes dryer, and

(c) that has a clear space in front of appliances of at least 1 300 millimetres, and

(d) that has thermostatic mixing valves for all hot water outlets, and

(e) that has a slip-resistant floor surface, and

(f) that has an accessible path of travel to any clothes line provided in relation to the dwelling.

(15) Storage

A self-contained dwelling must be provided with a linen cupboard:

(a) that is at least 600 millimetres wide, and

(b) that has adjustable shelving.

(16) Doors

Door hardware provided as the means for opening doors must be:

(a) able to be operated with one hand, and

(b) located between 900 millimetres and 1 100 millimetres above floor level.

(17) Surface finishes

Balconies and external paved areas must have slip-resistant surfaces.

(18) Ancillary items

Switches must be located between 900 millimetres and 1,100 millimetres above floor level.

General purpose outlets must be located at least 600 millimetres above floor level.

(19) Garbage

An outside garbage storage area must be provided in an accessible location.

(20) Applications by certain housing providers

Despite the provisions of clause 40 relating to wheelchair access and of clauses (7)–(19) above, a dwelling, or part of a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, the Department of Housing or a local government or community housing provider.

(21) Neighbourhood amenity and streetscape

The proposed development should:

(a) contribute to an attractive residential environment with clear character and identity, and

(b) where possible, retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and

(c) where possible, maintain reasonable neighbour amenity and appropriate residential character by providing building setbacks that progressively increase as wall heights increase to reduce bulk and overshadowing, and

(d) where possible, maintain reasonable neighbour amenity and appropriate residential character by using building form and siting that relates to the site's land form, and

(e) where possible, maintain reasonable neighbour amenity and appropriate residential character by adopting building heights at the street frontage that are compatible in scale with adjacent development, and

(f) where possible, maintain reasonable neighbour amenity and appropriate residential character by considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and

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

(h) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.

Comment:

Schedule 16 generally provides the relevant construction standards rather than any development controls. The proposed development will be constructed as per the requirements of the BCA and the Australian Standards in this regard.

Matters such as neighbourhood amenity and character issues have been discussed previously within this statement of environmental effects in particular amenity issues are discussed within Section 2 and 3 of this report.

4.6 Variation to a Development Standard

Clause 20 of the LEP provides an in built mechanism to vary a development standard where it is deemed unnecessary or overly onerous as follows: -

20 Can development be approved if it does not comply with a development standard?

(1) Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.

(2) In localities A2, A4, A5, A7, B2, B9, C8 and C10, the minimum area per dwelling required by the housing density standard is deemed to be the minimum allotment size for allotments created by subdivision.

(3) Where consent is granted for development that does not comply with one or more development standards, the Council is to ensure that the circumstances of the case and reasons for granting consent (in such a way that does not comply with the development standards) are included in a public register of such consents.

(4) This clause does not apply in relation to a development standard relating to maximum building height established by the Building

Heights Map within the Dee Why Town Centre Locality Statement (E21).

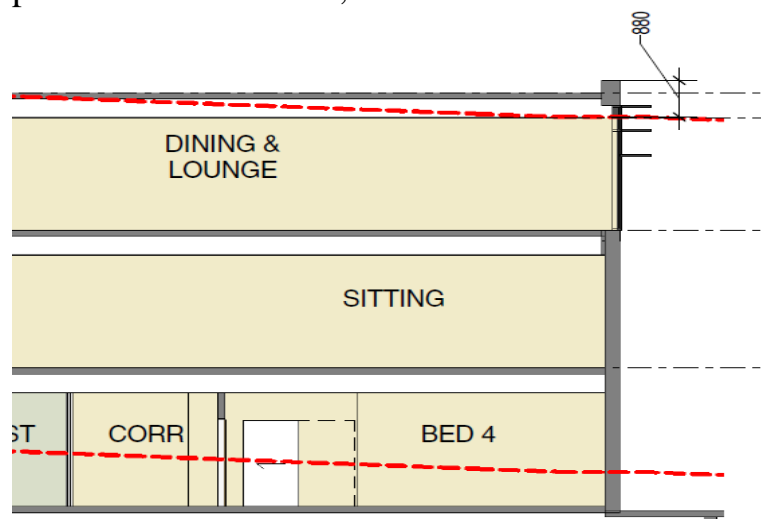
Comment:

Variation is sought to the height control applicable to the proposed development both pursuant to the Locality Statement controls and Clause 29 of the LEP. It is noted that the locality statement height controls applies to the underside of the ceiling of buildings whilst the Clause 29 control relates to the overall height of buildings. There are no stated objectives for either height control.

The relevant controls provide for a maximum height of 8m to the underside of the uppermost ceiling and an overall height control of 8.5m for any development within the locality and pursuant to Clause 29 of the LEP.

The proposed development has for the most part a compliant building height with the exception of roof space over the dining room - a maximum 0.88m above the height plane, a small portion at the rear of the building, because of the saw tooth roof design and some plant.

The encroachment into the maximum permissible height plane mainly occurs due to the undulating nature of the site and the need to provide level access throughout the building. Effectively a two level building is presented to the street, northern and southern side boundaries.



A section view of the dining room being the highest projecting part of the building above the height plane.

Car parking is provided within a basement level so as to ensure parking is effectively concealed from view from a public place.

The proposed partial encroachment into the height plane occurs mainly centrally within the building and not at the edges of the building. The encroachment is necessary to maintain compliant floor to ceiling heights within the development and allowing for the provision of service ducts, plant and the like. The saw tooth roof design is also an architectural treatment designed to provide visual interest.

The proposed building height has been derived after undertaking a thorough site analysis, reviewing Council recommendations and addressing site opportunities and constraints. The proposed design has been developed after consulting senior Council staff.

Strict compliance with the building height control in this instance is unreasonable and unnecessary for the following reasons:

- The proposed design amendments effectively improve the aesthetic appearance of the building by providing proportional levels and a defined rooftop structure/features. The non-compliant elements relate mainly centrally on-site and as such don't necessarily impact on adjoining owners or are visible from a public place.
- The proposed development is substantively setback from all boundaries and the increase in height will not give rise to overlooking or privacy issues for neighbouring properties. In particular the rear setback adjoins an area of native bushland.
- No issues arise in terms of overshadowing of adjoining properties.
- The proposed building height facilitates a most needed use consistent with Council and State Government initiatives within a well serviced locality and will complement the recently established Northern Beaches Hospital precinct at Frenchs Forest.
- The subject site also offers the capacity to accommodate the additional building height given its location and large allotment

size. A substantial amount of landscaping is proposed on site in addition to the existing native landscaping retained effectively shielding the proposed development from direct view from the street or nearby properties.

- The proposed building has been well modulated and articulated. A quality design has been achieved through a total design refinement and selective use of finished colours and materials.
- The additional building height does not give rise to a breach of the floor space ratio.
- The proposed building height does however provide economic incentive to proceed to the construction stage and maximise the potential of an underutilised site. The design is essential to provide the most needed nursing home facility and assist in addressing the needs of an aging population.
- From a streetscape perspective, the additional building height is justified particularly as complying elements are presented to the street.
- No environmental or heritage issues arise with the variation sought. The proposed design is sensitive to its environment.
- There is no state or regional issues arising should the building height variation be approved in this instance.
- No sites are isolated as a result of the development.
- The proposed development is consistent with the objectives of the locality statement which seek to provide quality living areas for elderly or disabled persons within the B2 Oxford Falls Valley locality.

In view of the above, the proposed building height is an appropriate planning and urban design outcome. The proposed variation to the building height standard is justified in this instance. The proposed development is in the public interest as the proposal provides a high quality development catering for the elderly, immobile and disabled in a well serviced locality. Council is requested to vary the building height control as proposed.

5.0 SECTION 4.15 CHECKLIST

The following provides an assessment of the proposal against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

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

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

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

(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land

Comment:

The proposal is permissible and satisfies the objectives of Warringah Local Environmental Plan 2000 and prescriptive and performance controls of the LEP so far as they apply. A minor variation in relation to the building height control of WLEP 2000 is proposed and justified pursuant to clause 20 of the LEP.

The proposed development is appropriate in consideration of the streetscape objectives, overshadowing and privacy.

State Environmental Planning Policy 55 - Remediation of Land

Clause 7 of the policy relates to *Contamination and remediation to be considered in determining development application* and states the following

(1) *A consent authority must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

(2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

(3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

(4) *The land concerned is:*

- (a) *land that is within an investigation area,*
- (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Comment:

An environmental site assessment has been undertaken by **Envirotech** and accompanies the DA submission. It was concluded that the site can be effectively remediated and accommodate the proposed use.

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

Clause 2 of the Policy relates to the Aims of Policy and states the following:

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

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

(2) These aims will be achieved by:

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

Comment:

The proposal meets the above aims of the policy.

The policy under Clause 4(2) states the following:

(2A) For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land to which Warringah Local Environmental Plan 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under that plan.

The relevant provisions of the SEPP, which require consideration are as follows:

Division 2 Design principles

33 Neighbourhood amenity and streetscape

The proposed development should:

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*
- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:*
 - (i) providing building setbacks to reduce bulk and overshadowing, and*
 - (ii) using building form and siting that relates to the site's land form, and*
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*
- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) retain, wherever reasonable, major existing trees, and*
- (g) be designed so that no building is constructed in a riparian zone.*

Comment:

The proposed building has been appropriately sited, articulated along all elevations and contained in building height to respond the site topography and natural features so as to effectively integrate into its landscape.

The subject site has no particular heritage significance.

The proposed design retains appropriate residential amenity enjoyed by neighbours by providing substantial setbacks and a comfortable building height.

The proposal retains significant trees and provides a complimentary planting scheme.

No adverse effect is likely to riparian zones.

34 Visual and acoustic privacy

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

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

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

Note. *The Australian and New Zealand Standard entitled AS/NZS 2107–2000, Acoustics—*

Recommended design sound levels and reverberation times for building interiors and the Australian Standard entitled AS 3671—1989, Acoustics—Road traffic noise intrusion—

Building siting and construction, published by Standards Australia, should be referred to in establishing acceptable noise levels.

Comment:

No issues arise in relation to visual and acoustic privacy for reasons outlined previously.

35 Solar access and design for climate

The proposed development should:

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

Note. *AMCORD: A National Resource Document for Residential Development, 1995, may be referred to in establishing adequate solar access and dwelling orientation appropriate to the climatic conditions.*

Comment:

No impacts arise in terms of overshadowing of neighbouring properties.

An appropriate building design with an internal courtyard will provide high levels of amenity to future residents in terms of access to natural light and ventilation.

36 Stormwater

The proposed development should:

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Comment:

A stormwater design has been prepared for the proposed development.

37 Crime prevention

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (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

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

(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.

Comment:

The proposed use will be managed and operated by qualified and experienced nursing home operators accredited by the State Government.

The building has been designed to address security measures and maximise safety on-site.

38 Accessibility

The proposed development should:

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

(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.

Comment:

An accessibility report accompanies the application.

39 Waste management

The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

Comment:

Refer to the engineering design submitted with the application.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of the Policy relates to Development with frontage to classified road and states the following:

(1) The objectives of this clause are:

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Clause 102 of the Policy relates to Impact of road noise or vibration on non-road development and states the following:

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:

(a) a building for residential use,

(b) a place of public worship,

(c) a hospital,

(d) an educational establishment or child care centre.

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

(a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

(4) In this clause, freeway, tollway and transitway have the same meanings as they have in the Roads Act 1993.

Comment:

An unformed Crown road does adjoin the site along the northern boundary, however is not considered suitable for future road access on environmental grounds. Accordingly the proposed use needs to be accessed from Forest Way.

Minimal trip movements are associated with the use. Refer to the Traffic Report accompanying the submission.

The proposed building will be appropriately constructed and acoustically treated to ensure that residents are not adversely affected by road noise and vibration.

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

Comment:

A detailed site analysis was undertaken to determine the appropriate form of development having regard to Council's planning controls, the circumstances of the site and neighbouring properties and the desired future character of the locality.

The proposal provides for a higher degree of amenity for future occupants and is respectful of the amenity of neighbouring properties.

A detailed environmental investigation has been undertaken. Environmental factors can be reasonably addressed through design and management practices.

The proposed nursing home provides a high end service in critical demand given the aging population.

In view of the above the development will have acceptable social and environmental implications given the nature of the zone.

(c) *the suitability of the site for the development.*

Comment:

The subject site has an area and configuration suited to the form of development proposed. The design solution is based on sound site analysis and responds positively to the characteristics of the site and adjoining development.

(d) *any submissions made in accordance with the Act or the regulations.*

Comment: Nil

(e) *The public interest*

Note.

See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

Comment:

The proposed development is provides for the attainment of a much needed care facility within the locality and greater area. Given the ageing population of Australia and the rapid growth of the population in the Sydney metropolitan area, the proposal is in the broader public

interest by providing a quality facility catering for the elderly and disabled.

(2) Compliance with non-discretionary development standards—development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

(a) is not entitled to take those standards into further consideration in determining the development application, and

(b) must not refuse the application on the ground that the development does not comply with those standards, and

(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

Comment:

The application has merit and is consistent with the intent of the controls given the site context.

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, standards include performance criteria.

Comment:

The provisions of the development control plan are not applicable. The proposal is reasonable in this regard.

(4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.

(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) Definitions In this section:

(a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and

(b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

Comment: Not applicable.

6.0 CONCLUSION

The proposal is consistent with the locality statement and specific clauses of WLEP 2000 providing a valuable nursing home complex on a large underutilised site. The proposal is satisfactory in consideration of the design principles prescribed under the LEP and in the main relates to improving the quality of life for the elderly and disabled who require nursing home facilities/services.

The proposed development gives rise to a minor encroachment into the building height plane however the encroachment does not give rise to direct impacts in terms of overshadowing and loss of privacy to adjoining residents/properties.

The proposed building has been Architecturally designed to derive a building sensitive to its environment. The building will be subservient to its environment and in scale with established trees retained around the perimeter of the site.

Overall the building will not be obvious when viewed from a public area (the street) or an adjoining property.

The applicant has specifically sought to provide a development with a high quality design, which reflects contemporary planning and design initiatives.

The proposed development is respectful of the amenity of neighbouring properties and will not give rise to adverse overshadowing or privacy impacts in the context of site circumstances. The proposal is reasonable pursuant to the provisions of the LEP and clause 20 particularly.

In view of the above, the proposed development is appropriate and Council approval is recommended.