

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018SNH046
<b>DA Number</b>	DA2018/1332
<b>LGA</b>	Northern Beaches Council
<b>Proposed Development</b>	Demolition works and construction of major additions to Glenaeon Retirement Village, including self-contained dwellings and a new residential care facility on a neighbouring lot, with associated car parking, landscaping and public road modifications
<b>Street Address</b>	Lot 100 DP 1114910, 207 Forest Way and Lot 7 DP 807906, 199 Forest Way, Belrose
<b>Applicant/Owner</b>	Lendlease Retirement Living Holding Pty Ltd (Applicant)  John Frederick Lindley (Owner) Colleen Lindley (Owner) Lendlease Retirement Living Holding Pty Ltd (Owner)
<b>Date of DA lodgement</b>	10 August 2018
<b>Number of Submissions</b>	52 Letters and 2 petitions all supporting the proposal
<b>Recommendation</b>	REFUSAL
<b>Regional Development Criteria (Section 4.5 of the EP&amp;A Act)</b>	Development with a Capital Investment Value (CIV) of more than \$30 million
<b>List of all relevant S 4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979 (as amended);</li> <li>• Environmental Planning and Assessment Regulation 2000;</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011;</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land;</li> <li>• State Environmental Planning Policy – Infrastructure 2007;</li> <li>• State Environmental Planning Policy – Housing for Seniors or People with a Disability) 2004; and</li> <li>• Warringah Local Environmental Plan 2000</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1: Architectural Plans, as amended (199 Forest Way, Belrose);</li> <li>• Attachment 2: Architectural Plans (207 Forest Way, Belrose);</li> <li>• Attachment 3: Draft Conditions of consent</li> </ul>
<b>Report by</b>	Louise Kerr – Director Planning and Place
<b>Responsible Officer</b>	Lashta Haidari – Principal Planner
<b>Report date</b>	1 May 2019

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied with a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP* **Yes**

**Clause 4.6 Exceptions to development standards** **Yes**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>(Clause 20 of WLEP 2000)</b>
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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Not  
Applicable**

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**Conditions**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefers that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**Yes**

## **Executive Summary**

This Report is an assessment of a Development Application (DA) made to Northern Beaches Council seeking consent for alterations and additions including the renewal (consisting of the replacement of a number of older self-contained dwellings) of part of the existing Glenaeon Retirement Village at 207 Forest Way, and development of the immediately adjoining land at 199 Forest Way for the purposes of a Residential Care Facility (RCF).

The site consists of two parcels of land being 207 and 199 Forest Way, Belrose. The two allotments are immediately adjacent to each other, separated only by Glenaeon Avenue, a local road originally constructed by the village operator to service Glenaeon Retirement Village. Glenaeon Village is an existing seniors housing facility that has been approved and operated from the site since 1982.

The Development Application was publicly exhibited in accordance with Warringah Development Control Plan, and a total of 52 letters supporting the development were received.

The site is located within an area identified as "Deferred Lands" under Clause 1.3(1A) of the Warringah Local Environmental Plan 2011(WLEP 2011). The site is located within the B2 Oxford Falls Valley locality under Warringah Local Environmental Plan 2000 (WLEP 2000).

The DA is made pursuant to WLEP 2000. Under the provisions of Clause 14 of the WLEP 2000, permissible land uses are described in the following categories; Category One, Two or Three development. The proposed use is defined as "housing for older people and people with a disability". The clause states that "housing for older people and people with a disability" is prohibited unless the land adjoins a locality primarily used for urban purposes on which a dwelling house is permissible.

The Locality within which the subject sites are located (being B2 Oxford Falls Valley) and the adjoining locality (C8 Belrose North) are not zoned "primarily used for urban purposes". This is confirmed within Clause (2A) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP), which states that:

*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 proposed development is recommended for refusal, as the site known as 199 Forest Way, Belrose is not land that adjoins land zoned 'primarily for urban purposes' and therefore the development does not meet the test of permissibility as detailed in WLEP 2000. The alterations and additions to the site known as 207 Forest Way, is also prohibited, however if the application was made using the provisions of existing use rights, the application would be

permissible. The applicant has not lodged the application under the provision of the existing use rights pursuant to the Environmental Planning and Assessment Act 1979.

Apart from the issue of permissibility, there are a number of other issues raised in the referral comments in relation to the proposed development, which also form reasons for refusal in that the application is deficient in identifying the relevant environmental impacts associated with the subject site.

Notwithstanding the permissibility issues and the unresolved environmental impacts, other aspects of the development are acceptable. The built form is consistent with the existing or 'present' character and the definition of 'low intensity, low impact' development under the provisions of WLEP 2000.

The proposal is "Integrated Development" and requires separate approvals pursuant to Section 91 of the *Water Management Act 2000* and 100B of the *Rural Fires Act 1997*. The project has an estimated Capital Investment Value of \$66 million and therefore, Sydney North Planning Panel (SNPP) is the relevant determining authority.

Accordingly, it is recommended that the SNPP, as the determining authority, refuse this application for the reasons detailed within the "Recommendation" section of this report.

## **ASSESSMENT REPORT AND RECOMMENDATION**

### **ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the EP&A Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the EP&A Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

### **STATUTORY CONTROLS**

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulations 2000;
- c) State Environmental Planning Policy No. 55 – Remediation of Land;
- d) State Environmental Planning Policy (State and Regional Development) 2011;
- e) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;
- f) State Environmental Planning Policy (Infrastructure) 2007; and
- g) Warringah Local Environment Plan 2000.

## NON-STATUTORY CONTROLS

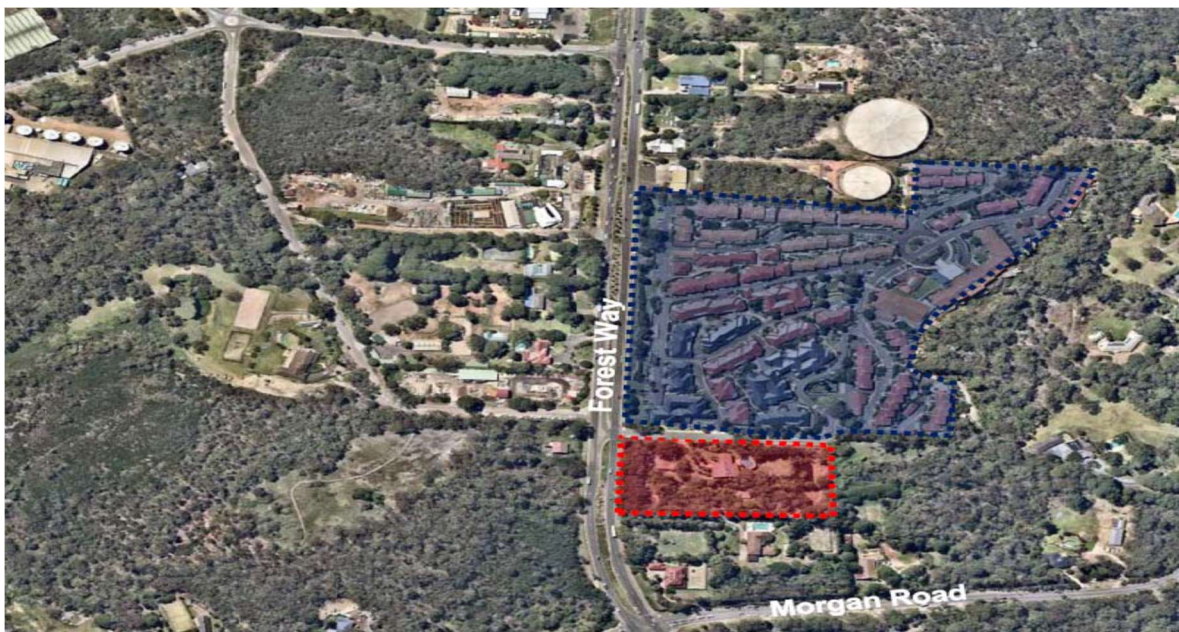
- a) Warringah Development Control Plan No. 1.

## SITE DESCRIPTION

Glenaeon Village is an existing retirement living community located at 207 Forest Way, Belrose (Lot 100 DP1114910) that predominately consists of independent living units. Serviced apartments are also provided, together with community facilities such as a pool, gym and community centre. The site has an approximate 270m frontage to Forest Way and a bus shelter is located along this frontage that is serviced by a regular public bus service.

The site at 199 Forest Way site is located immediately south of the Glenaeon Village site on the opposite side of Glenaeon Avenue. This site has an approximate area of 1.2 hectares and frontage to Forest Way of 80m. A two storey dwelling house with various outbuildings currently exists on the site. The site has a moderate fall from Forest Way to the rear boundary of the site where an unformed road is located.

The location of the site is shown in the aerial image below (199 Forest Way, Belrose (outlined red) and the adjoining Glenaeon village (outlined in blue).



**Location Plan**

The surrounding area in which the subject properties are located is characterised by mixed forms of development. The sites are located north of the residential urban area of Belrose extending to Wyatt Avenue, which includes:

- To the north of the broader Glenaeon site, large residential lots.
- To the east of the site, predominately bushland as well as large residential lots that form part of Oxford Falls.
- To the south of the site is another aged care development.
- To the west of the site is large nursery and further to the west is the Belrose Waste Management Facility.

## RELEVANT BACKGROUND:

The site known as 207 Forest Way, Belrose was the subject of Development Consent (No.1982/116), dated 1 October 1982 for:

*The use of the site as "Housing for aged persons, incorporating 100 self-care units being 92 single storey, semi-detached and 8 single storey detached 1, 2, or 3 bedroom villas; part single part two storey building containing 50 bed nursing home and 50 unit aged persons hostel; two storey administration and community centre". The development consent was acted upon and a number of other modifications associated with the aged care use were subsequently issued by the former Warringah Council, which included:*

- *Housing for aged and disabled persons incorporating 140 self-care units, a 50 unit aged persons hostel with associated administrative and community centre (12 July 1984, 31 January 1985 and 20 February 1986).*
- *Housing for aged and disabled persons incorporating 137 self-care units, 51 aged persons hostel building with 2 bed rehabilitation ward, and an administrative and community centre building (5 December 1989).*

The above consent was issued by Council under the provision of former State Environmental Planning Policy No 5 (SEPP 5).

SEPP No.5 (Amendment 1), was gazetted on 7th October 1983, with the effect, inter alia, of prohibiting housing for aged or disabled persons on land which is not within or adjoining land zoned for urban uses. The above consent was granted because the development application was lodged before the gazettal of SEPP 5 (Amendment 1), and therefore saved by the saving provision at that time.

Following that approval, the Village expended through time and there has been a number of Development Applications lodged and approved by Council.

## DEVELOPMENT APPLICATION HISTORY

The following provides a summarised version of key chronological events that have occurred during and prior to the lodgement of this application:

Date	Chronology of key events
<b>20 December 2016 -</b>	Pre- Lodgement meeting (PLM) was held with Council in relation to the proposed development. Council advised the applicant that the development on 199 Forest Way is prohibited and that they should obtain a Site Compatibility Certificate (SCC) under SEPP Seniors to be issued by the NSW Department of Planning and Environment (DPE).
<b>10 April 2017</b>	SCC lodged with DPE for 144 bed RCF on 199 Forest Way.
<b>17 May 2017</b>	Council lodged its submission to DPI in response to SCC, reiterating that Council considers that Seniors Housing is a prohibited development on the subject site as the site does not adjoin land that is zoned or "primarily used" for urban purposes.
<b>23 June 2017</b>	PLM meeting was held with Councils' Strategic Team to rezone the site and Glenaeon Village to align with the Council Prepared Planning Proposal at Gateway and increase the height on Glenaeon to 11m under Warringah LEP 2011. This approach was not supported by Council.

<b>26 September 2017</b>	DPE letter to Council providing opinion that seniors housing is permissible on the site under WLEP 2000.
<b>10 October 2017</b>	Council response to DPE letter. Reiterating its position that seniors housing is prohibited.
<b>2 August 2018</b>	A second PLM was held to discuss the final plans prior to the lodgement of the Development Application.
<b>10 August 2018</b>	The current DA was lodged with Council.
<b>8 November 2018</b>	<p>A meeting was held between Council staff and the applicant (at the request of the applicant) to discuss the progress of the application.</p> <p>At the meeting the following matters were discussed:</p> <ul style="list-style-type: none"> <li>• The referral issues; and</li> <li>• Urban Design and Planning concerns in relation to the built form of the development on 199 Forest Way.</li> </ul>
<b>8 February 2018</b>	<p>The applicant lodged additional information in an attempt to address the above concerns, which included:</p> <ul style="list-style-type: none"> <li>• Amended Architectural Plans and Design Statement for 199 Forest Way, prepared by Calder Flower Architects;</li> <li>• Amended Landscape Plans for 199 Forest Way, prepared by Aspect Studios and Scape Design;</li> <li>• An Amended Biodiversity Development Assessment Report and Biodiversity Impact Assessment Report by Keystone Ecological;</li> <li>• Amended Stormwater Management Plans, including DRAINS and MUSIC modelling files for 199 Forest Way prepared by Wood &amp; Grieve Engineers;</li> <li>• Bushfire Statement for 199 and 207 Forest Way, prepared by Building Code &amp; Bushfire Hazard Solutions;</li> <li>• Traffic Key Responses Package;</li> <li>• DRAINS modelling files for the proposed 207 Forest Way stormwater management system, prepared by Cardno; and</li> <li>• Riparian Assessment for 199 and 207 Forest Way and correspondence letters and correspondence letters responding to Council referrals, prepared by Cardno.</li> </ul> <p>The above information has been considered in the assessment of this application. The amended plans were not re-notified, as the amendments were considered to be of lesser environmental impact and an improvement to the final built form.</p>

## PROPOSED DEVELOPMENT

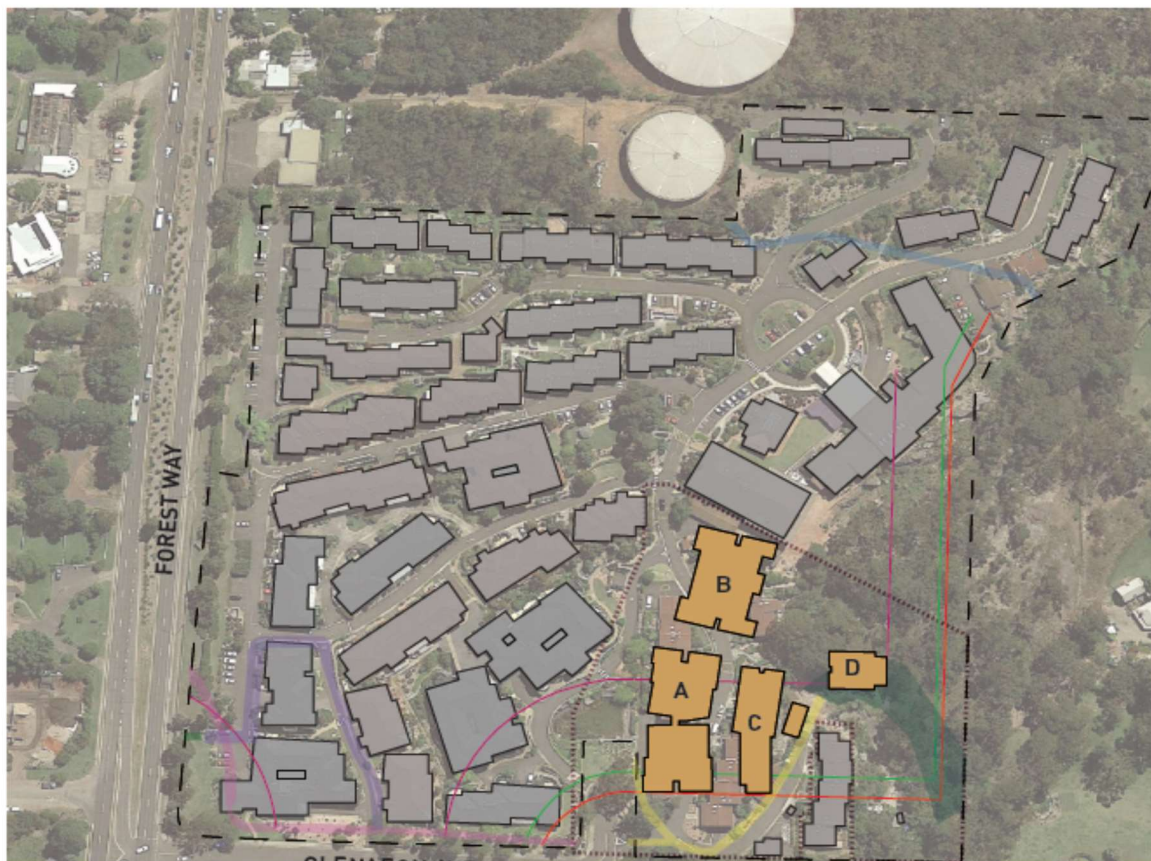
This application seeks consent for demolition works and construction of a Residential Care Facility (RCF) on the site known as 199 Forest Way, Belrose and alterations and additions to an existing retirement village on the site known as 207 Forest Way, Belrose. The proposed development will also include works to Glenaeon Avenue in order to provide access and connectivity between 207 and 199 Forest Way.

Specifically, the proposed development consists of:

### **207 Forest Way - Additions and Alterations to an Existing Retirement Village**

- Demolition of 24 existing self-care dwellings;
- Construction of four 3 storey residential buildings (Buildings A – D) comprising of 60 self-care dwellings towards the rear of the site;
- Excavation to accommodate a single subterranean basement levels;
- 69 car parking spaces;
- Landscaping of residual areas within the parcel of land (including tree removal); and
- Augmentation of essential services and utilities as required.

Figure 1 below is provided to assist in the identification of the proposed buildings within the site.



**Figure 1 – Site Plan** (Source: Adapted by the author from Plans prepared by PTW Architects)

Further detail of the proposal is provided as follows:

- Building A - 24 Apartments comprising of 12 x 2 bedroom plus 12 x 2 bedroom plus study;

- Building B – 19 Apartments comprising of 5 x 2 bedroom plus 14 x 2 bedroom plus study;
- Building C - 12 Apartments comprising of 7 x 2 bedroom plus 5 x 2 bedroom plus study; and
- Building D - 5 Apartments comprising of 5 x 2 bedroom.

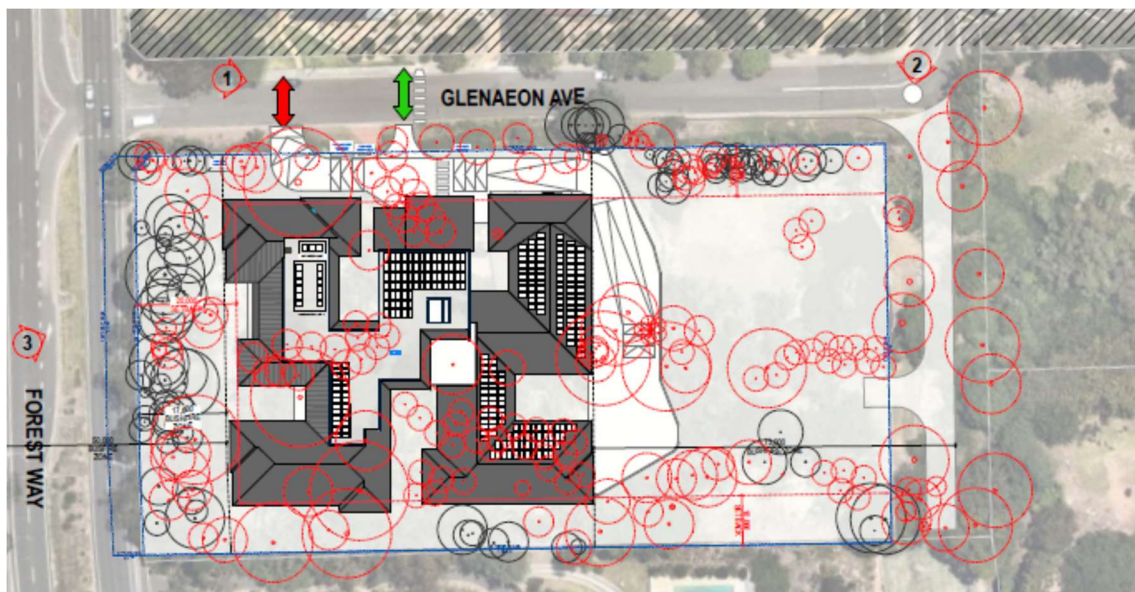
#### Location of Building A – Location and Footprint

It is noted that a small portion (being the south western corner) of the proposed Building A is located outside of the site boundary into Glenaeon Avenue. The applicant has indicated that this is an error and would accept a condition requiring that no parts of the building are to be located outside the boundaries of the site.

#### **199 Forest Way – Residential Care Facility**

- Demolition works and the removal of trees including site preparation;
- The construction of a three level development which includes a 102-bed residential care facility;
- Car parking spaces for 32 vehicles;
- Associated Landscaping works and drainage works

Figure 2 below is provided to assist in the identification of the proposed development within the site.



**Figure 1** – Site Plan, as amended (Source: Adapted by the author from Plans prepared by Calder Flower)

Further detail of the proposal is provided as follows:

#### Lower Ground Floor

- 32 car parking spaces
- Kitchen
- Laundry

- Staff amenities
- Service areas including switch room, maintenance, bulk store, plant room and
- garbage storage.

#### Ground Floor

- 68 bedrooms including 34 bedrooms for dementia care;
- Main entry and reception area;
- Ancillary services including café, hairdresser, physio and consulting rooms
- 4 lounge rooms
- 4 dining rooms
- 2 servery rooms
- 4 terraces
- Nurses stations;
- Sitting rooms;
- Bathrooms;
- Staff offices and meeting rooms: and
- Service areas including equipment rooms.

#### First Floor

- 34 bedrooms;
- Chapel;
- Activity Room;
- 2 lounge rooms;
- 2 dining rooms; ‘
- Servery
- Terrace;
- Nurses stations;
- Sitting rooms;
- Bathrooms;
- Staff offices and meeting rooms: and
- Service areas including equipment rooms.

### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act 1979)**

<b>Section 4.15 'Matters for Consideration'</b>	<b>Comments</b>
<b>Section 4.15 (1) (a)(i)</b> – Provisions of any environmental planning instrument	See the discussion on “Environmental Planning Instruments” in this report.  The proposed development on the site known as 199 Forest Way is prohibited under the WLEP 2000, refer to discussion on permissibility below.
<b>Section 4.15 (1) (a)(ii)</b> – Provisions of any draft environmental planning instrument	None Applicable.
<b>Section 4.15 (1) (a)(iii)</b> – Provisions of any development control plan	The application was notified in accordance with WDCP.
<b>Section 4.15 (1) (a)(iia)</b> – Provisions of any planning agreement	None Applicable.
<b>Section 4.15 (1) (a)(iv)</b> – Provisions of the regulations	The <i>EPA Regulations 2000</i> requires the consent authority to consider the provisions of the Building Code of Australia. This matter can be addressed via

Section 4.15 'Matters for Consideration'	Comments
	<p>a condition of consent should this application be approved.</p> <p>Clause 92 of the <i>EPA Regulations 2000</i> requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter can be addressed via a condition of consent should this application be approved.</p> <p>Clause 50(1A) of the <i>EPA Regulations 2000</i> requires the submission of a Design Verification Statement from the designer at lodgement of the development application.</p> <p>A Design Verification Statement was submitted with the Development Application in relation to the development at 207 Forest Way and has been signed by the project architect.</p>
<p><b>Section 4.15 (1) (b)</b> – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable in relation to the current design.</p> <p>(ii) The development will provide housing designed specifically for seniors or people with a disability and therefore the development ensures that the housing stock caters for a broad cross section of the community. The proposed development will not, therefore, have a detrimental social impact on the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use.</p>
<p><b>Section 4.15 (1) (c)</b> – the suitability of the site for the development</p>	<p>Seniors Housing is not a permissible use on a site known as 199 Forest Way. For the reason of permissibility, the site is not suitable for the proposed development.</p>
<p><b>Section 4.15 (1) (d)</b> – any submissions made in accordance with the <i>EPA Act</i> or <i>EPA Regs</i></p>	<p>The public submissions received in response to the proposed development are addressed under 'Notification &amp; Submissions Received' within this report. All of the submissions received have been in support of the development.</p>
<p><b>Section 4.15 (1) (e)</b> – the public interest</p>	<p>The proposed development is for a Seniors Housing Development, which will assist in meeting the demands of Sydney's ageing population.</p> <p>However, as discussed in this report the proposed development is prohibited on the site and the overall environmental impact of the proposal is found to be inconsistent with a number of Controls for this site.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>Consequently, it is considered that the development is not serving the broader and sectionalised public interest as the development is fundamentally not suited to the site in terms of its permissibility and having regard to unresolved environmental impacts.</p> <p>The public benefit of providing seniors living accommodation on this site does not outweigh the concerns in relation to the permissibility of the proposal and the impacts that the proposal would have on the locality. Accordingly, it is concluded that the proposal is not in the broader public interest.</p>

#### Permissibility of the Development (WLEP 2000)

Housing for seniors or people with a disability is a Category Two land use within Locality B2 and is only permissible with consent, if the development satisfies the criteria described in paragraph (c) under the heading "Housing Density". The use is otherwise prohibited development. Paragraph (c) states:

*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 of the LEP.*

As mentioned above, the site is located within Locality B2 – Oxford Falls. The site also adjoins the Locality C8 – Belrose North to the west. The site does not adjoin any other locality. The term 'locality' is defined in dictionary of the WLEP 2000 as:

*"a discrete area of land (or water) listed as a locality in an Appendix to this plan and identified on the map."*

Locality B2 – Oxford Falls and Locality C8 – Belrose North are not zoned primarily for urban purposes, as set out in cl 4(2A) of the SEPP (HSPD) 2004.

The subject site is not bound (by virtue of shared boundaries) by any land zoned primarily for urban purposes. The R2 Low Density Residential zone as per the WLEP 2011 is located 147m south (and diagonally across Forest Way) measured from the corner of the site at 199 Forest Way, and is bounded by Wyatt Avenue and Forest Way.

In response to this issue, the applicant has submitted a number of legal advices to Council. Previous advice submitted by the applicant conceded that the site did not adjoin the R2 Low Density Zone and sought to establish that the site adjoined the RE1 Public Recreation Zone (RE1 zone") to the north of the site and that the RE1 zone was primarily for urban purposes.

The latest legal advice submitted by the applicant has taken a different approach in the analysis as to whether the site adjoins land primarily used or zoned primarily for urban purposes. This advice concludes that the site adjoins the R2 zoned land to the south of the site (some 147 metres from the site) and, therefore, the proposed seniors housing development is permissible under the WLEP 2000.

Council has reviewed the applicant's legal advice and does not concur with the opinion and concludes that the proposed development is prohibited for the following reasons:

- State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 (Seniors SEPP), makes it clear that the B2 and C8 Localities is not land zoned primarily for urban purposes;
- An analysis of the categories of development permissible in the B2 and C8 localities and the desired future character statement is indicative of land used primarily for non-urban purposes;
- The closest residential land (being R2 – Low Density Residential Zone) is diagonally across Forest Way, which is 147m away. This land is considered to be a significant distance away and therefore should not be considered as being “adjoining”. In this regard, reference is made to the following Land and Environment Court cases, which relate to the issue of what constitutes “**adjoining**”:
  - In *ACN 115 840 509 Pty Ltd v Kiama Municipal Council* [2006] NSWLEC 151 the closest residential land was 65 metres (separated by a road and railway line). This land was considered to be “**adjoining**”.
  - In *Signature Gardens Retirement Resort Pty Limited v Cessnock City Council* [2013] NSWLEC 1070 land directly across from other land where the only intervening land was a road and a small **10m** open space zoned strip adjoining the road was considered to be “**adjoining**”.
  - In *MoDog Pty Ltd v Baulkham Hills Shire Council* [2000] NSWLEC 180, the subject property was surrounded on three sides by rural zoned land. Across the road was also rural zoned land, but beyond the rural zoned land there was residential zoned land **220m** away. In that case, the Court considered the closest residential zoned land was “**not adjoining**”.

The issue of permissibility relates specifically to the site known as 199 Forest Way, Belrose. The development on 207 Forest Way can be made under the provision of existing use rights, but the applicant has not made that claim.

If the Panel (SNPP) forms a view that the development is in fact permissible on the site, the following sections of this report is provided to guide the Panel in its determination of this application.

## **PUBLIC EXHIBITION**

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, WLEP 2000 and WDCP. As a result, the application was notified for a minimum period of 30 calendar days. Furthermore, the application was advertised in the Manly Daily and a notice was placed on the site.

As a result of the public exhibition process, a total of 52 individual submissions and two petitions have been received, all supporting the proposed development. A brief summary of the support letters are as follows:

- *Northern Beaches have an aging population and is in need of more appropriate Aged Care facilities, particularly in the Frenchs Forest / Belrose areas.*

- *The approval of this Development Application would most assuredly give aging and disabled residents at Glenaeon more confidence and hope in maintaining life time relationships and also demonstrate our Council has both foresight and compassion for the elderly.*
- *Lend Lease is proposing to provide nursing home facilities on the site at 199 Forest Way which is only separated from Glenaeon Retirement Village by Glenaeon Avenue and is within easy walking distance.*
- *There are considerable advantages to the residents of Glenaeon Retirement Village in having the nursing home provided nearby and for this reason my wife and I request you support.*
- *199 Forest Way is well covered with trees and a proposed nursing home can be screened from other properties to the south and east.*

## MEDIATION

Mediation was not requested

## External Referrals

Referral Body	Comments Received
NSW Rural Fire Service (NSW RFS)	<p><b>Approval – subject to conditions</b></p> <p>The application was referred to the NSW RFS as Integrated Development on 15 August 2018.</p> <p>In their response on 17 October 2018, the NSW RFS issued their Bushfire Safety Authority and General Terms of Approval which are to be included in any consent should the Panel be of the mind to approve this application</p>
NSW Roads and Maritime Services (RMS) – Concurrence request	<p><b>Approval – subject to conditions</b></p> <p>The application was referred to the RMS for comment in accordance with SEPP (Infrastructure). The RMS provided their comments on 29 August 2018 in which no objection was raised subject to conditions.</p> <p>The conditions provided by the RMS may be included in a consent should this application be approved.</p>
Water NSW	<p><b>Approval – subject to conditions</b></p> <p>The application was referred to the Water NSW as Integrated Development. Water NSW provided comments on 11 October 2018 and has provided General Terms of Approval which are to be included in any consent should the Panel be of the mind to approve this application.</p>
Aboriginal Heritage	<p><b>Approval</b></p> <p>The Aboriginal Heritage Office has reviewed the proposal and has raised no objection on the basis that there are no sites recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p>

## INTERNAL REFERRALS

Internal Referral Body	Comments Received
Building Assessment	<p><b>Approval – subject to conditions</b></p> <p>No objections subject to conditions to ensure compliance with the Building Code of Australia</p>
Environmental Health	<p><b>Approval – subject to conditions</b></p> <p>It is noted that 199 Forest Way has a registered on site waste water system yet the applicant is proposing connection to sewer which is elevated in Forest Way. It is assumed that the development will pump to sewer.</p> <p>Condition will be added with regard to potential site contamination issues.</p>
Traffic Engineer	<p><b>Approval – subject to conditions</b></p> <p><b>Traffic:</b> Volumes are deemed suitable.</p> <p><b>Pedestrian:</b> The applicant informed Council and RMS that there is a shuttle service daily. The applicant was to provide an amended report to identify this. The amended report has not addressed this item. As such, the shuttle services will be conditioned as part of the DA.</p> <p><b>Access:</b> The Glenaeon Street access will require modification to accommodate two approach lanes and one departing lane. These shall need to address appropriate storage queues and adequate swept path analysis. This will be conditioned as part of the DA.</p>
Development Engineers	<p><b>Refusal</b></p> <p>Development Engineers have raised the following issues:</p> <p><b>1. 199 Forest way - Stormwater Drainage Plans and Report</b></p> <p>Stormwater drainage plans detailing the provision of On-site stormwater detention are lacking the minimum required information as required by the " Warringah Council On Site Detention Technical Specification" Clause 3.1.3 minimum information required for this type of development including summary information regarding the design of the OSD system and associated drainage system in a similar format as shown on drawing no A1 9070-1 (Appendix 9),</p> <p>Clauses 4.3 and 4.4 require a DRAINS model to determine the volume (site storage requirement) and permitted site discharge (PSD).</p> <p>Additionally the existing man made pond is to be certified as suitable for the purposes of a water retaining structure for all the design recurrence storms by a suitably qualified geotechnical engineer .</p> <p>The position of the downstream outlet structure/headwall will have a hydraulic and environmental impact on the downstream vegetation and has not been quantified in a hydraulic and environmental assessment. Permission from the downstream property owner is required to discharge stormwater directly onto their property.</p>

	<p>The construction of an additional stormwater drainage line in Forestway and Gleneon Ave is not supported as it proposes to divert upstream catchment flows to a different catchment which would result in downstream flooding of the existing retirement village. The installation of any stormwater drainage line in Forest Way would also require RMS approval.</p> <p><b>2. 207 Forest Way - Stormwater Drainage</b></p> <p>The stormwater concept plans need to comply with the former "Warringah Council On Site Detention Technical Specification" Clause 3.1.3 that details the minimum information required for this type of development .</p> <p>Clauses 4.3 and 4.4 require a DRAINS model to determine the volume (site storage requirement) and permitted site discharge (PSD).</p>
Urban Design	<p><b>Approval – subject to conditions</b></p> <p>The proposal can be supported. Previous Urban Design assessment comments have been sufficiently addressed as follows;</p> <p><b><u>WLEP 200</u></b></p> <p><b>Desired Future Character</b> – The revised proposal adequately addresses the contextual response to the desired future character with:</p> <ul style="list-style-type: none"> <li>• reduction in street wall effect to break up the buildings into detached residential style as far as is practicable;</li> <li>• through site view aspects and connections</li> </ul>
Landscape Officer	<p><b><u>Refusal on Landscape issues associated with 207 Forest Way</u></b></p> <p><u>207 Forest Way</u></p> <p>Amended plans and information provided by the applicant are noted.</p> <p>Concerns previously held regarding the impacts of Building D and stormwater works are still held.</p> <p>It is considered that Trees 27, 28, 46 around Building D will still be adversely affected with excavation up to 3m and stormwater diversion swales located within the Tree Protection Zones of the trees to a detrimental extent.</p> <p>The building and stormwater works are significant and construction activity will clearly impact beyond the building lines indicated on the plans.</p> <p>In view of the extent of intensive development already accommodated across the site and proposed intensification over already developed areas, the area below the escarpment should be retained and rehabilitated to preserve and enhance the natural features of the site in keeping with the planning controls.</p> <p>It is still held that Building D should be deleted with environmentally sensitive overland flow paths reinstated, weeds removed and natural vegetation installed in this lower portion of the site.</p> <p>At this stage the proposal is not able to be supported with regard to</p>

	<p>landscape issues.</p> <p>For the purposes of reporting to the SNPP, Without Prejudice conditions have been included as below.</p> <p><u>199 Forest Way</u></p> <p>No objections are raised in general terms to the proposed works on the site subject to tree protection and replanting conditions.</p>
Natural Environmental Unit (Biodiversity)	<p><b>Refusal</b></p> <p>Council's Natural Environment – Biodiversity section has reviewed the amended reports including the Biodiversity Development Assessment Report, Biodiversity (Local &amp; Commonwealth Matters), Bushfire Response and development Plans. The Biodiversity section does not support the application as the proposal is inconsistent with Warringah Local Environment Plan 2000 Clauses 56 Retaining distinctive environmental features on sites, Clause 58 Protection of existing flora, as well as the requirements of Planning for Bushfire Protection 2006.</p> <p>The proposal is for the expansion and reconstruction of what is described by the NSW Planning &amp; Environment Department in recent correspondence as, a significant seniors housing development. Specifically, from a biodiversity perspective, the inclusion of Building D and formalisation of the Asset Protection Zone in Precinct 207, and development of Precinct 199 further expands the overall impact of the Glenaeon development within the locality. Precinct 207 is approximately 8.5 hectares (ha) in size, and the undeveloped portion including the riparian zone is approximately 0.79 ha, which is less than ten percent of the entire lot. In fact, the development footprint is often under-represented within project documentation, with the full extent of the proposed Asset Protection Zone not included as part of the current development site boundary.</p> <p>The Precinct 207 development proposal includes expansion into the small area of remaining, relatively intact, native bushland and threatened species fauna habitats. The development, as submitted, will result in additional impact to the only remaining area of high quality native vegetation and threatened species fauna habitat left on the site. The building D footprint, stormwater management works and asset protection zone are located within the riparian area, and adjoining an area of intact native vegetation, will remove hollow-bearing trees and impact significant rock outcrops. The applicant has been previously advised that the proposal should avoid impacts to remnant native bushland, however the application submitted does not avoid or minimise direct and indirect impacts to native vegetation and habitat, including habitat for species recorded on site that have a high biodiversity risk weighting as identified by the Biodiversity Assessment Methodology (BAM). For this reason, the inclusion of Building D as part of the development proposal is not supported. This includes impacts of the building footprint, prescribed impacts (caves, crevices and cliffs), the need to re-locate the existing stormwater management structures, and the creation and on-going management of APZs.</p> <p>The formalisation of the APZ within the native vegetation of 207 Forest Way above that currently approved is not supported, as this does not avoid or minimise direct and indirect impacts to native vegetation and threatened species habitats. Instead focus on bushfire protection to existing structures, proposed building A – C, services and access and emergency management should occur.</p> <p>Therefore, the development does not sufficiently avoid or minimise potential</p>

	<p>environmental impacts, or comply with the relevant planning controls and policies applicable to the proposal.</p> <p><b>Assessment against WLEP 2000</b></p> <p>The proposed development must be planned and designed in order to address and satisfy the following two clauses of the WLEP 2000.</p> <p>Clause 56 Retaining distinctive environmental features on sites, states that; 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.</p> <p>A portion of the proposed development on 207 Forest Way and the entirety of the proposed bushfire Asset Protection Zone (APZ) is located within high quality remnant bushland, known threatened species habitat, and will impact distinctive environmental features such as caves, crevices, cliffs, rocks, remnant bushland, hollow-bearing trees and riparian areas. The vegetation integrity on the remnant bushland has been assessed as very high, and the area includes other high quality biodiversity values that should be retained. Several threatened species have been recorded on the site and adjoining lands, and the site provides high quality habitat for a range of threatened species.</p> <p>Based on the scale of impacts proposed, the proposal is considered inconsistent with Clause 56 Retaining distinctive environmental features on sites of WLEP 2000. It is recommended that siting and design of any future application demonstrate that the distinctive environmental features of the site and adjoining land have been retained and that impacts have been avoided and minimised.</p> <p><b>Clause 58 Protection of existing flora states that;</b></p> <p>The Development is to be sited and designed to minimise the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species.</p> <p>As above, the development, including the bushfire Asset Protection Zone (APZ), vehicular access, increased stormwater runoff and ancillary structures will impact on areas that are currently represented by remnant indigenous flora, including canopy trees, understorey vegetation and native ground cover species.</p> <p>Native vegetation on the site will be directly and indirectly impacted and various threatened flora and fauna species have potential habitat on the subject property. The threatened fauna species <i>Cercartetus nanus</i> Eastern Pygmy-possum has been recorded directly adjoining the site, and suitable habitat occurs on the site. The development and ongoing modification of the APZ will not minimise impacts to indigenous flora that is also habitat for several threatened species, including fruiting <i>Banksia</i> species, the loss of hollows, and modification to the structure and composition of the bushland within the APZ. Based on the information provided, the proposal is considered to be inconsistent with Clause 58 Protection of existing flora of WLEP 2000</p> <p><b>Planning for Bushfire Protection 2006</b></p> <p>While the proposed APZ on Lot 207 has been justified by the applicant as it will achieve a better bush fire safety outcome for the overall village, Planning for Bushfire Protection also requires that an infill Special Fire Protection Purpose development is located no closer to the hazard. This is re-iterated in the new PBP which states that “new buildings should be located as far from the hazard as possible and should not be extended</p>
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	<p>towards or situated closer to the hazard than the existing buildings.”</p> <p>This hazard exists as native vegetation (Forest), both on site and within adjoining lots less than 100 metres to the east and south-east. This is confirmed in the BDAR which states that “The site is impacted by the potential for bushfire hazard from the connected vegetation along Snake Creek that has the potential to act as a ‘fire-run’. Therefore, the building lines must observe the required setbacks.”</p> <p>In addition, I believe that the bush fire hazard assessment has incorrectly applied the vegetation structure and effective slope to the east of the development in calculating separation distances and BAL ratings. It appears that the existing development already relies upon an APZ within an adjoining allotment to the south, and any further reliance on APZs to the east that would extend off site must be avoided.</p> <p>The new building would be located closer to the hazard, is within the Flame zone, and therefore does not satisfy the objectives of PBP.</p> <p>The development is recommended for refusal.</p>
Natural Environmental Unit (Riparian) Water Management	<p><b><u>Refusal</u></b></p> <p><b><u>199 Forest Way Belrose</u></b></p> <p><b>General site topographical description</b></p> <p>The site is part of Snake Creek local catchment. Snake Creek is a tributary of Middle Creek and Oxford Creek leading to Narrabeen Lagoon. Desktop analysis of the Snake Creek catchment was based on the 1m grid DTM for the Snake Creek catchment (Sydney 2011-05-12 2kmx2km 1 metre Resolution Digital Elevation Model Metadata). Detail survey extracted from the Riparian Study was also used at the site scale.</p> <p>Snake Creek catchment analysis is showing a mature dendritic drainage pattern, the tributaries upstream of Morgan road are organised in a compact heart shaped system. The drainage density of that upper area is higher than downstream of Morgan road that generally is typical of lower infiltration, closer bed rock and increase in surface runoff. The catchment north of Morgan road is critical for the production of runoff and forms the headwaters of Snake Creek.</p> <p>The site is located at the transition from low relief plateau to a steep escarpment. The site slopes are converging and forming a distinctive small valley located in the centre of the lot and falling in the West-east direction. Valleys are areas of the landscape where water converges and headwater streams occupy that part of a catchment where hillslopes are directly connected to channels (Church 2002). The scale of the small valley (50 to 60m wide) is related to geomorphic time and not to anthropogenic modifications. The site elevations are ranging from 186m AHD on the Forest Way side to 173m AHD to the eastern site boundary.</p> <p><b>Hydrology</b></p> <p>The existing 450mm diameter stormwater pipe is discharging stormwater through a concrete headwall to the property earth channel before discharging into what Council considers to be a modified natural creek. As the general site grade increases, the creek, in sections, is reinforced by concrete lining and rock boulders.</p> <p>The creek connects to an artificial pond formed by a downstream fill embankment. Water is managed by a stormwater outlet discharging the water immediately downstream of the site (refer topographical survey, Appendix B, Riparian assessment 2018, Cardno). It is anticipated that the</p>

	<p>banks are overtopped during large storm event.</p> <p>It was noted during the site visit (19 November 2018) the presence of natural instream features. Bedrock was observed in the mid channel section that pre date the channel feature work. The site morphology analysis is indicating that the site is including a flow path linked to an upstream catchment of approximately 1.61 Ha. The system is still actively connected to the upstream catchment and runoff will concentrate in the channel for various range of event. The flow in excess of the pond storage capacity discharges to the adjoining property and eventually to Snake Creek proper.</p> <p><b>Project main impacts</b></p> <p>The proposed development is located on top of an important flow path part of the Snake Creek headwater. The building and proposed stormwater strategy is impacting the flow distribution in the catchment with:</p> <ul style="list-style-type: none"> <li>• blocking the flow path with potential risk of flooding from overland flow when the stormwater pipe capacity is exceeded</li> <li>• diverting the flow away from the catchment to adjacent receiving catchment</li> <li>• increase risk of flooding to adjacent receiving catchment</li> <li>• modification of natural hydrological regimes (surface and ground) with likely impact to soil moisture content, vegetation communities and erosional processes</li> <li>• the project is not maintaining the natural geomorphic processes</li> </ul> <p><b>Comments</b></p> <p>Council identify the existence of a flow path with creeks features at the site. The flow path is important at the lot scale as well as in the landscape context. The proposed development modifies the headwater of the creek system with blockage of an existing flow path with the proposed building and diversion of flows to adjacent catchments.</p> <p>The channel is to be considered in such a way that the integrity of the watercourse and its riparian corridor should be protected, restored or rehabilitated.</p> <p>In summary, the proposed developments is contrary to Council's Protection of Waterway and Riparian Lands Policy, Water Management Policy and the WLEP2000, most notably clauses:</p> <ul style="list-style-type: none"> <li>• 56 - Retaining distinctive environmental features on sites</li> <li>• 60 - Watercourses and aquatic habitat</li> </ul> <p>Schedule 6 - Preservation of bushland</p>
Natural Environmental Unit (Water Management)	<p><b><u>Refusal</u></b></p> <p><b>199 Forest Way</b></p> <p>The proposed water management system complies with Council water quality requirements.</p> <p><b>207 Forest Way</b></p> <p>Although the proposed water quality system in an improvement over the existing scenario, the system is still deficient in achieving the water quality performance requirements as stated in Table 4 of the Water Management Policy. The system must be redesigned and remodelled to achieve section 8.1 of the Policy. The applicant is strongly advised to include vegetated water quality systems in order to attenuate the residual nitrogen loading.</p>

	<p><b>Conclusion</b></p> <p>As such, the development in its current form cannot be supported due to the non-compliance for the development on 209 Forest Way.</p>
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## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)**

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

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

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

### **State Environmental Planning Policies (SEPPs)**

A further consideration is required for the following State policies:

#### **SEPP (State and Regional Development) 2011**

The proposed development does not constitute State Significant Development under SEPP (State and Regional Development) 2011.

Of more relevance, Clause 20 of this policy cross-references Section 4.5 of the EP and A Act 1979, which identifies a range of developments that either due to their nature, scale, value, impact or location are deemed to be of regional significance and which, as a result, require that the SNPP become the consent authority.

In this regard, Schedule 7 (2) of this policy indicates that Development that has a capital investment value of more than \$30 million is of regional significance. As indicated on the DA form and as confirmed by a quantity surveyors report accompanying the application, the proposed development has a capital investment value of \$66 million. As such, the consent authority for the application will be the SNPP.

#### **SEPP 55 - Remediation of Land**

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

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

Council's records indicate that the site at 207 Forest Way has been used for Seniors Housing purposes and the site at 199 Forest Way for residential purposes for a significant

period of time. It is therefore considered that the site poses no risk of contamination and as such no further consideration is required under Clause 7(1) (b) and (c) of the *SEPP 55*.

### **SEPP (Infrastructure) 2007**

#### Clause 45 – Ausgrid

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

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation;*
- *Within 5m of an overhead power line;*
- *Includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.*

The application was referred to Ausgrid under clause 45(2) of SEPP Infrastructure.

To date, no response has been received and it is assumed that Ausgrid do not raise any objection nor impose any conditions.

#### Clause 102 - Roads and Maritime Service (RMS)

The Development Application was referred to the RMS for approval under the provisions of Schedule 3 of SEPP (Infrastructure) 2007 as a traffic generating development.

The RMS has provided their concurrence to the development. The letter of concurrence includes conditions which are to be imposed in the Notice of Determination should this application be approved.

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

The DA is made pursuant to WLEP 2000 which permits development for the purposes of *housing for older people or people with disabilities* on land within Locality B2 Oxford Falls Valley. The DA is not made pursuant to SEPP (HSPD) 2004.

Notwithstanding, clause 12(1)(b) of WLEP 2000 states that before granting consent for development the consent authority must be satisfied that the development is consistent with any relevant State Environmental Planning Policy described in Schedule 5 (State policies). State policies pertaining to housing for older people or people with a disability are nominated in Schedule 5.

In addition to the above, the Land and Environment Court decision of Talbot J on 31 May 2004 in *Mete v Warringah Council [2004] NSWLEC 273*, states that if a DA is made pursuant to WLEP 2000, then only certain clauses of the *SEPP* are relevant to the assessment of the application. Specifically, clauses which are prefaced with the words “*development application made pursuant to this chapter*” are not relevant to the application.

Taking the approach of the Court, an assessment of the proposal has taken into consideration the relevant provisions of the SEPP outlined as follows:

### **Chapter 1 – Preliminary**

Chapter 1 of the SEPP lists under Clause 2(1) the Aims of the Policy as follows:

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

The above Aims are considered as follows:

- a) Increase the supply and diversity of residences that meet the needs of seniors or people with a disability.*

The proposed development is considered to be consistent with the aims of the policy, in that the proposed development will increase the supply and diversity of residences to meet the needs of seniors or people with a disability.

- b) Make efficient use of existing infrastructure and services*

In terms of the availability of infrastructure, public transport, community facilities and environmental quality, the site is located within an established residential area and would be supported by the required infrastructure (pending approval from Sydney Water). The site abuts Forest Way and is adequately serviced by continuous bus routes. Community facilities (Forestway Shopping centre, Glenrose shopping centre, Belrose Hotel and Blowing Club and medical practitioners) are located within close proximity of the site.

The proposed development is considered to be consistent with the aims of the policy

- c) Be of good design*

When considering the development against the aim of achieving good design, the development must be considered in context with the other provisions of the SEPP. In this regard, the proposed development (as amended) has been found to be of good design.

## **Chapter 2 – Key concepts**

The proposed development is consistent with the key concepts contained within the SEPP.

The proposed development comprises the redevelopment of the site at 199 Forest Way to accommodate a Residential Care Facility which includes the following:

- Meals and cleaning services;
- Personal care or nursing care or both; and
- Appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care.

Accordingly, on this basis, it is considered that the proposed development is consistent with the provisions outlined in Chapter 2 of the SEPP.

## **Chapter 3 – Development for seniors housing**

Chapter 3 of the SEPP contains a number of development standards that are applicable only to development applications made pursuant to the SEPP. However, as the development

application was made pursuant to WLEP 2000, the specific provisions prefaced for their operation with the words “made pursuant to this chapter” of Chapter 3 do not apply.

Accordingly, the provisions outlined in Chapter 3 of the SEPP are not applicable to the assessment of this application.

#### **Chapter 4 – Miscellaneous**

The site is not on “*environmentally sensitive land*” and is not affected by amendments to other SEPPs, and the special provisions do not apply to this land.

However, the requirement of Clause 55 is applicable to the proposed development at 199 Forest Way, Belrose, which states

*“A consent authority must not grant consent to the carrying out of development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system”.*

This requirement can be addressed by way of conditions should the application be approved.

#### **State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)**

The development at 207 Forest Way is required to comply with SEPP 65 and the associated Apartment Design Guide (ADG), which provides additional details and guidance for applying the nine design quality principles outlined in SEPP 65.

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

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

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

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

#### **DESIGN REVIEW PANEL**

Northern Beaches Council does not have an appointed Design Review Panel.

#### **DESIGN QUALITY PRINCIPLES**

##### **Principle 1: Context and Neighbourhood Character**

*Good design responds and contributes to its context. Context is the key natural and built*

*features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

Comment:

Glenaeon Retirement Village has been operating from the site at No. 207 Forest Way since 1982. The proposed development which is part renewal of the existing retirement village is considered to appropriately respond to the existing character of the area.

The substantive articulation of the built form relates favourably to the existing village and will positively contribute to the quality and identity of the site, which is existing and established.

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

**Principle 2: Built Form and Scale**

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

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

Comment:

The existing Glenaeon Retirement Village forms a significant component of the character of the B2 Locality. The proposed development which involves a further extension of the village towards the rear of the site, will therefore not result in any significant change to the present character of this part of the Locality.

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

Building bulk is considered acceptable with the massing of the buildings, which are broken up by variation of the building form. External colour scheme and finishes will blend with the surrounding natural environment to reduce visual impact.

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

**Principle 3: Density**

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

*Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public*

*transport, access to jobs, community facilities and the environment.*

Comment:

The planning controls under WLEP 2011 and the WDCP 2011 do not specify a maximum housing density for the zone. The appropriate density is determined by how the development responds to the Design Quality Principles of SEPP 65, and the relevant controls contained within the WLEP 2000.

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

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

**Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.*

Comment:

The proposed works include demolition of number of buildings currently on the site and excavation works to accommodate the new development.

In this regard, a condition of consent could be imposed requiring the submission of a Construction Management Plan (CMP) detailing disposal and recycling of demolition and excavation materials, should the Development Application be approved.

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

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

**Principle 5: Landscape**

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

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

Comment:

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

Council's Landscape officer has reviewed the proposal and has raised concerns in relation to the location of Building D and its impact on a number of trees and natural vegetation within that portion of the site.

Accordingly, it is recommended that a condition be included in the consent, should the application be worthy of approval, to delete Building D from the development and the natural vegetation installed in that portion of the site.

It is considered that the proposal satisfies this principle subject to deletion of Building D from the plans.

### **Principle 6: Amenity**

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

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

#### Comment:

The development has been assessed against the various amenity requirements of the Apartment Design Guideline (ADG) where it has been found that the development is capable of complying with the relevant controls.

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

### **Principle 7: Safety**

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

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

#### Comment:

The application is not accompanied by a formal Crime Risk Assessment as required by the ADG.

Generally, the development provides secure access which is separated from all vehicular access points. All apartments provide balconies and windows which provides passive surveillance over the village and public road.

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

### **Principle 8: Housing Diversity and Social Interaction**

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

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

#### Comment:

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

The development proposes to construct four (4) buildings which will accommodate 60 apartments, to be occupied by seniors or people with the disability, which is considered to be a positive outcome in terms of providing a diversity type of housing within a locality with an ageing population.

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

### **Principle 9: Aesthetics**

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

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

#### Comment:

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

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

### **APARTMENT DESIGN GUIDE**

SEPP 65 also requires consideration of the ADG prepared by NSW Department of Planning and Environment in 2015. The ADG includes development controls and best practice benchmarks for achieving the design principles of SEPP 65.

The following table sets out the proposal at 207 Forest Way compliance with the ADG:

The following table sets out the proposal at 207-1000 West Way compliance with the ADO.

Criteria / Guideline	Comments
Part 3 Siting the Development	
Site Analysis	Consistent
Does the development relate well to its context and is it sited appropriately?	A context plan is provided to accompany the application.  The building form reflects the current character as anticipated by the WLEP 2000 for the site.
Orientation	Consistent
Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	The proposal development is located at rear of the site and won't be visible form street.
Public Domain Interface	Consistent
Does the development transition well between the private and public domain without compromising safety and security?	The development has been found to transition well.
Is the amenity of the public domain retained and enhanced?	
Communal and Public Open Space	Consistent
Appropriate communal open space is to be provided as follows:  1. Communal open space has a minimum area equal to 25% of the site; 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter).	The site has a whole provides a significant amount of communal space, which is considered to be satisfactory.
Deep Soil Zones	Consistent
Deep soil zones are to meet the following minimum requirements:	In excess of 7% of the site area is deep soil zone.

<p><b>Visual Privacy</b></p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table> <p><i><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</i></p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p><b>Consistent</b></p> <p>The proposed building separation is found to be satisfactory.</p>
Building height	Habitable rooms and balconies	Non-habitable rooms											
Up to 12m (4 storeys)	6m	3m											
Up to 25m (5-8 storeys)	9m	4.5m											
Over 25m (9+ storeys)	12m	6m											
<p><b>Pedestrian Access and entries</b></p> <p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p><b>Consistent</b></p> <p>The development provides level pedestrian access to all floor levels from the basement car parking area.</p>												
<p><b>Vehicle Access</b></p> <p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p><b>Consistent</b></p> <p>The proposed vehicular access has been assessed by Council's Traffic Engineer who has raised no objections to the proposal in terms of the location of the vehicular access.</p>												
<p><b>Bicycle and Car Parking</b></p> <p>For development in the following locations:</p> <ul style="list-style-type: none"><li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li><li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.</li></ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of</p>	<p><b>Consistent</b></p> <p>An assessment of car parking provision, having regard to WLEP 2000 and location of the site has been undertaken.</p> <p>In summary, the amount of car parking is sufficient for the development, as addressed elsewhere in this report.</p>												

transport.											
Visual and environmental impacts are minimised.											
<b>Part 4 Designing the Building</b>											
<b>Amenity</b>											
<b>Solar and Daylight Access</b>  To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: <ul style="list-style-type: none"> <li>• Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter;</li> <li>• A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</li> </ul>	<b>Consistent</b>  Over 70% of the proposed units will receive the required amount of sunlight.										
<b>Natural Ventilation</b> The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: <ul style="list-style-type: none"> <li>• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed;</li> <li>• Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li> </ul>	<b>Consistent</b>  Over 60% of the units are naturally cross ventilated.										
<b>Ceiling Heights</b> Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table border="1" data-bbox="215 1518 831 2024"> <thead> <tr> <th colspan="2">Minimum ceiling height</th></tr> </thead> <tbody> <tr> <td>Habitable rooms</td><td>2.7m</td></tr> <tr> <td>Non-habitable</td><td>2.4m</td></tr> <tr> <td>For two storey apartments</td><td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td></tr> <tr> <td>Attic spaces</td><td>2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.</td></tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For two storey apartments	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.	Attic spaces	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.	<b>Consistent</b>  The floor to ceiling heights of the apartments within the development meet the minimum 2.7m as required by the ADG.
Minimum ceiling height											
Habitable rooms	2.7m										
Non-habitable	2.4m										
For two storey apartments	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.										
Attic spaces	2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area.										

If located in mixed used areas	2.7m for main living area floor,  2.4m for second floor, where its area does not exceed 50% of the apartment area.											
<b>Apartment Size and Layout</b>  Apartments are required to have the following minimum internal areas:  <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table>  The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.  A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.  Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.  Habitable room depths are limited to a maximum of 2.5 x the ceiling height.  In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.  Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).  Living rooms or combined living/dining rooms have a minimum width of:  <ul style="list-style-type: none"><li>• 3.6m for studio and 1 bedroom apartments;</li><li>• 4m for 2 and 3 bedroom apartments</li></ul> The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.		Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<b>Consistent</b> The minimum size of all bedrooms is consistent with the requirement of this Clause.
Apartment type	Minimum internal area											
Studio	35m <sup>2</sup>											
1 bedroom	50m <sup>2</sup>											
2 bedroom	70m <sup>2</sup>											
3 bedroom	90m <sup>2</sup>											

<p><b>Private Open Space and Balconies</b></p> <p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p><b>Consistent</b></p> <p>The private open space of all units meets the requirement of this Clause.</p>
Dwelling Type	Minimum Area	Minimum Depth														
Studio apartments	4m <sup>2</sup>	-														
1 bedroom apartments	8m <sup>2</sup>	2m														
2 bedroom apartments	10m <sup>2</sup>	2m														
3+ bedroom apartments	12m <sup>2</sup>	2.4m														
<p><b>Common Circulation and Spaces</b></p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p><b>Consistent</b></p> <p>The maximum number of apartments off a circulation core on a single level is less than 8.</p>															
<p><b>Storage</b></p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>2</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>2</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>2</sup></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling Type	Storage size volume	Studio apartments	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>	<p><b>Consistent (subject to condition)</b></p> <p>The proposed building includes resident storage areas for all units within the building and as well as within the basement levels.</p> <p>A condition of consent could be recommended, if the application was recommended for approval to ensure the proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective units.</p>					
Dwelling Type	Storage size volume															
Studio apartments	4m <sup>2</sup>															
1 bedroom apartments	6m <sup>2</sup>															
2 bedroom apartments	8m <sup>2</sup>															
3+ bedroom apartments	10m <sup>2</sup>															
<p><b>Acoustic Privacy</b></p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p><b>Consistent (subject to condition)</b></p> <p>The nature of the proposed use is unlikely to generate significant noise emissions associated with the occupation of the development, with the exception of air conditioning systems. A suitable condition could be imposed if the application was worthy of approval in relation to A/C systems.</p>															
<p><b>Noise and Pollution</b></p> <p>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</p>	<p><b>Consistent</b></p> <p>The noise and pollution impact of the development is satisfactory.</p>															
<p><b>Configuration</b></p>																
<p><b>Apartment Mix</b></p>	<p><b>Consistent</b></p> <p>The apartment mix is satisfactory.</p>															

Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.																																				
<b>Facades</b>  Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	<b>Consistent</b>  The development is respectful of the surrounding character, therefore the facade treatment is considered to be appropriate to enhance the streetscape and character of the area.																																			
<b>Roof Design</b>  Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Test whether the roof space can be maximised for residential accommodation and open space.	<b>Consistent</b>  The roof space is used for open space for the residents																																			
<b>Landscape Design</b> Was a landscape plan submitted and does it respond well to the existing site conditions and context.	<b>Consistent</b>  Landscape plans have been submitted with the application, providing detailed plans for the landscape treatment and found to be satisfactory.																																			
<b>Planting on Structure</b> When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m<sup>3</sup></td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown spread at maturity</td><td>35m<sup>3</sup></td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr><tr><td>Small trees</td><td>6-8m high, up to 4m crown spread at maturity</td><td>9m<sup>3</sup></td><td>800mm</td><td>3.5m x 3.5m or equivalent</td></tr><tr><td>Shrubs</td><td></td><td></td><td>500-600mm</td><td></td></tr><tr><td>Ground Cover</td><td></td><td></td><td>300-450mm</td><td></td></tr><tr><td>Turf</td><td></td><td></td><td>200mm</td><td></td></tr></table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		<b>Consistent (subject to condition)</b>  Refer to Principle 5 above and Landscape referral comments.
Plant type	Definition	Soil Volume	Soil Depth	Soil Area																																
Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent																																
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<b>Awning and Signage</b>  Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.  Signage must respond to the existing streetscape character and context.	<b>Not Applicable</b>  The DA does not propose any awning or signage and as such, this clause is not considered in the assessment of this application.
<b>Performance</b>	
<b>Energy Efficiency</b>  Have the requirements in the BASIX certificate been shown in the submitted plans?	<b>Consistent</b>  A BASIX certificate report has been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met.
<b>Water Management and Conservation</b>  Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	<b>Consistent</b>  Water management and conservation through the means of retention of stormwater for reuse has been assessed as compliant and further, compliance with the supplied BASIX Certificate can be conditioned, if the application was recommended for approval.
<b>Waste Management</b>  Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.	<b>Consistent</b>  Subject to condition
<b>Building Maintenance</b>  Incorporates a design and material selection that ensures the longevity and sustainability of the building.	<b>Consistent</b>  The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.

## STATE REGIONAL ENVIRONMENTAL PLANS

There are no SREPs applicable to the site.

## LOCAL ENVIRONMENTAL PLANS

### Warringah Local Environmental Plan 2011 (WLEP 2011)

In December 2011, the Minister for Planning and Infrastructure deferred land in the Oxford Falls Valley and Belrose North areas from WLEP 2011 in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

## Warringah Local Environment Plan 2000 (WLEP 2000)

WLEP 2000 applies to the subject land and the development application is made pursuant to this instrument. Under WLEP 2000, the subject site is within the B2 Oxford Falls Valley Locality.

The Desired Future Character (DFC) statement for the B2 locality states:

*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.*

### Consideration of the development against the Desired Future Character statement (DFC)

Before granting consent, Clause 12(3)(b) of WLEP 2000 requires that the consent authority must consider the DFC described in the locality statement, accordingly the following assessment is provided:

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

When the DFC refers to the 'present character', it is intending that the character should not be altered from the character exhibited at the time the instrument was gazetted (being that stipulated above). From the time the 'DFC' was set, the land is to be developed in accordance with the future directions stipulated within the DFC statement.

The character of the Oxford Falls Valley in 2000 is best described as:

- Predominantly natural landforms (which can include ridgetops and rock outcrops), remnant bushland (remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species), habitat for fauna, natural drainage lines and watercourses (including the catchments); and
- Interspersed detached dwelling houses (with associated ancillary structures).

The assessment has concluded that the design of the proposed development provides for the preservation of this character for the following reasons:

- The existing Glenaeon Retirement Village is of the largest single development in the B2 Locality and has a significant influence on the character of the immediate Locality.

The proposed development which involves a further extension of the village will not result in any significant change to the present character of this part of the Locality.

- The proposed development (as amended) at 199 Forest Way, although different typology to typical residential development because of its function, responds directly to the site conditions and the overall built form maintain a low profile that is designed to read as 2 storeys above the existing ground level. The final built form is considered to be compatible with the built form of other seniors housing along Forest Way.

***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.***

It is noted that '*Detached Style Housing*' is not defined in the dictionary of *WLEP 2000*.

In order to understand and give meaning to the term 'detached style housing', consideration must be given to the form and scale of development which would be considered to be detached style housing. Any definition of detached style housing should therefore reflect the scale of development permitted by the relevant built form.

The term '*detached style housing*' does not necessarily mean that each building only contains one dwelling. This has been established by the Land and Environment Court on a number of occasions including in *Freedom Health and Happiness Pty Ltd v Warringah Council* [2004] NSWLEC 579. Whilst the building may contain more than one dwelling, the building should appear to be one dwelling from surrounding areas (unlike a residential flat building).

In a broader context, the present character of the Oxford Falls Valley locality is generally characterised by large scale open allotments which have a semi-rural to rural appearance. This open semi-rural to rural appearance is accentuated by the heavily vegetated natural valleys of Middle Creek and the Garigal National Park.

The proposed development seeks expansion of the existing retirement village and construction of a new residential care facilities building on 199 Forest Way. The development also includes site works to facilitate associated recreation uses, open car parking areas, internal access road and landscape works.

### 207 Forest Way

It is not uncommon for senior's housing developments to be somewhat different in character, form or scale to the types of development generally envisaged in B2 Locality. The development within the site through its historical development does not provide detached style housing.

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

The proposed development is considered, in its design, to be consistent with this component of the DFC that requires detached style housing.

### 199 Forest Way

The proposed built form, although one large building, will step down the site and "nestle" into the site slope. The proposed built form will maintain a low profile that is designed to read as 1-2 storeys above the existing ground level with the front setback of the proposal providing a 20m setback from Forest Way to permit the retention of the natural ground level and the

establishment of a dense landscaped buffer. The building will express minimal scale to Forest Way when site fencing and landscaping are taken into account. The building will recede into a vegetated setting with maturation of the vegetation

The proposed development is considered, in its design, to be consistent with this component of the DFC that requires detached style housing.

- **Low intensity, low impact uses.**

The terms "low impact" and "low intensity" are not defined in WLEP 2000. However, in the matter of *Vigor Master P/L v Warringah Council [2008] NSWLEC 1128*, Commissioner Hussey gave weight to the evidence of the Council Planner who sought to give meaning and understanding to the terms "intensity" and "impact". In this regard, the following characterisation was given:

*"Intensity: is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore, "low intensity" would constitute a development which has a low level of activities associated with it."*

*"Impact - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality".*

To achieve consistency with the DFC statement in the B2 Locality under WLEP 2000, a development is also required to be of a low intensity and low impact. Each element is described in turn below:

#### **Is the proposed development a "low intensity and low Impact" use?**

The proposal will satisfy the Desired Future Character Statement for the B2 Oxford Falls Locality in that the proposal will be a "low intensity, low impact" use that will not be incongruent with the character of the locality nor have unacceptable adverse impacts on the amenity of adjoining properties.

The proposed development is therefore consistent with the DFC statement of the locality relating to the requirement for the development to be a low intensity and low impact use.

- ***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 DFC indicates that there should be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The development will not disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway and is therefore consistent with this aspect of the DFC.

- ***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.***

Council's Natural Environment (Bushland and Biodiversity) section has reviewed the proposal and has raised significant concerns with the proposal in terms of the impact of the development on the vegetation on the site.

The proposed development is therefore not consistent with the DFC statement of the locality relating to the requirement of protecting natural landscaping.

- ***Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.***

The proposal incorporates external finishes with natural textures and neutral colours to ensure the development is visually compatible with the natural landscape in which it is situated. A schedule of colours and finishes is included with the architectural plan set submitted with the application.

- ***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.***

This component of the DFC envisages the retention of bushland buffer along Forest Way, which is consistent with the built form control for the locality which requires that 20m setback be provided to development along the Forest Way frontage.

The proposed development sufficient setback from Forest Way for 199 Forest Way and the building will express minimal scale to Forest Way when site fencing and landscaping are taken into account. The building will recede into a vegetated setting with maturation of the vegetation;

The proposed development is therefore consistent with the DFC statement of the locality.

- ***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.***

The site is part of Snake Creek local catchment. Snake Creek is a tributary of Middle Creek and Oxford Creek leading to Narrabeen Lagoon. Riparian section of Council's Natural Environment Unit has advised that the development and proposed stormwater strategy will significant impact the flow distribution in the catchment.

Therefore, the development is not considered to satisfy this element of the Desired Future Character statement.

### **Conclusion on the DFC**

Based upon the above considerations, the development is found to inconsistent with the DFC statement for the B2 Oxford Falls Valley locality as it results in unacceptable impact on the vegetation and ecological values of the site.

### **Built Form Controls for Locality B2 Oxford Falls Valley**

The following tables outlines compliance with the Built Form Controls of the above locality statement:

207 Forest Way:

Built Form Standard	Required	Proposed	Compliance
Housing Density	WLEP 2000 states that on land that adjoins a locality primarily used for urban purposes and which a dwelling house is permissible, there is no maximum housing density, if the development is for the purposes of housing for older people or people with a disability and the development complies with the minimum standards set out in Clause 29.	The development being housing for older people or people with a disability is consistent with the floor space ratio provisions of Clause 29 and therefore the housing density is not applicable for this development. (refer to Clause 29 table of this report)	Not Applicable
Building Height:	8.5m (Overall)	<b>Building A:</b> 12.3m (height to the building parapet) <b>Building B:</b> 10.67m (height to the building parapet) <b>Building C:</b> 9.47m (height to the building parapet) <b>Building D:</b> 10.57m (height to the building parapet)	<b>No</b>
	7.2m (Floor to upper ceiling)	Refer to Clause 29	Not Applicable
Front Building Setback	20.0m (Forest Way) 10m (Glenaeon Avenue)	> 20m >10m	Yes
Rear Building Setback	10.0m	Not Applicable	N/A
Side boundary setback	10.0m	>10m	Yes Yes
Landscaped Open Space (LOS)	30% of the site area.	Approximately 59% of the site will remain as LOS	Yes

The proposed development fails to satisfy the Locality's Building Height in relation to 207 Forest Way. Accordingly, further assessment is considered against the applicability of Clause 20(1).

199 Forest Way (As amended):

Built Form Standard	Required	Proposed	Compliance
Building Height:	8.5m (Overall)	8.9m – 9.7m	<b>No</b>
	7.2m (Floor to upper ceiling)	Refer to Clause 29	Not Applicable
Front Building Setback	20.0m (Forest Way) 10m (Glenaeon Avenue)	20m (Forest Way) 10m (Glenaeon Avenue)	Yes
Rear Building Setback	10.0m	Not Applicable	N/A
Side boundary setback	10.0m (southern)	10m	Yes
Landscaped Open Space (LOS)	30% of the site area.	Approximately 57% of the site will remain as LOS	Yes

The proposed development fails to satisfy the Locality's Building Height Setback Built Form Control in relation to 199 Forest Way. Accordingly, further assessment is considered against the applicability of Clause 20(1).

**Clause 20(1) stipulates:**

*“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.”*

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

**(i) General Principles of Development Control**

The proposal fails consistency with several General Principles of Development Control and accordingly, fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See the discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

**(ii) Desired Future Character of the Locality**

The proposal is inconsistent with the B2 Oxford Falls Locality’s Desired Future Character Statement and accordingly, fails to qualify to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

**(iii) Relevant State Environmental Planning Policies**

The proposal has been considered to be consistent with applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’).

Notwithstanding, in order to fully consider the application, the following provides an assessment of the non-compliance to the Building Hight Built Form Controls (note: in accordance with Clause 20(1) of WLEP 2000, the following assessment does not constitute any consideration for variations to the respective Built Form Controls).

**Building Height**

The building height control for the B2 locality states that buildings are not to exceed 8.5 metres in height, where height is the distance measured vertically between the topmost point of the building and the natural ground level below.

In addition to the above, Clause 29 states that development for seniors housing development are not to exceed 8 metres in height, where height is the distance measured from natural ground level to the underside of the ceiling on the uppermost floor of the building.

### Area of Non-compliance on 207 Forest Way

Proposed	Variation
Building A: 12.3m (height to the building parapet) Building B: 10.67m (height to the building parapet) Building C: 9.47m (height to the building parapet) Building D: 10.57m (height to the building parapet)	Building A - 3.83m Building B - 2.17m Building C - 0.977m Building D - 2.078m
<b>Clause 29</b> 8m  (housing for older people non-refusable standard measured from ground to upper ceiling)	Building A -2.66m Building B -0.97m Building C - 0.529m Building D - 1.787m

### Area of Non-compliance on 207 Forest Way

Proposed	Variation
8.9m – 9.7m	0.4m to 1.3m
<b>Clause 29</b> 8m  (housing for older people non-refusable standard measured from ground to upper ceiling)	0.6m to 0.8m

### Merit consideration of non-compliance

In assessing this element of the proposal, it is necessary to consider the merit considerations of the Building Height Built Form Control. It is considered that the proposed height on both sites are minor and are directly result of topography of the land and can be supported on the following grounds:

- The extent of the height departure in relation to 207 Forest Way is confined to the eastern edges of Building A-D which reflects the topography of the land and the lowest points of the site. The façade of Building A and B fronting Main Drive will predominately comply with building height. The non-compliance will not result in any adverse impact on the public domain.
- The extend of non-compliance in relation to 199 Forest is relatively minor and again as result of the topography of the land. The non-compliance will not result in any adverse impact on the adjoining land or the character of the area.
- In the circumstance of this development, it is considered that compliance with the built form control is both unreasonable (due to the constraints of the site and the required functionality of the use) and unnecessary (in that full compliance would not necessarily result in a better outcome) for the site.

**Clause 29 of the WLEP 2000 provides controls to establish on what grounds can an application for housing for older people or people with disabilities not be refused.**

Clause 29 states that consent for development for the purpose of housing for older people of people with disabilities cannot be refused on the grounds listed in Clause 29 if the development complies with the requirements listed in this Clause.

The proposal at 207 Forest Way has been assessed against the provisions of Clause 29 as follows:

Control	Required	Proposed	Compliance
<b>Building Height</b>	8m or less (Measured vertically from ceiling of topmost floor to ground level immediately below.)	<b>Building A:</b> 10.65m (height to ceiling) <b>Building B:</b> 8.97m (height to ceiling) <b>Building C:</b> 8.529m (height to ceiling) <b>Building D:</b> 9.78m (height to ceiling)	No (refer to Clause 20 above)
<b>Density and Scale</b>	Self-care - 0.5:1	0.45:1	Yes
<b>Landscaped Area</b>	35m <sup>2</sup> per dwelling for Self-Care Units	Each dwelling provides in excess of 35m <sup>2</sup> of landscape area.	Yes
<b>Parking</b>	0.5 spaces per bedroom  118 bedroom = 59 spaces required	The proposed development provides 69 car spaces incorporating 59 resident spaces and 10 visitor/staff spaces.	Yes
<b>Private Open Space</b>	Ground Floor (15m <sup>2</sup> ) First Floor (6m <sup>2</sup> )	All dwellings comply	Yes

The proposal at 199 Forest Way has been assessed against the provisions of Clause 29 as follows:

Development Standard	Required	Proposed	Compliance
<b>Building Height</b>	8.0m (Floor to upper ceiling)	8.6m – 8.8m (height to ceiling))	No (refer to Clause 20 above)
<b>Density and Scale</b>	0.75:1	0.46:1	Yes
<b>(c) Landscaped Area</b>	25m <sup>2</sup> per residential care facility bed.  Required = 2, 550m <sup>2</sup>	Total provided = 7,013m <sup>2</sup> for 102 beds	Yes
<b>(d) Parking</b>	1 parking for each 10 bed and 1 per each 2 employees.  102 bed = 10.2 required Employees = not nominated	32 spaces	Yes

## General Principles of Development Control

Clause 12(1)(a) of WLEP 2000 states that prior to granting consent, Council must be satisfied that the proposal is consistent with the relevant general principles of development control contained in Part 4 of WLEP 2000.

The following General Principles of Development Control as contained in Part 4 of *WLEP 2000* are applicable to the proposed development:

General Principle	Applies	Comments	Complies
<b>Clause 38 Glare &amp; Reflections</b>	Yes	A standard condition may be included in the consent, should this application be approved, to ensure that the reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%.	Yes (subject to condition)

General Principle	Applies	Comments	Complies
		Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.	
<b>Clause 39 Local Retail Centres</b>	No	The site is not located within a Local Retail Centre.	Not Applicable

## Clause 40 - Housing for Older People or People with Disabilities

### Comment:

The following table details compliance of the development against the access provisions of Clause 40 under the WLEP 2000:

Control	Required	Proposed	Compliance
<b>Support Services</b>	The site within 400m of a shopping centre or bus stop; or The development is serviced by a transport service that is located not more than 400m from the site and is available both to and from the development during daylight hours at least once per day from Monday to Friday (inclusive).	The subject site has satisfactory access to:  a) shops, banks and other retail and commercial services that residents may reasonably require, and  b) community services and recreation facilities, and the practice of a general medical practitioner.	Yes
	Reasonable access to home delivered meals, personal care and home nursing and assistance with housework.	The site is located within the reasonable access to the required facilities.	Yes
<b>Wheelchair access</b>	<u>(a) Site Gradient</u> (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	The development provides a continuous path of travel from the development on both sites in the facility to the driveway and adjoining public road in order to assist wheelchair bound residents.	Yes

Control	Required	Proposed	Compliance
	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 <i>the specified minimum percentage</i> ) 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.		
	<u>(b) Road Access</u> 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.	The development provides for a continuous path of travel for 100% of wheelchair bound residents of the facility to the driveway and adjoining public road	Yes
	<u>(c) Common Areas</u> Access must be provided so that a person using a wheelchair can use common areas and common facilities associated with the development.	The development includes level access paths to the nearby common areas located adjacent to the dwellings. Accessibility to these areas have been designed to satisfy AS1428.1 and AS1428.2 as well as the DDA..	Yes
	<u>(d) Adaptability</u> 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.	The design of the development can accommodate adaptable dwellings [i.e.: 10%] which will provide doorway entrances and circulation spaces that will comply with AS1428.1 and Table D3.1, Part D3.3 of the BCA/DDA Premises Standards.	Yes

Control	Required	Proposed	Compliance
Clause 42 Construction Sites	Yes	<p>The potential exists for the future demolition, excavation and construction to have an adverse impact upon surrounding locality in terms of traffic, noise, dust, parking, accessibility and sediment.</p> <p>Therefore, comprehensive conditions of consent will be required to be imposed for a Construction Management Plan to be submitted, should this application be approved. Issues to be addressed include stormwater and wastewater disposal, waste management, air quality, noise management and truck movement, frequency and parking.</p> <p>Subject to addressing the imposed conditions, the application is considered capable of satisfying the provisions of this General Principle.</p>	Yes (Subject to conditions)
Clause 43 Noise	Yes	<p>The nature of the proposed use is unlikely to generate significant noise emissions associated with the occupation of the development, with the exception of air conditioning systems. A suitable condition could be imposed if the application was worthy of approval in relation to A/C systems.</p>	Yes (Subject to conditions)
Clause 44 Pollutants	Yes	<p>The proposed use increases the population density of the site and introduces a medical feature (nursing).</p> <p>These two additional features of the development have the potential to introduce new pollutants into the local environment through increased laundry use, the disposal of grey water and through the possible discarding of medical waste.</p> <p>Appropriate conditions could be imposed, should this application be approved, to address these additional features and to ensure that the operation of the facility does not have any adverse impact on the environment.</p>	Yes (Subject to conditions)
Clause 47 Flood Affected Land	No	<p>The site is not located within, or near to, any identified flood affected land.</p>	Not Applicable

Control	Required	Proposed	Compliance
Clause 48 Potentially Contaminated Land	Yes	<p>Council records indicate that the subject site has been used for residential purposes for a significant period of time, with no prior conflicting land uses.</p> <p>In this regard it is considered that the site poses no risk of contamination, the land is considered to be suitable for continued residential land use and therefore, no further consideration is required in this regard.</p>	Yes
Clause 49 Remediation of Contaminated Land	Yes	Refer to assessment under SEPP 55 and Clause 48.	Yes
Clause 49a Acid Sulphate Soils	No	The site is not located within, or near to, any land categorised as containing acid sulphate soil.	Not Applicable
Clause 50 Safety & Security	Yes	The nature of the proposed use and the provision of on-site management will provide an enhanced level of passive surveillance to the adjoining roadway.	Yes
Clause 51 Front Fences and Walls	No	The plan submitted with the application does not show any front fencing.	Not Applicable
Clause 52 Development Near Parks, Bushland Reserves & other public Open Spaces	Yes	The proposal will provide adequate separation of the site from the surrounding public open space. The proposal is therefore considered to satisfy the requirements of Clause 52.	Yes
Clause 53 Signs	No	No signs are proposed as part of this application.	Not Applicable
Clause 54 Provision and Location of Utility Services	Yes	Appropriate conditions may be imposed, should this application be approved, to ensure that the development is connected to required utilities.	Yes (subject to conditions)
Clause 56 Retaining Unique Environmental Features on Site	Yes	<p>The distinctive environmental features of the site are that the subject site is assessed by Council 's Natural Environment sections, whom has advised that the application cannot be supported for the reasons provided in the referral section of this report.</p> <p>Based on the above advice, the application is not consistent with the requirements of Clauses 56 and 58 and this issue has been included as a reason for refusal.</p>	No

Control	Required	Proposed	Compliance
Clause 57 Development on Sloping Land	Yes	<p>Clause 57 states that on sloping land, the height and bulk of development, particularly on the downhill side, are 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. The clause also states that excavation of the landform is to be minimised.</p> <p>The proposed development has been stepped to respond to the topography of the land.</p> <p>Excavation is proposed to accommodate the basement level and given the type of development proposed, is not considered to be unreasonable.</p> <p>Accordingly, the proposed development has been designed to achieve compliance with the requirement of this Clause</p>	Yes
Clause 58 Protection of Existing Flora	Yes	Refer to assessment provided under Clause 56.	No
Clause 59 Koala Habitat Protection	Yes	<p>Clause 59 defines potential Koala habitat as consisting of areas of native vegetation where the trees of the types listed in Schedule 11 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.</p> <p>The assessment by Council's Natural Environment section has raised no objection in relation Koalas on site.</p>	Yes
Clause 60 Watercourses & Aquatic Habitats	Yes	The application was referred to the Riparian Section of Council's Natural Environment Unit who advises (see 'Internal Referrals' in this report) that that the development in its current form is inconsistent with the requirement of this Clause.	No
Clause 61 Views	Yes	<p>Due to the topography and location of the site, it is unlikely that the proposed development will affect any significant views, which will warrant the refusal of the application.</p> <p>In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, were</p>	Yes

Control	Required	Proposed	Compliance
		applied to the proposal. While no objections regarding view loss were received, the view assessment has been undertaken to have regard to all surrounding properties and the proposal is satisfactory in providing reasonable view sharing.	
Clause 62 Access to sunlight	Yes	The shadow diagrams submitted with the application indicates that the proposed development will achieve compliance with the requirement of this Clause.	Yes
Clause 63 Landscaped Open Space	Yes	<p>The application was referred to the Landscape officer who advises (see 'Internal Referrals' in this report) that the application is not supported in relation to the Landscape issues on 207 Forest Way, particularly in relation to the location of Building D.</p> <p>Accordingly, it is recommended that a condition be included in the consent, should the application be worthy of approval, to delete Building D from the development and the natural vegetation installed in that portion of the site.</p>	Yes (subject to condition)
Clause 63A Rear Building Setback	No	The site has dual street frontages, therefore the requirement of this clause is not applicable to the proposed development.	Not Applicable
Clause 64 Private open space	No	In accordance with Clause 62 Private open space of WLEP 2000, private open space is not to be located within the street setback area unless the site is a corner allotment or the applicable Locality Statement provides otherwise. The private open space provided for each apartments within 207 Forest Way is satisfactory in addressing the requirements of this Clause..	Yes
Clause 65 Privacy	Yes	The development is located a sufficient distance from other residential properties such that it will not result in any unreasonable direct overlooking into habitable rooms and principal private open spaces. No additional architectural privacy treatments are considered to be required.	Yes
Clause 66 Building bulk	Yes	Clause 66 requires buildings to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land.	Yes

Control	Required	Proposed	Compliance
		<p>Council's Urban Designer has reviewed the proposed development and has raised no objection to the design of the development in relation to building bulk.</p> <p>Accordingly, it is considered that proposal represents good design and innovative architecture and will enhance the urban environment.</p>	
Clause 67 Roofs	Yes	The proposed roof forms are considered to be satisfactory and is integral to the style of the building proposed.	Yes
Clause 68 Conservation of Energy and Water	Yes	<p>BASIX Certificates have been submitted with the application as it relates to 207 Forest Way.</p> <p>The development achieves the target for water, thermal comfort and energy use. Conditions should be included in the consent if the application is approved to ensure the commitments identified on the BASIX certificate are implemented.</p>	Yes
Clause 69 Accessibility – Public and Semi-Public Buildings	Yes	The proposed development is required to comply with all the relevant accessibility provisions of Clause 40	Not Applicable
Clause 70 Site Facilities	Yes	<p>The development provides for all required site facilities which may be situated such that they are convenient to the needs of users and have a minimal visual impact from public places.</p> <p>The DA does not include any details with regards to waste management. However, given the commercial nature of the development, this is arranged through private contract and could be appropriately addressed through the imposition of an appropriate condition should this DA be approved.</p>	Yes (subject to condition)
Clause 71 Parking Facilities (visual impact)	Yes	The proposed car parking for both sites does not dominate or detract from the streetscape given its relative concealment by the proposed landscaped works along the northern side boundary.	Yes
Clause 72 Traffic Access & Safety	Yes	The application includes a traffic report. The report concludes that <i>“the development would result in a minor increase in traffic on the surrounding road network”</i> which is generally	Yes

Control	Required	Proposed	Compliance
		supported by Council's Traffic Engineer (see Internal referrals).	
Clause 73 On-site Loading and Unloading	Yes	All loading and unloading will occur within the boundaries of the subject site and therefore considered to be satisfactory in relation to this Clause.	Yes
Clause 74 Provision of Car Parking	Yes	The development includes a provision for the on-site parking which is compliant with the requirements of Clause 29 under <i>WLEP 2000</i> .	Yes
Clause 75 Design of Car Parking Areas	Yes	The car parking layout and internal access arrangements are capable comply with the relevant design requirements in 'AS/NZS 2890.1:2004' and 'AS/NZS 2890.6:2009'.	Yes
Clause 76 Management of Stormwater	Yes	<p>Council's Development Engineer has reviewed the proposal and raised a number of issues regarding the stormwater drainage design, which has been addressed in the referral section of this report.</p> <p>As inadequate stormwater details have been submitted, compliance with the requirements of Clause 76 – Management of stormwater has not been achieved. This issue have been included as reasons for refusal.</p>	No
Clause 78 Erosion & Sedimentation	Yes	Appropriate conditions associated with management of erosion and sedimentation can be included on the consent should this Development Application be approved.	Yes (Subject to Condition)
Clause 79 Heritage Control	No	The site is not identified as a heritage item nor is it located within a conservation area.	Not Applicable
Clause 80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	Yes	<p>The application was referred to the Aboriginal Heritage Office pursuant to the provisions of Clause 80 of the Warringah Local Environment Plan 2000 as the site may contain or may be within the vicinity of an Aboriginal place or place of Aboriginal cultural significance.</p> <p>The Aboriginal Heritage officer has reviewed the application and has raised no objection</p>	Yes
Clause 82 Development in the Vicinity of Heritage Items	No	No further assessment required.	Not Applicable
Clause 83 Development of	Yes	The property is not a known or potential archaeological site	Not Applicable

Control	Required	Proposed	Compliance
Known or Potential Archaeological Sites			

## Other relevant WLEP 2000 Clauses

### Clause 13 - 'To what extent should neighbouring Locality Statements be considered?'

Clause 13 requires that, before granting consent for development within a locality, the consent authority must consider the provisions of a Locality Statement applying to a neighbouring locality, if the extent to which they should be considered is specifically described in the Locality Statement for the locality in which the development is proposed.

The DFC statement of the B2 Oxford Falls Valley locality does not specifically describe the extent to which a neighbouring Locality Statement should be considered. Therefore, no further assessment against the provisions of Clause 13 is required.

## SCHEDULES

### Schedule 5 - State Policies

In accordance with Clause 12(1) (b) of *WLEP 2000*, before granting consent for development, the consent authority must be satisfied that the development is consistent with any relevant SEPP described in Schedule 5. Schedule 5 outlines the *SEPP (HSPD) 2004*. The proposal has been assessed in detail against the provisions of *SEPP (HSPD) 2004* elsewhere in this report. The proposal.

### Schedule 8 - Site analysis

Clause 22(2)(a) of *WLEP 2000* requires that the consent authority must consider a Site Analysis prepared in accordance with the criteria listed in Schedule 8.

It is considered that the submitted Site Analysis, in conjunction with the Statement of Environmental Effect adequately addresses how the development responds to its surrounds and the locality.

### Schedule 16 - Principles and Standards for Housing for Older People or People with Disabilities

Schedule 16 prescribes various standards concerning accessibility and useability having regard to relevant Australian Standards specifically designed for housing for seniors and people with disability. The applicant has submitted a report prepared by an accredited access consultant verifying that the proposal will comply with the relevant standards. These standards may be reinforced via suitable conditions of consent, if the application was worthy of approval.

### Schedule 17 – Car parking Provision

The provision of car parking is addressed under Clause 29 of the *WLEP 2000*. The development, as proposed, complies with the car parking requirement under Clause 29 of the *WLEP 2000*.

## POLICY CONTROLS

### Northern Beaches Council Contributions Plan 2018

The proposal is subject to the application of Council's Section 7.12 Development Contributions Plan.

The following monetary contributions are applicable

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$66,030,191		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$627,287
Section 94A Planning and Administration	0.05%	\$ 33,015
Total	1%	\$ 660,302

## CONCLUSION

This report provides a comprehensive assessment of the DA for the construction of alterations and additions including the renewal (consisting of the replacement of a number of older self-contained dwellings) of part of the existing Glenaeon Retirement Village at 207 Forest Way, and development of the immediately adjoining land at 199 Forest Way for the purposes of a Residential Care Facility (RCF).

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended), the provisions in the relevant Environmental Planning Instruments including the Warringah Local Environment Plan 2000 and the relevant codes and policies of Council. This assessment has taken into consideration the plans and all documentation submitted with the application, all referral responses received from relevant stakeholders and all community submissions received in support of the proposal during the public exhibition period.

The proposed land use on 199 Forest Way is not permissible, as the site is not considered to be land adjoining land for urban purposes. Therefore, the proposal is a prohibited development pursuant to the provisions of WLEP 2000 within the B2 – Oxford Falls Locality. The development on the site known as 207 Forest is also prohibited, however, the development could be considered under the provision of existing use rights. The applicant has not submitted the application under the provisions of existing use rights.

The assessment of this application has found that the application is deficient in identifying the relevant environmental and ecological impacts associated within the subject site, as identified by relevant expert's comments in the referral section of the report. Council's Development Engineer has also indicated that there is insufficient information submitted with the application to assess the impact of the proposed stormwater works for the site.

The assessment of the Development Application against the provisions of Warringah Local Environment Plan 2000 has found that the development includes non-compliances to the permitted 8.5m Height of Buildings built form control and Clause 29 in relation to the 8m height limit as prescribed under WLEP 2000 for both sites. It is noted that the non-compliance is generally a result of the topography of the site which exacerbates the building height on certain

portions of the land. The non-compliance relating to the building height is considered to be acceptable for this site, however, because the development has been found to be inconsistent with the Desired Future Character of the locality and the General Principles of Development Control, the variation could not be considered under Clause 20 of the Warringah Local Environmental Plan 2000.

As a direct result of the consideration of the matters detailed within this report, it is recommended that the Sydney North Planning Panel (SNPP), as the consent authority, refuse this application for the reasons detailed within the “Recommendation” section of this report.

## **RECOMMENDATION (REFUSAL)**

That the SNPP, as the consent authority, pursuant to Clause 4.16(1) (a) of the EP&A Act 1979 (as amended), REFUSE Development Consent to Development Application No DA2018/1332 for the Construction of a Residential Care Facility with associated car parking and landscaping and demolition at Lot 100 DP 1114910, 207 Forest Way and Lot 7 DP 807906, 199 Forest Way, Belrose subject to the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development on a site known as 199 Forest Way, Belrose, is a prohibited development within B2 Oxford Falls Locality under the Warringah Local Environmental Plan 2000.
2. Pursuant to Section 4.15 (1) (a) of the *Environmental Planning and Assessment Act, 1979* and Clause 12(3) (b) of *Warringah Local Environment Plan 2000* (as amended), the proposed development is inconsistent with the Desired Future Character statement for the B2 Oxford Falls Valley Locality as it relates to the impact of the development on the Environmental Features and Ecological values of the site.
3. Pursuant to Section 4.15(1)(a) of the *Environmental Planning and Assessment Act, 1979* and Clause 12(1)(a) of *Warringah Local Environment Plan 2000*, the development is inconsistent with the following General Principles of Development Control as follows:
  - Clause 56 Retaining Unique Environmental Features
  - Clause 58 Protection of Existing Flora
  - Clause 60 Watercourses & Aquatic Habitats
  - Clause 76 Management of Stormwater