

REVIEW OF ENVIRONMENTAL FACTORS

Proposed Multi-Dwelling Development

at

25-27 Easton Avenue, Sylvania NSW 2224

February 2024





Acknowledgement of Country

Homes NSW acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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REVIEW OF ENVIRONMENTAL FACTORS

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On February 1 2024, Homes NSW, a division of the Department of Communities and Justice (DCJ) was formed. It has brought together the housing and homelessness services of DCJ with the NSW Land and Housing Corporation (LAHC), Aboriginal Housing Office (AHO) and key worker functions from across government under one roof.

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DOCUMENT CONTROL REGISTER

The following register documents the preparation and issue of this Part 5 Review of Environmental Factors (REF), prepared by the NSW Land and Housing Corporation.

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2	08.02.2024	V2	LAHC Final edits	Various

DOCUMENT SIGN-OFF

REF prepared by	
Having prepared the Review of Environmental Factors: <ul style="list-style-type: none">I have declared any possible conflict of interests (real, potential, or perceived) to the A/Executive Director of Strategy and Origination, Housing Portfolio, Homes NSW.I do not consider I have any personal interests that would affect my professional judgement.I will inform the A/Executive Director of Strategy and Origination, Housing Portfolio, Homes NSW. as soon as I become aware of a possible conflict of interest. Name: Frances Beasley Designation: Senior Planner, Homes NSW Signature:  Date: 8 February 2024	
REF reviewed and endorsed by	
I certify that I have reviewed and endorsed the contents of this REF document, and, to the best of my knowledge, it is in accordance with the EP&A Act, the EP&A Regulation and the Guidelines approved under clause 170 of the EP&A Regulation, and the information it contains is neither false nor misleading. Name: Carolyn Howell Designation: Manager, Planning & Assessment, Homes NSW Signature:  Date: 21 February 2024	
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- I will inform the A/Executive Director of Strategy and Origination, Housing Portfolio, Homes NSW as soon as I become aware of a possible conflict of interest.

Name: Ambrose Marquart

Designation: Acting Director, Portfolio Services, Homes NSW

Signature:

A handwritten signature in black ink, appearing to read 'Ambrose Marquart', written on a white rectangular background.

Date: 21 February 2024

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1 Executive Summary

The subject site is located at 25-27 Easton Avenue, Sylvania NSW 2224, legally identified as Lot/s 21 – 22 in Deposited Plan 13628. The proposed multi dwelling housing development is described as follows:

Demolition of existing structures, removal of trees and construction of a one and two storey multi dwelling housing development comprising 4 x 3-bedroom townhouses and 2 x 2-bedroom units, on-site parking for 6 cars (1 garage per dwelling) with associated landscaping and fencing, consolidation of 2 existing lots into a single allotment and construction of a stormwater easement across 52 Melrose Avenue, Sylvania.

The proposed activity is permitted on the site under the applicable local environmental planning instrument and can therefore be carried out by the NSW Land and Housing Corporation (LAHC) without consent under the provisions of Chapter 2, Part 2, Division 6 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) as it does not result in more than 60 dwellings on the site and does not exceed 9 metres in height.

Demolition has been considered as part of the proposed activity. Demolition is permitted with consent under the provisions of the applicable local environmental planning instrument and is therefore permitted without consent under the provisions of the Housing SEPP.

The removal of trees on the site is covered by the definition of consent under Section 6 of the Housing SEPP. It has therefore been incorporated in this review of environmental factors under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Part 8 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).

The REF demonstrates the following:

- from an analysis of the potential environmental impacts associated with the proposed activity, it has been concluded that the preparation of an Environmental Impact Statement is not required;
- based on a review of the potential environmental impacts resulting from the proposed activity it has been determined that, subject to implementation of mitigation measures to be incorporated as identified requirements, the activity will not have any significant adverse impact on the environment;
- the proposed activity will not have any effect on matters of national significance and its approval under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* is not required;
- the design of the proposed activity has adequately taken into account design principles and better practices set out in the *Seniors Living Policy: Urban Design Guidelines for Infill Development* and taken into consideration the *Good Design for Social Housing* and *NSW Land and Housing Corporation Design Requirements*;
- the site planning and design of the proposed activity adequately addresses the applicable local environmental planning and development controls of Sutherland Shire Council;
- a BASIX certificate and NatHERS certificate and stamped plans have been submitted for the proposed activity demonstrating compliance with the State Government's environmental sustainability targets; and
- there are no separate approvals, authorisations or notifications required in relation to the proposed activity prior to determination under Part 5 of the EP&A Act or under any other Acts.
- Sutherland Shire Council and occupiers of adjoining land were notified of the proposed activity under the provisions of Housing SEPP. A response was received from Council dated 5 May 2023. Comments on the response are provided in Section 7.1 of this REF. Two submissions were received from occupiers of adjoining land. Comments on the submissions are provided in Section 7.2 of this REF.

The proposed activity, when carried out in accordance with the environmental mitigation measures outlined in the REF, will not result in any significant and long-term negative impacts on the environment and can proceed subject to the implementation of the identified requirements of determination contained in the ***Activity Determination***.

Note:

State Environmental Planning Policy Amendment (Housing) 2023

On 14 December 2023, amendments were made to the Housing SEPP. This amending policy is referred to in Schedule 7A Savings and transitional provisions as State Environmental Planning Policy Amendment (Housing) 2023.

Clause 8 (2) of Schedule 7(A) of Housing SEPP 2021 provides that the amendments made on 14 December 2023 do not apply to an activity by the Land and Housing Corporation where notice of the activity has been provided to Council under 43(1)(b)(i) before the amending policy was made and further that the activity is determined before 20 December 2024. This activity for a multi dwelling housing development satisfies both requirements and therefore State Environmental Planning Policy Amendment (Housing) 2023 does not apply to this activity.

2 Introduction

This Review of Environmental Factors (REF) under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) is for an activity involving the demolition of existing structures, removal of trees, construction of a 1 and 2-storey multi dwelling housing development consisting of 2 x 2 bedroom and 4 x 3-bedroom dwellings with parking for 6 cars (1 garage per dwelling), associated landscaping and fencing and consolidation into a single lot at 25-27 Easton Avenue, Sylvania. The proposed activity also involves the construction of a stormwater easement across 52 Melrose Avenue, Sylvania.

The activity¹ will be carried out by, or on behalf of, LAHC and is 'development without consent' under the Housing SEPP.

This REF has been prepared by LAHC to satisfy the provisions of Part 5 of the EP&A Act and Part 8 of the *Environmental Planning & Assessment Regulation* (EP&A Regulations) 2021.

A Statement of Compliance accompanying this REF certifies that in accordance with the requirements of the EP&A Act, all matters affecting or likely to affect the environment by reason of the proposed activity have been taken into account to the fullest extent possible and the activity will not have a significant impact on the environment.

2.1 Purpose of this Review of Environmental Factors (REF)

The purpose of this REF is to assist LAHC to fulfil its obligations as a determining authority for the proposed activity in accordance with Part 5 of the EP&A Act and Section 171 of the EP&A Regulation by:

- describing the existing environment;
- describing the proposed activity;
- analysing the potential impacts of the activity on the environment;
- identifying measures to mitigate those impacts;
- analysing whether the activity, with the mitigating measures in place, will have a significant impact on the environment; and
- recommending identified requirements to ensure the mitigating measures are implemented if the activity were to proceed.

2.2 Assessment Methodology

The following methodology was applied in undertaking this REF for the proposed development activity under Part 5 of the EP&A Act:

- Section 10.7 Planning Certificates were obtained for each lot comprising the site. The zoning was confirmed against the current applicable environmental planning instrument, which is the *Sutherland Shire Local Environmental Plan 2015* (SSLEP 2015);
- it was determined that multi-dwelling housing is 'permitted with consent' in the R2 zoning pursuant to the SSLEP 2015, and can be carried out 'without consent' under the provisions of Housing SEPP 2021;

¹ Note: The proposed development is permitted without consent and is therefore subject to environmental impact assessment as an 'activity' under Part 5 of the Environmental Planning and Assessment Act 1979.

- a desktop analysis and investigation of the site and surrounds was undertaken based on site clearance information provided by LAHC and a site inspection to determine the suitability of the site for the proposed development activity, particularly taking into account the existing site conditions, constraints and local context;
- relevant local planning controls and State and Commonwealth Government legislation were considered in the environmental assessment of the proposed development activity;
- an environmental impact analysis was undertaken to determine if an Environmental Impact Statement was required;
- potential environmental impacts identified in the analysis and measures to mitigate these impacts were subsequently discussed in the Review of Environmental Factors; and
- identified requirements incorporating the mitigation measures for undertaking the proposed development activity were identified for inclusion in the recommendation for approval of the activity.

3 Existing Environment

3.1 Site locality and key characteristics

The subject site is located within the Sutherland Shire Local Government Area. It consists of 2 Torrens Title residential allotments, legally described as Lots 21 & 22 in DP 13628 and known as 25 and 27 Easton Avenue, Sylvania. A location plan and is provided at **Figure 1** and aerial of the site is provided at **Figure 2**.

The site is currently occupied by 2 single storey fibro cottages with tiled roofs (refer to **Figure 3** & **Figure 4**). The existing dwellings and associated structures on the site will be demolished to accommodate the proposed development.



Figure 1 Location Plan, site outlined in red (Source – SIX Maps)

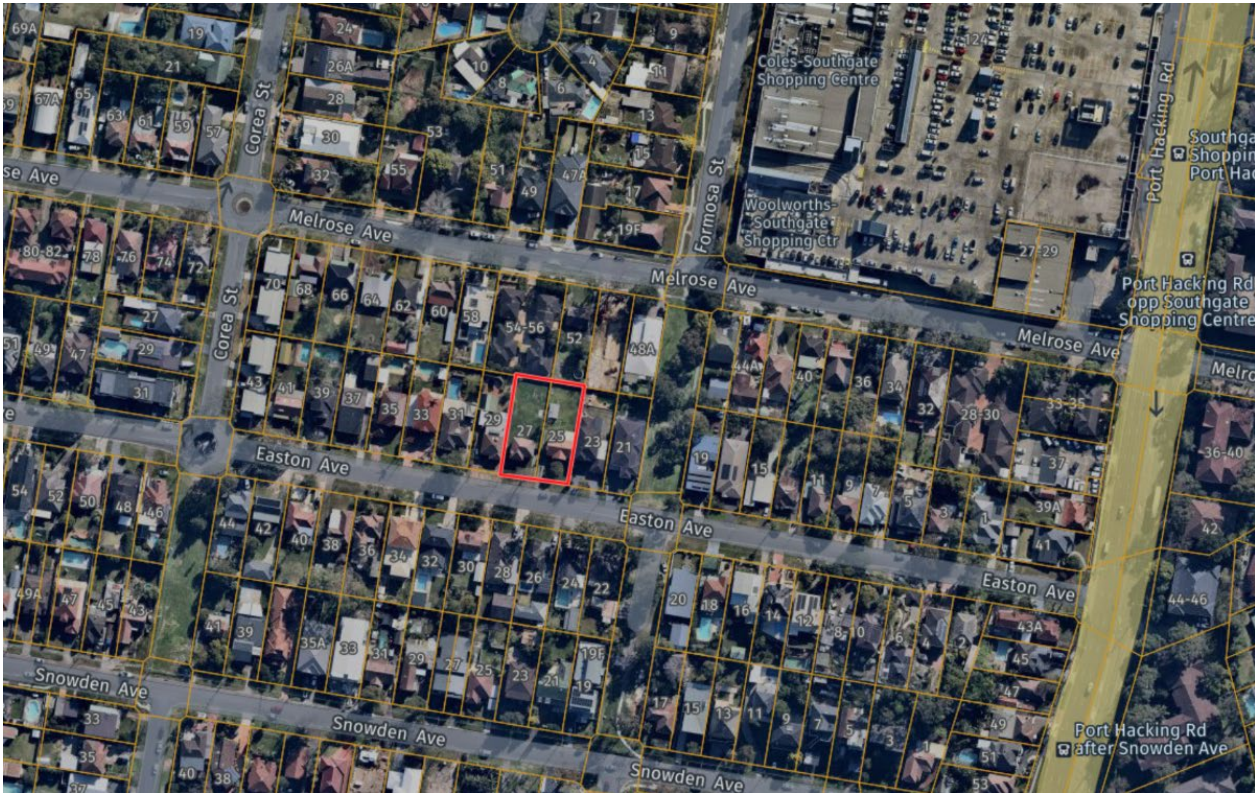


Figure 2 Aerial of locality, site outlined in red (Source – Nearmap, image dated 02/08/22)



Figure 3 Development site – 25 & 27 Easton Avenue (Source – LAHC, 10/11/2022)



Figure 4 Development site – 25 & 27 Easton Avenue (Source – LAHC, 10/11/2022)

3.2 Site Description

Copies of the Section 10.7(2) & (5) Planning Certificates (Nos 23/8456 and 23/8458) dated 6 December 2023 are provided in *Appendix D*.

The site comprises of 2 lots and has a total area of 1,312.6m². The site has a frontage to Easton Avenue of 30.14m, east and west side boundaries of 43.55m, and a rear (northern) boundary of 30.14m (refer to the submitted Detail and Level Survey Plan in *Appendix M*).

The site falls from the front, southeast corner at Easton Avenue down toward the rear northwest corner by approximately 3.1m. A 1.2m wide easement for stormwater drainage has recently been created across 52 Melrose Avenue to the benefit of the subject site.

The site is not within a flood planning area and is not subject to flood related development controls.

There are 12 trees located within the site and on immediately adjoining land, as identified in the Arboricultural Impact Assessment (*Appendix H*). One tree (T1) has been identified as high retention value, 4 trees (T2 & T10 – T12) are of medium retention value and 7 trees are identified as low retention value. One tree (T6) has since been removed by the owner of the adjoining property since the original survey was undertaken.

Water, electricity, gas, and telephone facilities are available to the site and are located along the road alignment of Easton Avenue. Sewer infrastructure is located at the rear of the site.

There are no encumbrances on title, section 10.7 certificates or indicated on the Detail and Level Survey Plan that impact the proposed development.

3.3 Neighbouring Development and Locality

The site is located within an established residential area which is characterised by a mix of older style single storey detached dwellings of brick, fibro, and other lightweight construction with tiled and metal roofs, as well as modern two storey detached dwellings and dual occupancy development as shown in **Figure 5** to **Figure 8**.

A dual occupancy development is currently under construction on the property adjoining to the west at 29 Easton Avenue. The adjoining property to the east at 23 Easton Avenue contains a 2-storey brick dwelling with tiled roof as shown in **Figure 8**. Directly opposite the site at 26 Easton Avenue is a detached two storey weatherboard dwelling with a tiled roof and further along the street at 30 Easton Avenue is a two-storey brick detached dwelling.

There are two bus stops located within 400m walking distance of the site, bus stop ID 222493 Port Hacking Road near Snowden Ave located south-east of the site, and ID 222450 Port Hacking Road opposite Southgate Shopping Centre located to the north-east. These stops are serviced by the 971 (Cronulla to Hurstville) and 970 (Miranda to Hurstville) bus routes and provide transport to facilities and services including train stations, major shopping centres and local centres in these areas.

The area is within 400m walking distance of the shops and services at Southgate Shopping Centre, which include supermarkets, optometrist, a bank, and medical services.



Figure 5 No 29 and 31 Easton Avenue (Source – Google street view, image dated October 2021)



Figure 6 Dual occupancy development at the western end of Easton Avenue (Source – LAHC November 2022)



Figure 7 Dual occupancy development at 56 Easton Avenue (Source – LAHC November 2022)



Figure 8 23 Easton Avenue, Sylvania (Source – Google street view, image dated October 2021)

4 Project Description

4.1 Demolition

The proposed activity includes demolition of 2 single storey detached dwelling houses and associated structures, as identified in the Demolition Plan (refer to **Appendix A**).

4.2 Removal of Trees

Twelve trees are located within, and in proximity to, the site and the proposal includes the removal of 4 of those trees. Trees external to the site on neighbouring land and within the Easton Avenue reserve will be retained and protected.

Tree removal within the site boundaries is required to accommodate the proposed development and no concern was raised in the Arboricultural Impact Assessment regarding the removal of these trees (refer to **Appendix H**). Appropriate replacement plantings, including trees capable of reaching mature heights of 30m, will be provided as part of the proposed landscaping plan to compensate for the loss of these trees (refer to submitted Landscape Plan in **Appendix B**).

All high retention value trees are proposed to be retained.

4.3 Proposed Dwellings

The proposed multi-dwelling development will deliver 6 dwellings comprising 4 x 3-bedroom townhouses and 2 x 2-bedroom units. Dwelling 5 has been designed as an adaptable unit and is provided with an accessible parking space. A central driveway provides access to the private garage associated with each dwelling.

A photomontage of the development is provided at **Figure 9** below.

The proposed development is a contemporary, high-quality design. The use of face brick and pre-finished cladding for external walls and metal roofing is consistent with the existing and developing character of the locality. Two townhouses will address the street, with living area and kitchen windows on the front façade providing casual passive surveillance.

With a fall of approximately 3m from the south-east to north-west corners of the site, minor earthworks are required to accommodate the proposed development which involve sections of cut towards the front of the site and an area of fill at the rear. The maximum height of cut and fill is approximately 583mm and 1060mm respectively. The areas of cut and fill are located within the building footprint, with natural round levels maintained at the property boundaries.

A variety of new landscape plantings are proposed to offset the proposed tree removal and enhance the appearance of the site. New plantings will consist of a mixture of new trees, shrubs, and groundcovers, which will enhance landscaped setbacks and contribute to the streetscape. A copy of the Landscape Plan is provided under **Appendix B**.

Each unit will be provided with its own enclosed private open space area which includes a small, paved area directly accessible from the internal living area for outdoor dining.

Each dwelling is provided with a single car garage with direct internal access from the dwelling. The garage associated with dwelling 5 has been designed with sufficient dimensions to accommodate an adaptable car space. All 6 garages are accessed from a shared internal driveway.

Stormwater will be collected via a series of stormwater pits and gutters on the site connected to a 19m³ underground on-site detention tank (OSD) located at the northern end of the internal driveway. The underground OSD tank will connect to the existing Council kerb inlet pit on Melrose Avenue via a new 1.2m drainage easement across 52 Melrose Avenue. Roof water will be collected from downpipes and connected to an 8000L underground rainwater tank for recycling with overflow connected to the underground detention tank.

It is noted that on 24 August 2022, the 1.2m wide easement to drain water across 52 Melrose Avenue was legally created on title. The stormwater easement is to the benefit of 25-27 Easton Avenue and was created for the purposes of stormwater drainage as discussed above. The physical construction of the pipeline is included in this activity.

Fencing around the site consists of a 1.2m high brick and palisade front fencing to Units 1 and 2 (at the Easton Avenue frontage) and a 1.8m high boundary fence along the perimeter of the north, east and west boundaries.

Figure 9 to **Figure 11** include extracts from the architectural plans illustrating the proposed development.



Figure 9 Photomontage of the development (Source – Architectural Plans, Carter Williamson, dated 10/01/2023)

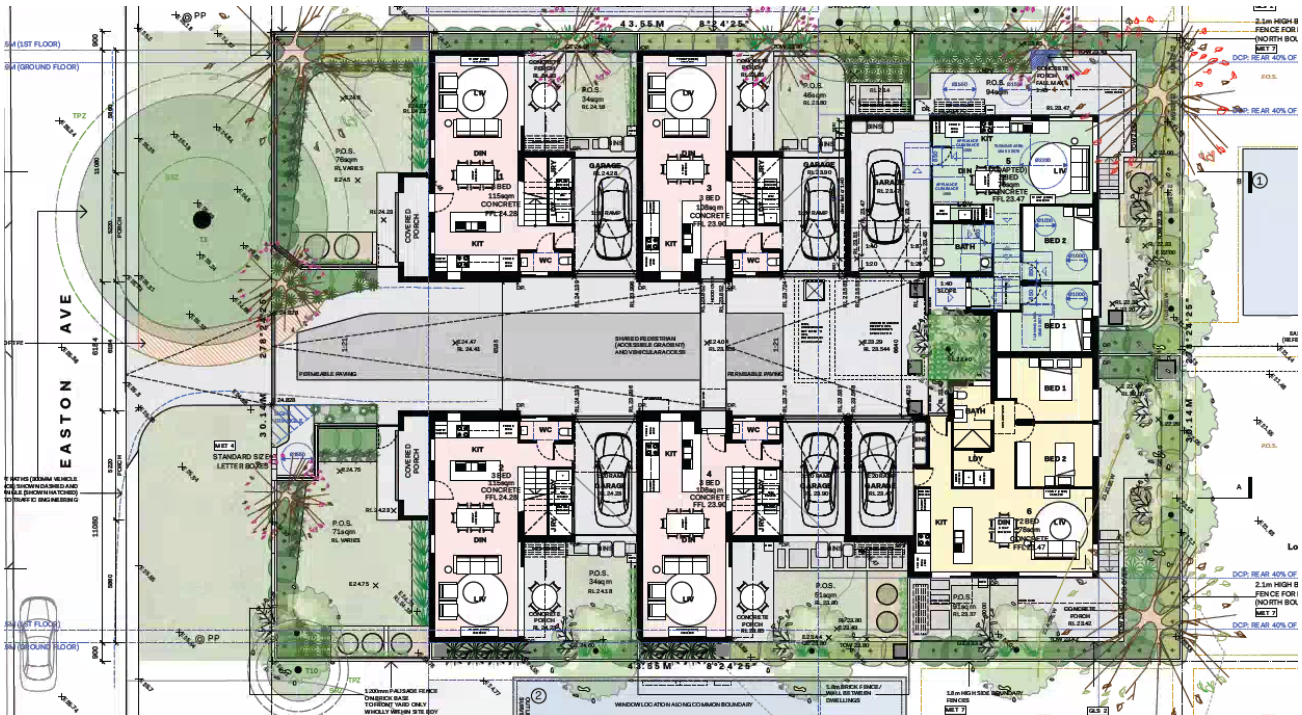


Figure 10 Extract from Architectural Plans (ground floor) (Source – Carter Williamson, dated 10/01/2023)

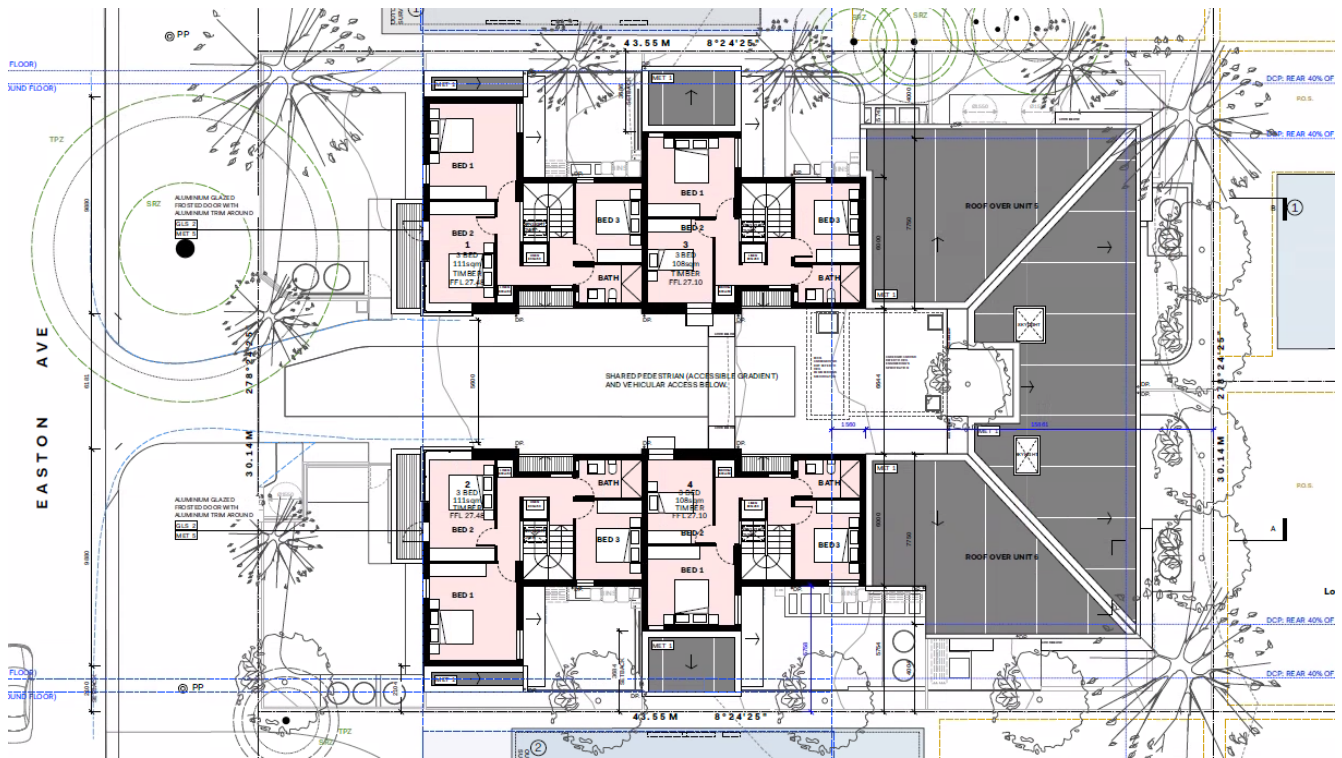


Figure 11 Extract from Architectural Plans (first floor) (Source – Carter Williamson, dated 10/01/2023)

4.4 Supporting information

The proposal is detailed in the following plans, drawings and specialist reports and supporting information.

Table 1 Supporting information

Title / Name:	Drawing No. / Document Ref	Revision / Issue:	Date [dd.mm.yyyy]:	Prepared by:
Architectural – Appendix A				
Cover Sheet			10/01/2023	Carter Williamson
Block Analysis	01-00	C	10/11/2022	Carter Williamson
Site Analysis	01-01	G	10/11/2022	Carter Williamson
Demolition Plan	10-02	E	10/11/2022	Carter Williamson
Site Plan	10-10	F	10/11/2022	Carter Williamson
Ground Floor Plan	10-11	U	10/01/2023	Carter Williamson
First Floor Plan	10-12	O	10/01/2023	Carter Williamson
Roof Plan	10-13	I	10/11/2022	Carter Williamson
Area Calculations	10-20	G	10/11/2022	Carter Williamson
Sections A & B	20-01	M	10/11/2022	Carter Williamson
Sections C & D	20-02	K	10/01/2023	Carter Williamson
Elevations: Front & Rear	30-01	M	10/01/2023	Carter Williamson
Elevations: East & West	30-02	L	10/01/2023	Carter Williamson
Elevations: Internal Driveway	30-03	I	10/01/2023	Carter Williamson
Sun View Winter (June 21)	70-01	G	10/11/2022	Carter Williamson
Shadow Diagrams Winter (June 21)	70-10	I	10/11/2022	Carter Williamson

Title / Name:	Drawing No. / Document Ref	Revision / Issue:	Date [dd.mm.yyyy]:	Prepared by:
Landscape Plan – Appendix B				
Landscape Plan	LS01	J	13/01/2023	Melissa Wilson Landscape Architects
Details & Notes	LS02	I	13/01/2023	Melissa Wilson Landscape Architects
Civil Plans – Appendix C				
Cover Sheet	80821210-CI-0001	9	24/11/2023	Stantec
Civil Construction Notes	80821210-CI-0002	8	24/11/2023	Stantec
Stormwater Drainage Plan Ground Floor	80821210-CI-1101	12	24/11/2023	Stantec
Stormwater Drainage Easement Details	80821210-CI-1102	7	24/11/2023	Stantec
Bulk Excavation Plan	80821210-CI-1105	9	24/11/2023	Stantec
Sedimentation and Erosion Control Plan	80821210-CI-1201	12	24/11/2023	Stantec
Stormwater Details Sheet 1	80821210-CI-2101	8	24/11/2023	Stantec
Stormwater Details Sheet 2	80821210-CI-2102	8	24/11/2023	Stantec
OSD/Rainwater Tank Details	80821210-CI-2103	11	24/11/2023	Stantec
Stormwater Pit and Grate Drain Schedule	80821210-CI-2104	11	24/11/2023	Stantec
Sedimentation and Erosion Control Details	80821210-CI-2101	8	24/11/2023	Stantec
Notification Plans – Appendix E				
Cover Page	01	D	10/11/2022	Carter Williamson
Site/Landscape Plan	02	D	10/11/2022	Carter Williamson
Development Data	03	D	10/11/2022	Carter Williamson
Elevations	04	G	10/11/2022	Carter Williamson
Schedule of Finishes	05	E	10/01/2023	Carter Williamson
Shadow Diagrams	06	D	10/11/2022	Carter Williamson
Access Report – Appendix F				
Access Assessment Report	C201360-Sylvania-Access-R6	R6	31 January 2023	Credwell Consulting Pty Ltd
AHIMS Web Search – Appendix G				
AHIMS search			15 January 2024	NSW Government
Arborist Report – Appendix H				

Title / Name:	Drawing No. / Document Ref	Revision / Issue:	Date [dd.mm.yyyy]:	Prepared by:
Arboricultural Impact Assessment and Tree Management Plan	LAHC 2020-315		24/01/2023	Advanced Treescape Consulting
BASIX & NatHERS Certificates – Appendix I				
BASIX Certificate	1190742M_02		17 January 2023	JHA Consulting Engineers
NatHERS Certificate	0008354417 0008354425 0008354433 0008354441 0008354458 0008354466		17 January 2023	JHA Consulting Engineers
BCA report – Appendix J				
BCA Compliance Assessment	20239-LAHC-Sylvania-BCAReport-R06-270123		3 February 2023	Metro Building Consultancy
Geotechnical & ASS Assessment Report - Appendix M				
Geotechnical Investigation & Acid Sulfate Soil Assessment	20/3858		November 2020	STS Geotechnics Pty Ltd.
Waste Management Plan – Appendix P				
Waste Management Plan	-	-	16 January 2023	Carter Williamson Architects
Traffic and Parking Impact Assessment - Appendix Q				
Traffic and Parking Impact Assessment	20287	V06	17 January 2023	Transport Planning Partnership

Section 10.7 Planning Certificates – Appendix F

Lot 22 DP 13628, Cert no. ePC:23/8456, dated 06.12.2023 – Sutherland Shire Council

Lot 21 DP 13628, Cert no. ePC:23/8458, dated 06.12.2023 – Sutherland Shire Council

Notification letters & submissions – Appendix U**Design compliance certificates – Appendix K**

Architect's Certificate of Building Design Compliance – 31/01/2023

Certificate of Landscape Documentation Compliance – 18/01/2023

Certificate of Stormwater Documentation Compliance – 07/12/2023

Seniors Living Policy Checklist – Appendix L

Seniors Living Policy: Urban Design Guidelines for infill development, prepared by Carter Williamson Architects, 31 January 2023

Survey Plan – Appendix N

Detail and Contour Survey, Sheets 1 & 2, 22/02/2021, Total Surveying Solutions

Titles and Deposited Plans – Appendix Q

Title Search, Folio: 21/1/13628, Search date 26/09/2022, New South Wales Land Registry Services

Title Search, Folio: 22/1/13628, Search date 26/09/2022, New South Wales Land Registry Services

Deposited Plan 13628, Search Date 14/05/2020, New South Wales Land Registry Services

Dealing AS417050, Search Date 25/08/2022, New South Wales Land Registry Services

5 Zoning and Permissibility

The site is zoned R2 Low Density Residential under *Sutherland Shire Local Environmental Plan 2015* (SLEP 2015). The proposed development is defined as ‘multi dwelling housing’ under the provisions of SLEP 2015 and is a permissible use in the R2 zone.



Figure 12 Land zoning map (Source – ePlanning Spatial Viewer, accessed 15/01/23)

The relevant objective of the R2 zone, as set out in SLEP2015 is:

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

The proposed development provides housing that meets the identified needs of the community and is therefore consistent with this objective.

Section 42 of the Housing SEPP permits residential development that may be carried out ‘with consent’ to be carried out by LAHC as ‘development without consent’ subject to the provisions set out under that clause.

Table 5 in section **6.5** of this REF demonstrates compliance with the relevant provisions of section 42 of the SEPP.

6 Planning and Design Framework

6.1 Environmental Planning and Assessment Act 1979

6.1.1 Duty to consider environmental impact [Section 5.5]

Section 5.5(1) states that, for the purpose of attaining the objects of the EP&A Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of the Act or the provisions of any other Act or of any instrument made under the EP&A Act or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

Table 2 below demonstrates the effect of the proposed development activity on the matters listed for consideration in subsection 3 of Section 5.5.

Table 2 Compliance with subsection 3 of Section 5.5 of the EPA&Act 1979

Matters for consideration under sub-section 3 of Section 5.5 of the EP&A Act	
Matter for consideration	Effect of Activity
Sub-section 3 Without limiting subsection (1), a determining authority shall consider the effect of an activity on any wilderness area (within the meaning of the <i>Wilderness Act 1987</i>) in the locality in which the activity is intended to be carried on.	No effect, as the site and surrounding areas are not within a wilderness area (within the meaning of the <i>Wilderness Act 1987</i>).

6.2 Biodiversity Conservation Act 2016 (BC Act)

Part 7 of the BC Act sets out the test for determining whether a proposed development or activity is likely to significantly affect threatened species, ecological communities, or their habitats. For the purposes of Part 5 of the EP&A Act, an activity is to be regarded as an activity likely to significantly affect the environment if it is likely to significantly affect threatened species.

Based on the criteria set out in Section 7.3 of the BC Act, the proposed activity is unlikely to affect threatened species, ecological communities, or their habitats and therefore no further assessment is necessary. This is because the land does not contain threatened species, endangered ecological communities or constitute habitat of threatened species or ecological communities. The proposed activity will neither be a key threatening process and the land is not part of or in the vicinity of any declared area of outstanding biodiversity value.

6.3 Other Acts

No other State and Commonwealth Acts are applicable to the proposed activity.

6.4 Environmental Planning and Assessment Regulation 2021

6.4.1 Factors that must be taken into account concerning the impact of an activity on the environment [Section 171]

For the purposes of Part 5 of the EP&A Act, the factors in **Table 3** and **Table 4** below have been taken into account in considering the likely impact of the proposed activity on the environment. The table and comments made in this section of the REF are not mutually exclusive and are to be read in conjunction with the other sections of the REF dealing with the environmental impacts of the proposed development activity.

Table 3 Environmental Planning and Assessment Regulation 2021 [Section 171]

Factors to be taken into account concerning the impact of an activity on the environment.	Comment
Is the activity of a kind for which specific guidelines are in force? If so the factors to be taken into account when considering the likely impact of the activity on the environment are those referred to in the guidelines.	No specific guidelines This does not include guidelines such as the Seniors Living Urban Design Guidelines, that are in force under other legislation or instruments
Is the activity of any other kind for which general guidelines are in force? If so the factors to be taken into account when considering the likely impact of the activity on the environment are those referred to in those guidelines.	Yes - Department of Planning and Environment issued "Guidelines for Division 5.1 assessments" made under Section 170 of the EPA regulation 2021

Table 4 Factors to be taken into account concerning the impact of an activity on the environment

Guidelines for Division 5.1 assessments require the following Environmental factors to be taken into account:	Relevant?	Impact Assessment		
	YES/NA	Temporary	Minor	Significant [Note 1]
(a) environmental impact on the community	Yes	x	x	
(b) transformation of a locality;	Yes		x	
(c) environmental impact on the ecosystems of the locality;	NA			
(d) reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality;	Yes	x	x	
(e) effect on a locality, place or building having aesthetic, anthropological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations;	NA			
(f) impact on the habitat of protected animals (within the meaning of Biodiversity Conservation Act 2016);	NA			
(g) endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air;	NA			
(h) long-term effects on the environment;	Yes		x	
(i) degradation of the quality of the environment;	Yes	x	x	
(j) risk to the safety of the environment;	Yes	x	x	
(k) reduction in the range of beneficial uses of the environment;	NA			
(l) pollution of the environment;	Yes	x	x	
(m) environmental problems associated with the disposal of waste;	Yes		x	

Guidelines for Division 5.1 assessments require the following Environmental factors to be taken into account:	Relevant?	Impact Assessment		
	YES/NA	Temporary	Minor	Significant [Note 1]
(n) increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply;	Yes		x	
(o) cumulative environmental effect with other existing or likely future activities.	Yes		x	
(p) impact on coastal processes and coastal hazards, including those under projected climate change conditions. [Note 2]	NA			
(q) applicable local strategic planning statements, regional strategic plans or district strategic plans made under the Act, Division 3.1,	Yes – discussed below in Section 6.4.2		x	
(r) other relevant environmental factors.	Yes – discussed in Section 7.	x	x	

Note 1: A 'significant' impact will trigger the need for an Environmental Impact Statement.

Note 2: The *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* provides guidance on considering projected climate change conditions such as sea level rise.

The proposed housing development is not expected to generate any significant or long-term impacts on the environment. The short-term impacts, during construction, will be offset by positive social outcomes in the long-term social benefits of providing affordable housing that meets the needs of the community. The applicable Local Strategic Planning Statement (LSPS) and Community Strategic Plan are considered below at Section 6.4.2 of this report.

6.4.2 Strategic Planning Framework

Sutherland Shire Local Strategic Planning Statement

The Sutherland Local Strategic Planning Statement was endorsed by Sutherland Council on 24 August 2020. It is a 20-year plan that identifies 23 Planning Priorities for the LGA, focused on infrastructure and collaboration, liveability, productivity, and sustainability.

Notably, Priority 10 seeks to promote diverse housing choice. The proposed development will be contributing 6 affordable housing units to the housing supply in Sutherland Shire LGA. It will diversify the housing type available within the area by replacing 2 dwellings with 4 townhouses and 2 single-storey units on a site that is well serviced by existing public transport options and is close to shops, public recreation areas and schools.

The proposed development contributes to the objectives of the Sutherland Shire Local Strategic Planning Statement and will increase the provision of affordable housing in the area.

Our Shire - Community Strategic Plan – Towards 2032

The Sutherland Shire Community Strategic Plan was adopted by Council in 2022. It is a 10-year plan that outlines six strategic themes that are derived from an extensive community engagement process, which identified priorities for the community's future. Under the six themes there are key goals and subsequent strategies for Council to facilitate in partnership with the community, government agencies and business. These six key strategic directions are supported by key goals that will guide the Sutherland Shire area over the next 10 years. The themes are focused on strong civic leadership, protecting the natural environment, community wellbeing, education, and the economy, promoting an active lifestyle and improving the accessibility of public spaces and places and liveable neighbourhoods.

The proposed development for multi dwelling housing will provide new affordable housing within the LGA in an area that is well serviced by public transport and is in proximity to shops, services, schools, and public open space areas. The proposal is therefore in alignment with the Sutherland Community Strategic Plan.

6.4.3 Activities in catchments [Section 171A]

The site is located within a regulated catchment, namely, the Georges River Catchment, as defined in Part 6.2 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (Biodiversity and Conservation SEPP).

LAHC, as determining authority, when considering the likely impact on the environment of an activity proposed to be carried out in a regulated catchment, must take into account the controls on development set out in Part 6.2, Division 2 of the Biodiversity and Conservation SEPP.

An assessment of these controls in relation to the proposed development is provided in **Table 7** of this REF. The assessment concludes that the proposed activity is unlikely to significantly impact the Georges River Catchment.

6.5 State Environmental Planning Policy (Housing) 2021

6.5.1 Development without Consent

Section 42 of the HSEPP permits certain development that may be carried out 'with consent' to be carried out by LAHC as 'development without consent' subject to the provisions set out under that section. **Table 5** below demonstrates compliance with the relevant provisions of section 42 of the HSEPP.

Table 5 Compliance with relevant provisions under sections Chapter 2, Part 2, Division 6 of the HSEPP for 'residential development without consent' carried out by LAHC.

Provision	Compliance
42 (1) – This Division applies to residential development if -	
(a) the development is permitted with consent on the land under another environmental planning instrument, and	Multi dwelling housing is permitted with consent in the R2 Low Density Residential zone under the SLEP 2015.
(b) all buildings will have a height of not more than 9m, and	The maximum proposed building height is 8.5m.
(c) the development will result in 60 dwellings or less on a single site, and	The development will result in 6 dwellings on the site.
(d) for development on land in an accessible area – the development will result in at least the following parking spaces – (i) for each dwelling containing 1 bedroom – 0.4 parking spaces (ii) for each dwelling containing 2 bedrooms – 0.5 parking spaces (iii) for each dwelling containing at least 3 bedrooms – 1 parking space, and	<u>Parking required</u> 2 x 2-bedroom units @ 0.5 spaces = 1 space 4 x 3-bedroom townhouses @ 1 space = 4 spaces TOTAL: 5 spaces <u>Proposed parking</u> 1 parking space per dwelling = 6 spaces
(e) for development on land that is not in an accessible area – the development will result in at least the following parking spaces – (i) for each dwelling containing 1 bedroom – 0.5 parking spaces	Not applicable.

Provision	Compliance
(ii) for each dwelling containing 2 bedrooms – 1 parking space (iii) for each dwelling containing at least 3 bedrooms – 1.5 parking space, and	
(2) This Division applies to the following development if the development is permitted on the land under another environmental planning instrument –	
(a) the demolition of buildings and associated structures if the building or structure is on land – (i) that is non-heritage land, and (ii) that is not identified in an environmental planning instrument as being within a heritage conservation area,	The proposal includes the demolition of the existing single storey dwellings and associated structures on each lot. The site does not contain a heritage item and is not within a heritage conservation area.
(b) the subdivision of land and subdivision works. Note – Section 32 prohibits the subdivision of a boarding house.	The two existing lots are proposed to be consolidated to facilitate the proposed development. No further subdivision is proposed.
(3) This Division does not apply to – (a) development to which this Part, Division 5 applies, or (b) development that is part of a project, or part of a stage of a project, that the Minister determined under the Act, former section 75P to be subject to the Act, Part 4.	Neither 3(a) or (b) apply to the proposed development.
(4) Development to which this Division applies may be carried out by or on behalf of a relevant authority without development consent.	The proposed development will be undertaken by or on behalf of LAHC, being a relevant authority.
(5) <i>State environmental planning policy (Transport and Infrastructure) 2021</i> , sections 2.15 and 2.17 apply to the development and, in the application of the sections -	Noted
(a) a reference in section 2.15 to “this Chapter” is taken to be a reference to this section, and	Noted
(b) a reference in the sections to a public authority is taken to be a reference to the relevant authority.	Noted
(6) In this section- Former section 75P means the Act, section 75P, as in force immediately before its repeal by the Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011. Residential development has the same meaning as in the Housing Act 2001, section 8.	Noted
43 Requirements for carrying out residential development -	
(1) Before carrying out development under this Division, a relevant authority must-	
(a) request the council nominate a person or persons who must, in the council’s opinion, be notified of the development, and	Advice was sought from Sutherland Shire Council regarding additional persons or properties that should be notified of the development via email sent on 26 September 2022. Council provided a response email on 4 December 2022 and did not request any additional properties to be included for notification.

Provision	Compliance
	Council provided an updated list of property details on 16 March 2023.
(b) give written notice of the intention to carry out the development to – (i) the council, and (ii) the person or persons nominated by the council, and (iii) the occupiers of adjoining land, and	A letter notifying Sutherland Shire Council of the proposed development activity was sent by LAHC on 22 March 2023. Letters notifying owners and occupiers of adjoining land of the proposal were sent by LAHC on the same date.
(c) take into account the responses to the notice that are received within 21 days after the notice is given, and	Council responded by letter dated 5 May 2023, and 2 submissions were received from adjoining landowners. The detail of these submissions is discussed further in Section 7 of this REF.
(d) take into account the relevant provisions of the <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> , published by the Department in March 2004, and	Refer to Table 6 .
(e) if the relevant authority is the Aboriginal Housing Office – consider the relevant provisions of the <i>Aboriginal Housing Design Guidelines</i> , published by the Aboriginal Housing Office in January 2020, and	Not applicable.
(f) If the relevant authority is the Land and Housing Corporation – consider the relevant provisions of – (i) <i>Good Design for Social Housing</i> , published by the Land and Housing Corporation in September 2020, and (ii) the <i>NSW Land and Housing Corporation Design Requirements</i> , published by the Land and Housing Corporation in February 2023, and	Refer to the Design Compliance Certificates in Appendix K and discussion provided in subsection 6.5.3 and 6.5.4 of this REF. These conclude that the development is generally consistent with the relevant provisions in both the <i>Good Design for Social Housing</i> (September 2020) and the <i>NSW land and Housing Corporation Design Requirements</i> (February 2023).
(g) if the development is for the purposes of manor houses or multi dwelling housing (terraces) – consider the relevant provisions of the Codes SEPP, Part 3B.	Not applicable as the development is for multi dwelling housing (units/townhouses) and not for manor houses or multi dwelling housing (terraces).
(2) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be located.	Noted.

6.5.2 Seniors Living Policy: Urban Design Guidelines for Infill Development

The *Seniors Living Policy: Urban Design Guidelines for Infill Development* (SLUDG) (March 2004) has been prepared to assist in the design and assessment of applications for development under the Housing SEPP and is used for all Part 5 applications, excluding group homes and boarding houses.

The SLUDG outlines the design issues, principles and better practices that must be considered when designing a development for assessment under the Housing SEPP. There are five sections in the document, each corresponding to a key issue when designing development under the Housing SEPP. These include:

- Improving neighbourhood fit
- Improving site planning and design
- Reducing impacts on streetscape
- Reducing impacts on neighbouring properties; and

- Improving internal site amenity.

Clause 43(1)(d) of the Housing SEPP requires the relevant authority to take into account the relevant provisions of the SLUDG when assessing a proposed residential development under Part 2, Division 6 of the Housing SEPP.

An assessment of the design of the activity against the SLUDG is provided at **Appendix L**. The design has followed the guidelines, except in relation to the following justifiable departures outlined in **Table 6**.

Table 6 Seniors Living Urban Design Guidelines departures

Guideline Requirement	Response
3.17 Provide a pedestrian entry for rear residents that is separate from vehicular entries?	Due to the site width, it was not possible to provide separate vehicle and pedestrian access. Differentiation in driveway surfaces delineates zones for pedestrian access and clear sightlines are available from the vehicle entry point on Easton Avenue which will ensure visibility of pedestrians using the share zone.
3.29 Provide gates at the head of driveways to minimise visual 'pull' of the driveway	Driveway gates are not consistent with the LAHC Design Standards for maintenance reasons.
4.05 Incorporate second stories within the roof space and provide dormer windows?	Second storeys within roof spaces are not a characteristic in the locality. The proposed second storey complies with height and setback requirements and does not give rise to any adverse streetscape or amenity impacts.
4.16 Design dwellings around internal courtyards?	Dwellings 1 – 4 have been designed to incorporate internal courtyard areas. Dwellings 5 & 6 are located at the rear and have private open space areas located at the rear corners of the site. The private open space areas have been designed to maintain privacy for both occupants and adjoining neighbours. Dwellings 1 and 2 are provided with private open space areas in the front setback which will provide passive surveillance to the street.
5.13 & 5.15 Use communal car courts rather than individual garages?	The initial project brief specified individual garages for each dwelling rather than a communal car court. Individual garages will provide a high level of amenity and security for future tenants.
5.30 Provide communal open space that is clearly and easily accessible to all residents and easy to maintain and includes shared facilities, such as seating and barbeques to permit resident interaction?	The proposal is for a small-scale multi dwelling development therefore communal open space has not been incorporated into the design. Each dwelling is provided with private open space areas which are directly accessible from internal living areas and include a paved area for outdoor dining as well as low maintenance gardens. The private open space area allocated to each dwelling is in excess of that required under the LAHC Design Requirements.

6.5.3 Good Design for Social Housing

Good Design for Social Housing establishes the four key goals and their underpinning principles to delivering better social housing outcomes for NSW.

Clause 43(1)(f)(i) of the Housing SEPP requires the relevant authority to consider the relevant provisions of the *Good Design for Social Housing policy* (September 2020) when assessing a proposed residential development under Part 2, Division 6 of the Housing SEPP.

The following assessment against the *Good Design for Social Housing* demonstrates that the proposed development has adequately considered the goals and principles outlined. Each goal is individually addressed below, and the design compliance certificate supplied by the architect in *Appendix K* confirms that the development has been designed in accordance with the guiding principles.

Wellbeing

The proposed development supports the wellbeing of future tenants by providing safe and accessible housing where residents have privacy and feel safe. The development includes two single level units including 1 that has been designed as an adaptable unit to accommodate tenants with different mobility needs. All other units are designed to achieve silver liveable standards.

The development incorporates passive and active sustainable design, durable and low maintenance materials, and appropriately sized units to reduce running costs. Each unit is provided with an area of private open space that accommodates a paved area for outdoor dining and attractive gardens planted with low maintenance species at ground floor level. High quality landscaping across the site will enhance the amenity for residents, and additional canopy tree planting across the site will create a sense of place and peaceful landscaped setting.

Belonging

The form and materiality of the proposed development have been selected to respond to the style and character of the local area and will make a high-quality contribution to the streetscape. The use of predominantly exposed brickwork, a neutral colour palette and steel architectural elements will ensure the visual appeal of the development is maintained over time.

Having a mix of 3-bedroom townhouses and smaller, 2-bedroom units will cater to a diverse range of tenants including large families as well as singles and couples. Each dwelling has an individual entry and is provided with a private courtyard with low-maintenance landscaped areas and a paved area for outdoor dining. The internal courtyards provide a sense of privacy and retreat from the common areas on the site. Retention of an existing tree on Easton Avenue, and planting of additional canopy trees in the front setback area will contribute to the sense of place and belonging.

Value

The scheme incorporates sustainable features including insulation, high-quality glazing, clothes lines, native plantings, and good solar access and cross-ventilation. Rainwater re-use will assist in minimising the use and cost of access to natural resources.

The building materials, construction method and services have been selected to ensure that the development is durable, minimises maintenance and contributes to the low on-going running costs of the dwellings.

The yield is compatible with the planning provisions and the capability of the site, whilst providing a comfortable space for tenants and a positive streetscape contribution for the wider community.

Collaboration

The project involved a rigorous design process in collaboration with design professionals and engineers to ensure that the development incorporates the current best practice in affordable housing design. The development is in keeping with current government initiatives to deliver quality housing stock.

The design and assessment process involved close collaboration with several stakeholders, including input from Council and adjoining landowners.

6.5.4 Land and Housing Corporation Design Requirements

The *Land and Housing Corporation Design Requirements* (LAHC Design Requirements) (February 2023) are used to inform the design and development of the NSW social housing portfolio. These requirements apply to all new Housing Portfolio developments and are driven by tenant wellbeing, design quality, environmental performance, and operational effectiveness within cost parameters.

Clause 43(1)(f)(ii) of the Housing SEPP requires the relevant authority to consider the relevant provisions of the *Land and Housing Corporation Design Requirements* when assessing a proposed residential development under Part 2, Division 6 of the Housing SEPP.

An assessment of the proposed development against the LAHC Design Requirements has been undertaken and deemed to achieve compliance except as discussed below, refer to the architects Certificate of Design Compliance in *Appendix K*. Further detail will be incorporated in the construction documentation.

NatHERS Rating

A minimum NatHERS rating of 7 stars is required for Class 1 and 1A buildings under the LAHC Design Requirements which was introduced in February 2023. The proposed development went on statutory notification in early March 2023 and had been designed based on the requirements of the LAHC Dwelling Requirements (September 2020) which had a minimum NatHERS rating of 6 stars.

The average NatHERS rating for the proposed development is 6.1 stars which is consistent with the requirements under the LAHC Dwelling Requirements and increasing the star rating to a minimum of 7 would have triggered substantial re-design. The proposed development has been designed with a high level of amenity for each dwelling, with 83% (5 out of 6 units) achieving 3 hours solar access on the winter solstice which will reduce reliance on artificial lighting and heating. Large, glazed doors are provided between the living room and private open space areas for each dwelling which will allow cool breezes and ventilation to enter these high use areas during the summer months.

The proposed development has been designed to provide a high level of comfort for future residents and therefore the proposed variation to the minimum NatHERS star rating is considered supportable.

6.6 Other State Environmental Planning Policies

Table 7 below outlines applicability of, and compliance with, other State and Environmental Planning Policies (SEPPs).

Table 7 Compliance with other applicable State Environmental Planning Policies

COMPLIANCE WITH RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES
SEPP (Sustainable Buildings) 2022
The proposed activity went on statutory notification prior to the commencement of the Sustainable Buildings SEPP 2022 on 1 October 2023. Due to this, the BASIX certificate has been generated based on the requirements of the <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> (now repealed). A copy of the BASIX certificate is provided under <i>Appendix I</i> .
SEPP (Transport and Infrastructure) 2021

COMPLIANCE WITH RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES

The Transport and Infrastructure SEPP provides planning controls relating to development for the purposes of essential services infrastructure (hospitals, roads, water supply, telecommunications, and electrical networks), educational establishments and childcare facilities and major infrastructure corridors.

The site is not located adjacent/near a rail corridor or electricity infrastructure. The site is approximately 230m west of Port Hacking Road which is a classified road however the provisions of the SEPP do not apply as the site is not located on or adjacent to the road corridor pursuant to Section 2.120(1) of the SEPP. In addition, Council have not identified the site as being potentially impacted by unacceptable levels of road noise.

SEPP (Biodiversity and Conservation) 2021

This Biodiversity and Conservation SEPP provides planning controls related to conservation and management, to ensure protection of the natural environment.

The development proposes tree removal and thus the provisions of the SEPP related to vegetation clearing do apply. Clause 2.6(1) of this SEPP requires a permit from Council for clearing of vegetation required under the policy. The proposed development seeks the removal of 4 trees (refer to the Arborist Report at *Appendix H*).

Clause 6 of Housing SEPP specifies that development permitted without consent may be carried out without any other consent or a licence, permission, approval, or authorisation otherwise required under another environmental planning instrument. This means the proposed removal of trees within the site can be included within the REF scope and does not require a permit from Council.

The site is located within a regulated catchment, namely, the Georges River Catchment. Accordingly, the controls for development set out in Division 2 of Part 6.2 of the Biodiversity and Conservation SEPP apply to the activity.

Under Section 171A(1) of the EP&A Regulation, NSW LAHC, as determining authority for the activity, when considering the likely impact on the environment of an activity proposed to be carried out in a regulated catchment, must consider State Environmental Planning Policy (Biodiversity and Conservation) 2021, sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1), and

Further, as the consent authority NSW LAHC must be satisfied under State Environmental Planning Policy (Biodiversity and Conservation) 2021, sections 6.6(2), 6.7(2), 6.8(2) and 6.9(2).

6.6 Water quality and quantity

This clause requires the consent authority to consider whether the development will:

- have a neutral or beneficial effect on the quality of water entering a waterway;
- have an adverse impact on water flow in a natural waterbody;
- increase the amount of stormwater run-off from a site, and
- Incorporate on-site stormwater retention, infiltration or reuse.

The consent authority is also required to assess the impact of the development

- on the level and quality of the water table;
- the cumulative environmental impact of the development on the regulated catchment;
- and whether the development makes adequate provision to protect the quality and quantity of ground water.

Further this clause also requires that consent is not issued unless the consent authority is satisfied the development ensures:

- the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
- the impact on water flow in a natural waterbody will be minimised.

Comment: Stormwater will be collected across the site via a series of pits, gutters and pipes which are connected to an underground OSD which will be connected to a new stormwater easement across 52 Melrose Avenue, Sylvania. The new stormwater easement will then connect to the existing kerb and gutter system on Melrose Avenue. Identified Requirement (No. 13) recommends that sediment control measures be implemented during demolition and construction in accordance with Council requirements and/or the guidelines contained in the Blue Book Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004). Identified

COMPLIANCE WITH RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES

Requirements (Nos 6 and 42) recommend that stormwater management is to be designed in accordance with Sutherland Shire Council's technical guidelines and policies.

6.7 Aquatic ecology

This clause requires the consent authority to consider whether the development:

- will have a direct, indirect, or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,
- involves the clearing of riparian vegetation and, if so, whether the development will require either a controlled activity approval under the Water Management Act 2000, or a permit under the Fisheries Management Act 1994,
- will minimise or avoid the erosion of land abutting a natural waterbody, or the sedimentation of a natural waterbody, or will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,
- includes adequate safeguards and rehabilitation measures to protect aquatic ecology,
- if the site adjoins a natural waterbody – whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.

Further this clause also requires that consent is not issued unless the consent authority is satisfied the development ensures:

- that the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,
- the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,
- if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation – the approval or permit has been obtained,
- the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,
- the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.

Comment: The subject site is not located on riparian land and will not require a controlled activity permit. The site does not adjoin a natural waterbody and is not located near wetlands/littoral rainforests. Suitable erosion and sedimentation controls will be required to minimise erosion and maintain water quality (Identified requirement No. 13). The scale and nature of the activity, together with its location, is unlikely to have significant impacts upon aquatic ecology.

6.8 Flooding

This clause relates to flood liable land.

Comment: The site is not located on flood liable land.

6.9 Recreation and public access

This clause relates to development on recreational land and public access to natural water bodies and foreshores

Comment: The proposed activity will not impact recreational land uses or alter public access to recreational land or foreshores.

SEPP (Resilience and Hazards) 2021

The Resilience and Hazard SEPP provides provisions for development in the coastal zone, management of hazardous and offensive development and remediation of contaminated land.

Section 4.6 of this SEPP requires the consent authority to consider whether land is contaminated prior to granting development consent.

The site is located within a developed residential area of Sylvania. The s10.7 Planning Certificates do not identify the site as potentially contaminated (refer to *Appendix D*). Notwithstanding, the draft Contaminated Land Planning Guidelines (draft Guidelines) prepared by the Department of Planning and Environment and the

COMPLIANCE WITH RELEVANT STATE ENVIRONMENTAL PLANNING POLICIES

Environment Protection Authority provides a checklist of matters to be considered in an initial evaluation of land in relation to potential for contamination. These matters are considered in the table below.

As evidenced below, it is unlikely that the site is contaminated however a recommended Identified Requirement (No. 17) requires implementation of management measures in the unlikely event of contamination prior or during construction works. A detailed discussion on the subsurface soil conditions and potential for contamination is provided in section 8.10, including the results of the Geotechnical investigation.

Previous evidence of contamination	Yes/ No	Response
a) Was the subject land at any time zoned for industrial, agricultural or defence purposes?	No	LAHC records indicate that the land has been used for residential purposes since the mid 1950's. Historical aerial imagery indicates that in 1943 the land was undeveloped, scrub vegetation.
(b) Do existing records held by the planning authority show that a potentially contaminating activity listed in Table 1 in Appendix 1 has previously been approved or carried out on the subject land? (The use of records held by other authorities or libraries is not required for an initial evaluation.)	No	LAHC records indicate that the land has not been used for a potentially contaminating activity listed in Table 1, Appendix 1 of the draft Guidelines.
(c) Is the subject land currently used for a potentially contaminating activity listed in Table 1 in Appendix 1?	No	Both lots contain a single storey detached dwelling and associated structures.
(d) Has the subject land ever been regulated through licensing or other mechanisms in relation to any potentially contaminating activity listed in Table 1 in Appendix 1?	No	LAHC records indicate that the land has not been regulated through licensing or other mechanisms.
(e) Are there any land use restrictions on the subject land relating to possible contamination, such as orders or notices issued under the CLM Act?	No	As noted in the section 10.7 certificates, there are no land use restrictions relating to contamination under the CLM Act.
(f) Has a site inspection indicated that the site may have been associated with any potentially contaminating activities listed in Table 1?	No	A site inspection has been undertaken and there was no evidence or indication that the land had been used for potentially contaminating activities.
(g) Are there any contamination impacts on immediately adjacent land which could affect the subject land?	No	Adjoining development is residential, forming part of a larger residential subdivision carried out in the mid 1950's.
(h) Are there any human or environmental receptors that could be affected by contamination?	No	A standard identified requirement (No. 17) has been recommended to cover the possibility of discovering site contamination during demolition / construction works.
i) Is the site adjacent to a site on the EPA's list of notified sites under s60 of the CLM Act, or adjacent to a site regulated by the EPA under the CLM Act?	No	A review of the EPA's register of notified sites indicates that the land is not adjacent to a notified site under s60 of the CLM act or a site regulated by the EPA under the CLM Act. The closest EPA notified site is approximately 300m to the southeast at 61 Port Hacking Road, Sylvania.

6.7 Local Planning Controls

6.7.1 Sutherland Local Environmental Plan 2015 (SLEP 2015)

Compliance with the relevant provisions / development standards set out in the SLEP 2012 is demonstrated in **Table 8** below.

Table 8 Sutherland Local Environmental Plan 2015

Relevant Provisions / Development Standards for Multi Dwelling Housing			
Clause	Provision / Development Standard	Required	Provided
4.1E	Minimum lot sizes for dual occupancies, manor houses and multi dwelling housing	The minimum lot size for multi dwelling housing in the R2 zone is 1,200m ² .	Complies The overall lot size, once the 2 existing lots are amalgamated, is 1,312.6m ² .
4.3	Height of Buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map (8.5 metres)	Complies Maximum building height (measured in accordance with the LEP definition) is 8.5 metres.
4.4	Floor Space Ratio	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map (0.55:1).	Complies Proposed FSR is 0.46:1
6.1	Acid Sulfate Soils	Development consent is required for works carried out on land within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	Complies/Not applicable The subject land is mapped as Class 5 Acid Sulfate Soils (ASS). The land is at 21.21m AHD at its lowest point and the development is unlikely to lower the watertable therefore consideration of clause 6.1 is not required. A preliminary Geotechnical Investigation and Acid Sulfate Soil Assessment prepared by STS identified that ASS is likely to be present in elevations less than 5m AHD. The proposal has a minimum elevation of 21.21m AHD, therefore the presence of ASS is unlikely. Further, soil testing was undertaken and determined the test results are less than the action criteria for ASS. Therefore, an ASS Management Plan will not be required in this instance.
6.14	Landscaped areas in certain residential, business, industrial	Minimum landscape area of 35% or 20% if	Does not comply

Relevant Provisions / Development Standards for Multi Dwelling Housing

	and environment protection zones	in accordance with the provisions of 4.5A(2).	<p>The proposal will provide 386.1m² of landscaped area (29.4%), which is below the minimum landscape area of 35%.</p> <p>A minimum 30% landscaped area is recommended under the SLUDG and the proposal is nominally short of this requirement.</p> <p>The proposal incorporates areas of private open space that exceed the minimum areas required under the Housing SEPP and has been designed to ensure the retention of a significant tree located at the front of the site in the road reserve.</p> <p>Deep soil areas have been retained at the front and rear of the site with hard surface areas reduced as much as practicable to allow for canopy tree planting. A shared pedestrian and vehicle access has been provided to further reduce the amount of hard surface area required.</p> <p>Overall, the scheme incorporates sufficient areas of deep soil to accommodate substantial areas of planting which will increase the extent of canopy cover from existing conditions. Further, large areas of private open space are provided which will create a sense of place for future tenants.</p>
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6.7.2 Sutherland Development Control Plan 2015

Sutherland Development Control Plan 2015 (SDCP 2015) contains specific development controls for multi dwelling housing which are addressed in **Table 9** below.

The general controls for multi dwelling development set out in SDCP 2015 have generally been addressed in the various sections of this REF that address compliance with the provisions of the Housing SEPP. The following controls are only those where there is no corresponding requirement under the Housing SEPP.

Table 9 Sutherland Development Control Plan 2015

Compliance with setback controls for multi dwelling housing		
Multi dwelling housing – Chapter 5		
Clause	Requirement	Proposed
Streetscape and building form		
1.2(1)	2-3 storey development is only permitted on the front of an allotment and extend to a maximum of 60% of the depth of the site.	<p>Does not comply</p> <p>The second storey protrudes into the rear 40% of the site by approximately 1.56m.</p> <p>The non-compliant portion includes part of 'bedroom 3' and part of the first-floor bathroom for townhouses 3 and 4.</p> <p>The side setback from these areas has been increased to a minimum of 5.76m from the east and west boundaries which is an additional 1.76m to</p>

Compliance with setback controls for multi dwelling housing

		<p>the minimum side setback required for a second storey element in the rear 40% of a lot.</p> <p>A single window is provided to the side elevation of 'bedroom 3' which is not expected to generate unreasonable privacy impacts due to the intended use of this room.</p> <p>Visual bulk is reduced using increased setbacks from side boundaries and a neutral palette of quality materials to the side elevations.</p> <p>The minor exceedance of this control is considered supportable in this instance.</p>
1.2(2)	Minimum 20m site width.	<p>Complies</p> <p>Minimum site width of 30.14m</p>

Building setbacks

2.2(2)	<p><u>Primary frontage</u> 7.5m – except where adjoining dwellings are setback greater than or less than 7.5m, in which case it is the established street setback. An articulation zone of up to 1.5m applies for a maximum of one third of the area of the façade.</p> <p><u>Side setback</u> Ground floor: 0.9m for front 60% of site; 4m for rear 40% of site (unless the building is single storey in which case the side setback could be reduced to 1.5m for the rear 40% of the site) Second storey: 1.5m for front 60% of site</p> <p><u>Rear setback</u> 4m</p>	<p>Complies</p> <p><u>Primary frontage</u> 7.5m with front porches located in the articulation zone.</p> <p><u>Side setback</u> Ground floor: Minimum 0.9m (front 60%); 4m (rear 40%) Second storey component: Minimum 2.1m</p> <p><u>Rear setback</u> 4m</p>
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Landform

3.2(1)	Development should avoid any unnecessary earthworks by designing and siting buildings within the	<p>Complies</p> <p>The site slopes down towards the rear, northern boundary and the internal floor levels of each townhouse have been stepped in response to existing topography.</p>
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Compliance with setback controls for multi dwelling housing

	natural slope of the land.	<p>Despite this, some degree of fill is required to create a level floor plan for units 5 & 6 located at the rear due to the fall of the land. The maximum amount of fill required is 1.06m. Proposed filling is contained within the building footprint, with natural ground levels retained at side and rear boundaries.</p> <p>An area of cut up to a maximum of 586mm is proposed towards the front of the site to achieve the required driveway grades and minimise the extent of soil located against the external walls of the proposed development. The extent of cut has been minimise as much as practical and will be gently graded up towards the natural ground level at the front (south) boundary.</p>
3.2(2)	Natural ground level surrounding the development and at property boundaries must be retained or reinstated prior to the completion of works.	<p>Complies</p> <p>See comment above.</p>

Waste Management

10.2(1)	<p>Waste collection in accordance with Sutherland Shire Council's "Waste Collection Policy for Multi-Unit Dwellings and Residential Flat Buildings".</p> <p><u>Appendix 3 - Multi-unit dwelling</u> General Waste: 120L/dwelling/week Recycling: 120L/dwelling/week</p>	<p>Complies</p> <p>1 x 120L general waste and 1 x recycling bin per dwelling</p>
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7 Notification, Consultation and Consideration of Responses

Copies of the notification letters sent to the local council and to the adjoining occupiers are provided in *Appendix U*, together with a copy of the response received from council.

7.1 Council Notification

In accordance with section 43 of the Housing SEPP, Sutherland Shire Council was notified of the development by letter dated 22 March 2023 (refer to *Appendix U*). The notification response period formally closed on 26 April 2023 and Council responded to the notification by letter dated 5 May 2023.

The key issues raised by council are extracted in **Table 10** below and a full copy of their submission is provided in *Appendix U*. A response is provided in relation to the matters raised in Council's letter and where appropriate, these matters have been addressed in the identified requirements in the *Activity Determination*.

Table 10 Issues raised in Council submission

Issues raised	Response
Site layout, built form and amenity The following key issues were raised: <ul style="list-style-type: none"> The side and rear setbacks of the elevated terraces to the rear dwellings are insufficient to offset amenity impacts from these areas. Relocating the adaptable unit to the front of the site was recommended to allow the rear terrace of unit 5 to be stepped down towards the rear boundary rather than kept flush with the internal living area. 	<p>The site slopes down towards the rear boundary and the development has generally been stepped in response to the slope. However, the fall at the rear of the site in conjunction with providing level access to the adaptable unit has resulted in slightly raised internal floor levels for units 5 & 6 and subsequently elevated terraces. Both units have been kept single storey to minimise impacts on neighbouring properties.</p> <p>As suggested by council, consideration was given to relocating the adaptable unit to the front of the site where the transition in levels was less severe. However, this would have triggered substantial re-design to incorporate the design elements required for an adaptable unit and may have resulted in the loss of bedrooms or yield.</p> <p>Due to this, no changes have been made to the location of the adaptable unit or the height of the attached terrace areas associated with units 5 & 6. However, to minimise the potential for overlooking from the raised terrace areas an Identified Requirement (No. 73) is recommended to increase the height of the opaque glass balustrade to a minimum 1.5m around both terraces. In addition, the rear (north) boundary fence has a minimum height of 2.1m to further reduce the potential for overlooking.</p> <p>Once amended, the balustrade will be high enough to restrict the line of sight from unit 5 to the rooftop of 54-56 Melrose Avenue only and will obstruct sight lines from the living area of unit 6 to the rear garden of 23 Easton Avenue.</p> <p>This minor design change will ensure the impact of the raised terraces is appropriately mitigated without unreasonably restricting solar access to the living areas of these units and undertaking a substantial re-design.</p>
<ul style="list-style-type: none"> The proposal does not comply with councils landscaped area 	<p>Please refer to discussion provided under section 6.7.1 of this REF.</p>

Issues raised	Response
<p>requirement of 35% of the site area.</p>	
<ul style="list-style-type: none"> Design changes to improve the articulation and legibility of the front building forms was recommended. 	<p>The proposal has gone through an extensive design process with consideration for context and local character.</p> <p>The development has been designed with a modern aesthetic and incorporates a mix of rectangular forms and angled roof elements for visual contrast. The development has been split into 2 separate buildings with a central driveway which assists in breaking up the building mass and provides a more traditional multi dwelling housing typology.</p> <p>Articulation is achieved through fenestration on ground and first floor levels and a brick 'entry feature' over the front porches for dwellings 1 and 2. A darker toned face brick will be used for these entry features which will contrast with the lighter toned face brick on the main façade and pre-finished cladding provided at first floor level.</p> <p>The overall building design adopts the contemporary character of more recent dual occupancy and multi dwelling development in the area (refer to Figure 6 and Figure 7). The development is to be constructed of durable materials including face brick walls, metal cladding and colorbond roofing. The neutral colour palette in conjunction with quality materials and a robust landscape scheme will ensure the development ages well and continues to make a positive contribution to the streetscape for years to come.</p>
<ul style="list-style-type: none"> Recommendations were made to adjust the design to improve the sense of address, particularly dwellings 3 & 4. Architectural design treatments were recommended where compatible with vehicle manoeuvrability. It was noted that permeable paving would require ongoing maintenance and an alternative pavement type was suggested. 	<p>Councils design recommendations were reviewed in detail by the architect however the current design was considered acceptable in terms of dwelling entrances therefore no further changes were required.</p> <p>No changes were made to the permeable pavement type as it was supported by the LAHC delivery team.</p>
<ul style="list-style-type: none"> Dwellings 1 & 2 were noted as having tight internal entry spaces at the door and the living rooms have insufficient openings for future tenants to view and appreciate the front yards. Storage space was noted as being limited. 	<p>The dwelling entrances for units 1 and 2 open into the kitchen and dining space which is open plan and therefore has sufficient circulation space. The architect advised that no further adjustment was required to these spaces.</p> <p>As noted above, the kitchen, dining and living area are open plan spaces in dwellings 1 & 2. Two rectangular windows are provided on the front (south) elevation of the kitchen/living/dining room spaces in both dwellings which provide an outlook across the front gardens and the street while maintaining sufficient privacy to these internal areas.</p>

Issues raised	Response
	<p>A large bank of glazed doors is provided off the north elevation of the living areas with direct view out towards the private courtyard and garden beyond. As such, no further design changes were required.</p> <p>The volume of storage provided meets the minimum amount specified in the LAHC Design Requirements. The volume of storage provided in the 3-bedroom townhouses exceeds the minimum requirements.</p>
<p>Housing SEPP Considerations</p> <ul style="list-style-type: none"> No evidence was provided demonstrating that consideration had been given to: <ul style="list-style-type: none"> Good Design for Social Housing, and The NSW Land and Housing Corporation Design Requirements. 	<p>The architects Certificate of Design Compliance (<i>Appendix X</i>) confirms that these documents were considered throughout the design of the proposed development. Refer also to the discussions under sections 6.5.3 and 6.5.4 of this REF.</p>
<p>Engineering Matters</p> <ul style="list-style-type: none"> Concerns were raised regarding the extent of stormwater sheet flow moving towards the front door of Dwelling 5 during a storm event and lack of emergency overland flow path from the northern end of the driveway to the northern boundary. The nature of the grate in front of the threshold of Dwelling 5 is unknown and may need to comprise a fine grill to assist in accessibility. The galvanised steel pipes within the footpath verge of Melrose Avenue must have a section height of 75mm. 	<p>The proposed stormwater design was revised following receipt of council comments and was finalised in consultation with councils' development engineer.</p> <p>The amended stormwater design is provided in <i>Appendix C</i>.</p>
<ul style="list-style-type: none"> Council raised that the development may not achieve compliance with the NSW Fire and Rescue document "Access for Fire Brigade Vehicles and Firefighters", and it was recommended that a 'Fire Hydrant Services Report' be obtained to determine whether a hardstand area 	<p>Advice was sought from a Fire Safety Engineer regarding the requirements applicable to the proposed development relating to fire hydrant services and access for fire brigade vehicles. A copy of this advice is provided under <i>Appendix V</i>.</p> <p>It was advised that the existing fire hydrant located at the front of 27 Easton Avenue would provide sufficient coverage for the proposed development and therefore provision of additional hydrants and associated hardstand area at the subject site would unlikely be required. It was also noted that the required 'carriageway' could include a public road reserve.</p>

Issues raised	Response
is required in front of the site for fire appliances.	
Landscape Matters <ul style="list-style-type: none"> Provide a 3m landscape setback to Easton Avenue and incorporate canopy tree planting that will contribute to the local canopy and significant local ridgeline. Vegetable gardens on the eastern boundary within the front setback of Unit 2 should be relocated and the area appropriately planted with screen planting. Consider replacing the areas of turf with a no mow lawn solution such as <i>Zoysia tenuifolia</i> or <i>Dichondra repens</i>. Alternative pavement treatment and planting within the central driveway space is recommended. Excavation of the front yard of Dwelling 2 is not considered necessary and should be reviewed. 	<p>To address councils comments the following design changes are to be made to the proposed landscape plan:</p> <ul style="list-style-type: none"> The front boundary fence is to be setback a minimum 1.5m from the front boundary and natural ground levels are to be retained forward of the fence line. The proposed canopy tree planting is also to remain forward of the fence line. Areas noted as 'turf' are to be replaced with <i>Zoysia tenuifolia</i> or <i>Dichondra repens</i>. Replace the '1 x Lag. Tus' located in front of unit 2 with 1 x 'Corymbia gummifera'. <p>The above changes have been incorporated into Identified Requirement No. 74.</p> <p>The proposed vegetable gardens on the eastern boundary were considered acceptable in the proposed location as dense screen planting has been provide for a depth of 900mm along the full length of the side boundaries. The proposed screen planting has a minimum mature height of 2m which will be sufficient for maintaining privacy with adjoining properties.</p> <p>The proposed permeable paving in the driveway has remained unchanged as no concern was raised with its use by the LAHC delivery team.</p> <p>The extent of excavation in the front setback area of dwelling 2 has been minimised as much as practical. However, some grading is still required to avoid having soil hard up against the external wall which will cause water proofing issues. As noted above, natural ground levels must be retained forward of the front fence which is to be setback 1.5m from the front boundary. A small brick wall to the base of the fence line will be required, as is currently proposed.</p>

7.2 Notification of Occupiers of Adjoining Land and Other Persons

Under section 43(1)(b) of the Housing SEPP, Sutherland Shire Council was requested to nominate any other persons who should, in the Council's opinion, be notified of the development.

Advice was sought from Council regarding additional persons or properties that should be notified of the development via an email sent on 26 September 2022. Council provided an email response on 4 December 2022 and did not request any additional properties to be included in the scope. Council provided a current list of property details on 16 March 2023. **Figure 13** illustrates the properties in which the occupiers and landowners were notified of the development.



Figure 13 Map of Properties Notified of the Proposed Development (Source: LAHC)

Under section 43(1)(b) of Housing SEPP, occupiers of adjoining land, as identified in the above map, were notified of the proposed development activity by letter dated 22 March 2023. A copy of the notification letter is provided at **Appendix U**.

The notification response period formally closed on 26 April 2023 and submissions are discussed in **Table 11**.

Table 11 Issues raised by adjoining owners / neighbours

Issues raised	LAHC Response
Submission 1: Concern was raised regarding the management of stormwater and in particular, resolving an existing issue of stormwater overflow into the rear private open space of the adjoining property at 54-56 Melrose Avenue.	<p>The issues raised with regards to stormwater management and impacts of overflow on adjoining properties was passed on to the consultant engineer to ensure the proposed stormwater design adequately addressed existing stormwater issues.</p> <p>The proposed stormwater design was subsequently amended in close consultation with council's development engineers to ensure stormwater is appropriately managed within the site boundaries and did not result in offsite impacts.</p> <p>The revised stormwater plan is provided under Appendix C.</p>
Submission 2: <ul style="list-style-type: none"> An adjoining neighbour requested that the side fencing be replaced with the same colour as the existing fence (beige/cream colorbond with black capping). Insufficient parking. Concern that future tenants may jump the side fence and trespass on adjoining properties. 	<p>An Identified Requirement (No. 75) is recommended to change the colour of fence type 'MET7' from Mid/Dark to Beige/Cream with black capping to match the existing fencing at 23 Easton Avenue.</p> <p>Each dwelling is provided with a single car garage which exceeds the amount of parking required under the Housing SEPP.</p> <p>The side and rear boundary fencing has a minimum height of 1.8m to provide privacy and security between the subject site and neighbouring properties. The Department of Communities and Justice has an established Antisocial Behaviour Policy to ensure tenants engaging in anti-social behaviour are held accountable. The majority of LAHC tenants are regular law abiding citizens, just like the rest of the community, and</p>

Issues raised	LAHC Response
	there is no reason to assume they would jump a 1.8m side fence to trespass on adjoining properties.

7.3 Notification of Specified Public Authorities

The development is “residential development” under section 42 of the Housing SEPP. As required by section 42(5) of the Housing SEPP, consideration has been given to the need to notify the “specified public authorities” identified in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.15 and 2.17. The development is not located in an area that triggers the requirement to notify public authorities other than Council.

8 Review of Environmental Factors

Environmental factors associated with the proposed activity in terms of location, character, bulk and density, privacy, solar access and overshadowing have been considered in accordance with the provisions of the Housing SEPP and discussed in **Section 6.5** and **6.7** of this REF. A review of other environmental factors associated with the proposed activity, and the measures required to mitigate any adverse impacts to the environment, are provided below.

8.1 Neighbourhood Character

The site is located on the northern side of Easton Avenue. It is located within an established residential area characterised by a mixture of older single storey detached dwelling houses of fibro, brick or weatherboard construction and more modern 2-storey dwellings, dual occupancy and multi-dwelling development as shown in **Figure 5** to **Figure 8**.

The proposed development is compatible with the existing and emerging character of the neighbourhood, taking into account the following:

- The proposed two-storey development complies with the maximum building height under the Housing SEPP and has an FSR that is below the maximum FSR permitted under the SLEP2015, being 0.46:1 where 0.55:1 is permitted.
- The design and scale of the development is appropriate for the site and locality, with 4 x 2-storey townhouses located towards the front of the site, 2 single storey units at the rear and a central driveway providing vehicle and pedestrian access to each unit and associated garage. Townhouses 1 and 2 are oriented towards the street and provide good passive surveillance and a traditional streetscape setting with entry porches and front gardens with low fencing.
- The materiality of the proposed development consists of medium and dark coloured face brickwork, palisade fencing, metal cladding and colourbond sheet roofing. These finishes, and the colours proposed, are consistent with the developing character of the locality.
- The location of the internal driveway has been designed to ensure the retention of a substantial tree located in front of the site on Easton Avenue. Retention of this tree will ensure the leafy character of the existing streetscape is preserved.
- The development provides an accommodation type which is permissible and consistent with the objectives of the R2 zone, which aims to provide for the housing needs of the community within a low-density residential environment.

Therefore, based on the above the proposed development will be compatible with the existing and emerging character of the neighbourhood and delivers a built outcome consistent with the planning controls for the locality.

Mitigation measures

No mitigation measures are required, as the design of the proposed development is sympathetic to the neighbourhood character, providing setbacks to neighbouring development that are consistent with surrounding developments. Suitable design treatments, including fencing, tree retention, landscaping and a considered planting mix ensure the proposal will generate benefits to neighbourhood character.

8.2 Bulk and Density

The proposed development is consistent with the bulk and scale of surrounding development in the locality of Sylvania. Two storey development has been restricted to the front of the site, with development at the rear being single storey only to minimise bulk and overshadowing. Side setbacks provided at first floor level are

greater than that required under the SDCP 2015 and substantial articulation has been provided to break up the elevations and reduce apparent bulk when viewed from neighbouring properties.

The proposal incorporates a floor space ratio of 0.46:1 and a maximum height of 8.5m which is generally consistent with a low-density residential area and is less than that prescribed under the SLEP 2015 and the Housing SEPP. Limiting the height of the development to single storey at the rear of the site ensures the built form remains sympathetic to the surrounding context and maintains a good level of amenity to adjoining properties.

The development is setback 7.5m from the front boundary and the area forward of the building line, except for the shared driveway, has been retained for deep soil planting. The front setback is proposed to be densely landscaped and will incorporate new canopy tree planting which will make a positive contribution to the streetscape and assist in softening the built form.

The proposal will increase housing density in the area at an appropriate scale which is consistent with State and regional strategies and the development controls applying to the site.

Mitigation measures

No mitigation measures are required.

8.3 Streetscape

The architectural style of the proposed development activity is compatible with the form of medium density development emerging in the surrounding locality. A detailed discussion on how the development has been designed in response to local context and character is provided in **Table 10** under subsection 7.1.

Mitigation measures

For further enhancement of the streetscape, Council has requested amendments to the fence line and canopy tree planting. As discussed in **Table 10**, these changes have been incorporated into Identified Requirement No. 74.

8.4 Visual Impact

The proposed development addresses the street frontage and will make a positive contribution to the streetscape through construction of a contemporary development that responds to the site context, neighbourhood character and desired future character for the area.

The height and scale of the development are compatible with surrounding buildings and will not dominate the streetscape. The retention of a Narrow-leaved ironbark (T1) located on Easton Avenue as well as new canopy tree planting in the front setback area will add to the long-term visual amenity and scenic quality of the surroundings.

There will be a temporary visual impact on the surrounding area during construction of the proposed development, however this is unavoidable for construction of a development such as this and will be a short-term impact only.

Mitigation measures

No mitigation measures are required.

8.5 Privacy

A high level of internal and external privacy is maintained by the proposed development activity through a range of measures including careful and considered site landscaping, new 1.2-2.1m high fencing, adequate site setbacks and strategic placement of windows so as to avoid direct overlooking of neighbours.

In particular, the following design treatments have been employed to mitigate privacy impacts:

- 2-storey development has been limited to the front of the site to minimise potential overlooking into rear private open space areas of neighbouring properties.
- High use areas include the living and dining room and located on ground floor with only bedrooms and bathrooms provided at first floor level.
- A small balcony is provided off the front (south) elevation at first floor level of townhouses 1 and 2 only, with no balconies oriented to side or rear boundaries.
- First floor windows are predominantly oriented internally within the site to minimise the potential for overlooking and where provided, they are off bedrooms only.
- Dense screen landscaping is provided along the side boundaries which will provide a visual buffer between private open space areas associated with the proposed development, and existing residential areas on neighbouring lots. Proposed screening plants include Lilly Pilly's and Silver Berry which have mature heights of 3m – 4m. Small tree planting is also proposed.
- To lessen the impact of the raised patio's associated with units 5 & 6 a 2.1m high fence is proposed along the rear (north) boundary and an Identified Requirement is recommended to increase the height of the glass balustrade provided around the edge of the patio areas to a minimum of 1.5m measured from the finished surface level of the patio. New screen plantings, a higher balustrade and a 2.1m high boundary fence are considered sufficient measures to reduce the impacts of privacy and overlooking from these areas.
- Proposed 1.8m Colorbond fencing will along the side (east and west) boundaries is sufficient to mitigate overlooking from the courtyards of townhouses 1 – 4.

Mitigation measures

Identified requirement No. 73 is recommended to ensure overlooking from the raised patios of units 5 & 6 located at the rear of the site is appropriately mitigated.

8.6 Solar Access and Overshadowing

The design and siting of the proposed development will provide adequate daylight access to living and private open space areas in the proposed development as well as the private open space areas of neighbouring properties. The submitted Architectural Plans indicate that 83% of dwellings receive at least 3 hours direct solar access to the living and POS areas on June 21, which exceeds that prescribed under the LAHC Design Requirements.

Shadow diagrams also confirm the proposed development will facilitate sunlight to living areas and private open space of dwellings and private open space areas on adjoining properties. The proposed development will generate a small amount of overshadowing impact across the front of 29 Easton Avenue during the morning period between 9am and 11am, and across the side, front and rear of 23 Easton Avenue during the afternoon period from 1pm to 3pm. A minimum 3 hours solar access is retained during mid-winter (21 June) for both neighbouring properties in accordance with the requirements of SDCP 2015.

Mitigation measures

No mitigation measures are required.

8.7 Traffic & Parking

The proposal incorporates a single car garage for each individual dwelling, with the garage associated with the adaptable unit (dwelling 5) designed to accommodate an accessible parking space. Easton Avenue is a two-way local road and permits unrestricted kerbside parking on both sides of the road which can therefore accommodate visitor and overflow parking. The provision of on-site car parking exceeds the parking requirements set out in the Housing SEPP for developments carried out by LAHC.

The Traffic and Parking Assessment Report (*Appendix Q*) indicates that the development will have a projected nett increase of 1 vehicle per hour during the AM and PM peak periods. The projected nett change in traffic activity was considered negligible and is therefore unlikely to have any unacceptable implications in terms of road network capacity.

The Traffic and Parking Assessment Report examined the adequacy of the proposed internal driveway and parking arrangement. The assessment confirmed that the design is suitable based on an assessment of the projected vehicle movements which are expected to be 3 vehicle trips per hour during peak periods. It was noted that the SDCP 2015 requires a minimum 5.5m driveway width for two-way vehicle access for multi dwelling housing. However, the proposed access is classified as Category 1 driveway in accordance with AS2890.1:2004 (Table 3.1) which specifies a minimum driveway width of 3m up to 5.5m. Given the driveway services only 6 parking spaces, the proposed 4.4m (minimum) driveway width was deemed acceptable and in accordance with the requirements of AS2890.1.

No concerns were raised regarding the shared vehicle and pedestrian access due to the low frequency of vehicle movements anticipated.

Mitigation measures

No mitigation measures are required.

8.8 Flora and Fauna

An Arboricultural Impact Assessment has been prepared for the site by Advanced Treescape Consulting (*Appendix H*). The report considers all trees on the subject site, in the Easton Avenue reserve in front of the site, and those on adjoining lots within 6m of a boundary shared with the subject site.

None of the trees identified in the assessment are of heritage significance, or any listings in the Biodiversity Conservation Act 2016, or the Environmental Protection and Biodiversity Conservation Act 1999.

The report identifies that all trees on the site (T2, T3, T4 & T5) will require removal due to conflicts with the proposed building footprint or major incursions into the Tree Protection Zone (TPZ). Of the trees proposed for removal, one tree (T2) was classified as medium significance with all others being of low significance. One tree was classified as high significance, a large *Narrow-leaved Ironbark* (T1) located on Easton Avenue. The proposed driveway has been designed to ensure the retention and long-term viability of this tree. Trees T7 - T13 are all located on neighbouring land and are proposed to be retained.

The proposed landscape scheme incorporates appropriate replacement planting including canopy trees with mature heights ranging from 5m to 30m. New canopy trees are proposed predominantly to the front and rear of the site where there will be limited conflict with buildings and structures. In response to comments from

council, the *Lagerstroemia 'Tuscarora'* Crepe Myrtle located in front of unit 2 is recommended to be replaced with a *Corymbia gummifera* Red Bloodwood which is endemic to the area.

There will be no significant impact on native fauna because of the proposed development, given that compensatory planting is proposed.

Mitigation measures

The following mitigation measures are recommended to ensure T1 is provided with adequate tree protection during construction works, and trees T2 – T5 are removed appropriately. No protection measures are required for trees T7 – T13 as they are located sufficient distance away from the construction works to not be impacted.

- Identified Requirement No. 20 is recommended to ensure tree removal is carried out in accordance with the approved landscape plan and in accordance with the Arboricultural Impact Assessment Report.
- Identified Requirement No. 36 is recommended to ensure tree protection works are undertaken prior to the commencement of works and for the duration of the construction period in accordance with the Arboricultural Impact Assessment Report.
- Identified Requirement No. 74 is recommended to replace the proposed canopy tree located in front of unit 2 with a species recommended by council.

8.9 Heritage (European / Indigenous)

No heritage items were identified on or in the vicinity of the site on the Section 10.7(2) & (5) Planning Certificates or LEP mapping.

Aboriginal Heritage

An Aboriginal Heritage Information Management System (AHIMS) search, dated 15 January 2024 (*Appendix G*) did not find any record of Aboriginal Sites or Places on the site or in the surrounding locality and the site is considered to be disturbed land. Consideration of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, determined that no additional investigation was warranted. Discovery of cultural material during development activities cannot be ruled out, however, an identified requirement has been applied should any Aboriginal relics be discovered on the site during excavation/construction.

Other Cultural Heritage

No cultural heritage items have been identified in Sutherland Shire Council's Section 10.7(2) & (5) Planning Certificates and the likelihood of any heritage relics being discovered during excavation / construction is considered to be minimal.

Mitigation Measures

Identified requirements No. 46 & 47 have been applied should any cultural heritage relics be discovered on the site during excavation / construction.

8.10 Soils / Contamination / Acid Sulfate Soils / Salinity

Geotechnical conditions and contamination

A Geotechnical Site Investigation and Acid Sulfate Soil Assessment Report (*Appendix M*, prepared by STS Geotechnics) was undertaken to determine the subsurface soil conditions across the site and indicated the following:

- The subsurface conditions generally consist of topsoil and fill overlying sandy clays and weathered sandstone. Topsoil was encountered to a depth of 0.4m and fill was present to a depth of 1m. Natural sandy silty clays underlie the topsoil and fill to depths of 0.6m to 1.6m. The consistency of these materials varies between firm to stiff and very stiff. Weathered sandstone underlies the natural soils to the depth of auger refusal, 0.7m to 1.7m.
- Groundwater was not observed during drilling works.

As noted above, the report described one of the borehole samples (BH2) as containing 'fill to a depth of 1m'. Further clarification was sought from STS Geotechnics (the author of the report) regarding the meaning of the term 'fill' and its use in this context to understand whether it indicated a potential for contamination at the site.

It was confirmed that this terminology was used to describe soil conditions that were not 'naturally occurring' and were relevant to determining the appropriate foundation type for new construction. It was confirmed that this term did not necessarily indicate that the fill comprised dumped materials or man-made compounds with potentially contaminating properties.

The components of sample BH2, as described under Appendix A of the Geotechnical Report, included silty sandy clay, sand and sandstone, as well as trace of sandstone gravel and pipe. As detailed above in section 6.6 of this REF the site and adjoining land has been used for residential purposes since the area was subdivided and developed in the early to mid-1950's, and there were no desktop findings which indicated a higher level of risk for contamination at the site.

The components found in the section of 'fill' identified in borehole BH2 reflect materials existing elsewhere on the site (sandstone gravel), as well as an item commonly associated with domestic residential buildings (pipe).

Based on the above, it is considered that there is a relatively low risk of the 'fill' being contaminated and the site being deemed inappropriate for residential use. However, out of an abundance of caution an Identified Requirement is recommended if site contamination is found during demolition and or construction works to ensure appropriate steps are taken to mitigate the risk.

Mitigation Measures

Identified requirement No. 17 has been recommended to cover the possibility of discovering site contamination during demolition / construction works.

Acid Sulfate Soils

According to Council's Section 10.7(2) & (5) Planning Certificates, the land is identified as being within Class 5 Land on the Acid Sulfate Soil Map under the SLEP 2015.

Clause 6.1 of SLEP 2012 requires an Acid Sulfate Soil Management Plan for works on Class 5 Land that is within 500m of adjacent Class 1-4 Land below 5m AHD and by which the water table on adjacent Class 1-4 Land is likely to be lowered by 1m AHD.

A Geotechnical Site Investigation and Acid Sulfate Soil (ASS) Assessment Report, prepared by STS Geotechnics assessed the potential for ASS and determined that as the site is at an elevation greater than RL20m AHD and is underlain by Triassic Age rocks, the geomorphic conditions were not consistent with those where ASS are normally found. Further, as the results of the soil sample analysis were less than the action criteria for ASS, further assessment and preparation of an ASS Management Plan were not required.

Mitigation Measures

No mitigation measures are required.

Salinity

Council's Section 10.7(2) & (5) Planning Certificates do not indicate that the site is affected by salinity.

Mitigation Measures

No mitigation measures are required.

8.11 Drainage / Flood Prone Land / Hydrology/ Water Quality

Stormwater drainage for the proposed development has been designed in accordance with Council's requirements and was amended following receipt of council's comments during statutory notification. Stormwater will be collected via a series of stormwater pits and gutters on the site connected to an underground OSD located under the internal driveway. Overflow from the OSD will drain via a new drainage easement across 52 Melrose Avenue where it will connect to an existing kerb inlet pit in the public road reserve. The stormwater easement across Melrose Avenue was registered on title in June 2022.

Roof water from units 1 and 3 will be collected from downpipes and connected to an underground rainwater tank for recycling with overflow connected to the underground detention tank.

The Section 10.7(2) & (5) Planning Certificates issued by Council for the subject site indicate that the land is not subject to flood related development controls.

The proposed development has been designed to have no adverse impact on the hydrology or water quality within the local area.

Mitigation Measures

Identified requirements (Nos. 6-9, 14, 42 & 72) have been recommended to ensure that stormwater drainage is managed in accordance with legislative requirements.

8.12 Bushfire Prone Land

The Section 10.7(2) & (5) Planning Certificates issued by Sutherland Shire Council advised that the land was not identified as bushfire prone.

Mitigation Measures

No mitigation measures are required.

8.13 Noise and Vibration

During Demolition / Construction

During demolition/construction typical noise levels associated with demolition/ building works will be generated within the hours of 7am to 5pm Monday to Saturday, consistent with the requirements for complying development across NSW.

During Occupation

Noise generated when the proposed buildings are completed and occupied will be entirely in keeping with their residential surroundings. No major plant or equipment, which would generate unacceptable noise during occupation, will be installed in the proposed development.

Buildings will be constructed to comply with the deemed-to-comply provisions of the *Building Code of Australia* with respect to noise transmission. Buildings to be designed and constructed to achieve internal noise level design targets.

Mitigation Measures

Demolition/construction noise will be controlled to within acceptable limits by sound attenuation measures and undertaking construction activities within EPA/local council requirements. Buildings will be constructed to comply with the deemed-to-comply provisions of the *Building Code of Australia*.

Appropriate identified requirements (Nos. 2, 58 & 60) have been applied to ensure compliance with the above mitigation measures.

8.14 Air Quality

Temporary and localised air quality impacts including dust, smoke, grit, odours, and fumes might be generated during the clearing and excavation of the site and construction of the proposed development.

Mitigation Measures

Appropriate standard identified requirements (Nos. 61 & 64) have been applied that will satisfactorily mitigate any potential or adverse impacts on air quality.

8.15 Waste Minimisation

The following waste minimisation and management measures have been identified and are to be considered in conjunction with the specific details, including the estimated quantities of waste, provided in the final waste management plan to be prepared by the demolition/building contractor.

During Demolition

Demolition materials will be stored wholly within the site prior to removal for recycling or disposal. Demolition waste will be removed from the site to an approved waste management facility or will be recycled, as follows:

- concrete and bricks will be transported to an approved building waste collection facility;
- any asbestos sheeting and fibrous insulation will be handled according to SafeWork NSW requirements and disposed of to an approved building waste collection facility;
- mixed demolition materials will be transported to an approved building waste collection facility; and
- timber, metal, wall and roof cladding and other salvageable materials will be resold to various salvage yards where appropriate or disposed of at an approved building waste collection facility.

Specific intentions for recycling / re-use / disposal of demolition waste will be determined by the demolition contractor prior to commencement of demolition.

During Construction

Construction materials must be stored wholly within the site prior to removal for recycling or disposal. Construction materials waste must be removed from the site to an approved waste management facility or shall be recycled as follows:

- bricks, tile and concrete to be transported to building recycling facility;
- concrete shall be crushed and reused for filling, levelling or temporary road base;

- tiles shall be crushed and reused for filling, levelling or temporary road base;
- timber shall be sent to second hand suppliers;
- plasterboard shall be sent to building recycling facility; and
- metal offcuts from gutter and downpipes, etc. shall be recycled wherever possible.

During Occupation

General and recyclable waste will be disposed of in Council's standard waste storage bins located in the private open space area of each dwelling and placed on the street kerb by tenants for collection by Council's waste services.

Mitigation Measures

Identified requirements Nos. 50 - 54 & 66 are recommended to ensure construction/demolition waste is appropriately managed and disposed of. Identified requirement No. 37 is recommended to require the preparation of a final waste management plan for the demolition, construction, and occupation phases of the development.

8.16 Resource Use & Availability

The proposed activity will not result in any discernable depletion or degradation of natural resources. The proposal has been designed to meet water and energy efficiency targets as demonstrated by the BASIX certificate for the proposal.

The recycling and reuse of materials during demolition, construction and on-going occupation of the proposed development will reduce the consumption of natural resources.

The proposed development is for the replacement of existing housing that has reached the end of its economic lifespan. The proposed development will provide contemporary housing that will satisfy current State Government environmental sustainability requirements, particularly through improved energy and water efficiency. These factors will ensure reduced depletion and degradation of natural resources in the long term.

Mitigation Measures

No additional mitigation measures are required.

8.17 Community / Social Effects

The proposed development will generate a number of positive community and social effects, including:

- assist LAHC in meeting its significant, long-standing and continually-growing demand for social housing in the Sutherland Shire local government and surrounding area;
- assist LAHC in improving the amenity of accommodation for its tenants, by providing new, more appropriate housing aligning with demand for social housing;
- improve the environmental sustainability of housing on the site, particularly through improved energy and water efficiency; and
- provide more accessible housing on the site.

Mitigation Measures

No mitigation measures are required.

8.18 Economic Impact

The proposed development is likely to contribute to a range of economic benefits in the Sutherland Shire local government and surrounding areas through:

- more efficient use of land resources, existing infrastructure and existing services;
- local sourcing of construction materials, where possible;
- the local sourcing of tradespeople and other construction-related professionals, where possible;
- on-going consumption from new/ additional households;
- the reduced maintenance costs of the newer housing; and
- savings associated with improved energy and water efficiency.

Mitigation Measures

No mitigation measures are required.

8.19 Cumulative Impact Assessment

The proposed activity is not likely to have singular or cumulative environmental impacts which would result in unacceptable adverse effects for the following reasons:

- The proposed activity will not result in any adverse cumulative impact when considered in conjunction with any other proposals or developments in the area;
- there will be no synergistic effects of individual project impacts from the proposed activity when considered in combination; and
- there are no known environmental stresses in the area of the proposed activity that would be increased.

Mitigation Measures

No mitigation measures are required.

9 Conclusion

9.1 Summary of Key Issues Raised in Assessment

The proposed activity, given its scale, location, and design, will be sympathetic with its residential environment. Following a review of the site constraints, it has been determined that the subject land does not contain any significant environmental hazards and that there are no key issues that have been identified that require further assessment.

The proposed activity has been considered in terms of the provisions of Section 5.5 of the EP&A Act and Section 171 of the EP&A Regulation. Following an analysis of the potential impacts associated with the proposed activity it was determined that an environmental impact statement is not required.

As demonstrated in this REF, the proposed activity is consistent with the relevant objectives and standards set out in the Housing SEPP, SLEP 2015, and the design principles and better practices set out in the relevant guidelines.

In addition, and as demonstrated by the environmental impact analysis and assessment undertaken in this REF, the proposed activity will have environmental impacts that can be mitigated to an acceptable level in accordance with current applicable standards, will have a number of positive environmental effects in terms of the built environment and will deliver a range of social and economic benefits.

The proposed development will enable LAHC to meet the increasing demand for 2 and 3-bedroom dwellings in the local area. Therefore, the proposed development is clearly in the public interest.

9.2 Recommendation

Given the above review of environmental factors, it is recommended that LAHC proceed with the proposed activity subject to the implementation of the Identified Requirements listed in the *Activity Determination* accompanying this REF.

10 Appendices

- 10.1.1 APPENDIX A – ARCHITECTURAL PLANS
- 10.1.2 APPENDIX B – LANDSCAPE PLAN
- 10.1.3 APPENDIX C – CIVIL PLANS
- 10.1.4 APPENDIX D – SECTION 10.7 CERTIFICATES
- 10.1.5 APPENDIX E – NOTIFICATION PLANS
- 10.1.6 APPENDIX F – ACCESS REPORT
- 10.1.7 APPENDIX G – AHIMS SEARCH
- 10.1.8 APPENDIX H – ARBORIST REPORT
- 10.1.9 APPENDIX I – BASIX AND NATHERS CERTIFICATES
- 10.1.10 APPENDIX J – BCA REPORT
- 10.1.11 APPENDIX K – DESIGN COMPLIANCE CERTIFICATES
- 10.1.12 APPENDIX L – SLUDG CHECKLIST
- 10.1.13 APPENDIX M – GEOTECH & ASS REPORT
- 10.1.14 APPENDIX N – SURVEY PLAN AND LONGITUDINAL SURVEY TO BUS STOP
- 10.1.15 APPENDIX O – CERTIFICATE OF TITLES
- 10.1.16 APPENDIX P – WASTE MANAGEMENT PLAN
- 10.1.17 APPENDIX Q – TRAFFIC IMPACT ASSESSMENT
- 10.1.18 APPENDIX R – EROSION AND SEDIMENT CONTROL PLAN
- 10.1.19 APPENDIX S – HYDRAULIC PLANS
- 10.1.20 APPENDIX T – PART 5 PACKAGE CHECKLIST
- 10.1.21 APPENDIX U – NOTIFICATION LETTERS AND COUNCIL SUBMISSION
- 10.1.22 APPENDIX V – FIRE ENGINEER ADVICE