

JRPP No.	2010SYE005
DA No.	2009.231.1
Proposed Development	Demolition of existing buildings and construction of a Seniors Living Development, 25 Etonville Parade & 1-3 Mackay Street, Ashfield
Applicant:	Tompkin Whittle Pty Ltd
Report By:	Martin Amy – Development Assessment Officer –Ashfield Council

Assessment Report and Recommendation

1.0 Description of Proposal

Pursuant to Clause 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks consent for the demolition of all existing structures and the construction of a Senior's Living Development with associated carparking and landscaping. The proposal comprises: -

- Demolition of existing structures on the site containing 11 buildings of 16 single-storey dwellings.
- Construction of a Senior's Living Development comprising –
 - 38 self-contained dwellings –
 - 2 x 2-3 storey residential flat buildings
 - Building A – 11 dwellings and communal facility,
 - Building B - 12 dwellings and
 - 15 single-storey 3-bedroom attached townhouses.
- Construction of basement car park.
- Tree removal and associated landscaping.
- Drainage and internal road works.
- Demolition of bridge and construction of new bridge.

Plans of the proposal are included in **Attachment 1**.

2.0 Summary Recommendation

The proposed development has significant areas of non-compliance with a number of controls in State Environmental Planning Policy (Housing for Senior's or People with a Disability) 2004. This SEPP is relied upon to establish the proposal's permissibility.

It is considered that the design has not responded to the existing and desired future context and that an inadequate level of amenity would be provided for future residents of the development.

In addition, Sydney Water has not consented to the proposed construction of a new bridge over the adjacent canal which is the principal point of vehicular access to the subject land.

Given the above matters and other issues detailed in the report it is recommended that the application be refused consent.

Background

3.0 Application Details

Applicant	:	Tompkin Whittle Pty Ltd
Owner	:	Presbyterian Church Property Trust
Value of work	:	\$12,450,000
Lot/DP	:	LOT: 10 DP: 564468
	:	LOT: 7 & 8 DP: 6911
Date lodged	:	30/12/2009
Date of last amendment	:	27 January 2010 – Additional plans/comments
Application Type	:	Integrated – Water Management Act 2000
Section 94	:	Yes – Multi-Unit Development - S94 Plan applies

4.0 Site and Surrounding Development

The subject site is located on the eastern side of Etonville Parade and also has a frontage to Mackay Street. The site area is approximately 5,521.3sqm. The site is currently occupied by eleven (11) buildings that comprise sixteen (16) dwellings. These dwellings are used by the Presbyterian Church to provide affordable housing to senior people including retired Ministers. Located along the Etonville Parade frontage of the site is a Sydney Water canal and a number of substantial brush box street trees. Surrounding development comprises residential land uses.

Etonville Parade is a mixture of residential development types ranging from single storey semi-detached dwellings to single and two-storey dwelling houses. There are also two-storey residential flat buildings and a two-storey residential flat building over ground level parking which is effectively a three-storey building.

Banks Street comprises single-storey semi-detached and freestanding dwelling-houses. Banks Street is a no through road, blocked at the Frederick Street end.

Mackay Street is mainly single storey dwelling houses with a two-storey townhouse development at 6 Mackay Street. Mackay Street is a no through road, blocked by the canal at the Etonville Parade end.

The section of Frederick Street which abuts the subject land contains single-storey dwelling houses.

Refer to **Attachment 2** for a locality map and a map indicating the immediate site context.

5.0 Development History

Previous building and development applications submitted to Council for the subject site include:

NO.	DATE	PROPOSAL	DECISION
DA.2009.056	13/09/2009	Redevelopment of the site to provide a Senior's Living Development comprising 34 dwellings	Withdrawn
DA.2006.145	13/03/2007	Redevelopment of the site to provide a Senior's Living Development comprising 38 dwellings	Refused by Council Appeal discontinued.
DA.2000.154	30/06/2000	New awning to unit	Approved
DA.1998.67	25/06/1998	Sunroom to Unit 2	Approved
BA.1998.77	07/07/1998		Approved
DA.1995.018	22/02/1995	Additional room to Unit 7	Approved
BA.1995.134	06/07/1995		Approved
BA.1981.284	20/08/1981	Carports	Approved
BA.1980.365	21/10/1980	Extension to Unit. 4	Approved
BA.1978.179	26/05/1978	Extension to Unit 9A	Approved
BA.1966.5814	24/03/1966	Porch cover at Unit. 10	Approved
BA.1961.3697	05/10/1961	Erection of 11 cottages	Approved
BA.1968.6696	13/05/1968	Carport to unit 3	Approved
BA.1960.3373	31/10/1960	Construction of 2 dwellings	Approved

Over the past 5-6 years the site has been the subject of ongoing discussions between Council, the owner and the owner's representatives. Prior to this application, two previous applications (DA.2006.145 and DA.2009.056) were lodged for a Senior's Living Development in accordance with State Environmental Planning Policy (Housing for Senior's or People with a Disability) 2004 (SEPP HSPD).

DA.2006.056 was recommended for 'deferred commencement approval' for thirty-eight (38) dwellings and reported to Council on 13 March 2007. Council refused the application and on 12 March 2008 the applicant lodged an appeal against this decision in the Land & Environment Court. The applicant amended the proposal during the appeal process to reduce the scheme to thirty-four (34) dwellings. The matter was listed for a preliminary 'question of law' hearing in respect to the permissibility of the use, however, on 9 July 2008 the applicant discontinued the appeal.

In December 2008 an amendment to SEPP HSPD resulted in the Ashfield LGA no longer being 'exempt' from this SEPP. This opened up the opportunity for applicants other than the Director-General or a community-housing provider to be able to lodge applications for Housing for Senior's or People with a Disability.

DA.2009.056 sought approval for largely the same proposal as that developed during the appeal process for DA.2006.56. This application was the subject of discussions between Council officers and the applicant in relation to the proposal's compliance with SEPP HSPD and height, amenity and flooding issues. The application was eventually withdrawn by the applicant.

In essence the difference between the current application and the two previous applications is the inclusion of two Mackay Street properties (Nos. 1 & 3) into the development site. This amendment was made in order to satisfy requirements under the SEPP which prescribe the proximity of a development site to public transport facilities. In terms of the residential flat buildings and townhouse designs, these remain largely unchanged.

Assessment

6.0 Zoning/Permissibility/Heritage

The site is zoned Part 2(a) - Residential and Part 5(a) Special Uses – Drainage (the site proposes access over the canal via Etonville Parade) under the provisions of Ashfield LEP 1985.

This application is lodged under SEPP HSPD.

The property is not located within a conservation area nor is it a heritage item. It is also not located within the vicinity of a heritage item/heritage conservation area.

7.0 Section 79C Assessment

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

7.1 The provisions of any Environmental Planning Instrument

7.1.1 Local Environmental Plans

Ashfield Local Environmental Plan 1985 (as amended)

The proposal is reliant upon SEPP HSPD for its permissibility and assessment. Amongst other issues the proposal does not comply with key controls of SEPP HSPD and as such cannot be supported.

Refer to Section 7.1.3 of the report for further comments.

7.1.2 Regional Environmental Plans

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

It is considered that the carrying out of the proposed development is generally consistent with the objectives of the Plan and would not have any adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

7.1.3 State Environmental Planning Policies

State Environmental Planning Policy No. 1 – Development Standards

The applicant has lodged two Objections to vary the standards in SEPP HSPD. The Clauses are 40(4)(a) and 40(4)(b) relating to the height of residential flat buildings in zones where residential flat buildings are not permitted. The Clauses state: -

(4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

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

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

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

Clause 40(4)(a)

The proposal has a maximum building height of 9.5m which exceeds the control by 1.5m (18.75%).

The Objection states that a variation to the standard is reasonable in this instance for the following reasons: -

- The proposal is consistent with the assumed objectives for the standard,
- No unreasonable adverse impacts are introduced as a result of the breach,
- The breach to the standard will contribute to rendering the proposed development free of flood affectations, and
- Strict compliance with the standard would hinder the achievement of the objectives of the Act.

Clause 40(4)(b)

The proposal has two Part 2-storey/Part 3-storey residential flat buildings (RFB's). The RFB's are adjacent to the site boundaries. The 3-storey component of each building is set slightly in from the 2-storey component and the applicant has commented that the wording of this Clause and definition of building in terms of 'building that is adjacent to the boundary' may be open to interpretation. Council requested that the applicant lodge a SEPP No.1 Objection against the Clause given that the 'building' is 3-storeys in height and is adjacent to boundaries.

The Objection states that a variation to the standard is reasonable in this instance for the following reasons: -

- Strict compliance with the standard would hinder achievement of the objectives contained in Section 5(a)(i) and (ii) of the EPA Act 1979,
- The proposed development is consistent with the intent of the standard, and
- No unreasonable environmental impacts are introduced as a result of the proposal.

The SEPP HSPD is silent with respect to the objectives of this Clause, however, the rationale for the standards can be assumed to be a desire for a proposal to be of an appropriate scale relative to its site context.

The site is zoned 2(a) – Residential and within this zone permissible residential uses under the Ashfield LEP 1985 are dwelling-houses and dual occupancies. Residential flat buildings are not permitted in this zone. Therefore, the proposed residential flat buildings are only permissible by virtue of the provisions of SEPP HSPD which override Council's local controls.

The buildings are raised above natural ground level (across the site by 1-1.2m) to provide the required freeboard level against flood risks. The RFB's are modulated with projecting masonry balconies, and finished with flat roofs.

The immediate context comprises single-storey dwellings with intermittent two-storey buildings and a single three-storey building with pitched roofs (Refer to **Attachment 2** for a map indicating surrounding context).

Council controls with respect to the scale of residential buildings in this zone are considered in Part C15 – Houses & Dual Occupancies, Ashfield Development Control Plan, 2007. Under these controls dwellings can have a maximum height of two storeys and a maximum wall height of 6 metres. In addition, for zones where residential flat buildings are permissible (Zones 2(b) and 2(c)) the ALEP 1985 allows a maximum height of 6 metres and 9 metres, respectively.

Therefore, the proposed RFB's exceed the residential buildings heights for any form of residential development in any residential zoned land in the Municipality.

The scale of the buildings also contributes to extensive shadows being cast onto other dwellings on the site and internal landscaped and communal areas. The extent of overshadowing severely compromises the usability and amenity of these areas.

If the purpose of the height control is to ensure that the proposed development sits comfortably within its local context then clearly the subject proposal does not achieve this objective. Its scale relative to the low rise form of surrounding development is inappropriate and the variations being sought by the applicant cannot be supported.

State Environmental Planning Policy No. 55 – Remediation of land

Given the residential history of the site, it is not considered that remediation would be required in the event that the proposal was supported.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

Council's Urban Design Consultant has reviewed the proposal and considers that the proposal requires design changes in order for it to satisfy the Design Principles. These changes include:

- Setbacks from the side boundaries should be 6m and stepping back at the third levels from the same boundaries by about 3m.
- Orientation of the living spaces in the units should be towards the centre of the site to improve amenity, social interaction and security.
- Re-orientation of Town House on Mackay Street so that living space is on north-west corner and garage is on south-eastern corner facing the street.
- Landscaping design should be reconsidered to provide better solar access.

Council officers agree with these recommendations. However, officers also consider the scale of the development and significant departure from the height controls in SEPP HSPD to be inappropriate (discussed above).

In addition to the comments made by the Urban Design Consultant the Residential Flat Design Code (RFDC) places particular weight on the requirement to have 25%-30% communal open space. The applicant nominates the majority of this to be the landscaped area provided around the buildings on the site. A number of the 'peripheral' landscaped areas are overshadowed by buildings and of a scale and dimension where their useability as communal open space is questionable. There is a significant opportunity for the current approach to be reconsidered to ensure that communal landscaped areas are provided with good solar access and of a scale which will encourage social interaction amongst future residents.

The proposed orientation and form of the townhouses sited on the MacKay Street parcels presents as an intrusion into the streetscape. The east-west orientation of the dwellings is not consistent with the pattern of existing development in the street and does not respect the existing built form in terms of building setbacks, profiles and siting.

A copy of the comments from the Urban Design Consultant is included at **Attachment 3**.

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

Compliance with the key SEPP controls is summarised below:-

FSR	0.5:1	0.668:1	NO
Height	8m or less	9.5m	NO (SEPP No.1 Objection lodged)
	2-storey maximum adjacent to boundary	2/3 storey	NO (SEPP No.1 Objection lodged)
Landscaping	30%	30.71%	YES
Deep soil zone	15%	21%	YES
Frontage	20m minimum	100.73m Etonville Pde 26.5m Mackay St	YES
Solar Access	70% (3hrs between 9am-3pm)	79%	(See comments below)
Site Area	1000sqm	6633.8sqm	YES
Private Open Space	15sqm (access 3m minimum width)	Min. 15.25sqm (Town Houses < 3m width)	NO (See comments below)
Parking	45	54	YES

In relation to the matters above-

Floor Space Ratio

The proposal seeks a floor space ratio which is well above the recommended maximum of 0.5:1. This excessive floor area is a contributing factor to the overall bulk and scale of the development. There is no reason why a reduction in floor space could not be considered which would bring the proposal into compliance with the height controls nominated in the SEPP.

Height

As discussed previously, the proposal seeks significant variations to the height controls in the SEPP and these variations are unable to be supported (refer to detailed comments in Section 7.1.3).

Solar Access

The applicant states that 79% of the dwellings will receive the appropriate level of solar access, however, the submitted shadow diagrams do not provide conclusive evidence to substantiate this claim. The 79% claim of compliance is very high and would require more a more detailed level of assessment, information and modelling to test the veracity of this figure.

Private Open Space

The townhouses have their private open space to the rear comprising a deck (generally 1.8m x 4.2m) accessed at the same level as the living area with steps down to an area at natural ground level (generally 2m x 8m). The access down to the garden level is via steps and as such does not comply with access requirements for people with a disability. In addition, the areas are consistently in shadow during mid-winter. Therefore, the usability of these areas is considered to be poor.

In addition to the above controls Council's Access Consultant has commented that the proposal also fails to comply with a number of design requirements relating to access to and within the development (Schedule 3 of the SEPP). These include:-

- Site Access
- Communal Room Facility Access
- Car Accommodation
- Interior Design
- Private Open Space

Further comments by Council's Access Consultant are outlined in Section 8.0 of the Report.

In summary, there is no justification provided to support the proposal's non-compliance with a number of development standards outlined in the SEPP. There do not appear to be any major site constraints which prevent the redevelopment of the site from achieving the objectives of the SEPP. Consequently, the variations being sought by the applicant cannot be supported.

7.2 The provisions of any Draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Not applicable.

7.3 The provisions of any Development Control Plan.

The proposal is reliant upon SEPP HSPD for its permissibility and assessment. In terms of the applicable controls under ADCP 2007, SEPP HSPD has controls which prevail over ADCP 2007. These are discussed in Section 7.1.3 of the report.

7.4 Any matters prescribed by the regulations that apply to the land to which the development application relates.

Matters under the regulations have been considered in the assessment of this application. In the event that the application is granted consent conditions would be imposed with respect to the requirements of the regulations.

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

The impacts of the proposed development upon the environment are discussed in Sections 7.1.3 and 7.7.1 of the report. It is not considered that the proposal will have any adverse social and economic impacts upon the locality.

7.6 The suitability of the site for the development

The site is suitable for residential development and potentially for Senior's Living Development, however, the scheme that has been proposed is not considered suitable for the subject land.

Council's Engineering Department and Sydney Water have raised issues with the potential flooding of the site, particularly given the type of development and likely future occupants. They consider the documentation submitted has understated the potential flooding of the site and the conclusions that have been made are therefore questionable. Council's Engineering Department and Sydney Water are therefore not willing to support the proposal.

7.7 Any submissions made in accordance with this Act or the regulations

The proposal was notified to all adjoining and nearby affected property owners, occupants and the Councillors from 6 January 2010 until 2 February 2010. Due to a typographical error, an amended letter was issued and the notification extended until 12 February 2010.

7.7.1 Summary of submissions

Thirty-five (35) Individual submissions and a petition containing eighty-three (83) signatures were received from the following: -

LETTER SUBMISSIONS	NUMBER
T NGUYEN 1 ANTHONY ST CROYDON 2132	1.
T & S MELISI 12 HEDGER AVE ASHFIELD 2131	2.
R & E CULE 4 HEDGER AVE ASHFIELD 2131	3.

V & J COLUCCIO 8 HEDGER AVE ASHFIELD 2131	4.
I RIZZUTO 10 HEDGER AVE ASHFIELD 2131	5.
D LILIC & M DELIGIANNIS-LILIC 18 HEDGER AVE ASHFIELD 2131	6.
E. BAJDA (HEAD PETITIONER) 3 HUNT ST CROYDON 2132	7.
R & M ARROW 16 HEDGER AVE ASHFIELD 2131	8.
B & F HOWLE 2A BANKS STREET ASHFIELD NSW 2131	9.
H BOWTELL 8/25 ETONVILLE PDE CROYDON 2132	10.
B. PORTLOCK 69 THIRD AVENUE FORESTVILLE SA 5035	11.
J MATTHEWS 4 BANKS ST ASHFIELD NSW 2131	12.
D MATTHEWS 4 BANKS ST ASHFIELD NSW 2131	13.
P WALDOCK 5/25 ETONVILLE PARADE ASHFIELD 2131	14.
T AUSTIN 3 BANKS ST ASHFIELD NSW 2131	15.
D. LARIS 32 FREDERICK ST ASHFIELD NSW 2131	16.
Z & R JANIKOWSKI 3 HEDGER AVE ASHFIELD 2131	17.
J & B KEIRNAN 52 FREDERICK ST ASHFIELD NSW 2131	18.
K CRADDOCK PO BOX 272 EASTWOOD NSW 2131	19.
B ATKINSON 67 PARK ST, SCONE 2337	20.
A. AUSTIN 3 BANKS ST ASHFIELD NSW 2131	21.
S. MACKENZIE 4 ETONVILLE PARADE, CROYDON. 2132	22.

P MCGUINNESS 5 MACKAY ST ASHFIELD NSW 2131	23.
B BRADLEY 5 MACKAY ST ASHFIELD NSW 2131	24.
J HAINES 5 MACKAY ST ASHFIELD NSW 2131	25.
C MORELAND 2 BANKS STREET ASHFIELD NSW. 2131	26.
H SMITH 40 FREDERICK ST ASHFIELD NSW 2131	27.
M. REDSTONE 1 BANKS ST ASHFIELD NSW 2131	28.
M LO 9 BANKS ST ASHFIELD NSW 2131	29.
B PORRITT 1 BANKS ST ASHFIELD NSW 2131	30.
REV D MURRAY 4/25 ETONVILLE PDE ASHFIELD NSW 2131	31.
N MURRAY 4/25 ETONVILLE PDE ASHFIELD NSW 2131	32.
D & A SCLOSA SCLOSAFAMILY@OPTUSNET.COM.AU	33.
S HAYWARD SHAYWARD@ENERGY.COM.AU	34.
A CLERMONT ANDREWCLERMONT@GMAIL.COM	35.

The matters raised in these submissions are detailed below in italics, followed by a response from the assessing officer:

Traffic & parking concerns

Council's Engineering Department have not raised any issue with the proposal in terms of the traffic generation or on-site parking provision.

Flooding/Drainage

Council's Engineering Department and Sydney Water have raised issues with respect to the flood study and potential flooding of the site which at this stage remain unresolved.

Stability of construction, Removal of materials, Construction Noise

Should the application be approved, appropriate conditions would be imposed regarding structural requirements, how removal of materials will take place and restrictions relating to construction noise.

Impacts on existing Infrastructure (services/utilities)

Should the application be approved, standard requirements to provide appropriate utilities and services for the site would be recommended.

Noise/Light/Air Pollution

In any development there are some 'general' affects/impacts. In this instance given the number of dwellings, the urban location of the site and the residential nature of the development, these issues are not considered to be of such significance so as to warrant refusal of the application.

Lack of setbacks to adjoining properties

Council considers the height of the buildings adjacent to boundaries to be an issue. Refer to Section 7.1.3 of the Report.

Bulk/Scale/Overdevelopment

Concerns regarding the bulk, scale and density of the proposed development are noted and shared by Council officers. This is discussed in Section 7.1.3 of the report.

Privacy

The proposal includes measures to protect privacy across site boundaries (screens to RFB's balconies and townhouses decks) which are considered to be acceptable. The separation distance between the RFB's and residential buildings across Etonville Parade is such that there is not likely to be a privacy impact upon those properties.

Loss of Solar Access

The proposal will result in some overshadowing of adjoining properties. However, these shadows are not considered to be significant as they are cast for short periods of time. The provision of solar access to adjoining properties is acceptable and in compliance with Council requirements.

As discussed in the report, the provision of solar access to the living areas and private open space of a number of the proposed dwellings is not satisfactory.

Flora & Fauna

Council's Tree Officer has raised no objection to the removal of the trees, trees on adjoining properties and the proposed landscaped plan.

As discussed in the report the proposed landscaped areas and the usability of these areas are not satisfactory.

Proposal will not improve facilities or lifestyles

As identified in the report the proposal in its current form fails to satisfy key controls for Senior's Living Development.

Inappropriate External and Internal Design

Concerns regarding the external and internal design of the proposed development are noted and shared by Council officers. As discussed in the report the proposal is considered to be unresponsive to its context and does not provide an appropriate level of amenity for a Seniors Living Development.

Poor sustainable design in need for artificial lighting and lack of clothes drying facilities.

Refer to previous comments concerning solar access.

It is regrettable that attempts to incorporate more sustainable initiatives have not been included in the design (usable outdoor clothes drying areas, rainwater tanks for onsite water recycling, etc). However, it is noted that BASIX requirements have been satisfied.

Inconsistency with intent of existing use, unnecessary removal of dwellings, loss of green space

The comments are noted, however, the proposal is a permissible form of development for the subject land.

Undesirable precedent

The proposal is a 'stand alone' development. As discussed in the report issues of height and bulk are considered unacceptable, however, as each application is assessed on its own merits, it is considered that this application in itself will not necessarily result in a precedent for future development of a similar scale.

Non-compliances with planning controls

The proposal has significant areas of non-compliance with relevant planning controls (refer to Section 7 of the report).

Litter/Dumping

The proposal has provided adequate onsite garbage facilities. There is no evidence to suggest that a development of this type will lead to increased litter or the dumping of rubbish in the locality.

Affect property values

This is not a relevant planning consideration.

Unacceptable to displace elderly residents

The proposed development seeks to provide Senior's Living and this is consistent with the current use. As identified by Council's Community Services Department, in proposals of this nature it is not uncommon to provide a resident relocation plan to demonstrate how existing residents will be accommodated/relocated. Should the application be granted consent such a requirement could be dealt with via a condition of consent.

Lack of sufficient time to provide comments

The proposal was notified as per the EPA Regulations 2000 for 'nominated integrated development'.

A copy of the submissions is included in the report at **Attachment 4**.

7.7.2 Mediation

Given the previous history of the site and noting the various applications which have been submitted it is unlikely that mediation will resolve the underlying concerns raised by surrounding residents. Consequently, mediation is not warranted in this instance.

7.8 The public interest

Matters of the public interest have been taken into consideration in the assessment of this application. The report has highlighted many concerns with the proposal which lead to the conclusion that it does not exhibit sufficient merit to warrant support and is therefore not in the public interest.

8.0 Referrals

Department	Support/Objection (* subject to conditions)
NSW Office for Water (Office under DECC)	Support *
Sydney Water	Objection (Refer below)
NSW Police	Support *
Access Consultant	Objection (Refer below)
Engineering	Objection (Refer below)
Parks & Gardens	Support
Health	Support *
Community Services	Objection (Refer below)
Building/Construction	Support *

NSW Office of Water (under Department of Environment, Climate Change and Water)

No objection subject to compliance with the General Terms of Approval (GTA) for works requiring a Controlled Activity Approval under the Water Management Act 2000.

Sydney Water made the following comments: -

- The flood potential has not been reasonably represented.
- Very concerned if the proposed development were to place aged residents at risk, particularly given the site's primary vehicular access to Etonville Parade via the proposed bridge. Access would be cut before flood water continued to rise within the development.
- The existing and proposed bridges are likely to obstruct major flood flows and ideally should be eliminated. Sydney Water does not agree to the proposed bridge and would prefer to see the existing bridge removed.

(Refer to **Attachment 5** for full comments)

Comment

The proposal is reliant upon access via a new bridge across the canal which is not supported by Sydney Water. Consequently, it is not possible to recommend support for the proposal irrespective of any other issues raised in the report.

In addition, issues have been raised by Council's Engineering Department concerning the methodology used by the applicant to reach the findings made in the applicant's flood study. As a consequence, they are not prepared to accept the basis for the design that has been developed and the resultant flood impacts suggested by the applicant.

Council's *Access Consultant* made the following comments: -

The Consultant has raised a number of issues in relation to compliance with the access requirements of SEPP HSPD. In particular –

- The access routes to public transport facilities in accordance with Clause 26 and 38 are not compliant as they do not comply with AS1428,
- Internal circulation within apartments does not comply with AS1428,
- Garages and parking spaces do not comply with AS2890.1, and
- All villas and some units fail to provide access to private open space.

(Refer to **Attachment 6** for full comments)

Comment

As indicated in the comments, these are fundamental issues for a development of this type and it is ultimately considered inappropriate to support a proposal that has significant areas non-compliance with essential requirements of the SEPP.

Engineering Department/Engineering Consultant made the following comments: -

Further information to assess the drainage of the site is required. This includes:-

- Pump-out system details
- Holding tank details
- Discharge system details
- Soil & Water Management Plan

Like Sydney Water, Council's engineers have similar concerns with the methodology used and content of the Flood Study prepared by the applicant.

Comment

It is not considered appropriate to support the proposal given the concerns that have been expressed by both Council's engineers and those representing Sydney Water. Clearly, the applicant needs to review the information that has been prepared to date and re-evaluate the flood risk and come back with more detailed and accurate information that is of a satisfactory standard.

Community Services Department (Council) made the following comments: -

- Adaptability of the dwellings
- Temporary housing for current residents
- Inadequate solar access to dwellings
- Re-orient living areas of townhouses to front of dwellings

Comment

Appropriate conditions could be imposed in relation to the provision of adaptable units for the site was the application to be supported. Likewise, requirements could be imposed for the temporary housing of existing residents.

The issues in relation to solar access and re-orientation of the townhouses have been discussed previously in the report.

NSW Police made the following comments: -

NSW Police identified the proposal as a low crime-risk, however, they have made recommendations to assist in preventing crime-related activities e.g. surveillance, lighting, graffiti management, landscaping and alarms systems. The recommendations are considered appropriate and will be imposed by way of conditions should the application be granted consent.

(Refer to **Attachment 7** for full comments).

9.0 Other Relevant Matters

Stormwater Pipes

Council's stormwater data does not indicate that the subject property is burdened by any Council or Sydney Water stormwater pipes.

10.0 Building Code of Australia (BCA)

A Construction Certificate and subsequent compliance with the BCA would be required in the event that consent is granted.

Financial Implications

Should consent be granted, developer contributions would be required in accordance with Council's Section 94 plans.

Other Staff Comments

Refer to Section 8 of this report.

Public Consultation

Refer to Section 7.7 of this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration.

As outlined in the report the proposal has numerous shortcomings and is not considered suitable for the site or its context. There are also a number of fundamental issues which require resolution by the applicant before an appropriate concept can be developed for the subject land. In its current form the proposed development is unacceptable and therefore recommended for refusal.

Attachments

Attachment 1 - Plans of the proposal	46 Pages
Attachment 2 - Locality map and surrounding area	2 Pages
Attachment 3 - Urban Design Consultant comments	7 Pages
Attachment 4 - Submissions	74 Pages
Attachment 5 - Sydney Water comments	3 Pages
Attachment 6 - Access Consultant comments	19 Pages
Attachment 7 - NSW Police comments	17 Pages

Recommendation

- A The objections to Clauses 40(4)(a) and 40(4)(b) of the State Environmental Planning Policy (Housing for Senior's or People with a Disability) 2004 are not well founded and not supported as the height and scale of the proposed development is considered to be excessive and inappropriate given the site context.**
- B That the Sydney-East Joint Regional Planning Panel as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended) refuse consent to Development Application No.10.2009.231 for demolition of all existing structures and the construction of a Senior's Living Development with associated carparking and landscaping on Lot 10 DP: 564468 and Lots 7 & 8 DP 6911, known as 25 Etonville Parade and 1 & 3 Mackay Street, Ashfield for the following reasons:**
- 1. The proposal is contrary to the provisions of State Environmental Planning Policy (Housing for Senior's or People with a Disability) 2004 particularly relating to the height, Schedule 3 and the amenity considerations for the dwellings, private and communal spaces, and landscaped areas.**
 - 2. The proposal fails to fully satisfy the provisions of State Environmental Planning Policy 65 (Design Quality of Residential Flat Development) and the Residential Flat Design Code particularly relating to landscaping, amenity, social dimensions and communal open space.**
 - 3. The height, bulk and scale of the proposed three level buildings are considered to be excessive and not in keeping with the general built form of existing residential development in the locality.**
 - 4. The proposed design treatment to Mackay Street is considered to be unsympathetic and inconsistent to the existing residential character of the street.**
 - 5. Access to the subject site via a new bridge over the existing canal is not supported by Sydney Water.**
 - 6. Information provided by the applicant in relation to potential flood risks is inconclusive in establishing the likely flood impacts upon the subject land and surrounding properties.**
 - 7. The proposal is not in the public interest.**