

JRPP No:	2010SYE065
DA No:	DA: 10.2010.199.1
PROPOSED DEVELOPMENT:	Demolish a building, new seniors living (self care) development in 2 detached buildings & adaptive reuse of Pittwood House for healthcare purposes - 23-33 Charlotte Street, Ashfield
APPLICANT:	Jacqueline Parker, Urbis
REPORT BY:	Andrew Johnston, Development Assessment Officer, Ashfield Council

Assessment Report and Recommendation

Overview of Report

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 a former nurses' building, the construction of a seniors housing development and the use of Pitt Wood House for community care services at 17-33 Charlotte Street, Ashfield.

The proposal specifically involves:

- The demolition of the existing nurses' quarters building;
- The construction of a seniors housing development (self-care dwellings) comprising of a total of twenty-five (25) self-contained dwellings, including the:
 - Construction of a four-storey (aboveground) residential building (the 'northern building') consisting of twenty-three (23) dwellings and a ground floor communal area;
 - Construction of two (2) single-storey attached dwellings (the 'southern building') fronting Elizabeth Street;
- The provision of fifty-two (52) car spaces onsite comprising of twenty-four (24) resident paces within the northern basement car park, four (4) spaces for the residents of the southern dwellings and twenty-six (26) at-grade spaces to the north of the site for staff and visitors to the site; and
- Alterations to and the use of Pitt Wood House for community care services (day therapy and respite/day care services etc.) and as administrative offices for Presbyterian Aged Care Services. Operating hours of 8:00am to 5:00pm Monday to Friday, and 8:30am to 4:30pm on Saturdays, are proposed for this community care facility.

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

The development application relates to a type of development that the Minister of Planning has categorised as being of regional significance. The Sydney East Joint Regional Planning Panel (JRPP) is the consent authority for the purposes of determining the application.

2.0 Summary Recommendation

The proposed northern building exceeds the height and floor space ratio (FSR) controls of State Environmental Planning Policy (SEPP) (Housing for Seniors or People with a Disability) 2004. However, the Department of Planning has issued a Site Compatibility Certificate for the development which indicates the site is capable of supporting a more intensive development.

Despite these non-compliances it is considered that the resultant bulk, scale and height of the northern building is acceptable within the context of the locality. It is considered that the built form of the development is consistent with character of the area and will not detract from the streetscape. By virtue of a generous setback and the use of an appropriate design, it is further considered that the development will not detract from the significance and character of the heritage-listed Pitt Wood House.

For these reasons the development is supported by Council's Heritage Advisor and Urban Designer.

However, the existence of contamination on the site has been identified in the documentation submitted with the application. As a Detailed Site Assessment Report and Remediation Action Plan have not been provided the consent authority is unable to approve the application in its current form. This matter has been discussed with the Applicant who has agreed to the imposition of a deferred commencement condition to address this outstanding matter. Should this deferred commencement condition be satisfied, i.e. should a Detailed Site Assessment Report and Remediation Action Plan be provided to the satisfaction of Council, the consent will become operational.

It is therefore recommended that the Sydney East JRPP issue a deferred commencement consent for the development.

Background

3.0 Application Details

Applicant	:	Presbyterian Church NSW Property Trust (C/O: Urbis)
Owner	:	Presbyterian Church NSW Property Trust
Value of work	:	\$11,400,000.00
Lot/DP	:	LOT: 10 PRT: Lot DP: 1148999
Date lodged	:	27 August 2010
Date of last amendment	:	26 October 2010
Application Type	:	Local
Construction Certificate	:	No
Section 94A Levy	:	Yes

4.0 Site and Surrounding Development

The subject site is located on the western side of Charlotte Street, bounded by Elizabeth Street to the immediate south and Webbbs Avenue to the north. The property fronts Charlotte and Elizabeth Streets and has a site area of approximately 5,517.8m². Access to the site is also available from Webbbs Lane to the rear. A two-storey Victorian former nursing home (Pitt Wood House) and a four-storey former nurses' quarters exist onsite.

The site is located north of the Ashfield Train Station, the Western Railway Line and the Ashfield Town Centre. West of the site is Pittwood Nursing Home, St Vincent's Church and

School and a service station. Residential flat buildings and dwelling houses dominate to the north and east of the site.

Refer to **Attachment 2** for a locality map.

5.0 Development History

Previous consents were noted in the assessment of this proposal.

Assessment

6.0 Zoning/Permissibility/Heritage

- The portion of the site formerly known as 23-33 Charlotte Street is zoned 5(a)-Special Uses – Home for the Aged whilst the portion of the site formerly known as 17-21 Charlotte Street is zoned 3(a)-General Business under the Ashfield Local Environmental Plan (LEP) 1985.
- The site is listed as a heritage item under Schedule 7 of the Ashfield LEP.
- The application has been lodged in accordance with the Housing for Seniors SEPP.
- A Site Compatibility Certificate has been issued by the Department of Planning for the development.

The proposed works are permissible with Council consent.

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)

It is considered that the proposal complies with the provisions of the Ashfield LEP. The community care services (day therapy and respite/day care services etc.) and offices uses proposed for Pitt Wood House are permissible subject to the Site Compatibility certificate issued for the site (see Section 7.1.3 of this report).

The proposal is not expected to detract from the heritage significance of Pitt Wood House and supported by Council's Heritage Advisor (see Section 8.1 of this report).

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

Not applicable. Clause 40(4) of the Housing for Seniors SEPP, which outlines height controls, is not applicable as it only applies to residential zones. In addition, the submission of SEPP No. 1 Objections to Clauses 50(a) and (b) of the Policy – which detail both height and floor space ratio (FSR) controls – are not required as these controls are not ‘development standards’.

State Environmental Planning Policy No. 6 – Number of Storeys in a Building

The northern building would be defined as a five-storey building under this Policy. The southern dwellings would be defined as single-storey buildings whilst the existing Pitt Wood House would be maintained as a two-storey building.

The Ashfield LEP does not outline height controls for the site.

State Environmental Planning Policy No. 22 – Shops and Commercial Premises

Not applicable. The submitted application does not propose modifications to the four (4) shops located on the southwestern corner of the site (which were formerly known as 17, 17A, 19 and 21 Charlotte Street).

State Environmental Planning Policy No. 55 – Remediation of Land

Geotechnical and waste classification reports were submitted with the lodgement of the application. Whilst these reports give some indication as to the nature and type of contamination on the site, they do not provide an adequate assessment of the contamination status of the entire site or, more importantly, whether the site can be made suitable for the proposed landuse. Given that both investigations detected PAH and B(a)P concentrations exceeding the appropriate guidelines, further investigation of the contamination on the site is warranted.

In particular the two reports:

- Failed to assess contamination with regard to the appropriate Soil Investigation Levels for the proposed development;
- Did not provide an adequate account of the site history, or possible contamination sources;
- Did not undertake soil testing across the entire site, or at an appropriate sampling density for the entire site;
- Used inappropriate soil sampling techniques or did not provide adequate information regarding techniques, resulting in unreliable analytical results;
- Did not undertake adequate quality control measures to ensure that samples were of adequate quality;

- Did not adequately test samples from the entire soil profile, so it is not clear as to whether contamination from fill materials on the site has impacted on natural soils below;
- Did not provide an adequate account of works on the site, particularly the location of soil that will be removed off site and soil to remain on the site; and
- Did not provide any assessment of whether the soils to remain on the site are suitable for the proposed landuse, or provide any solutions for remediation on the site.

Therefore the information submitted to Council does not provide an adequate assessment of the contamination status of the site. A Detailed Site Investigation Report, prepared by an appropriately qualified consultant in accordance with the guidelines made under the Contaminated Land Management Act 1997, must be submitted to Council for consideration. This report must clearly state whether the site is suitable for the proposed residential use. If remediation works are required to ensure the site is suitable for the proposed use (as is expected) a Remediation Action Plan must also be prepared for the site.

The required contamination reports were requested of the Applicant on 8 October 2010. Given the timeframe established by the Sydney East JRPP to determine this application the Applicant informed Council they would be unable to prepare the required contamination reports but would be content with the imposition of appropriate conditions.

Given that the extent of the required remediation works are unknown the Sydney East JRPP (or Council) is currently unable to issue a consent. However, a deferred commencement consent may be issued for the contamination work. The consent would become active with the submission of a Detailed Site Investigation Report and Remediation Action Plan to satisfy the deferred commencement condition.

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

Under Section 3 of SEPP No. 65 a ‘residential flat building’ is taken to mean a *“building that comprises or includes:*

- (a) *3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- (b) *4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),*

but does not include a Class 1a building or a Class 1b building under the Building Code of Australia” (BCA).

The five-storey northern building, which is to consist of 23 dwellings, would be defined as a residential flat building under this Policy and was therefore referred to Council’s Urban Designer for comment. Comments received from the Urban Designer are included below, followed by a response from the assessing officer:

1. Context

Good design responds to and contributes to its context. Context can be defined as the key natural and built features of an area. Responding to context involves identifying the desirable elements of a location’s character or, in the case of precincts undergoing a transition, the desired future character as stated in Planning and design policies. New buildings will thereby contribute to the quality and identity of an area.

Urban Designer Comments: The site is located one block away from the north side of the Ashfield Railway station in an area that is typified by three storey residential buildings and institutional establishments such as schools, and nursing homes. Some detached housing is to be found immediately to the east of the site and there are some shops fronting Charlotte Street to the south of the site.

The site is within easy walking distance of the railway station and the main shopping area of Ashfield, which is south of the railway station.

The location of self-care seniors living units, so close to amenities and public transport is entirely appropriate. Increased residential density in such a location is also appropriate. The proposal will enhance the existing character of the area and will make a good contribution to the life of the precinct.

The proposal meets the objectives of this principle.

Officer's comment: The Urban Designer's comments are supported. The location of the site, in close proximity to both the Ashfield town centre and railway station, is acceptable for a development of this type. The proposal is also seen to contribute the existing and desired future character of the area.

2. Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Urban Designer Comments: The height of the proposed building is in keeping with the scale of the buildings in the vicinity and even with Pitt Wood House, which, even though it is only 2 storeys, is of grand proportions and sits on a raised plinth. The proposal includes a fourth storey, which is flat-roofed and set back from the third floor and would be little seen from street level. The façade to Charlotte Street is of a similar length to Pitt Wood House and has strong vertical articulation.

However, the footprint of the building is very large, some 35x35m which presents some other concerns as described below.

The proposal generally meets the objectives of this principle.

Officer's comment: The Urban Designer's comments are generally supported. It is acknowledged that the width and wall height contribute to the bulk of the northern building, however multi-storey buildings exist within the vicinity of the site, in particular along Charlotte Street, Elizabeth Street and Grainger Avenue.

The site is not located within a low-scale residential area; instead multi-storey residential flat buildings and community buildings (such as nursing homes, schools and churches) dominate this area. It is further considered that the generous setbacks to neighbouring properties and Pitt Wood House prevent the building from visually overwhelming buildings within its immediate vicinity.

Within this context the bulk and scale of the building is seen to be acceptable.

3. Built form

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

Urban Designer comments: The proposal's large footprint has a double central lift core and two perpendicular corridors. The resulting plan has four corner units per level and four single orientation units. The architects have reduced the apparent bulk of the building by articulating the facades vertically, expressing the semi-recessed balconies and the secondary bedrooms.

The building will sit comfortably in Charlotte Street even though it is forward of the building at No 35. The shops on the corner of Charlotte and Elizabeth streets are built to the boundary and the buildings to the North of No 35 are close to Charlotte street as well given that they address Webb Avenue.

The building is generously set back from Pitt Wood House and achieves a minimum set back from the detached dwellings to the east.

The units on the north eastern corner of the site are a little too close to the northern boundary and should be set back a full 6m from the boundary, especially as the apartment building to the North (35 Charlotte) appears to be set back 3m at best from its southern boundary.

A slightly smaller curtilage to Pitt Wood House in order to provide better separation from 35 Charlotte Street should be considered by the Applicant and the Council's Heritage Advisors. The privacy and sun access amenity to both the residents on the lower level of the proposal and the residents of 35 Charlotte street would be improved with little or no impact on the setting for Pitt Wood House.

The proposal generally meets the objectives of the principle.

Officer's comment: The Urban Designer's comments are supported. The Residential Flat Design Code generally recommends separation distances of 12m between residential developments of this density. In this instance the Urban Designer recommended setting the subject building further off its northern boundary, in particular given that the neighbouring residential flat building at 35 Charlotte Street has a minimal setback from the shared boundary.

Assuming each neighbour has an equal role to play in providing separation, a minimum separation distance of 6m to the boundary should generally be achieved. This matter was raised with the Applicant who has provided amended plans showing the northern wall of the building is now set back a minimum of 6m from the shared boundary with 35 Charlotte Street.

It should be noted that whilst the northmost part of the building was cut back to achieve this separation, the building itself was not shifted south. As such re-notification of the proposal was not required.

4. Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents). Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Urban Designer's comments: A total density of 0.7:1 on a site and the number of units proposed so close to the town centre is reasonable. The Applicant has minimised the impact of the building mass and provided generous landscaping around the heritage item.

The proposal meets with the objectives of this principle.

Officer's comments: The Urban Designer's comments are generally supported. The proposal fails to satisfy the FSR controls of the Housing for Seniors SEPP, although it is acknowledged that Council's planning controls do not establish a FSR for the site (the 5(a)-Special Uses – Home for the Aged portion of the site).

Despite this non-compliance, the resulting bulk and scale of the northern building, as well as amenity impacts for neighbours and residents, are considered acceptable.

5. Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and re-use of water.

Urban Designer comments: The proposal retains a significant amount of the existing buildings on the site.

The proposal has several good initiatives that reduce water consumption. Stormwater is to be harvested and re-used on site and it also leaves 38% of the site for landscaping, 68% of which is deep soil planting zones.

The building has met the BASIX requirements.

Although the proposal may achieve the minimum numerical requirements for sun access and cross ventilation, the building's large footprint and double loaded corridors results in poor cross ventilation and sun amenity for a good number of units.

The single orientation units in the centre of the block will not have cross ventilation. The north facing units are relatively shallow (7m from façade to back of unit) and should be relatively well ventilated. The east and west units however are about 10m deep and permanent mechanical ventilation will be required to draw air through the units. The units on the south-east corner of the building will have very little direct sunlight.

The proposal generally meets the objectives of this principle.

Officer's comments: The Urban Designer's comments are generally supported, although the cross ventilation commentary is not seen to be grounds for refusal or to

warrant extensive design changes. As recommended by the Residential Flat Design Code the majority of the units are limited to a depth of 8m from a window, as are the back of kitchens from a window.

A BASIX Certificate has been submitted for the development and the proposal generally complies with the solar access provisions of the Housing for Seniors SEPP.

6. Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the site's natural and cultural features in responsible and creative ways. It enhances the development's natural environment performance by coordinating water and soil management, solar access, microclimate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity and provide for practical establishment and long-term management.

Urban Designer comments: Landscape is a very positive feature of this development. Not only has the proposal managed to retain two thirds of the existing trees, but the landscape has been considered as an integral part of the seniors living experience. A range of garden uses are proposed; some active, some passive and some specially considered for the mobility impaired. The landscape has also been designed to improve privacy and outlook to the neighbours.

The proposed pathway layout offers numerous itineraries within the site. The landscape has been very sensitively treated and maximises the opportunities for residents to engage with the outdoors. It also provides a suitable setting for Pittwood House.

The proposal meets the objectives of this principle.

Officer's comments: The Urban Designer's comments are supported. The proposal satisfies the numerical landscaping and deep soil controls of the Housing for Senior's SEPP. Council's Tree Management Officer is also supportive of the submitted landscaping plan.

7. Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Urban Designer's comments: Notwithstanding the issues mentioned above to do with sun access and ventilation, the units are well designed and have generous balconies, which are accessed via both the living area and a bedroom. Visual and acoustic privacy between units is well handled.

Each unit appears to have additional storage either in or adjacent to the living areas. Additional storage in the basement car parking area would have been desirable.

The building's users will be senior citizens and the appropriate level of accessibility has been provided for.

The proposal meets the objectives of this principle.

Officer's comment: The Urban Designer's comments are supported. The proposal generally satisfies the apartment layout guidelines of Part 3 of the Residential Flat Design Code.

Storage was raised with the Applicant and amended plans detailing the provision of additional storage space to the basement garages were received.

8. Safety and security

Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Urban Designer comments: Safety and security has been well addressed in this proposal. The building provides for good passive surveillance of the garden areas and of Charlotte Street. The whole complex is to be fenced and gated which is important for both keeping residents in and unwanted visitors out.

Of some concern is the entry to the building off Charlotte Street which offers shelter to those arriving but which is not secure. A narrow alleyway leads to the entry Lobby located in the centre of the building (another disadvantage of a building with such a large footprint). This alleyway is hidden from the letterbox area and as such poses a security risk. A gateway at the beginning of the alleyway or the enclosure of fencing in part of the shelter should be considered to address this issue.

The proposal generally meets with the objectives of the principle.

Officer's comment: The Urban Designer's comments are generally supported. The comments with respect to the path and entry lobby are not considered critical however.

It should be noted that the proposal has adopted a number of the recommendations put forward by Ashfield Police, such as the installation of CCTV cameras along the front entry path.

9. Social dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs of the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

Urban Designer comments: A seniors independent living facility close to the town centre will allow for older people to access facilities and transport and remain connected to their community. Catering for all members of society near a city centre creates healthy communities.

The proposal meets the objectives of this principle.

Officer's comment: The Urban Designer's comments are supported. Council's Community Services Department is also supportive of the development.

10. Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Urban Designer comments: The proposal will be a positive addition to the streetscape. The materials and colours selected are recessive in colour and the use of face brick will minimise the need for painting or other maintenance.

The Bowral blue brick colour selected is very dark and cool in tone. A complimentary warmer tone (browns or reds) brick would emphasise the vertical rhythm of the façade, relate better to the heritage building and add some warmth to the light around the building.

The proposal meets the objectives of this principle.

Officer's comment: The Urban Designer's comments are generally supported. Whilst contemporary, the material selection and verticality of the building design relates to Ashfield's traditional building context.

Council's Heritage Advisor has been consulted with respect to these matters and has raised no objection to the proposed brickwork for the northern building.

Conclusion

Urban Designer comments: The proposal generally satisfies the 10 principles of good design.

The main concerns arise out of the dimensions of the building footprint, which result in the minor criticisms in this report. The decision to concentrate the building at the northern end of the site maximises the amount of open space around Pitt Wood House. On balance this decision is more important than some minor amenity issues in the units. Consideration should be given, however, to the increase in separation from the northern neighbour.

Officer's comment: The Urban Designer's conclusion is generally supported. As recommended the development has been modified to increase the separation between the subject building and the neighbour at 35 Charlotte Street.

Overall it is considered that the proposal satisfies the provisions of SEPP No. 65 and the Residential Flat Design Code.

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

This application has been submitted under the Housing for Seniors SEPP. This Policy applies to land that is *“zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:*

- (a) *development for the purpose of any of the following is permitted on the land:*
 - (i) *dwelling-houses,*
 - (ii) *residential flat buildings,*
 - (iii) *hospitals,*
 - (iv) *development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*
- (b) *the land is being used for the purposes of an existing registered club”.*

Section 1(4)(5)(a) further notes that for the purposes of this Policy (and for the avoidance of doubt), a consent authority *“must not treat ... land on which development for the purposes of special uses is permitted ... as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes”.*

Given that the subject site immediately adjoins residentially zoned properties the site is taken to be zoned for urban purposes and the provisions of the Housing for Seniors SEPP are therefore applicable.

In this regard it should be noted that Ashfield Council is no longer exempt from SEPP No. 5 – Housing for Older People or People with a Disability, which has been repealed.

A Site Compatibility Certificate (**Attachment 3**) for the site, issued by the Department of Planning on 12 February 2010, has been submitted for the development pursuant to Clause 24(2) of the Housing for Seniors SEPP. This Section of the Policy states a consent authority *“must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General’s opinion:*

- (a) *the site of the proposed development is suitable for more intensive development, and*
- (b) *development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b)”.*

Section 24(3)9a)(i) of the Policy further states *“nothing in this clause prevents a consent authority from granting consent to a development application to which this clause applies to carry out development that is on a smaller (but not larger) scale than the kind of development in respect of which a site compatibility certificate was issued”.* The submitted Site Compatibility Certificate confirms that the site is suitable for more intensive development and that the proposal is compatible with the surrounding environment.

The project description detailed in Schedule 2 of the Site Compatibility Certificate indicates that the Department of Planning has reviewed a proposal including a four-storey building consisting of approximately thirty (30) independent living units (the northern building) and a

three-storey building consisting of approximately five (5) independent living units (the southern building).

With the deletion of ten (10) dwellings, the current proposal is therefore less intensive than that which was previously endorsed by the Department of Planning. Such proposals may be considered under Section 24(3)9a(i) of the Housing for Seniors SEPP.

It should be noted that Clause 24(1A) of the Policy outlines that there is no need for the obtainment of a Site Compatibility Certificate “if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument”. Given that the subject site is zoned 5(a)-Special Uses – Home for the Aged there was technically no need for the obtainment of this certificate for the self-contained dwellings (the northern and southern buildings). However, this matter has been discussed with the Manager of Development Assessment who is of the view that the obtainment of this certificate renders the entire development permissible, including the Pitt Wood House uses, despite the zoning.

With respect to the controls of the Housing for Seniors SEPP, compliance with the key controls are summarised below:

Planning Control	Requirement	Proposed	Compliance
Site Area	1,000m ²	5,517.8m ²	YES
FSR	0.5:1	0.7:1	NO (able to be refused)*
Height	8m or less	Approximately 13.2m	NO (able to be refused)*
Landscaping	30%	38%	YES
Deep soil zone	15%	26%	YES
Frontage	20m minimum	Charlotte: 130.54m Elizabeth: 29.32m	YES
Solar Access	70% (3hrs between 9am-3pm)	70%	YES
Private Open Space – Ground Floor	15m ² (minimum dimensions of 3m by 3m)	Min. 15m ² and dimensions of 3m by 3m	YES
Private Open Space – Balconies	10m ² (minimum width of 2m)	Min. 11.5m ² and width of 2m	YES
Parking	32	- Total: 52 - North Basement: 24 - South Buildings: 4 - At grade visitor parking: 6 - At grade staff parking: 20	YES

* These controls are not development standards and non-compliances may be considered on their merits.

As detailed above the proposal complies with the requirements of the Housing for Seniors SEPP, with the exception of the height and FSR controls of Clauses 50(a) and (b). As detailed in the previous SEPP No. 65 commentary, the site is not located within a low-scale residential area; instead multi-storey residential flat buildings and community buildings dominate this area. Within this context the bulk, scale and density of the building is seen to

be acceptable. Indeed this view is supported by the Department of Planning with its granting of a Site Compatibility Certificate for a more intensive development.

The northern building will not detract from the streetscape and its generous setbacks to neighbouring properties and Pitt Wood House prevent the building from visually overwhelming buildings within its immediate vicinity. The resulting amenity impacts for neighbours and residents are also considered acceptable.

On balance the development is seen to satisfy the aims and objectives of the Housing for Seniors SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Not applicable. The proposal would not be defined as 'traffic generating development' under Clause 104 and Schedule 3 of the Infrastructure SEPP as the subject property does not have access to a classified road or access to a road which inturn connects to a classified road.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Not applicable. The proposal would not be defined as 'exempt' or 'complying' development under this Policy.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Not applicable to senior housing developments.

State Environmental Planning Policy (BASIX)

A BASIX Certificate, detailing thermal, energy and water conserving requirements, has been submitted with the application. The obligations detailed on this BASIX Certificate are generally shown on the plans.

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 has been considered against the provisions of the Ashfield Development Control Plan (DCP) 2007:

C1	ACCESS AND MOBILITY	See comments below.
C3	ASHFIELD TOWN CENTRE	Not applicable. The property is not located within the Ashfield town centre.
C5	MULTI-UNIT DEVELOPMENT IN RESIDENTIAL FLAT ZONES	Not applicable. See comments below.
C10	HERITAGE CONSERVATION	It is considered that the proposed residential buildings incorporate adequate setbacks and built form so as to minimise impacts to the character and significance of

		<p>Pitt Wood House, which is an individual heritage item.</p> <p>The proposal is supported by Council's Heritage Advisor.</p>
C11	PARKING	<p>Given the number of dwellings proposed for the site, Clause 50(h)(i) of the Housing for Seniors SEPP requires the provision of thirty-two (32) spaces for the senior housing development. The proposal complies with requirement, providing a total of fifty-two (52) parking spaces onsite.</p> <p>These spaces are located within the northern building's basement car park, at-grade to the rear of the northern building and within and adjacent to the southern dwellings.</p> <p>The allocation of parking spaces is supported by Council's Traffic Engineer. The Traffic Engineer has not raised an objection to the traffic generation of Pitt Wood House's community care services, staff parking or deliveries.</p>
C12	PUBLIC NOTIFICATION IN THE PLANNING PROCESS AND ALL ASPECTS OF LAND MANAGEMENT	<p>The proposal was notified in accordance with the Public Notification DCP. See Section 7.7 of this report.</p> <p>As detailed previously in this report, amended plans were received from the Applicant on 26 October 2010. These plans did not increase the footprint of the previously notified development, nor was it considered that that the amendments would generate additional impacts for neighbours. As such the amendments did not require re-notification in accordance with Clause 2.32 of the Public Notification DCP.</p>

Ashfield DCP 2007 – Part C1 – Access and Mobility

Schedule 3 of the Housing for Seniors SEPP outlines disabled access requirements for self-contained dwellings. This Policy overrides the requirements of the Access and Mobility DCP although they both achieve the same objectives.

An access report has been prepared for the development and the amended plans generally adopt the recommendations of this report.

In accordance with the Schedule 3.2(1) of the Policy all of the dwellings contained within the northern and southern buildings will have a continuous accessible path of travel to the public footpath from their main entrance. With respect to the multi-level northern building, the provision of a lift is proposed to achieve the required level of access. Access is also proposed to all the common facilities for the northern building, such as the frontal letterboxes, the garbage storage area, the common use sanitary facilities, the community room and the car parks, as required by Schedule 3 of the Policy.

An assessment of the proposal does indicate some non-compliances with the self-contained unit design and parking requirements of Schedule 3 of the Housing for Seniors SEPP. It is therefore recommended that a condition be imposed, should the application be approved, requiring compliance with the requirements of Schedule 3 of the Housing for Seniors SEPP be demonstrated with the plans submitted for the construction certificate.

It is noted that full-compliance with these requirements may require changes to the design of the buildings. In this regard the submission of a Section 96 Application may be required, in particular should external changes be required to provide additional circulation space for the buildings.

The Access and Mobility DCP does outline controls for Pitt Wood House. A graded pathway, which is not shown on the submitted plans, currently provides access to the front entry door of this building. An existing lift provides disabled access to both levels of the building, whilst the submitted access report states sufficient access and toilet facilities may be accommodated. Again, a condition may be imposed to ensure compliance with the Access and Mobility DCP and AS 1428.1.

Ashfield DCP 2007 – Part C5 – Multi-Unit Development in Flat Zones

The Multi-Unit DCP applies to Council's 2(b) and 2(c) Residential zones, i.e. Council's residential flat building zones. However, as the proposed development is comparable to a residential flat building a merit-based assessment was undertaken against this Plan.

Clause 5.16(a) and (c) of the Multi-Unit DCP outlines overshadowing controls. Clause 5.16(a) states "*sunlight to at least 50% (or 35m² with [a] minimum dimension 2.5m, whichever is the lesser area) of the principal private area of ground level private open space ... of adjacent properties is not reduced to less than three (3) hours between 9am and 3pm on 21 June. Where existing overshadowing by buildings and fences is greater than this, sunlight is not further reduced by more than 20% at any one time*". Clause 5.16(c) of the Plan further states "*existing solar access should be maintained to at least 40% of the glazed areas of any neighbouring north facing living room/dining room windows, for a period of at least three (3) hours between 9am and 3pm in mid winter (on 21 June). If existing solar access is already less than this standard, it should not be further reduced by more than 20% at any one time*".

During mid-winter the shadows cast by the northern building will generally be contained within the subject site until the early afternoon. Shadows cast by the development will start to encroach the rear yard (which is primarily used as a car park) of the residential flat building at 14 Grainger Avenue at approximately 1:00pm, however before this time the neighbouring property will be provided with adequate solar access to satisfy the requirements of Clauses

5.16(a) and (c) of the Multi-Unit DCP.

It should also be noted that residential flat buildings covered by the Multi-Unit DCP may have a FSR of up to 0.7:1, which is comparable to the submitted proposal.

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

These matters have been considered in the assessment of this application. Clause 7 of the EP&A Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). Conditions of consent can be imposed in this regard, should the application was to be approved.

Fire safety measures for the development will need to be detailed with the plans and documentation submitted with the construction certificate.

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.

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have no significant adverse environmental, social or economic impacts upon the locality.

On balance the provision of community care services and accommodation for seniors is expected to result in positive social impacts for the community.


7.6 The suitability of the site for the development

These matters have been considered as part of the assessment of the development application. There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the proposed development. It is considered the site is of a sufficient size to accommodate the number of dwellings proposed.

The proposed development is considered suitable in the context of the locality.

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 Councillors from 3 September to 30 September 2010. Five (5) submissions (**Attachment 4**), including a petition containing nineteen (19) signatures, were received:

Submissions	Notification
Ms K Southam C/O: LJ Hooker Ashfield PO Box 785 ASHFIELD NSW 1800 (Owner of Unit 4/10 Grainger Avenue)	 Two (2) submissions

Mr G Leto 13 Webbs Avenue ASHFIELD NSW 2131	✓
Mrs A Vitale (Head Petitioner) 8/14 Webbs Avenue ASHFIELD NSW 2131	✓
Mr L Pather Energy Australia Level 1, Building 1 33-45 Judd Street OATLEY NSW 2223	✓

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

The northern building is excessive in bulk and scale.

Officer's comment: This matter is discussed in Section 7.1.3 of this report. It should be noted that both Council's Urban Designer and Heritage Advisor are supportive of the proposal however.

The northern building will detract from the character of the area and the significance of Pitt Wood House.

Officer's comment: The Heritage Advisor is supportive of the development. See Sections 7.1.3, 7.3 and 8.1 of this report.

The northern building will produce unacceptable overshadowing impacts for the neighbouring Grainger Avenue properties.

Officer's comment: This matter is discussed in Section 7.3 of this report.

The northern building will overlook adjoining residential properties.

Officer's comment: The northern building's setback distances to the boundary with 35 Charlotte Street and the Grainger Avenue neighbours generally satisfy the recommendations of the Residential Flat Design Code. The existing tree located within the rear yard of 14 Grainger Avenue is also expected to minimise privacy concerns.

The recommendations of the Urban Designer with respect to the northern setback have been adopted with the submission of amended plans.

The northern building will reduce views obtained from adjoining residential properties.

Officer's comment: The proposal is not expected to remove any significant views. It is unrealistic to expect the open outlook currently enjoyed by some neighbours to be preserved in perpetuity.

The development will remove significant and healthy mature trees from the site, and provide inadequate privacy for neighbours.

Officer's comment: The Tree Management Officer is supportive of the proposal. The majority of significant trees located around Pitt Wood House and fronting Charlotte Street are to be retained.

Obviously the new trees will take time to mature so as to soften the development, and provide additional privacy for neighbours. However as detailed previously the separation distances of the northern building satisfy the Residential Flat Design Code.

Inadequate soft landscaping is to be provided for the site.

Officer's comment: The proposal satisfies the landscaping and deep soil requirements of the Housing for Seniors SEPP.

The development will increase traffic through Webbs Avenue and Webbs Lane, in particular the presence of heavy vehicles. This is likely to result in amenity and safety impacts for the residents of Webbs and Avenue.

Officer's comment: The northern ground level car park is to be used by staff of Pitt Wood House (and the associated Presbyterian Aged Care Facility [nursing home] at 40 Charlotte Street), with limited visitors to Pitt Wood House expected to arrive at the site via their own vehicles. This car park may be accessed by relatives of the residents however the Applicant has advised that residents often do not drive and instead keep their basement car space free for relatives to visit.

Documentation provided by the Applicant indicates that visitors to Pitt Wood House will often be collected by mini-buses. Deliveries to the site will be made from the Elizabeth Street and/or the Charlotte Street (Pitt Wood House) driveways.

Council's Traffic Engineer has considered these matters and does not object to the proposal on congestion or safety grounds. Given that the northern Charlotte Street driveway will generally cater for residents, and the southern Charlotte Street and Elizabeth Street driveways will generally cater for deliveries, garbage collection and mini-bus stops, the additional traffic volumes through Webbs Avenue and Webbs Lane are expected to be acceptable.

The Applicant must contact Energy Australia to establish its requirements for the site.

Officer's comment: An advisory condition relating to utility services will be imposed should the application be approved. It is noted that the submitted plans do highlight a potential location for a substation however.

7.7.2 Mediation

Not applicable.

7.8 The public interest

Matters of the public interest have been taken into consideration in the assessment of the application. On balance it is considered that the proposal will have positive benefits for the community and therefore its approval would be in the public interest.

8.0 Referrals

8.1 Internal

Heritage Advisor: – Comments from Council's Heritage Advisor are included as **Attachment 5**. The Heritage Advisor is supportive of the proposal and is of the opinion that the new buildings will sit comfortably within the streetscape without detracting from the heritage significance of Pitt Wood House.

Should the application be approved the Heritage Advisor has recommended the imposition a condition requiring the installation of solid wall to visually support the upper levels of the northern building above the ground level car park. The Heritage Advisor has recommended the following condition, which may be imposed should the application be approved:

On the ground floor level of the proposed development in the vicinity of the letter boxes and car space 17, a solid non-load bearing screen wall be introduced to block vision from the street through to the ground level car park area, giving visually solid support to the upper floors of the building at this point so that it does not appear to be elevated over the car park area.

Building: Comments were received from the Construction Assessment Team Leader. These comments were referred to the Applicant for their information and consideration in the preparation of a future construction certificate.

Should the application be approved the Construction Assessment Team Leader has recommended the imposition of standard conditions.

Engineering: Both Council's Design and Development Engineer and Traffic Engineer are supportive of the development subject to the imposition of conditions.

Environmental Health: – A frontal garbage storage area has been proposed for the northern building to allow contractors to enter the site to collect bins. However, Council's Environmental Health Team Leader has advised the proposed garbage storage area is of an insufficient size to service the northern residential building. Based on the number of dwellings proposed for this building an area to accommodate twenty-three (23) 240L bins would be required. As area is available to the rear of this location a condition may be imposed to increase the size of the garbage storage area should the application be approved.

The Environmental Health Team Leader also recommended the installation of a communal clothes drying area for the northern building. Whilst room is available to the east of this building (adjacent to the ground floor communal area) the matter was discussed with the Specialist Planner who does not feel that this matter be pressed. In this regard the Specialist Planner has noted that the provision of dryers for the individual dwellings satisfies the requirements of the BCA.

Community Services: The Manager of Community Services is supportive of the proposal. In his comments the Manager of Community Services notes *"the provision of a day therapy program and respite program for carers is supported. Ashfield Council's Social Plan 2010 indicates that there is a lack of community based activities which provide support for people in the early stages of dementia. It also states there is an increase in demand for centre based (including dementia specific) day care. The Social Plan notes that "as the population ages and incentives to remain at home longer increases through community support services, so will the demand for centre based day care as it provides respite for both the carer and the client, in both long-term and emergency services"*.

It is therefore considered that the adaptive re-use of Pitt Wood House for the provision of these services will result in social benefits for the community.

The Manager of Community Services has queried whether rooms of Pitt Wood House may be used by other community groups. Whilst the Applicant has advised that Presbyterian Aged Care are willing to discuss this matter with community groups they are unable to make such a commitment as a part of this application. Given that this may alter the operation of Pitt Wood House and Council needs some certainty with respect to this matter, the Applicant's

viewpoint is accepted.

The affordability of the residential development was also questioned by the Manager of Community Services. However in this regard it is acknowledged that there are no specific Council controls relating to the provision of affordable seniors housing. Ultimately this issue will be market-driven although it is noted that the variety of unit types, including 1 and 2 bedroom units, offer variety and potentially more affordable options.

Disabled access for the development has been discussed in Section 7.3 of this report.

Trees: The Tree Management Officer has raised no objection to the removal of the nominated trees or the proposed planting schedule. On account of the new building's setback distances the proposed excavation work should also have a minimal impact on the health and stability of significant trees located on adjoining properties.

A number of noxious weeds were observed onsite during the time of inspection. The Tree Management Officer recommends the imposition of condition regarding the control of these weeds.

8.2 External

Urban Designer

As detailed in Section 7.1.3 of this report, the proposal was referred to Council's Urban Designer for assessment against the provisions of SEPP No. 65 and the Residential Flat Design Code. Having considered these matters the Urban Designer is supportive of the proposal.

NSW Police

At the request of Council, a 'Safer by Design' evaluation of the proposal was undertaken by the Crime Prevention Officer of Ashfield Police. This evaluation returned a 'low crime risk' rating.

A series of recommendations were prepared by the Ashfield Police and these were forwarded for Applicant's information. A number of these recommendations have since been adopted or may be conditioned.

Section 37 of the Housing for Seniors SEPP further outlines that this form of development should "*provide personal property security for residents and visitors and encourage crime prevention by:*

- (a) *site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) *where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) *providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door".*

Based on the comments received from the Ashfield Police and the Urban Designer it is considered the proposal generally satisfies the security provisions of this Policy.

NSW Heritage Council

The proposal was referred to the NSW Heritage Council pursuant to Clause 34 of the Ashfield LEP. As the subject site is listed as an individual heritage item under the Ashfield LEP, and is not listed at the State level, the NSW Heritage Council did not provide any specific comments on the acceptability of the proposal in its response to Council.

9.0 Other Relevant Matters

Determination of Application

The proposal is seen to be of regional significance and for this reason it is to be determined by the Sydney East JRPP.

Use of Pitt Wood House

Alterations to and the use of Pitt Wood House for community care services (day therapy and respite/day care services etc.) and as offices for Presbyterian Aged Care Services is proposed with the submitted application. Operating hours of 8:00am to 5:00pm Monday to Friday, and 8:30am to 4:30pm on Saturdays, are proposed for these uses.

Council's Community Services Department is supportive of this use on the grounds that it will provide valuable services and care for the community. The proposed hours of operation are seen to be acceptable and it is considered that the use is unlikely to generate negative amenity impacts for neighbours.

Stormwater Management Policy

Council's Design and Development Engineer has raised no objection to the amended stormwater plan. Should the application be approved conditions will be imposed to ensure compliance with the Stormwater Management Policy.

Stormwater Pipes

Council's stormwater map 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 will be required to be applied for by condition of consent.

Financial Implications

Section 1.9 of Council's new Section 94 Development Contribution Plan indicates that there are no savings or transitional provisions under this Plan. As such contribution fees would be payable to Council based on the standard rates detailed in the Section 94 Development Contribution Plan.

Other Staff Comments

See Section 8.1 of this report.

Public Consultation

See Section 7.7 of this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C (1) Clauses (a) to (e) having been taken into consideration. A Site Compatibility Certificate has been issued for the development and it is considered that the proposal generally satisfies the objectives of the Housing for Seniors SEPP.

To address the contamination issues identified in the body of this report the imposition of a deferred commencement consent is recommended.

Attachments

- Attachment 1 – Plans of the Proposal
- Attachment 2 – Locality Map
- Attachment 3 – Site Compatibility Certificate dated 12 February 2010
- Attachment 4 – Submissions
- Attachment 5 – Heritage Advisor Comments

Recommendation

- A That the Sydney East Joint Regional Planning Panel as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 (as amended) issue a “Deferred commencement” consent for Development Application No. 10.2010.199.1 for the demolition of a former nurses’ building, the construction of a Seniors Housing Development and the use of Pitt Wood House for community care services on Lot 10 in DP: 1148999, known as 17-33 Charlotte Street, Ashfield, subject to the following conditions:**

Conditions

See over.