



SEPP 1 Objection - SEPP Seniors, Clause 40(4)

Harbord Diggers Club

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Introduction

This Objection under State Environmental Planning Policy No.1 – Development Standards (SEPP 1) has been prepared by Urbis Pty Ltd on behalf of Mt Pritchard & District Community Club. It is submitted to Warringah Council (the Council) in support of a Development Application (DA) for the redevelopment of the existing Harbord Diggers Club at 80 Evans Street, Freshwater. This SEPP 1 Objection should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Urbis and the DA documents submitted to Council.

It relates to clause 40 (4)(a) and (b) under the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (the Seniors SEPP).

1.1 THE EXISTING DEVELOPMENT CONTEXT

The site currently accommodates the Harbord Diggers Club which has been developed in an ad hoc manner over the last 40 years. The site currently comprises:

- The main Club building which has a maximum building height of 16.55 metres (RL 40.55) from the existing ground level. The main Club building is the equivalent height of a five storey building and has its primary frontage to Evans Street. The Club is an unattractive monolithic structure that has no aesthetic connection to the landscape or the surrounding development. The Evans Street façade is featureless and inactive along the majority of the street frontage with a zero metre setback to the public domain.
- A 2/3 storey car park structure to the west of the main building which has a maximum building height of 10 metres (RL 27.30) from the existing ground level. The car park accommodates three bowling greens on the roof. The car park has a bulky two storey presentation to Evans Street. The façade is featureless and inactive.

The car park has a 1 – 2 storey presentation to Carrington Parade. Similar to the Evans Street façade, the presentation to Carrington Parade is featureless and unrefined.

- Perimeter areas of open space link to the surrounding headland. Formal palm planting serves to soften the appearance of the structure along the Evans Street façade and four trees within the existing Carrington Parade setback act to soften the appearance of the car park structure towards the Evans Street intersection.

The existing Club building exceeds the 8 metre maximum height limit under clause by 8.55 metres (refer to Figure 4).

FIGURE 1 – THE EXISTING HARBORD DIGGERS CLUB (LUMSDAINE DRIVE ELEVATION)



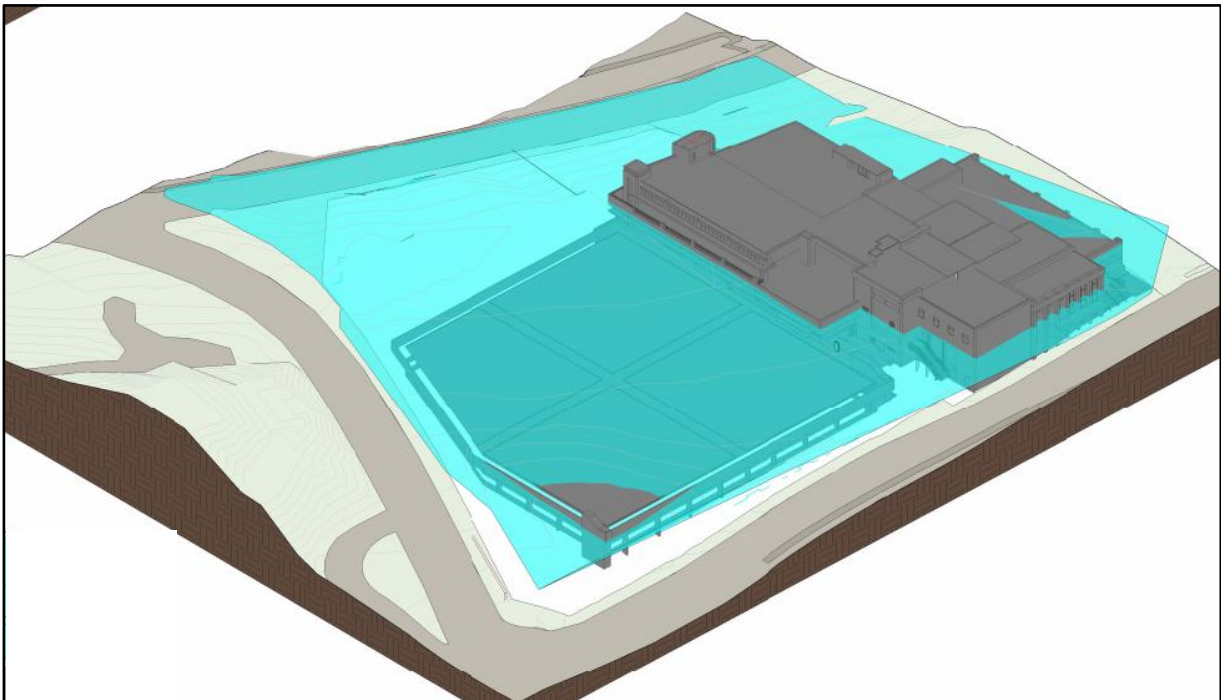
FIGURE 2 – THE EXISTIG CLUB LOOKING NORTH WEST ALONG EVANS STREET



FIGURE 3 – THE EXISTING CLUB LOOKING EAST ALONG EVANS STREET



FIGURE 4 – THE EXISTING HARBORD DIGGERS DEVELOPMENT WITH THE SENIORS SEPP 8 METRE HEIGHT LIMIT OVERLAY



The surrounding area is characterised by residential development of varying forms. There are a number of buildings located along Evans Street and Carrington Parade that exceed two storeys at the site boundary, and the maximum building height limits provisions of the Seniors SEPP, the *Warringah Local Environmental Plan 2011* (WLEP 2011) and the Warringah Development Control Plan 2011 (WDCP 2011) (refer to Figure 5).

FIGURE 5 – EXISTING MULTI STOREY DEVELOPMENT ADJACENT TO THE SITE



PICTURE 1 – EXISTING MULTI-STOREY RESIDENTIAL DEVELOPMENT ON EVANS STREET SOUTH OF THE CLUB.



PICTURE 2 – EXISTING THREE STOREY RESIDENTIAL DEVELOPMENT ON CARRINGTON PARADE NORTH-WEST OF THE CLUB.

1.2 THE PROPOSED DEVELOPMENT

The SEPP 1 objection has been prepared to support a Development Application for the redevelopment of the Harbord Diggers Club including:

- Demolition of the existing car park and bowling greens.
- Excavation to accommodate three (3) basement levels to accommodate car parking, plant, ancillary services and storage.
- New Club facilities and ancillary member's services.
- 97 seniors living apartments and ancillary services.
- Long day child care facilities.
- Detailed design of 4 x three storey buildings known as Buildings A, B, C and D.
- The detailed design and adaptive re-use of the existing Club building to create 2 x five storey buildings known as Buildings E and F.

1.3 STAGE 1 BUILDING ENVELOPE APPROVAL - DA2013/0412

The Harbord Diggers site currently has Stage 1 development consent for building envelopes (DA2013/0412). The Stage 1 consent was approved by the Sydney East Joint Regional Planning Panel (JRPP) on 12 September 2013. Table 1 outlines the maximum building heights approved for the site.

TABLE 1 – APPROVED BUILDING HEIGHTS

BUILDING	APPROVED MAX HEIGHT (RL)
A	31.00
B	29.40
C	26.50
D	29.50
E	38.50
F	38.50

1.4 SEPP 1 FRAMEWORK

SEPP 1 enables Council and the Sydney East Joint Regional Planning Panel to vary a development standard within the Seniors SEPP where strict compliance with that standard is shown to be unreasonable or unnecessary, or would hinder the attainment of the objectives specified in Section 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* (the Act).

The current NSW Land and Environment Court (LEC) SEPP 1 considerations were set out by Chief Justice Preston, in the decision of *Wehbe v Pittwater Council* [2007] LEC 827. They are as follows:

1. *The applicant must satisfy the consent authority that “the objection is well founded” and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*
2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy’s aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979; and*
3. *It is also important to consider:*
 - (a) *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - (b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

This SEPP 1 Objection is has been structured using these considerations.

1.5 IS THE PLANNING CONTROL A DEVELOPMENT STANDARD

The Environmental Planning Instrument to which this Objection relates is the Seniors SEPP. The applicable development standards are found under Clause 40(4) of the Seniors SEPP, and reproduced below:

40 Development standards – minimum sizes and building heights

(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,*

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

“Development Standards” has the following definition under Section 4(1) of the Act:

‘development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

(amongst others)

- (c) *the character, location, siting, bulk, scale, shape, size, **height**, density, design or external appearance of a building or work,*

(emphasis added)

As this SEPP 1 objection relates to a departure from the numeric standards for maximum height in metres and storeys, it is considered that clause 40 (4)(a) and (b) of the Seniors SEPP is a development standard and not a ‘prohibition’ in respect of development.

1.6 PROPOSED VARIATION TO THE STANDARD

It is requested that the Sydney East Joint Regional Planning Panel (JRPP) vary clause 40(4) (a) and (b) of the Seniors SEPP to enable non-compliance with the following:

- The maximum building height in metres standard.
- The maximum building height in storeys standard.

The proposed variations are outlined in Table 2.

TABLE 2 – SENIORS SEPP DEVELOPMENT STANDARDS

STANDARD	SEPP REQUIREMENT	PROPOSAL	SEPP VARIATION	MAX RL	DA2013/0412 VARIATION
Height in metres	8m	Building A – 8m Building B – 10.5m Building C – 7.65m Building D – 8.8m Building E – 15.95m Building F – 14.52m	N/A 31.25% N/A 10% 99.3% 81.5%	32.00 31.00 26.80 31.00 39.65 38.95	3.2% 5.4% 1.1% 5% 1% 1%
Height in storeys	2 storeys	Building A – 3 storeys Building B – 3 storeys Building C – 3 storeys Building D – 3 storeys Building E – 5 storeys Building F – 5 storeys	1 storey 1 storey 1 storey 1 storey 2 storeys 3 storeys	N/A	Buildings A, B, C and D seek to vary the 3 metre upper level setback requirement. Buildings E and F comply with the maximum number of storeys.

The Seniors SEPP defines building height as follows:

“height in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.”

1.7 WHAT IS THE UNDERLYING OBJECT OR PURPOSE OF THE STANDARD?

Building height in metres

The Seniors SEPP does not state any objectives for the building height in metres standard. Therefore, the underlying objectives of the WLEP 2011 clause 4.3 ‘Height of buildings’ are used to assess the suitability of the proposed non-compliances.

4.3 Height of buildings

- (1) *The objectives of this clause are as follows:*
- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
 - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
 - (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
 - (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

Building height in storeys

Clause 40(4)(b) is clarified by the following note:

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

Therefore, the underlying purpose of the standard is clear.

Summary

The underlying objectives of the building height limit in metres and storeys is to manage the scale of any future built form in order to mitigate any adverse impacts to the character and amenity of the surrounding area.

Zone objectives

For completeness, the SEPP 1 objection will address the proposal's consistency with the objectives of the R2 zone, being:

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

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.

2 Is the Objection well founded?

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five different ways in which an objection to a development standard might be shown as unreasonable or unnecessary and is therefore well founded. The five ways are outlined below:

1. ***The objectives of the standard are achieved notwithstanding non-compliance with the standard.***
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The following section demonstrates that the proposed development will achieve the objectives and purpose of the standards notwithstanding the proposed non-compliances.

2.1 THE OBJECTIVES OF THE STANDARD ARE ACHIEVED NOTWITHSTANDING NON-COMPLIANCE WITH THE STANDARD

Building height in metres

(a) “to ensure that buildings are compatible with the height and scale of surrounding and nearby development;”

The height and scale of surrounding and nearby development

Generally,

- The character of the surrounding residential area is mixed in terms of bulk, scale and density, ranging from single detached dwellings to residential flat buildings of up to eight storeys high scattered through the locality between the Club site and Freshwater village centre.
- The existing built form condition of the surrounding development was recognised by the JRPP in their assessment of DA2013/0412. The minutes of the JRPP meeting held 12 September 2013 noted that:

“The club building is not alone in its surroundings to exceed the 8.5m height limit. To its south there are at least two buildings whose heights significantly exceed that of the club building.”

- The existing residential development in the surrounding area is generally fine grain in nature.

Carrington Parade & The Drive

The height and scale of the existing development along The Drive and Carrington Parade is generally 2-3 storeys detached residential dwellings with minimal side setbacks. It is noted that there is a 3 storey medium density residential flat building on the corner of Evans Street and The Drive.

Due to the significant rise in the topography on the north western side of Carrington Parade, the majority of the dwellings opposite the site sit above and overlook the site which increases their height and scale. This condition results in an inactive interface between the public domain along Carrington Parade and the existing residential development (refer to Figure 5).

The proposed development along Carrington Parade is compatible with the height and scale of the surrounding and nearby development for the following reasons:

- The proposal is a maximum height of three storeys which is consistent with the prevailing building height along Carrington Parade.
- The majority of the proposal sits below the maximum WLEP 2011 height limit of 8.5 metres.
- The proposal is setback and below the Carrington Parade street level which will reduce its apparent height. As a result, the proposal will generally be interpreted as a 2-3 storey development when viewed from Carrington Parade (refer to Figure 6 - Figure 9).
- The proposal has been articulated with heavily stepped facades with recessed breaks which break down the scale of the development and reflects the prevailing fine grain scale of the existing residential development along Carrington Parade (refer to Figure 6 and Figure 7).

FIGURE 6 – PROPOSED CARRINGTON STREET ELEVATION LOOKING NORTH



FIGURE 7 – PROPOSED CARRINGTON STREET ELEVATION LOOKING SOUTH



FIGURE 8 – CROSS SECTION THROUGH CARRINGTON PARADE

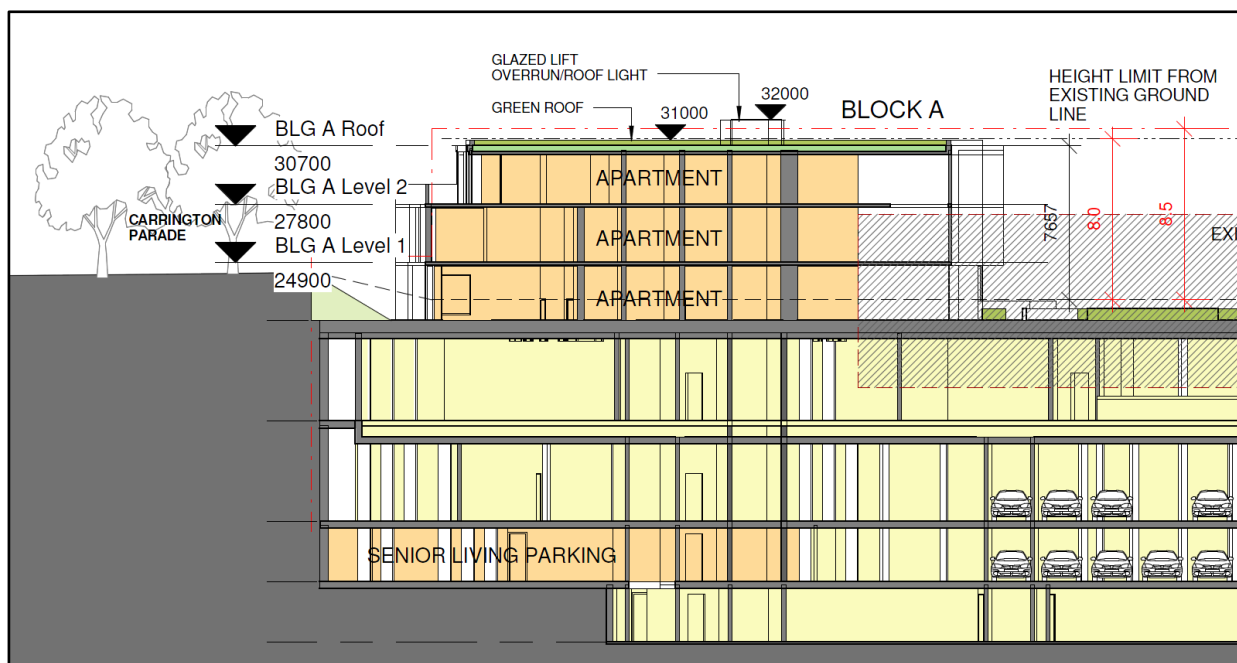


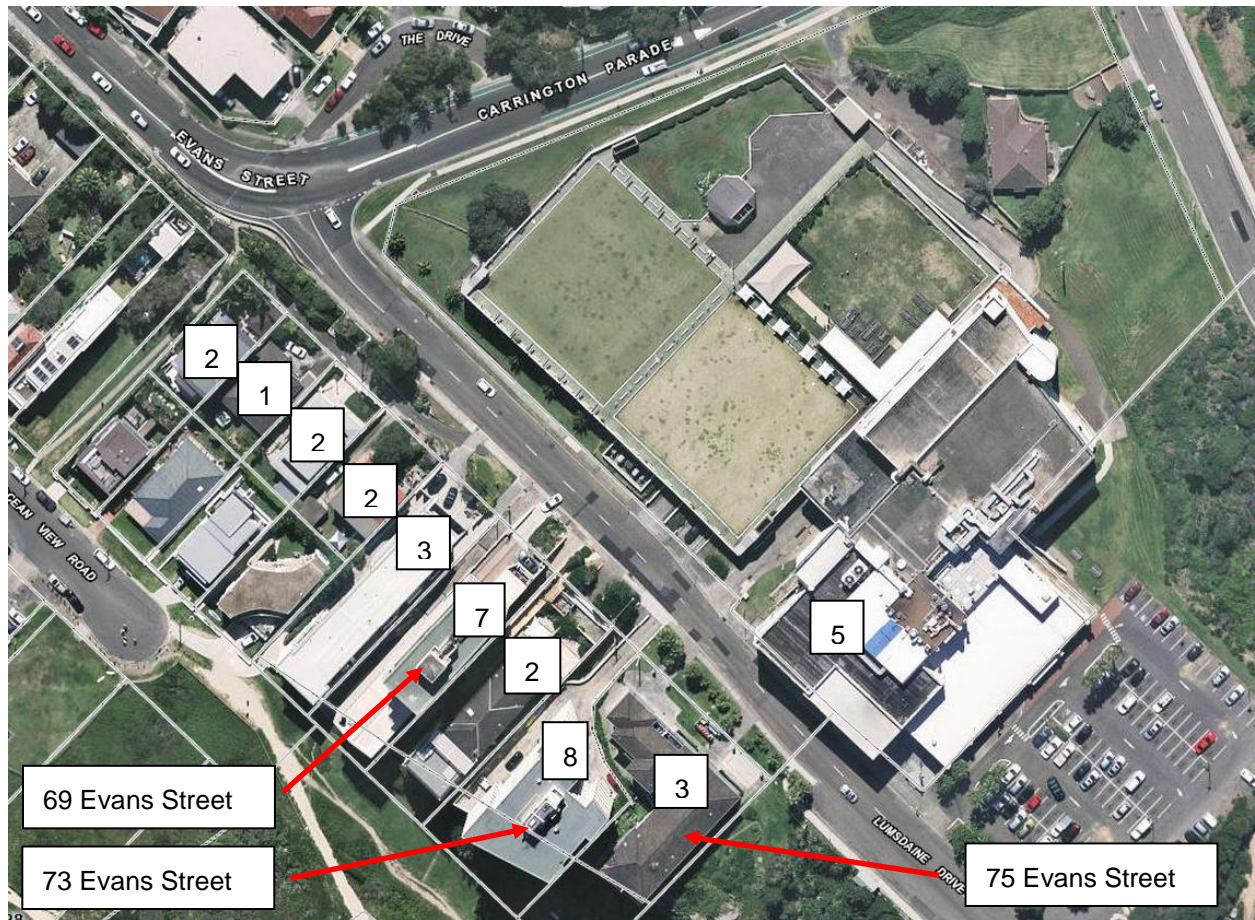
FIGURE 9 – CARRINGTON PARADE – PROPOSED ELEVATION



Evans Street

The height and scale along Evans Street is illustrated in Figure 10 below.

FIGURE 10 – EVANS STREET – BUILDING HEIGHT IN STOREYS



There are two residential flat buildings at the eastern end of Evans Street (73 and 69 Evans Street) which are significantly higher than the existing Club building and exceed the current built form controls for the zone. The high density residential flat buildings are adjoined by medium density residential flat buildings. There are minimal side setbacks between buildings and all the buildings sit on relatively narrow development lots. The height of the surrounding buildings reduces to the west along Evans Street which reflects the change in topography and the gully prior to the intersection with Carrington Parade.

The development pattern along Evans Street is generally fine grain with the exception of 75 Evans Street which has a greater street frontage in comparison to the surrounding development.

The existing scale of development transitions from high / medium density residential at the eastern end to low density residential towards the Carrington Parade intersection.

The proposed development along Evans Street is compatible with the height and scale of the surrounding and nearby development for the following reasons:

- Buildings E and F are formed from the adaptive re-use of the Club building which is an existing element of the locality. Whilst the proposed adaptive re-use maintains the existing height, it will result in a significantly reduced scale and bulk than the existing building envelope (refer to Figure 11).

- The proposal to create two buildings on the site of the existing Club building will result in a reduction of 24,840m³ in building volume to the existing condition. This represents an additional 2,010m³ reduction to the Stage 1 DA2013/0412 building envelope. As a consequence, the proposed scale will represent a significant reduction to the existing monolithic structure and will be responsive and compatible with the scale of the existing development on the southern side of Evans Street. The proposed reduction in scale is illustrated in Figure 11, and Figure 12 below.

FIGURE 11 – PROPOSED REDUCTION IN SCALE TO THE EXISTING CLUB BUILDING

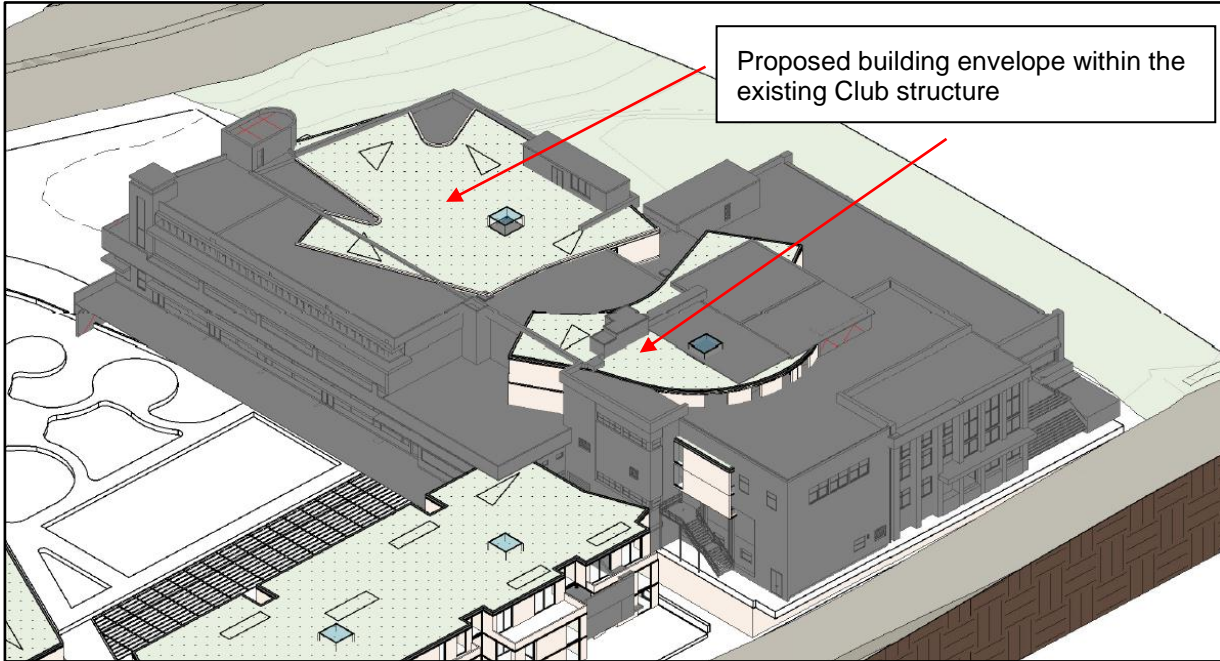


FIGURE 12 – EVANS STREET LOOKING WEST



Existing photograph



Stage 1 DA massing (approved)



Current proposal

- The proposed adaptive re-use of the Club building will result in a general improvement on building shadow and activation of the Evans Street frontage. The 6.5m setback from Evans Street contributes to reducing the building's perceived height and bulk, and its presence in the streetscape.
- The non-compliant part of Building D is setback from the street façade and results from the change in topography along Evans Street. There will be no discernible change in the built form of the building or presentation to Evans Street.
- As stated, Building D follows the topography of the land and steps down towards the Carrington Parade intersection. In this regard, the proposed height of Building D is responsive to the topography of the land and the lower density residential development on the southern side of Evans Street.
- The proposed Building D and E facades are articulated to reflect the fine grain nature of the development on the southern side of the street. The massing has been broken down to further reduce the bulk and scale of the building which increases their compatibility with the surrounding development.

(b) “to minimise visual impact, disruption of views, loss of privacy and loss of solar access;”

Visual impact and disruption of views

- A comprehensive Visual Impact Assessment has been prepared by Architectus and is submitted with the Development Application. The assessment analysed the visual impact of the proposed development on regional, suburban, immediate and private views. The findings of the assessment are summarised below:

Regional views

The proposal will have negligible to low impacts on regional views.

Suburban views

The proposal will have beneficial to low impacts on the majority of suburban views. The skyline view south upon approach from Carrington Parade will be moderately impacted. Notwithstanding the moderate impact to the existing view, the Visual Impact Assessment determined the visual impact to be acceptable as:

“The proposed development will enhance the view by being of higher architectural quality”

Immediate views

The proposal will have beneficial to moderate impact on immediate views. Two view immediate views that were considered by the assessment will be experience a moderate visual impact as a result of the proposed development. Notwithstanding the moderate impact to the existing views, the assessment concluded that the visual impact is acceptable as there are alternative locations to capture views and as stated above:

“The proposed development will enhance the view by being of higher architectural quality”

Private views

The proposal will have a beneficial to moderate impact on private views. Where moderate impacts are experienced the assessment concluded that the impacts were acceptable for the following reasons:

- The proposal will substantially reduce the building bulk of the existing Club building;
 - The proposal is below the WLEP 2011 maximum 8.5m height limit at the point where the view loss occurs;
 - The part of the proposal impacting on the view is of substantially lower height than the location where the view is obtained from; and
 - The proposal will be of higher architectural quality than the existing development on the site
- The proposed adaptive reuse of the existing club building results in significant alterations that will minimise the overall bulk and scale of the existing building by approximately 24,840m³. The reuse of this building ensures that existing views are not compromised and the alterations will enhance the views for some residents to the south in Evans Street through significant reductions to the building’s bulk.
 - The proposal will significantly increase visual permeability through the site from street level along all street frontages.

Loss of privacy

- The Residential Flat Design Code (RFDC) recommends that a minimum building separation of 12 metres is achieved between habitable rooms and balconies for buildings up to 4 storeys in height to maintain visual and acoustic privacy. Notwithstanding the roads, the existing vegetation and the topography of the land; Buildings A, B, C and D meet this requirement with regard to the nearest residential development.
- The RFDC recommends a minimum building separation distance of 18 metres is achieved between buildings 5 – 8 storeys in height. Building E meets this requirement.
- The separation distances between the proposal and the nearest dwellings within the surrounding area is outlined in below:

TABLE 3 – BUILDING SEPARATION TO SURROUNDING DEVELOPMENT

BUILDING	NEAREST DWELLING	DISTANCE (APPROX.)
A	22 The Drive	25m
B	22 The Drive	22m
C	51 Evans Street	43m
D	67 Evans Street	40m
E	75 Evans Street	39m
F	N/A	N/A

- The site has no side or rear boundaries to existing residential dwellings or land zoned for residential use – there are no opportunities for overlooking into the back yards of the surrounding residential development.

Loss of solar access

Shadow diagrams of the existing and proposed development have been prepared by Architectus and have been submitted with the Architectural Drawings. The shadow diagrams demonstrate that the proposal will increase the amount of solar access to 75 Evans Street at 9am on 21 June.

The shadow diagrams demonstrate that the proposal will not reduce solar access to any of the surrounding properties.

(a) “to minimise any adverse impact of development on the scenic quality of Warringah’s coastal and bush environments,”

The site is located on a visually prominent coastal headland. The proposal will have a positive impact on the surrounding coastal environment for the following reasons:

- The proposal will significantly reduce the bulk of the existing Club building and the bulk approved under DA2013/0412. The significant reduction in bulk will open up the site to the headland and increase visual permeability and connections through the site to the ocean and the surrounding landscape.
- The architectural treatment and modulation of the proposed built form responds to the headland location. Buildings E and F address the ocean and the headland and their facades follow the natural curve of the headland.

- The public outdoor areas are defined by extending the low bushland character of the Curl Curl cliff face and headland and provide an extension of the natural environment by providing protected and exposed spaces.
- The Visual Impact Assessment undertook view analysis from the following locations within the coastal environment:
 - North Curl Curl Parking Area;
 - Curl Curl Beach;
 - Manly Beach;
 - Freshwater Reserve;
 - Freshwater Pool Parking Area; and
 - Carrington Parade Coastal Footpath.

The visual impact of the proposal on the scenic quality of the coastal environment was generally assessed to be beneficial, negligible or low. The view from the Carrington Parade footpath was assessed to be moderate. However, the moderate visual impact created by the proposal is considered to be acceptable due to the significant improvement in the architectural quality of the proposed buildings.

(b) “to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.”

The Visual Impact Assessment has demonstrated that the proposal will have an acceptable visual impact when viewed from public places at the regional, suburban and local scale.

Building height in storeys

“The purpose is to avoid an abrupt change in the scale of development in the streetscape.”

The proposal seeks approval for three storey buildings along Carrington Parade and Evans Street (Buildings A, B, C and D) and five storey buildings on Evans Street and at the boundary with Mackillop Park (Buildings E and F).

The following discussion addresses the Carrington Parade and Evans Street streetscapes in turn.

Carrington Parade

The existing Carrington Parade streetscape opposite the site is primarily a landscaped interface at the street level. The existing residential development is setback and above and beyond Carrington Parade with access from The Drive. It generally comprises 2-3 storey detached residential dwellings with minimal side setbacks. The land rises steeply to the north along The Drive and the existing development to the north west has no immediate physical or visual connection to Carrington Parade.

The proposal will not result in an abrupt change in the scale of the Carrington Parade streetscape. It has been demonstrated above that the proposed development is compatible with the existing streetscape and will generally reflect the desired future character for the street when viewed from the Carrington Parade public domain.

Evans Street

The development pattern along Evans Street is generally fine grain with the exception of 75 Evans Street which has a greater street frontage in comparison to the surrounding development.

The existing scale of development transitions from high / medium density residential at the eastern end to low density residential towards the Carrington Parade intersection. The proposal will not result in an abrupt change in the scale of the Evans Street streetscape for the following reasons:

- The proposed adaptive re-use of the existing Club building will improve the relationship of scale between the site and the surrounding development.
- It has been demonstrated above that the proposed development on Evans Street is compatible with the existing built form on the opposite side of Evans Street.

Zone objectives

The following is an assessment of the proposed non-compliance with the height standards against the underlying objectives of the R2 zone.

- The proposal will involve the diversification of uses on the site, broadening the current private recreation focus of the site to include seniors living units and a new registered club facility. The proposal also includes a wider variety of community facilities, including long day care centre and youth centre, and indoor recreation in the form of a gymnasium and aquatic centre as an associated use of the Club.
- Whilst the proposal meets the objectives of the R2 zone, the surrounding development and the existing built form on the site does not wholly reflect the underlying intentions of the zone. Therefore it is considered unreasonable to expect new development on the site to wholly reflect the underlying objectives of the R2 zone.
- Our analysis of building forms in the locality (as shown in Figure 3 below) demonstrates the diverse mix of development in the locality. Of the total area shown in Figure 4, only 59.1% is low density residential land use, with 40.9% consisting of medium and high density residential and commercial development.

FIGURE 13 – EXISTING CHARACTER OF THE LOCALITY



- In respect of the proposal, the scale, bulk and character of development more accurately reflects the existing built form on site (in an improved format) and the scale and character of medium to high density development adjacent the site to the south in Evans Street (up to 8 storeys when viewed from Evans Street), and the wider locality.
- In light of the diverse mix of uses and scales of existing development within the R2 Zone in the locality, it is considered that the objectives of the R2 zoning of the site, and the surrounding locality do not accurately reflect the overall existing character of the area, and nor is it ever likely to.
- The Site Compatibility Certificate (SCC) issued for the site acknowledges that the site is capable of more intensive development accommodating up to 125 seniors living apartments.
- As critical mass is required for operational and service efficiencies for seniors living occupancy, it is not uncommon for seniors housing developments to be different in character, form and scale to the types of development generally envisaged in R2 Low Density Zones. Accordingly, having regard to the existing scale of the Club building and development on neighbouring sites, the proposed built form and relationship to the streetscape of the seniors housing along Carrington and Evans Street is considered to be appropriate to the context and locality of the site, and an acceptable urban design outcome.
- The proposal is to be built to relatively low levels (especially in comparison to adjacent development to the south) and responds to the site's elevation and topography, and will be compatible with the character and uses of the immediate surrounding area.

- The proposed development contributes to providing housing on a site that is suitable for and capable of a more dense development. The proposed built form is not out of character with the surrounding environment, or the immediate locality.
- The proposed landscaping across the site will contribute to softening the appearance of the proposed built form and is in character with the surrounding headland environment.
- The headland site consists primarily of heathland vegetation. The proposed landscaping of this site will include the provision of heathland planting to contribute to the existing character of the headland environment. Heathland planting does not generally require generous depth of soil, and when consideration is given to the sandstone subsurface of the site, heathland planting is appropriate for the site. The provision of heathland planting and other types of vegetation will contribute to softening the visual appearance of the proposed development.

Summary

This objection is considered to be well founded for the following reasons:

- The proposed development is clearly consistent with the objectives of the height standards.
- The character of the surrounding area and the existing built form of the site does not wholly reflect the underlying objectives of the R2 zone.
- The proposal is entirely consistent with the underlying objectives or purposes of the height standards.
- The height and reduced bulk of Buildings E and F will not obscure any existing significant views.
- Strict compliance with the standards would hinder the achievement of the objects of the EP&A Act.
- No unreasonable impacts are associated with the proposed variation.
- The existing club building has a height of 15.8m and 5 storeys. Compliance with the 8m maximum height would not allow a reasonable level of scale required to provide seniors housing and the other community uses proposed.

3 Granting Consent is Consistent with the Policy's Aims

The Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the EP & A Act.

Section 5(a)(i) & (ii) of the EP&A Act states that the objects of the Act are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

Compliance with the objects of the Act specified above will be hindered by strict compliance with the development standard under the Seniors SEPP for the following reasons:

- The orderly and economic use of land is hindered by compliance with the height standards in that compliance does not allow for the particular attributes of the site. These attributes include the height and scale of existing development on the site, the varying topography of the site, and the existing mixed density character of the site and its surrounds.
- The proposed development will provide positive social outcomes through the provision of onsite housing and care facilities, and strict compliance with the height standard will impact on the provision of these services that are in demand within the locality. Compliance with the height standards for Buildings E and F would reduce the offer of seniors housing and associated care and support, in an area where demand for this type of housing and services exists, as detailed in the SEE.
- The existing Club building height already exceeds the height standards (being 15.8m and 5 storeys). In addition development to the south of the site fronting Evans Street exceeds the 15.8m height of Building D (5 storeys) by up to 3 more storeys.
- This SEPP 1 objection has been prepared having regard to the aims and objectives contained in clause 3 of SEPP 1. Flexibility in the application of planning controls in relation to this proposal is required, and the strict compliance with the height standards of the Seniors SEPP and the Warringah LEP 2011 would be unreasonable and unnecessary. Furthermore in accordance with clause 7 of SEPP 1 it is considered that the objection is well founded and the granting of consent to the application is consistent with the aims of the Policy.

4 Consideration of Clause 8 of the SEPP 1

The matters which shall be taken into consideration in deciding whether concurrence should be granted are:

- (a) Whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning; and*
- (b) The public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

It is not considered that the non-compliance with the height standards raises any matter of significance for State or regional environmental planning. The proposal provides a diversification of uses on the site, broadening the current private recreation focus of the site to include seniors living units and a new registered club facility. Additionally the proposal provides for new community facilities for the future occupiers of the seniors housing, and the wider community.

The non-compliance with the height controls contributes to the proposal being compatible with the scale and height of existing development on site and with the surrounding area and would not be out of character. Aside from the public benefit of providing a diversification of land uses on the site, the proposal will significantly improve the visual appearance of the site, and reduced the overall bulk and appearance of the existing development. This will therefore result in improved views across the site from some surrounding properties.

The concurrence of the Director-General is assumed in accordance with Planning Circular PS 08-003 dated 9 May 2008.

5 Clause 4.6 of Warringah LEP 2011

- For the reasons outlined above in Section 2, in accordance with the clause 4.6(3)(a) of WLEP 2011, compliance with the development standard in clause 4.3 of WLEP 2011 is unreasonable or unnecessary in the circumstances of the case.
- In relation to WLEP 2011 clause 4.6(3)(b) there are sufficient environmental planning grounds to justify contravening the height standard in WLEP 2011, as follows:
 - The proposal seeks to adaptively reuse the existing building in a reduced scale and form;
 - The proposed scale, bulk and height of the proposal is consistent with the character of the surrounding area;
 - The development meets the objectives of the relevant WLEP 2011 building height standard and the objectives of the R2 low density zone;
 - The proposal will result in minimal visual impacts, and improves and maintains the existing views of surrounding occupiers;
 - The proposed reduced scale of the Club building will improve the level of solar access to the site, and the surrounding locality; and
 - There are significant levels of public benefit related to the development of the site, and the retention of the height of the existing Club building.
- In accordance with clause 4.6(4)(a) the JRPP can be satisfied that this written request adequately addresses the matters required to be demonstrated by clause 4.6(3) of WLEP 2011.
- In accordance with clause 4.6(4)(b) of the WLEP 2011, the JRPP can be satisfied that the proposed development will be in the public interest because:
 - It is consistent with the objectives of the height standards in clause 4.3 of WLEP 201, the purpose of clause 40(4)(b) of the Seniors SEPP and the objectives of the R2 low density zone as outlined in Section 2 above;
 - The proposal is compatible with the scale and height of existing development on the site and with the surrounding area and would not be out of character;
 - The diversification of uses on the site, broadening the current private recreation focus of the site to include seniors living units and a new registered club facility is considered positive to the locality;
 - The provision of seniors housing in a locality where demonstrable demand exists;
 - The provision of community facilities to serve the residents of the site, and the surrounding locality; and
 - An improved visual appearance and outlook to the site, on a more reduced scale.

The concurrence of the Director-General required by clause 4.6(5) of WLEP 2011 is assumed in accordance with Planning Circular PS 08-003 dated 9 May 2008.

6 Conclusion

It is requested that Council support the variation to Clause 40 (4)(a) and (b) of the Seniors SEPP pursuant to SEPP 1 for the following reasons:

- Strict compliance with the standards 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 objectives of the height standards.
- No unreasonable environmental impacts are introduced as a result of the proposal.

The JRPP could be satisfied that the SEPP 1 obligation is well founded and that the granting of consent to the development application is consistent with the aims of the Seniors SEPP as set out in clause 3.

The JRPP could also be satisfied as to the matters in clause 8 of SEPP 1.

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