

Proposal: The proposal is for the demolition of existing structures, services diversions, excavation, remediation (if required), other preparatory site works as required, and the erection of a part two-storey, part three-storey Residential Aged Care Facility comprising two distinct sections, (each of which will be constructed in a separate stage), which together will contain 279 beds, associated basement parking and related facilities. Landscaping, drainage, signage and other related works are also proposed. The construction of the Residential Aged Care Facility will be undertaken in two stages. The proposal also involves the subdivision of the land into two lots and the dedication and construction of a public road.

Location: Lot 2 in DP 833184 and is known as 13 Booralla Road, Edensor Park.

Owner: Melaleuca Ventures Pty. Ltd.

Proponent: Melaleuca Ventures Pty. Ltd.

Capital Investment Value: \$49,217,000

File No: DA 117.1/2016

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Fairfield City Council

SUPPORTING DOCUMENTS

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| AT-A | Site, Architectural, Landscape and Subdivision Plans | Pages 11 |
| AT-B | Statement of Environmental Effects | Pages 84 |
| AT-C | Acoustic Report | Pages 46 |
| AT-D | Traffic and Parking Assessment Report | Pages 14 |
| AT-E | Stage 2 Environmental Site Assessment (Land Contamination) | Pages 185 |
| AT-F | Compliance with the requirements of Housing for Seniors or People with a Disability SEPP 2004 | Pages 16 |
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EXECUTIVE SUMMARY

Pursuant to Schedule 4A of the Environmental Planning & Assessment Act 1979 the proposal has been referred to the Regional Planning Panel because the proposed development has a capital investment value of more than \$20 million.

The proposal is for the demolition of existing structures, services diversions, excavation, remediation (as required in the Stage 2 Detailed Site Investigation prepared by SLR

Consulting), other preparatory site works as required, and the erection of a part two-storey, part three-storey Residential Aged Care Facility (RACF) comprising two distinct sections, (each of which will be constructed in a separate stage), which together will contain 279 beds, associated basement parking and related facilities. Landscaping, drainage, signage and other related works are also proposed.

It is intended that the proposal will be constructed in two stages, as follows:-

- Stage 1 – The northern portion of the RACF, the missing section of Sweethaven Road and the access from Scarcella Place; and
- Stage 2 – The southern portion of the RACF.

It is also proposed to subdivide the site into two lots and two public road reserves, comprising:-

- Lot 1 – an area of 729.13m², which will comprise the residual lot;
- Lot 2 – an area of 12,577.13m², which will comprise the residential care facility;
- Public Road – an area of 1,982.44m² to connect the existing sections of Sweethaven Road.
- Public Road – an area of 481.65m² for a new cul-de-sac head in Scarcella Place

The subject land is located within the suburb of Edensor Park with frontage to five roads, being Sweethaven Road; Booralla Road; Scarcella Place; Crestani Place; and Furci Avenue. The surrounding land was subdivided in the early 1980's into low density residential allotments which now contain one and two storey dwelling houses. The subject land is a large residue allotment and contains a two storey dwelling with associated outbuildings but is otherwise cleared. Sweethaven Road is a local collector road which terminates at the northern and southern boundaries of the site.

As part of the development application, the applicant has formally written to Council to advise that they wish to enter into a Voluntary Planning Agreement to construct the "missing link" of Sweethaven Road. The Applicant proposes to construct the full width of approximately 150 metres of road, kerb and gutter, and associated drainage as well as dedicating the land subject to the road reserve in lieu of paying the Section 94A contribution of \$492,170.

As the Section 94A development contribution of \$492,170.00 is significantly less than the proposed works and land dedication, there is a significant public benefit to undertake the VPA and offset development contributions. This is not an unusual practice, particularly where there is a significant community benefit, as is the case with this proposal.

Council at its Ordinary Meeting of the 23rd May 2017, resolved to accept the offer made by Melaleuca Ventures Pty Ltd and enter into the Voluntary Planning Agreement associated with the redevelopment of the subject site.

The site is zoned R2 Low Density Residential under the provisions of Fairfield LEP 2013. The site is therefore land that is zoned primarily for urban purposes. As the site is not "environmentally sensitive land", as listed in Schedule 1 of the Housing for Seniors or People with a Disability SEPP 2004, the provisions of the SEPP apply. The proposed development is defined as a "residential care facility" (RACF) under the SEPP and is a permissible land use.

The applicant has requested variations under Clause 4.6 (exemptions to Development Standards) of Fairfield Local Environmental Plan 2013, as shown below:

- i. Clause 4.6 variation request prepared in relation to the “maximum height of all buildings” standard in Clause 40(4)(a) of the Seniors Housing SEPP
- ii. Clause 4.6 variation request prepared in relation to the “maximum height permitted for a building that is adjacent to a boundary of the site” standard in Clause 40(4)(b) of the Seniors Housing SEPP
- iii. Clause 4.6 variation request prepared in relation to the “maximum height permitted for a building located in the rear 25% of the site” standard in Clause 40(4)(c) of the Seniors Housing SEPP

The variations to the above development standards are supported for the reasons stated in the body of this planning report.

This assessment of the application has considered all relevant requirements of Section 79C of the Act and finds that there will be no significant adverse or unreasonable impacts associated with the development.

As demonstrated in the compliance table in Attachment F to this report, the proposed development achieves compliance with the provisions of the Housing for Seniors or People with a Disability SEPP 2004.

Furthermore, it is considered that the development has been conceived having regard to surrounding residential development. In doing so, it is considered that the development has provided appropriate separation from surrounding residential properties and the built form, bulk and scale, and height appropriately responds to neighbouring properties so that the development is unlikely to result in any adverse impact upon neighbouring residential properties. The aged care facility has been designed and sited to have minimal impact on the environment.

Conditions will be imposed to minimise construction impacts and ongoing use of the site for residential purposes.

The application was advertised and notified in accordance with Council’s policy. Six letters objecting to the proposal as well as one letter of support were received as a result of the notification process. There are no issues raised by the public that warrant refusal of the application. Certain areas of concern raised in the submissions can be addressed by conditions of development consent.

Accordingly, it is recommended that the application be approved subject to conditions.

SITE DESCRIPTION AND LOCALITY

The subject land is located within the suburb of Edensor Park with frontage to five roads, being Sweethaven Road; Booralla Road; Scarcella Place; Crestani Place; and Furci Avenue.

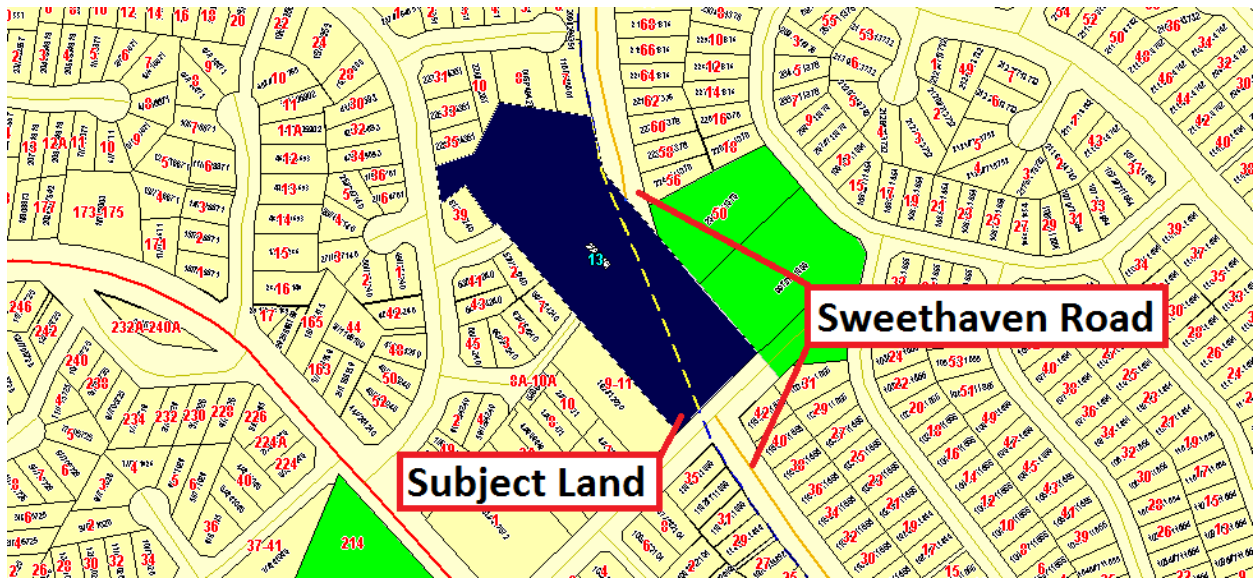


Figure 1 Site Location

The subject land (Lot 2, DP 833184) has an area of 1.577 hectares with the following approximate frontages:-

- 88 metres to Sweethaven Road;
- 70 metres to Booralla Road;
- 8 metres to Crestani Place;
- 16 metres to Scarcella Place; and
- 24 metres to Furci Avenue

The surrounding land was subdivided in the early 1980's into low density residential allotments which now contain one and two storey dwelling houses. The subject land is a large residue allotment. Sweethaven Road is a local collector road which terminates at the northern and southern boundaries of the site.

The site currently contains a two storey dwelling with associated outbuildings but is otherwise cleared.

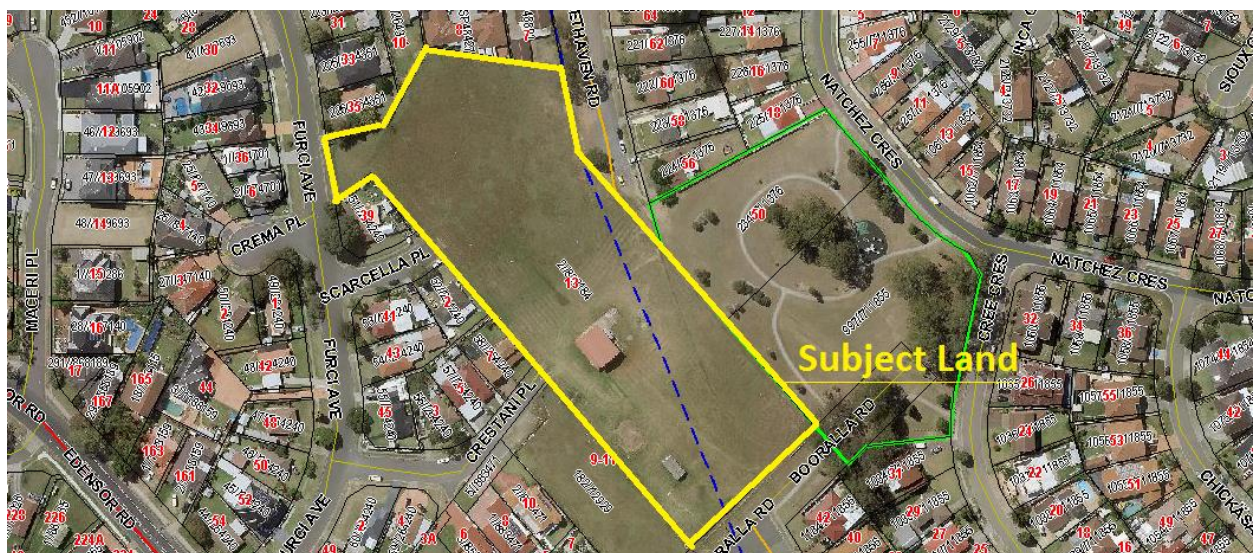


Figure 2 Aerial photograph of the subject land and surrounds

The site slopes from east to west and from north to south with a fall of approximately:-

- 4.5 metres between Sweethaven Road and Furci Avenue;
- 4 metres between Natchez Park and Crestani Place; and
- 3.6 metres between the northern and southern parts of the site.

PROPOSAL

The proposal is for the demolition of existing structures, services diversions, excavation, remediation (as required in the Stage 2 Detailed Site Investigation prepared by SLR Consulting), other preparatory site works as required, and the erection of a part two-storey, part three-storey Residential Aged Care Facility (RACF) comprising two distinct sections, (each of which will be constructed in a separate stage), which together will contain 279 beds, associated basement parking and related facilities. Landscaping, drainage, signage and other related works are also proposed.

It is intended that the proposal will be constructed in two stages, as follows:-

- Stage 1 – The northern portion of the RACF, the missing section of Sweethaven Road and the access from Scarcella Place; and
- Stage 2 – The southern portion of the RACF.

The precise timing of each of these stages is not yet known. However, it is probable that Stage 1 will be complete before Stage 2 commences;

A level-by-level description of the proposal is provided below:-

Basement

- 29 visitor car parking spaces with foyer/lift access;
- 43 staff car parking spaces – separated from the visitor parking area by security gates;
- an ambulance bay;
- bus (20 seater) parking bay;
- storage spaces;
- OSD tank and pump room; and
- two delivery bays.

Lower Ground Floor

- Back-of-house facilities, which are partly underground, including laundry, kitchen, staff
- change rooms and amenities, training rooms and storage areas. (Access to these areas will be restricted to staff only);
- 32 high-care beds;
- 51 dementia care beds;
- common areas;
- landscaping; and
- vehicular access/egress to/from Scarcella Place.

Upper Ground Floor

- Construction of the missing section of road to join the northern and southern sections of Sweethaven Road and dedication of the new section of road to Council subject to the Voluntary Planning Agreement (VPA);

- vehicular access and egress from Sweethaven Road to the basement car park including a drop off/pick up point;
- 87 high-care beds;
- 38 dementia care beds;
- common areas; and
- landscaping.

First Floor

- 71 high-care beds; and
- common areas.

It is also proposed to subdivide the site into two lots and two public road reserves, comprising:-

- Lot 1 – an area of 729.13m², which will comprise the residual lot;
- Lot 2 – an area of 12,577.13m², which will comprise the residential care facility;
- Public Road – an area of 1,982.44m² to connect the existing sections of Sweethaven Road.
- Public Road – an area of 481.65m² for a new cul-de-sac head in Scarcella Place

PLANNING ASSESSMENT

The development has been assessed in accordance with the matters for consideration under Section 23G and 79C of the Environmental Planning and Assessment Act 1979 as follows:

1. Section 23G - Joint Regional Planning Panels

Under Section 23G of the Environmental Planning and Assessment Act 1979, the functions of Council are conferred to a regional panel if stipulated under an environmental planning instrument. As the proposal is a class of development described in Schedule 4A of the EP&A Act, being a development that has a capital investment value of more than \$20 million, Part 4 of the State and Regional Development SEPP applies to the development application (DA). Under Part 4 of the SEPP the Council's consent function is exercised by the Sydney South West Regional Planning Panel (SSWRPP).

2. Section 79C(1)(a)(i) – Any Environmental Planning Instrument

2.1 Greater Metropolitan Regional Environmental Plan No 2— Georges River Catchment.

The general principles of the Deemed SEPP – Georges River Catchment are as follows:-

*“(a) the aims, objectives and planning principles of this plan,
 (b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,
 (c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,
 (d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the*

Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments), (e) the Georges River Catchment Regional Planning Strategy (prepared by, and available from the offices of, the Department of Urban Affairs and Planning), (f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice, (g) whether there are any feasible alternatives to the development or other proposal concerned.”

The proposed development is considered to satisfy the above principles in the following manner:-

- the proposed development is not inconsistent with the aims, objectives and planning principles of the deemed SEPP; and
- the stormwater system for the proposed development will not permit export of sediment from the site and into the Georges River, thus reducing the impacts on the Georges River and its tributaries.

2.2 State Environmental Planning Policy No 55—Remediation of Land

A Stage 1 Environmental Site Assessment (ESA) was prepared by SLR Consulting for the site and the Stage 1 ESA concluded that there was evidence of asbestos contamination near the surface on site in some isolated locations.

Given the above, SLR Consulting Pty Ltd (SLR) was engaged by Melaleuca Ventures Pty Ltd to prepare a Stage 2 Detailed Site Investigation for the site. The conclusions of the Stage 2 investigation are as follows:

- Potential for the site soils to contain significant, widespread contamination is low to negligible. SLR considers that the contamination status of the soils are unlikely to pose an unacceptable risk to human health, in the context of the proposed residential land use;
- SLR considers that the site is suitable for the proposed residential land use, subject to the following recommendations being addressed at the construction phase.
- SLR recommends that the following be conducted prior to site clearing works, to minimise the contamination risk to construction workers and site users:
 - a) The removal of fragments of fibrous cement sheeting observed along the site surface along the boundaries; and
 - b) The removal of asbestos impacted surficial soils at TP20 (on a 5m radius around the location of TP20, to a depth of 200mm).

The SLR recommendations can be covered as conditions of development consent.

2.3 State Environmental Planning Policy No 64—Advertising and Signage

One building identification sign is proposed. This SEPP applies because the proposed signage is considered to be "business identification signage". The proposal complies with the requirements of SEPP No. 64 - Schedule 1 as shown in Attachment G.

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

The Seniors Housing SEPP applies to land in New South Wales that is zoned primarily for urban purposes or that adjoins land zoned primarily for urban purposes, and on which development of any of the following is permitted:-

- dwelling houses;
- residential flat buildings;
- hospitals; and
- development of a kind identified in respect of land zoned special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries.

The site is zoned R2 Low Density Residential under the provisions of Fairfield LEP 2013. The site is therefore land that is zoned primarily for urban purposes. As the site is not “environmentally sensitive land”, as listed in Schedule 1 of the Housing for Seniors or People with a Disability SEPP 2004, the provisions of the SEPP apply.

The proposed development is characterised as a “residential care facility”, which is a form of seniors housing defined in Clause 11 of the Seniors Housing SEPP as follows:

*a **residential care facility** is residential accommodation for seniors or people with a disability that includes:*

- (a) meals and cleaning services, and*
- (b) personal care or nursing care, or both, and*
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.*

The proposed “residential care facility” (RACF) is consistent with this definition.

The Statement of Environmental Effects submitted in support of the application has provided an analysis of compliance with the provisions of the SEPP. The proposal complies with the requirements of the Senior Housing SEPP as shown in Attachment F.

2.5 Fairfield Local Environmental Plan (LEP) 2013

The site is zoned R2 Low Density Residential pursuant to the Fairfield LEP 2013.

The objectives of the R2 Low Density Residential are as follows:-

- 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.”

The proposal is consistent with these objectives.

Fairfield LEP 2013 contains a number of clauses that are relevant to the assessment of the proposal:

2.5.1 Minimum Subdivision Lot Size (Clause 4.1)

Pursuant to Clause 4.1 of FLEP 2013 the site has a minimum subdivision lot size of 450m². The two lots proposed under the subdivision of the site are each in excess of

450m² (Lot 1 has an area of 729.13m² and Lot 2 has an area of 12,577.13m²). The proposal complies with Clause 4.1

2.5.2 Height of Buildings (Clause 4.3)

Pursuant to Clause 4.3 of FLEP 2013 the site has a maximum “building height” of 9 metres.

“Building height” is defined under FLEP 2013 as:-

“the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The above definition of “building height” in FLEP 2013, differs from the definition of “height” in the Seniors Living SEPP, which is as follows:-

“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.”

The proposed development complies with the 8 metre height limit imposed on the site under the Seniors Living SEPP, except for a non-compliance in the multi-function room on the first floor. This non-compliance is discussed in Section 2.5.4 of this report.

2.5.3 Floor Space Ratio (FSR) (Clause 4.4)

Pursuant to Clause 4.4 of FLEP 2013 the site has a maximum FSR of 0.45:1. The proposed development has an FSR of 0.875 :1 and complies with the 1:1 FSR requirement under the Seniors Living SEPP. The provisions of the SEPP override the LEP in these circumstances.

2.5.4 Exceptions to development standards (Clause 4.6)

Any departures from the development standards within the Seniors Housing SEPP require a Clause 4.6 variation request under FLEP 2013 rather than a SEPP 1 Objection. The applicant has provided the following;

- Clause 4.6 variation request prepared in relation to the “maximum height of all buildings” standard in Clause 40(4)(a) of the Seniors Housing SEPP
- Clause 4.6 variation request prepared in relation to the “maximum height permitted for a building that is adjacent to a boundary of the site” standard in Clause 40(4)(b) of the Seniors Housing SEPP
- Clause 4.6 variation request prepared in relation to the “maximum height permitted for a building located in the rear 25% of the site” standard in Clause 40(4)(c) of the Seniors Housing SEPP

“Maximum height of all buildings”

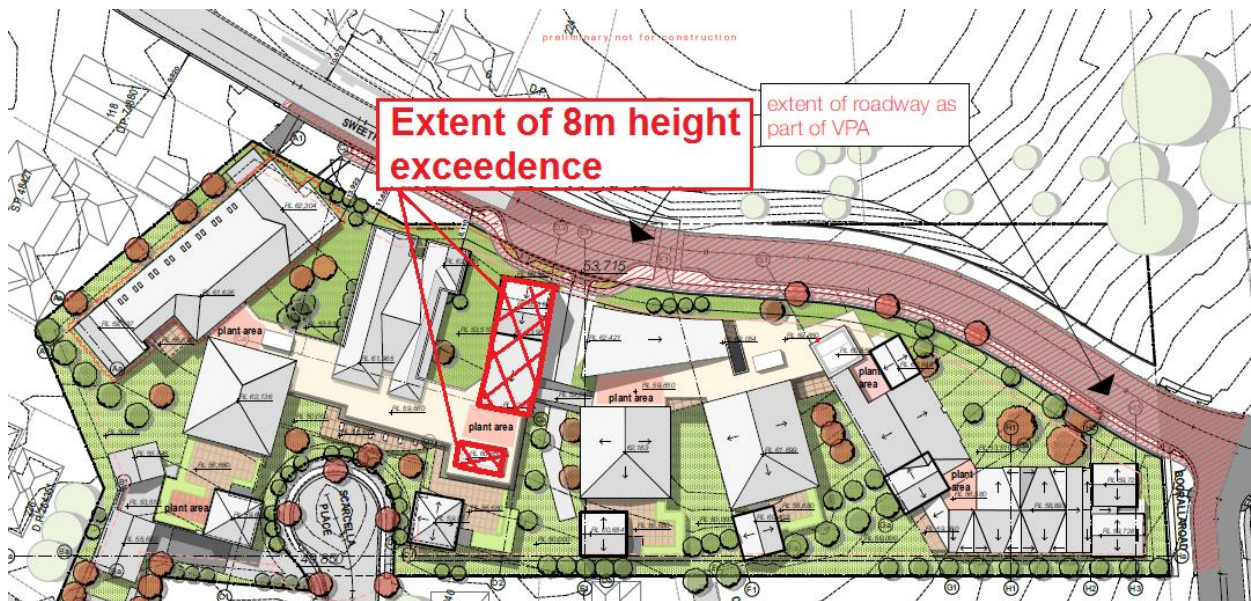
“Height, in relation to a building” is defined under Seniors Living SEPP as:-

“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.”

Clause 40(4)(a) of the SEPP imposes a height limit, for all buildings in the proposed development, of 8 metres or less.

The proposed development complies with this development standard, except for the limited areas above the tea room and the multi-function room on the first floor.

The height of the ceiling in the tea room is 8.674 metres, a non-compliance of 674mm. The height of the ceiling in the multi-function room varies, due to the pattern of the ceiling and the slope of the land, from below 8 metres to a maximum height of 11.379 metres, a non-compliance of 3.379 metres. These non-compliances are shown below.



The applicant has lodged a Clause 4.6 variation request and addressed the relevant heads of consideration contained within the clause.

The applicant has advised that the non-compliance in the tea room is as a result of a clerestory window in this location, to provide improved solar access. The additional height in the multi-function room is located above the reception area and not only acts as an entry feature for the entire development but the additional height also facilitates improved solar access into the room which will be used by most residents within the RACF for activities and religious services.

The applicant has argued that strict compliance with the development standard in Clause 40(4)(a) of the Seniors Housing SEPP is considered to be unreasonable and

unnecessary in the circumstances of the case because the purpose of the standard is to minimise amenity impacts of overshadowing and overlooking on adjoining dwellings and their “private open spaces” and to maintain a low scale residential form. In the circumstances of this case, the applicant contends that the proposed development meets the underlying objectives of the development standard for the following reasons:-

- the location of the non-compliance within the multi-function room is adjacent to a park and is well removed from any adjoining residential development;
- the non-compliance within the tea room is associated with a clerestory window which is also well removed from any adjoining residential development;
- the part of the proposed development that does not comply with the 8 metre height limit still provides an appropriate built form in the context of the proposal overall and in the surrounding context; and
- the non-compliance will have no effect on overshadowing impacts of adjoining properties between 9am and 3pm in mid-winter.
- the civic role of the facility and relationship to the park and surrounding suburb requires a significant marker to define and mark the main entry and provide a focal point within the development to facilitate gathering and community.

The applicant’s arguments summarised above are supported.

The non-compliance with the 8 metre height standard is limited to one location within the proposed development and is restricted to a small area in the context of the overall development. The multi function room will be the most regularly used facility within the development as it provides a space for large group events and religious ceremonies. The height exceedance in the function room will provide improved light and natural ventilation for the large gathering space that will regularly accommodate large numbers of residents and their families for special events.

The increased height in this part of the development will act as a landmark and will provide a signal to the local community that the development has a distinct and special residential function.

“Maximum height permitted for a building that is adjacent to a boundary of the site”

The standard relating to the “maximum height permitted for a building that is adjacent to a boundary of the site”, to which this Clause 4.6 variation request relates, is that imposed by Clause 40(4)(b) of the Seniors Housing SEPP.

Clause 40(4)(b) of the states that:- *“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”*.

The purpose of the above clause is to avoid an abrupt change in the scale of development in the streetscape.

The applicant has lodged a Clause 4.6 variation request and addressed the relevant heads of consideration contained within the clause.

The applicant has advised that the proposed development is two storey above ground level, adjacent to the boundaries of the site. However, a third “storey”, if using the definition of storey in FLEP 2013, is located below ground. To avoid any technical non-compliance, a Clause 4.6 variation has been lodged objecting to this standard.

The applicant contends that:

- the alleged non-compliance would be a technical one, which is based on the definition of “storey”. Clearly the intention of the clause is to ensure that no more than 2 storeys of building, above ground, are proposed adjacent to a boundary. The proposal complies with this intention;
- the development is appropriate in this location;
- the development does not undermine the underlying objective of the standard because it satisfactorily addresses and deals with the interrelationship of scale with neighbouring properties to the north and west;
- the non-compliance does not result in any significant adverse environmental impacts on the amenity of the surrounding area in general, on the amenity of nearby residential properties in particular or the streetscape; and
- the scale of the proposal, notwithstanding the non-compliance, is compatible with surrounding development.

The applicant’s arguments are supported as the proposed development has a two storey element above ground level, adjacent to the boundaries of the site and complies with the intent of Clause 40(4)(b) of the Seniors Housing SEPP . There are sufficient environmental planning grounds to justify any alleged non-compliance, and the proposal is in the public interest because it is consistent with the objectives of both the “maximum height permitted for a building that is adjacent to a boundary of the site” standard in the Seniors Living SEPP and with the zoning for the land (and the zone objectives) under Fairfield LEP 2013.

“Maximum height permitted for a building located in the rear 25% of the site

Clause 40(4)(c) states:

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

The site does not contain a “rear 25% area” given that it has five street frontages. All of the five streets to which the site has frontages are standard public roads, albeit some are in the form of cul-de-sacs. All adjoining dwelling houses to the subject land, along each of the road frontages address the street.

The applicant has lodged a Clause 4.6 variation request and addressed the relevant heads of consideration contained within the clause.

The purpose of the standard is to minimise the potential for amenity impacts of overshadowing and overlooking on adjoining dwellings and their “private open spaces” and to maintain a low scale residential form in the rear interface area of traditional lots.

The applicant has argued that the proposed development meets the underlying objective of the development standard for the following reasons:-

- the site does not have a “rear” – it has five street frontages;
- the proposed development still provides a low scale residential form, notwithstanding that it has two storeys;
- as shown in the shadow diagrams submitted with the DA, the overshadowing impacts on adjoining properties between 9am and 3pm in mid-winter are such that the adjoining properties still receive at least 3 hours of direct sunlight;
- the northern and western (side) boundaries of the site are the most sensitive as

they are the boundaries shared with residential development, and the proposal deals with this relationship in an appropriate way through the proposed setbacks, landscaping and window treatments (clerestory windows, etc.); and

- the landscaping proposed as part of the development will soften the outlook from adjoining properties.

The applicant's arguments are supported and the height of the proposal (over the entire site) is considered to be appropriate in the circumstances of the case.

2.5.5 Earthworks (Clause 6.2)

Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The proposed excavations will be undertaken on land that is already cleared. The impact of the excavations on the drainage pattern and soil stability needs to be controlled. Conditions can be applied so that in the event of heavy rains any dewatering of the excavation does not result in receiving waters being subject to high levels of suspended sediment from the dewatering process. The excavation will be appropriately stabilised during the construction period.

The soil to be excavated is a clay rich soil common to Wianamatta Shales found in the locality. The lower layers of excavation will be shale.

The excavation of the basement level car park and service area will trigger special conditions of consent relating to the preparation of a Dilapidation Report for residential properties adjoining the site in the vicinity of the proposed excavations. The preparation of a geotechnical report will also be required that covers the following;

- a. an indication of the nature and depth of any uncontrolled fill at the site;
- b. an indication of the nature and condition of the material to be excavated;
- c. indications of groundwater or seepages;
- d. required temporary measures for support of any excavations deeper than 1m adjacent to property boundaries;
- e. statement of required excavation methods in rock and measures required to restrict ground vibrations;
- f. other geo-technical information or issues considered relevant to design and construction monitoring.

A condition will be required to address the issue of support and protection for neighbouring buildings.

All excavated material will be removed from the site to a yet to be determined EPA licensed and approved location. This can be covered by a condition of development consent.

Given the history of land use on the site it is extremely unlikely that any relics will be discovered / disturbed.

3. Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instruments

There are no draft Environmental Planning Instruments applying to the subject land.

4. Section 79C(1)(a)(iii) – Any Development Control Plan

4.1 Fairfield City Wide Development Control Plan (DCP) 2013

Fairfield City Wide DCP 2013 does not contain any provisions which directly relate to the development of a “Residential Care Facility”. The relevant chapters from the DCP are addressed below.

Chapter 3 - Environmental Management and Constraints

Section 3.6.3.1 of Chapter 3 of the DCP states:-

“All development applications (except for change of use and occupation DA’s) must submit information within the statement of environmental effects (as detailed in Chapter 2) detailing whether there is evidence to suggest that the site of the proposed development may be contaminated. In order to prepare this statement reporting on the sites history including historical records of land use, land title searches, aerial photographs and the results of a site investigation will be necessary.”

This issue has been satisfactorily addressed in a previous section of this report (2.2 State Environmental Planning Policy No 55—Remediation of Land). Conditions of consent can be imposed to ensure that the recommendations of the applicant’s Stage 2 Detailed Site Investigation are followed through.

The DCP also requires that an erosion and sediment control plan is provided by the applicant. The erosion and sediment control plan has been included with the stormwater concept plans and can be conditioned.

Chapter 12 - Car Parking, Vehicle and Access Management

The car parking requirements within the Seniors Housing SEPP prevail over the car parking requirements within FDCP 2013. The applicant has complied with the development standards in the SEPP as documented in Attachment F.

The panel members at the briefing on the 1st May 2017 requested more information from the applicant with respect to the management of onsite parking during shift changes. The applicant has responded as follows:

The number of dedicated staff car spaces located on the site is 43. In accordance with the SEPP methodology this provision meets the parking requirements for 86 staff. The parking provided exceeds the required parking for 75 staff by providing capacity to cater to an additional 11 staff. These additional car spaces will assist in terms of the overflow for the staff at change over times. Further onsite management will have the ability to arrange the rosters whereby finishing and starting times can be staggered or offset by 15 minutes within different wings so that the weekday morning shift (heaviest staffed shift) will either finish at 2.45pm, 3pm or 3.15 pm depending on which wing you work in. This will ensure that provision of staff parking does not become an issue.

This issue can be covered by a condition of development consent.

Appendix F - Landscape Planning

Amended landscape plans have been received which are in accordance with Appendix F of the DCP. This aspect can be covered as a condition of consent.

5. Section 79C(1)(a)(iii) – Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

The site contains the area which is identified as the missing link between the 2 ends of Sweethaven Road.

The previous draft Roads Development Control Plan (DCP) No 2/99 had envisaged that the 2 ends of Sweethaven Road would be connected when 13 Booralla Road was eventually developed. This Roads DCP is no longer a current planning control, however provides some historical guidance for Council's long term planning for the locality.

As part of the development proposal, the applicant has formally written to Council to offer to enter into a Voluntary Planning Agreement for "Construction and dedication of road works and dedication of land in Sweethaven Road and Scarcella Place". The Applicant proposes to construct the full width of approximately 150 metres of road, kerb and gutter, and associated drainage in Sweethaven Road.

The proposed works equate to a cost of approximately \$1.5M, plus the Applicant will dedicate the land associated with the road and road corridor to Council at no cost. The diagram below identifies the approximate scope of road and associated works in red with the development site shown in yellow.



Figure 3 Proposed location of road works/dedication of land.

As part of the VPA, the Applicant also proposed that road and associated works should be offset against the Indirect (Section 94A) Development Contributions which would be payable under the Development Application.

As the Section 94A development contribution of \$492,170.00 is significantly less than the proposed works and land costs, it is a significant public benefit to undertake the VPA and offset development Contributions. This is not an unusual practice, particularly where there is a significant community benefit, as is the case with this proposal.

Details of the VPA were reported to Council in February 2017. Council resolved as follows:

1. Consideration of the matter be deferred.
2. Council receive a further report once the development application is determined and a condition of consent is imposed requiring the Developer to enter into the VPA in accordance with the written offer.

The SSWRPP was briefed about this issue on the 1st May 2017 and advised that the panel was not in a position to impose a condition requiring such an agreement without surety that the VPA was in place.

The VPA matter was referred again to Council on the 23rd May 2017. Council has resolved as follows:

1. Council accept the offer made by Melaleuca Ventures Pty Ltd and enter into the Voluntary Planning Agreement associated with the redevelopment of the subject site at 13 Booralla Street, Edensor Park through DA 117.1/2016.
2. The Seal of the Council be affixed to the Voluntary Planning Agreement and the City Manager be delegated the role of signing the document on behalf of Council.
3. A copy of the Planning Agreement be provided to the Minister for Planning and Infrastructure in accordance with Section 93G(3) of the Environmental Planning and Assessment Act, 1979, within 14 days of it being signed.
4. Details of the Planning Agreement be entered into Council's Register of Planning Agreements as required by Clause 25F of the Environmental Planning and Assessment Regulation 2000.

6. Section 79C(1)(b) – The Likely Impacts of the Development

6.1 Environmental Impacts

6.1.1 Impacts on the natural environment

The site is located within an established residential area with a large park to the east of the site. The subject land has been cleared of remnant vegetation for over forty years.

No trees will be removed as part of the proposal. New and extensive plantings will be used as part of an overall comprehensive landscape scheme for the site which includes

deep soil planting opportunities. Details of the proposed landscaping are provided in the landscape plans.

The subject land is not identified as a “Sensitive Area” on Fairfield City Council’s Natural Resource Biodiversity Map. The subject land has no biodiversity value and is not part of any wildlife corridor. The impact of the proposal on the natural environment will be minimal and in fact the proposed landscaping will increase the biodiversity on the site.

6.1.2 Traffic Impacts

The applicant’s traffic consultant, McLaren Traffic having undertaken a traffic and parking analysis of the site and concluded as follows:

- *The proposed development makes provision for a total of 71 car parking spaces (including 28 for visitors and 43 for staff, representing an overall off street parking surplus of 5 spaces above Council’s requirements and 8 spaces above SEPP requirements. The parking requirement for each user class has also been met by the proposed parking provision, satisfying both Council and SEPP requirements.*
- *A designated mini-bus parking space has also been provided on-site within the basement level. The mini-bus envisaged to be used by the RACF is equivalent to a 7m, 20 seater Toyota Coaster. In addition to the Ambulance bay and mini-bus bay, two (2) small loading bays are also proposed for use by vehicles no larger than a 6.4m Small Rigid Vehicle (SRV). It is envisaged that the above vehicles will enter and leave the site via the cul-de-sac to be located at Scarcella Place.*
- *Waste collection will be undertaken on-street within the Scarcella Place cul-de-sac where waste bins will be wheeled to / from the kerbside for collection. Given the applicant will be providing the formalised cul-de-sac within the subject site it is not unreasonable that the development benefit from this by permitting on-street waste collection.*
- *Future traffic generation estimates have been shown to be adequately accommodated by the surrounding road network.*
- *The development application includes the extension of Sweethaven Road facilitating a 9.0m wide carriageway between the face of kerbs and includes a parking lane on the western side of the road (site frontage). A 3.0m wide verge is shown between the road carriageway and the site’s boundary with a concrete footpath provided along the site’s frontage and adjacent to the proposed on-street car parking. The proposed on-street car parking is provided along the site frontage of the proposed extension, adjacent to the proposed footpath. The location of the on-street parking on the western side of the extension is a safer outcome (compared to the opposite side) as it connects directly to the proposed footpath and allows safe, at-grade (level) access to elderly visitors as well as the general community.*
- *The proposal does not rely upon the delivery of Sweethaven Road to access the site, however the completion of Sweethaven Road is likely to deliver other community benefits.*

Council’s traffic engineers have advised that based on the traffic assessment undertaken, the worst level of service will be D at the intersection of Sweethaven Road and Edensor Road with the average delay of 46.5 seconds for right turning traffic from Sweethaven Road into Edensor Road. This level of service is acceptable in regard to

the traffic impact of the proposed development on adjoining road network. Council's traffic engineers reviewed the applicant's traffic and parking study and supported its findings. All traffic and parking issues can be covered as conditions of development consent.

6.1.3 Noise Impacts

The subject land is located within a Low Density Residential (R2) Zone, and is predominantly surrounded by residential homes, villas and townhouses, and parklands.

The applicant's noise consultant, Renzo Tonin & Associates, has demonstrated in their acoustic report that the proposal can comply with the criteria within the NSW Industrial Noise Policy. The applicant has proposed that noise generating plant will be centrally located to reduce impacts on neighbouring residential premises. Renzo Tonin & Associates have provided recommendations on engineering and installation methods that can be applied to minimise the noise generated from plant equipment. These recommendations can be incorporated into conditions of development consent.

In regard to traffic noise the proposed increase in noise levels on Sweethaven Road and Scarcella Place will be approximately 1-2 dB(A) which is considered to be negligible.

Standard conditions of consent will be imposed to ensure that potential construction noise complies with the NSW Industrial Noise Policy. The potential for noise impacts upon occupation of the development is considered to be compatible with surrounding residential use of the land.

6.1.4 Water Pollution

The provision of an onsite stormwater collection system that links to the street drainage system has been problematic given certain site constraints. After lengthy negotiations and the submission of revised plans, Council engineers are now satisfied that the disposal of stormwater from the site meets Council requirements.

All construction impacts relating to water pollution can be addressed by conditions of development consent.

6.1.4 Impacts on the Built Environment

The proposal has been designed having regard to the site's existing context and the likely future context. The development complies with the height limit imposed under the Senior's Housing SEPP, apart from two minor non-compliances. The development provides appropriate setbacks to all boundaries and street frontages. Facades are well articulated by steps in walls, balcony elements, landscaping and stairs. The main entry is clearly defined. The character and scale of the proposal are appropriate in the context of a low density residential area.

It is considered that the proposed development is unlikely to result in any adverse visual, privacy or overshadowing impacts of any adjoining residential properties, having regard to the siting of the buildings and the spatial separation between the proposed buildings and surrounding residential properties.

6.1.5 Social and Economic Impacts

The proposed development will generate employment both during construction and occupation.

In August 2013, the NSW Department of Planning and Infrastructure released a report, known as “NSW in the future: Preliminary 2013 population projections”. The report indicates that the Fairfield Local Government Area (LGA) will have a population in excess of 200,000 people in 2031 (approximately 238,950 people). The number of people aged 65 and over in the Fairfield LGA will increase from 23,300 people in 2011 to 51,250 people in 2031, providing a growth rate of 120.1%. The proposed development will help increase the availability of residential aged care facilities in the Fairfield LGA.

In September 2008 Fairfield Council released a report titled “Options for Residential Aged Care Facilities in Fairfield City” which was prepared by Heather Nesbitt Planning. The report found that the 85+ aged group will grow in Fairfield by 102% till 2026 and that the age group over 70 will grow by almost 10,000 people by the year 2026.

Therefore, the proposed development of 279 nursing home beds will provide a much needed aged care accommodation in the existing as well as future local community.

7. Section 79C(1)(c) – the suitability of the site for the development

The site is considered suitable for the proposed development as is evident from the detailed site analysis and assessment of relevant heads of consideration in the Seniors Housing SEPP as shown in Attachment F.

There are no known constraints which would render the site unsuitable for the proposed development.

8. Section 79C(1)(d) – any submissions made

The proposal was advertised in the local newspaper and local residents were notified of the proposal. The proposal was on exhibition from the 8th December 2016 till the 13th January 2017.

Six letters objecting to the proposal as well as one letter of support were received as a result of the notification process.

The following table summarises the objections received and provides commentary with respect to each objection.

| Objection/concern | Comment |
|---|---|
| The opening of Sweethaven Road will be detrimental to locals in the vicinity of Sweethaven Road as there will be an increase in traffic and noise impacts resulting in a devaluation of amenity as well as property values. Kerbside parking will also be affected. | <p>The site contains the area which is identified as the missing link between the 2 ends of Sweethaven Road.</p> <p>The previous draft Roads Development Control Plan (DCP) No 2/99 had envisaged that the 2 ends of Sweethaven Road would be connected when 13 Booralla Road was</p> |

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| | <p>eventually developed. This Roads DCP is no longer a current planning control, however provides some historical guidance for Council's long term planning for the locality.</p> <p>Council's traffic engineers have advised that completing the missing link in Sweethaven Road will greatly improve local traffic movements and result in Sweethaven Road meeting its long term design criteria as a collector road.</p> <p>The proposal will increase the general provision of kerbside parking in the area by the continuation of Sweethaven Road.</p> |
| The speed of cars needs to be slowed to minimise traffic noise and maximise safety. | The Sweethaven Road extension has been designed to RMS standards and in consultation with Council's engineers. The road design makes provision for a pedestrian crossing opposite the entrance to the RACF where the road narrows in the form of a traffic calming device. |
| The scale of the buildings is too large for the locality | <p>The building has been designed to respond to the adjoining scale at each interface with neighbouring land around the site. The main entry and communal facilities are located on the street frontage opposite the park to mark the entrance, providing an address for the new building and passive surveillance of the community asset being the park.</p> <p>The scale of the majority of the development is of a standard two storey dwelling to maintain the existing streetscape relationships. At the side boundaries the scale of the development is again a two storey and is positioned to align with the adjoining house footprints which maintain the typical character and massing of a standard low density residential subdivision pattern.</p> |
| The aged care facility will introduce more people (residents and visitors) into the locality thereby increasing noise levels. | <p>The proposal will care for residents in the later stages of life with an estimated average age of 85. Residents will only leave to go to occasional family events, specialist appointments or day-trips. By their very nature these older residents will be quiet neighbours.</p> <p>The traffic noise associated with the development is negligible.</p> <p>The plant noise arising from the operation of the premises will be controlled by conditions of</p> |

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| | consent. |
| The aged care facility should be built near public transport such as train stations. | The location of the site complies with the access to bus stops criteria (public transport) contained in the Seniors Living SEPP. |
| There is a sewage overflow problem next to No.35 Furci Place. The proposal has the potential to make this problem worse. | All services and infrastructure connections for the proposed building will be renewed and upgraded as required by the various Utility providers. These connections will be required to comply with current standards and old connections will be disconnected and sealed in accordance with the provider's requirements. |
| The proposal will result in a devaluation of existing residential properties in the locality. | There is no data or evidence that a residential aged care facility of the type proposed will devalue nearby existing properties. |
| The proposal is not in the local community interests and is profit motivated by the developer. | The supply of quality aged care facilities in all areas across Sydney is an increasing need. The proposal provides the opportunity for those requiring additional care to remain close to family and existing friends and social networks. Aged Care/Senior's Housing projects also establish connections and interactions with a range of other community groups. As communities age the proximity of available care to families is increasingly important, particularly as time to travel around Sydney worsens with increasing congestion. The proposal will meet a local community need. |
| Inadequate provision of on-site parking. | The amount of parking provided slightly exceeds the requirements of Seniors Housing SEPP. The applicant has advised of a management strategy to stagger shift times between wards to ensure that shift changes do not result in on-site parking shortfalls. With respect to visitors, the applicant has advised from experience, based on their other facilities that it is an unfortunate reality that visitation tends to be low and that it is very rare that the provided visitor parking is exceeded. |
| Maintenance of footpaths and verges needs to be of a high standard. | The construction of this infrastructure will be conditioned to appropriate standards. Council has the long term maintenance responsibility for footpaths and verges. |
| Neighbours need to be consulted re colour of new 1.8 m high fencing and additional trellis location. | This issue will be covered as a condition of development consent. |
| Trees need to be planted to screen the development from adjoining properties. | The landscaping plan submitted with the DA indicates a high-level of planting to the |

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| | boundaries with appropriate species nominated for their height and screening capacity. This issue will be covered as a condition of development consent. |
| Overlooking from first floor windows onto adjoining properties is not acceptable. | <p>First floor windows facing neighbours boundaries are generally limited. The majority of windows are in the longer facades of the bedroom wings and are therefore well setback and obliquely positioned relative to the neighbouring dwellings.</p> <p>Along the northern boundary, the upper windows are setback behind a screen wall which limits cross viewing.</p> <p>Significant landscaping is proposed on the landscape plan which will further assist in maintaining privacy.</p> |
| The shadow diagrams are not clear in regard to impacts on properties to the immediate west of the site. | The shadow diagrams are consistent with the requirements for DA submission and confirm that there are no unreasonable shadow impacts to adjoining properties. |
| Plant and air-conditioning units should be located or screened so that they are not noisy to adjoining residents. | The location and operation of the plant will be required to conform to the recommendations in the acoustic report submitted with the DA. |
| Waste bins should be located and stored so not to cause an odour nuisance to neighbours. | As a result of this submission, the proposal has been redesigned to relocate the garbage storage area well away from residential properties to minimise any odour impacts. |

There are no issues raised by the public that warrant refusal of the application. As discussed above, certain areas of concern can be addressed by conditions of development consent.

9. Section 79C(1)(d) – the public interest

The proposal is in the public interest as it will:-

- provide additional high care seniors housing accommodation within the local area to meet existing and future demand;
- transform the existing under-utilised site in a manner which is compatible with and sympathetic to the locality;
- have positive social and economic impacts; and
- exhibit a high quality design which will provide a high level of amenity for future residents without impacting unreasonably on nearby properties.

SECTION 94 AND SECTION 94A

The proposed development is exempt from Council's Section 94 Contributions Plan.

The linkage of Sweethaven Road through the subject land is not required to facilitate adequate vehicular and pedestrian access to the proposed development. Furthermore,

the requirement to construct and dedicate part of the site for the purposes of a new road is not stipulated in any of Council's Section 94 Contributions Plans.

In *Fairfield City Council v N & S Olivieri Pty Ltd* [2003], the Court of Appeal ruled that Section 94 is the only provision of the Environmental Planning and Assessment Act, 1979, that can authorise a consent condition requiring the dedication of land. However, there is nothing preventing the applicant from choosing to dedicate land to Council.

The proposal however is not exempt from Council's Section 94A Contributions Plan.

The proposed development has an estimated construction cost of \$49,217,000. In accordance with Fairfield City Council's adopted s94A contribution plan this requires payment of a development contribution of \$492,170.

Given the above, as part of the development proposal, the applicant has formally written to Council to advise that they wish to enter into a Voluntary Planning Agreement (VPA) to construct the "missing link" of Sweethaven Road. The Applicant proposes to construct the full width of approximately 150 metres of road, kerb and gutter, and associated drainage. The applicant will also dedicate to Council the land subject to road works.

As part of the VPA, the Applicant also proposed that road and associated works should be offset against the Indirect (Section 94A) Development Contributions which would be payable under the Development Application.

As the Section 94A development contribution of \$492,170.00 is less than the proposed works, there is a public benefit to undertake the VPA and offset development Contributions. This is not an unusual practice, particularly where there is a significant community benefit, as is the case with this proposal.

The following is an excerpt from the report to Council's Ordinary meeting of the 23rd May at which Council resolved to accept the offer made by Melaleuca Ventures Pty Ltd and to enter into the Voluntary Planning Agreement associated with the redevelopment of the subject site:

The VPA has the following significant benefits to the community:

- *The proposal will generate additional traffic which will be mitigated by the construction of the remainder of the Sweethaven Road as part of the development proposal;*
- *Road network improvement will facilitate greater public vehicular access and connectivity;*
- *The proposal will open up the southern side of the public open space to greater passive surveillance and greater public access.*

Without the construction of the road as proposed by the developer, there will be a less efficient local traffic outcome and a poor access arrangement to the site through potential cul-de-sac design of each end of Sweethaven Road.

CONCLUSION

The application was advertised and notified in accordance with Council's policy. Six letters objecting to the proposal as well as one letter of support were received as a result of the notification process. There are no issues raised by the public that warrant refusal of the application. Certain areas of concern raised in the submissions can be addressed by conditions of development consent

This assessment of the application has considered all relevant requirements of Section 79C of the Act and finds that there will be no significant adverse or unreasonable impacts associated with the development.

As demonstrated in the compliance table in Attachment F to this report, the proposed development achieves compliance with the provisions of the Housing for Seniors or People with a Disability SEPP 2004.

Furthermore, it is considered that the development has been conceived having regard to surrounding residential development. In doing so, it is considered that the development has provided appropriate separation from surrounding residential properties and the built form, bulk and scale, and the height appropriately responds to neighbouring properties so that the development is unlikely to result in any adverse impact upon neighbouring residential properties. The aged care facility has been designed and sited to have minimal impact on the environment.

Conditions will be imposed to minimise construction impacts and ongoing use of the site for residential purposes.

Accordingly, it is recommended that the application be approved subject to conditions

RECOMMENDATION

That:

1. The variations proposed under Clause 4.6 (exemptions to Development Standards) of Fairfield Local Environmental Plan 2013, as shown below, be supported:
 - iv. Clause 4.6 variation request prepared in relation to the "maximum height of all buildings" standard in Clause 40(4)(a) of the Seniors Housing SEPP
 - v. Clause 4.6 variation request prepared in relation to the "maximum height permitted for a building that is adjacent to a boundary of the site" standard in Clause 40(4)(b) of the Seniors Housing SEPP
 - vi. Clause 4.6 variation request prepared in relation to the "maximum height permitted for a building located in the rear 25% of the site" standard in Clause 40(4)(c) of the Seniors Housing SEPP
2. That development application No. 117.1/2016 for the demolition of existing structures, services diversions, excavation, remediation, other preparatory site works as required, and the erection of a part two-storey, part three-storey Residential Aged Care Facility comprising two distinct sections, (each of which will be constructed in a separate stage), which together will contain 279 beds, associated basement parking, related facilities and the subdivision of the land into two lots and the dedication and construction of a public road at

Lot 2 in DP 833184, known as 13 Booralla Road, Edensor Park be approved subject to conditions as outlined in Attachment J of this report.

3. Those that made submissions are advised of the determination.