

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

Clause 4 – Land to Which This Policy Applies

The SEPP applies to the subject site as it is zoned primarily for urban purposes (i.e. B4 zone) and Residential Flat Buildings, Dwelling Houses and Hospitals are both permissible land uses in the B4 zone. Of note, seniors housing is specifically permitted in the B4 zone.

Clause 13 Self-contained dwellings

Clause 13(1) of the SEPP defines a self-contained dwelling as follows:

In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

In addition, Clause 13(2) provides a definition for in-fill self-care housing as follows:

In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

The proposed development provides 143 self-contained dwellings located in Buildings A, B and C which would also meet the definition of in-fill self-care housing.

Clause 18 – Restriction on Occupation of Seniors Housing

Clause 18(1) of the SEPP restricts the occupation of seniors housing. The Applicant submits that the proposed seniors housing component will only provide accommodation for people over the age of 55 years and those with a disability. A condition of consent is recommended to ensure that the proposed occupation is in accordance with the SEPP and that a restriction on title be imposed to limit the use of any accommodation to the kinds of people referred to in subclause (1).

Clause 19 – Use of Seniors Housing in Commercial Zones

Clause 19 clarifies that the SEPP does not allow for the development of residential uses on the ground floor of the site, if the site is zoned primarily for commercial purposes. Being zoned for mixed use, the site is not primarily zoned for commercial purposes. Regardless, no ground floor residential development is proposed.

Clause 24 – Site Compatibility Certificate

Clause 24 provides that certain seniors housing developments shall require a Site Compatibility Certificate (SCC) in certain circumstances. The proposal is not captured by any of these circumstances, and a SCC is therefore not required.

Clause 26 – Location and access to facilities

Clause 26 provides that the consent authority must be satisfied that residents of the proposed development will have appropriate access to *shops, bank service providers and other retail and commercial services that residents may reasonably require, and community services and recreation facilities, and the practice of a general medical practitioner.*

In addition to the retail facilities (including a supermarket) and community facilities proposed on the site, all of the above services are available in the surrounding area, either within 400m walking distance of the site or by public transport services within 400m of the site, including the following:

- A range of shops and services are provided at the shopping precinct on Wharf Street (approximately 380m walking distance, or accessible by bus);
- a range of community and recreation facilities, including Forster Police Station (directly opposite the site) and Forster Bowling Club (approximately 250m);

- General Practitioner and specialist medical services around Wallis Street (approximately 150m) and located in the Central Forster Medical Precinct around Cape Hawke Hospital (approximately 550m walking distance, or accessible by bus);
- Large scale retail facilities are available at Stockland Shopping Village (approximately 1.6km, accessible by bus).

Several public bus stops and routes adjoin the site, providing access to the Wharf Street shopping precinct and a range of other shops and services within the region.

Additional details on the proposal's compliance with Clause 26 are provided within the *Access Report*, including a bus stop location plan. In terms of a 'suitable access pathway', the Access Report notes that: '*Information on the gradients of the road verges has not been provided, but the local topography appears to be quite flat (as viewed on Google Street View) and pedestrian pathways are likely to be suitable access pathways.*'

Overall, the site has excellent access to services as. Additionally, the site and surrounding area is appropriately zoned to support the provision of a range of future services and facilities from which the proposed seniors housing would benefit.

Clause 28 – Water and sewer

Clause 28 provides that development must be connected to a reticulated water supply and have suitable methods for the disposal of sewage. In this respect, the Applicant submits that the proposal shall be connected to MidCoast Water's reticulated water and sewerage system.

Clause 29 – Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

Clause 29 requires that the consent authority take into consideration the matters outlined in Clause 25(5)(b)(i), (iii) and (v). The proposal's compliance with this criteria is addressed in the table below:

Clause	Compliance
<i>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</i>	The subject site is within an urban area and is not subject to significant environmental hazards or constraints. The proposal includes the retention of vegetation with ecological values. The proposal is considered acceptable from a flooding perspective. The development will promote the conservation of the remnant aboriginal midden located within the site. The proposal is compatible with the surrounding land uses.
<i>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</i>	The site is within an existing urban environment. The services in the area are sufficient to serve the proposed seniors housing, including numerous retail, community and medical services within short walking distance of the site, or which are easily accessible via regular public transport. A number of retail facilities (including a supermarket) and community facilities are also proposed on the site.
<i>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</i>	As discussed extensively in the Assessment Report, the proposed bulk, scale, built form and character is consistent with the planning controls and Council's long-term vision for the Civic Precinct and this significant landmark site. The proposal will provide the impetus for development and renewal in the area.

Clause 30 – Site analysis

Clause 30 requires that a site analysis be provided which contains certain listed information.

Such site analysis documentation has been prepared by TVS Architects which (generally) satisfies the requirements of Clause 30.

Clause 31 – Design of in-fill self-care housing

Clause 31 requires consideration of the provisions of the *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004.

This Policy is geared towards low scale development located in residential zones. Nevertheless, in respect of the key principles of this Policy, the proposed development is considered to respond appropriately to its context.

Clause 32 – Design of residential development

Clause 32 requires that the proposal demonstrates adequate regard to the design principles set out in Division 2 (Clauses 33 - 39). The proposal's compliance with these design principles is addressed in the table below:

Clause	Compliance
33 - Neighbourhood amenity & streetscape	The proposal positively responds to the desired future character of the Civic precinct as envisaged by Council's masterplanning documents. Extensive activation at street level, civic plazas and landscaping, and sufficient building articulation make a positive contribution to the streetscape and the surrounding area. Street frontage treatment and the retention of significant trees around the site's edges will help integrate the buildings into the streetscape. As discussed in the 'likely impacts' section of the Assessment Report, it is considered that overshadowing of the adjoining school site / administration site is acceptable, and any future residential development on this adjoining site will not be unreasonably constrained in terms of solar access.
34 - Visual & acoustic privacy	Consideration of the development against SEPP 65 matters is of relevance in this instance. It was initially identified that a proportion of the units may not be designed to be suitable in with respect to visual and acoustic privacy for future occupiers. Amended designs in accordance with SEPP 65 were provided by the applicant's architect, and the development was found to meet the principles of ADG with regards to visual and acoustic privacy.
35 - Solar access & design for climate	In general, the proposed development layout provides for effective solar access and performance. All units receive sunlight in accordance with SEPP 65 requirements and meet BASIX requirements for energy and water efficiency, as well as thermal comfort.
36 - Stormwater	Council commissioned Alluvium Consulting to undertake a peer review of the proposed stormwater management plan which includes the capture, reuse, and treatment of all stormwater generated from the site. In general, the proposed stormwater management plan is considered suitable by Council's engineers and Alluvium.
37 - Crime prevention	The CPTED report made a number of relevant recommendations regarding access control and surveillance which have been included as conditions of consent.
38 - Accessibility	The development proposes clearly identified and easily accessible pedestrian links that provide for safe pedestrian movement within and through the site, linking with the pedestrian facilities in the street, as well as the bus stop at the front of the site, providing access for pedestrians, bicycles, and mobility scooters.
39 - Waste management	The application proposes the storage and collection of residential waste on site. Council's Waste Officer has reviewed the proposal and appropriate conditions are recommended.

Clause 40 – Development standards—minimum sizes and building height

Clause 40 of the SEPP provides a set of development standards for development of land to which the SEPP applies. The proposal exceeds the relevant standards relating to site size and frontage.

Clause 41 – Standards for hostels and self-contained dwellings

Clause 41 provides that self-contained dwellings must meet the standards provided in Schedule 3 of the SEPP.

This Schedule details specific requirements involving creating apartments that can provide accessible units. This aims to support aging in place.

An Access Report prepared for the proposal addresses the proposal's compliance with these standards in detail. Many of these aspects are matters considered during the Construction Certificate documentation. It is important to acknowledge that the Access report identifies that these standards can be met and facilitated within the proposed design and layout.

In summary, the proposal is capable of compliance subject to the recommended conditions of consent being addressed at the detailed design stage.

Clause 50 – Standards that cannot be used to refuse development consent for self-contained dwellings

Clause 50 sets out standards which cannot be used as grounds to refuse development consent for self-contained dwellings. Being non-refusal standards, approval for a proposal can be granted, notwithstanding exceedance of these standards.

These standards relate to lower-scale seniors housing developments, and do not have relevance to a high-density multi-storey development, as proposed. In this respect, it is noted that the proposal significantly exceeds the standards relating to height, density and scale, and landscaping. Accordingly, the proposal does not rely on compliance with these clauses. The proposal does however comply with the minimum solar access, private open space and parking non-refusal standards. Nevertheless, it is noted that the application does not rely on any of these non-refusal standards.