

## COUNCIL ASSESSMENT REPORT

Panel Reference	Sydney Central Planning Panel
DA Number	DA2014/72/2
LGA	Woollahra
Proposed Modification	Modifications to the to the approved scheme including layout changes to the Village centre, balconies to Macquarie tower, access & layout and access changes to Bourke & Gipps units
Street Address	250-290 Jersey Road, Woollahra
Applicant/Owner	Anglican Retirement Villages
Date of DA lodgement	12 January 2017
Number of Submissions	Five (5)
Recommendation	Conditional Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Modifications to an aged care facility that has a capital investment value of more than \$5 million
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> <li>• SEPP (State and Regional Development) 2011</li> <li>• SEPP 65 Design Quality of Residential Flat Development</li> <li>• SEPP (Housing for Seniors or People with a Disability) 2004</li> <li>• Woollahra Local Environmental Plan 2014</li> <li>• Woollahra Development Control Plan 2015</li> <li>• Environmental Planning and Assessment Regulation 2000</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> <li>1. Technical Services referral</li> <li>2. Trees and Landscaping referral</li> <li>3. Heritage referral</li> <li>4. Urban Design referral</li> <li>5. Environmental Health referral</li> <li>6. Fire Safety referral</li> <li>7. Plans and Elevations</li> </ol>
Report prepared by	Natasha Pindar –Assessment Officer, Woollahra Council
Report date	Dated as 4 May 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes / ~~No~~

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes / ~~No~~ / Not Applicable

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes / ~~No~~ / Not Applicable

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

~~Yes~~ / ~~No~~ / Not Applicable

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment?

Yes / ~~No~~

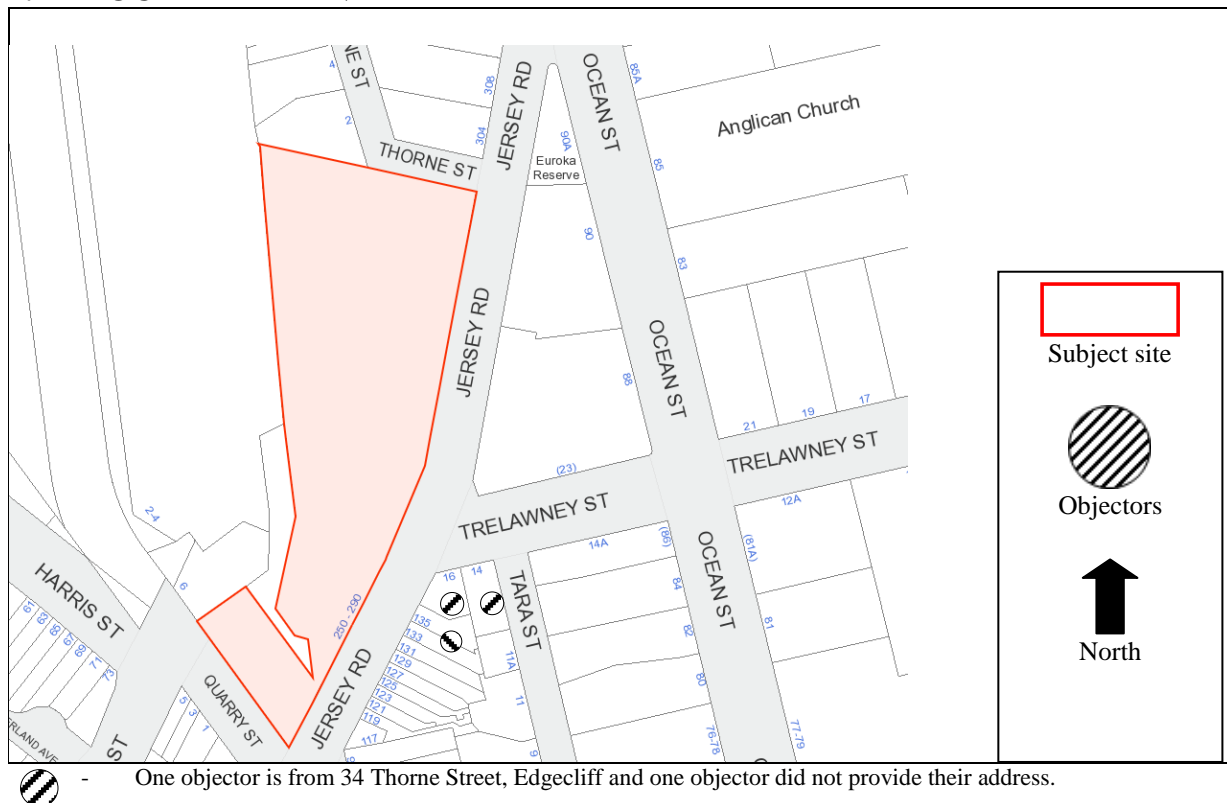
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## SECTION 96 APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	0.0
<b>FILE No.</b>	DA72/2014/2
<b>ADDRESS</b>	250-290 Jersey Road WOOLLAHRA
<b>SITE AREA</b>	7,319m <sup>2</sup>
<b>ZONING</b>	R3 Medium Density Residential
<b>EXISTING CONSENT</b>	Extensive alterations & additions of the existing independent seniors living development including an internal and external upgrade throughout and a new Village Centre
<b>DATE OF CONSENT</b>	28/05/2014
<b>TYPE OF CONSENT</b>	Local Development
<b>CONSENT AUTHORITY</b>	Sydney Central Planning Panel (SCPP)
<b>PROPOSED MODIFICATION</b>	Modifications to the to the approved scheme including layout changes to the Village Centre, balconies to Macquarie Tower, access & layout and access changes to Bourke & Gipps units
<b>DATE S96 LODGED</b>	12/01/2017
<b>APPLICANT</b>	Anglican Retirement Villages
<b>OWNER</b>	Anglican Retirement Villages
<b>AUTHOR</b>	Ms N Pindar
<b>TEAM LEADER</b>	Mr G Fotis
<b>SUBMISSIONS</b>	Five (5)
<b>RECOMMENDATION</b>	Approval

## SUMMARY

### 1. LOCALITY PLAN



### 2. LEVEL OF DELEGATION

The application is to be determined by the Sydney Central Planning Panel (SCPP) as the original development consent under DA72/2014/1 was determined by the Joint Regional Planning Panel on 28/05/2014 given that the application is A section 96(2) which is required to be determined by SCPP.

### 3. SUMMARY OF APPROVED DEVELOPMENT

The approved development involved the following works:

- Extensive alterations & additions of the existing independent seniors living development including an internal and external upgrade throughout and a new Village Centre.

It was approved subject to the following modifying condition in Condition C1:

- The proposed pedestrian entries to the new dwellings shall comply with clauses 4.3.1 and 4.3.2 of AS 4299;*
- The proposed new substation located at the front of the site shall be finished in a dark recessive colour;*
- An external clothes drying area shall be provided on the site. This clothes drying area must not be visible from the public domain.*

### 4. SUMMARY OF PROPOSED MODIFICATION

The Section 96 application involves the following works:

## **Macquarie Tower:**

### Level 2:

- New pump room
- Modification to glazing line
- Construction of exit stairs

### Levels 3 to 10:

- Enlarged unit balconies to eastern and western elevations of building, modification to window sill heights on the eastern and western elevations

### Levels 6 to 10:

- Enlarged unit balconies to northern elevations of building

### Roof:

- New 1800mm high screen to the services zone

## **Village Centre:**

### Level 1:

- Additional basement excavation and demolition
- Construction of new communal areas (including hall, gym, multi-purpose room, meeting rooms and public amenities)
- Communal terrace

### Level 2:

- Deletion of proposed Independent Living Units (ILUs)
- Additional basement excavation and demolition
- Construction of new communal areas (including clinic, library, salon and public amenities)

### Level 3:

- Internal and external reconfiguration of space (including new front entry, façade modification and modified window sill height)
- Enlarged communal terrace facing west
- Reconfiguration of entry forecourt providing four car parking spaces (including one accessible car space) and loading bay

### Level 4:

- Internal and external reconfiguration of space (including two new ILUs)

### Level 5:

- Internal and external reconfiguration of space

Roof:

- New 1800mm high screen to services zone

**Gipps House:**

Levels 1 -2:

- New circulation corridor at rear of ILUs
- Modification to glazing line

Level 3:

- Reconfiguration of circulation corridor at rear of ILUs
- Modification to glazing line

Level 4:

- Modification to glazing line
- Refurbishment of existing stairs
- Deletion of proposed stairs on north of building
- Enclosure of walkway

Level 5:

- Rear staircase to be deleted
- Refurbishment of existing stairs
- Modification to glazing line

Roof:

- New roof over new entry

**Bourke House:**

Levels 1 -2:

- New circulation corridor at rear of ILUs
- Modification to glazing line

Level 3:

- New circulation at rear of units
- Modification to glazing line

Levels 4 and 5:

- Modification to glazing line

- Refurbishment of existing stairs
- Deletion of proposed stairs
- New entry foyer structure and covered entry walkway to the street footpath

**Note. There will be a reduction of the number of units from 169 to 159.**

## 5. ISSUES

### 5.1. Primary Issues

Objectors concerns.

### 5.2. Summary of Submissions

Issue	Conclusion	Section
Loss of visual privacy	Acceptable, in accordance with the SEPP 65 & Woollahra Council DCP 2015.	Sections 10 and 17.1.8 of this report
Loss of solar access	This modification will result in negligible additional overshadowing affecting neighbouring properties.  Acceptable, in accordance with the Woollahra Council DCP 2015.	Sections 10 and 17.1.4 of this report
Loss of views of the city (through the existing gap between Macquarie Tower and Gipps House)	The loss of city views (through the existing gap between Macquarie Tower and Gipps House) has been assessed under this report and considered to be satisfactory. The original planning assessment report also undertook a views assessment which concluded the view loss reasonable and negligible and was therefore approved.	Sections 10 and 17.1.8 of this report
Construction work adversely impacting neighbours	<b>Condition C.3</b> (requiring a Traffic Management Plan), <b>Condition D.2</b> (requiring a Construction Management Plan) are to be submitted to Council prior to work commencing and <b>Conditions imposed under 'E – Conditions which must be satisfied during any development work'</b> were imposed on the original DA consent (under DA72/2014/1) to ensure that any construction work undertaken is adequately managed and to minimise impacts on local residents.	Section 10 of this report, <b>Conditions C.3, D.2 and Conditions imposed under E</b>
Increased bulk and scale negatively impacting the existing streetscape and Paddington Heritage Conservation Area	The modification is substantially the same development as the originally approved DA (under DA72/2014/1) and will not adversely impact the surrounding area while retaining the predominant scale, mass and form of the originally approved development.  Council's Heritage Officer and Urban Design Officer support the proposed modification.	Sections 10, 17.1.4 of this report
The reduction in the number of independent living units is not appropriate given the existing shortage of housing	The reduction in independent living units will improve improving accessibility and usability.  Any existing shortage of housing stock is outside the scope of this assessment.	Section 10 of this report
It is unclear what the area between Macquarie Tower and Gipps House will be used for, and whether the use is appropriate for a	The area between Macquarie Tower and Gipps House will accommodate community facilities which are part of the seniors living facility, and is therefore appropriate.	Section 10 of this report

Issue	Conclusion	Section
retirement village		
Inadequate space for residents and visitors to drop off/pick up people resulting from the new Village Centre	Traffic and vehicular access arrangements were assessed and approved under the original DA consent (DA72/2014/1).  This modification does not seek to adversely change the previously approved parking and traffic arrangements.	Section 10 of this report
Safety concerns for residents resulting from the larger balconies proposed	<b>Condition D.1</b> was imposed under the original DA consent (under DA72/2014/1) requiring the development application to comply with the Building Code of Australia.	Section 10 of this report
Insufficient assessment undertaken on the impacts of excavation on existing piles	A Geotechnical Report was submitted for the proposed excavation and is supported by Council's Engineer, subject to <b>Conditions C.22, E.23</b> .	Section 10 of this report, <b>Conditions C.22, E.23</b> .
Health and safety compliance issues regarding excavation, support and chemical stabilisation techniques	A Geotechnical Report was submitted for the proposed excavation and is supported by Council's Engineer, subject to <b>Conditions C.22, E.23</b> .	Section 10 of this report, <b>Conditions C.22, E.23</b> .
Inadequate information provided on impacts of prolonged rain which would affect existing structures and the surrounding area	<b>Condition C.15</b> was imposed under the original DA consent (DA72/2014/1) requiring the development to comply with a Stormwater Management Plan.  A Geotechnical Report was submitted for the proposed excavation and is supported by Council's Engineer, subject to <b>Conditions C.22, E.23</b> .	Section 10 of this report, <b>Conditions C.15, C.22, E.23</b> .
To the rear of the senior retirement village is Crown Land (formally known as Paddington Bowls) and it is unclear what will occur on this land and whether this land could be used as open space or a community centre for this proposal	There is no development proposed on this parcel of land under this modification.	Section 10 of this report
This modification is not substantially the same development as the originally approved development	The modification passes the 'substantially the same' test.	Sections 9 and 10 of this report
Lack of trees and landscaping in front of the community centre and Macquarie Tower	Council's Tree and Landscaping Officer supports the modification, subject to <b>Conditions A.8, C.21</b> .	Sections 10 and 17.1.3 of this report, <b>Conditions A.8, C.21</b> .
Misleading drawings	There is no proposed increase in the previously approved overall height of the Village Centre.	Section 10 of this

Issue	Conclusion	Section
incorrectly show there is no change in height between Macquarie Tower and Gipps House		report
Unauthorised work (large concrete piles have been installed in the area proposed for excavation without any development consent)	Any unauthorised work is outside the scope of this assessment and is a matter for the Council's Building and Compliance team to investigate and take appropriate action, if necessary.	Section 10 of this report

## PROPERTY DETAILS AND REFERRALS

### 6. SITE AND LOCALITY

<b>Physical features</b>
The subject site is known as Lot 100 DP 773106 and is located on the western side Jersey Road, Paddington. The site has an irregular shape and is approximately 7,319m <sup>2</sup> in size. The principal frontage to Jersey Road has a length of approximately 178.2m, the secondary frontages to Quarry Street and Thorne Street are approximately 48.1m and 67m respectively.
<b>Topography</b>
The site naturally slopes from Jersey Road westward toward Paddington Bowling Club and the Council Depot.
<b>Existing buildings and structures</b>
<p>Goodwin village comprises three distinct areas, Macquarie Tower, Bourke and Gipps House and Taber Cottage. The four buildings are located on the site and comprise of the 9 storey residential tower known as Macquarie Tower, two, five storey buildings known as Gipps and Bourke House, and a heritage listed single storey sandstone building known as Taber Cottage.</p> <p>The building configurations is as follows:</p> <ul style="list-style-type: none"> <li>• Macquarie Towers is a 9 storey building located at the southern end of the site, which accommodates a total of 90 Independent Living Units (ILUs);</li> <li>• Gipps and Bourke House are 5 storey residential buildings that are located at the central and northern end of the site respectively. These buildings accommodate a total of 78 ILUs;</li> <li>• The community centre which is adjacent to Gipps House accommodates the following community facilities; village shop, library, computer room, guest room, dining room, kitchenette, hair salon and doctors room; and</li> <li>• Taber cottage on the southern side of the Village is a local heritage item and was constructed in 1879. It is currently without a specific use.</li> </ul>
<b>Surrounding Environment</b>
To the west of the site and at a lower level than the site is the Paddington Bowling Club, located to the south of the site on the other side of Quarry Street is the Lord Dudley Hotel. To the north of the site on the side of Thorne Street is a two storey terrace building. The surrounding locality is characterised by a mixture of buildings including recreational uses, residential terraces and medium density development.





*Figure 1 – Aerial Photo*





*Figure 2 – View looking towards the existing Macquarie Tower from Jersey Road (along the east elevation)*



*Figure 3 – View looking towards the city from Jersey Road (between the existing Macquarie Tower and Gipps House)*

## 7. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Aged Care
<b>Relevant Application History</b>
<ul style="list-style-type: none"><li>DA72/2014/1 - Extensive alterations &amp; additions of the existing independent seniors living development including an internal and external upgrade throughout and a new Village Centre (approved by the JRPP on 28/05/2014).</li><li>DA343/2013- New contiguous retaining wall and reinstatement of low level sandstone block wall-Approved-01/04/2013.</li></ul>
<b>Pre-DA</b>
<p>A pre-DA meeting for extensive alterations and additions to the existing aged care facility was conducted on 30/11/2012. The minutes of this meeting concluded the following:</p> <p><i>The application in its present form would be supported, subject to the recommendations of Council's experts being adopted.</i></p> <p><i>All the non-compliances with the relevant controls (discussed above) will need to be addressed in the Statement of Environmental Effects, justifying the extent and rationale behind the non-compliances. However, if the non-compliances cannot be adequately justified a re-design of the proposal may be required.</i></p>

## 8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Acceptable, subject to <b>Conditions C.22, E.23</b>	1
Trees and Landscaping	Acceptable, subject to <b>Conditions A.8, C.21</b>	2
Heritage	Acceptable	3
Urban Design	Acceptable, subject to <b>Condition C.1 (c) of the original consent</b>	4
Environmental Health	Acceptable, subject to <b>Conditions C.16 and C.19 of the original consent</b>	5
Fire Safety	Acceptable, subject to <b>Conditions F.1 and 1.6 of the original consent</b>	6

## ASSESSMENT UNDER SECTION 96

The application is assessed under Section 96 of the Environmental Planning and Assessment Act 1979.

## 9. SECTION 96(2): OTHER MODIFICATIONS

Section 96(2) relates to the modification of a development consent for all other modifications. The application involves modifications to the approved scheme including layout changes to the Village Centre, balconies to Macquarie Tower, access & layout and access changes to Bourke & Gipps units.

The *Moto Projects No 2 Pty Limited v North Sydney Council [1999] 106 LGERA 298* applies a test to ascertain whether a development is substantially the same development.

1. Is the proposal a modification of the original proposal, in that it does not radically transform the original proposal?

*In the case of a modification to a building or work, consideration ought to be given as to whether the building or work as proposed to be modified is so different to that originally approved that it cannot be said to be the same building or work as originally approved.*

The modification involves the refurbishment, alterations and additions to the existing 1970s buildings to improve the amenity and appearance of the apartments and provide additional

communal facilities, which is the same building or work as originally approved under DA72/2014/1.

2. Is the proposed development essentially or materially the same development as the development for which consent was originally granted?

*Consideration ought to be given as to whether the proposed modified development is for the same land use and intensity as originally approved. Often this question will overlap with the first question.*

The modification involves the refurbishment, alterations and additions to the existing 1970s buildings to improve the amenity and appearance of the apartments and provide additional communal facilities, which is the same building or work as originally approved under DA72/2014/1.

3. Is the way in which the development is to be carried out essentially or materially the same?

*A change to the staging or method of construction might have a substantial planning impact. Consideration ought to be given to whether there is any change of planning significance in the way in which the development will be carried out.*

The modification is for the same land use and intensity as originally approved.

The increase in floor space is approx. 995m<sup>2</sup> (totalling 9,353.38m<sup>2</sup>) which is not substantially different from the originally approved floor space of approx. 8,358.18m<sup>2</sup> (under DA72/2014/1). The originally approved overall height of each building will not increase and as such the overall bulk and scale will be maintained comparable to the approved development.

4. Does the proposed modification affect an aspect of the development that was important, material or essential to the development when it was originally approved?

- a) *If the need for access to be from a particular street was a key issue, is it proposed to move the access to a different location?*

There are no substantial changes to the originally approved development that involve moving main access points to the buildings.

- b) *If the retention of views was a key issue, does the proposed modification affect that view?*

The loss of views of the city (through the existing gap between Macquarie Tower and Gipps House) was assessed and determined to be satisfactory and subsequently approved under DA72/2014/1. This modification will not result in any additional adverse impacts on view loss (refer to Figures 6 and 8).

There is no proposed increase to the previously approved building heights, minimising any potential impact on view loss.

- c) *If the appearance of the development was of significance, does the proposed modification materially alter the appearance*

The change in the appearance of the buildings from the public domain is not substantially altered, and will therefore not adversely impact the existing streetscape.

5. If the Section 96 takes a development from compliance with an environmental planning instrument to non-compliance with an environmental planning instrument, is the s96 automatically not substantially the same development?

The proposed modifications will not result in a non-compliance with an applicable section of the Woollahra LEP 2014.

6. Is a SEPP 1 objection required where a Section 96 would take the development from compliance with an environmental planning instrument to non-compliance with an environmental planning instrument?

The proposed modifications do not seek to vary any applicable development standards under the Woollahra LEP 2014.

- a) *It has notified the application in accordance with:*  
i) *The regulations, if the regulations so require*  
ii) *A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent*  
b) *It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The applicant has submitted a statutory declaration advising that the application was advertised and notified in accordance with Chapter A2 of the Woollahra DCP 2015. Five (5) submissions were received and considered as part of the assessment.

### Conclusion

On the basis of the above considerations, the proposed modifications are considered to be substantially the same as the development to which consent was originally granted.

## **ENVIRONMENTAL ASSESSMENT UNDER SECTION 79C**

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 include the following:

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
  - i) Environmental impacts on the natural and built environments
  - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

## 10. ADVERTISING AND NOTIFICATION

### 10.1. Submissions

The application was advertised and notified from 25 January 2017 to 8 February 2017 in accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015. Five (5) submissions were received from:

1. Jacalyn McGuinness, 133 Jersey Road, Woollahra
2. Stephanie Suszko, 34 Thorne Street, Edgecliff
3. Rachel and Mark Green, 14 Trelawney Street, Woollahra
4. CC Procter, no address provided
5. Britt Atkin, 16 Trelawney Street, Woollahra

The submissions raised the following issues:

- **Loss of visual privacy**

#### Comment

Residents at no. 133 Jersey Road, Woollahra and at 14 and 16 Trelawney Street, Woollahra raised concerns about loss of visual privacy resulting from the enlarged balconies proposed along the east and north elevations of the Macquarie Tower looking into their main bedrooms and private open space/living areas.

The increase in the size of these balconies will not adversely impact the privacy of these properties given there are no new balconies proposed to the Macquarie Tower and the development is sufficiently separated from all surrounding residential properties (the closest residential property is approx. 20m away from the Macquarie Tower).

It should also be noted that the existing development already overlooks onto these properties, thus further overlooking of these properties would be unavoidable.

#### Applicant's Response:

*The modifications include the enlargement of the existing balconies on the eastern and western elevations of the Macquarie Tower. The size of the balconies have been increased to provide useable private open space for the residents. The provision of private open space for dwellings is a requirement under the relevant planning controls including State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, State Environmental Planning Policy No 65 – Design for Residential Apartment Development and Woollahra Development Control Plan 2015.*

*The balconies will not adversely affect the visual privacy of surrounding private open space or habitable room windows as the balconies are sufficiently separated from any adjoining residential properties. The terraces at 119 – 135 Jersey Road are located a minimum of 20 metres from the south-east corner of Macquarie Tower.*

- **Loss of solar access**

#### Comment

This modification will result in negligible additional overshadowing affecting neighbouring

properties.

Applicant's Response:

*Shadow diagrams prepared as part of the original Development Application illustrated that Macquarie Tower overshadows the residential properties to the south-east in the afternoon. The enlarged balconies will not substantially increase this overshadowing.*

- **Loss of views of the city (through the existing gap between Macquarie Tower and Gipps House)**

Comment

The loss of views of the city (through the existing gap between Macquarie Tower and Gipps House) was assessed and considered to be satisfactory and subsequently approved under DA72/2014/1. The modification will not result in any additional adverse impact on view loss.

Applicant's Response:

*As part of the original Development Application, a visual impact assessment was prepared by Richard Lamb & Associates that included a detailed assessment on view corridors across the site and the potential visual impacts that the Village Centre would have. The assessment noted that there would be minor loss of views of the city skyline from the intersection of Jersey Road and Trelawney Street as a result of the construction of the Village Centre. There may also be view loss from the first floor windows of the row of terrace houses at 88 Ocean Street. An assessment of the reasonableness of the view loss was undertaken with regard to the planning principle established by Tenacity Consulting v Warringah (2004). It was noted that the view loss was considered acceptable given the overall benefits of the development of Goodwin Village and the minor nature of the view impacts. In Council's assessment of the original application, an independent assessment of the reasonableness or otherwise of the degree of view loss was undertaken. Council's assessment noted:*

*"The Court poses two questions in Tenacity Consulting v Warringah (2004) NSWLEC 140. The first question relates to whether a non-compliance with one or more planning controls results in view loss. The proposed development does not comply with the maximum FSR and height controls. The proposed non-compliance with the height control does not result in any view loss. However the proposed non-compliance with the FSR control will result in view loss as the new Village Centre infills the gap between the Macquarie Tower and Gipps House together with increasing the height of Gipps House.*

*The second question posed by the Court relates to whether a more skilful design could provide the same development potential while reducing the impact on views. The Village Centre is an important feature of the proposed upgrade of the aged care facilities as the Village Centre will substantially improve the residential amenity of the site as it provides improved communal facilities and connect the existing buildings on the site. Therefore on balance the proposed development is considered acceptable given the overall development and the minor to moderate impact on views. It should be noted that no objections to the proposed development were received from any of the affected properties, even though the application was advertised/notified twice." Council Development Assessment Report DA 72/2014/1 pp 47-48*



- **Construction work adversely impacting neighbours**

Comment

**Condition C.3** (requiring a Traffic Management Plan), **Condition D.2** (requiring a Construction Management Plan to be submitted to Council prior to work commencing), and conditions imposed under **‘E – Conditions which must be satisfied during any development work’** were imposed on the original DA consent (under DA72/2014/1) to ensure that any construction work undertaken is adequately managed to minimise impacts on local residents.

Applicant’s Response:

*Condition E.5 of the development consent outlines the hours of work permitted during development work. Under this condition, work is permitted on Saturdays between 7am and 1pm.*

*In accordance with Condition D.2 of the development consent, a Construction Management Plan was to be submitted to Council prior to the commencement of any development work. The Construction Management Plan was required to be approved by Council’s Development Engineer. A copy of the Construction Management Plan is required to be kept on site at all times (Condition E.2).*

- **Increased bulk and scale negatively impacting the existing streetscape and Paddington Heritage Conservation Area**

Comment

The modifications are substantially the same development as the originally approved DA (under DA72/2014/1) and will not adversely impact the surrounding area and retains the predominant scale, mass and form of the originally approved development.

The modified height (25.61m approx. to the top of the proposed rooftop screening to the Macquarie Tower) does not exceed the existing overall building height (approx. 28.4m). The proposed screening proposed will not be visible from the public domain.

Council’s Heritage Officer and Urban Design Officer support the modifications.

Applicant’s Response:

*The proposed modifications do not increase the height of the Village Centre. In addition, the bulk, form and scale of the proposed infill development is compatible with the surrounding residential development. Therefore the visual impact of the proposed modifications are considered to be consistent with the approved seniors living development. The additional bulk and scale of the Village Centre is located on Levels 1 and 2 of the building facing towards the former Paddington Bowling Club. The reconfigured forecourt will result in an improved presentation of the Village Centre to Jersey Road, with the Village Centre setback further from Jersey Road.*

- **The reduction in the number of independent living units is not appropriate given the existing shortage of housing**



Comment

The reduction in independent living units will improve improving accessibility and usability.

Any existing shortage of housing stock is outside the scope of this assessment.

- **It is unclear what the area between Macquarie Tower and Gipps House will be used for, and whether the use is appropriate for a retirement village**

Comment

The area between Macquarie Tower and Gipps House will accommodate community facilities which are part of the seniors living facility, and is therefore appropriate.

- **Inadequate space for residents and visitors to drop off/pick up people resulting from the new Village Centre**

Comment

Traffic and vehicular access arrangements were assessed and approved under the original DA consent (DA72/2014/1).

This modifications do not seek to adversely change the previously approved parking and traffic arrangements, and does not propose to increase the number of approved parking spaces on-site.

The entry forecourt to the Village Centre has been reconfigured to provide for four car parking spaces, including one accessible parking space. A dedicated loading bay has been provided. A total of 24 car parking spaces are provided at Goodwin Village.

- **Safety concerns for residents resulting from the larger balconies proposed**

Comment

**Condition D.1** was imposed under the original DA consent (under DA72/2014/1) requiring the development application to comply with the Building Code of Australia.

- **Insufficient assessment undertaken on the impacts of excavation on existing piles**

Comment

A Geotechnical Report was submitted for the proposed excavation and is supported by Council's Engineer, subject to **Conditions C.22, E.23**.

- **Health and safety compliance issues regarding excavation, support and chemical stabilisation techniques**

Comment

A Geotechnical Report was submitted for the proposed excavation and is supported by Council's Engineer, subject to **Conditions C.22, E.23**.

- **Inadequate information provided on impacts of prolonged rain which would affect existing structures and the surrounding area**

Comment

**Condition C.15** was imposed under the original DA consent (DA72/2014/1) requiring the development to comply with a Stormwater Management Plan.

A Geotechnical Report was submitted for the proposed excavation and is supported by Council's Engineer, subject to **Conditions C.22, E.23**.

- **To the rear of the senior retirement village is Crown Land (formally known as Paddington Bowls) and it is unclear what will occur on this land and whether this land could be used as open space or a community centre for this proposal what will occur on this land, and whether this land could be used as open space or a community centre for this proposal**

Comment

There is no development proposed on this parcel of land.

- **This modification is not substantially the same development as the originally approved development**

Comment

The modifications are substantially the same development as the originally approved development (refer to the 'substantially the same' development test under **Section 9** of this report).

Applicant's Response:

*The submission incorrectly identifies some of the proposed modifications to the existing development consent. These include:*

*The extension of the community centre walls be a large distance towards Jersey Road beyond the existing approval.*

*The proposed modifications result in an increased setback of the Community Centre to Jersey Road.*

*The addition of new residential units to the community centre area*

*There is a reduction of the number of residential units proposed within the Community Centre building.*

*The addition of new balconies in Macquarie House*

*No new balconies are proposed to Macquarie Tower.*

*The reconfiguration and change in building lines and the addition of a loading bay on the eastern*

*side of the community centre.*

*The proposed modifications improve the presentation of the Community Centre to Jersey Road by setting the building further back from the street. The forecourt is reconfigured to provide for a single loading bay compared to the two loading bays provided in the approved development.*

*In the opinion of DFP, the modifications sought with the subject Section 96(2) Application represent substantially the same development as that originally granted Development Consent DA 72/2014/1 for following reasons:*

- The proposal does not alter the use of the site as self-contained seniors housing development that has been operating on the site since 1969;*
- The proposal reduces the number of self-contained units from 169 to 159 units;*
- No change in building height is proposed;*
- The additional FSR sought does not substantially alter the bulk or scale of the development;*
- The proposed modifications sought are not anticipated to give rise to adverse amenity impacts upon surrounding residential properties in terms of overshadowing, visual privacy and views;*
- Only modest amendments to the appearance of Goodwin Village are proposed, with the principal design modification being the eastern elevation of the Village Centre and the enlarged balconies on the eastern and western elevations of Macquarie Tower;*
- The proposed modifications sought are not anticipated to give rise to adverse impacts upon traffic and on-street car parking in the locality; and  
The number of on-site car parking spaces on-site remains the same.*
- Lack of trees and landscaping in front of the community centre and Macquarie Tower**

#### Comment

Council's Tree and Landscaping Officer supports the modification, subject to **Conditions A.8, C.21.**

- Misleading drawings incorrectly show there is no change in height between Macquarie Tower and Gipps House**

#### Comment

There is no proposed increase in the previously approved overall height of the Village Centre. A new 1800mm high screen around the services zones is provided to the roof. However, the service zone is setback from the edge of the roof and will not be visible from the public domain therefore not contributing to the existing scale of the approved development.

#### Applicant's Response:

*The submission alleges that the drawings are misleading in relation to the proposed height of the Village Centre. It is unclear what is being referred to by the statement "the comparison is made against some kind of structure or fence that is depicted in the eastern roofline of the Gipps House building". Nevertheless, the architectural drawings prepared by Enviro Studio illustrate the development as approved and the proposed modifications. There is no increase to*

*the height of the Village Centre. New 1800mm high screening to services zones is provided to the roof. The service zone is setback from the edge of the roof and will not be visible from the public domain.*

- **Unauthorised work (large concrete piles have been installed in the area proposed for excavation without any development consent)**

#### Comment

This matter has been referred to Council's Building and Compliance team to investigate and take appropriate action.

### **10.2. Statutory Declaration**

The applicant has completed the statutory declaration dated 13 March 2017 declaring that the site notice for DA72/2014/2 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

### **11. STATE ENVIRONMENTAL PLANNING POLICY 55: REMEDIATION OF LAND**

Under Clause 7(1)(a) of SEPP 55 – Remediation of Land, consideration has been given as to whether the subject site on which the development is occurring is contaminated. The land is currently, and has been, used for residential aged care purposes and there is no evidence before Council to suggest that the land has been used in a manner that would result in contamination. It is considered that Council can be satisfied that the land is not contaminated such that remediation would be required therefore, the proposal is considered acceptable with regard to SEPP 55.

### **12. STATE ENVIRONMENTAL PLANNING POLICY 65: DESIGN QUALITY OF RESIDENTIAL FLAT DEVELOPMENT**

SEPP 65 and the accompanying Apartment Design Guide commenced operation on 17 July 2015. The savings provisions state that if a development application has been made before the commencement of SEPP 65 and has not been determined, the application must be determined as if this Plan had been exhibited but had not commenced.

SEPP 65: Design Quality of Residential Flat Development applies to all new residential flat buildings (or substantial redevelopment) where it comprises three or more storeys and four or more self-contained dwellings.

#### **9.1 Clause 2: Aims and Objectives**

The aim of the SEPP is to improve the design quality of residential flat development by:

- To ensure that it contributes to the sustainable development of New South Wales:*
  - By providing sustainable housing in social and environmental terms*
  - By being a long-term asset to its neighbourhood*
  - By achieving the urban planning policies for its regional and local contexts*
- To achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define*

- c) *To better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities*
- d) *To maximise amenity, safety and security for the benefit of its occupants and the wider community*
- e) *To minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions*

A Design Verification Statement was submitted with the application, prepared by Environa Studio. It is considered to be acceptable.

The instrument also requires the proposal to be referred to a Design Review Panel. This panel has not been established for the Woollahra area.

## 9.2 Design Quality Principles

SEPP 65 requires the assessment of the subject development application against nine design quality principles in Clauses 9-18. This assessment has been undertaken by Council's Urban Design Officer. Where relevant, comment from Council's Assessment Officer is also included.

### 9.2.1 Principle 1 (Context and neighbouring character)

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

Urban Design Officer comment: Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

The site is in a heritage conservation area however the context is very much defined by the existing built form on the site. The existing 1970s buildings on-site are not characteristic of the wider location.

The proposed works respond to the existing buildings on site that are being retained and added to. The additions mean the whole group better responds to the immediate streetscape. The additions fulfill this design principle.

Planning Officer comment: Concur. The proposed modifications contribute to the quality and identity of the area. The bulk, form and scale of the proposed development is compatible with the existing scale of development on-site.

The modified height (25.61m approx. to the top of the proposed rooftop screening to the Macquarie Tower) does not exceed the existing overall building height (approx. 28.4m). The new screening proposed will not be visible from the public domain.

The proposal satisfies this principle.

### 9.2.2 Principle 2 (Built form and scale)

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

Urban Design Officer comment: The proposed section 96(2) amendments retain the existing scale of development on the site and complement the existing buildings.

Planning Officer comment: Concur. The bulk, form and scale of the proposed development is comparable to the approved development. The modified height (25.61m approx. to the top of the proposed rooftop screening to the Macquarie Tower) does not exceed the existing overall building height (approx. 28.4m).

The interface between the modification and the public domain is considered satisfactory and will positively contribute to the Jersey Road streetscape. The proposal satisfies this principle.

### 9.2.3 Principle 3 (Density)

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

Urban Design Officer comment: The population density on this site is effectively being slightly reduced by the development.

Planning Officer comment: Concur. The density of the proposed development is no different from the original consent (albeit slightly reduced) and is therefore considered acceptable. The proposal satisfies this principle.

The proposal satisfies this principle.

### 9.2.4 Principle 4 (Sustainability)

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

Urban Design Officer comment: The proposal improves the present condition. Higher insulation levels are provided and greater potential to control internal temperature with opening windows. Existing open walk ways are enclosed further protecting from inclement conditions. There is limited space provided for recycling by the individual consumers and limited space at the collection point.

The design provides no obvious clothes drying facilities. Both SEPP 65 and the Woollahra Residential DCP require external clothes drying facilities. The NSW State Government *save power* website suggests that over 10 years a 10 unit flat building not hanging clothes out to dry in the sun will account for 130 tons of carbon emissions into the atmosphere. This position is reinforced by

the Ausgrid *clothes dryers* discussion paper. The section 96(2) does not address these concerns.

Planning Officer comment: Concur. There are no obvious clothes drying facilities, however this has been conditioned under the original development consent (refer to **Condition C.1 (c)**).

### 9.2.5 Principle 5 (Landscape)

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

Urban Design Officer comment: Providing interactive gardening opportunities for seniors is a great potential lifestyle opportunity for aged care housing. Many retired people, living in apartments, having left a garden behind and having more available time are interested in gardening. The landscape proposal does not appear to recognise this, although “community gardens” are provided, there are no actual hands on gardening/vegetable growing opportunities. As previously noted there are also no clothes drying areas. The landscape work proposed does however appear to provide some attractive external places surrounding the development. The proposal meets this design principle, but misses the potential opportunities regarding resident involvement and community building.

Planning Officer comment: Concur. The modifications are acceptable in terms of deep soil landscaped area. The proposed landscaping provides benefit to the amenity of the subject residents with regard to usability, privacy and aesthetics as well as respecting the neighbours’ amenity. In regards to the provision of community gardens, this is shown on the landscape plan submitted.

The proposal satisfies this principle

### 9.2.6 Principle 6 (Amenity)

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

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

Urban Design Officer comment: Community facilities greatly improve the village atmosphere and provide an appropriate connection to the wider public realm.

The works improve the amenity across the site.

Planning Officer Comment: Concur, The modifications provides a greater range of community faculties. The proposal satisfies this principle

#### **9.2.7 Principle 7 (Safety)**

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

Urban Design Officer comment: The creation of a village centre allows residents to meet and provides a clearly defined entry area. This means residents are more likely to be able to identify an intruder, meaning the development is both safer and more secure.

Planning Officer comment: Concur. The proposed design provides a reasonable level of passive surveillance, safety and security for the residents. The proposal satisfies this principle.

#### **9.2.8 Principle 8 (Housing Diversity and social interaction)**

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

Urban Design Officer comment: Aged housing provides a very necessary housing type which meets the particular needs of the growing number of senior citizens in an aging population.

Planning Officer comment: Concur. The proposal satisfies this principle

#### **9.2.9 Principle 9 (Aesthetics)**

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

Urban Design Officer comment The proposed section 96(2) amendments both respect and positively contribute to the existing architectural aesthetic.

Planning Officer comment: Concur. The architect has provided a Design Verification Statement indicating the development satisfies the relevant considerations prescribed by this SEPP. For the reasons outlined above, the development responds to its urban context and satisfies this principle.



### 9.3 Apartment Design Guide (ADG)

SEPP 65 Clause 28(2)(c) provides that the consent authority must take into account particular design criteria in the Apartment Design Guide. Eight topics are listed in SEPP 65 clause 6A and override any controls in the WDCP2015 when the development is being evaluated.

Topic Area	Subject	Compliance												
3F Building separation	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><tr><td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	No
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
4A Solar access	<p>1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p><del>2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter (Not applicable).</del></p> <p>3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</p>	<p>Yes,</p> <p>Although the existing building features double loaded corridors over 70% of the apartments are likely to comply</p>												
4F Common circulation spaces	<p>1. The maximum number of apartments off a circulation core on a single level is eight</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40</p>	<p>No,</p> <p>There are 2 lifts but 10 apartments per floor</p>												
4D Apartment size	<p>1.Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m2</td></tr><tr><td>1 bedroom</td><td>50m2</td></tr><tr><td>2 bedroom</td><td>70m2</td></tr><tr><td>3 bedroom</td><td>90m2</td></tr></table> <p>2.Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>3.In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p> <p>1.Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space)</p> <p>2.Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>1.Living rooms or combined living/dining rooms have a minimum width of:</p> <p>3.6m for studio and 1 bedroom apartments</p> <p>4m for 2 and 3 bedroom apartments</p> <p>2.The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	Apartment type	Minimum internal area	Studio	35m2	1 bedroom	50m2	2 bedroom	70m2	3 bedroom	90m2	<p>Impossible to determine from documentation provided</p>		
Apartment type	Minimum internal area													
Studio	35m2													
1 bedroom	50m2													
2 bedroom	70m2													
3 bedroom	90m2													

4C Ceiling Height	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Minimum ceiling height for apartment and mixed use buildings</p> <table><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table> <p>For 2 storey apartments 2.7m for main living area floor</p> <p>2.4m for second floor, where its area does not exceed 50% of the apartment area</p> <p>Attic spaces 1.8m at edge of room with a 30 degree minimum ceiling slope</p> <p>If located in mixed used areas 3.3m for ground and first floor to promote future flexibility of use</p>	Habitable rooms	2.7m	Non-habitable	2.4m	No											
Habitable rooms	2.7m																
Non-habitable	2.4m																
4E Private open space	<p>1. All apartments are required to have primary balconies as follows:</p> <table><tr><td>Dwelling type</td><td>Minimum area</td><td>Minimum depth</td></tr><tr><td>Studio apartments</td><td>4m2</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m2</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m2</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m2</td><td>2.4m</td></tr></table>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m2	-	1 bedroom apartments	8m2	2m	2 bedroom apartments	10m2	2m	3+ bedroom apartments	12m2	2.4m	Yes
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m2	-															
1 bedroom apartments	8m2	2m															
2 bedroom apartments	10m2	2m															
3+ bedroom apartments	12m2	2.4m															
4B Cross ventilation	<p>1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	Yes															
4G Storage volumes	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><td>Dwelling type</td><td>Storage size volume</td></tr><tr><td>Studio apartments</td><td>4m3</td></tr><tr><td>1 bedroom apartments</td><td>6m3</td></tr><tr><td>2 bedroom apartments</td><td>8m3</td></tr><tr><td>3+ bedroom apartments</td><td>10m3</td></tr></table> <p>At least 50% of the required storage is to be located within the apartment</p>	Dwelling type	Storage size volume	Studio apartments	4m3	1 bedroom apartments	6m3	2 bedroom apartments	8m3	3+ bedroom apartments	10m3	No					
Dwelling type	Storage size volume																
Studio apartments	4m3																
1 bedroom apartments	6m3																
2 bedroom apartments	8m3																
3+ bedroom apartments	10m3																

## 9.4 Conclusion

The modification is a refurbishment of an existing aged care facility that was built under different planning controls. Notwithstanding, the proposed refurbishment of the building is a positive one, having regard to the applicable and overriding SEPP HSPD The proposed modifications are therefore considered to be acceptable from an Urban Design perspective.

Given these considerations, the modification is acceptable with regard to SEPP 65: Design Quality of Residential Flat Development and the ADG, subject to recommended **Condition A.8 and Condition C.1 (c)**, which was part of the original consent.

### **13. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

The Section 96 application was accompanied by BASIX Certificate 532881M\_02 demonstrating compliance with the SEPP.

### **14. STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

The original assessment report determined that the proposal was satisfactory. The modifications proposed are substantially the same as the originally approved development (under DA72/2014/1).

The modifications to the approved scheme remain acceptable with the provisions of the State Environmental Planning Policy (Housing For Seniors Or People With A Disability) 2004.

SEPP (Housing for Seniors or People with a Disability) 2004 aims to increase the supply and diversity of residences that meet the needs of seniors or people with a disability and make efficient use of existing infrastructure and services.

The SEPP provides provisions for seniors, people with a disability, seniors housing, residential care facilities, hostels and self-contained dwellings.

#### **Clause 4**

Clause 4 stipulates that housing developments for seniors or people with a disability may be erected on land that is zoned for urban purposes and allows seniors living. The subject site is zoned R3 Medium Density Residential, which allows for seniors living.

#### **Clause 10**

Clause 10 identifies the proposed development as self-contained dwellings, which are forms of *seniors housing* to which the SEPP applies.

#### **Clause 18 Restrictions on occupation**

This clause restricts the occupation of the development to the following;

- (a) *seniors or people who have a disability,*
- (b) *people who live within the same household with seniors or people who have a disability,*
- (c) *staff employed to assist in the administration of and provision of services to housing provided under this Policy.*

A condition of consent limiting the people who may occupy the development to the above was imposed, refer to **Condition A.6** of the original consent.

## **Clause 26 Location and access to facilities**

This clause requires written evidence that the development will provide residents with adequate wheelchair access or adequate public transport access to a range of shops, services and facilities within the local area. Specifically, the development must have access to:

- (a) Shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) Community services and recreation facilities, and*
- (c) The practice of a general medical practitioner.*

Access complies with this clause if:

- (a) The facilities and services are located not more than 400 m from the site accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:*
  - (i) A gradient of no more than 1:12 for slopes for a maximum of 15 m at a time,*
  - (ii) A gradient of no more than 1:10 for a maximum length of 5 m at a time,*
  - (iii) A gradient of no more than 1:8 for distances of no more than 1.5 m at a time, or*
- (b) There is a public transport service available to the residents who will occupy the proposed development:*
  - (i) That is located at a distance of not more than 400 m from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
  - (ii) That will take those residents to a place that is located at a distance of not more than 400 m from the required facilities and services, and*
  - (iii) That is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm Monday to Friday.*

The proposed modification will have no impact or change to this Clause. However the original assessment stated:

*The site is located within 200m of a north bound and south bound bus stop to Edgecliff Station and Edgecliff Centre (Edgecliff Centre contains large variety of shops and services). Bus services from these bus stops run at approximately 10 -15 minute intervals.*

*It is noted that the path of travel to the bus stops on Ocean Street has not been surveyed to ascertain whether gradients comply with clause 26 of the SEPP. However, it is expected that the relatively flat path of travel from the site to the intersection of Jersey Road and Ocean Street achieves compliance with the gradient provisions. It should also be noted that the site is serviced by a community bus (20 seat capacity) three times a week. The community bus provides transport to both organised recreational activities and to local shops and services.*

## **Clause 28 Water and Sewer**

The subject site has access to potable water and sewage services.

## **Clause 30 Site Analysis**

It is considered that the proposal provides an adequate site analysis.

## Clause 32 Design of residential development

Consent must not be granted to the subject application unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out under Clauses 33-39 of the SEPP. The assessment of the modification against the provisions of these clauses is set out below.

## Clause 33 Neighbourhood amenity and streetscape

This clause states that the proposed development should:

- (a) *Recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area.*
- (c) *Maintain reasonable neighbourhood amenity and appropriate residential character by:*
  - (i) *Providing building setbacks to reduce bulk and overshadowing.*
  - (ii) *Using building form and siting that relates to the site's land form.*
  - (iii) *Adopting building heights at the street frontage that are compatible in scale with adjacent development.*
  - (iv) *Considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours.*
- (d) *Be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line.*

Council's Urban Design Planner has provided the following comments in this regard:

*This proposal improves the amenity of all the dwellings on the site and adds a number of communal facilities. External access corridors are covered and a village centre is inserted. This proposal has no significant impact on the amenity of the surrounding location. The proposal is in the public good and is supported.*

The modifications involve changes to the approved scheme including layout changes to the Village centre, balconies to Macquarie Tower, access and layout and access changes to Bourke and Gipps House units.

The modifications involve an extension to the rear of the Village Centre at the first floor level (by approx. 3.15m) and the second floor level (by approx. 1.45m).

The rear extensions at the first and second floor levels of the Village Centre will not result in any adverse impacts and do not extend beyond the predominant approved rear building setbacks at these levels.

The modifications also involve moving the glazing line further out towards the balcony line above the Gipps House and Bourke House buildings to improve visual amenity (by creating a more consistent facade line) and increase space within each independent living unit. Further, the enclosed access corridor within the Gipps House and Bourke House buildings has been moved to the rear of each independent living unit, which improves accessibility and amenity for the residents.

Enlarged balconies to the rear of the Macquarie Tower (along the west elevation) will reduce the existing rear setback by approx. 1.63m. This is considered acceptable given the balconies are existing (no additional balconies are proposed) and the extended balconies will improve the amenity for residents by providing increased private open space in accordance with SEPP 65 and ADG.

The modification will increase the bulk, form and scale of the Gipps House, Bourke House and Village Centre buildings to the rear by moving the glazing line out towards the balcony line above, and reducing the stepped building form to the rear of these buildings. Further, the existing overall building height will not increase.

Notwithstanding this, the modifications are substantially the same development as the originally approved DA (under DA72/2014/1) and will not adversely impact the surrounding area and retains the predominant scale, mass and form of the originally approved development. Further, Council's Heritage Officer and Urban Design Officer support the modifications.

The modification will make a positive contribution to the surrounding locality as the development proposes to provide a contemporary update to the existing 40 year old buildings. These contemporary changes are considered to be compatible with the visual character of the surrounding locality. The modifications will not adversely the amenity of surrounding residential properties as the subject site does not directly adjoin any residential properties (the only properties that directly adjoin the site is Council's Depot and Paddington Bowling Club). These properties are at a much lower level and are not adversely affected by this proposal in terms of solar access. These impacts have been further discussed below in Section 17.1.4 of this report.

Subsection (b) of Clause 33 states:

- (b) *Retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan.*

In this regard, Council's Heritage Officer has provided the following heritage related comments:

### ***HERITAGE FRAMEWORK***

- *The subject building is not a heritage item in the Woollahra Local Environment Plan 1995, the LEP, and is not listed on the State Heritage Register.*
- *The subject building is adjacent to a heritage item, namely Taber Cottage, the former Paddington Watch House, at No. 238 Jersey Road, Woollahra.*
- *The subject building is within the Paddington Heritage Conservation Area, and is not considered a contributory item or a significant item.*

### ***DESCRIPTION OF PROPOSAL***

Modifications to the to the approved scheme including layout changes to the Village centre, balconies to Macquarie tower, access & layout and access changes to Bourke & Gipps units.

### ***RECOMMENDATION***

*Consent. No heritage conservation conditions are required.*

The proposal is therefore considered to be satisfactory in terms of heritage related issues.

Subsections (e) & (f) of Clause 33 state:

- (e) *Embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.*
- (f) *Retain, wherever reasonable, major existing trees.*

Council's Tree and Landscaped Officer provided the following recommendation:

*This Section 96 application would not result in any major alterations of landscape than that of the existing approval. There are some minor additions to the plantings proposed on the Jersey Road frontage to the east of the Community Centre. A change of species for five trees proposed on the southern boundary with the Taber Cottage. All acceptable.*

*It should be noted that Tree 29 (Eucalyptus saligna (Sydney Blue Gum)) was removed in 2015 by way of an expedited Tree Preservation Order permit due to its hazardous condition (TPO 480/2014). The tree is indicated as being retained on the supplied landscape plans. The tree had dropped two large braches into Jersey Road. A condition of the TPO permit was that a replacement specimen of Caesalpinia ferrea (Leopard tree) was to be planted at a location conveniently adjacent to the tree removed. This replacement planting has not been undertaken. I have recommended that this requirement is now made a condition of this Section 96 application to ensure a positive outcome.*

*I have also recommended that the indicated planting of another specimen of Sydney Blue Gum on supplied Landscape Plan LP-1.2 at the front south east corner of the Macquarie Tower is deleted. A semi-mature specimen of Sydney Blue Gum is already established in this area (Tree 30). Sydney Blue Gum is a large to very large tree at maturity. One such tree in this limited area is sufficient. There are good landscape materials adjacent now.*

The modification is acceptable and will achieve the relevant objectives, subject to **Conditions A.8, C.21.**

### **Clause 34 Visual and acoustic privacy**

*The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:*

- (a) *Appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping.*
- (b) *Ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

*Note. The Australian and New Zealand Standard entitled AS/NZS 2107–2000, Acoustics—Recommended design sound levels and reverberation times for building interiors and the Australian Standard entitled AS 3671—1989, Acoustics—Road traffic noise intrusion—Building siting and construction, published by Standards Australia, should be referred to in establishing acceptable noise levels.*

### **Visual privacy-adjoining properties**

Having regard to visual privacy the proposed development is not considered to create any adverse impacts on visual privacy for the following reasons:

- The proposed enlarged balconies and new areas of private open space have been sufficiently separated from surrounding areas of private open space and habitable room windows (the closest residential property is over 25m away), and no new balconies are proposed to Macquarie Tower; and
- The only properties which directly adjoin the subject site are the Paddington Bowling Club and Council's Depot, these properties are located to the rear of the site. The privacy impact on these properties is considered to be minimal given the recreational/light industrial use of these sites and the significant level difference between the subject site and the adjoining properties. Further to this the subject site enjoys extensive views to the north-west (city skyline, Harbour Bridge and Trumper Park), which will minimise privacy impacts as sightlines will be concentrated toward these views and away from these adjoining properties. It should also be noted that the existing development already overlooks these properties, thus further overlooking of these properties would be unavoidable.

### *Visual privacy-internal*

The modifications are considered to be satisfactory in terms of internal visual privacy as windows and private open space areas of individual units are adequately separated or screened.

### *Acoustic privacy/noise*

Having regard to acoustic privacy the proposed development is not considered to create any adverse impacts on acoustic privacy for the following reasons:

- Council's Environmental Health Officer has the following comments in relation to this issue:

*Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to Conditions. All noise related conditions have been recommended to be applied to the development, refer to **Conditions Nos.B.3, C.18, I.9, I.10** contained in the original consent.*

- The private balconies and terraces are considered to be of reasonable dimensions such that they will not be able to accommodate large gatherings and therefore are not considered to give rise to significant acoustic privacy impacts.
- A condition of consent was imposed that prevents the use of the village facilities including the cafe and gym from being used by the general public, refer to **Condition I.1**.
- The modification will result in the reduction of independent living units by 10 units, from the previously approved 169 to 159 units.

### *Acoustic privacy-internal*

The proposal is considered to be satisfactory with regard to internal acoustic privacy.

## **Clause 35 Solar access and design for climate**

*The proposed development should:*

- (a) *Ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space.*



- (b) *Involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

The modification will not result in any loss of daylight to the main living areas or private open space at surrounding properties. This has been further discussed below in Section 17.1.4 of this report.

The thermal comfort of the modified units will be improved by addition of larger balconies, shading devices and the provision double glazing to eastern and western facing openings. The modification is therefore considered acceptable in this regard. Further to this, BASIX certificates have been submitted with this application.

### **Clause 36 Stormwater**

*The proposed development should:*

- (a) *Control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas*
- (b) *Include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Council's Development Engineer considers the modification to be satisfactory in terms of stormwater management, subject to **Conditions C.15**. This condition requires the installation of rainwater tanks that have a total capacity of 60,000 litres. This rainwater is to be re-used on the site for toilet flushing and irrigation of the garden areas.

### **Clause 37 Crime prevention**

*The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:*

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

The modifications will make improvements to the crime prevention characteristics of the site. The new enlarged balconies to Macquarie Tower, Gipps and Bourke House and the altered main entry along Jersey Road will provide improved passive surveillance for the approaches to the site and the surrounding locality. The proposed Village Centre substantially activates this part of the site by providing communal areas that overlook Jersey Road.

## Clause 38 Accessibility

*The proposed development should:*

- (a) *Have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities.*
- (b) *Provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

The proposed connection between Gipps House and Macquarie Tower by the Village Centre will significantly improve the pedestrian links throughout the site. The new corridor access from the rear of the independent living units to Gipps and Bourke House, and the amended to the walkway (including new glazing for weather proofing) will improve internal access for residents.

The modifications do not seek to adversely change the previously approved parking and traffic arrangements, and does not propose to increase the number of approved parking spaces on-site.

The entry forecourt to the Village Centre has been reconfigured to provide for four car parking spaces, including one accessible parking space. A dedicated loading bay has been provided. A total of 24 car parking spaces are provided at Goodwin Village, consistent with the number of parking spaces approved under the original consent.

## Clause 39 Waste management

*The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.*

The approved development resulted in minor changes to the existing waste storage arrangements at the site. Waste storage facilities are to be located adjacent to the proposed sub-station and adjacent to the vehicular entrance to the Village Centre. Two additional waste storage areas have been proposed within the main car park. A mixture of general waste, recycling and green waste bins will be provided. The approved development will maintain the current procedure for waste disposal being a private contractor which disposes of all waste and recycling on a weekly basis.

A condition of consent was recommended in relation to waste management, refer to **Condition C.8**.

The modification remains acceptable.

## Clause 40 Development standards

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
- (2) *Site size: The size of the site must be at least 1,000 m<sup>2</sup>.*
- (3) *Site frontage: The site frontage must be at least 20 m wide measured at the building line.*

## Site area

The site has an area of 7,319m<sup>2</sup> which complies with the minimum site area requirements of 1000m<sup>2</sup>.

## Site frontage

The principal site frontage to Jersey Road, has a length of approximately 178.2m, the secondary frontages to Quarry Street and Thorne Street are approximately 48.1m and 67m respectively, which comply with the minimum site frontage development requirement of 20 m.

## Clause 41 Standards for hostels and self-contained dwellings

- (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.*
- (2) Despite the provisions of clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15–20 of Schedule 3, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.*

The applicant is Anglican Retirement Villages, which are social housing providers. Given that the applicant is a social housing provider, the accessibility requirements are limited to any new units proposed under the SEPP that are located on the ground level of the development.

Since the development has no new units on the nominated ground levels the accessibility requirements under Clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15–20 of Schedule 3 of the SEPP do not apply to this development.

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

*A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds:*

- (a) **building height:** if all proposed buildings are 8 m or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys).*
- (b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.*
- (c) **landscaped area:** if:*
  - (i) in the case of a development application made by a social housing provider-a minimum 35m<sup>2</sup> of landscaped area per dwelling is provided, or*
  - (ii) in any other case-a minimum of 30% of the area of the site is to be landscaped.*
- (d) **Deep soil zones:** if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site*

*(the **deep soil zone**). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 m.*

(e) **solar access:** *if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.*

(f) **private open space for in-fill self-care housing:** *if:*

*(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and*

*(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,*

**Note.** *The open space needs to be accessible only by a continuous accessible path of travel (within the meaning of AS 1428.1) if the dwelling itself is an accessible one. See Division 4 of Part 4.*

(h) **parking:** *if at least the following is provided:*

*(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider*

## **Building Height**

The modification does not propose to increase the existing overall building height and the proposed works.

The modified height (25.61m approx. to the top of the proposed rooftop screening to the Macquarie Tower) does not exceed the existing overall building height (approx. 28.4m). The new screening proposed will not be visible from the public domain. This issue is discussed in Section 16.3 of this report.

As discussed previously, the proposed modifications are considered to be satisfactory with regard to amenity impacts upon the locality, including streetscape and residential amenity impacts.

## **Density and Scale**

A FSR control of 1:1 is applicable to the modification under the Woollahra LEP, 2014. This issue is discussed in Section 16.4 of this report.

## **Landscaped Area/ Deep Soil Zone**

Although the development does not comply with the minimum requirement of 35m<sup>2</sup> of landscaped area per dwelling for social housing providers (12m<sup>2</sup> as was originally proposed and approved), the modifications are acceptable in terms of deep soil landscaped area. The proposed development will improve the quality of the landscaping on the site as the proposal involves substantial landscape works to the site and provides benefit to the amenity of the subject residents with regard to usability, privacy and aesthetics as well as respecting the neighbours' amenity.

## Solar Access

The orientation of the units is limited by the orientation of the existing buildings at the subject site, however all of the units will receive either morning or afternoon sun, therefore the modification is considered to generally comply with the solar access requirements for living rooms and private open space at the subject site.

## Private open space for in-fill self-care housing

The modifications will result in an enlarged communal terrace on the third floor level within the Village Centre (from approx. 21.12m<sup>2</sup> to 74.3m<sup>2</sup>), improving amenity for the local residents.

The modifications will result in sufficient private open space for each independent living unit (approx. 14.5m<sup>2</sup> for one bedroom apartments and 22.2m<sup>2</sup> for two bedroom units) within the Gipps and Bourke Houses. The private open space complies with the minimum private open space requirements as set out in the SEPP 65 – ADG.

## On-Site Parking

The modifications do not seek to change the previously approved parking and traffic arrangements, and does not propose to increase the number of approved parking spaces on-site. A total of 24 car parking spaces.

Conditions were imposed under the original consent requiring a Traffic Management Plan and compliance with the strategies as set out in the Traffic Management Plan, refer to **Conditions C.3 and I.3**.

## 15. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

## 16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

### 16.1. Part 1.2: Aims of Plan

The modifications are consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

### 16.2. Land Use Table

The modifications are defined as seniors housing and is permitted, and is consistent with the objectives of the R3 Medium Density Residential zone.

### 16.3. Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 10.5m.

	Approved	Modification	Control	Complies
Maximum Building Height	23.3m (existing building height of the Macquarie Tower is 28.4m)	25.61m (approx. to top of screening on roof of the Macquarie	10.5m	NO

	Approved	Modification	Control	Complies
		Tower)		

The modifications do not comply with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. The modifications are however acceptable with regard to the relevant objectives under Part 4.3(1) of Woollahra LEP 2014 in the following manner:

- (a) *To establish building heights that are consistent with the desired future character of the neighbourhood*

The modification does not propose to increase the existing overall building height and the proposed works.

The modified height (25.61m approx. to the top of the proposed rooftop screening to the Macquarie Tower) does not exceed the existing overall building height (approx. 28.4m). The new screening proposed will not be visible from the public domain.

- (b) *To establish a transition in scale between zones to protect local amenity*

The subject site is within the R3 Medium Density Residential zone and the proposed bulk and scale of new development is compatible with the approved development on-site.

The form of the building is appropriate in this location.

- (c) *To minimise the loss of solar access to existing buildings and open space*

There will be negligible additional overshadowing impact on the neighbouring properties resulting from the modifications.

- (d) *To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion*

The modifications are acceptable given there will be no adverse disruption of views, loss of privacy and visual intrusion.

- (e) *To protect the amenity of the public domain by providing public views of the harbour and surrounding areas*

The modification is acceptable given there will be no adverse disruption of views of the city and surrounding areas.

The modification does not result in any unreasonable impacts on public or private view loss.

**Applicant's Response:**

*No additional height is proposed as a result of the proposed modifications. The proposed heights are consistent with the approved Development Application.*

**16.4. Part 4.4: Floor Space Ratio**

Part 11 limits development to a maximum floor space ratio of 1:1.

Site Area: 7,319m <sup>2</sup>	Approved	Modification	Control	Complies
Floor Space Ratio	<p>1:14 (8,358.18m<sup>2</sup>)</p> <p><i>*Note: the approved FSR was assessed according to the definition under the Woollahra LEP 1995 and the previous 0.75:1 FSR control).</i></p>	<p>1.3:1 (9,353.38m<sup>2</sup>)</p> <p>(overall increase by 995.2m<sup>2</sup>)</p>	<p>1:1 (7,319m<sup>2</sup>)</p>	NO

The modifications do not comply with Part 4.4 of Woollahra LEP. The modifications are however acceptable with regard to the relevant objectives under Part 4.4(1)(a) of Woollahra LEP 2014 in the following manner:

- (i) *to ensure the bulk and scale of new development is compatible with the desired future character of the area, and*

The modifications are substantially the same development as the originally approved DA (under DA72/2014/1) and will not adversely impact the surrounding area and retains the predominant bulk and scale of the originally approved development.

The modification does not propose to increase the existing and approved overall building heights. The modified height (25.61m approx. to the top of the proposed rooftop screening to the Macquarie Tower) does not exceed the existing overall building height (approx. 28.4m). The new screening proposed will not be visible from the public domain.

Council's Heritage Officer and Urban Design Officer support the modifications.

- (ii) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, and*

The modifications are acceptable given there will be no adverse disruption of views, loss of privacy and visual intrusion. These issues as addressed throughout the report.

- (iii) *to ensure that development allows adequate provision on the land for deep soil planting and areas of private open space*

The modification accommodates sufficient private open space and landscaped areas for the local residents.

The enlarged balconies proposed to the Macquarie Tower will improve amenity for the residents.

**Applicant's Response:**

*The approved development application has an FSR of 1.1:1. This exceeds the 1:1 maximum Floor Space Ratio development standard under WLEP 2014. The proposed modifications, as detailed in this S96 application, increase the gross floor area of Goodwin Village by 995.2m<sup>2</sup> resulting in an FSR of 1.3:1. As detailed on Drawing 980 Area Calculation Plan by Environa Studio (**Appendix 1**), the additional GFA is predominately located on Levels 1 and 2 of the Village Centre.*

*These areas provide communal facilities for all residents of Goodwin Village including a Hall, Gym, Multi-purpose room, library and clinic. There is also an increase in GFA as a result of the new circulation corridors on Levels 1, 2 and 3 that provide an enclosed pedestrian link between the Village Centre, Gipps House and Bourke House. Whilst, there is an increase in the proposed GFA of Goodwin Village, there is a reduction in the number of dwellings on site from 169 in the approved DA to 159 dwellings.*

*The additional GFA does not result in additional bulk and scale. The bulk, scale and form of the Village Centre responds to the bulk, scale and form of the adjacent buildings. There is an increased setback of the Village Centre to Jersey Road. The proposed Village Centre forecourt provides an attractive entry to Goodwin Village. In addition, the proposed increase in FSR will have minimal to no adverse amenity impacts upon adjoining residential properties in terms of solar access and visual & acoustic privacy. There is only a minimal reduction in the area of deep soil landscaping provided on site.*

#### **16.5. Part 5.9: Preservation of Trees or Vegetation**

Council's Tree and Landscaping Officer supports the modification and provided the following comments:

*This Section 96 application would not result in any major alterations of landscape than that of the existing approval. There are some minor additions to the plantings proposed on the Jersey Road frontage to the east of the Community Centre. A change of species for five trees proposed on the southern boundary with the Taber Cottage. All acceptable.*

*It should be noted that Tree 29 (Eucalyptus saligna (Sydney Blue Gum)) was removed in 2015 by way of an expedited Tree Preservation Order permit due to its hazardous condition (TPO 480/2014). The tree is indicated as being retained on the supplied landscape plans. The tree had dropped two large braches into Jersey Road. A condition of the TPO permit was that a replacement specimen of Caesalpinia ferrea (Leopard tree) was to be planted at a location conveniently adjacent to the tree removed. This replacement planting has not been undertaken. I have recommended that this requirement is now made a condition of this Section 96 application to ensure a positive outcome.*

*I have also recommended that the indicated planting of another specimen of Sydney Blue Gum on supplied Landscape Plan LP-1.2 at the front south east corner of the Macquarie Tower is deleted. A semi-mature specimen of Sydney Blue Gum is already established in this area (Tree 30). Sydney Blue Gum is a large to very large tree at maturity. One such tree in this limited area is sufficient. There are good landscape materials adjacent now.*

The modifications are acceptable with regard to Part 5.9 of the Woollahra LEP 2014, subject to **Conditions A.8, C.21.**



## **16.6. Part 5.10: Heritage Conservation**

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The proposed development is located in the Paddington Heritage Conservation Area. Council's Heritage Officer supports the modification and provided the following comments:

*The current proposal is a section 96(2) modification application to development consent determined by Sydney East JRPP on the 28 May 2014.*

*The previously approved proposal was assessed on heritage grounds via Referral Response DA 72/2014/1 dated 31 March 2014. The proposal sought to refurbish the existing ARV (Anglican Retirement Villages) Goodwin Village and to construct a new five-storey Village Centre, to be located between the five-storey Gipps House and the ten-storey Macquarie Tower.*

*The assessment concluded that the adjacent heritage item (Paddington Watch House) is to the south of Macquarie Tower, shielding the item from most of the proposed Village Centre. It was further concluded that the proposal would not affect significant views to or from the heritage item and will not overshadow the item. It was also determined that the proposal would not have any adverse effect on the heritage significance of any heritage items in the vicinity.*

*The proposed modifications to the previously approved scheme involve mainly internal and circulation changes. There will be a slight increase in the size of the balconies and living room windows to the units in Macquarie tower, however this will result in only a minor visual change in the overall presentation of the building. As such, this will have a negligible impact on the streetscape presentation within the conservation area and the setting of the heritage items located in the vicinity.*

*The only other amendments proposed that may impact on heritage significance of the conservation area and heritage items within the vicinity, are the changes to the front entry and the revision to façade of Bourke and Gipps House to make a consistent façade line. Given the length, scale and massing of the development within the streetscape, and the contemporary style and character of the development within the historic streetscape and conservation area, the changes proposed are considered to be minor. Whilst the previously approved scheme is the preferred option for the front entry to the development (recessed, as opposed to protruding forward under the proposed scheme), the proposed amendments will result in a very minor overall visual change to the presentation of the development when viewing the development in its entirety.*

*Accordingly, no objection is raised to the proposed modifications on heritage grounds.*

The modifications are acceptable, and will achieve the relevant objectives under Part 5.10 (1) (a) (b) of the Woollahra Local Environmental Plan 2014.

## **16.7. Part 6.1: Acid Sulfate Soils**

Part 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a

Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

## **16.8. Part 6.2: Earthworks**

The proposed modifications included additional excavation for the proposed Village Centre on Levels 1 and 2, and new circulation corridors on Levels 1, 2 and 3 of Gipps and Bourke Houses.

Council's Engineer supports the proposed excavation and provided the following comments:

### ***Geotechnical, Hydrogeological and/or Structural Comments***

*A Geotechnical Report by Douglas Partners Ref: 84648.01, dated August 2016, has been submitted in support of the application.*

*The report identified the subsurface conditions. It is noted from the report that the excavation for the construction of the proposed accessway will be in sands except at the northern end of Bourke House which will be excavation within medium or high strength sandstone.*

*The report made comments and recommendations on the following:*

- *Shoring and support,*
- *Vibration Monitoring,*
- *Excavation method,*
- *Further Geotechnical input.*

*Since there will be excavation in sandstone at the northern end of Bourke House, it is considered that condition for vibration monitoring should be imposed as part of this application. Further, the geotechnical engineer has commented that temporary ground anchors will be required if the contiguous wall method is used for temporary retention for soil stabilisation. Therefore, condition for ground anchors should also be imposed in case this method is chosen.*

*Council's Technical Services has no objection to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.*

The modifications are therefore acceptable with regard to Part 6.2 of the Woollahra LEP 2014, subject to **Conditions C.22, E.23**.

## **17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

### **17.1. Chapter C1: Paddington Heritage Conservation Area**

#### **17.1.1 Section C1.4.2: Side Elevations to Streets and Lanes**

The approved development ensures the side elevation of Bourke House fronting Thorne Street is of sympathetic design and construction.

The modifications propose appropriate materials, including brick walls with a rendered finish, which is sympathetic to the Paddington Heritage Conservation Area.

The modifications are acceptable and will achieve the relevant objective O2.

#### **17.1.2 Section C1.4.3: Rear Elevations, Rear Additions, Significant Outbuildings and Yards**

The modification involves an extension to the rear of the Village Centre at the first floor level (by approx. 3.15m) and the second floor level (by approx. 1.45m).

The rear extensions at the first floor level and second floor levels of the Village Centre will not result in any adverse impacts and do not extend beyond the predominant approved rear building setbacks at these levels.

The modifications also involve moving the glazing line further out towards the balcony line above the Gipps House and Bourke House buildings to improve visual amenity (by creating a more consistent facade line) and increase space within each independent living unit.

Further, the enclosed access corridor within the Gipps House and Bourke House buildings has been moved to the rear of each independent living unit which improves accessibility and amenity for the residents.

Enlarged balconies to the rear of the Macquarie Tower (along the west elevation) will reduce the existing rear setback by approx. 1.63m. This is considered acceptable given the balconies are existing (no additional balconies are proposed) and the extended balconies will improve the amenity for residents by providing increased private open space.

The modification is acceptable and will achieve the relevant objectives O2 and O4.

#### **17.1.3 Section C1.4.4: Roofs and Roof Forms**

The modifications propose screening for services on the rooftop of the Macquarie Tower and the Village Centre.

The screening is appropriate and will not be visible from the public domain.

The modifications are acceptable and will achieve the relevant objectives O1 and O3.

#### **17.1.4 Section C1.4.5: Building Height, Bulk, Form and Scale**

The modifications will increase the bulk, form and scale of the Gipps House, Bourke House and Village Centre buildings to the rear by moving the glazing line out towards the balcony line above, reducing the stepped down building form to the rear of these buildings.

Additionally the bulk, form and scale of the Village Centre entrance along Jersey Road will increase by reducing the front setback and the stepped down building form from Jersey Road (refer to Figures 4, 5, 6 and 7 below).

Notwithstanding this, the modifications are substantially the same development as the originally approved DA (under DA72/2014/1) and will not adversely impact the surrounding area and retains the predominant scale, mass and form of the originally approved development. Further, Council's Heritage Officer and Urban Design Officer support the modification.

The modified height (25.61m approx. to the top of the proposed rooftop screening to the Macquarie Tower) does not exceed the existing overall building height (approx. 28.4m). The new screening proposed will not be visible from the public domain.

The modification complies with Council's minimum access to sunlight controls.

The modification is acceptable and will achieve the relevant objectives O1, O3, O4, O5 and O6.



01 3D MODEL STUDY: APPROVED DA  
NTS

02 3D MODEL STUDY: PROPOSED S96  
NTS

*Figure 4 – 3D Model Study (of the Village Centre along the West Elevation), Comparing the Previously Approved DA to the Proposed S96, by Enviro Studio 11/1/17*



01 3D MODEL STUDY: APPROVED DA  
NTS



02 3D MODEL STUDY: PROPOSED S96  
NTS

*Figure 5 – 3D Model Study (of the Village Centre along the West Elevation), Comparing the Previously Approved DA to the Proposed S96, by Enviro Studio 11/1/17*





01 PHOTOMONTAGE STUDY: APPROVED DA  
NTS



02 PHOTOMONTAGE STUDY: PROPOSED S96  
NTS

*Figure 6 – Photomontage (of the Village Centre’s main entrance fronting Jersey Road), Comparing the Previously Approved DA to the Proposed S96, by Enviro Studio 11/1/17*



*Figure 7 – Photomontage (of the Village Centre main entrance fronting Jersey Road and to the rear along the West Elevation), Comparing the Previously Approved DA to the Proposed S96, by Enviro Studio 11/1/17)*





*Figure 8: Existing development as viewed from Jersey Road (currently under construction) and the view of the city between the Macquarie Tower and Gipps House (taken from the corner of Jersey Road and Trelawney Street)*

### **17.1.5 Section C1.4.6: Site Coverage, Setbacks and Levels**

The modifications involve an extension to the rear of the Village Centre at the first floor level (by approx. 3.15m) and second floor level (by approx. 1.45m).

The rear extensions at the first floor and second floor levels of the Village Centre will not result in any adverse impacts and do not extend beyond the predominant approved rear building setbacks at these levels.

The modifications also involve moving the glazing line further out towards the balcony line above the Gipps House and Bourke House buildings to improve visual amenity (by creating a more consistent facade line) and increase space within each independent living unit.

Further, the enclosed access corridor within the Gipps House and Bourke House buildings has been moved to the rear of each independent living unit which improves accessibility and amenity for the local residents.

Enlarged balconies to the rear of the Macquarie Tower (along the west elevation) will reduce the existing rear setback by approx. 1.63m. This is considered acceptable given the balconies are existing (there are no additional balconies proposed) and the extended balconies will improve amenity for residents by providing increased private open space.

Additionally the bulk, form and scale of the Village Centre entrance along Jersey Road will increase by reducing the front setback and the stepped down building form from Jersey Road.

Notwithstanding this, the modifications are substantially the same development as the originally approved DA (under DA72/2014/1) and will not adversely impact the surrounding area, and retains the predominant scale, mass and form of the originally approved development.

The modification is acceptable and will achieve the relevant objectives.

### **17.1.6 Section C1.4.7: Excavation**

The proposed modifications included additional excavation for the proposed Village Centre on Levels 1 and 2, and new circulation corridors on Levels 1, 2 and 3 of Gipps and Bourke Houses.

Council's Engineer supports the proposed excavation and provided the following comments:

#### ***Geotechnical, Hydrogeological and/or Structural Comments***

*A Geotechnical Report by Douglas Partners Ref: 84648.01, dated August 2016, has been submitted in support of the application.*

*The report identified the subsurface conditions. It is noted from the report that the excavation for the construction of the proposed accessway will be in sands except at the northern end of Bourke House which will be excavation within medium or high strength sandstone.*

*The report made comments and recommendations on the following:*

- *Shoring and support,*
- *Vibration Monitoring,*
- *Excavation method,*
- *Further Geotechnical input.*

*Since there will be excavation in sandstone at the northern end of Bourke House, it is considered that condition for vibration monitoring should be imposed as part of this application. Further, the geotechnical engineer has commented that temporary ground anchors will be required if the contiguous wall method is used for temporary retention for soil stabilisation. Therefore, condition for ground anchors should also be imposed in case this method is chosen.*

*Council's Technical Services has no objection to the proposed excavation on technical grounds. Notwithstanding this, Council's Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and DCP.*

The modification is therefore acceptable and will achieve the relevant objectives, subject to **Conditions C.22, E.23.**

#### **17.1.7 Section C1.4.8: Private Open Space, Swimming Pools, Lightwell Courtyards and Landscaping**

The modifications accommodate sufficient private open space and landscaped areas for the local residents.

The enlarged balconies proposed to the Macquarie Tower will improve amenity for the residents.

The modification is acceptable and will achieve the relevant objectives.

#### **17.1.8 Section C1.4.9: Views**

The loss of city views (through the existing gap between Macquarie Tower and Gipps House) was assessed and considered to be satisfactory and was approved under the original consent (DA72/2014/1). This modification will not result in any additional adverse impacts on view loss (refer to Figures 6 and 8 above).

There is no proposed increase to the previously approved building heights, minimising any potential impact on view loss.

The modifications are acceptable and will achieve the relevant objectives.

#### **17.1.9 Section C1.4.10: Acoustic and Visual Privacy**

Residents at no. 133 Jersey Road, Woollahra and at 14 and 16 Trelawney Street, Woollahra raised concerns about loss of visual privacy resulting from the enlarged balconies proposed along the eastern and northern elevations of the Macquarie Tower, looking into their main bedrooms and private open space/living areas.

The increase in the size of these balconies will not adversely impact the privacy of these properties given there are no new balconies proposed and the development is sufficiently separated from all surrounding residential properties (the closest residential property is approx. 20m away from the Macquarie Tower).

It should also be noted that the existing development already overlooks these properties, thus further overlooking of these properties would be unavoidable.

The modifications are acceptable and will achieve the relevant objectives O1 and O2.

#### **17.1.10 Section C1.5.4: Verandahs and Balconies**

The modifications propose to extend the existing balconies along the western and eastern elevations, and part of the north elevation of the Macquarie Tower.

This is considered acceptable given the balconies are existing (there are no additional balconies proposed) and the extended balconies will improve the amenity for residents by providing increased private open space.

The modifications are acceptable and will achieve the relevant objectives.

#### **17.1.11 Section C1.5.8: Materials, Finishes and Details**

The modification proposes compatible materials for the new works, including brick walls with a rendered finish, colorbond steel for the roof, gutters and downpipes, timber doors and fences, and aluminium door and window frames.

The proposed external colours are appropriate for the Paddington Heritage Conservation Area, as specified in the 'Materials and Finishes' schedule submitted.

The modifications are acceptable and will achieve the relevant objectives O1, O2 and O3.

#### **17.1.12 Section C1.5.9: Exterior Colours**

The proposed external colours are appropriate for the Paddington Heritage Conservation Area, as specified in the 'Materials and Finishes' schedule submitted.

The modifications are acceptable and will achieve the relevant objective O1.

#### **17.1.13 Section C1.5.10: Gardens and Trees**

Council's Tree and Landscaping Officer supports the modification and provided the following comments:

*This Section 96 application would not result in any major alterations of landscape than that of the existing approval. There are some minor additions to the plantings proposed on the Jersey Road frontage to the east of the Community Centre. A change of species for five trees proposed on the southern boundary with the Taber Cottage. All acceptable.*

*It should be noted that Tree 29 (Eucalyptus saligna (Sydney Blue Gum)) was removed in 2015 by way of an expedited Tree Preservation Order permit due to its hazardous condition (TPO 480/2014). The tree is indicated as being retained on the supplied landscape plans. The tree had dropped two large braches into Jersey Road. A condition of the TPO permit was that a replacement specimen of Caesalpinia ferrea (Leopard tree) was to be planted at a location conveniently adjacent to the tree removed. This replacement planting has not been undertaken. I have recommended that this requirement is now made a condition of this Section 96 application to ensure a positive outcome.*

*I have also recommended that the indicated planting of another specimen of Sydney Blue Gum on supplied Landscape Plan LP-1.2 at the front south east corner of the Macquarie Tower is deleted. A semi-mature specimen of Sydney Blue Gum is already established in this area (Tree 30). Sydney*

*Blue Gum is a large to very large tree at maturity. One such tree in this limited area is sufficient. There are good landscape materials adjacent now.*

The modifications are acceptable and will achieve the relevant objectives, subject to **Conditions A.8, C.21**.

#### **17.1.14 Section C1.6.2: Views and Vistas**

The loss of views of the city (through the existing gap between the Macquarie Tower and Gipps House) was assessed and determined to be satisfactory, and was approved under the original consent (DA72/2014/1). This modification will not result in any additional adverse impact on view loss.

Further, there is no proposed increase to the previously approved building heights, minimising any potential impact on view loss.

The modifications are acceptable and will achieve the relevant objectives.

#### **17.2. Chapter E3: Tree Management**

Council's Tree and Landscaping Officer supports the modification and provided the following comments:

*This Section 96 application would not result in any major alterations of landscape than that of the existing approval. There are some minor additions to the plantings proposed on the Jersey Road frontage to the east of the Community Centre. A change of species for five trees proposed on the southern boundary with the Taber Cottage. All acceptable.*

*It should be noted that Tree 29 (Eucalyptus saligna (Sydney Blue Gum)) was removed in 2015 by way of an expedited Tree Preservation Order permit due to its hazardous condition (TPO 480/2014). The tree is indicated as being retained on the supplied landscape plans. The tree had dropped two large braches into Jersey Road. A condition of the TPO permit was that a replacement specimen of Caesalpinia ferrea (Leopard tree) was to be planted at a location conveniently adjacent to the tree removed. This replacement planting has not been undertaken. I have recommended that this requirement is now made a condition of this Section 96 application to ensure a positive outcome.*

*I have also recommended that the indicated planting of another specimen of Sydney Blue Gum on supplied Landscape Plan LP-1.2 at the front south east corner of the Macquarie Tower is deleted. A semi-mature specimen of Sydney Blue Gum is already established in this area (Tree 30). Sydney Blue Gum is a large to very large tree at maturity. One such tree in this limited area is sufficient. There are good landscape materials adjacent now.*

The modifications are acceptable with regard to the objectives of Chapter E3, subject to **Conditions A.8, C.21**.

#### **18. THE LIKELY IMPACTS OF THE PROPOSAL**

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

## 19. THE PUBLIC INTEREST

The modifications are considered to be in the public interest.

## 20. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this application by the applicant or any person who made a submission.

## 21. RECOMMENDATION

### Pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, modify development consent to DA 72/2014/1 for extensive alterations & additions of the existing independent seniors living development including an internal and external upgrade throughout and a new Village Centre on land at 250-290 Jersey Road WOOLLAHRA, in the following manner:

**The following conditions are to be added:**

### A. General Conditions

#### A.8 Approved Amended (s96) Plans and supporting documents

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended approved plans and supporting documents as submitted by the Applicant and to which is affixed a Council stamp “Approved Section 96 Plans” listed below otherwise than modified by further condition(s). Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
003 Issue D	Site Plan	Environa Studio	11/1/17
004 Issue D	Village Centre Perspective Views	Environa Studio	11/1/17
005 Issue D	3D Model Study	Environa Studio	11/1/17
006 Issue D	3D Model Study	Environa Studio	11/1/17
007 Issue D	3D Model Study	Environa Studio	11/1/17
101 Issue D	Level 1 Floor Plan	Environa Studio	10/1/17
102 Issue D	Level 2 Floor Plan	Environa Studio	10/1/17
103 Issue D	Level 3 Floor Plan	Environa Studio	10/1/17
104 Issue D	Level 4 Floor Plan	Environa Studio	10/1/17
105 Issue D	Level 5 Floor Plan	Environa Studio	10/1/17
106 Issue D	Level 6 Floor Plan	Environa Studio	10/1/17
107 Issue D	Level 7-10 Floor Plan	Environa Studio	10/1/17
110 Issue D	Roof Plan	Environa Studio	10/1/17
120 Issue D	Section A	Environa Studio	10/1/17
121 Issue D	Section B	Environa Studio	10/1/17
122 Issue D	Section C	Environa Studio	10/1/17
130 Issue D	West Elevation	Environa Studio	10/1/17
131 Issue D	East Elevation	Environa Studio	10/1/17
210 Revision D	Materials and Finishes	Environa Studio	11/1/17
LP-1.0 to LP-1.3	Landscape Plan	John Lock & Ass.	10 Jan. 2017

LP-2.0			
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**Note:** These plans and supporting documentation may be subject to conditions modifying the development imposed under section 80A(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A6 (Autotext AA6)

## C. Conditions which must be satisfied prior to the issue of any construction certificate

### C.21 Amended Landscape Plan

An amended Landscape Plan shall be prepared in accordance with Council's DA Guide and conforming to the conditions of this Development Consent. This plan must be submitted to Council prior to the issue of the Construction Certificate. The amended landscape plan must include the following:

- Indicate the planting of a specimen of *Caesalpinia ferrea* (Leopard tree) of 100 litre pot size in the garden bed to the north of Tree 29 which has been removed. This replacement being a condition of the permit to remove Tree 29.
- Indicate to deletion of the proposed planting of a specimen *Eucalyptus saligna* (Sydney Blue Gum) at the south east corner of the Macquarie Tower, adjacent to Tree 30. This being assessed as excessive planting adjacent to a developing tree of the same species.

### C.22 Ground Anchors

This development consent does NOT give approval to works or structures over, on or under public roads or footpaths excluding minor works subject to separate Road Opening Permit.

The use of permanent ground anchors under Council land is not permitted.

Temporary ground anchors may be permitted, in accordance with Council's "Rock Anchor Policy", where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

If temporary ground anchors under Council land are proposed, a separate application, including payment of fees, must be made to Council under Section 138 of the *Roads Act* 1993. Application forms and Council's "Rock Anchor Policy" are available from Councils web-site <http://www.woollahra.nsw.gov.au>. Approval may be granted subject to conditions of consent. Four weeks should be allowed for assessment.

**Note:** To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

**Note:** *Road* has the same meaning as in the *Roads Act* 1993.

**Note:** Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act* 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Standard Condition: C41 (Autotext: CC41)



## **E. Conditions which must be satisfied during any development work**

### **E.23 Vibration Monitoring**

Vibration monitoring equipment must be installed and maintained, under the supervision of a *professional engineer* with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the *professional engineer* as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity an audible alarm must activate such that the *principal contractor* and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately.

Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*.

Where the event requires, in the opinion of the *professional engineer*, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the *professional engineer* to the *principal contractor* and any sub-contractor clearly setting out required work practice.

The *principal contractor* and any sub-contractor must comply with all work directions, verbal or written, given by the *professional engineer*.

A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the *professional engineer*, *principal contractor* and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take immediate action under the direction of the *professional engineer* to prevent any further damage and restore support to the *supported land*.

**Note:** *Professional engineer* has the same mean as in Clause A1.1 of the BCA.

**Note:** *Building* has the same meaning as in section 4 of the Act i.e. “*building* includes part of a building and any structure or part of a structure”.

**Note:** *Supported land* has the same meaning as in section 88K of the Conveyancing Act 1919.

Standard Condition: E14 (Autotext EE14)

### **E.24 Replacement/Supplementary trees which must be planted**

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2015). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council’s Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.



Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Caesalpinia ferrea</i> (Leopard tree)	East side of Macquarie Tower – Garden bed north of Tree 29 previously removed	100 litre	10 x 8

The project arborist shall document compliance with the above condition.

## ANNEXURES

1. Technical Services referral
2. Trees and Landscaping referral
3. Heritage referral
4. Urban Design referral
5. Environmental Health referral
6. Fire Safety referral
7. Plans and Elevations