

## SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018SNH032
<b>DA Number</b>	DA2018/0995
<b>LGA</b>	Northern Beaches Council
<b>Proposed Development</b>	Subdivision of land into 2 allotments, demolition of existing structures, and construction of a mixed use development containing 78 Seniors Housing units, and commercial space
<b>Street Address</b>	Lot CP SP 49558, 5 Skyline Place, Frenchs Forest
<b>Applicant</b>	Platino Properties
<b>Owner</b>	The Owners Of Strata Plan 49558
<b>Date of DA lodgement</b>	16 June 2018
<b>Number of Submissions</b>	18 (17 objecting to the proposal and 1 in support of the proposal)
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria (Schedule 7 of the SEPP) State and Regional Development) 2011</b>	Development with a Capital Investment Value (CIV) of more than \$30 million  Total Cost of the Development is <u>\$41,144,040</u>
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979</li> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX)</li> <li>• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>• State Environmental Planning Policy – Infrastructure 2011</li> <li>• State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65)</li> <li>• Warringah Local Environmental Plan 2011 (WLEP 2011)</li> <li>• Warringah Development Control Plan 2011 (WDCP)</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1 –Architectural Plans</li> <li>• Attachment 2- Pre-Lodgement Notes</li> </ul>
<b>Report by</b>	David Kerr - General Manager for Planning Place & Community
<b>Responsible Officer</b>	Lashta Haidari - Principal Planner
<b>Report date</b>	18 December 2018

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

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

### 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? **Not Applicable**

**Special Infrastructure Contributions**

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

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

**Not  
Applicable**

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**Conditions**

Have draft conditions been provided to the applicant for comment?

**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*

**Executive Summary**

This report provides an assessment of a Development Application (DA) for a mixed use development for the redevelopment of a site known as No. 5 Skyline Place, Frenchs Forest (the site). The site is located on the south-western corner of the Frenchs Forest Road East and Skyline Place intersection.

The proposed development consists of demolition works, subdivision of land, and the construction of a 9-storey mixed use development containing commercial premises (including a cafe), 78 residential units for seniors housing with associated car parking and landscape works.

The subject site is zoned B7 Business Park under Warringah Local Environmental Plan 2011 (WLEP 2011). Development for the purposes of seniors housing is permitted with consent pursuant to the State Environmental Planning Policy (Housing for seniors or people with a Disability) 2004 (SEPP HSPD) by virtue of 'hospitals' being permitted in the B7 Business Park zone.

The Northern Beaches Hospital Precinct Structure Plan 2017 (Structure Plan) is Council's recently adopted plan for this area. This plan has been developed in consultation with the community to establish the future planning direction for Frenchs Forest over the next 20 years. The Structure Plan does not propose any changes to the land within the Business Park (including the subject site) to support the new Hospital's employment needs. The proposal to introduce a residential land use in the form of seniors housing in an established Business Park is inconsistent with the Structure Plan in that it will result in a loss of employment-generating land.

In regards to Council's existing planning controls for the subject site, the proposal to introduce a residential use in the form of seniors housing is found to be inconsistent with the objectives of the B7 Business Park zone under WLEP 2011. The residential land use in the form of seniors housing in this zone will impact the future commercial and industrial activities that are permissible within the zone.

The proposal will set a precedent, by allowing other sites in the B7 Business Park zone to be redeveloped for residential uses, which will undermine the strategic intent and vision for the area. In addition, the site's location will impact on amenity of future residents of the development, due to the hours of operation of surrounding commercial and industrial uses.

This assessment has also found that the bulk, scale, built form and character sought by the proposal is inconsistent with character requirements embodied in the applicable planning controls. The proposal is found to be inconsistent with the core principles as contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and design character requirements under SEPP (HSPD).

The proposed development constitutes 'regional development' requiring referral to the Sydney North Planning Panel (SNPP) as it has a capital investment value greater than \$30 million. Whilst Council is responsible for the assessment of the DA, the SNPP is the consent authority.

Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal does not satisfy the appropriate controls. All relevant processes and assessments have been satisfactorily addressed.

Accordingly, it is recommended that the SNPP, as the determining authority, refuse this application for the reasons detailed within the "Recommendation" section of this report.

## **DEVELOPMENT APPLICATION ASSESSMENT REPORT**

### **ASSESSMENT INTRODUCTION**

The application has been assessed in accordance with the requirements of the EP&A Act 1979 (as amended) and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the EP&A Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

### **SITE DESCRIPTION**

The subject site consists of one Lot legally known as Lot CP SP 49558. The subject site is located on the south-western corner of the Frenchs Forest Road East and Skyline Place intersection and is known as No.5 Skyline Place. The site has street frontages of 104m in length to Frenchs Forest Road East, approximately 120m in length to Skyline Place and occupies a site area of 12,627m<sup>2</sup>.

The site is currently occupied by an existing warehouse and commercial buildings located on the southern portion of the site. Off-street parking is currently provided for approximately 170 cars in a large at-grade car parking area on the northern portion of the site.

There are a number of large trees that are located along the north and east boundaries of the site. Vehicular access to the site is provided via an existing entry/exit driveway located midway along the Skyline Place site frontage.

The site adjoins to the south, east, and west to warehouses and commercial/retail buildings ranging from single to five storeys. To the north of the site, beyond Frenchs Forest Road

East, is the R2- Low Density Residential zone, which comprises of residential dwellings that are generally 1-2 storey in landscape settings.



**Figure 1 – Site Map**

## **RELEVANT HISTORY and BACKGROUND**

### Pre-Lodgement Meeting

A pre-lodgement meeting was held with Council on 14 December 2017 regarding the proposed development. At the meeting, Council raised concerns with the proposal in terms of permissibility, consistency with the B7 Business Park zone objectives, bulk, scale and character of the development, amenity issues.

A copy of the Notes is attached to this report (refer to Attachment 2).

### Development Application History

The application was lodged with Council on 16 June 2018. The assessment of the proposal found that the application was deficient and unsupportable for a number of reasons as detailed within this report.

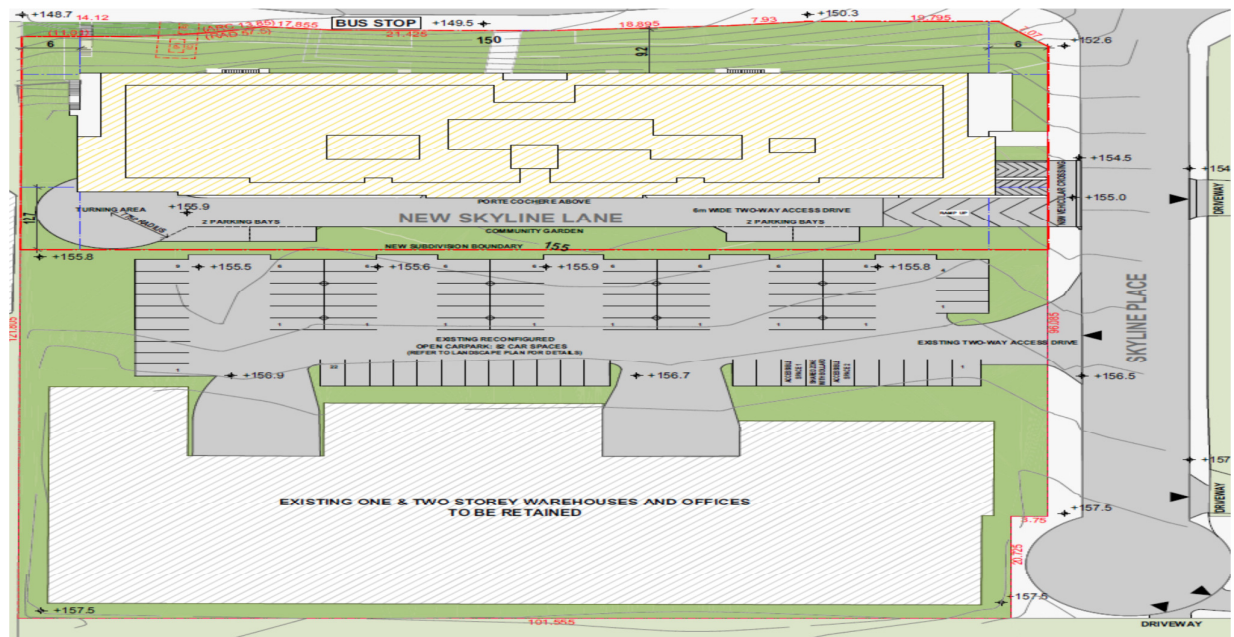
An opportunity was presented to the applicant to withdraw the application by letter dated 13 September 2018. The applicant was advised in that letter that failure to withdraw the application would result in Council reporting the application based upon the information provided at lodgement.

The applicant advised Council via an e-mail dated 3 October 2018 that the application will not be withdrawn and requested that it proceed to determination.

## PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for part demolition works, subdivision of the existing Lot into two Torrens title lots and construction of mixed used development consist of retail and seniors housing with associated car parking and landscaping comprising of 78 residential units, 1,348m<sup>2</sup> commercial premises, basement car parking.

Figure 2 below is provided to assist in the location of the proposed building layout within the site.



**Figure 2** – Proposed/Existing Buildings and Subdivision Layout (Source: Adapted by the author of the Plans, prepared by PA Studio)

Further detail of the proposal is provided as follows:

### Subdivision

The proposed development seeks consent for the Torrens Title subdivision of the existing Lot into two Lots, which will comprise of:

- Lot 1 (7842m<sup>2</sup>) will comprise the existing warehouse building and existing on-grade car parking located on the southern portion of the site; and
- Lot 2 (4726m<sup>2</sup>) will comprise the proposed seniors housing development fronting Frenchs Forest Road.

### Mixed use Development

Further detail of the Mixed Use Development is provided as follows:

- Two level basement is proposed, providing a total of 145 parking spaces;
- A new access road to be constructed along the proposed Lot 2 southern boundary.
- A new 6m width road will be constructed, which will accommodate four (4) additional at grade spaces.



- Commercial premises (including a cafe) at the ground level, occupying a total of GFA 1,348m<sup>2</sup>;
- 78 residential units for seniors housing, comprising of 35 x 2 bedroom and 43 x 2 bedroom + study.

The total GFA of the proposed building is 11,780m<sup>2</sup>, which is comprised of 10,432m<sup>2</sup> of seniors living residential use and 1,348m<sup>2</sup> of commercial/cafe premises.



**Figure 3** - View of the proposed development from Frenchs Forest Road (Source: Adapted by the author of the Plans, prepared by PA Studio).

#### Other works

- Reconfiguration of existing on-grade car parking to provide on-site parking for the retained warehouse uses on proposed Lot 1;
- Associated landscaping, civil and roadworks;
- Vehicular access is provided from Skyline Place to the car parking areas via a new 6m wide driveway and internal ramps. Pedestrian access is proposed to French Forest Rd East from the proposed development;
- Basement garbage room, storage and stair and lift access/egress; and
- Excavation works up to a maximum depth of 4m to 7m to construct basement levels.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
<b>Section 4.15 (1) (a)(i)</b> – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
<b>Section 4.15 (1) (a)(ii)</b> – Provisions of any draft environmental planning instrument	None Applicable.
<b>Section 4.15 (1) (a)(iii)</b> – Provisions of any development control plan	Warringah Development Control Plan 2011 is applicable to this application.
<b>Section 4.15 (1) (a)(iiia)</b> – Provisions of any planning agreement	None Applicable
<b>Section 4.15 (1) (a)(iv)</b> – Provisions of the regulations	<p>The EPA Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. This matter can be addressed via a condition of consent should this application be approved.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter can be addressed via a condition of consent should this application be approved.</p> <p>Clause 50(1A) of the EPA Regulations 2000 requires the submission of a Design Verification Statement from the designer at lodgement of the development application.</p> <p>A Design Verification Statement was submitted with the Development Application and has been signed by the project architect.</p>
<b>Section 4.15 (1) (b)</b> – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<ol style="list-style-type: none"> <li>The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Warringah DCP</i> section of this report. A number of inconsistencies with the relevant controls have been identified which indicate the impact of the development on the built environment is not acceptable.</li> <li>The development will provide mixed use development including seniors housing, therefore the proposed development will not have a detrimental social impact on the locality.</li> <li>The Economic impact of the proposed development is addressed in detail under the referral section of this report (refer to Strategic Planning Section comments), where it is concluded that the economic impact of the development is unacceptable.</li> </ol>
<b>Section 4.15 (1) (c)</b> – the suitability of the site for the development	The site is not considered to be suitable for the development given its location within an area which renders the development to be inconsistent with its

Section 4.15 'Matters for Consideration'	Comments
	<p>zone objectives.</p> <p>Furthermore, the applicant has not provided sufficient information to demonstrate that the site is suitable for the proposed use, or will be suitable for the proposed use following remediation of the site.</p> <p>Accordingly, the site cannot be considered suitable for the proposed development.</p>
<p><b>Section 4.15 (1) (d)</b> – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>A total of 18 written submissions have been received.</p> <p>The issues raised in the submissions are addressed later in this report.</p>
<p><b>Section 4.15 (1) (e)</b> – the public interest</p>	<p>The planning controls contained within WLEP 2011 and the WDCP 2011, as well as the strategic direction provide the community with a level of certainty as to the type, scale and intensity of future development, and the form and character of development that is in keeping with the future character envisaged for the locality.</p> <p>The proposed development, particularly the seniors housing component of the development is found to be inconsistent with the objectives of the B7 Business Park zone under WLEP 2011 and will create land use conflicts. Furthermore, this assessment has found the development to be inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within this zone.</p> <p>Consequently, the proposal is not considered to be in the public interest.</p>

## EXISTING USE RIGHTS

Existing Use Rights do not apply to this application.

## NOTIFICATION & SUBMISSIONS RECEIVED

The Development Application has been publically exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan 2011. As a result of the public exhibition, a total of 18 submissions were received, which includes:

- 17 objecting to the proposal; and
- One (1) in support of the proposal

The issue raised in the submissions opposing the proposal includes the following:

### **The proposed land use will result in an adverse impact on the strategic planning of the locality.**

Concerns have been raised that the proposed seniors housing will compromise the ability to achieve the vision of Council's adopted Northern Beaches Hospital Precinct Structure



Plan, which seeks to implement the directions and objectives of the Greater Sydney Region Plan and North District Plan. The Northern Beaches Hospital Precinct Structure Plan is currently being used as the strategic framework and guideline to inform the NSW Government's Frenchs Forest Planned Precinct preparation.

#### Comment

This issue is addressed in detail in the referral section of this report. In summary, whilst the structure plan ('the plan') is not statutory planning document, it is endorsed by Council to guide future land use planning decisions in Frenchs Forest. The Plan does not propose any changes to the B7 Business Park zone (including the subject site), which is aim to support the new Hospital as employment base zoning.

The senior's housing development is inconsistent with the objectives identified in the Plan to enhance and grow employment in the B7 Business Park zone. This issue is included as reason for refusal.

#### **The Character of the area**

A significant number of submissions raised concern that the development is not consistent with the character of the area.

In particular, the submissions cite that the height, built form, scale and density of the development is not in keeping with the low density located on the opposite side on Frenchs Forest Rd East or traditional character of the B7 Business Park zone.

#### Comment

This issue has been discussed at length throughout this report and forms a reason for the refusal of the DA. In summary, it has been found that the development is inconsistent with the current and future character of the area as required under the provisions of SEPP 65 and SEPP (HSPD) 2004. Additionally, it has been found that the development is inconsistent with the zone objectives of the B7 Business Park zone and Council Strategic direction for the area.

#### **Inconsistency with B7 Business Park zone objectives**

Concerns have been raised that the proposed development, particularly the seniors housing component of development is inconsistent with the B7 Business Park zone objectives and future form of development envisaged for the zone.

#### Comment:

The proposal's consistency with the objectives of the B7 Business Park zone is considered under the WLEP 2011 section of this report. In summary, the proposed development has been found to be inconsistent with the objectives of the zone and this issue has been included as a reason for refusal.

#### **Traffic congestion**

A number of submissions received raised concern that the traffic produced by the development will exacerbate the already congested Frenchs Forest Road East and adjoining local road network.

#### Comment:

The DA is accompanied by a traffic report prepared Varga Traffic Planning. The report provides an assessment of the impact of traffic increased by the development based upon

the traffic generation rates produced by the Road and Traffic Authority. The report finds that the development would increase traffic by 35 vehicles per hour in the AM and 50 vehicles per hour in the PM (being the worst case scenario).

Council's Traffic Engineer and RMS have reviewed the development and has found that the nett increase in traffic will not have adverse impact on the surrounding road system or the operating capacities of nearby intersections. In this regard, the conclusion reached by the consulting traffic engineer is generally concurred with by Council's Traffic Engineer and RMS.

Therefore, this issue should not be given determining weight.

### Submission in Support

The following is a summary of the submission received in support of the application:

- *There is a shortage of new seniors living accommodation in the Frenchs Forest area and believe this is an excellent location due to its proximity to the hospital and the new town centre.*
- *Currently anyone in the area wanting to move into seniors living accommodation will most probably have to move out of the area away from friends and relatives.*
- *This is an attractive building which will provide a high standard of living for its occupants.*
- *I don't believe the amount of traffic generated by the new building will be any more than the current level of traffic generated by the building that will be demolished. The separate driveway access to the building should resolve any issue with separating the seniors living with the traffic movements to the other properties in Skyline Place*

### MEDIATION

No mediation has been requested by the objectors.

### INTERNAL REFERRALS

Internal Referral Body	Recommendation/ Comments
Strategic Planning	<p>This application has been referred to as the subject site is identified within the B7 Business Park precinct of the Northern Beaches Hospital Precinct Structure Plan (HPSP). The HPSP was adopted by Council on 1 August 2017.</p> <p>The site is currently zoned B7 Business Park under WLEP 2011 and development consent is required for a mixed-use development comprising a part 8 part 9 storey building with 78 self-contained seniors living dwellings, 4 commercial units, car parking, Torrens-title subdivision into two lots and signage.</p> <p><b><u>Northern Beaches Hospital Structure Plan</u></b></p> <p>The HPSP provides the strategic land use planning framework for Frenchs Forest over the next 20 years. The HPSP is not a statutory document. Under the HPSP, the B7 Business Park zone for the subject site is identified to be retained. The HPSP</p>

Internal Referral Body	Recommendation/ Comments
	<p>specifies that while there are no changes to the existing land use zone, this precinct is able to grow and mature under its current zoning to support the new hospital and deepen the locality's employment base. Allowing seniors living development through the SEPP would pre-empt future planning and could set a precedent leading to the further loss of productive employment land.</p> <p><b><u>Consideration of Application</u></b></p> <p>The application is for the construction of a mixed-use development comprising a part 8 part 9 storey building with 78 self-contained seniors living dwellings, 4 commercial units, car parking, Torrens-title subdivision into two lots and signage under SEPP (Housing for Seniors or People with a Disability) 2004. Seniors housing is a prohibited use under WLEP 2011.</p> <p>The application was supported by a Statement of Environmental Effects (SEE) prepared by Keylan Consulting and an Economic Impact Assessment (EIA) by Hill PDA. The SEE provides an assessment of the implications of the proposed development in accordance with SEPP (Housing for Seniors or People with a Disability) 2004.</p> <p><b><u>Objectives of the B7 Business Park zone</u></b></p> <p>Whilst the commercial uses proposed to offer a certain level of employment floor space, this is considered to be a minor proportion of the development. The predominant use of the development will be for seniors housing which does not meet the strategic intent of the business park precinct as outlined in the HPSP.</p> <p>Further, the application is not considered to meet the objectives of the B7 Business Park zone under WLEP 2011, which aims to encourage employment opportunities, office and light industrial uses and to minimise land use conflict to ensure the amenity of residential land uses. The proposal is likely to result in residential uses located in the midst of business, industrial and high-technology uses and therefore likely to create land use conflicts.</p> <p>Whilst housing for seniors and those living with a disability is recognised as important within proximity of the new Hospital, this is not the appropriate location as it compromises the existing strategic advantage of the business park and the future capacity of surrounding businesses to respond to economic opportunities.</p> <p><b><u>Economic Impact</u></b></p> <p>The EIA does not identify the impact of loss of existing businesses on the site and the net economic benefit of the proposed aged care/retail jobs, compared to existing or potential jobs. It also relies on a model of a 'mixed-use innovation district', as identified in the Greater Sydney Region Plan (Region Plan), which is not currently applicable to the Frenchs Forest area. Indeed, permitting a residential use in</p>

Internal Referral Body	Recommendation/ Comments
	<p>the Business Park, may impact on the precinct's progression to becoming an innovation district, which firstly requires a university and a significant research and development component. The application does not demonstrate a net job benefit in the EIA for the following reasons:</p> <p>It does not identify existing number of jobs or commercial/industrial/wholesale uses on the site and just states that it is under-utilised. Google maps show a number of existing businesses on the 'Skyline Business Park' site, such as Skyzer Technologies, an electronic and electrical mechanical company, which would be lost of the DA, was approved.</p> <p>It is therefore not possible to assess the impact of the loss of existing jobs/businesses their economic value these currently provide. Further, it does not consider the loss potential for new jobs if the site was redeveloped for commercial or industrial uses, as permitted under the B7 zone.</p> <p>Employment uses proposed through the redevelopment (aged care workers and associated commercial uses, such as hairdressers) are relatively low skilled/paid jobs, with an average salary of \$41,000 p.a. The types of jobs proposed do not match the aspirations of the professional resident workforce and offset the loss of existing jobs. In particular, 'Professional, Scientific and Technical services', which are currently identified in the EIA as the most common business type in the business park, is the largest source of employment for the Northern Beaches resident workforce (13% at 2016).</p> <p>Furthermore, the 'productivity of the proposed jobs (contribution to economy), as identified in the EIA, are relatively low. Industry Value Add (IVA) per worker is identified as \$87,357 for aged care and \$63,999 for general retail/commercial. However, for the Wholesale sector on the Northern Beaches the IVA is significantly higher at \$226,791 per worker and for Manufacturing and Professional Scientific and Technical it is \$132,747 and \$145,501 per worker (source: economi.id). Therefore, existing jobs in the Skyline Business Park are likely to currently have a significantly higher contribution to the economy, than those proposed.</p> <p>The short-term job creation from construction of the proposed development included in the EIA, again are not shown to have offset the loss of existing jobs.</p> <p>The analysis of the change in business numbers is significantly wider than the business park area (Frenches Forest-Belrose SA2) and may include number of businesses, Belrose Business Park as well as home-based business. It is therefore difficult to apply this trend data to just the Frenchs Forest business park.</p> <p><b><u>Impacts to surrounding businesses</u></b></p>

Internal Referral Body	Recommendation/ Comments
	<p>The introduction of a residential land use to this zone would impact the future commercial and industrial activities that can take place in this Business Park zone (including office, research and development, manufacturing and warehouse).</p> <p>The current absence of residential land use is a key differentiator for this employment land precinct from others in the region. Removing this point of difference would impact the attractiveness of this business park to prospective businesses and undermines its ability to cater for a diversity of business types, affecting the resilience of the Northern Beaches economy.</p> <p>Any future industrial and commercial developments and activities within this zone would have to consider impacts to the amenity of this proposed residential population. Noise concerns could impact hours of operation and truck movements for nearby businesses.</p> <p>The Assessment identifies existing and proposed road upgrades but does not consider or analyse the impact 78 living units with parking for 115 additional cars would make to businesses in the Business Park and wider network. Frenchs Forest Road East and West is the primary access point to the Northern Beaches Hospital. Additional residential complexes in close proximity may increase traffic flow, impacting people accessing the hospital and affect surrounding businesses.</p> <p><b><u>Inconsistent with the metropolitan planning for Greater Sydney</u></b></p> <p>The application is inconsistent with the broader metropolitan planning for Sydney and strategic direction for Frenchs Forest. The inconsistency primarily relates to the seniors housing component, which is considered a residential form. The broader strategic planning direction is to retain and manage higher order economic activity areas which contribute to the economic functioning of Greater Sydney. This application does not meet this direction and will have implications on the gradual loss of urban services found in the Frenchs Forest Business Park.</p> <p>The EIA assumes that the Frenchs Forest precinct will progress to a 'mixed-use innovation precinct', as set out in the Region Plan. It relies on the definition in the Region Plan of innovation districts as mixed-use precincts, as a basis for allowing residential uses in the business park:</p> <p><i>'Transit-accessible precincts centred around health and education assets surrounded by a network of medical research institutions, a mix of complementary industry tenants, <u>housing</u>, ancillary facilities and services'.</i></p> <p>The EIA (p25) claims that the current B7 zoning is not consistent with evolution of a 'traditional business park' to a modern innovation district, by not permitting residential. However, based on the Region Plan model, the</p>



Internal Referral Body	Recommendation/ Comments
	<p>residential development comes at latter phases of the 'maturity pathway for health and education precincts' (Phase 6 'diversification').</p> <p>Frenchs Forest is identified in the North District Plan in being at the 'Cluster' stage (phase 1 university). However, a pre-requisite for this stage is a University, it is ambitious to say Frenchs Forest is progressed to even that stage of the innovation district model. The North District Plan also notes that it is not expected that all (health and education) precinct should, or will be able to, develop into a mixed-use innovation district.</p> <p>Indeed, loss of key sites in the business park to residential development (which could have the potential to accommodate research and educational facilities) could potentially impact Frenchs Forest's ability to progress further along the innovation district maturity pathway.</p> <p><u>Impacts to the Traffic and Transport Network</u></p> <p>In regards to the application's traffic generation on the regional road network, RMS advice throughout the preparation of the HPSP has been that any large scale development east of Wakehurst Parkway will generally not be supported. RMS' advice is stated below:</p> <p><i>Any new large scale development that borders Warringah Road is likely to face considerable challenges in terms of safe access and egress and could have major consequences for the broader road network.</i></p> <p><i>Any significant additional access role for Frenchs Forest Road West would likely be beyond the practical limitations of the surrounding network, particularly at Forest Way and its connecting streets.</i></p> <p><i>RMS experience to date with modelling the Northern Beaches Hospital Connectivity and Network Enhancement roadworks is that the proposed roadworks can only be made to work if the access load from development and connecting arterial roads can be balanced across the network. Concentration of demand, let alone significant additional demand at critical locations, leaves the network particularly prone to breakdown and extensive queuing.</i></p> <p>The application should not be supported for the following reasons:</p> <p>It is inconsistent with Council's adopted HPSP, which provides the strategic land use planning framework for Frenchs Forest over the next 20 years;</p> <p>It proposes a form of residential development which is inconsistent with the desired future character for the area i.e. jobs growth within the business park;</p>

Internal Referral Body	Recommendation/ Comments					
	<p>It is inconsistent with the objectives of the B7 Business Park zone under WLEP 2011 and is likely to create land use conflict;</p> <p>It may impact on the precinct’s progression to becoming an innovation district, which firstly requires a university and a significant research and development component; It does not demonstrate a net job benefit;</p> <p>It will impact the attractiveness of this business park to prospective businesses and undermines its ability to cater for a diversity of business types, affecting the resilience of the Northern Beaches economy;</p> <p>It is inconsistent with the broader metropolitan planning for Sydney and strategic direction for Frenchs Forest;</p> <p>It will have major consequences for the broader road network, given the traffic generated by the new Northern Beaches Hospital, existing network constraints and future growth envisaged under the HPSP;</p> <p>It will establish a precedent for the lodgement of applications for seniors housing using SEPP (Housing for Seniors of People with a Disability) 2004, which could impact on the overall function and growth of the business park.</p> <p>In conclusion, the application is unacceptable and is recommended for refusal based on the broader strategic planning outcomes for the area and inconsistency with the objectives of the B7 Business Park zone under WLEP 2011.</p> <p><b>Other/Further Strategic Investigations</b></p> <table><tr><td><b>Greater Sydney Region Plan</b></td><td><b>Inconsistent</b> The seniors living component does not meet Objective 23 which specifies that industrial and urban services land is planned retained and managed. In this instance, urban services refer to the B7 Business Park zone and the operational role and unction it has as a higher order economic activity area for the Northern Beaches and the Greater Sydney region. The property economics behind this zone is a core attribute which allows urban services to locate close to markets in line with their operational needs. The seniors living component will, therefore, impact on the property economics of the zoning of the land resulting in, potentially the loss of these important services.</td></tr><tr><td><b>North District</b></td><td><b>Inconsistent</b></td></tr></table>		<b>Greater Sydney Region Plan</b>	<b>Inconsistent</b> The seniors living component does not meet Objective 23 which specifies that industrial and urban services land is planned retained and managed. In this instance, urban services refer to the B7 Business Park zone and the operational role and unction it has as a higher order economic activity area for the Northern Beaches and the Greater Sydney region. The property economics behind this zone is a core attribute which allows urban services to locate close to markets in line with their operational needs. The seniors living component will, therefore, impact on the property economics of the zoning of the land resulting in, potentially the loss of these important services.	<b>North District</b>	<b>Inconsistent</b>
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<b>North District</b>	<b>Inconsistent</b>					

Internal Referral Body	Recommendation/ Comments	
	<b>Plan</b>	<p>The seniors living component does not meet Objective 35 which aims to strengthen Frenchs Forest through a variety of approaches. The proposal is inconsistent with the objective to reinforce the Frenchs Forest centre as an employment hub for the Northern Beaches, building on the existing business park east of Wakehurst Parkway.</p> <p>Under Priority N1, the North District contains the lowest concentration of Sydney's total stock of industrial and urban services land (including B7 zoned lands) land and has the highest utilisation rate, indicating the strong demand for this limited resource and importance of protecting and managing it. The proposal could also compromise the capacity of Frenchs Forest to grow as a strategic centre and meet targets of 2,000-3,700 additional jobs by 2036 set in the North District Plan.</p>
	<b>Northern Beaches Hospital Precinct Structure Plan</b>	<p><b>Inconsistent</b></p> <p>The seniors living component does not meet the vision for jobs growth in the Frenchs Forest Business Park.</p>
	<b>Northern Beaches Community Strategic Plan</b>	<p><b>Inconsistent</b></p> <p>Goal 13 recognises the need to support business innovation and economic growth with the first strategy being to 'Ensure that employment lands are retained and cater for a diverse range of businesses and industry.' Protecting these employment lands (which includes B7 Business Park lands) will be critical for preserving the ratio of residents who live and work within the region, through provision of high-skill jobs that match the skillsets of the residential population. It will also maintain diverse economic base and provide for urban services needed to support population growth.</p>
<b>Building Assessment - Fire and Disability upgrades</b>	No objections to proposal subject to conditions as specified.	
<b>Development Engineers</b>	<p>The stormwater drainage concept plan has been reviewed and cannot be supported for the following reasons</p> <ol style="list-style-type: none"> <li>1. A Drains model has not been submitted to Council for assessment as required by section 3.1.3 of Councils On-Site Stormwater Detention manual. It is also not clear if the Detention volumes and flows have been determined based on the pre-state of nature flows.</li> </ol>	

Internal Referral Body	Recommendation/ Comments
	<p>2. Additionally as required by section 3.1.3 (Minimum information required for Developments.) including:</p> <ul style="list-style-type: none"> <li>• Sections through the OSD tank relating to proposed buildings: <ul style="list-style-type: none"> <li>○ Longitudinal section of all pipes from the OSD basin to the discharge point in Frenchs Forest road. The outlet pipe is to be a minimum diameter of 375mm and connected directly into a street inlet pit.</li> <li>○ Details of surcharge facilities and overland flow paths shown on the drawings.</li> </ul> </li> <li>• Structural details of all tanks and pits. <ul style="list-style-type: none"> <li>○ all supporting hydraulic and hydraulic calculations presented in a water management report. This is to include summary information regarding the OSD and associated drainage system in a format similar to drawing A1 9070-1.</li> <li>○ full details of relevant services in relation to the discharge line in Frenchs Forest Road.</li> </ul> </li> </ul>
Traffic Engineer	<p><b><u>Traffic</u></b></p> <p>The assumptions in the consultant's report are acceptable. The site is anticipated to produce a minor net increase in traffic generation.</p> <p><b><u>Waste Collection</u></b></p> <p>As requested by the waste team at the Pre-lodgement Meeting, the applicant is required to accommodate Council's HRV waste Truck. Therefore the applicant shall redesign the turning head to enable Council's 11.0m Waste Truck to turn around.</p> <p>Appropriate signage should also be installed to identify where the collection zone will be.</p> <p><b><u>Car park Layout</u></b></p> <p>There is no indication of Disabled Parking Spaces. This can be addressed by a condition.</p> <p>The applicant is to ensure that there is adequate clearance for people with disabilities. They should provide a vertical swept path of the critical headroom measurement at a grade change.</p> <p><b><u>Parking</u></b></p> <p>The proposal has a shortfall of 1 visitor space in accordance with the RMS Guidelines and State Environmental Planning Policy.</p> <p>Traffic Team does not see a major concern with this being that it equates to less than a 1% shortfall. This is subject to comments to be issued by the Development Engineer.</p> <p>The consultant has identified the remaining lot 1 car parking</p>

Internal Referral Body	Recommendation/ Comments
	<p>facilities will service Warehouses and Offices. It appears they have not adopted the correct rates, however, the value they have produced is deemed sufficient.</p> <p>Traffic Team raise no objection.</p> <p><b><u>Pedestrians</u></b></p> <p>All desire lines appear to be addressed.</p> <p>Traffic Team raise no objection.</p>
<b>Environmental Health (Industrial)</b>	No objection subject to conditions.
<b>Environmental Health</b>	No objection subject to conditions.
<b>Landscape Officer</b>	<p>Assessment of tree removal for proposed Lot 2 indicate that of the 65 trees on the Lot, 55 trees are proposed to be removed, 10 retained. The Landscape Plan provided for Lot 2 indicates that 12 trees are to be replanted. This is a net reduction of 66% of trees on the Lot.</p> <p>The existing site provides a deep soft landscape setback from Frenchs Forest Rd East, ranging from approximately 26m in the north-eastern corner to approximately 14.5 m in the centre of the site and approximately 20 m in the north-western corner of the site. The existing carpark area of the proposed Lot 2 site contains landscaped beds of approximately 54.5m in length by approximately 2.5 m wide. These elements are to be removed under the proposal. (See Fig.1 below).</p> <p>The proposed building location is indicated to be further forward toward Frenchs Forest Rd East on the Lot than the existing car park, with a setback varying from approximately 10.5 metres to 7.3 metres across the Lot 2 frontage.</p> <p>The proposal indicates a component at the rear of the site for community garden and seating. The location is next to the entry drive and the adjoining carpark. It is not considered to be a good design outcome and restricts the opportunity for canopy tree planting in the limited rear setback. The extension of the basement under the entry drive further restricts the opportunity for canopy tree planting. .</p> <p>The proposed subdivision creates a lot (Lot 1) with landscaped open space area significantly below the required standard.</p> <p>In consideration of the relevant planning instruments, the proposal is not considered to adequately address the Objectives of the B7 Zoning, particularly with regard to the following Objectives:</p> <ul style="list-style-type: none"> <li>• <i>To create business park employment environments of high visual quality that relate favourably in architectural and landscape treatment to neighbouring land uses and to the natural environment.</i></li> <li>• <i>To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining or</i></li> </ul>



Internal Referral Body	Recommendation/ Comments
	<p><i>nearby residential land uses.</i></p> <p>Further, with regard to SEPP (Housing for Seniors or People with a Disability) 2004, the proposal does not adequately address the Seniors Living Policy: Urban Design Guideline for Infill Development which is required to be considered under CI 31 with regard to Responding to context; Site planning and design; Impacts on streetscape; Internal site amenity;</p> <p>The issues raised by the assessment against the Urban Design Guideline are relevant to Division 2 Design Principles, particularly CI 33 Neighbourhood amenity and streetscape and that adequate regard has not been to the Design Principle.</p> <p>Articulation of the building to enable retention of existing trees and landscape along the Frenchs Forest Rd East frontage, particularly in the north east corner of the site would assist in maintaining streetscape and better integration with the adjoining land uses. Resultant spaces at the rear of the site from an articulated built form could also then create more intimate and interesting internal communal spaces and integration of canopy tree planting in the rear setback of the site.</p> <p>At this stage, the proposal is not supported with regard to landscape issues.</p>
<b>Strategic Planning - Urban Design</b>	<p><b>1. SEPP Housing For Seniors or People with a Disability</b></p> <p>The objective of the zone B7 is permission of business and office remises. The scale of the development, predominantly residential (Seniors Housing) does meet with the desired future character.</p> <p>The amenity of surrounding neighbourhood would be impacted by the scale and density of the development. A result of the planning arrangement on site indicates that solar, visual and acoustic amenity will be difficult to achieve.</p> <p><u>33 Neighbourhood amenity and streetscape</u></p> <p>The site is on the cusp/fringe of the new Frenchs Forest future Planned Precinct. Residential areas and Business Park use sit either side of the proposed development.</p> <p>Current controls see the residential zone across the road on the downslope side of the site. The current height proposed exceeds the desired character and current contextual condition of the surrounding neighbourhood. The height of the proposed building by contrast to the existing is amplified somewhat by the location and topography of the surrounding land form.</p> <p><u>34 Visual and acoustic privacy</u></p> <p>Solar amenity to the units on the southern elevation which are loaded off an internal corridor will have little solar access and possibly none during the winter months.</p>

Internal Referral Body	Recommendation/ Comments
	<p>These units are on the south side of the building resulting in internal planning that does not allow for the northern sun into the living spaces. The orientation might benefit from flipping the plan so living spaces achieve some solar amenity.</p> <p>Similarly the opportunity for cross ventilation is impeded by the double loaded corridor resulting in no cross ventilation.</p> <p><u>Urban Design Guideline for Infill Housing 2004</u></p> <p>The opportunity to break down the built form into smaller blocks across the site with courtyard and internal landscapes treatments that optimise orientation, pedestrian amenity and environmental conditions should be explored. The distribution of four/5 single blocks across the site would offer the opportunity to comply some of the principles and recommendations in the SEPP Seniors Living Policy;</p> <ul style="list-style-type: none"> <li>• Site Planning to optimise solar gain and natural ventilation</li> <li>• Fine grain approach to the pedestrian ground plane and wayfinding across the site: <ul style="list-style-type: none"> <li>• Opportunity for internal courtyard gardens and pedestrian amenity at the ground level to support the recommended individualisation of the blocks that have distinct identity</li> <li>• Reduce the impacts on the existing streetscape (adjacent R1 low rise residential)</li> </ul> </li> </ul> <p>The scale, bulk and form of the building demonstrate little fine grain articulation across the site to enable landscaping at a human scale.</p> <p>The proposed garden between the carpark and the adjacent commercial development carpark will not be a very useful and useable space. There are potentially safety issues with pedestrian road crossover from the veggie garden strip to the development entrance. Further consideration to the practicality and usefulness of this space should be addressed.</p> <p>The proposed development does not demonstrate a relationship between buildings and open space. Breaking down the building form (as previously mentioned) to allow for ground level courtyard and open space to provide relief from the surrounding context is recommended.</p> <p>As noted in the comments above (2. Site Planning and Design) the internal site amenity should be further considered in the planning strategy to provide dwellings that give a sense of individual living and amenity. This can be achieved with a smaller scale distribution of buildings across the site arranged so as to provide individual identity, more outdoor ground plane pedestrian friendly green courtyards and landscaping that filters through the site and buffers the residential from the external harsh conditions of the adjacent road network. Breaking down the single monolithic built form of into four-five smaller developments will assist to achieve this.</p>

Internal Referral Body	Recommendation/ Comments
	<p><b>2. SEPP 65 and ADG</b></p> <p><u>Principle 8: Housing Diversity</u></p> <p>There is a lack of variety in types of units offered in the complex. A variation of 1, 2 and 3 bedroom apartments should be provided across the development.</p> <p><u>4F Common Circulation and spaces</u></p> <p>The main corridor through long section should provide relief and articulation as suggested by the guidance notes of the ADG (Page 97). The central double loaded corridor has two unarticulated lengths of 30m, almost three times that recommended under the ADG.</p> <p>In addition the maximum number of units off a single corridor is 8. The proposed development indicates 16.</p> <p>The proposed common circulation space which is also noted as the communal space allocation provides the only articulated relief along the corridor.</p> <p><u>Visual Privacy</u></p> <p>Development should comply with the recommendations under the ADG with a minimum separation of 9m offset from the adjoining property.</p> <p><u>Solar Access and Cross Flow Ventilation</u></p> <p>As mentioned above Solar Access minimum requirements could be met through an alternate site planning strategy of smaller footprint building towers which have a through plan allowing for living spaces to be oriented to address the solar requirements whilst also achieving a cross ventilation strategy under the ADG.</p> <p><u>Frenchs Forest Structure Plan</u></p> <p>Heights of Buildings indicated in the FFSP, in a similar location would be capped at 21-24 metres this will be the maximum allowed in this zone under the Frenchs Forest Structure Plan.</p> <p><b>3. WLEP 2011/ WDCP 2011</b></p> <p>The selected site is located between B7 Business Park and R2 Low density residential. Permissibility has been interpreted under terms of urban use pursuant to SEPP Seniors by the applicant however the question remains as to the site suitability for a development of this scale and type given the adjacency to road network, BZ Business Park and low rise detached residential dwellings.</p>
<b>Waste Officer</b>	No objection subject to conditions

## EXTERNAL REFERRALS

External Referral Body	Comments
<b>NSW Rural Fire Services (NSW RFS)</b>	<p>The application was referred to the NSW RFS as Integrated Development.</p> <p>Section 100B of the <i>Rural Fires Act 1997</i> enables the Commissioner of the NSW RFS to issue a Bushfire Safety Authority for 'Special Fire Protection Purpose' development. Section 100B (6) of that <i>Rural Fires Act 1997</i> identifies Subdivision of the Land and Seniors Housing (within the meaning of the <i>SEPP (HSPD) 2004</i>) as such development.</p> <p>In their response on 3 August 2018, the NSW RFS issued their Bushfire Safety Authority and General Terms of Approval which are to be included in a consent should this application be approved.</p>
<b>Ausgrid: (SEPP Infra.)</b>	<p>The application was referred to Ausgrid under clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.</p> <p>To date, no response has been provided and it is assumed that no objection has been raised with regards to the proposal.</p>
<b>Concurrence - NSW Roads and Maritime Services (RMS) - (SEPP Infrastructure. Traffic generating development)</b>	<p>The application was referred to the RMS for comment as traffic generating development under Schedule 3 of SEPP Infrastructure. The RMS provided their comments on 11 July 2018, raising no objection to the proposed development subject to conditions.</p> <p>The conditions provided by RMS may be included in a consent should this application be approved.</p>

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, EPIs (State Environmental Planning Policies (SEPPs), Regional Environment Plans (REPs) and Local Environment Plans (LEPs)), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each EPIs (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

### State Environmental Planning Policy (State and Regional Development) 2011

Pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the proposed development constitutes regionally significant development as it has a capital investment value of greater than \$30,000,000 (\$41,144,040). The proposal is required to be considered and determined by the Sydney North Planning Panel (SNPP) pursuant to s.2.15 (a) and s.4.5 (b) of the Environmental Planning and Assessment Act, 1979.

## **State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)**

SEPP No. 55 – Remediation of Contaminated Lands establishes State-wide provisions to promote the remediation of contaminated land.

The SEPP states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals. The Managing Land Contamination: Planning Guidelines were prepared to assist councils and developers in determining when land has been at risk.

Clause 7 of the SEPP requires that a consent authority must not grant consent to a development if it has considered whether a site is contaminated, and if it is, that it is satisfied that the land is suitable (or will be after undergoing remediation) for the proposed use.

In response to these requirements, the applicant has submitted a preliminary site investigation, prepared by Benviron Group. The report makes the following conclusions:

*“Based on the results of this investigation it is considered that the risks to human health and the environment associated with soil and groundwater contamination at the site are medium in the context of the proposed use of the site. The site can be made suitable for the proposed development, subject to the following recommendation:*

- *Preparation of a Detailed Site Investigation (phase 2 Environmental Site assessment) by a suitable qualified Environmental Consultant.*

As the applicant has not submitted a Phase 2 Environmental Site Assessment as recommended in the above report to demonstrate that the land is suitable in its current state, or will be suitable after remediation, for the purpose for which the development is proposed to be carried out, as required by SEPP 55. Accordingly consent cannot be granted for the proposed development and this issue has been included as a reason for refusal.

## **SEPP (Housing for seniors or People with a Disability) 2004**

The Seniors Housing component of the DA has been lodged pursuant to SEPP (HSPD). The following section of this report provides an assessment of the proposal against the relevant criteria and standards specified in this Policy.

### **Clause 4 - Land to Which This Policy Applies**

Clause 4 of the SEPP stipulates the land to which this policy applies.

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

*(a) development for the purpose of any of the following is permitted on the land:*

- (i) dwelling-houses,*
- (ii) residential flat buildings,*
- (iii) hospitals,***



*(iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*

*(b) the land is being used for the purposes of an existing registered club.*

The site is zoned B7 Business Park under the provisions of the WLEP 2011. The proposed development is permissible under the SEPP (HSPD) by virtue of 'hospitals' are being permitted in the B7 Business Park zone.

Council obtained legal advice in relation to whether the B7 Business Park zone is "primarily for urban purposes", as residential developments are prohibited within this zone.

The legal advice confirmed that based on the objectives of the zone and the nominated (and innominate) permissible uses, it is apparent that the B7 Business Park zone is primarily for urban purposes, that is "*pertaining to or constituting a city or town*" which is consistent with the decision of the Land and Environment Court in Modog Pty Ltd v Baulkham Hills Shire Council (2000) 109 LGERA 443 at 448.

Further to the above, the legal advice has also confirmed that the B7 Business Park zone is not zoned for industrial purposes, therefore Clause 4(6)(b) of SEPP (HSPD) 2004 is not applicable to the proposed development.

Therefore, the Seniors Housing is permitted within the B7 zone.

## **Chapter 1 – Preliminary**

The aims of the Policy are set out in Clause 2 and are as follows;

*This Policy aims to encourage the provision of housing (including self-contained dwellings) that will:*

- a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- b) make efficient use of existing infrastructure and services, and*
- c) be of good design.*

### **Comment:**

The proposed development is consistent with the first two aims of the policy, in that the proposed development will increase the supply and the diversity of residences that meet the needs of seniors or people with a disability.

The proposed development also makes efficient use of existing infrastructure and services, in that the site is serviced by existing public transport and is located within 400m of the nearest bus stop.

The last aim of the development must be considered in context with other provisions of the SEPP (HSPD). The aim of the policy is to encourage seniors housing to be of a good design outcome which maintains and minimises the impacts on the amenity and character of the area. The proposed built form and the location of the site does not minimise the impact on the character of the area as detailed later in this report.

Accordingly, the proposed development has been found to be inconsistent with the aims of this policy and this issue has been included as a reason for refusal.

## Chapter 2 – Key Concepts

The proposed development is consistent with the key concepts contained within SEPP (HSPD). The proposed development comprises *self-contained dwellings (In-Fill Self Care Housing)*, which are to be occupied by *seniors* or *people with a disability*. On this basis, it is considered that the proposed development is consistent with Chapter 2 of SEPP (HSPD).

## Chapter 3 – Development for seniors housing

Chapter 3 of the SEPP (HSPD) contains a number of development standards applicable to DA that are made pursuant to SEPP (HSPD), specifically:

### Clause 18 - Restrictions on occupation of seniors housing allowed under this Chapter

Clause 18 of SEPP (HSPD) outlines the restrictions on the occupation of seniors housing and requires a condition to be included in the consent if the application is approved to restrict the kinds of people which can occupy the development. If the application is to be approved, then a condition to address Clause 18 of SEPP (HSPD) is required to be included in the consent.

### Clause 19 – Use of seniors housing in commercial zones

Clause 19 of the SEPP restricts the occupation of seniors housing as follows:

*Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes*

The site is zoned B7 Business Park and accordingly is zoned primarily for commercial purposes. The proposed development includes residential units on the ground floor level fronting Frenchs Forest East, therefore the proposed development is inconsistent with the requirement of this Clause and this issue has been included as a reason for refusal.

## Part 1A – Site Compatibility Certificates (SCC)

The requirements as it relates to SCC's are not applicable to the proposed development.

## Part 2 - Site Related Requirements

Development Criteria			
Clause	Requirement	Proposal	Complies
<b>PART 2 - Site Related Requirements</b>			

Development Criteria			
Clause	Requirement	Proposal	Complies
26(1)	Satisfactory access to: (a) shops, banks 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	The subject site has satisfactory access to:  a) shops, banks 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.	Yes
26(2)	Access complies with this clause if: (a) the facilities and services referred are located at a distance of not more than 400 metres from the site or (b) there is a public transport service available to the residents not more than 400metres away.	The site is not located within 400 metres of all the essential facilities and services. However, the site is located within 400 metres of a public transport service.  Bus services are located within the 400m walking distance from the site on Frenchs Forest East which travels to Forestway Shopping Centre, Warringah Mall, Manly, and Chatswood.	Yes
27	If located on bush fire prone land, consideration has been given to the relevant bushfire guidelines.	The Application was referred to the NSW RFS for comments. The NSW RFS has raised no objection to the proposed development subject to conditions.	Yes
28	Consideration is given to the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure.	Reticulated water and sewerage infrastructure is presently available to the site. The seniors housing is able to be connected to a reticulated water system, in accordance with the provisions of Clause 28.	Yes
29	Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply.	The proposed development is found to be inconsistent with the requirement of Clause 25 (5) (i) & (v) for the following reasons:  <b><i>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development.</i></b>  <u>Comment:</u> The subject site's location in a business park has the potential to impact the amenity of future residents, with regards to noise concerns, hours of operation and truck movements for nearby businesses, which can occur at various hours of the night.  Therefore, the proposed use (being	No

Development Criteria			
Clause	Requirement	Proposal	Complies
		<p>seniors housing) is inconsistent with the permissible and approved land uses within the vicinity of the site.</p> <p><b>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.</b></p> <p><u>Comment:</u> This issue is discussed in detail in the various section of this report, where it is found that the bulk and scale, built form and character of the proposed development is found to be inconsistent with the character of the area.</p> <p>This issue has been included as reason for refusal.</p>	
<b>PART 3 - Design Requirements – Division 1</b>			
30	A site analysis is provided.	A site analysis plan and Statement of Environmental Effects submitted with the application satisfactorily address the requirements of this clause.	Yes

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

Pursuant to Clause 31 in determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the former NSW Department of Infrastructure, Planning and Natural Resources dated March 2004.

It is noted that the Seniors Living Policy is geared towards low scale development located in residential zones. The key principles of the policy have been reviewed and the proposed development is not considered to enhance internal site amenity and respond appropriately to its context for the reasons stipulated within following sections of this report.

### Clause 32 – Design of residential development

Clause 32 states that a consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (Clauses 33 - 39), discussed below.

Control	Requirement	Proposed	Compliance
CL33 Neighbourhood amenity and streetscape	a. Recognise the desirable elements of the location's current character so that new buildings contribute to the quality and identity	<p>Clause 33 requires that an assessment of the desirable elements of the current character of the area be undertaken.</p> <p>The introduction of residential land</p>	No

Control	Requirement	Proposed	Compliance
	of the area.	<p>use in the form of seniors housing in this zone will impact the future commercial and industrial activities that are permissible within the B7 Business Park zone.</p> <p>The proposed Land use and scale of the development is not consistent with the location's current or future character of the site.</p> <p>The proposed development will significantly alter the surrounding context which is commercial and industries in nature, and adjoining built form to the north comprising a low-scale, low density suburban residential character dominated by canopy trees and landscape.</p> <p>The proposed development is therefore found to be inconsistent with the requirement of Clause 33. The reasons for this are further detailed in the context of this report, including these contained in Urban Design referral comments, an assessment against the objectives of the B7 zone and the assessment under SEPP 65, which relates to the context, built form and scale of the proposed development.</p>	
	b. Retain, complement and sensitively harmonise with any heritage conservation area in the vicinity and any relevant heritage items that are identified in a local environmental plan.	There are no Heritage items within or within vicinity of the subject site.	N/A
	c. Maintain reasonable neighbour amenity and appropriate residential character	<p>The separation of the proposed development to nearest residential properties in French Forest East will ensure that amenity impacts are acceptable.</p> <p>However, the bulk of the building fronting Frenchs Forest East is not adequately mitigated. Development on Frenchs Forest Road East is low density residential dwelling up to 2 storeys. The proposed building has length which is approximately 88m over a single building block that reaches 9 storeys in height fronting the R2 zone. As discussed in various section of this report, the</p>	No

Control	Requirement	Proposed	Compliance
		built form of the proposed development will be visually inconsistent with the adjoining low density character of the built and natural environment. The development is therefore not consistent with the requirements of the Clause.	
CL 34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity	The visual and acoustic privacy of the development is found to be unacceptable due to the subject site's location is a business park that has the potential to impact the amenity of future residential.  Acoustic concerns, hours of operation and truck movements for nearby businesses which can occur at various hours night have not been adequately considered by the proposed development.	No
CL35 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, and  (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 application is supported by shadows diagrams which demonstrate that the development is capable of complying with the requirements of this control.  Refer to comments under SEPP 65 compliance for solar access.	Yes
CL 36 Stormwater	Control and minimise the disturbance and impacts of stormwater runoff and where practical include on-site detention and water re-use.	Council's Development Engineers have reviewed the proposal and have not supported the stormwater design in its current form due to insufficient information being submitted with the application.	No
CL 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	The arrangement and configuration of building is satisfactory in achieving adequate casual surveillance through the appropriate placement of balconies and windows and pedestrian access within the development and	YES

Control	Requirement	Proposed	Compliance
	observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries that serve a small number of dwellings that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	to adjoining streets.  The proposal is satisfactory with regard to this design quality principle.	
CL 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, and (b) provide attractive, yet safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	The proposed development requires a series of ramped paths due to the topography.  The application is supported by an Access Report prepared Code Performance and dated 14 May 2018.  The report concludes that based on the endorsement of the recommendations within report, the development is capable of complying with this clause.	YES
CL 39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Consistent subject to conditions.	Yes

#### Part 4 - Development Standards to be Complied With

##### Clause 40 – Development standards – minimum sizes and building height

Pursuant to Clause 40(1) of SEPP (HSPD), a consent authority must not consent to a development application made pursuant to Chapter 3 unless the proposed development complies with the standards specified in the Clause.

The following table outlines compliance with standards specified in Clause 40 of SEPP (HSPD).

Control	Required	Proposed	Compliance
Site Size	1,000m <sup>2</sup>	4,726m <sup>2</sup>  Site area for proposed Lot 2	Yes
Site frontage	20 metres	104m to Frenchs Forest Road East	Yes

The requirement of Clause 40 (4) which relates to Building Height is not applicable to the subject site, as the subject is not zoned for residential development.

#### Clause 41 Standards for Hostels and Self-Contained Dwellings

Clause 41 prescribes various standards concerning accessibility and useability having regard to relevant Australian Standards. The applicant has submitted a report and checklist prepared by an accredited access consultant verifying that the proposal will comply with the relevant standards. These standards may be reinforced via suitable conditions of consent, should the application be worthy of approval.

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

Clause 50 prescribes that consent to development for the purpose of self-contained dwellings must not be refused on the grounds of building height, density and scale, landscaped area, deep soil zones, solar access and parking, if certain numerical standards are met. It is noted that these standards do not impose any limitations on the grounds on which a consent authority may grant development consent.

The following table outlines compliance with the standards specified in Clause 50 of SEPP (HSPD):

Control	Required	Proposed	Compliance
Building Height	8m or less (measured vertically from ceiling of topmost floor to ground level immediately below).	21.8m  The proposed height will create a building that is excessive in height, bulk and scale, and it cause undue impacts upon the character area. Accordingly, the variation to this control is not supported in these particular circumstances.	No
Density and scale	0.5:1 or less  Site Area: 4,726m <sup>2</sup> GFA: 10,432m <sup>2</sup> Max Permitted FSR: 2,363m <sup>2</sup> (being 0.5:1)	FSR: 2.2:1 (10,432m <sup>2</sup> )  This represents a variation of 341.5% (8,069m <sup>2</sup> )  The proposed density and floor space ratio are not considered to be appropriate for the site or its context and	No (



		is included as reason for refusal.	
Landscaped area	30% of the site area is to be landscaped.	30% of the site area for Lot 2 is proposed Landscape area	Yes
Deep soil zone	15% of the site area and two thirds of the deep soil zone should be located at the rear of the site. Each area forming part of the zone should have a minimum dimension of 3m.	31% of the Lot 2 site area is proposed deep soil zone	Yes
Solar Access	70% of the dwellings of the development to receive a minimum of 3 hours of direct sunlight between 9am and 3pm in mid-winter	Insufficient information has been submitted with the application to demonstrate compliance with the requirement of this clause.	No
Private open space	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.	The POS of all 2 bedroom units plus study have a minimum size of 10m <sup>2</sup> and minimum depth of 2.5m.  The POS of 2 bedroom + study units are 14m <sup>2</sup> and minimum depth of 2.8m  The POS for the units are considered adequate in this instance.	Yes
Parking	0.5 car spaces for each bedroom. The proposed development provides a total of 199 bedrooms, therefore 100 car spaces are required.	100 spaces provided for seniors housing development.	Yes

### State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development (SEPP 65)

The development is required to comply with SEPP 65 and the associated Apartment Design Guide (ADG), which provides additional details and guidance for applying the nine design quality principles outlined in SEPP 65.

As per the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are applicable to the assessment of this application.

As previously outlined within this report, Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a Design Verification Statement from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of SEPP 65 requires that, in determining a development application for consent to carry out development to which SEPP 65 applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- a. *The advice (if any) obtained from the design review panel, and*

- b. *The design quality of the development when evaluated in accordance with the design quality principles, and*
- c. *The ADG.*

## **DESIGN REVIEW PANEL**

Northern Beaches Council does not have an appointed Design Review Panel.

## **DESIGN QUALITY PRINCIPLES**

### **Principle 1: Context and Neighbourhood Character**

*Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.*

*Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.*

#### Comment:

The site is located within the Frenchs Forest Business Park, on the eastern side of Wakehurst Parkway, which comprises warehouses and commercial/retail buildings ranging from large single storey to 5 storey buildings.

To the north of the site, opposite Frenchs Forest Road East, is land zoned for R2 Low Density Residential development, which comprises predominantly 1 and 2 storey dwelling houses within landscape setting. To the north-east are the Skyline Neighbourhood shops and the Northern Beaches Hospital is located about 240m to west of the site across Wakehurst Parkway.

In the context of the built environment, the development proposes the construction of 26.52m high (i.e. 9-storey) building in a single block that is approximately 89m in width with minimum articulation. The proposed development will introduce a high density residential development into business park area that is characterised by buildings which are significantly lower scale than the proposed building. The proposed development is also not consistent with the low density residential development on the opposite side of Frenchs Forest Road East. In this regard, the development is not considered to be consistent nor compatible with the key built features of the area.

Accordingly, it is considered that the proposal does not satisfy this principle.

### **Principle 2: Built Form and Scale**

*Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.*

*Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation 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.*

Comment:

The proposed development has been conceived on the basis that B7 Business Park zone does not have a height limit and the site is in close proximity to the new Northern Beaches Hospital, and therefore the height of the development is transitional from the 40m height limit for the hospital building and the adjoining planned Town Centre for Frenchs Forest.

The subject site is located approximately 240m from the Hospital and due to the topography of the land. There is no apparent relationship between the subject site and the Hospital building. The proposed building alignment, proportion, building type and use are appropriate for the purpose of providing residential accommodation on a site proposed as a town centre, such as Dee Why, and not a site zoned for Business Park that is surrounded by warehouse/office/industrial type of buildings.

The proposed development in terms of bulk and scale is significantly different when compared to other developments within this portion of the Business Park and is a significant departure from the low-density residential development on the northern side of Frenchs Forest Road East.

Consequently, the proposed building type and use is not considered to be an appropriate built form and scale for the site and locality.

Accordingly, it is considered that the proposal does not satisfy this principle.

**Principle 3: Density**

*Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.*

*Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

Comment:

The planning controls under WLEP 2011 and the WDCP 2011 do not specify a maximum housing density for the zone. The appropriate density is determined by how the development responds to the Design Quality Principles of SEPP 65, and the relevant controls contained within the SEPP (HSPD) 2004, WLEP 2011 and the WDCP 2011.

The proposed development does not comply with the density and scale as prescribed in Clause 50 of SEPP (HSPD). If the proposal complies with that standard it cannot be used to refuse consent. However, as the proposed development does not comply with that clause, the proposal can be considered to be overdevelopment of the site if it's found to be incompatible with the character of the area (i.e. not appropriate for site or its context), as established by the Land and Environment Court in *Salanitro –Chafei v Ashfield Council* {2005} NSWLEC 366. The case establishes a threshold of density at paragraph 27, which states:

*27 The above {reference to SEPP Seniors and SEPP 53} suggest that there is a general acceptance by the planning profession that an open suburban character is*

*most easily maintained when the FSR of buildings does not exceed 0.5:1. The question raised above may therefore be answered thus:*

*The upper level of density that is compatible with the character of typical single-dwelling areas is around 0.5:1. Higher densities tend to produce urban rather than suburban character. This is not to say that a building with a higher FSR than 0.5:1 is necessarily inappropriate in a suburban area; only that once 0.5:1 is exceeded, it requires high levels of design skill to make a building fit into its surrounds.*

As detailed in this report, the proposed development in terms of built form is found not to be sympathetic to the character of the location or its interface with low density residential development adjoining the site. In this regard, the proposed density and floor space ratio are not considered to be appropriate for the site or its context.

Accordingly, it is considered that the proposal does not satisfy this principle.

#### **Principle 4: Sustainability**

*Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.*

##### Comment:

The proposed works include demolition of one building currently on the site and excavation works to accommodate the new development.

The applicant has submitted a Waste Management Plan with the application. Further, a condition of consent could be imposed requiring the submission of a Construction Management Plan (CMP) detailing disposal and recycling of demolition and excavation materials, should the Development Application be approved.

In addition, a BASIX certificate for the residential component of the development has been submitted with the application. The certificate confirms that the development is capable of achieving the water and energy targets and has obtained a pass for thermal comfort.

Accordingly, the proposal does satisfy this principle.

#### **Principle 5: Landscape**

*Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.*

*Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.*

Comment:

The landscape open space requirements for the proposed development is contained within SEPP (HSPD) 2004, which requires 30% of the site to be landscape open space, this requirement is in addition to the 15% of the site to be provided for deep soil planting.

Although the proposed development complies with the requirement of the SEPP (HSPD) 2004, the design of the basement levels and location of the building within the site allows for minimal landscape open space to be provided on the ground level within the proposed Lot 2. This will not allow for mature landscaping to be provided at a scale which is commensurate with the bulk and scale of the proposed built form.

The landscape design is guided by the architectural design of the building and associated hard surface areas within the boundary of the site that is allocated to Seniors Housing Development and, as such, is considered to be minimal and not considered to respect the character of the arear.

Accordingly, it is considered that the proposal does not satisfy this principle.

**Principle 6: Amenity**

*Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.*

*Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.*

Comment:

The development has been assessed against the various amenity requirements of the ADG where it has been found that the internal amenity of the units is unsatisfactory. In this regard, the subject site's location has the potential to affect the amenity future residents and the surrounding locality. This includes noise and safety concerns due to the subject site's location, and the hours of operation of surrounding commercial and industrial uses.

Accordingly, it is considered that the proposal does not satisfy this principle.

**Principle 7: Safety**

*Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.*

*A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.*

Comment:

The application is not accompanied by a formal Crime Risk Assessment as required by the ADG.

Generally, the development provides secure access which is separated from all vehicular access points. All apartments provide balconies and windows which provides passive surveillance over French Forest Road East.

Accordingly, it is considered that the proposal satisfies this principle.

### **Principle 8: Housing Diversity and Social Interaction**

*Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.*

*Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.*

#### Comment:

This principle essentially relates to design responding to the social context and needs of the local community in terms of lifestyles, affordability and access to social facilities and optimising the provision of housing to suit the social mix and provide for the desired future community.

The provision of a residential development that only provides two bedroom units does not achieve a mix of apartment sizes. In addition, residential development in this location is not considered desirable due to impact of the development on the surrounding land uses, and the proposal would create a number of issues with the potential unacceptable amenity impacts.

Accordingly, it is considered that the proposal does not satisfy this principle.

### **Principle 9: Aesthetics**

*Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.*

*The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.*

#### Comment:

The development in terms of its appearance when viewed from public domain of French Forest Road East, and Skyline Road is tall residential tower, which is minimalist and hard edged in design. The design of the development is not suitable or appropriate for the site or the locality.

Accordingly, it is considered that the proposal does not satisfy this principle.

## APARTMENT DESIGN GUIDE

SEPP 65 also requires consideration of the ADG prepared by NSW Department of Planning and Environment in 2015. The ADG includes development controls and best practice benchmarks for achieving the design principles of SEPP 65.

The following table sets out the proposal's compliance with the ADG:

Criteria / Guideline	Comments								
Part 3 Siting the Development									
Site Analysis	Not Consistent								
Does the development relate well to its context and is it sited appropriately?	A context plan is provided to accompany the application.  The building form does not reflect the current character as anticipated by the WLEP 2011 for the site.								
Orientation	Not Consistent								
Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	The proposal does not activate the street, particularly French Forest Road East, as the proposal includes residential units on the ground level.								
Public Domain Interface	Not Consistent								
Does the development transition well between the private and public domain without compromising safety and security?  Is the amenity of the public domain retained and enhanced?	The development has been found to be inconsistent in the development does not transition well.								
Communal and Public Open Space	Not Consistent								
Appropriate communal open space is to be provided as follows:  1. Communal open space has a minimum area equal to 25% of the site; 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter).	The proposed development provides 600m <sup>2</sup> (13% of the site area) as communal open space within the ground and roof level of the development. The communal open space located on the ground is located on the southern side of the proposed building, and will not receive adequate solar access.  Accordingly, the development is found to be inconsistent with this requirement of the guide.								
Deep Soil Zones	Consistent								
Deep soil zones are to meet the following minimum requirements:	A total of 1417m <sup>2</sup> (30.7% of the site area) is deep soil zone.								
<table><tr><th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr><tr><td>Less than 6</td><td>-</td><td rowspan="2">7%</td></tr><tr><td>650m<sup>2</sup> – 1,500m<sup>2</sup></td><td>3m</td></tr></table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 6	-	7%	650m <sup>2</sup> – 1,500m <sup>2</sup>	3m	
Site area	Minimum dimensions	Deep soil zone (% of site area)							
Less than 6	-	7%							
650m <sup>2</sup> – 1,500m <sup>2</sup>	3m								

<table><tr><td>Greater than 1,500m<sup>2</sup></td><td>6m</td><td rowspan="2"></td></tr><tr><td>Greater than 1,500m<sup>2</sup> with significant existing tree cover</td><td>6m</td></tr></table>	Greater than 1,500m <sup>2</sup>	6m		Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m								
Greater than 1,500m <sup>2</sup>	6m												
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m												
<p><b>Visual Privacy</b> 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> <p><i><b>Note:</b> Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</i></p> <p><i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	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	<p><b>Not Consistent</b></p> <p>The proposed provides 6m setback to the southern and western boundaries. The conflicting use adjacent to the proposed development increases the amenity requirements for residential abutting the Commercial Strata Offices.</p> <p>Minimum ADG Requirements should be met.</p>
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											
<p><b>Pedestrian Access and entries</b></p> <p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>	<p><b>Consistent</b></p> <p>The development provides level pedestrian access to all floor levels from the basement car parking area.</p>												
<p><b>Vehicle Access</b></p> <p>Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?</p>	<p><b>Consistent</b></p> <p>The proposed vehicular access has been assessed by Council's Traffic Engineer who has raised no objections to the proposal in terms of the location of the vehicular access.</p>												
<p><b>Bicycle and Car Parking</b> For development in the following locations:</p> <ul style="list-style-type: none"><li>On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li><li>On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.</li></ul> <p>The minimum car parking requirement for residents</p>	<p><b>Consistent</b></p> <p>An assessment of car parking provision, having regard to SEPP (HSPD) 2004 and location of the site has been undertaken.</p> <p>In summary, the amount of car parking is sufficient for the development, as addressed elsewhere in this report.</p>												



<p>and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>							
<b>Part 4 Designing the Building</b>							
<b>Amenity</b>							
<p><b>Solar and Daylight Access</b></p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> <li>• Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter;</li> <li>• A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</li> </ul>	<p><b>Not Consistent</b></p> <p>79% of the apartments will receive the required solar access, However, 21% of the units will receive no solar access between 9am and 3pm in midwinter.</p>						
<p><b>Natural Ventilation</b></p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> <li>• At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at 10 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;</li> <li>• Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.</li> </ul>	<p><b>Not Consistent</b></p> <p>58 % of the units are naturally cross ventilated, which does not comply with the 60% requirement.</p>						
<p><b>Ceiling Heights</b></p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="280 1680 849 1852"> <thead> <tr> <th colspan="2">Minimum ceiling height</th></tr> </thead> <tbody> <tr> <td>Habitable rooms</td><td>2.7m</td></tr> <tr> <td>Non-habitable</td><td>2.4m</td></tr> </tbody> </table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	<p><b>Consistent</b></p> <p>The floor to ceiling heights of the apartments within the development meet the minimum 2.7m as required by the ADG.</p>
Minimum ceiling height							
Habitable rooms	2.7m						
Non-habitable	2.4m						

For two storey apartments	2.7m for main living area floor,  2.4m for second floor, where its area does not exceed 50% of the apartment area.
Attic spaces	2.7m for main living area floor,  2.4m for second floor, where its area does not exceed 50% of the apartment area.
If located in mixed used areas	2.7m for main living area floor,  2.4m for second floor, where its area does not exceed 50% of the apartment area.

<b>Apartment Size and Layout</b>  Apartments are required to have the following minimum internal areas:  <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table>  The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m <sup>2</sup> each.  A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m <sup>2</sup> each.  Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.  Habitable room depths are limited to a maximum of 2.5 x the ceiling height.  In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.  Master bedrooms have a minimum area of 10m <sup>2</sup> and other bedrooms 9m <sup>2</sup> (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).  Living rooms or combined living/dining rooms have a minimum width of:  <ul style="list-style-type: none"><li>3.6m for studio and 1 bedroom apartments;</li></ul>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>	<b>Consistent</b> The minimum size of all 2 bedroom units is 98m <sup>2</sup>
Apartment type	Minimum internal area										
Studio	35m <sup>2</sup>										
1 bedroom	50m <sup>2</sup>										
2 bedroom	70m <sup>2</sup>										
3 bedroom	90m <sup>2</sup>										

<ul style="list-style-type: none"><li>4m for 2 and 3 bedroom apartments</li></ul> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>																
<p><b>Private Open Space and Balconies</b></p> <p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m<sup>2</sup></td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m<sup>2</sup></td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m<sup>2</sup></td><td>2.4m</td></tr></table> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3m.</p>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m <sup>2</sup>	-	1 bedroom apartments	8m <sup>2</sup>	2m	2 bedroom apartments	10m <sup>2</sup>	2m	3+ bedroom apartments	12m <sup>2</sup>	2.4m	<p><b>Not Consistent</b></p> <p>The private open space of all 2 bedroom units has a minimum size of 10m<sup>2</sup> and minimum depth of 2.5m.</p> <p>The private open space of 2 bedroom + study units (i.e. 3 bedroom units) are 10m<sup>2</sup> and minimum depth of 2.5m, which is non-compliant with this requirement in relation 21 of those units.</p> <p>The private open space for the remaining 2 bedroom + study units have a minimum size of 14m<sup>2</sup> and minimum depth of 2.8m.</p>
Dwelling Type	Minimum Area	Minimum Depth														
Studio apartments	4m <sup>2</sup>	-														
1 bedroom apartments	8m <sup>2</sup>	2m														
2 bedroom apartments	10m <sup>2</sup>	2m														
3+ bedroom apartments	12m <sup>2</sup>	2.4m														
<p><b>Common Circulation and Spaces</b></p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p><b>Not Consistent</b></p> <p>The maximum number of apartments off a circulation core on a single level ranges from 10 to 16 units, which exceeds the requirement of this control.</p>															
<p><b>Storage</b></p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m<sup>2</sup></td></tr><tr><td>1 bedroom apartments</td><td>6m<sup>2</sup></td></tr><tr><td>2 bedroom apartments</td><td>8m<sup>2</sup></td></tr><tr><td>3+ bedroom apartments</td><td>10m<sup>2</sup></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	4m <sup>2</sup>	1 bedroom apartments	6m <sup>2</sup>	2 bedroom apartments	8m <sup>2</sup>	3+ bedroom apartments	10m <sup>2</sup>	<p><b>Consistent (subject to condition)</b></p> <p>The proposed building includes resident storage areas for all units within the building and as well as within the basement levels.</p> <p>A condition of consent could be recommended, if the application was recommended for approval to ensure the proposed storage areas are allocated in accordance with the size requirements of the ADG for the respective units.</p>					
Dwelling Type	Storage size volume															
Studio apartments	4m <sup>2</sup>															
1 bedroom apartments	6m <sup>2</sup>															
2 bedroom apartments	8m <sup>2</sup>															
3+ bedroom apartments	10m <sup>2</sup>															
<p><b>Acoustic Privacy</b></p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms</p>	<p><b>Consistent (subject to condition)</b></p> <p>An acoustic assessment has been submitted which considers both internal and external noise sources including surrounding traffic noise, noise emissions associated with traffic generated by activities on site. The acoustic assessment found that noise generated by the development will comply with all relevant standards.</p>															

<b>Noise and Pollution</b>  Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	<b>Not Consistent</b> The noise and pollution impact of the development is unsatisfactory given the site location within the Business Park.															
<b>Configuration</b>																
<b>Apartment Mix</b>  Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	<b>Not Consistent</b> The development only provides two bedroom units and 2 bedroom plus study. There is a lack of variety in types of units offered in the development.  A variation of 1, 2 and 3 bedroom apartments should be provided across the development.															
<b>Facades</b>  Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	<b>Not Consistent</b>  The development is not respectful of the surrounding character, therefore the facade treatment is not considered to be appropriate to enhance the streetscape and character of the area.															
<b>Roof Design</b>  Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Test whether the roof space can be maximised for residential accommodation and open space.	<b>Consistent</b>  The roof space is used for open space for the residents															
<b>Landscape Design</b> Was a landscape plan submitted and does it respond well to the existing site conditions and context.	<b>Not Consistent</b>  Landscape plans have been submitted with the application, providing detailed plans for the landscape treatment. The landscape plans have been assessed by Council's Landscape Officer, who has found that the landscaping does not respond appropriately to the site or its context.															
<b>Planting on Structure</b> When planting on structures the following are recommended as minimum standards for a range of plant sizes: <table><tr><th>Plant type</th><th>Definition</th><th>Soil Volume</th><th>Soil Depth</th><th>Soil Area</th></tr><tr><td>Large Trees</td><td>12-18m high, up to 16m crown spread at maturity</td><td>150m<sup>3</sup></td><td>1,200mm</td><td>10m x 10m or equivalent</td></tr><tr><td>Medium Trees</td><td>8-12m high, up to 8m crown</td><td>35m<sup>3</sup></td><td>1,000mm</td><td>6m x 6m or equivalent</td></tr></table>	Plant type	Definition	Soil Volume	Soil Depth	Soil Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent	<b>Not Consistent</b>  Refer to Principle 5 above and Landscape referral comments.
Plant type	Definition	Soil Volume	Soil Depth	Soil Area												
Large Trees	12-18m high, up to 16m crown spread at maturity	150m <sup>3</sup>	1,200mm	10m x 10m or equivalent												
Medium Trees	8-12m high, up to 8m crown	35m <sup>3</sup>	1,000mm	6m x 6m or equivalent												

	spread at maturity				
Small trees	6-8m high, up to 4m crown spread at maturity	9m <sup>3</sup>	800mm	3.5m x 3.5m or equivalent	
Shrubs			500-600mm		
Ground Cover			300-450mm		
Turf			200mm		
<b>Awning and Signage</b>					<b>Not Applicable</b>
<p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p> <p>Signage must respond to the existing streetscape character and context.</p>					<p>The DA does not propose any awning or signage and as such, this clause is not considered in the assessment of this application.</p> <p>It is noted that the commercial premises located on the ground floor of the development will require signage in the future, and this will be subject to future development applications or be exempt development under the provision of State Environmental Planning Policy(Exempt and Complying Development Codes) 2008.</p>
<b>Performance</b>					
<b>Energy Efficiency</b>					<b>Consistent</b>
<p>Have the requirements in the BASIX certificate been shown in the submitted plans?</p>					<p>A BASIX certificate report has been prepared for the development. The BASIX certificate confirms that required targets for water, thermal comfort and energy efficiency will be met.</p>
<b>Water Management and Conservation</b>					<b>Consistent</b>
<p>Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?</p>					<p>Water management and conservation through the means of retention of stormwater for reuse has been assessed as compliant and further, compliance with the supplied BASIX Certificate can be conditioned, if the application was recommended for approval.</p>
<b>Waste Management</b>					<b>Consistent</b>
<p>Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.</p>					<p>Subject to condition</p>
<b>Building Maintenance</b>					<b>Consistent</b>
<p>Incorporates a design and material selection that</p>					<p>The application includes a Schedule of Materials and Finishes which ensures the</p>

ensures the longevity and sustainability of the building.	longevity and sustainability of the building.
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### **SEPP (Building Sustainability Index: BASIX) 2004**

The application has been accompanied by a BASIX certificate that lists commitments by the applicant as to the manner in which the development will be carried out. The requirements outlined in the BASIX certificate have been satisfied in the design of the proposed development. Nonetheless, a condition could be imposed, should the application be worthy of approval to ensure such commitments are fulfilled during the construction of the development.

### **SEPP (Infrastructure) 2007**

This Policy aims to facilitate the delivery of infrastructure and identify matters to be considered in the assessment of development adjacent to particular types of infrastructure development. Specifically the SEPP contains provisions relating to development adjacent to a rail corridor, traffic generating development and development with access to a classified road. The following clauses of the SEPP are applicable to the proposed development and addressed as follows:

#### **Clause 45**

Clause 45 of the SEPP requires the Consent Authority to consider any DA (or an application for modification of consent) for any development carried out:

- Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);
- Immediately adjacent to an electricity substation;
- Within 5m of an overhead power line;
- Includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line.

The application was referred to Ausgrid under clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007.

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

#### **Development with frontage to a classified road**

Clause 101 of SEPP relates to Development with frontage to classified road and aims to:

- a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

The site is directly adjacent to Warringah Road which is a classified road under the Roads Act 1993. Accordingly, the consent authority must be satisfied that the proposed development will not affect the safety, efficiency and ongoing operation of the classified

road. Additionally, the consent authority must also consider the impacts of traffic noise and vehicle emissions from the adjacent classified road.

The proposed development does not rely on or provide direct vehicular access to Warringah Road. Accordingly, the proposal will not adversely affect the safety, efficiency and ongoing operation of Warringah Road. The Development Application was accompanied by an Acoustic Assessment prepared by Wood and Grieve Engineers and dated 17 May 2018. The assessment identifies the main noise sources including mechanical plant equipment and traffic noise associated with vehicular traffic generated by the proposed development. The assessment concludes that the level of noise emitted by the proposed development will meet the noise level requirements of the NSW Industrial Noise Policy and Road Noise Policy subject to the implementation of noise mitigation measures.

Therefore, the subject application is considered to satisfy the provisions of Clause 101 subject to a condition to be included, in the consent if the application is worthy of approval to adopt the recommendations of the acoustic report in the design of the proposed development.

#### **Clause 106**

Pursuant to Clause 106(1) (a) the clause applies to new premises of the relevant size or capacity. (2) In this clause, "relevant size or capacity" means: *"in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3"*.

Clause 106 'Traffic generating development' of the SEPP Infrastructure requires the application be referred to the RMS within seven days, and take into consideration any comments made within 21 days, if the development is specified in Schedule 3 of the SEPP Infrastructure.

Schedule 3 of SEPP Infrastructure requires that the following residential flat developments are referred to the RMS as Traffic Generating Development:

<b>Purpose of Development</b>	<b>Size or Capacity</b> (Site with access to any road)	<b>Size of Capacity</b> (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Apartment or residential flat building	300 or more dwellings	<b>75 or more dwellings</b>

The development consists of 78 residential apartments and proposes a new crossover onto Skyline Place. The application was referred to the RMS for comment as traffic generating development under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007.

The RMS has provided their response which raises no objection to the proposed development subject to conditions.

Therefore, the subject application is considered to satisfy the provisions of Clause 106 subject to conditions as recommended by RMS to be included in the consent if the

application is worthy of approval to adopt the recommendations of the acoustic report in the design of the proposed development.

## STATE REGIONAL ENVIRONMENTAL PLANS

There are no SREPs applicable to the site.

## LOCAL ENVIRONMENTAL PLANS

### WARRINGAH LOCAL ENVIRONMENT PLAN 2011

The Warringah Local Environmental Plan 2011 is applicable to the development.

Is the development permissible with consent?	Land Use Definition:	Permitted or Prohibited
	Senior's Housing and associated uses	Permissible via SEPP HSPD 2004
	Subdivision of Land	Permissible with consent
	Commercial premises	Permissible with consent
<b>After consideration of the merits of the proposal, is the development consistent with:</b>		
<b>Aims of the LEP?</b>	No	
<b>Zone objectives of the LEP?</b>	No	

## Principal Development Standards

Relevant Development Standard	Requirement	Proposed	Variation (%)	Compliance
Clause 4.1 Minimum Subdivision Lot Size	4000m <sup>2</sup>	Lot 1 - 7,842m <sup>2</sup> Lot 2 – 4,726m <sup>2</sup>	N/A	Yes
Clause 4.3 Height of Buildings	There are no height limit applicable to the subject site	26.52m to the top of the lift overrun	N/A	N/A

## Compliance Assessment Summary

Relevant Clauses	Compliance with Requirements
<b>Part 1 Preliminary</b>	
1.2 Aims of the Plan	No
<b>Part 2 Permitted or prohibited development</b>	
2.1 Land Use Zones	No
2.6 Subdivision –Consent requirements	Yes
2.7 Demolition requires consent	Yes
<b>Part 4 Principal development standards</b>	
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	N/A
4.6 Exceptions to development standards	N/A
<b>Part 5 Miscellaneous Provisions</b>	

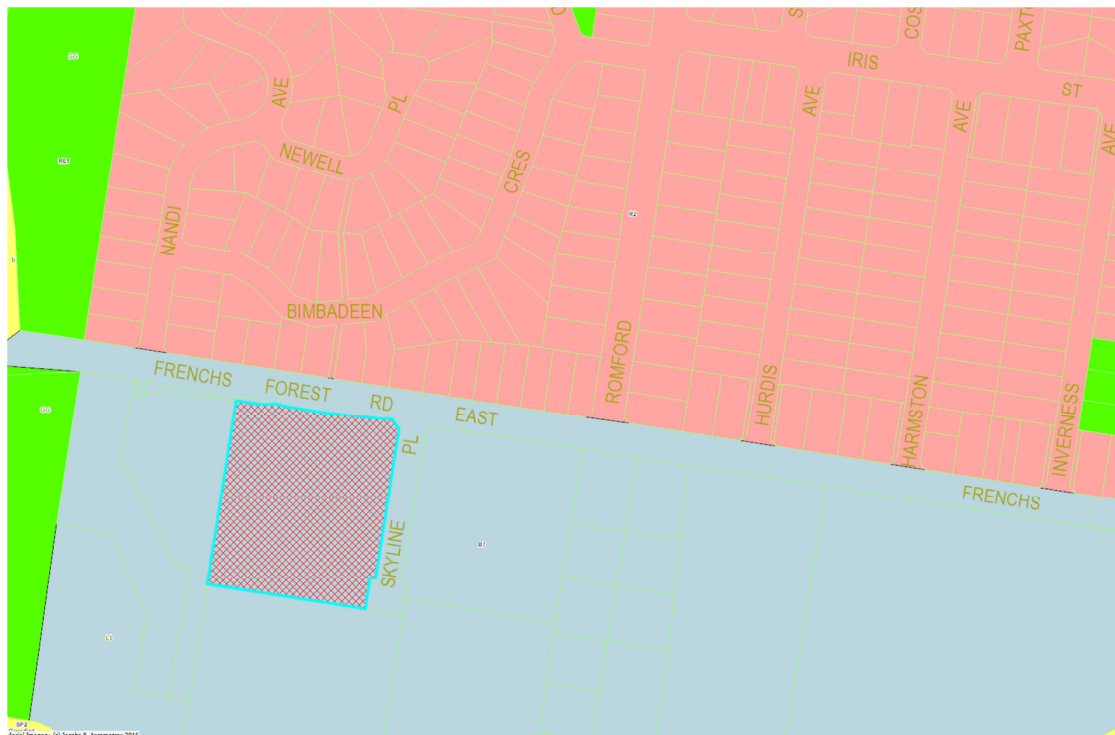


Relevant Clauses	Compliance with Requirements
5.9 Preservation of trees or vegetation	Yes
<b>Part 6 Additional Local Provisions</b>	
6.2 Earthworks	Yes
6.3 Flood planning	N/A
6.4 Development on sloping land	Yes
6.7 Residential Flat Buildings in Zone B4 Mixed Use	N/A

### Zoning and permissibility

The site is zoned 'B7 Business Park' and residential development (including seniors housing) are prohibited within the B7 Zone. However, seniors housing is permissible under the SEPP (HSPD) by virtue of 'hospitals' are permitted in the B7 Business Park zone.

Accordingly, the proposed development is permissible with consent.



**Figure 4 – Site zoning under WLEP 2011 (note: site boundaries shown in blue)**

### Zone objectives

Clause 2.3(2) of the WLEP 2011 requires the consent authority to have regard to the zone objectives when determining a development application. The underlying objective of the B7 zone and it how it relates to the proposed development is addressed as follows:

The objectives of the B7 zone are:

- *To provide a range of office and light industrial uses.*
- *To encourage employment opportunities.*

- To enable other land uses that provides facilities or services to meet the day to day needs of workers in the area.
- To create business park employment environments of high visual quality that relate favourably in architectural and landscape treatment to neighbouring land uses and to the natural environment.
- To minimise conflict between land uses in the zone and adjoining zones and ensure the amenity of adjoining or nearby residential land uses.

#### Comment

The proposal to introduce a residential type use in the form of seniors housing is inconsistent with the objectives of the B7 Business Park for the following reasons:

- The main intent of the B7 zone is to permit employment uses, such as business and office premises. Allowing residential development (i.e. seniors housing) on the site will undermine the intent of the B7 zone objectives;
- The bulk and scale of the proposed development is found to be inconsistent with the surrounding land uses as discussed in the various sections of this report; and
- The proposed residential component of the development will create land use conflict with other uses surrounding land uses.

Given the strategic importance of maintaining the objectives of the zone and preserving employment land, the inconsistency of the seniors housing with the objectives of the zone has been included as reason for refusal.

### **DEVELOPMENT CONTROL PLANS**

#### **WARRINGAH DEVELOPMENT CONTROL PLAN 2011**

The Warringah Development Control Plan 2011 is applicable to the development.

#### **Built Form Controls**

Principle Numerical Controls	Requirement	Proposed	Complies
B4 Site Coverage	33.3%	Lot 1- 44% (3471m <sup>2</sup> ) Lot 2- 48% (2237m <sup>2</sup> )	No
B5 Side Boundary	Nil	Western – 6m Southern – 6.6m	Yes
B7 Front Boundary Setback	10m	<u>Lot 1</u> – 6m to Skyline Place  (Existing setback maintain)	N/A
		<u>Lot 2</u> - Frenchs Frost Rd East – 9.2m Skyline Place – 6m	No
B10 Merit Assessment of Rear Setback	Merit	The site has dual frontage, the rear setback requirement is not applicable to the subject site.	N/A

## Compliance Assessment Summary

Clause	Compliance with Requirements	Consistency Aims/Objectives
<b>Part A Introduction</b>		
A.5 Objectives	No	No
<b>Part B Built Form Controls</b>		
B4 Site Coverage	No	No
B5 Side Boundary	Yes	Yes
B7 Front Boundary Setback	No	No
B10 Merit Assessment of Rear Setback	N/A	N/A
<b>Part C Siting Factors</b>		
C1 Subdivision	No	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities	Yes	Yes
C4 Stormwater	No	No
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Residential accommodation - 3 or more dwellings	Yes	Yes
<b>Part D Design</b>		
D2 Private Open Space	N/A	N/A
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	No	No
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D18 Accessibility	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
<b>Part E The Natural Environment</b>		
E1 Private Property Tree Management	No (refer to Landscape comments in the referral section of this report)	No
E10 Landslip Risk	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
<b>Part H Appendices</b>		
Appendix 1 Car Parking Requirements	Yes	Yes

## Clause B4 Site Coverage

### Area of Non-compliance

The development is non-compliant with the 33.3% site coverage requirement with regard to:

Proposed Lot 1 – will occupy the existing warehouse/office and associated car parking and will result in 44% site coverage.

Proposed Lot 2 – will occupy the proposed senior's housing development and will result in 48% site coverage.

### Merit consideration of non-compliance

In assessing this element of the proposal, it is necessary to consider the merit considerations of the site coverage objectives. Accordingly, consistency with the merit considerations is addressed below:

- *To provide opportunities for the provision of landscaping and the enhancement of existing native vegetation*

### Comment:

The proposed subdivision of the site results in two Lots which will be largely occupied by existing and proposed building footprints and associated car parking, driveways etc. Therefore, there are no adequate opportunities for the planting and establishment of substantial landscaping on the ground level.

Additionally, the proposed development seeks the removal of a number of mature trees from the site. Such tree removal could be negated if the development were to comply with the requisite site coverage as per the WDCP 2011.

- *To minimise the bulk and scale of development*

### Comment:

The combination of the vertical and horizontal massing of the side elevations of the development in conjunction with the proposed site coverage results in visually dominant building bulk that has no sympathy or relationship to the bulk of surrounding development within the B7 zone or the residential development located on the opposite side of Frenchs Forest Road East.

- *To reduce the stormwater runoff, preventing soil erosion and siltation of the natural drainage network.*

Comment:

The application was referred to Council's Development Engineer who raises concerns about the design and provision of stormwater drainage from the development. The matters raised require the submission of further information.

The development is not considered to be consistent with the objectives underlying the Site Coverage Control. In this respect, the variation to the coverage proposed for both Lots is not supported and included as a reason for refusal.

**B7 Front Boundary Setback**

Area of Non-compliance

B7 Front Boundary Setback	10m	Lot 2 - Frenchs Forest Rd East – 9.2m Skyline Place – 6m	No  No
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The existing non-compliance in relation to the proposed Lot 1 is an existing situation and will not be altered as result of the proposed development.

The non-compliance in relation to the proposed Lot 2 (Seniors Housing Development) is addressed against the objectives of the control as follows:

- *To create a sense of openness.*

Comment:

The width of the building elevation facing Frenchs Forest Road East measures 89m in length. Given this length, both the vertical and horizontal massing of the development equate to a built form that is inconsistent with the character of development on Frenchs Forest Road East.

The proposed street wall style of development adds significant continuous building mass to an otherwise open streetscape, which is characterised by warehouse/office type on the southern side of road and by traditional dwelling house built forms on single allotments on northern side of the road, which provide substantial building separation

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The length and height of the proposed building, and the balconies results in an unarticulated building mass which will have a significant visual impact upon the streetscapes.

With respect to landscaped elements, the development proposes provides little opportunities within the front setbacks to provide landscaping that can screen the development of this size and scale. This is not consistent with the front gardens and landscape elements of existing development along streetscapes.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

As discussed above, the proposed development adds to the vertical bulk of the building when viewed from the streets, the non-compliance is not considered to preserve the visual continuity and pattern of buildings along this particular part of Frenchs Forest Road East and Skyline Place.

- *To achieve reasonable view sharing.*

Comment:

There is no view loss as result of the proposed development.

The development is not considered to be consistent with the objectives underlying the Front Boundary Setback Control. In this respect, the variation to the front setback is not supported and included as a reason for refusal.

**C1 Subdivision**

Component	Requirement	Proposed	Compliant
<b>Lot requirements</b>	R2 Low Density Residential zone requirements:  Proposed new allotments:  a) Minimum width: 13 metres b) Minimum depth: 27 metres; and c) Minimum building area: 150m <sup>2</sup>	Not Applicable	Not Applicable
<b>Access</b>	Motor vehicle access to each residential allotment is required from a constructed and dedicated public road.  Where access is proposed to a section of unconstructed public road, then the subdivision will need to provide legal, constructed access to the Council's satisfaction.  Access for Council service vehicles, emergency vehicles and garbage collection vehicles must be provided.  Driveways, accessways, etc., to allotments should have a gradient not exceeding 1:4 and allow for transitions at a minimum length of 1.5m and at a grade no steeper than 1:10.  Driveways in excess of 200 metres will not be allowed for residential development.  Driveways that are 30m or more	Access to proposed Lots 1 and 2 are from Skyline Place, which is consistent with the requirement of this clause.	Yes

	<p>in length require a passing bay to be provided every 30m. To provide a passing bay, driveways shall be widened to 5.0m for a distance of at least 10m.</p> <p>Passing bays should have regard to sight conditions and minimise vehicular conflict.</p> <p>Vehicular ingress/egress points to internal lots may be used as passing/turning bays, subject to extension of a right-of-carriageway over the passing/turning bay.</p> <p>Rights-of-carriageway should be located so as to accommodate all vehicle turning facilities.</p> <p>Width of accessways are to be as follows:</p> <table><tr><td>Number of lots to be serviced</td><td>Width of clear constructed accessway (m)</td></tr><tr><td>1 - 5</td><td>3.5</td></tr><tr><td>6 - 10</td><td>5.0</td></tr><tr><td>in excess of 10</td><td>Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)</td></tr></table> <p>Provision of services in rights of carriageway are as follows:</p> <table><tr><td>Number of lots to be serviced</td><td>Additional width to be provided in Right of Carriageway (m)</td></tr><tr><td>Up to 3 lots</td><td>0.5</td></tr><tr><td>4 or more lots</td><td>1.0</td></tr></table>	Number of lots to be serviced	Width of clear constructed accessway (m)	1 - 5	3.5	6 - 10	5.0	in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)	Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)	Up to 3 lots	0.5	4 or more lots	1.0		
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1 - 5	3.5																
6 - 10	5.0																
in excess of 10	Access is to be provided by a private or public road constructed with a width that is in accordance with Council standard specifications for engineering works (AUSPEC 1)																
Number of lots to be serviced	Additional width to be provided in Right of Carriageway (m)																
Up to 3 lots	0.5																
4 or more lots	1.0																
Design and construction	<p>All roads, rights of carriageway, drainage design and construction is to be in accordance with Council's policy requirements including; AUSPEC 1 - Council's Specification for Engineering Works, Development Engineering Minor Works Specification, On</p>	<p>No new road or carriageway is required for the proposed development.</p> <p>The plans have been reviewed by Council's Development Engineers</p>	N/A														

	<p>Site Stormwater Detention (OSD) Technical Specification and Council's Water Sensitive Urban Design Policy. Additionally, internal roads must be designed in accordance with the relevant Australian Standards.</p> <p>Subdivision design needs to maximise and protect solar access for each dwelling by considering factors such as orientation, shape, and size and lot width.</p>	who have raised no objection to the development on the ground of this requirement.	
<b>Drainage</b>	<p>Provision should be made for each allotment to be drained by gravity to a Council-approved drainage system. The topography of the land should not be altered to adversely affect the natural drainage patterns. Stormwater should drain directly to a Council-approved drainage system and not via adjoining properties unless via a formalised interallotment drainage system. The proposed allotments are to be drained to the direction of the natural fall of the land. Interallotment drainage easements will be required through adjoining properties to adequately drain land to Council's downstream system.</p>	The application was referred to Council's Development Engineer who raises concerns about the design and provision of stormwater drainage from the development. The matters raised require the submission of further information.	No (insufficient information)
<b>Restrictions</b>	Any easement, right-of-carriageway, or other restriction that is placed on the title of any land as a requirement of the approval of the subdivision is to be protected by a positive covenant or like instrument with the Council nominated as a party.	Appropriate conditions could be place in the consent, if the application was recommended for approval to ensure compliance with the requirement of this clause	Yes (subject to conditions)
<b>Environmentally constrained land</b>	<p>In areas subject to constraints such as flooding, tidal inundation, threatened species, landslip risk, bushfire or any other matter, adequate safe area for building, where the risk from hazard is minimised, is to be provided within an allotment.</p> <p>Where possible, lot boundaries should utilise natural land features such as creeks, escarpments and rock outcrops.</p>	The site is identified in Bushfire Prone area. Refer to discussion below	Yes
<b>Bushfire</b>	Subdivision should be designed to minimise the risk from potential bushfire. Asset protection zones should be contained within the property boundaries of the new	The Application was referred to the NSW RFS for comments. The NSW RFS has raised no objection to the proposed	Yes (Subject to conditions)



	subdivision.	development subject to conditions.	
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#### **Clause C4 - Stormwater**

The application was referred to Council's Development Engineer who raises concerns about the design and provision of stormwater drainage from the development. The matters raised require the submission of further information.

#### **Clause D6 - Access to Sunlight**

The Development Application includes certified shadow diagrams which indicate that the development will create additional overshadowing to adjoining site to the west at No.79 Frenchs Forest Road East (Sky Channel P/L) and to the existing warehouse building on proposed Lot 2 to the south of the site. Therefore, the level of overshadowing is compliant with the requirement of this Clause.

#### **Clause D9 - Building Bulk**

The vertical and horizontal massing of development when viewed from the from the adjoining residential properties on Frenchs Forest East and from the side elevations results in visually dominant building bulk that has no sympathy or relationship to the bulk of surrounding development within the B7 Business Park zone or the adjoining residential zone.

#### **Appendix 1 – Car Parking Requirements**

Appendix 1 of the WDCP 2011 requires a development to provide on-site car parking at the following rates (note: required car parking spaces are rounded up):

<b>Component</b>	<b>Required</b>	<b>Provided</b>	<b>Compliance</b>
<b>Residential</b> Seniors Housing	Requirement under SEPP (HSPD) 2004 0.5 space per bedroom 100 required based	115 - 100 for residents - 15 for visitors	Yes
<b>Commercial</b> (GFA) Commercial (1,348m <sup>2</sup> )	1 space per 40 m <sup>2</sup> GFA 33.7 spaces	34	Yes
<b>Total</b>	<b>134 spaces</b>	<b>149 spaces</b>	<b>Yes</b>

#### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological Communities or their habitats

#### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention through Environmental Design.

The application was referred to the NSW Police who did not stipulate any requirements.

## POLICY CONTROLS

### Warringah Section 94A Development Contribution Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan.

The following monetary contributions are applicable:

Warringah Section 94 Development Contributions Plan		
Contribution based on a total development cost of \$45,144,636		
Contributions	Levy Rate	Payable
Total Section 94A Levy	0.95%	\$ 428,874
Section 94A Planning and Administration	0.05%	\$ 22,572
Total	1%	\$ 451,446

If the application is approved a condition of consent can be included to ensure the required contributions are paid prior to the issue of the Construction Certificate

## CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 4.15 of the EP&A Act 1979, the provisions of relevant EPIs, including SEPP 55, SEPP (HSPD) 2004, SEPP 65, SEPP Infrastructure, WLEP 2011, the relevant codes and policies of Council, the relevant provisions of the WDCP 2011.

The site zoned B7 Business Park under WLEP 2011. Seniors Housing is prohibited development pursuant to the Land Use Table in Part 2 of WLEP 2011 and as such, the Applicant seeks consent for the Senior Housing component of the Development pursuant to SEPP (HSPD) 2004.

The application was referred to internal departments and external authorities. In the responses, Council's Strategic Team, Urban Designer, and Landscape officer each raised fundamental concerns with the proposal. Council's Development Engineer has indicated that additional information is required to properly assess the stormwater requirements of the proposal.

The subject site is located within the Frenchs Forest Business Park, which performs as employment land and has the potential to contribute to a range of economic opportunities associated with the new Hospital. Council's plans and policies do not propose any change to the role and function of the Frenchs Forest Business Park. The proposed senior's housing development within this site is considered inappropriate due to the Business Park's important employment role to the Northern Beaches region and North District.

The assessment of this application concludes that the proposal has not responded adequately to its context and the elements that make up the existing and desired future character of the site under the current and proposed planning controls. For these reasons, it is considered the proposal is not an appropriate development for the site

The assessment of the Development Application against the provisions of SEPP 65 found that the proposal is inconsistent with number of the design principles and a number of relevant requirements as contained under the accompanying ADG.

The assessment of the proposed development against the provisions of WLEP 2011 found that the proposal to introduce a residential type of use in the form of seniors housing is inconsistent with the objectives of the B7 Business Park zone. In addition, the assessment has found that the seniors housing within this site has the potential to affect the amenity of future and the surrounding locality. This includes impact of the development on other business, amenity concerns associated with the hours of operation of surrounding commercial and industrial uses, and impacts to residents of the surrounding locality.

Allowing residential development on site will also set a precedent by allowing other sites in the B7 Business Park zone to be redeveloped for “seniors development” or other type of residential uses, which will result in loss of employment land.

The development attracted 17 individual submissions opposing the development and 1 individual submission supporting the development. The majority of the submissions raised concerns with regards to the inconsistency with Council’s strategic intent, inconsistency with the zone objectives, proposed density and scale, character, traffic congestion. Other issues raised include the impact of the development upon existing infrastructure, and the issue of precedent by allowing residential development within the B7 Business Park zone. The issues raised in the submissions have been addressed in the “Public Notification Section” of this report.

The assessment of the proposed development against the provisions of WDCP 2011 found that the proposal was not consistent with Built form Controls as it relates to Site Coverage and Front Boundary setback.

As a direct result of the application and the consideration of the matters detailed within this report, it is recommended that the Sydney North Planning Panel (SNPP), as the consent authority, refuse the application for the reasons detailed within the “Recommendation” section of this report.

## **RECOMMENDATION (REFUSAL)**

That the SNPP as the consent authority pursuant to Clause 4.16(1) (a) of the EP&A Act 1979 (as amended) refuse to grant consent to Development Application No DA2018/0995 for Subdivision of land into 2 allotments, demolition of existing structures, and construction of a mixed use development containing 78 Seniors Housing units, and commercial space on land at Lot CP SP 49558, 5 Skyline Place, Frenchs Forest for the following reasons:

### **1. The proposed Land use (Seniors Housing) is inconsistent with Council’s Northern Beaches Hospital Precinct Structure Plan.**

Particulars:

- a) The seniors housing on this site will compromise the ability to achieve the vision of Council’s adopted Northern Beaches Hospital Precinct Structure Plan, which seeks to implement the directions and objectives of the Greater Sydney Region Plan and North District Plan.

- b) The seniors housing on this site is inconsistent with State Government metropolitan planning, which reinforces the importance of retaining and enhancing employment uses within the Business Park.

**2. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and Associated Apartment Design Guide (ADG)**

The proposed development should not be approved in its current form as it fails the principles of SEPP 65 insofar as they apply to context & neighbourhood character, built form & scale, density, landscaping, amenity, housing diversity & Social Interaction, and aesthetics.

Particulars:

- a) The proposed building is not compatible with the context of the site that currently contemplates development that is non-residential and of a scale significantly less than that proposed.
- b) The development does not provide sufficient landscape area commensurate with the bulk and scale of the proposed built form.
- c) The proposal is inconsistent with a number of the requirements as contained in the ADG referenced in SEPP 65

**3. State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 (SEPP HSPD 2004)**

The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is found to be inconsistent with the provisions of SEPP (HSPD) 2004.

Particulars:

- a) The proposed development is inconsistent with the Aims of the Policy (namely Clause 2c) in relation to design and compatibility.
- b) The proposed development is inconsistent with the requirement of Clause 19 in that the development provides residential units within the ground floor of a building that fronts Frenchs Forest Road East.
- c) The scale, bulk and height of the proposal is not compatible with the existing and future character of the area and does not contribute to the quality and identity of the area as required by Clause 33 (a) of SEPP (HSPD) 2004.
- d) The proposed development does not comply with the requirement of Clause 50 with regards to Building Height, Density and scale and Solar access requirements.

**4. State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)**

The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is found to be inconsistent with the provisions of SEPP 55.

Particulars:

- a) Insufficient information has been submitted to demonstrate that the land will be suitable in its current state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

#### **5. Warringah Local Environmental Plan (WLEP 2011)**

The proposed development is unsatisfactory in respect to Section 4.15 (1) (a) (i) of the EPA Act, as the application is found to be inconsistent with the provisions of WLEP 2011.

Particulars:

- a) The development is inconsistent with the aims of the Plan, as it relates to promoting development that is compatible with neighbouring development in terms of bulk, scale and appearance and use.
- b) The development is inconsistent with the objectives of the B7 Business Park zone.

#### **6. Non-compliance with Warringah DCP 2011 (WDCP 2011)**

Particulars:

- a) The proposed development fails to comply with key objectives of WDCP 2011.
- b) The development fails to comply with the Built Controls as it relates to B4 –Site Coverage and B7 – Front Boundary Setbacks.
- c) The proposed development fails to comply with the following clauses of WDCP 2011:
  - Clause C4 – Stormwater;
  - Clause D9 – Building Bulk; and
  - Clause E1 – Private Property Tree Management