

ITEM	27 Bullecourt Avenue, MILPERRA NSW 2214
PROPOSED	Demolition of existing shed, category 2 remediation work, and construction of a seniors housing development comprising five buildings including a residential care facility, self-contained dwellings, community facilities, building identification signs, sealed road, basement and at-grade car parking and associated earthworks under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
FILE	DA-1213/2017 - Revesby Ward
ZONING	R2 Low Density Residential
DATE OF LODGEMENT	18 December 2017
APPLICANT	Anglican Community Services C/- DFP Planning
OWNERS	Anglican Retirement Villages
CIV	\$100,030,000.00
AUTHOR	Warren Terry

SUMMARY REPORT

This matter is reported to the Sydney South Planning Panel as the proposed development exceeds the threshold for 'general development' in accordance with Part 4 and Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* as the capital investment value exceeds \$30 million.

Development Application No. DA-1213/2017 proposes the demolition of the existing shed, category 2 remediation work, and construction of a seniors housing development comprising five buildings including a residential care facility, self-contained dwellings, community facilities, sealed road, basement and at-grade car parking and associated earthworks under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

DA-1213/2017 has been assessed against State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy No. 64 – Advertising and Signage, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, Draft Canterbury Bankstown Local Environmental Plan 2020, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015. The application fails to satisfy the height of buildings and number of storeys development standards and the

landscaped area discretionary standard contained in SEPP Seniors, and the number of apartments off a circulation core design criterion contained in the Apartment Design Guide. Notwithstanding this, the assessment has found that the design of the proposed development is acceptable and results in an appropriate built form for the subject site.

The application was advertised for a period of twenty-one (21) days from 17 January 2018 to 6 February 2018. Four (4) submissions were received, comprising three (3) objections and one (1) letter of support. The amended plans were subsequently re-notified for a period of fourteen (14) days from 12 November 2019 to 25 November 2019. One (1) additional submission (objection) was received.

The submissions received during the advertising and notification periods raise concerns relating to visual privacy impacts on residential properties to the west; traffic issues, congestion and road safety on Bullecourt Avenue; impacts on street car parking; and noise and dust during construction works.

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions of consent.

DA-1213/2017 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is legally described as Lots 161 and 272 in Deposited Plan 752013, however it is more commonly referred to as 27 Bullecourt Avenue, Milperra. The site is zoned R2 Low Density Residential under Bankstown Local Environmental Plan 2015. The site is located on the northern side of Bullecourt Avenue, approximately 215 metres west of the intersection with Ashford Avenue and approximately 215 metres east of the intersection with Henry Lawson Drive.

The site comprises two allotments with a combined frontage of 161 metres to Bullecourt Avenue and a frontage of 172 metres to Bullecourt Lane. The allotments have a combined site area of approximately 27,658m². The site has a fall of approximately 1.5 metres from the south-eastern (front) corner to the north-western (rear) corner. The site is primarily vacant with the exception of a metal shed in the north-eastern corner. The site previously formed part of the Bankstown Golf Course to the north and was used as a practice fairway, with an old footbridge connecting the two properties still in existence.

The existing on-site vegetation comprises twenty-six (26) trees of various species that are mostly mature specimens that have adapted to existing conditions. The existing trees on Council land comprise twenty-three (23) street trees along Bullecourt Avenue and Bullecourt Lane that are primarily *Corymbia maculata* (Spotted Gum).

The surrounding sites to the south and west comprise of low-density residential development, including single and two storey dwellings and dual occupancies. The sites to the east comprise of two storey industrial developments. A small neighbourhood centre of commercial and retail premises is located at the south-west corner of the intersection of Bullecourt Avenue and Ashford Avenue.

The image below identifies the allotment boundaries of the site (in red) and the siting of structures on the subject site and surrounding sites.



PROPOSED DEVELOPMENT

The amended Statement of Environmental Effects that was submitted with the development application summarises the proposed development as follows:

- Removal of an existing shed in the north-eastern corner of the site;
- Remediation of the site;
- Earthworks to accommodate the proposed buildings and excavation to create basement car parking and relocate the sewer line;
- Removal of shrubs and trees around the existing shed, former bunker and an isolated tree in the centre of the site and trees along the western edge of the site;
- Removal of one street tree on Bullecourt Avenue closest to the corner of Bullecourt Lane to provide for the pedestrian crossing on Bullecourt Avenue;
- Normalisation of the informal drainage channel along the northern boundary of the site;
- Construction of a seniors housing development comprising a residential care facility, self-contained dwellings and community spaces;
- One vehicular access from Bullecourt Avenue and three from Bullecourt Lane;
- Consolidation of the two lots forming the site (although this can be carried out as exempt development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008);
- Construction of Bullecourt Lane to create a sealed road, parallel car parking bays and street tree planting;
- Provision of a pedestrian refuge in Bullecourt Avenue;
- Construction of a footpath in the verge from the western end of the site to the bus stop just west of Keysor Place; and
- Fencing to the service court of the residential care facility and boundary wall at the Bullecourt Lane entrance both of which will incorporate building identification signs.

The proposed development comprises five (5) buildings, including one residential care facility containing 107 beds (including 33 beds for people with dementia) and four residential flat buildings (Buildings A, B, C & D) containing 81 self-contained dwellings. The self-contained dwellings comprise 7 x 1-bedroom units, 46 x 2-bedroom units and 28 x 3-bedroom units. A total of 137 car parking spaces (including 82 resident spaces, 33 visitor spaces and 22 staff spaces) are proposed within the basement levels and at-grade areas. 11 of the car parking spaces are accessible. One ambulance bay is proposed for the residential care facility.

The proposed community spaces include a chapel, lounge/café, physio room and consulting room within the residential care facility, and community rooms within Buildings B and C.

The residential care facility is proposed to accommodate a maximum of 36 staff at any one time.

The proposed development has been designed to be capable of being constructed in stages, if necessary. The residential care facility, Buildings A & B, and Building C & D have all been designed to be independent of one another. If constructed separately, each building will contain its own car parking, vehicle access and servicing and be able to independently operate.

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy (State and Regional Development) 2011

Part 4 '*Regionally significant development*' of State Environmental Planning Policy (State and Regional Development) 2011 applies to this application as it is for the purposes of 'general development' with a capital investment value of more than \$30 million, as specified in Schedule 7. Accordingly, the development application is required to be determined by the Sydney South Planning Panel.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The aims of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 are to protect the biodiversity value of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation. The SEPP applies to the subject site as the applicant is seeking to remove trees from the site (that requires the consent of Council).

The subject application seeks approval for the removal of shrubs and trees of various species around the existing shed and former bunker, an isolated tree in the centre of the site, and trees along the western edge of the site. The application also seeks approval for the removal of one *Corymbia maculata* (Spotted Gum) street tree on Bullecourt Avenue closest to the corner of Bullecourt Lane to provide for the pedestrian crossing on Bullecourt Avenue. Council's Tree Management Officer has reviewed the proposed development and determined that the proposed tree removal and pruning is acceptable subject to conditions of consent for the protection of trees to be retained and for replacement plantings. The proposal satisfies the provisions of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

It is also noted that the development application was submitted prior to 25 February 2018, therefore the former provisions under the *Environmental Planning and Assessment Act 1979* and *Threatened Species Conservation Act, 1995* apply. There are no further considerations in this respect. The *Biodiversity Conservation Act, 2016* does not apply in this instance.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of clause 7(1) of State Environmental Planning Policy No. 55 – Remediation of Land specifies that a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The subject site has long been used for private recreation purposes as a golf course. A Detailed Site Investigation Report, dated 15 February 2013, prepared by Coffey Environments Australia Pty Ltd, was submitted with the development application. The report contains the following conclusions and recommendations:

‘Based on the findings of the investigation, it is concluded that:

- *The thickness of the fill materials encountered, and the locations which were encountered from, were similar to those observed during the PCA conducted by Geotechniques in 2011. Imported materials were likely to be used during the construction of the storage shed and practice green.*
- *The site appears to be not significantly impacted by historical and current site activities, with the exception of the area in the vicinity of test pit TP3 where asbestos impacted soil was detected in near surface.*
- *The north-eastern corner of the site appears to be not significantly impacted by the leaking UPSS infrastructure which was formerly located to the immediate north-east of the site. On the basis that petroleum compounds were not detected at concentrations exceeding their GAC, it appears that the former UPSS infrastructure located to the immediate north-eastern corner of the site, has not significantly impacted the underlying groundwater quality at the site. The heavy metals detected in groundwater are likely to be representative of the regional groundwater quality.*

It is considered that the site can be made suitable for the proposed residential uses after the implementation of the following actions:

- *Removal of the asbestos impacted soils in the vicinity of test pit TP3 located along the southern site boundary. Validation samples should be undertaken to verify that the removal of the impacted soils is adequate.*
- *Visual inspection and/or soil sampling should be undertaken after the demolition of the storage shed to verify if soil contamination is present beneath the footprint of the shed.*

A Remedial Action Plan (RAP) will need to be prepared for the proposed remedial works and the validation works to be undertaken within the existing storage shed footprint. The RAP should include the remediation goals, remediation actions including management of waste materials generated, environmental controls to be implemented during remediation and validation plans.'

Accordingly, a Remediation Action Plan, dated 1 September 2020 (Revision 2), prepared by Environmental Consulting Services, was submitted with the development application. The RAP was reviewed by Council's Environmental Health Officer, who provided the following comments:

'The RAP (and previous investigations) have identified two underground petroleum storage systems (UPSS) which have been decommissioned (abandoned) in-situ. No validation report for their decommissioning was provided. As per the 'Planning and development process for sites with underground petroleum storage systems' (Department of Environment, Climate Change and Water NSW, 2009) Environmental Health recommends that the UPSS be removed...'

Conditions of consent have been imposed to ensure the UPSS is removed and to ensure the site is remediated in accordance with the RAP. Accordingly, it is considered that the development application satisfactorily addresses SEPP 55 and the subject site can be made suitable for the proposed development following the required remediation works.

It is further noted that the statement prepared by DFP Planning Pty Ltd, dated 18 October 2019, states:

'...none of the matters in clause 9 of SEPP 55 are triggered that would require consent for remediation works. The remediation works can therefore be carried out without consent.'

Accordingly, the proposed remediation work is considered to be Category 2 remediation work (i.e. work not needing consent) in accordance with clause 14 of SEPP 55. The subject application does not seek approval for any Category 1 remediation work as specified in clause 9 of SEPP 55.

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

An assessment of the proposed development against the relevant provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors) is provided in the table below.

Provision / Standard	Proposal	Compliance
Chapter 1 – Preliminary		
Clause 4 – Land to which this Policy applies (6) Land to which Policy does not apply This	Schedule 1 specifies that land identified in another environmental planning	Yes

Provision / Standard	Proposal	Compliance
<p>Policy does not apply to—</p> <p>(a) land described in Schedule 1 (Environmentally sensitive land)</p>	<p>instrument by certain descriptions, like descriptions or descriptions that incorporate certain words or expressions may be considered environmentally sensitive land. The descriptions listed in Schedule 1 include 'floodway' and 'high flooding hazard'.</p> <p>The subject site is known to be affected by low to high risk riverine flooding and medium risk stormwater flooding, however these affectations are not incorporated into the BLEP 2015 maps. Rather, the identification of the flood affectation is established in BDCP 2015. As such, the subject site is not identified in another environmental planning instrument as a 'floodway' or being subject to 'high flooding hazard' and is therefore not deemed to be environmentally sensitive land.</p> <p>Notwithstanding the above, the flood prone nature of the site is discussed in detail throughout this report and the proposed development has been suitably designed to respond to this site constraint.</p>	
Chapter 3 – Development for seniors housing		
Part 1 – General		
<p>Clause 18 – Restrictions on occupation of seniors housing allowed under this Chapter</p> <p>(1) Development allowed by this Chapter may be carried out for the accommodation of the following only—</p> <p>(a) seniors or people who have a disability,</p> <p>(b) people who live within the same household with seniors or people who have a disability,</p> <p>(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.</p> <p>(2) A consent authority must not consent to a development application made pursuant to this Chapter unless—</p> <p>(a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and</p> <p>(b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).</p>	<p>The subject application seeks approval for a seniors housing development in the form of a residential care facility and self-contained dwellings.</p> <p>Conditions of consent have been imposed to reference the kinds of people referred to in subclause (1) as occupants of the accommodation, and for a restriction as to users be registered against the title of the property to this effect.</p>	Yes

Provision / Standard	Proposal	Compliance
Part 2 – Site-related requirements		
<p>Clause 26 – Location and access to facilities</p> <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to—</p> <p>(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and</p> <p>(b) community services and recreation facilities, and</p> <p>(c) the practice of a general medical practitioner.</p>	<p>The subject site is located approximately 150 metres from the Milperra Shopping Village and Ashford Village at the south-west corner of the intersection of Bullecourt Avenue and Ashford Avenue. The subject site is also located within 70 metres of bus stops on the northern and southern sides of Bullecourt Avenue, which are serviced by bus routes 922 (East Hills to Bankstown) and 962 (East Hills to Miranda). Accordingly, the residents of the proposed development will have access to the required facilities and services.</p> <p>It is noted, however, that access to these shopping villages and bus stops must be via a 'suitable access pathway', which is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like. To satisfy this requirement, the proposed development includes a new standing pad for the existing bus stop on the southern side of Bullecourt Avenue, new footpaths on the northern side of Bullecourt Avenue, a pedestrian refuge island in the centre of Bullecourt Avenue with new pram ramps on each side of the road, and signage details to denote bus zones and no stopping areas. This has been reviewed by Council's Traffic Engineering Team and is considered to be acceptable.</p>	Yes
<p>Clause 28 – Water and sewer</p> <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.</p> <p>(2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.</p>	<p>The subject site is already serviced with water and sewer and no augmentation of the existing infrastructure is required to accommodate the proposed development. A condition of consent has been imposed requiring a Section 73 certificate to be obtained from Sydney Water prior to the issue of an Occupation Certificate.</p>	Yes
Clause 29 – Consent authority to consider	The criteria referred to in clause	Yes

Provision / Standard	Proposal	Compliance
<p>certain site compatibility criteria for development applications to which clause 24 does not apply</p> <p>(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.</p> <p>(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p>	<p>25(5)(b)(i), (iii) and (v) requires consideration to be given to the proposed development's compatibility with the surrounding land uses with regard to the natural environment, the services and infrastructure that are or will be available to meet the demands of the development, and the impact that results from the bulk, scale, built form and character of the development.</p> <p>The proposed development is considered to be compatible with the natural environment, in particular the flood prone land with respect to habitable floor levels and evacuation procedures. The subject site is suitably located with respect to access to various facilities and services, both within walking distance and accessible by public transport. The two storey built form is compatible with the surrounding industrial and residential development, as well as the existing and likely future character of the broader locality.</p>	
Part 3 – Design requirements		
<p>Clause 30 – Site analysis</p> <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.</p>	<p>A site analysis diagram and written statement, containing the detail required by this clause, was submitted with the development application. The proposed development is considered to be compatible with and appropriately responds to the site and its surrounds.</p>	Yes
<p>Clause 31 – Design of in-fill self-care housing</p> <p>In determining a development application made pursuant to this Chapter to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the Seniors Living Policy: Urban Design Guideline for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004.</p>	<p>The proposed development appropriately responds to the objectives, design principles and rules of thumb contained in the Seniors Living Policy. Compliance with the applicable SEPP controls is addressed in this table.</p>	Yes
<p>Clause 32 – Design of residential development</p> <p>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.</p>	<p>The Division 2 design principles are contained in clauses 33 – 39. The proposed development has adequate regard to these provisions, as outlined in the table below.</p>	Yes
<p>Clause 33 – Neighbourhood amenity and streetscape</p> <p>The proposed development should—</p> <p>(a) recognise the desirable elements of the</p>	<p>The proposed development complements the character of the locality by maintaining a two storey building form, generous setbacks to the boundaries of the site and substantial</p>	Yes

Provision / Standard	Proposal	Compliance
<p>location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p> <p>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</p> <p>(c) maintain reasonable neighbourhood amenity and appropriate residential character by—</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p> <p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p> <p>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</p> <p>(f) retain, wherever reasonable, major existing trees, and</p> <p>(g) be designed so that no building is constructed in a riparian zone.</p>	<p>landscaping.</p> <p>The proposed development respects the local heritage item forward of the site known as Item No. I29 – 'Milperra Soldier Settlement (former)' along Ashford Avenue, Bullecourt Avenue and Fleurbaix Avenue.</p> <p>The proposed development maintains an acceptable level of amenity to the adjoining residential properties to the west with respect to solar access and visual and acoustic privacy.</p> <p>The proposed development is setback a minimum of 5.95 metres from the southern (front) boundary, which is generally consistent with the setback controls for low density residential development as contained in Part B1 of BDCP 2015.</p> <p>The proposed on-site landscaping is extensive and incorporates a mix of trees (predominantly 100L/200L pot size), shrubs and ground covers of various species.</p> <p>The existing avenue of street trees along Bullecourt Avenue is proposed to be retained (with the exception of one tree which is required to be removed to accommodate a pedestrian crossing). There are no significant trees on site that warrant retention.</p> <p>There are no riparian zones within the subject site.</p>	
<p>Clause 34 – Visual and acoustic privacy</p> <p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by—</p> <p>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>The proposed development is setback a minimum of 10 metres from the western (side) boundary, where the closest residential properties are located. Windows and balconies have been appropriately designed to minimise overlooking, and conditions of consent have been imposed to require additional screening to balconies that orientate towards the west and additional dense landscaping adjacent to the western boundary. The bedrooms of the proposed self-contained dwellings have been located away from driveways, parking areas and paths, where possible.</p>	Yes
<p>Clause 35 – Solar access and design for climate</p> <p>The proposed development should—</p> <p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to</p>	<p>The proposed development maintains adequate daylight to the living areas and private open space of the surrounding residential properties. The proposed development is setback a minimum of 10 metres from the western (side) boundary, and therefore</p>	Yes

Provision / Standard	Proposal	Compliance
<p>substantial areas of private open space, and</p> <p>(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.</p>	<p>overshadowing will be minimal.</p> <p>The proposed development is appropriately designed to maximise solar access and natural ventilation to the self-contained dwellings and rooms and communal areas within the residential care facility.</p>	
<p>Clause 36 – Stormwater</p> <p>The proposed development should—</p> <p>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</p> <p>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	<p>The proposed stormwater system has been assessed by Council's Development Engineering Team who have considered the plan satisfactory and consistent with the Bankstown Development Engineering Standards.</p>	Yes
<p>Clause 37 – Crime prevention</p> <p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by—</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>A detailed Crime Prevention Through Environmental Design (CPTED) assessment was submitted with the application and reviewed by Council's Community Safety Officer. The proposed development has been appropriately designed in a manner that encourages crime prevention, with adequate consideration given to key principles such as territorial re-enforcement, surveillance, access control and space/activity management.</p>	Yes
<p>Clause 38 – Accessibility</p> <p>The proposed development should—</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>An Accessibility Report addressing compliance with Building Code of Australia (BCA) requirements was submitted with the application and assessed by Council's Building Surveyor. The proposed development incorporates designated and safe pedestrian links throughout the site.</p>	Yes
<p>Clause 39 – Waste management</p> <p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>A Waste Management Plan was submitted with the application and assessed by Council's Resource Recovery Officer. The residential care facility has a dedicated waste storage area adjacent to the loading dock. Buildings A/B and Buildings C/D have communal waste store rooms adjacent to the car parking areas. Waste from both the residential care facility and self-contained dwellings will be serviced on-site by a private waste contractor. A condition of consent has been imposed</p>	Yes

Provision / Standard	Proposal	Compliance
	to ensure compliance with Part B13 'Waste Management and Minimisation' of BDCP 2015 with respect to bin allocation for each waste stream (including recycling).	
Part 4 – Development standards to be complied with		
<p>Clause 40 – Development standards—minimum sizes and building height</p> <p>(1) General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.</p> <p>(4) Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted—</p> <p>(a) the height of all buildings in the proposed development must be 8 metres or less, and</p> <p>(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and</p>	<p>Anglicare is a social housing provider, therefore subclauses (2), (3) and (4)(c) do not apply to the development application.</p> <p>In accordance with SEPP Seniors, 'height' means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point. The building heights of the proposed development are as follows:</p> <ul style="list-style-type: none"> • Building A – 7.35m • Building B – 7.85m • Building C – 8.0m • Building D – 7.55m • RCF Building – 8.5m <p>Accordingly, the height of the residential care facility building exceeds that permitted by clause 40(4)(a).</p> <p>Furthermore, the proposed basements beneath Buildings A & B and the residential care facility building meet the definition of a 'storey' due to the height above the existing natural ground level. Accordingly, these are 3 storey buildings and therefore exceed the number of storeys permitted by clause 40(4)(b).</p>	<p>No, clause 4.6 submitted and justification provided below</p> <p>No, clause 4.6 submitted and justification provided below</p>
<p>Clause 41 – Standards for hostels and self-contained dwellings</p> <p>(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.</p> <p>(2) Despite the provisions of clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15–20 of Schedule 3, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.</p>	<p>The information submitted with the development application demonstrates that the self-contained dwellings comply, or are capable of complying, with the standards for accessibility and usability as specified in Schedule 3.</p> <p>A condition of consent has been imposed to ensure the construction certificate plans demonstrate compliance with these requirements.</p>	<p>Yes</p>
Part 7 – Development standards that cannot be used as grounds to refuse consent		
Clause 46 – Inter-relationship of Part with design principles in Part 3	As outlined above, the proposed development satisfactorily addresses	Yes

Provision / Standard	Proposal	Compliance
<p>(1) Nothing in this Part permits the granting of consent to a development application made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.</p> <p>(2) For the avoidance of doubt, nothing in this Part limits the matters to which the relevant panel may have regard in refusing to issue a site compatibility certificate.</p>	the design principles set out in Division 2, Part 3 of SEPP Seniors.	
<p>Clause 48 – Standards that cannot be used to refuse development consent for residential care facilities</p> <p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds—</p> <p>(a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or</p> <p>(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,</p> <p>(c) landscaped area: if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,</p> <p>(d) parking for residents and visitors: if at least the following is provided—</p> <p>(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and</p> <p>(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and</p> <p>(iii) 1 parking space suitable for an ambulance.</p>	<p>The proposed residential care facility has a building height of 8.5m. Accordingly, the height of the building exceeds the discretionary standard contained in clause 48(a). Furthermore, the proposed basement beneath the residential care facility meets the definition of a 'storey' due to the height above the existing natural ground level. Accordingly, this is a 3 storey building and therefore exceeds the discretionary standard limiting the development to 2 storeys.</p> <p>The subject site has been divided into two hypothetical site areas for the purpose of applying the FSR controls. A hypothetical site area of 7,584sqm has been applied to the residential care facility. In accordance with the definition contained in SEPP Seniors, the residential care facility has a GFA of 6,970sqm equating to a FSR of 0.92:1. The proposed development satisfies this discretionary standard.</p> <p>The residential care facility contains 107 beds, which requires a minimum landscaped area of 2,675sqm. In accordance with the definition contained in SEPP Seniors, the residential care facility has a landscaped area of 1,943sqm, which is approximately 732sqm short of the discretionary standard contained in clause 48(c).</p> <p>The residential care facility contains 107 beds, including 33 beds for persons with dementia, and approval is sought for a maximum of 36 staff. This generates the demand for 11 visitor parking spaces, 18 staff parking spaces and 1 ambulance bay. The residential care facility includes 11 visitor parking spaces, 22 staff parking spaces and 1 ambulance bay. The proposed development satisfies this discretionary standard.</p>	<p>No, justification provided below</p> <p>Yes</p> <p>No, justification provided below</p> <p>Yes</p>
Clause 50 – Standards that cannot be used to	The proposed residential flat buildings	No,

Provision / Standard	Proposal	Compliance
<p>refuse development consent for self-contained dwellings</p> <p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds—</p> <p>(a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),</p> <p>(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,</p> <p>(c) landscaped area: if—</p> <p>(i) in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided,</p> <p>(d) deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,</p> <p>(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p> <p>(f) private open space for in-fill self-care housing: if—</p> <p>(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</p> <p>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,</p> <p>(h) parking: if at least the following is provided—</p>	<p>with self-contained dwellings have building heights as follows:</p> <ul style="list-style-type: none"> • Building A – 7.35m • Building B – 7.85m • Building C – 8.0m • Building D – 7.55m <p>The proposed development satisfies the building height discretionary standard. However, the proposed basements beneath Buildings A & B meet the definition of a 'storey' due to the height above the existing natural ground level. Accordingly, these are 3 storey buildings and therefore exceed the number of storeys permitted by clause 50(a).</p> <p>A hypothetical site area of 20,074sqm has been applied to the self-contained dwellings. In accordance with the definition contained in SEPP Seniors, the self-contained dwellings have a GFA of 9,917sqm equating to a FSR of 0.49:1. The proposed development satisfies this discretionary standard.</p> <p>The proposed residential flat buildings contain a total of 81 dwellings, which requires a minimum landscaped area of 2,835sqm. The self-contained dwellings have a landscaped area of approximately 8,250sqm. The proposed development satisfies this discretionary standard.</p> <p>The deep soil control applies to the total site area, being 27,658sqm, and therefore a minimum of 4,149sqm of deep soil is required. Approximately 5,950sqm of deep soil is provided. The proposed development satisfies this discretionary standard.</p> <p>58 of the 81 units achieve 3 hours of solar access to the living area and private open space between 9am and 3pm in mid-winter. This equates to 71.6% of units. The proposed development satisfies this discretionary standard.</p> <p>Due to the flood prone nature of the site and the associated minimum habitable floor level, there are no units located at natural ground level. As such, all ground floor units accommodate balcony-style private open space areas. Notwithstanding this, the private open space of the first floor units of Buildings A and B that orientate towards the podium level landscaped area have</p>	<p>justification provided below</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Provision / Standard	Proposal	Compliance
(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.	<p>been designed with a 15sqm courtyard-style private open space area with one area not less than 3m x 3m. The balconies of all other units have been designed to comply with the minimum area and dimension requirements.</p> <p>The proposed residential flat buildings include 81 self-contained dwellings. This generates the demand for a minimum of 17 car spaces as the application is made by a social housing provider (Anglicare). Notwithstanding this, the proposed development has been designed to accommodate one car space per dwelling, as a total of 82 spaces is proposed. The proposed development also accommodates 22 visitor car spaces for the self-contained dwellings, which equates to one car space per 3.7 dwellings.</p>	Yes

As demonstrated above, the proposal is generally consistent with the development standards and the discretionary standards contained in SEPP Seniors. Further discussion is provided below with respect to the height of buildings, number of storeys and landscaped area of the proposed development. A clause 4.6 submission and a written justification have been provided to seek flexibility in the application of these development standards and discretionary standards.

Height of buildings and number of storeys

Clause 40(4)(a) and (b) of SEPP Seniors read as follows:

40 Development standards—minimum sizes and building height

(4) Height in zones where residential flat buildings are not permitted *If the development is proposed in a residential zone where residential flat buildings are not permitted—*

- (a) *the height of all buildings in the proposed development must be 8 metres or less, and*

Note. *Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).*

- (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

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

Further to the above development standard, clauses 48(a) and 50(a) of SEPP Seniors contain discretionary standards relating to building height and number of

storeys for residential care facilities and self-contained dwellings, respectively. These clauses read as follows:

48 Standards that cannot be used to refuse development consent for residential care facilities

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds—

- (a) **building height:** *if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or*

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

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

- (a) **building height:** *if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),*

As outlined in the table above, the proposed residential care facility has a building height of 8.5m, which fails to satisfy the development standard contained in clause 40(4)(a). Furthermore, the proposed basements beneath Buildings A & B and the residential care facility building meet the definition of a 'storey' due to the height above the existing natural ground level. Accordingly, these are 3 storey buildings and therefore exceed the number of storeys permitted by clause 40(4)(b).

The abovementioned controls are also reiterated in clause 48(a) and 50(a) as 'standards that cannot be used to refused development consent'. In this instance, refusal of the development based on the building height and number of storeys is not considered warranted, and therefore these discretionary standards are satisfied.

Pursuant to clause 4.6 of BLEP 2015, the applicant has made a submission seeking a variation to the provisions contained in clause 40(4)(a) and (b) of SEPP Seniors. An assessment of the development against clause 4.6(2), (3) and (4) of BLEP 2015, including an extract from the applicant's submission, is provided below:

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.**

Clause 40(4)(a) and (b) of SEPP Seniors prescribes a maximum building height of 8m and a maximum of 2 storeys. The proposed development has a building height of up to 8.5m (measured vertically from any point on the ceiling of the

topmost floor of the building to the ground level immediately below that point) and is up to 3 storeys due to the height of the basement above the existing natural ground level. This reflects a departure of up to 6.3% for the building height and 50% for the number of storeys.

This clause is not expressly excluded from the operation of Clause 4.6.

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and***
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.***

An extract from the applicant's submission containing a summary as to why it is unreasonable for the proposed development to comply with the height controls is provided below:

- 1. The same building height would occur if the buildings were designed without a basement and the space under the habitable floor level was a used undercroft. The critical consideration 'driving' the height above ground level is compliance with the minimum floor levels relating to the flood affectation; and*
- 2. Compliance could be achieved by removing part of the top floors which would not be an efficient use of the resultant building and result in removal of seniors housing dwellings and residential care facility bedrooms a demand for which exists in the area.*
- 3. The proposed development does not result in additional floor levels or additional gross floor area beyond that permitted under SEPP Seniors.*
- 4. The height departure of the lift over-run in Building C is also a consequence of complying with the minimum floor levels relating to the flood affectation of the site. This would occur for any 2 storey form that included a lift. The departure is very minor (10cm) and has no visual or overshadowing impact.*

The applicant's submission also identifies four main reasons why there are considered to be sufficient environmental planning grounds to justify contravening the height development standards, including:

- 1. Location of the height departures in the residential care facility relative to the site boundaries;*
- 2. Minor extent of the departures;*
- 3. No loss of residential amenity (internal or external to the site);*
- 4. Minor departure relating to a lift overrun in Building C.*

The applicant's submission adequately demonstrates that compliance with the building height and number of storeys development standards is both unreasonable and unnecessary in the circumstances of the case. The intention of these development standards is to regulate the bulk of building envelopes in residential zones where residential flat buildings are not permitted, and the development is appropriately designed in this regard.

The applicant's submission also adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the development standards. The proposal achieves the intention of the development standards, while also allowing for a building design that results in a greater amenity outcome for the residents of the aged care facility without compromising the amenity of surrounding residential properties.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that;

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3);**

The applicant's written submission adequately addresses the matters required by sub-clause (3).

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out;**

Clause 40(4) of SEPP Seniors does not contain any specific objectives in relation to the building height or number of storeys development standards. Accordingly, the applicant's clause 4.6 submission makes reference to the relevant aims of the policy in clause 2(1) of SEPP Seniors, which includes to encourage the provision of housing that will *"(c) be of good design"*. The submission notes that the development is of good design as it is of a height and scale that is consistent with the surrounding development, retains street trees along Bullecourt Avenue, maintains neighbourhood amenity with generous setbacks to boundaries, and appropriately responds to the landform and flood affectation. The applicant's clause 4.6 submission further notes that a notation in clause 40(4)(b) explains that the purpose of the 2 storey height control *"is to avoid an abrupt change in the scale of development in the streetscape"*. The proposed 3 storey elements do not result in an abrupt change in scale in the streetscape or to adjoining properties, and therefore achieves the intention of this development standard.

The Land Use Table outlines the objectives of the R2 Low Density Residential zone. The most relevant objectives in this instance are *"to provide for the housing needs of the community within a low density residential environment"* and *"to allow for the development of low density*

housing that has regard to local amenity". The proposed development provides for seniors housing in the form of self-contained dwellings and a residential care facility, and the design appropriately responds to the scale, siting, and landscape character of the surrounding area. The proposed development also has regard to local amenity by providing good separation to adjoining residential development to minimise privacy and overshadowing impacts.

As outlined above, the proposed development is in the public interest because it is in keeping with the aims of SEPP Seniors and the objectives of the R2 Low Density Residential zone of BLEP 2015. The applicant's clause 4.6 submission acknowledges that the proposal will provide a facility that is compatible with the surrounding residential uses and will not adversely affect the living environment or amenity of the area due to its location and separation from adjoining dwellings. The careful siting of the buildings, along with the architectural merit of the design, ensures that the proposal will make a valuable contribution to the R2 zone.

(b) the concurrence of the Director-General has been obtained.

The concurrence of the Director General is assumed having regard to previous advice received from the Department of Planning and Environment in Circular PS 17-006.

With regard to the above, it is considered appropriate in this instance to support the submission under clause 4.6 of BLEP 2015 to permit the proposed departures to the development standards contained in clause 40(4)(a) and (b) of SEPP Seniors.

Landscaped area

Clause 48(c) of SEPP Seniors reads as follows:

48 Standards that cannot be used to refuse development consent for residential care facilities

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds—

- (c) **landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,*

The residential care facility contains 107 beds, which requires a minimum landscaped area of 2,675sqm. In accordance with the definition contained in SEPP Seniors, the residential care facility has a landscaped area of 1,943sqm, which is approximately 732sqm short of the discretionary standard contained in clause 48(c). However, SEPP Seniors notes that the provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.

The applicant has provided a statement to justify the proposed landscaped area for the residential care facility, which includes the following points summarised below:

- The development does not meet the discretionary (or deemed to comply) landscaped area development standard for the residential care facility component of the development because the total site area has been apportioned to enable the various controls contained in SEPP Seniors to be calculated.
- The assessment requires a holistic consideration of the landscape controls contained in SEPP Seniors, including clause 48(c) for the residential care facility landscaped area, clause 50(c) for the self-contained dwellings landscaped area, and clause 50(d) for deep soil zones across the total development site.
- The total landscaped area requirement for the site under SEPP Seniors is 5,510sqm. The application proposes a total landscaped area of 10,193sqm, which significantly exceeds the requirement.
- The deep soil area exceeds the 15% requirement of SEPP Seniors, and equates to approximately 21.5% of the total site area.
- A greater amount of landscaped area and deep soil area has been provided on the western and northern parts of the site where it adjoins the more sensitive low density residential area.
- The landscaped area on the part of the site apportioned to the self-contained dwellings is still relevant to the amenity of the residential care facility as it provides a space for outlook and passive recreation, and the whole site will be accessible to all residents.
- The proposed development also includes a 370sqm landscaped terrace area on the first floor of the residential care facility. While this does not meet the definition of 'landscaped area' as it is located on part of the site that is occupied by a building, it provides a space for outlook and passive recreation for less mobile residents.
- The *Seniors Living Policy: Urban design guidelines for infill development* encourages landscaping to respond to the patterns and character of landscaping in the area. The landscaped treatment to the residential care facility comprises at-grade landscaping and landscaping on a podium level which appropriately transitions to the industrial character to the east with minimal landscaping. The location of the landscaping and deep soil zones has been planned to be located primarily on the southern, western and northern parts of the site to integrate with the streetscape and protect neighbours.

With regard to the above, it is considered appropriate in this instance to support the proposed development despite not achieving strict compliance with the discretionary standard for landscaped area, as contained in clause 48(c) of SEPP Seniors.

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies to residential flat buildings having 4 or more units and 3 or more storeys. Accordingly, SEPP 65 applies to the proposed development

and an assessment against the Design Quality Principles contained in Schedule 1 and the Apartment Design Guide (ADG) has been undertaken.

The proposed development is consistent with the Design Quality Principles and responds appropriately to the site's context. Moreover, the application generally conforms to the design criteria and design guidance contained in the ADG. An assessment of the proposed development against the design criteria contained in Parts 3 and 4 of the ADG is provided in the table below.

Provision / Standard	Proposal	Compliance												
Part 3 – Siting the development														
Objective 3D-1 Communal open space has a minimum area equal to 25% of the site. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter).	A hypothetical site area of 20,074sqm has been applied to the self-contained dwellings. Accordingly, a minimum of 5,019sqm of communal open space is required. The total communal open space on site equates to approximately 8,250sqm at ground level and on the Level 1 podium between Buildings A and B. The majority of the communal open space area achieves 50% direct sunlight for a minimum of 2 hours at mid-winter at various times throughout the day.	Yes												
Objective 3E-1 Deep soil zones are to meet the following minimum requirements: <table border="1" data-bbox="205 1218 727 1612"> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> <tr> <td>less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m²-1,500m²</td><td>3m</td></tr> <tr> <td>greater than 1,500m²</td><td>6m</td></tr> <tr> <td>greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	less than 650m ²	-	7%	650m ² -1,500m ²	3m	greater than 1,500m ²	6m	greater than 1,500m ² with significant existing tree cover	6m	Not applicable. Clause 50(d) of SEPP Seniors prevails.	N/A
Site area	Minimum dimensions	Deep soil zone (% of site area)												
less than 650m ²	-	7%												
650m ² -1,500m ²	3m													
greater than 1,500m ²	6m													
greater than 1,500m ² with significant existing tree cover	6m													
Objective 3F-1 Separation between windows and balconies is provide to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table border="1" data-bbox="205 1854 727 2024"> <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-</td><td>9m</td><td>4.5m</td></tr> </table>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-	9m	4.5m	The development achieves a minimum separation distance of 6.08m to the northern (rear) boundary and 10m to the western (side) boundary. The development achieves a minimum separation distance of 12m between buildings within the site.	Yes			
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-	9m	4.5m												

Provision / Standard			Proposal	Compliance
8 storeys)				
over 25m (9+ storeys)	12m	6m		
<p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>				
<p>Objective 3J-1</p> <p>For developments in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>The minimum car parking requirement for residents 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 the development must be provided off street.</p>			Not applicable. Clause 50(h) of SEPP Seniors prevails.	N/A
Part 4 – Designing the building				
<p>Objective 4A-1</p> <p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid winter in the Sydney Metropolitan Area.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid winter.</p>			Not applicable. Clause 50(e) of SEPP Seniors prevails.	N/A
<p>Objective 4B-3</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>			<p>The development application was accompanied by detailed cross ventilation diagrams, which demonstrate that the number of apartments that are naturally cross ventilated are as follows:</p> <p>Building A = 23 of 34 units (67.6%) Building B = 16 of 23 units (69.5%) Building C = 8 of 15 units (53.3%) Building D = 9 of 9 units (100%)</p> <p>It is noted that Buildings C and D are arguably one building envelope and therefore result in a combined total of 70.8%.</p>	Yes

Provision / Standard	Proposal	Compliance										
	<p>A total of 56 apartments (69.1%) within the development are naturally cross ventilated.</p> <p>The proposed development does not include any cross-over or cross-through apartments.</p>											
<p>Objective 4C-1</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr></table>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	<p>All apartments have a proposed floor to ceiling height of 2.7m.</p>	<p>Yes</p>				
Minimum ceiling height for apartment and mixed use buildings												
Habitable rooms	2.7m											
Non-habitable	2.4m											
<p>Objective 4D-1</p> <p>Apartments are required to have the following minimum internal areas:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>The typical apartment plans submitted with the development application demonstrate that all apartments comply with the minimum internal area requirements, including those with an additional bathroom.</p> <p>1 bedroom – min. 58sqm 2 bedroom – min. 85sqm 3 bedroom – min. 101sqm</p>	<p>Yes</p>
Apartment type	Minimum internal area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedroom	70m ²											
3 bedroom	90m ²											
<p>Objective 4D-2</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p>	<p>The typical apartment plans submitted with the development application demonstrate that all apartments comply with the maximum habitable room depths and maximum habitable room depth from a window requirements.</p>	<p>Yes</p>										
<p>Objective 4D-3</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms have a minimum dimension of 9m² (excluding wardrobe space).</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	<p>The typical apartment plans submitted with the development application demonstrate that all bedrooms comply with the minimum area and dimension requirements, and all living rooms comply with the minimum width requirements.</p> <p>The proposed development does not include any cross-over or cross-through apartments.</p>	<p>Yes</p>										
<p>Objective 4E-1</p> <p>All apartments are required to have primary balconies as follows:</p>	<p>Not applicable. Clause 50(f) of SEPP Seniors prevails.</p>	<p>N/A</p>										

Provision / Standard			Proposal	Compliance															
<table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <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 15m² and a minimum depth of 3m.</p>			Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m		
Dwelling type	Minimum area	Minimum depth																	
Studio apartments	4m ²	-																	
1 bedroom apartments	8m ²	2m																	
2 bedroom apartments	10m ²	2m																	
3+ bedroom apartments	12m ²	2.4m																	
<p>Objective 4F-1</p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p>			<p>10 apartments on the ground floor of Building A, 11 apartments on the first floor of Building A and 9 apartments on the first floor of Building C are each accessed off a single circulation core.</p>	<p>No. However, these circulation cores are connected to other circulation cores within the buildings, and therefore more than one point of access is provided to these apartments. As such, the proposed development is satisfactory in this regard.</p>															
<p>Objective 4G-1</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <table><tr><th>Dwelling type</th><th>Storage volume</th><th>size</th></tr><tr><td>Studio apartments</td><td>4m³</td><td></td></tr><tr><td>1 bedroom apartments</td><td>6m³</td><td></td></tr><tr><td>2 bedroom apartments</td><td>8m³</td><td></td></tr><tr><td>3 bedroom apartments</td><td>10m³</td><td></td></tr></table> <p>At least 50% of the required storage is to be located within the apartment.</p>			Dwelling type	Storage volume	size	Studio apartments	4m ³		1 bedroom apartments	6m ³		2 bedroom apartments	8m ³		3 bedroom apartments	10m ³		<p>The typical apartment plans submitted with the development application demonstrate that all apartments contain at least 50% of the minimum required storage size volume for each dwelling type. Furthermore, the basement and at-grade car parking areas contain enough storage cages to cater for all apartments and the storage cages are at least 50% of the minimum required storage size volume for each respective dwelling type.</p>	<p>Yes</p>
Dwelling type	Storage volume	size																	
Studio apartments	4m ³																		
1 bedroom apartments	6m ³																		
2 bedroom apartments	8m ³																		
3 bedroom apartments	10m ³																		

As demonstrated above, the proposal is generally consistent with the design criteria contained in SEPP 65.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed development includes the installation of two building identification signs. The signs are each 2.33m(l) x 1.43m(h), with one located at the corner of Bullecourt Avenue and Bullecourt Lane and the other located at the main entry to the residential care facility. Accordingly, State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64) applies to the proposed development.

Clause 8 of SEPP 64 requires consideration of the proposal's consistency with the objectives contained in clause 3(1)(a) and an assessment of the proposal against the assessment criteria specified in Schedule 1.

The proposed building identification signs are modest relative to the scale of the subject site and the proposed development. The proposed signs are compatible with the desired amenity and visual character of the locality, provide effective communication in suitable locations and are of a high-quality design and finish. Accordingly, the proposed signs are consistent with the relevant aims and objectives of the policy.

The following table contains an assessment of the proposed signs against the assessment criteria specified in Schedule 1 of SEPP 64.

Criteria	Assessment	Compliance
Character of the area	The proposed building identification signs are compatible with the existing and desired future character of the residential area and are consistent with the existing signage within the industrial precinct to the east of the subject site. There is no particular theme for outdoor advertising in the locality.	Yes
Special areas	The subject site is not located within an environmentally sensitive area, heritage area, natural or other conservation area, open space area, waterway or rural landscape. The proposed building identification signs do not detract from the amenity or visual quality of the broader residential area.	Yes
Views and vistas	No views or vistas will be adversely affected by the proposed building identification signs.	Yes
Streetscape, setting or landscape	The scale, proportion and form of the proposed building identification signs is modest and appropriate for their setting. The proposed signage contributes to the visual interest of the development.	Yes
Site and building	The proposed building identification signs are compatible with the scale, proportion and characteristics of the site and the development and are appropriately located within the site.	Yes
Associated devices and logos with advertisements and advertising structures	There are no associated devices proposed.	N/A
Illumination	The proposed building identification signs will not be illuminated.	N/A
Safety	One of the proposed building identification signs will be visible from Bullecourt Avenue, while the other will be visible from Bullecourt Lane. The proposed signs are	Yes

Criteria	Assessment	Compliance
	small relative to the scale of the development and are therefore not likely to reduce safety for the public roads by distracting drivers, pedestrians or bicyclists. The proposed signs are located a reasonable distance from driveways and intersections, and therefore will not obscure sightlines from public areas.	

As demonstrated above, the proposed development satisfies the relevant provisions of SEPP 64.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies to the development and aims to encourage sustainable residential development.

BASIX Certificate No. 850308M_04, dated 24 September 2019, was submitted with the development application and demonstrates that the proposal achieves compliance with the BASIX thermal, energy and water efficiency targets.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The subject site is located within the Georges River Catchment and accordingly Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (GMREP 2) applies. The proposed works are consistent with the relevant planning principles outlined in the GMREP 2, and the proposal does not include any of the specific development types listed under the ‘planning control table’.

Bankstown Local Environmental Plan 2015

An assessment of the proposed development against the relevant provisions and development standards of *Bankstown Local Environmental Plan 2015* (BLEP 2015) is provided in the table below.

Provision Standard /	Requirement	Proposal	Compliance
Part 1 – Preliminary			
Clause 1.2 – Aims of Plan	Development is to satisfy the relevant aims of the Plan.	The proposed development is considered to satisfy the relevant aims of the Plan. In particular, the development manages growth in a manner that recognises the needs of the community; protects and enhances the landform and vegetation (where required); protects cultural heritage; provides development opportunities that are compatible with the prevailing suburban character and amenity of the residential area; minimises risk to the community in an area subject to	Yes

Provision Standard /	Requirement	Proposal	Compliance
		an environmental hazard; provides a range of housing opportunities to cater for the changing demographic and population needs; encourages local employment; achieves good urban design in terms of site layouts and building form; and enhances the quality of life and the social well-being and amenity of the community.	
Part 2 – Permitted or prohibited development			
Clauses 2.1-2.3 – Zoning	The subject site is zoned R2 Low Density Residential.	Seniors housing is permitted with consent in the R2 Low Density Residential zone.	Yes
Clause 2.7 – Demolition requires development consent	The demolition of a building or work may be carried out only with development consent.	Approval is sought for the demolition of the existing shed in the north-east corner of the site.	Yes
Part 4 – Principal development standards			
Clause 4.3 – Height of buildings	Max. 9 metres	<p>The proposed residential care facility and residential flat buildings with self-contained dwellings have maximum building heights (measured from the existing natural ground level to the topmost point of the building) as follows:</p> <ul style="list-style-type: none"> • RCF – 10.85m (stair overrun) • Building A – 8.75m (lift overrun) • Building B – 8.85m (lift overrun) • Building C – 9.1m (lift overrun) • Building D – 8.60m (lift overrun) <p>As outlined above, the residential care facility and Building C exceed the maximum building height development standard of 9m as specified in clause 4.3 of BLEP 2015.</p> <p>The applicant has provided a submission under clause 4.6 of BLEP 2015 to address this matter, however clause 40(4)(a) of SEPP Seniors prevails.</p>	N/A, refer to clause 4.6 submission above
Clause 4.4 – Floor space ratio	Max. 0.50:1	<p>The proposed development results in a gross floor area of 15,990sqm, which equates to a floor space ratio of 0.58:1 across the total site (inclusive of both the residential care facility and self-contained dwellings apportioned areas of the site) in accordance with the definition of GFA as contained in BLEP 2015.</p> <p>The applicant has provided a submission under clause 4.6 of BLEP 2015 to address this matter, however clauses 48(b) and 49(b) of SEPP Seniors prevail.</p>	N/A

Provision / Standard	Requirement	Proposal	Compliance
Clause 4.6 – Exceptions to development standards	Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.	The applicant has provided a submission under clause 4.6 of BLEP 2015 with respect to the contravention to the height of buildings and number of storeys development standards contained in clause 40(4)(a) and (b) of SEPP Seniors. The submission also addresses the departure to the height of buildings development standard contained in clause 4.3 of BLEP 2015, however the development standard contained in SEPP Seniors prevails. Furthermore, a separate submission under clause 4.6 of BLEP 2015 has been provided for the departure to the floor space ratio development standard contained in clause 4.4 of BLEP 2015, however the discretionary standards in SEPP Seniors prevail.	Yes
Part 5 – Miscellaneous provisions			
Clause 5.9 – Preservation of trees or vegetation (repealed for DAs lodged on or after 20/12/17)	A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by: (a) development consent, (b) a permit granted by the Council.	The subject application seeks approval for the removal of shrubs and trees of various species around the existing shed and former bunker, an isolated tree in the centre of the site, and trees along the western edge of the site. The application also seeks approval for the removal of one <i>Corymbia maculata</i> (Spotted Gum) street tree on Bullecourt Avenue closest to the corner of Bullecourt Lane to provide for the pedestrian crossing on Bullecourt Avenue. The proposed development was reviewed by Council's Tree Management Officer throughout the assessment of the application and was determined to be acceptable subject to conditions of consent for the protection of trees to be retained and for replacement planting.	Yes
Clause 5.10 – Heritage conservation	The consent authority may, before granting consent to any development— (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.	Ashford Avenue, Bullecourt Avenue and Fleurbaix Avenue are listed as a local heritage item known as Item No. 129 – 'Milperra Soldier Settlement (former)' in accordance with Schedule 5, Part 1 of BLEP 2015. The Milperra Soldier Settlement is historically significant because it was part of a national scheme that was intended to repatriate returning servicemen during and after World War I. The road layout of the principal streets provides the only tangible evidence of the subdivision that was formed to accommodate the settlement. Clause 5.10(5)(c) of BLEP 2015 allows Council to require a heritage	Yes

Provision Standard	Requirement	Proposal	Compliance
		<p>management document to be prepared for development on land that is within the vicinity of land on which a heritage item is located. The development application was referred to Council's Strategic Planner for an assessment of whether the preparation of a heritage management document was necessary in this instance, and the following response was received:</p> <p><i>"In this case, instead of the applicant spending their resources on producing a heritage management document, I'm ok with Council requiring the applicant to provide a photographic display and maintenance history of Milperra and the Milperra Soldier's Settlement at the foyer of the proposed development. The nature of the proposed development also suits this requirement."</i></p> <p>Accordingly, a condition of consent has been imposed requiring a photographic display and maintenance history of Milperra and the Milperra Soldier's Settlement to be installed in the foyer of the proposed development prior to the issue of an Occupation Certificate.</p>	

Part 6 – Local provisions

Clause 6.1 – Acid sulfate soils	<p>An acid sulfate soils management plan is required for any works on Class 3 land that are more than 1 metre below the natural ground surface or works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.</p> <p>An acid sulfate soils management plan is required for works on Class 5 land within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	<p>A small portion of the north-west (rear) corner of the site is affected by Class 3 acid sulfate soils, however the proposed footprint of Building A is wholly clear of this area. The proposed earthworks in this location are minor (e.g. to accommodate landscaping), are less than 1m below the existing natural ground level and are therefore not likely to lower the water table.</p> <p>The remainder of the site is affected by Class 5 acid sulfate soils, and the works are located within 500m of adjacent Class 3 land. The proposed development requires excavation to approximately RL 2.0 metres AHD to accommodate the basement and the base of the lift shaft of the residential care facility building, and approximately RL 3.4 metres AHD to accommodate the basement of Buildings A & B. As it is unclear as to whether the proposed works are likely to lower the watertable to below 1 metre AHD on the adjacent Class 3</p>	Yes
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Provision Standard /	Requirement	Proposal	Compliance
		land, a condition of consent has been imposed requiring an acid sulfate soils management plan to be prepared prior to the issue of a Construction Certificate. Furthermore, a precautionary condition of consent has been imposed requiring work to cease if acid sulfate soils are encountered during excavation or construction, and for further investigation and evaluation to take place prior to the re-commencement of works.	
Clause 6.2 – Earthworks	<p>In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <ul style="list-style-type: none"> (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterways, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. 	<p>The proposed development requires excavation to a maximum depth of approximately 3.5 metres below the existing natural ground level to accommodate the basement and base of the lift shaft of the residential care facility building and Buildings A& B. The excavation is generally minor relative to the size of the site and is not likely to result in any unreasonable impacts with respect to the considerations of clause 6.2.</p>	Yes
Clause 6.3 – Flood planning	<p>Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> (a) is compatible with the flood hazard of the land, and (b) will not significantly adversely affect flood behavior resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and 	<p>The subject site is affected by low to high risk riverine flooding and medium risk stormwater flooding. A Flood Study and Flood Risk Management Study was submitted with the development application. The findings and conclusions of this study are outlined in further detail below under Part B12 of BDCP 2015.</p> <p>The subject application was reviewed by Council's Development Engineer and is considered to be acceptable with respect to flood planning. The proposed development satisfies the provisions of clause 6.3.</p>	Yes

Provision Standard /	Requirement	Proposal	Compliance
	<p>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs of the community as a consequence of flooding.</p>	<p>Furthermore, a Flood Emergency Response Plan was submitted with the development application, which details the flood emergency response and management actions implemented to appropriately manage risk to life during a flood event. The Plan was referred to the State Emergency Service (SES) for comment, and the following response was received:</p> <p><i>"In accordance with sections 3.6, A-5, L-5, L-6.9.6 and N-7 of the NSW Floodplain Development Manual the NSW SES is opposed to the use of private flood evacuation plans as a condition of development consent. Furthermore the NSW SES does not have the statutory authority to endorse private flood evacuation plans.</i></p> <p><i>Accordingly the NSW SES is unable to provide comment on your plan, however we will include the at risk community in developing the local flood plan and associated emergency strategies for the area."</i></p> <p>Based on the advice outlined above, the Flood Emergency Response Plan has not been referenced in the conditions of consent.</p>	
Clause 6.6 – Development in areas subject to aircraft noise	Development consent may be granted to development that is the erection of a dwelling (other than a dwelling house) on land in the vicinity of the Bankstown Airport where the ANEF contour is between 20 and 25 only if the dwelling meets the standards specified in AS 2021—2000.	<p>The northern (rear) half of the subject site falls within the 20-25 ANEF contour. The proposed development is capable of meeting the standards specified in AS 2021—2000. A condition of consent has been imposed requiring evidence of compliance with these standards to be submitted with the Construction Certificate application with a report prepared by a suitably qualified acoustic consultant. The Construction Certificate plans shall include all attenuation measures recommended in the Acoustic Report, and the acoustic consultant is to certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.</p> <p>It is further noted that the site is subject to an obstacle limitation surface height of 7.62m in accordance with the provisions of the <i>Airports (Building Control) Regulations 1996</i> due to its proximity</p>	Yes

Provision Standard	/	Requirement	Proposal	Compliance
			<p>to the Bankstown Airport. A letter prepared by Sydney Metro Airports, dated 19 February 2018, was submitted with the development application and reads as follows:</p> <p><i>“Bankstown Airport Limited wishes to advise that above development has been assessed in regards to the Prescribed Airspace pertaining to Bankstown Airport, and that the proposed development will not impact flight operations at Bankstown Airport.</i></p> <p><i>On that basis Bankstown Airport Limited does not need be involved in any approval process for the proposed development.</i></p> <p><i>It should be noted that the development is only 1,401 metres from the Aerodrome Reference Point (ARP). If a mobile crane is to be utilised for building activity, it will require further assessment and a separate approval.”</i></p> <p>Accordingly, a condition of consent has been imposed requiring separate approval to be obtained from Sydney Metro Airport prior to the use of a mobile crane for building activity (if required).</p>	

As demonstrated above, the proposed development is generally consistent with the aims, objectives and development standards of BLEP 2015.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

The proposal is not considered to be inconsistent with any of the relevant provisions of the Draft Canterbury Bankstown Local Environmental Plan 2020.

Development control plans [section 4.15(1)(a)(iii)]

Part B1 – Residential Development

Part B1 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to enhance the liveability and appearance of residential development. The development controls apply to conventional residential land uses, such as dwelling houses, dual occupancies, multi-dwelling housing, residential flat buildings and the like. Part B1 does not contain any specific development controls that apply to seniors housing development in the R2 Low Density Residential zone.

Notwithstanding the above, it is considered that the proposed development has been appropriately designed with respect to the typical objectives and controls that would apply to the assessment of a development in the R2 Low Density Residential zone. The proposed building envelope is of a bulk and scale that is consistent with that envisaged for a site of this size in the R2 Low Density Residential zone and has been designed in a manner that is sympathetic and compatible with the surrounding residential properties and the characteristics of the subject site and the broader locality.

Part B4 – Sustainable Development

Part B4 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls for water and energy efficiency. Part B4 applies to buildings with a classification of Class 5 to Class 9 under the Building Code of Australia (BCA). In this instance, Part B4 applies to the residential aged care facility, which has a BCA classification of Class 9c.

For new development where the floor area equals or exceeds 5,000m², Part B4 of BDCP 2015 specifies the following requirements:

- W1 – Water efficient fixtures must be installed;
- W2 – A Site Water Management Plan must be prepared;
- E3 – An Energy Performance Report must be prepared.

A condition of consent has been imposed requiring satisfactory evidence to be submitted to the Principal Certifier prior to the issue of a Construction Certificate to demonstrate compliance with the abovementioned requirements, including the preparation and submission of a Site Water Management Plan and an Energy Performance Report. The proposed development is therefore considered to satisfy Part B4 of BDCP 2015.

Part B5 – Parking

Part B5 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to enhance the function and appearance of off-street parking.

The proposed development has been assessed against the applicable controls contained in Part B5 of BDCP 2015. Part B5 prescribes the following car parking rates for seniors housing:

Residential care facilities

- *1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and*
- *1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and*
- *1 parking space suitable for an ambulance.*

Self-contained dwellings

- *0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provide, or*
- *1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with a social housing provider.*

The abovementioned car parking rates are consistent with the rates contained in SEPP Seniors. As outlined previously in this report, the proposed development complies with the car parking rates contained in SEPP Seniors and therefore also complies with the car parking rates contained in Part B5 of BDCP 2015.

Council's Development Engineer reviewed the proposed development and raised no concerns with respect to the configuration of the basements or at-grade car parking areas, vehicular access within the site, or compliance with the applicable development controls and Australian Standards.

As outlined above, the proposed development satisfies Part B5 of BDCP 2015.

Part B11 – Tree Preservation Order

At the Ordinary Meeting of 28 November 2017, Council adopted amendments to Part B11 of *Bankstown Development Control Plan 2015* that included an update to the tree management provisions to reflect the requirements of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*. It is noted that the SEPP replaced Clause 5.9 of BLEP 2015.

Despite this, the amendments to Part B11 came into effect on 20 December 2017 and apply to development applications lodged on or after this date. As such, the former version of Part B11 of BDCP 2015 applies to the assessment of the subject application.

The objectives of Part B11 of BDCP 2015 are to maintain amenity through the preservation of trees, and to have the removal or pruning of trees carried out in accordance with the DCP.

Clause 2.4(a), Part B11 of BDCP 2015 reads as follows:

Council must consider (but not be limited to) the following matters when determining an application under Part B11 of this DCP:

- (a) *the existing and likely future amenity of the area by considering if the tree is:*
 - (i) *significant as a single specimen than as part of a group of trees;*
 - (ii) *of historic or cultural significance;*
 - (iii) *registered on Council's register of significant trees;*
 - (iv) *prominent due to its height, size, position, or age;*
 - (v) *endemic, rare, or endangered;*
 - (vi) *provides a significant visual screen;*
 - (vii) *part of an important wildlife habitat;*

As stated previously in this report, the proposed development was reviewed by Council's Tree Management Officer throughout the assessment of the application and was determined to be acceptable subject to conditions of consent for the protection of trees to be retained and for replacement planting.

Based on the above, the proposed development is considered to be acceptable with respect to Part B11 of BDCP 2015.

Part B12 – Flood Risk Management

Part B12 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to manage the development of flood liable land. The subject site is located within the Georges River Floodplain and is consequently subject to low, medium and high-risk riverine flooding. The site is also subject to medium risk storm water flooding.

Part B12 of BDCP 2015 contains criteria for determining applications, which includes specific controls for certain land use categories within each flood risk precinct. The proposed development incorporates two separate land use categories, being 'critical uses and facilities' (nursing homes) and 'sensitive uses and facilities' (seniors housing). Schedule 3 relates to the Georges River Floodplain and Schedule 5 relates to catchments affected by storm water flooding. These schedules both identify 'critical uses and facilities' and 'sensitive uses and facilities' as a 'potentially unsuitable land use' in the low-high risk riverine floodplain and the medium risk stormwater flood precinct.

The development as been designed so as to provide for a minimum FFL across all buildings of suitable heights, as is demonstrated by the table below:

Building	Ground Floor FFL (metres above AHD)	1:100-year flood level	PMF Flood Level	Complies
RC	7.10	6.58	6.73	Y
A & Community	6.90	6.35	6.46	Y
B	6.00	5.47	5.86	Y
C	6.90	6.14	6.37	Y
D	6.90	6.14	6.37	Y

Additionally, all underground car parking entrances are designed with minimum clearances so as to protect basement levels in the event of flooding on site.

The applicant has submitted a Flood Emergency Response Plan (April 2019) detailing the site operations with regard to the threats from both stormwater and riverine flooding. The report provides detail on 10 unique phases which outline courses of action to be taken in the event of specific flooding threats ranging from monitoring Bureau of Metrology updates on significant weather events, to a full evacuation of the village, including a retreat to the first floor of the RC facility which has been designed as a refuge of last resort.

The Flood Emergency Response Plan was referred to the State Emergency Service (SES) during the assessment process and a response was received on 26 September 2019 stating that the NSW SES, in accordance with sections 3.6, A-5, L-5, L-6.9.6 and N-7 of the NSW Floodplain Development Manual the NSW SES is opposed to the use of private flood evacuation plans as a condition of development consent and as such, cannot provide comment. However, it was noted that the NSW SES will include the at-risk community proposed to be housed on site in developing a local flood plan and associated emergency management strategies for the locality.

The proposed development was reviewed by Council's Development Engineer and is considered to be acceptable in this regard.

Based on the above, the proposed development is considered to be acceptable with respect to Part B12 of BDCP 2015.

Part B13 – Waste Management and Minimisation

Part B13 of *Bankstown Development Control Plan 2015* supplements BLEP 2015 by providing additional objectives and development controls to ensure the design and operation of waste management systems are consistent with Council's commitment to building and creating a sustainable city.

The proposed development has been assessed against the applicable controls contained in Part B13 of BDCP 2015.

A Waste Management Plan prepared in accordance with the Waste Management Guide for New Development and the Bankstown Demolition and Construction Guidelines was submitted with the development application.

The residential care facility has a dedicated waste storage area adjacent to the loading dock. Buildings A/B and Buildings C/D have communal waste store rooms adjacent to the car parking areas. Waste from both the residential care facility and self-contained dwellings will be serviced on-site by a private waste contractor. The proposed development has been reviewed by Council's Resource Recovery Officer and is considered to be acceptable subject to conditions of consent.

As outlined above, the proposed development satisfies Part B13 of BDCP 2015.

Planning agreements [section 4.15(1)(a)(iia)]

A planning agreement has not been entered into under section 7.4 of the *Environmental Planning & Assessment Act 1979*, nor has the applicant offered to enter into a draft planning agreement.

The regulations [section 4.15(1)(a)(iv)]

The development is consistent with the provisions contained in the *Environmental Planning and Assessment Regulation 2000*.

The likely impacts of the development [section 4.15(1)(b)]

The proposed development is not likely to result in any significant adverse environmental, social or economic impacts on the locality. As detailed in this report, where non-compliances with the relevant development standards or controls occur, these are sufficiently justified. As such, it is considered that the impact of the proposed development on the locality is acceptable.

Suitability of the site [section 4.15(1)(c)]

The site is considered suitable for the proposed development. The development results in an appropriate built form for the site, which is consistent with the existing and desired future character of the locality as reflected in Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

Submissions [section 4.15(1)(d)]

The application was advertised for a period of twenty-one (21) days from 17 January 2018 to 6 February 2018. Four (4) submissions were received, comprising three (3) objections and one (1) letter of support. The amended plans were subsequently re-notified for a period of fourteen (14) days from 12 November 2019 to 25 November 2019. One (1) additional submission (objection) was received.

The objections received during the advertising and notification periods raise concerns relating to visual privacy impacts on residential properties to the west; traffic issues, congestion and road safety on Bullecourt Avenue; impacts on street car parking; and noise and dust during construction works. The concerns are addressed below.

Visual privacy impacts on residential properties to the west

The proposed development is setback a minimum of 10 metres from the western (side) boundary at the closest point and achieves a minimum separation distance of approximately 14 metres to an adjacent residential dwelling at the closest point. This satisfies the separation distance requirements specified in Objective 3F-1 of the Apartment Design Guide.

During a meeting with residents, specific concerns were raised in relation to the west-facing windows and balconies of Units C.12 and C.13 and the drying court in Building C. It was agreed that it would be appropriate for the following conditions of consent to be imposed to address visual privacy impacts associated with these elements of the proposed development:

- Deletion of the door providing access between the common hallway and the balcony of Unit C.12 to ensure the balcony is not used for any communal purpose.
- Installation of suitably designed privacy screening to the balustrade of the balconies of Units C.12 and C.13.

- Screening to the ground floor drying court of Building C to incorporate louvres that are fixed at an angle that restricts views towards the residential properties to the west.
- Dense landscaping, including trees that achieve a height of 8 metres at maturity, along the western boundary of the site for the length of the boundary that is adjacent to the drying court and Units C.12 and C.13.

Based on the above, the proposed development is considered to be acceptable with respect to potential visual privacy impacts on the residential properties to the west of the site.

Traffic issues, congestion and road safety on Bullecourt Avenue

A Traffic and Parking Assessment Report was submitted with the development application. The report examines the proposed development with respect to road network and traffic conditions; parking; traffic; and access, internal circulation, servicing and pedestrian facilities. The report contains the following conclusions:

- *“the traffic generation of the proposed development will not present any adverse traffic implications*
- *the proposed parking provision will be adequate of the proposed development and will ensure that no overflow parking will occur within the surrounding road network*
- *the proposed access, internal circulation and parking arrangements will be appropriate and will accord with AS2890 series*
- *the proposed pedestrian refuge for seniors crossing Bullecourt Avenue will be safe and appropriate.”*

The report was reviewed by Council’s Traffic Engineer and no concerns were raised with respect to the findings and conclusions of the report. Furthermore, the proposed development was not found to impact vehicular safety for local residents when vehicles enter and exit the driveways of surrounding residential properties, nor is the proposed development likely to impact visibility along Bullecourt Avenue due to the setback of the buildings from the southern (front) boundary.

The increase in traffic movements as a result of the proposed development will be generally minor relative to the size of the site and other potential uses of the site if it were to accommodate an alternative form of residential development. The intensification of the use is therefore considered to be acceptable with respect to potential traffic impacts.

Impacts on street car parking

The subject application seeks approval for 107 aged care facility beds and 81 self-contained dwellings. This generates the demand for 46 car parking spaces (comprising 11 visitor spaces, 18 staff spaces and 17 resident spaces) in accordance with the applicable car parking rates contained in SEPP Seniors. Despite these provisions, the proposed development includes 137 car parking spaces (comprising 33 visitor spaces, 22 staff spaces and 82 resident spaces),

which results in a significant surplus of on-site car parking. The proposed development is therefore not likely to result in adverse impacts on street parking in Bullecourt Avenue or the surrounding locality.

Noise and dust during construction works

Council's standard condition of consent is recommended with respect to hours of site works, which are limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays, with no work permitted on Sundays and public holidays and weekends adjacent to public holidays. Furthermore, Council's standard condition of consent is recommended with respect to limiting emissions during construction and use of the premises (including noise, smoke, smell, vibration, gases, vapours, odours, dust and the like). While it is expected that there will be a certain level of noise and dust associated with the demolition, excavation and construction process, these impacts are manageable and will be temporary only.

As outlined above, the proposed development is considered to be acceptable with respect to the concerns raised in the public submissions.

The public interest [section 4.15(1)(e)]

The proposed development would not contravene the public interest. The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by ensuring that any adverse impacts on the surrounding area and the environment are avoided. As this report has demonstrated, the development appropriately responds to the provisions and development standards of all applicable environmental planning instruments, in addition to the development controls contained in BDCP 2015. The matters raised in the public submissions have been satisfactorily addressed, and the proposed development is not likely to result in any unreasonable impacts on the locality.

CONCLUSION

The development application has been assessed against the matters for consideration contained in section 4.15 of the EP&A Act 1979 requiring, amongst other things, an assessment against the provisions contained in State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy No. 64 – Advertising and Signage, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, Draft Canterbury Bankstown Local Environmental Plan 2020, Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

The proposed development results in an appropriate built form that is consistent with the existing and likely future character of the locality. The applicable development standards and controls have been satisfactorily addressed and no significant or unresolved matters have been raised in the public submissions. Approval of the development application would facilitate the provision of seniors housing on the subject site without any unacceptable or unreasonable impacts on the surrounding properties or the broader locality.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions of consent.