



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA201800505
<b>Address</b>	2B West Street Lewisham
<b>Proposal</b>	Alterations and additions to the Anne Walsh and Novitiate buildings to change the use to Independent Living Units, demolish an existing Aged Care Hostel and construct a Residential Aged Care Facility and Independent Living Units
<b>Date of Lodgement</b>	4 December 2018 (Amended Plans submitted 15 August 2019) (SCC issued 5 March 2020)
<b>Applicant</b>	Catholic Healthcare Limited C/- Mecone NSW Pty Ltd
<b>Owner</b>	Catholic Healthcare Limited
<b>Number of Submissions</b>	87
<b>Value of works</b>	\$169,620,000
<b>Reason for determination at Planning Panel</b>	Capital investment value over \$30,000,000
<b>Main Issues</b>	Heritage Impacts Height of proposed development. Traffic impacts Impact on EEC, existing trees and canopy
<b>Recommendation</b>	Approved with Conditions
<b>Attachment A</b>	Recommended conditions of consent

## 1. Executive Summary

This report is an assessment of the application submitted to Council under development application number DA201800505. The application seeks consent for alterations and additions to the Anne Walsh and Novitiate buildings to change the use to Independent Living Units, demolish an existing Aged Care Hostel and construct a new Residential Aged Care Facility and Independent Living Units.

The application was notified to surrounding properties and 87 submissions were received, including 1 in support.

The proposal has been significantly amended from its original form in response to feedback from Council officers, which included the most significant issues raised by objectors. The amended proposal significantly reduces the scale and size of the proposal. The traffic and heritage issues associated with the proposal have been resolved and the plans have been amended to increase the tree canopy within the development.

The determination of this application has been significantly delayed by the lack of a Site Compatibility Certificate, which was issued on 5 March 2020 (approximately 15 months after the application was lodged with Council).

## 2. Proposal

The originally lodged development application sought consent for the construction of a new seniors housing development with a total of 135 Independent Living Units (ILUs) and 144 Residential Aged Care Facilities (RACF) beds and included the following works:

- Site preparation works and excavation.
- Retention of the Anne Walsh building with alterations and additions to create accommodation for ILUs and ancillary uses.
- Retention of the Novitiate Building with alterations and additions to create accommodation for ILUs and ancillary uses.
- Demolition of the existing Aged Care Hostel on the southern part of the site and erection of a part-RACF and part-ILUs building which includes;
  - A 5 storey podium which includes all 144 RACF beds. Above the podium are two building elements which include an additional 7 storeys (Building 1 – total 12 storeys) and an additional 4 storeys (Building 2 – total 9 storeys) comprised of accommodation for ILU's;
  - A 7 storey building (Building 3) along West Street which includes accommodation for ILUs. It is noted that the upper three levels are setback from the building edge; and
  - Two basement car parking levels and at grade parking (providing a total of 201 parking spaces).
- Internal vehicle access driveway with connection points to West Street and Charles O'Neill Way, and drop off zone.
- New cycle way/access path along rail corridor.
- Landscaping works, including ground level landscaping and public facilities for the creation of a communal open space area for future residents.

In response to an initial assessment by Council Officers the applicant elected to amend the plans. This resulted in the following modifications to the proposal:

- Reduction in the height of Building One from 12 storeys to 9 storeys removing 18 ILU;
- Redesigning the basement to remove 18 parking spaces that are no longer required due to the removal of 18 ILU's;
- Removing the proposed road, which required the partial demolition to fabric of heritage significance on the Ann Walsh Building;
- Redesign of the intersection of west street and the vehicle entry;
- Retention of the boundary wall;
- Amendments to the design of the balconies of the Novitiate retain as much original fabric as possible;
- Relocation of the fire stairs of the Novitiate building to maintain significant internal fabric;
- Several internal alterations to preserve internal fabric of heritage significance;
- Amended the plans to retained and plant significantly more trees than was originally proposed.(resulting in a 15% decrease from the existing tree canopy prom existing to post development)



**Figure 1:** Location of Proposed Building 1



**Figure 2:** Location of Proposed Building 2





**Figure 3:** Location of proposed Building 3

### 3. Site Description

The site is part of a larger precinct that is under the ownership of various Catholic Church entities. 2C West Street is under the ownership of the Trustees of St Vincent De Paul Society. 3 Thomas Street is under ownership of the Trustees of the Roman Catholic Church for the Archdiocese of Sydney.

The site was previously Lewisham Hospital and has an area of 1.207ha. The site has a frontage to West Street of approximately 189m that curves with the street corner. The southern boundary has a length of 76.76m and adjoins the railway corridor and a footpath connecting West Street to Thomas Street and Lewisham Station. The remaining boundaries dog-leg the rear of the site for a length of approximately 220.3m and adjoin land owned by Catholic Church entities including Catholic schools land.

The existing buildings and uses of the site are as follows:

- Ann Walsh Building: a three story building that is currently unused and previously used as an outpatient building;
- Former Novitiate Building: a five storey building around a central courtyard used as an aged care facility with 51 rooms; and
- Aged Care Hostel: a series of two storey structures that accommodate 40 residents.



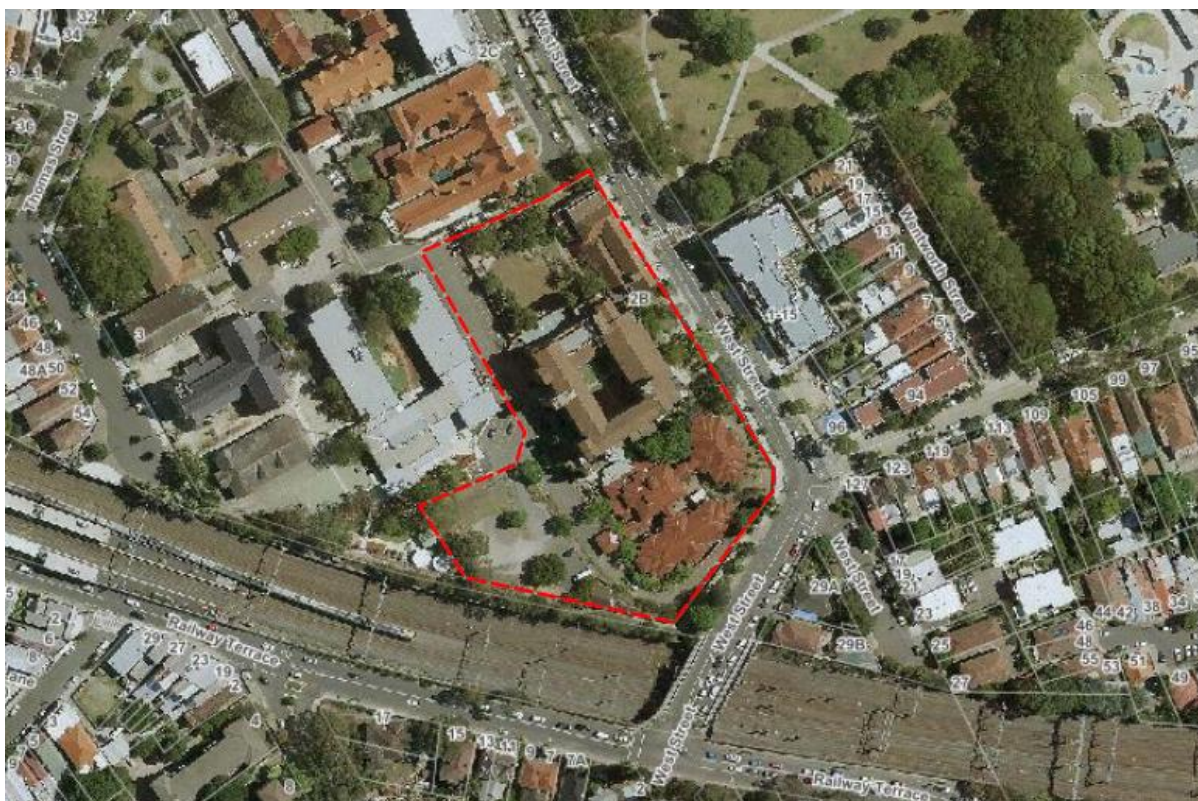
**Figure 4:** The existing site and surrounds.

The surrounding land uses include an outdoor recreational facility, an educational establishment, place of public worship, community facilities, dwelling houses, attached dwellings, and residential flat buildings.

The site is listed as item of environmental heritage under the *Marrickville Local Environment Plan 2011* (I63) and is located adjacent to the Petersham North Heritage Conservation Area.

The existing site and surrounds contain several significant trees as shown below:





**Figure 5:** Aerial image of existing site and surrounds.

## 4. Background

### 4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

#### Subject Site

Application	Proposal	Decision & Date
DA200600271	To subdivide the property into two lots	Approval - 12 September 2006
DA200600326	Alterations and additions to an existing nursing home including fire upgrading works and alterations to the existing access gateway in West Street	Approval – 17 November 2006
DA201500004	To install automatic fire sprinklers in the existing aged care nursing home	Approved - 21 April 2015

#### Surrounding properties

Application	Proposal	Decision & Date
DA200100941	To use the former storeroom in the basement of the Mary MacKillop Outreach Centre building for wood work activities	Approval - 22 August 2002
DA200700381	To demolish the Central Services building and erect a four storey building	Approval – 2 January 2008

	over basement carpark for use in association with the St Vincent de Paul Society	
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#### 4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
27 March 2017	Pre DA meeting
4 December 2018	Application submitted to Council.
26 February 2019	Onsite meeting / site inspection focussed on the EEC's.
24 July 2019	Council Requested Amended Plans
29 July 2019	Council's Development Engineers, Traffic Engineers and Heritage Officers meet with the applicant to discuss solutions to related traffic and heritage issues.
9 August 2019	Council's Planners meet with the applicant to review the applicant's concepts to resolve Council's issues.
15 August 2019	The applicant submitted Amended Plans with supplementary details and certified photomontages to follow.
5 March 2020	Site Compatibility Certificate issued

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

#### 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy No. 64 – Advertising and Signage*
- *State Environmental Planning Policy No. 65—Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007*

The following provides further discussion of the relevant issues:

##### 5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. *SEPP 55* requires the consent authority to be satisfied that "the site is, or can be made, suitable for the proposed use" prior to the granting of consent.

The site does not have a history of land uses listed as causing contamination with table 1 of the *Managing Land Contamination Planning Guidelines*. The site has a history of historic

occupation for church and age care uses and potential contamination is limited to potential demolition of previous structures, uncontrolled fill and the use of boilers and incinerators.

A Detailed Site Investigation (DSI) have been provided to address the management of contaminated groundwater onsite and the treatment and/ or disposal of any contaminated soils and contamination issues prior to determination. The contamination documents have been reviewed and found that the site can be made suitable for the proposed use.

The site will not require remediation in accordance with *SEPP 55*.

#### *5(a)(ii) State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)*

The following is an assessment of the proposed development under the relevant controls contained in *SEPP 64*.

*SEPP 64* specifies aims, objectives, and assessment criteria for signage as addressed below. Schedule 1 of *SEPP 64* specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of *SEPP 64*.

#### *Signs and Advertising Structures*

The application seeks consent for the erection of the following signage:

- 2 x Acrylic/stainless steel wall sign measuring 5.52mm (width) by 2.4mm (height) with illuminated backlit 3D lettering reading 'Catholic Healthcare' located at:
  - Building 1 Level 3 north façade facing Village centre.
  - Podium Level 5 south elevation facing the railway line.
- 1 x Acrylic/stainless steel wall sign measuring 3.7mm (width) by 1.625mm (height) illuminated backlit 3D lettering reading 'Catholic Healthcare' located at the Novitiate Building Level 5 east façade facing West Street.
- 1 x Dual frontage free standing signage measuring 1.9mm (width) by 4.2mm (height) illuminated lettering and pre-finished cladding reading 'Catholic Healthcare' 'Villages' 'Lewisham' Located at West Street main entrance.

The proposed signage is satisfactory having regard to the assessment criteria contained in Schedule 1 of *SEPP 64*. However, Council's heritage team have advised that the signage on level 5 of the Novitiate Building should be omitted due to unacceptable heritage impacts. A condition of consent to reflect this has been included in the recommendation.

#### *5(a)(iii) State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development*

The development is subject to the requirements of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (*SEPP 65*) as the proposal is for a mixed-use development (containing residential aged care facilities and other seniors housing being independent living units) with a residential accommodation component that meets the requirements of Clause 4 of *SEPP 65*.

*SEPP 65* prescribes nine design quality principles to guide the design of residential apartment development and to assist in assessing such developments. The principles relate to key design issues including context and neighbourhood character, built form and scale, density,



sustainability, landscape, amenity, safety, housing diversity and social interaction and aesthetics.

A statement within the application verifying that they designed, or directed the design of, the development was submitted with the application. The statement also provides an explanation that verifies how the design quality principles are achieved within the development and demonstrates, in terms of the Apartment Design Guide (ADG), how the objectives in Parts 3 and 4 of the guide have been achieved.

The development is acceptable having regard to the nine design quality principles subject to the amendments submitted by the applicant.

#### Apartment Design Guide

The Apartment Design Guide (ADG) contains objectives, design criteria and design guidelines for residential apartment development. In accordance with Clause 6A of the SEPP certain requirements contained within MDCP 2011 do not apply. In this regard the objectives, design criteria and design guidelines set out in Parts 3 and 4 of the ADG prevail.

The following provides further discussion of the relevant issues:

#### Communal and Open Space

The ADG prescribes the following requirements for communal and open space:

- 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 9 am and 3 pm on 21 June (mid-winter).

Comment: The proposed development provides for 27% communal open space. Solar access is provided to beyond 50% of the communal open space areas for the required times.

#### Deep Soil Zones

The ADG prescribes the following minimum requirements for deep soil zones:

Site Area	Minimum Dimensions	Deep Soil Zone (% of site area)
Less than 650m <sup>2</sup>	-	7%
650m <sup>2</sup> - 1,500m <sup>2</sup>	3m	
Greater than 1,500m <sup>2</sup>	6m	
Greater than 1,500m <sup>2</sup> with significant existing tree cover	6m	

Comment: The proposal provides for 18.1% deep soil zones and is consistent with the numeric requirement.

#### Visual Privacy/Building Separation

The ADG prescribes the following minimum required separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 12 metres (4 storeys)	6 metres	3 metres
Up to 25 metres (5-8 storeys)	9 metres	4.5 metres
Over 25 metres (9+ storeys)	12 metres	6 metres

The ADG prescribes the following minimum required separation distances from buildings within the same site:

Up to four storeys/12 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	12 metres
Habitable Rooms to Non-Habitable Rooms	9 metres
Non-Habitable Rooms to Non-Habitable Rooms	6 metres

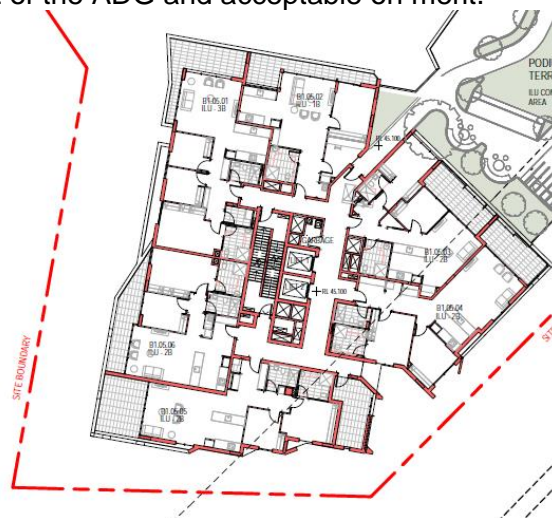
Five to eight storeys/up to 25 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	18 metres
Habitable Rooms to Non-Habitable Rooms	12 metres
Non-Habitable Rooms to Non-Habitable Rooms	9 metres

Nine storeys and above/over 25 metres

Room Types	Minimum Separation
Habitable Rooms/Balconies to Habitable Rooms/Balconies	24 metres
Habitable Rooms to Non-Habitable Rooms	18 metres
Non-Habitable Rooms to Non-Habitable Rooms	12 metres

Comment: The proposal fails to comply with the numeric requirements for setback from property boundaries, with setbacks for building 1 being located within the separation distance from rear and side boundaries (see figure 6). The surrounding land uses are not residential and as a result, the proposal will not result in privacy impacts. Given the site's Special Use zoning it would not be expected that any future development on the surrounding sites would result in privacy impacts. The proposal therefore is consistent with objectives 3F-1 and 3F-2 of the ADG and acceptable on merit.



**Figure 6:** Setbacks that fail to meet the separation distance of habitable rooms and balconies from the rear and side boundaries.

The level of building separation between buildings on the site is largely consistent with the numeric requirements for separation. The proposal provides for an acceptable level of visual separation between the ILU, and to the extent of the variation, the proposal is consistent with the objectives within objectives 3F-1 and 3F-2 of the ADG and acceptable on merit.

### Solar and Daylight Access

The ADG prescribes the following requirements for solar and daylight access:

- Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9.00am and 3.00pm at mid-winter.
- A maximum of 15% of apartments in a building receive no direct sunlight between 9.00am and 3.00pm at mid-winter.

Comment:

The proposed development does not comply with the requirements for solar access due to the adaptive reuse of the heritage building. Excluding the ILU's located within the historic buildings, the proposal complies. The solar compliance for building 1-3 is 78%. The solar compliance for the Ann Walsh Building is 42% and for the Novitiate Building 38%. Given the nature of the adaptive reuse, it would be unreasonable to require compliance with the solar access and day light access requirements and this would require significant works to the heritage fabric of the heritage buildings. The proposal is consistent with the Objective 4A-1 of the ADG and acceptable on merit.

### Natural Ventilation

The ADG prescribes the following requirements for natural ventilation:

- At least 60% of apartments are naturally cross ventilated in the first 9 storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.
- Overall depth of a cross-over or cross-through apartment does not exceed 18 metres, measured glass line to glass line.

Comment: The proposed development provides for a compliant level of cross ventilation, being 76% of ILU's. The depth of the ILU's does not exceed 18m from the glass line.

### Ceiling Heights

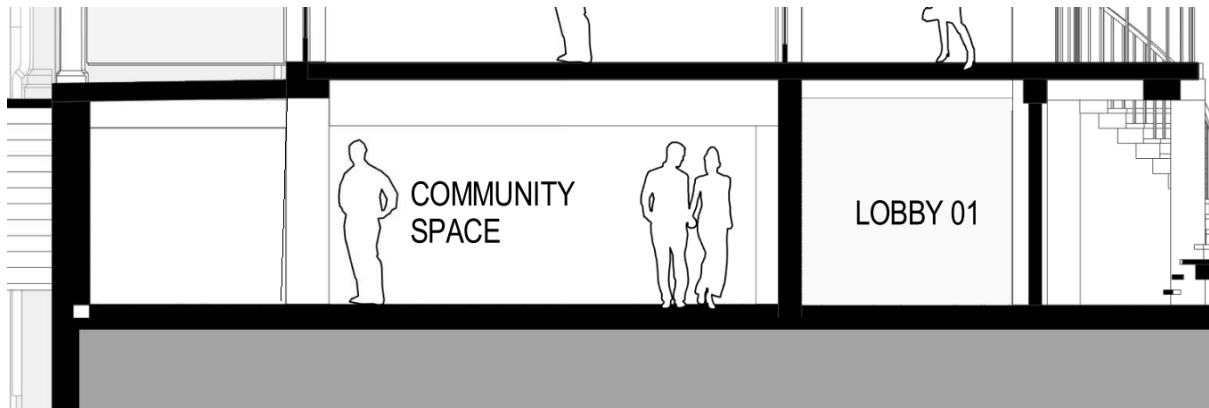
The ADG prescribes the following minimum ceiling heights:

Minimum Ceiling Height	
Habitable Rooms	2.7 metres
Non-Habitable	2.4 metres
For 2 storey apartments	2.7 metres for main living area floor 2.4 metres for second floor, where its area does not exceed 50% of the apartment area
Attic Spaces	1.8 metres edge of room with a 30 degree minimum ceiling slope



If located in mixed used area	3.3 for ground and first floor to promote future flexibility of use
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Comment: The proposed development has compliant ceiling heights with the exception of lower ground floor of the Novitiate Building. This space is labelled community space and would be for a habitable use with a ceiling height of 2.2m-2.4m. This section of the Novitiate Building is of very high historic significance, and is the ceiling height of the existing building. The area of the non-compliance is show in section below:



**Figure 7:** Lower ground floor of\_Novitiate Building with non-compliance to ceiling height

The extent of the noncompliance is reasonable in the circumstances of an adaptive reuse and the proposal is consistent with Objective 4C-1 and acceptable on merit.

#### Apartment Size

The ADG prescribes the following minimum apartment sizes:

Apartment Type	Minimum Internal Area
Studio apartments	35m <sup>2</sup>
1 Bedroom apartments	50m <sup>2</sup>
2 Bedroom apartments	70m <sup>2</sup>
3 Bedroom apartments	90m <sup>2</sup>

**Note:** The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.

Comment: The proposed development complies with the apartment size requirements.

#### Apartment Layout

The ADG prescribes the following requirements for apartment layout requirements:

- Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.
- Habitable room depths are limited to a maximum of 2.5 x the ceiling height.
- In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8 metres from a window.

- Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).
- Bedrooms have a minimum dimension of 3 metres (excluding wardrobe space).
- Living rooms or combined living/dining rooms have a minimum width of:
  - 3.6 metres for studio and 1 bedroom apartments.
  - 4 metres for 2 and 3 bedroom apartments.
- The width of cross-over or cross-through apartments are at least 4 metres internally to avoid deep narrow apartment layouts.

Comment: The proposed development largely complies with the requirements for room areas with the exception of the NV.01.01 and NV.01.02 which are non-compliant with the bedroom size requirement, in order to preserve important aspects of the heritage character of the building. Given the nature of the adaptive reuse, it would be unreasonable to require compliance in this circumstance and the proposal is consistent with Objective 4D-3 and acceptable on merit.

### Private Open Space and Balconies

The ADG prescribes the following sizes for primary balconies of apartments:

Dwelling Type	Minimum Area	Minimum Depth
Studio apartments	4m <sup>2</sup>	-
1 Bedroom apartments	8m <sup>2</sup>	2 metres
2 Bedroom apartments	10m <sup>2</sup>	2 metres
3+ Bedroom apartments	12m <sup>2</sup>	2.4 metres

Note: The minimum balcony depth to be counted as contributing to the balcony area is 1 metre.

The ADG also prescribes for apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m<sup>2</sup> and a minimum depth of 3 metres.

Comment: The proposed development is compliant with the requirements with the exception of:

- AW.01.02 - 0m<sup>2</sup>;
- AW.02.01 – depth of 1.6m;
- AW.02.02 - 0m<sup>2</sup>;
- AW.02.03 – 6m<sup>2</sup> (1 bedroom) ;
- NV.GR.01 - 0m<sup>2</sup>;
- NV.GR.04 - 0m<sup>2</sup>;
- NV.01.06 – 8m<sup>2</sup> (2 bedroom) ;
- NV.02.03 – 0m<sup>2</sup>;
- NV.02.09 – 0m<sup>2</sup>; and
- NV.02.10 – 6.5m<sup>2</sup> (2 bedroom).

Within the context of an adaptive reuse of a heritage-listed building, the needs of heritage conservation often conflict with the ADG requirements. The provision of balcony areas is a key area of conflict between the ADG and the requirements for heritage conservation. The provision of balconies to these units (or balconies of increased size) would result in impact to the heritage values of the site that are unacceptable. The proposal includes significant communal open space, which will provide for the needs of the residents that will enhance the

residential amenity well beyond the requirements of the ADG. The proposal is consistent with Objective within 4E-1 if the ADG and acceptable on merit.

### Common Circulation and Spaces

The ADG prescribes the following requirements for common circulation and spaces:

- The maximum number of apartments off a circulation core on a single level is 8.
- For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.

Comment: the proposal complies with this requirement.

### Storage

The ADG prescribes the following storage requirements in addition to storage in kitchen, bathrooms and bedrooms:

Apartment Type	Minimum Internal Area
Studio apartments	4m <sup>3</sup>
1 Bedroom apartments	6m <sup>3</sup>
2 Bedroom apartments	8m <sup>3</sup>
3+ Bedroom apartments	10m <sup>3</sup>

Note: At least 50% of the required storage is to be located within the apartment.

Comment: the proposal complies with the storage requirements.

### *5(a)(iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

A BASIX Certificate was submitted with the application and will be referenced in any consent granted.

### *5(a)(v) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

Clause	Comment
4 Land to which Policy applies	The policy applies to the land.
<b>Part 1 General</b>	
17 Development on land adjoining land zoned primarily for urban purposes	The Sydney Eastern City Planning Panel determined on 5 March 2020: <i>"the site is primarily for urban purposes and consequently the Independent Living Units should be permitted on the site"</i>
18 Restrictions on occupation of seniors housing allowed under this Chapter	A condition of consent requiring the development to be used for accommodation for persons who are : (a) seniors or people who have a disability, (b) people who live within the same household with seniors or people who have a disability,



	(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.
<b>Part 1A Site compatibility certificates</b>	
24 Site compatibility certificates required for certain development applications	The site has a current Site Compatibility Certificate (as of 5 March 2020). The development is consistent with the requirements applied to the Site Compatibility Certificate and is not contrary to any provisions or requirements of the certificate.
<b>Part 2 Site-related requirements</b>	
26 Location and access to facilities	The application is supported by written evidence demonstrating that residence will have access to the services described within clause 26(1). The site has access to bus services along west street that provide access to the services within the CBD that meet the requirements of Clause 26.
28 Water and sewer	As indicated by the survey plan, the site is serviced by water and sewer services.
29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply	Having regard to Clause 25(5)(b)(i), (iii) and (v) of the SEPP together with the planning principle within <i>Project Venture Developments Pty Ltd v Pittwater Council</i> [2005] NSWLEC 191, The proposal is considered to be compatible with the surrounding land use noting the natural environment, services and infrastructure and the bulk, built form, character and scale compared to other buildings.
<b>Part 3 Design requirements</b>	
30 Site analysis	The documents submitted with the application are sufficient for Council to conclude that the applicant has taken into account the site analysis.
31 Design of in-fill self-care housing	The Seniors Living Policy: Urban Design Guideline for Infill Development has been considered elsewhere in this report.
32 Design of residential development	The development has satisfied the design principles.
33 Neighbourhood amenity and streetscape	<p>The proposal has been considered in the context of the locations current character and desired future character. The proposed buildings are contribute to the quality and identity of the area. The proposed development retains, complements and sensitively harmonizes with the heritage listed buildings in the vicinity.</p> <p>The proposal maintains reasonable residential amenity and appropriate residential character by:</p> <ul style="list-style-type: none"> <li>• Providing appropriate setbacks to reduce the apparent visual bulk and overshadowing;</li> <li>• Providing a built form and siting that relates to the sites form by locating the new buildings in an appropriate part of the site;</li> <li>• The building height at the street frontage are compatible with the adjacent development; and</li> <li>• The amenity impacts have been minimized as the buildings are located away from residential properties.</li> </ul> <p>The proposed front setback of the building 3 is setback less than the setback of the Ann Walsh building but further forward than the Novitiate Building. The setback is considered to be in sympathy with the existing building line.</p>

	The proposed tree planting is in sympathy with the surrounding streetscape. Within the context of the amended plans, the proposal maintains, where reasonable, major existing trees. No buildings are located within a riparian zone.
34 Visual and acoustic privacy	<p>The proposed development maintains a level of separation from other residential development that allows separation to be achieved by distance.</p> <p>The proposed development is unlikely to cause significant noise issues to the surrounding residents.</p>
35 Solar access and design for climate	<p>The juxtaposition of the proposed development to the surrounding residential development is such that solar access to adjoining properties is not an issue.</p> <p>The site planning of the proposed development makes practical use of natural ventilation; solar heating and lighting by locating living areas in a northerly direction were possible.</p>
36 Stormwater	The proposed development uses appropriate mechanism to manage storm water runoff.
37 Crime prevention	The proposed development provides for a suitable design to encourage crime prevention.
38 Accessibility	The proposal provides for acceptable pedestrian links and environment for pedestrians and motorists.
39 Waste management	The proposed development provides for appropriate waste facilities that maximize recycling.
<b>Part 4 Development standards to be complied with</b>	
40 Development standards—minimum sizes and building height	The proposed development complies with the site area requirements with an area of 12,068m <sup>2</sup> . The proposed development complies with the site frontage requirements with a site frontage of 123m.
41 Standards for hostels and self-contained dwellings	The proposed standards within Schedule 3 have been considered and appropriate conditions recommended ensuring compliance at the CC stage.
<b>Part 5 Development on land adjoining land zoned primarily for urban purposes</b>	
44 Availability of facilities and services	Facilities and services are located within an acceptable distance from the site, noting the access to public transport to local centers.
<b>Part 7 Development standards that cannot be used as grounds to refuse consent</b>	
47 Part does not apply to certain development applications relating to heritage affected land	While the site is subject to local heritage listing with the <i>Marrickville LEP 2011</i> , being Item I63, the site is not listed on the State Heritage Register under the <i>Heritage Act 1977</i> and does not have an interim heritage order.
48 Standards that cannot be used to refuse development consent for residential care facilities parking	<p>The proposed development exceeds the standards that cannot be used to refuse a development consent for height, density and scale and as a result these must be considered in the context of the local controls.</p> <p>The landscape area and parking provided (shown in the table below) for the residential care facilities is consistent with the development standards that cannot be used to refuse development consent (shown in the table below) and as a result the local controls are not relevant.</p>

	<table><tr><th>Type</th><th>Requirement</th><th>Provided</th></tr><tr><td>Landscaped area</td><td>25m<sup>2</sup> per bed (3600m<sup>2</sup>)</td><td>4373m<sup>2</sup></td></tr><tr><td colspan="3"><b>Parking</b></td></tr><tr><td>Residents/visitors RACF</td><td>14</td><td>38</td></tr><tr><td>Staff</td><td>24</td><td>24</td></tr><tr><td>Ambulance</td><td>1</td><td>1</td></tr></table>	Type	Requirement	Provided	Landscaped area	25m <sup>2</sup> per bed (3600m <sup>2</sup> )	4373m <sup>2</sup>	<b>Parking</b>			Residents/visitors RACF	14	38	Staff	24	24	Ambulance	1	1
Type	Requirement	Provided																	
Landscaped area	25m <sup>2</sup> per bed (3600m <sup>2</sup> )	4373m <sup>2</sup>																	
<b>Parking</b>																			
Residents/visitors RACF	14	38																	
Staff	24	24																	
Ambulance	1	1																	
50 Standards that cannot be used to refuse development consent for self-contained dwellings	<p>The proposed development exceeds the standards that cannot be used to refuse a development consent for height, density and scale, solar access and private open space, as a result these must be considered in the context of the local controls.</p> <p>The landscape area, deep soil and parking provided (shown in the table below) for the residential care facilities is consistent with the development standards that cannot be used to refuse development consent (shown in the table below) and as a result the local controls are not relevant.</p> <table><tr><th>Type</th><th>Requirement</th><th>Provided</th></tr><tr><td>Landscape area</td><td>(35m<sup>2</sup> per ILU) (4095 m2)</td><td>4373m<sup>2</sup></td></tr><tr><td>Deep soil zones</td><td>15% of site area</td><td>18.1%</td></tr><tr><td>Parking</td><td>27</td><td>117</td></tr></table>	Type	Requirement	Provided	Landscape area	(35m <sup>2</sup> per ILU) (4095 m2)	4373m <sup>2</sup>	Deep soil zones	15% of site area	18.1%	Parking	27	117						
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Deep soil zones	15% of site area	18.1%																	
Parking	27	117																	
<b>Chapter 4 Miscellaneous</b>																			
55 Residential care facilities for seniors required to have fire sprinkler systems	The application appears to provide an appropriate sprinkler system. At CC stage, the certifying authority will examine the fire safety requirements.																		
Schedule 3 Standards concerning accessibility and useability for hostels and self-contained dwellings	<p>The proposal complies with the wheelchair access requirements. The private car spaces are capable of accommodating the requirements. The application includes a report from an accredited Access consultant that details that</p> <p>The remainder of the requirements within this Schedule 3 will need to be confirmed at construction certificate stage. A condition of consent is recommended requiring details to be provided demonstrating compliance with the Schedule 3 Standards prior to the issue of a construction certificate.</p>																		

#### Seniors Living Policy: Urban Design Guideline for Infill Development

The Seniors Living Policy: Urban Design Guideline for Infill Development has been considered in this assessment, however these guidelines are primarily designed for small scale infill development and is of limited utility on the subject site.

*5(a)(vi) State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure 2007)*

#### Rail Corridors (Clause 85-87)

*SEPP Infrastructure* provides guidelines for development immediately adjacent to rail corridors including excavation in, above or adjacent to rail corridors. Clause 87 of the *SEPP Infrastructure 2007* relates to the impact of rail noise or vibration on non-rail development, and



for a development for the purpose of a building for residential use, requires appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

An acoustic report accompanied the application and assessed the potential acoustic impacts of rail noise on the proposed development. The report contains recommendations to be incorporated into the proposed development in order to mitigate acoustic impacts and should be referenced as an approved document in condition 3 on any consent granted.

The conditions recommended by Sydney Trains have been included in the recommended conditions of consent.

#### Traffic-generating development (Clause 104)

In accordance with Column 3 in Schedule 3 of Clause 104 *SEPP Infrastructure 2007*, 'residential accommodation' with 75 or more dwellings with access to classified road are classified as traffic generating development. Accordingly, the application was referred to RMS for comment.

In a letter dated 1 February 2019, the NSW RMS raised no objection to the development as the traffic generated by the proposed works would have minimal impact on the classified road network under Clause 104 of *SEPP Infrastructure 2007*.

#### *5(a)(vii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*

The site is located within the Sydney Harbour Catchment with *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. The proposed development is consistent with the Clause 2 aims of the plan.

#### *5(a)(viii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)*

*Vegetation SEPP* concerns the protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application seeks the removal of vegetation from within the site and on Council land. The application was referred to Council's Tree Management Officer whose comments are summarised as follows:

*"The proposal includes the removal of fifty eight (58) trees, including twenty-one (21) trees that have been allocated a 'Consider for Retention' value in the Arboricultural Impact Assessment (AIA, Rev B) report prepared by Tree iQ and dated 26 August, 2019.*

*Of particular concern is the proposed removal of the following trees that are in good health and condition and that are located on periphery of the site where it is considered that they can be more easily be incorporated into a potential design than the trees located internally –*

*Trees 94-99 – Cupressus torulosa (Bhutan Cypress)  
Trees 26 and 27 – Corymbia citriodora (Lemon Scented Gum)*

*The removal of these trees is not supported for reasons previously stated – refer previous referral.*

*The canopy cover to be removed is estimated at 1845m<sup>2</sup> and the proposed canopy cover is estimated at 1544m<sup>2</sup> at maturity. It is reasonable to estimate that the proposed replacement trees will take a minimum of 20 years to attain the cover.*

*Notwithstanding the above comments, should the proposal be supported conditions have been provided for inclusion in the determination*

*Should the proposal be supported it is recommended that two additional replacement trees are included that will attain a large canopy spread to replace the canopy cover that would have been provided by the Lemon Scented Gums (to be removed) at maturity.*

*Included in the trees to be retained are Tree 59 (Eucalyptus botryoides – Southern Mahogany) and Tree 60 (Pittosporum undulatum - Sweet Pittosporum). Tree 59 is in poor health and Tree 60 is dead and therefore approval is given for the removal of these trees.*

*The following trees will require pruning-*

*Tree 29 – Corymbia citridora (Lemon Scented Gum). This tree is located on the adjacent site to the rear and therefore it is recommended that written consent from the owner's is obtained prior to the application being determined. To mitigate the impact to the tree the work must be undertaken in accordance with Section 3.6 of the AIA.*

*Tree 63 – Cupressus species (Cupressus). Minor pruning to clear deck. Refer 3.6.6 of the AIA.*

*Tree 66 – Cinnamomum camphora (Camphor Laurel). One branch to clear access for vehicular movements. Refer 3.6.7 of the AIA.*

*The following tree is nominated for relocation –*

*Tree 62 – Phoenix canariensis (Canary Island Date Palm). Provided the work is undertaken in accordance with Section 3.4.14 of the AIA the transplanting is likely to be successful. “*

Overall, the proposal is considered acceptable with regard to the *Vegetation SEPP* and *MDCP 2013 Part 2.20* subject to the imposition of conditions, which have been included in the recommendation of this report.

#### **5(a)(ix)      *Marrickville Local Environment Plan 2011 (MLEP 2011)***

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.5 - Additional permitted uses for land
- Clause 2.7 - Demolition
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.7 - Development below mean high water mark
- Clause 5.10 - Heritage Conservation
- Clause 6.1- Earthworks
- Clause 6.4 - Terrestrial biodiversity

- Clause 6.5 - Development in areas subject to aircraft noise
- Clause 6.6 - Airspace operations

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned SP2 Infrastructure (Community Facilities) under the *MLEP 2011*. The *MLEP 2013* defines the development as:

***“seniors housing means a building or place that is—***

***(a) a residential care facility, or***

***(b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or***

***(c) a group of self-contained dwellings, or***

***(d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),***

***and that is, or is intended to be, used permanently for—***

***(e) seniors or people who have a disability, or***

***(f) people who live in the same household with seniors or people who have a disability, or***

***(g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,***

***but does not include a hospital.***

***Note.***

***Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.”***

The proposed development would ordinarily be prohibited within the zone if not for Clause 15 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as it is residential accommodation and cannot fit within the definition of community facilities.

The objectives of the SP2 – Infrastructure zone are:

- *“To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To protect and provide for land used for community purposes.”*

It is noted that a Site Compatibility Certificate has been issued and this has considered that the site is suitable for development of this type.

#### 5.10 Heritage Conservation

The site is listed as item of environmental heritage under the *Marrickville Local Environment Plan 2011* (l63) and is located adjacent to the Petersham North Heritage Conservation Area.

The proposed development has an acceptable impact on the heritage values of the site. Council Heritage Officer have reviewed the plans and their conditions are included in the recommended conditions in Attachment A.

#### 6.2 Earthworks

The proposed development has an acceptable impact on soil drainage patterns and soil stability in the locality. The application is supported by a geotechnical report. The proposed development is unlikely to prevent future development on the land.

The proposal includes a detailed site investigation that considered the quality of soil to be excavated. The level of excavation proposed is unlikely to affect the amenity of the surrounding properties. The recommended conditions of consent address the quality of any fill material. Given the site's historic occupation there is the potential to locate relics related to its early occupation and conditions of consent are imposed to handle their management.

#### 6.4 Terrestrial biodiversity

The application is supported by a Biodiversity Development Assessment Report that has been reviewed by Councils Urban Ecology team. Subject to the recommended conditions of consent in Attachment A, the proposed development satisfies the requirements of clause 6.4 of the *MLEP 2013*.

#### 6.5 Development in areas subject to aircraft noise

The site is located within the 20-25 ANEF contour. The development is of a type that is likely to be affected by aircraft noise and involves the erection of a building. The proposed development will increase the number of dwellings that are affected by aircraft noise. The proposal is supported by an acoustic report that addresses the *AS 2021:2015 Acoustics—Aircraft noise intrusion—Building siting and construction*. The report details the measures that are necessary to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015.

In considering table 2.1 of *AS 2021:2015*, the proposed development is conditionally acceptable within the ANEF Zone subject to noise control features. Conditions of consent are recommended that require noise control features that are recommended in the report.

#### 6.6 Airspace operations

The proposed development as amended has a height of RL 60.8AHD from the previous height of RL 70.4 AHD. The original proposal was referred to Sydney Airport who advised that they had no objection to development up to RL 70.4 AHD. The proposed development therefore satisfies clause 6.6 of the *MLEP 2013*.

### 5(b) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

- Draft State Environmental Planning Policy (Environment)
- Draft Marrickville Local Environmental Plan 2011 (Amendment 4)
- Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The draft EPI's do not substantially affect the proposed development.

### 5(c) Development Control Plans

The application has been assessed against the relevant provisions of the Marrickville Development Control Plan 2011 (MDCP 2011) as summarised below:



<b>MDCP 2011 Part of MDCP 2011</b>	<b>Compliance</b>
Part A.26- Plan of Management (PoM)	Yes
Part 2.1 – Urban Design	Yes – see discussion
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.8 – Social Impact	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Overridden by SEPP– see discussion
Part 2.11 – Fencing	Yes
Part 2.12 – Signs and Advertising	No – see discussion
Part 2.13 – Biodiversity	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Space	Partially overridden by SEPP– see discussion
Part 2.20 – Tree Management	No – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes – see discussion
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes
Part 8 – Heritage	Yes - see discussion
Part 9 – Strategic Context	Yes – see discussion

The following provides discussion of the relevant issues:

#### Part 2.1 Urban Design

The proposal has been considered in the context of the urban design principles within Part 2.1.1 of the MDCP 2011. The development provides for spaces that improve the urban structure and are well connected with the surrounding urban environment. The proposal provides for suitable access for all persons and is subject to significant access requirements due to the nature of the development. The proposed development has a suitable mix of uses noting the constraint of the zoning and the Site Compatibility Certificate. The proposal has an appropriate density noting the size of the site and its location on a public transport node and has close access to both bus and train services.

The urban form of the proposal is appropriate and provides for appropriate spaces that define the living environment and transitions using soft and hard landscaping. The proposal assists in providing people with an understanding of the use of the spaces by their design. The proposal provides and appropriate activation of the public spaces to encourage pedestrian safety and discourage crime.

The public spaces within the development provide for a suitable diverse uses noting the proposed use. The proposed development provides for an appropriate sense of place and character in the context of the streetscape and surrounding development. The proposed development creates and appropriate level of consistency and diversity with the surrounding environment. The proposal provides for an appropriate mix of heritage retention and new development. The proposal provides for appropriate level of sensory stimulation.

Appendix 10 of the SEE provides addresses the urban design principles. The proposed development is acceptable in terms of the urban design principles.

#### Part 2.10 – Parking

The site is located within parking area 2. The proposed development (as amended) provides for 1 space per unit and exceeds the development control which requires one space per 0.33 per unit. While the proposal provides for less visitor and carers parking than required by the MDCP 2011, the proposed development complies with the standards that cannot be used to refuse development consent for residential care facilities with Clause 48 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. As a result the development control within the DCP are overridden by *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The proposal does not provide for motorcycle parking, however the wording of Clause 48 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* indicates that the clause applies to parking generally and is not limited to car parking.

While the proposal does not provide bicycle parking, anticipated demand for bicycle parking is low due to the nature of the development. The applicant has provided information that indicates that the industry wide average age of new residents is 81 for ILU's. Additionally, each ILU has an accessible space that would allow a person able to ride a bicycle with ample bicycle storage room. However, the application lacks visitor bike parking and there is likely to be demand for its usage from local residents visiting the site. A condition is recommended to require the provision of at least 5 visitor bicycle spaces on the site.

#### Part 2.12 – Signs and Advertising

Subject to the heritage recommendations and SEPP 64 assessment above, the proposed signage is considered to be appropriate for a heritage item and is consistent with the applicable controls.

#### Part 2.13 – Biodiversity

The application contains by an assessment of significance that has been reviewed by Councils Urban ecology team as satisfying the requirements. Conditions of consent are included in the recommendation.

#### Part 2.18 – Landscaping and Open Space

The proposed development is largely compliant with the landscape and open space requirements with the exception of Part 2.18.11.3 C15 and C16ii) of the MDCP 2011. The proposal is however, consistent with the standards that cannot be used to refuse consent within Clauses 48 and 50 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, which has the effect of overriding the DCP controls.

#### Part 2.20 – Tree Management

The proposed development is largely complaint with the requirements of this section and maintains the urban forest values through extensive planting and minimising the amount of tree removal. Council's Urban Forest team have objected to the extent of tree removal however achieving the numeric compliance with requirement to replace all removed trees is not realistic in this circumstance, as the rear of the site is effectively undeveloped and insisting on numeric compliance would preclude development on the site. On balance, the proposal is consistent with the objectives of this section and acceptable on merit.

(Addendum: Since the referral and assessment of this application the DCP requirements for new development was amended to two trees and the proposal compiles with the requirements of the development control)

#### Part 2.21 – Site Facilities and Waste Management

The proposed development utilises private waste collection. Given the scale of the development on the site, its status as being rates exempt, the provisions of the *Local Government Act 1993* and zoning as SP2 (Infrastructure). It is acceptable for private waste to be used in these circumstances but as the development has not been built to comply with the requirements for Council Waste collection conditions of consent are imposed that require private waste to be used. If in the future, the landowner seeks to use Council waste service a modification of consent would be required to delete the condition and provide suitable access for Council waste collection vehicles.

#### Part 8 – Heritage

Council's Heritage team advice that the amended proposal is acceptable, subject to conditions of consent that are included in Attachment A.

#### Part 9 – Strategic context.

The proposed development is consistent with the desired future character as expressed within Part 9.1.2 of the MDCP 2011. The proposal protects and conserves the heritage-listed, contributory and period buildings and provides a sympathetic restoration. The proposal protects the values of the heritage items within the precinct.

The proposal is acceptable in the streetscape and reinforces the public domain. The proposed development considered the impacts on biodiversity. The proposed development preserves the residential character of the precinct with the majority of the development hidden behind the historic buildings. The proposed development provides for an appropriate level of off-street car parking and meets the required amount.

The proposal development provides for a connectivity with active transport and maintains an appropriate level of street activation. The proposal provides appropriate links to the greenway as well as an appropriate level of landscaping and tree retention.

### 5(d) The Likely Impacts

The impacts of the proposal are considered acceptable. The proposal has acceptable streetscape impacts noting the surrounding development and the reduction in height provided by the amended plans. The proposal has acceptable visual and acoustic privacy impacts noting the separation distances from the surrounding properties. The traffic impacts of the development have been assessed and Councils traffic engineers are satisfied subject to the amendments that have been made to the proposal.

The proposal has been amended to maximise tree retention and provide for a suitable level of replacement planting. The impacts on EEC's on the site have been considered and mitigation measures have been incorporated. The amended plans substantially reduce the impacts of the proposal. The reduced visual impact is shown below in figures 6-10:



**Figure 8** Existing street view of St Thomas Becket Church



**Figure 9:** Impact of original proposal on the street view of St Thomas Becket Church





**Figure 10:** Impact of amended proposal on the street view of St Thomas Becket Church



**Figure 11:** Impact of original proposal on visual bulk apparent from railway terrace





**Figure 12:** Impact of amended proposal on visual bulk apparent from railway terrace



**Figure 13:** Impact of amended proposal on visual bulk apparent from Petersham Oval near West Street.

#### 5(e) The suitability of the site for the development

The site is suitable for the proposed development noting the site is large, substantially underdeveloped and located in close proximity to a train station. The proposal as amended has addressed the traffic issues associated with the site and the reduction in the height of the proposal allows for the development to occur without significant impacts on the adjacent heritage items.

#### 5(f) Any submissions

The application was notified in accordance with Marrickville Development Control Plan 2011 for a period of 30 days to surrounding properties. A total of 87 submissions were received, one of which is in support of the application.

The submissions raised the following salient concerns which are discussed under the respective headings below:

Issue: Traffic congestion on West Street and Railway Parade.

Comment: Council's traffic engineers have provided feedback to the applicant's traffic consultants and the proposal has been amended. The amended plans have been reviewed by Council's Traffic engineers who have considered that the impact on traffic congestion is acceptable. It is noted that the traffic movements associated with age care facilities are generally outside of peak hour and the applicant has provided evidence to support this.

Issue: On-street car parking is at capacity and the proposal lacks suitable visitor parking.

Comment: The proposal provides for a far greater than compliant level of car parking (as per the SEPP). Council has no legal authority to require more car parking than the development controls require.

Issue: Traffic safety

Comment: Council's traffic engineers have provided feedback to the applicant. The proposal has been redesigned in terms of its vehicular impacts from the initial notification. Council's Engineers advise that the proposed traffic impacts are acceptable.

Issue: Inconsistent with the character of the surrounding area.

Comment: The proposed development maintains the historic buildings that frame the character of the locality on this side of the street. The locality contains a mixture of development types and forms. Compatibility with the character of the surrounding area has been assessed in the context of the planning principle within *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191. The physical impacts on the surrounding development are acceptable. The proposal's appearance from West Street is considered to be in harmony with the buildings around it, noting the retention of the historic buildings and the scale of the buildings in the street. The proposed development includes significant landscaping to integrate the development into the landscape character.

Issue: Excessive height.

Comment: The proposed development has been amended in response to Council feedback to a maximum of 9 storeys. The proposal, as amended, is considered to be acceptable given the site's location and the positioning of the highest elements of the proposal within the centre of the site. The height of the proposal is not considered to result in significant environmental impacts.

Issue: Overshadowing of surrounding residents.

Comment: The juxtaposition of the development to the surrounding dwellings is such that the proposal, as amended, maintains the required level of solar access. This is clearly demonstrated on the Solar Analysis diagrams D-800 - D801 that have been submitted with the amended plans.

Issue: Insufficient infrastructure at local station (no lift or ramp at and limited train services).

Comment: Bus services from West Street provide for level public transport access to the services that are required by *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Lewisham station does not have wheelchair access, however this is not required as bus access is available.

Issue: Increase pressure on local infrastructure and park amenities.

Comment: The proposed development provides for significant gardens and park like facilities for the residents within the site and is located in close proximity to Petersham Oval. This type of development is exempt by ministerial direction from development contributions that are normally used to increase and improve the local infrastructure and parks. The increased demand on local infrastructure of the development must therefore be absorbed by the community. It is noted that the development contains a garden and space for the residents to use and it is not envisaged that the development will have an extensive impact on the demand for infrastructure in the locality.

Issue: Sets a precedent for the surrounding sites.

Comment: Every application is assessed on its merits. It is unlikely that the adjoining SP2 zones would seek similar development and a Site Compatibility Certificate would be required for them to do so. The site is isolated from the surrounding sites that do not have an SP2 zoning and as a result are unlikely to provide justification for a variation to the height development standards under Clause 4.6 of the *MLEP 2011*. The size of this site, the size of the existing heritage buildings and its position against the train line presents special circumstances that are highly unlikely to be replicated within the LGA.

Issue: Excessive removal of landscaping.

Comment: The proposal has been amended to retain an increased proportion of the landscaping on the site and to provide a suitable level of replacement planting. The amended design increases the retention of existing trees and opportunities for tree planting. Subject to the recommended conditions of consent, the level of landscaping is considered to be consistent with the applicable objectives and acceptable on merit.

### 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. This is considered to have been achieved in this instance.

The proposed development will not undermine the intent of any applicable Draft Environmental Planning Instruments.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/ officers and issues raised in those referrals have been discussed in section 5 above.

- Engineering services
- Traffic and Transport Planning
- Heritage Officer
- Urban Forests
- Urban Ecology
- Building Certification
- Resource Recovery
- Architectural Excellence Panel

### 6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Roads and Maritime Service
- Sydney Trains
- Sydney Airport
- Office of Water

## 7. Development Contributions

Having regard to the Ministerial direction dated 14 September 2007, development contributions are not applicable for seniors housing developments made by social housing providers. As a result, development contributions for the development are not applicable.

## 8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in the *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan

2011. The proposal is consistent with the requirements of the applicable State Environmental Planning Policies. The development will result in acceptable impacts on the amenity of the surrounding residents, the streetscape and is in the public interest.

The application is suitable for approval subject to the imposition of appropriate conditions.

## **9. Recommendation**

- A. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA201800505 for alterations and additions to the Anne Walsh and Novitiate buildings to change the use to Independent Living Units, demolish an existing Aged Care Hostel and construct a Residential Aged Care Facility and Independent Living Units at 2B West Street Lewisham subject to the conditions listed in Attachment A.