

# SUPPLEMENTARY ASSESSMENT REPORT

## BAYSIDE COUNCIL

### Application Details

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<b>Application Number:</b>	DA-2021/95 PPSEC-130
<b>Date of Receipt:</b>	15 March 2021
<b>Property:</b>	119 Barton Street, Monterey
<b>Lot &amp; DP/SP No:</b>	Lot 2 DP 857520
<b>Owner:</b>	Monterey Equity Pty Ltd
<b>Applicant:</b>	Monterey Equity Pty Ltd
<b>Proposal:</b>	Integrated Development - Demolition of existing structures and construction of a part 2 and part 3 storey residential aged care facility comprising of 113 rooms (116 beds), basement level parking, front fencing and signage
<b>Value:</b>	\$36,365,251.00
<b>Author:</b>	Michael Maloof – Senior Assessment Planner  Pascal van de Walle – Coordinator Development Assessment
<b>Date of Report:</b>	8 December 2021
<b>No. of submissions:</b>	12 individual submissions and 1 petition
<b>Recommendation:</b>	REFUSAL

### Background

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This supplementary report addresses additional information submitted by the Applicant as well as additional matters requested by the Regional Panel during the site inspection of 119 Barton Street, Monterey, held on 7 December 2021.

Specifically, this supplementary report addresses the following matters:

1. Retention of existing Tuckeroo (Tree 13) – Amendment proposed to Condition 25;
2. RL's for surrounding dwellings;
3. Amended Clause 4.6 to include Clause 40(4)(b) of the Seniors Living SEPP;
4. Visual Privacy;
5. Comparison between Seniors Living SEPP and Housing SEPP;

6. Urban Design Report – prepared by Rothelowman.
7. Front Fence Detail – additional plan submitted on 1 December 2021.

The Applicant will separately provide the Panel with a response to draft conditions, confirm finished surface levels within setback areas around the site and provide a visual impact analysis.

## Assessment

An assessment of each item 1 to 6 is provided below:

### ITEM 1 – RETENTION OF EXISTING TUCKEROO

It is recommended that Condition 25(a) and 25(b) be amended as below to ensure retention of the Tuckeroo (Tree 13) as recommended by the Panel. No changes are required to Condition 25(c)–(j). Amendments are also proposed to correct Condition 25(a) as only trees 8 to 13 are located within the site.

#### 25. “Tree Protection / Removal / Management

- a) Tree numbers ~~1 8 to 12 13~~ located within the ~~rear-setback site~~ are to be retained protected with a Tree Protection Zone (TPZ). The appointment of a project Arborist to supervise and certify works throughout the construction process as specified in Appendix 7 of the Naturally Trees Arborist Report is recommended.
- b) Consent is granted for the removal of the following ~~four (4)~~ three (3) trees; ~~Tree no. 13 – Cupaniopsis anacardioides (Tuckeroo)~~, Tree no. 14 – Cinnamomum camphora (Camphour Laurel), Tree no. 15 – Cinnamomum camphora (Camphour Laurel), and Tree no. 16 – Syzygium sp. (Lilli Pilli).
- c) .... “

### ITEM 2 – RL’S FOR SURROUNDING DWELLINGS

The levels (to AHD) for surrounding dwellings and the medium density development at 126 Barton Street as requested by SECPP for 119 Barton Street Monterey are provided below.

Note: All levels are to Australian Height Datum (AHD)

RL’s of the proposed Aged Care Facility at 119 Barton Street:

- Ceiling height of 3<sup>rd</sup> floor = 13.67m
- Top of ridge = 16.296m

Summary of RL’s of surrounding development:

- 2 Jones Avenue - Details not found
- 105 Barton Street - Ridge = 12.01m (4.286m lower than proposal)
- 109 Barton Street - Ridge = 12.0m (4.296m lower than proposal)
- 126 Barton Street (townhouses) - Ridge = 13.0m (3.296m lower than proposal)
- 3 Jones Avenue - Ridge = 13.16m (3.136m lower than proposal)



**Figure 1 – Plan showing location of dwelling is in the list above**

A full summary of levels is provided below:

**(1) Ridge RL and height at white house to the west at No. 2 Jones Avenue**

DA No. DA-2007/78  
 Development 2 storey dwelling house  
 Ridge Height Unknown.



**Figure 2 – No. 2 Jones Avenue**

The DA file was archived. The dwelling house appears to be compliant with the 8.5m height control.

**(2) RL for metal frame house at No. 105 Barton Street**

DA No. DA-2020/435  
 Development 2 storey dwelling house  
 Ridge Height 8.43m (RL 12.01)



**Figure 3 – 105 Barton Street**



**Figure 4 - Eastern Side elevation of the 2 storey dwelling house – note the land rises to the front (105 Barton Street)**

### **(3) Parapet height for white and grey rear parapet wall to house at 109 Barton Street**

DA No.	DA-2016/397
Development	Alterations and additions to existing dwelling house, including a first floor
Ridge Height	7.36m (RL 12.0)



**Figure 5 – 109 Barton Street**





**Figure 6 - Eastern Side elevation of the first floor addition (109 Barton St)**

#### (4) Height of Townhouse development opposite the site at No. 126 Barton Street

DA No.	DA-2018/322
Development	Two storey townhouses comprising 5 units with basement car parking
Ridge Height	8.12m (RL 13.0) front unit and 7.36m (RL 12.1) behind

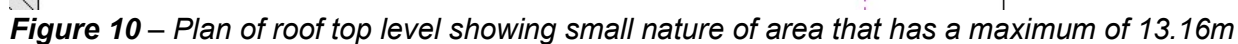


**Figure 7 – 126 Barton Street (located on opposite side of Barton Street)**



**Figure 8 - Eastern Side elevation of the townhouse development (126 Barton St)**

DA No.	DA-2017/276
Development	2 storey dwelling house with roof top terrace
Ridge Height	9.36m (RL 13.16) for small roof over stair only the remainder of the dwelling house complies with the 8.5m height control –



### ITEM 3 – AMENDED CLAUSE 4.6 VARIATION

The Applicant has now submitted three (3) Clause 4.6 variations.

The two (2) below were submitted with the amended plans on 10 November 2021 and have been assessed in the Original Planning Assessment Report:

- (i) Clause 4.6 variation to Clause 40(4)(a) of the Seniors Living SEPP (rear 25% area of the site being single storey).
- (ii) Clause 4.6 variation to Clause 40(4)(c) of the Seniors Living SEPP (maximum 8m height).

A third Clause 4.6 variation that will replace the Clause 4.6 listed in (i) above was submitted to Council on 1 December 2021. It includes consideration of both Clause 40(4)(a) and Clause 40(4)(b) of the Seniors Living SEPP and is provided to the Panel should they consider that the proposal is '**adjacent to a boundary of the site**' in accordance with Clause 40(4)(b).

Clauses 40(4)(a) and 40(4)(b) stipulate that the height of all buildings must:

- be 8m or less (clause 40(4)(a)); and
- not be greater than 2 storeys when adjacent to a site boundary (clause 40(4)(b)).

An amended RFI Letter was also submitted to reflect the changes above.

The relevant parts from Clause 40 of the Seniors Living SEPP are copied below:

#### **40 Development standards—minimum sizes and building height**

- (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.*
- (2) ....
- (3) ....
- (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.*

- (c) ....”

### *Objectives of Clause 40 'Height' of the Senior's Living SEPP:*

There are no stated objectives for this provision however the underlying objectives are that stated within the Note to Clause 40(4)(b), being "...to avoid an abrupt change in the scale of development in the streetscape" as well as those from Clause 4.3 'Height' of RLEP 2011 which are as follows:

- (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,*
- (b) to permit building heights that encourage high quality urban form,*
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.*

### *Objectives of the R3 Medium Density Residential zone:*

- (a) To provide for the housing needs of the community within a medium density residential environment.*
- (b) To provide a variety of housing types within a medium density residential environment.*
- (c) To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- (d) To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.*

### *Extent of Variations*

The applicant seeks to vary the following building height standards under the Seniors Living SEPP:

1. Clause 40(4)(a) - Maximum 8m building height;

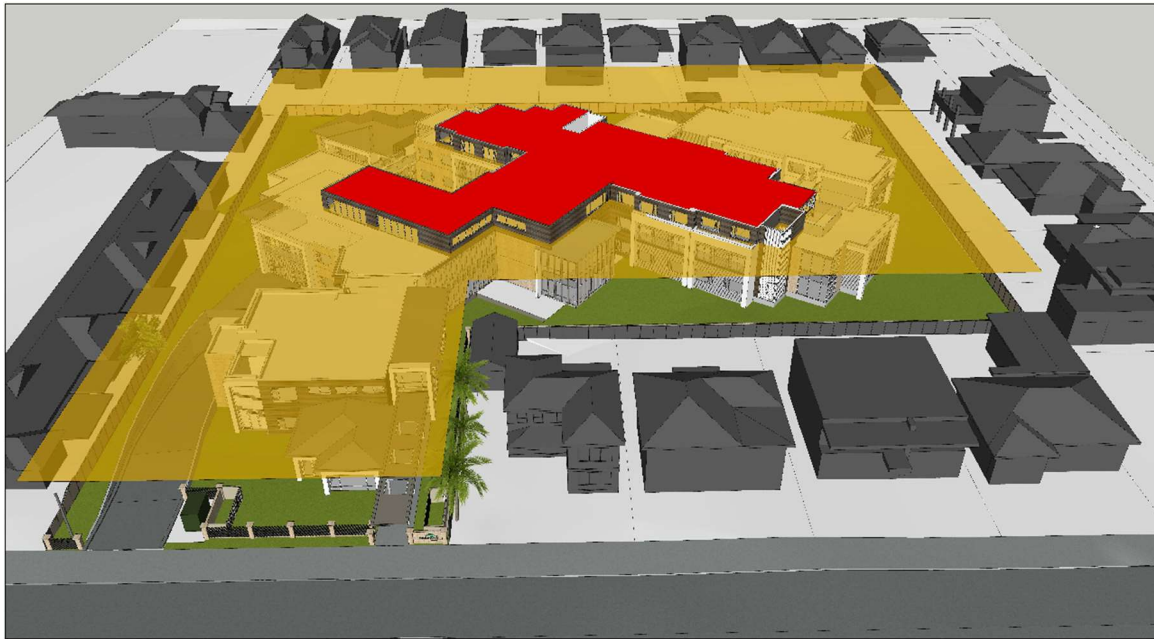
Maximum proposed height of 9.975m (24.68% or 1.975m variation) as measured to the top ceiling in accordance with the SEPP.

2. Clause 40(4)(b) – height not to be greater than 2 storeys when adjacent to a site boundary.

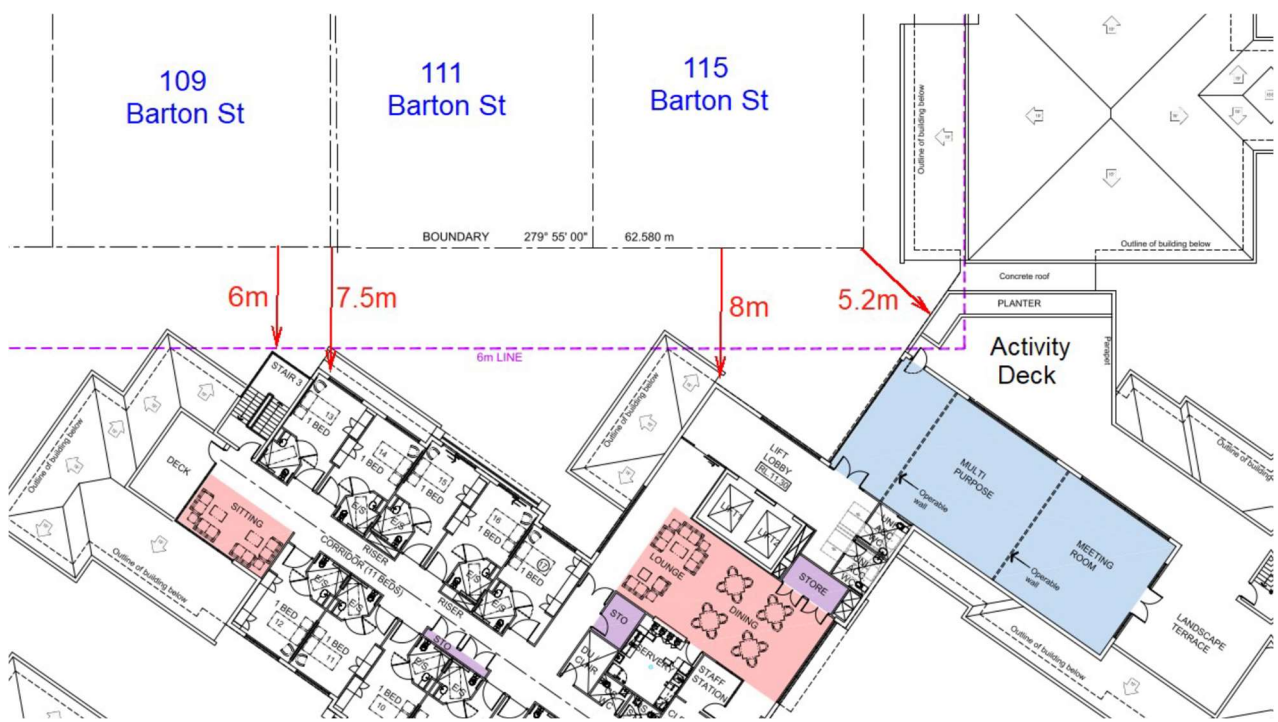
As discussed in detail on pages 24-26 of the original Planning Assessment Report, Council are of the view that the building is three (3) storey adjacent to the sites boundary however the Applicant now considers that there may be some uncertainty around whether parts of the third storey are 'adjacent' to the boundary and therefore, for completeness, have submitted an a Clause 4.6 variation request that responds to both Clauses 40(4)(a) and 40(4)(b).

The three (3) storey built form is located only 6.17m from No. 109 Barton St, only 7.5m from 111 Barton Street and 8m from No. 115 Barton Street (with the Activity deck only 5.2m from the boundary with No. 115). The third floor is also 19.5m from the sites southern boundary, 21.2m from the sites western boundary and 15.4m from the sites eastern boundary.





**Figure 11** - Extent of building above 8m to the underside of the ceiling (as measured by Seniors Living SEPP). The proposal includes a roof above which is not shown in the plan above but which extends up to 12.6m in height.



**Figure 12** - Setbacks for 3rd Floor of proposal to the rear of properties fronting Barton Street

#### Assessment - Clause 4.6 variation to Clause 40(4)(a) and Clause 40(4)(b)

Council officers are of the view that compliance with the 8m and two storey building height development standards is not unreasonable or unnecessary, that there are insufficient environmental planning grounds to warrant the variations and that the proposed three storey building is not in the public interest. Therefore, the variations cannot be supported for the reasons detailed in the assessment of the amended Clause 4.6 variation below.

- **Clause (3)(a)** - *that compliance with the standard is unreasonable or unnecessary in the circumstances of the case*

The applicant states they satisfy the first test from *Wehbe v Pittwater Council [2007] NSWLEC 827* in that the compliance with the development standard is unreasonable and unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The key rationale provided by the applicant to demonstrate that the proposal is consistent with the underlying objectives of Clause 40 are summarised below:

- The proposed two storey built form at rear of the subject site will be consistent with the single and two storey height of the adjoining properties and will not be seen from public streets (e.g. Scarborough Street).
- With a minimum setback of 6m (at closest point) from the rear boundary, the proposal incorporates a staggered edge (not a solid/consistent built form) along all boundaries to facilitate greater landscaping and create a buffer with the adjoining properties to ensure an appropriate built form transition and protect the amenity of surrounding neighbours.
- The proposal incorporates generous landscaping buffers along all the boundaries. The proposal incorporates 3,850.5m<sup>2</sup> landscaping which equates to 33.2m<sup>2</sup> /bed.
- Overshadowing impacts are minimal and comply with the 3 hours required by RDCP 2011.
- Visual and acoustic privacy impacts are minimised and acceptable
- The proposed height encroachment is setback considerably from surrounding property boundaries to ensure an appropriate transition is achieved. In this respect, it is important to note that buildings do not have to be the same height to be compatible.
- In the context of seniors housing, it is generally accepted that buildings can exist in harmony without having the same density, scale or appearance.
- A view analysis provided by the architects demonstrates that a rectilinear built form as recommended by Council's DRP would result in greater impacts. The view analysis also demonstrates that the upper (third) level will not be highly visible from surrounding residential properties.
- The view analysis illustrates that the proposed scheme does not create any measurable or discerning impact when compared to the 'complying' scheme.

The applicant's Clause 4.6 also includes a range of additional reasons to demonstrate how compliance has been achieved with each of the four objectives adopted from Clause 4.3 'height' of RLEP 2011. Some key matters include:

- the building responds to the landform within the uncommon battle-axe lot form;
- direct boundary interfaces are one or two storeys in height, with the third floor in the centre of the site.
- the Seniors Living SEPP affords an additional up to 0.4:1 FSR in recognition of the importance of seniors housing and its direct need within NSW. The scale of the site permits a third floor that has minimal impacts to surrounding residents.
- the buildings frontage to Barton Street is 2 storey being consistent with neighbouring dwellings.
- The proposal includes a generous setback to Barton Street
- The proposal brings a contemporary design to the locality while respecting the character and design of surrounding development
- the proposal will be compatible with surrounding residential dwellings
- the proposed height is consistent with the existing skyline
- generous setbacks are provided to all boundaries.
- Satisfactory retention of sky exposure and daylight for residents

- an appropriate transition in building heights is provided to surrounding developments. The proposal is compatible with the prevailing character of the area and capable of existing harmoniously with the surrounding development.

**Planners comment:**

The site and adjoining properties are zoned R3 Medium Density Housing. Developments are restricted to a maximum of 8.5m and 2 storey in height. The proposed three (3) storey built form is located a minimum of approximately 6m from No.109 Barton Street and No. 115 Barton Street, and nearby No.111 Barton Street. As shown in Figures 2 & 6 it is evident that the proposed three storey portion of the development is of an inappropriate scale that will result in adverse visual bulk to neighbouring properties, particularly when viewed from within rear yards of adjoining properties to the north and west. Figure 3 shows that the proposed two storey built form is inappropriate for the existing and desired 8.5m / 2 storey building height context of surrounding sites.

The applicant's rationale is not agreed with and the proposal is considered to be contrary to the underlying objectives of Clause 40. Specifically,

- The proposal will not provide an appropriate transition in built form and land use intensity.
- The proposed building height does not encourage high quality urban form.
- The proposed building height will have adverse impacts on the sky exposure enjoyed by surrounding residents, particularly those to the north



**Figure 13 – Excessive scale of three storey proposal behind existing two storey dwellings**

- **Clause (3)(b) - Are there sufficient environmental planning grounds to justify contravening the development standard?**

The applicant discusses the strategic merit of the proposal and the reasons for departing from the building height development standard. A summary is below:

- *The proposal seeks to deliver a high-quality aged care facility that directly responds to the needs of the ageing population. The additional height generated as a result of the proposal will accommodate additional rooms to service the ageing population, in line with the additional FSR permitted through the Seniors SEPP.*
- *The additional residents and workers will benefit from easy access to public transport, shops and other key infrastructure such as hospitals, which strongly aligns with Regional and State strategic planning objectives.*
- *The proposal will facilitate investment in health services and social infrastructure that will support the liveability and productivity Planning Priorities for the South District.*
- *The proposed aged care facility will create and deliver additional employment opportunities within the LGA for this critical workforce.*
- *The proposal will provide generous open space with landscaping within the development.*

- *The subject site benefits from its proximity to public transport and nearby services such as commercial centres and the St George Hospital precinct which has been designated for major health/education development.*

The key justification from the applicant's Clause 4.6 to demonstrate sufficient environmental planning grounds are met are provided below:

- *The proposed variation better promotes the orderly and economic use of the land compared to a compliant scheme, permitting the provision of aged care housing at a density envisaged by the SEPP.*
- *The proposed variation allows for improved internal amenity and equitable access for residents to common open space area and landscaped area*
- *Much of the area that exceeds the development standard is not discernible as viewed from the public domain or surrounding residential properties as it has been setback from the edges of the building.*
- *The proposal has demonstrated that the portion of the building which exceeds the maximum building height limit would not give rise to any unreasonable environmental impacts.*
- *In the absence of any material or adverse environmental impact arising from the proposed building height, delivering a compliance building height would not yield a better outcome for the site,*
- *Through the application of the above criteria established within the planning principle by Moore SC in Davies v Penrith City Council [2013] NSWLEC 1141, the proposal demonstrates an acceptable built form outcome as it represents good planning and design to, notwithstanding the building height non-compliance, reduce amenity impacts on surrounding properties as well as the residential character.*

**Planners comment:**

The subject site is a battle-axe allotment which is constrained by its context. It shares its boundaries with the rear private open space areas for 18 dwellings and courtyards for 6 villas. While facilitation of aged care housing is supported in accordance with the SEPP the proposed scheme has been unable to demonstrate that the site is suitable for the scale of proposed development in this context. The applicant has not provided evidence of genuine consideration of alternative site layouts as recommended by Council's Design Review Panel and their 'Visual Impact Assessment' is limited and does not provide a proper understanding of the visual impacts that will result. The proposal will result in adverse visual bulk and privacy impacts, and the applicant has not demonstrated that adverse acoustic and odour impacts will not result. The proposal is not considered to be orderly development of the land as it significantly exceeds the maximum height permitted by the Seniors Living SEPP, the newly adopted Housing SEPP, the RLEP 2011 and the newly adopted Bayside LEP 2021 and will result in adverse impacts to surrounding properties. It is evident from the plans and site inspection that a two storey built form is suitable for the subject site, but that a three (3) storey building (particularly of the current form) does not provide an appropriate transition in height to surrounding properties. It is also noted that Council's DCP permits only single storey development on battle-axe lots within the R2 zone and this is evidence that such sites are known to result in adverse impacts to rear yards of surrounding properties.

The applicant's rationale is not agreed with and the proposal is not considered to demonstrate sufficient environmental planning grounds to warrant justification of the departure.

- **Clause (4)(a)** - *The consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)*

The Applicant's written submission adequately addresses the matters required to be



demonstrated by subclause (3). In accordance with the principles established in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118. Particularly, the applicant's submission has attempted to:

- *Demonstrate why compliance with the development standard is unnecessary or unreasonable.*
- *Demonstrate there is sufficient environmental planning grounds to justify contravening the development standard*

Consideration has therefore been given to the merits of the request.

- **Clause (4)(b)** - *Is the proposed development 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?*

The applicant finds that the proposed development is in the public interest because it is consistent with the objectives of the standard and the objectives of the R3 zone.

Refer to assessment of subclause (3) above for consideration of the objectives of the height standard.

The applicant considers that the proposal satisfies the objectives of the zone for the following key reasons:

- *The proposal facilitates a high quality, medium density, aged care facility that responds to the changing demographic trends, including the unprecedented growth of the ageing population;*
- *The proposal appears to be a two storey residential aged care facility from the street and surrounding private properties, with the third storey located at the centre of the site. As such, the proposal is consistent with the surrounding medium density residential environment;*
- *The proposal facilitates investment in health services and social infrastructure that will support the liveability and productivity Planning Priorities for the South District*
- *Diversifying housing choice by facilitating alternative housing options is crucial to help maintain the population levels. The proposed aged care facility will support the growing ageing population and responds to the community's changing needs; and*
- *The proposal includes 113 single bedrooms which provides a variety of housing choices and creates a more sustainable, equitable and healthy community.*
- *The proposal includes a total of 634m<sup>2</sup> GFA of private amenities including lounge, dining, quiet and sitting areas for the use of future residents;*
- *The proposal also incorporates 245m<sup>2</sup> of communal open space areas for the future residents comprising a social lane with BBQ, contemplation /fern garden, social corner, active corner/boccie court and sensory lane or productive garden; and*
- *Finally, the proposal includes function and other spaces that can be booked by the wider community and will facilitate and assist day-to-day community activities in the area*
- *As demonstrated in Section 7.2 of this report above, the proposed built form has been carefully designed to minimise any impact on the character and amenity of the area. The proposed built form is stepped down to two storeys at all side boundaries; one storey at the rear boundary; and incorporates a generous front setback. The third storey is introduced at the centre of the site which reduces its potential overshadowing onto neighbouring properties;*
- *The proposal includes a generous front street setback with significant landscaping provided which will soften the built form viewed from public streets;*

- *The development will not overshadow any adjoining main living areas of adjoining neighbours at south and will only generate minor additional overshadowing to the private open space areas compared to existing; and*
- *Overall, the proposal is consistent with the existing character and amenity of the area. The proposal will bring a contemporary edge to the surrounding area whilst reflecting the scale, rhythm and materiality of the neighbouring residence.*

**Planners comment:**

The assessment of the R3 zone under RLEP has found that the proposal does not satisfy the objectives of the zone. The applicant's rationale above is not agreed with. The proposal is considered to be high density development and is therefore not located within a medium density environment. The proposal results in adverse impacts to surrounding properties particularly in terms of visual bulk and privacy. Insufficient information has been provided to demonstrate that adverse noise and odour impacts will not result. Furthermore the proposed layout is considered contrary to the *Seniors Living Policy – urban guidelines for infill development* and the proposed layout is found by Council's Design Review Panel to result in adverse impacts on the character and amenity of the area. No genuine consideration has been provided to demonstrate that genuine alternatives have been considered.

- **Clause (5)(a)** - the consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and

The proposed variation to the height development standards contained in Clauses 40(4)(a) and 40(4)(b) will not result in any matters of significance for State or regional environmental planning.

- **Clause (5)(b)** - the public benefit of maintaining the development standard

The justification (as stated above) demonstrates that the proposed variation prevent compliances with the objectives of the standard itself and of the zone. The proposal for a building of the proposed height is inconsistent with the existing and desired future character for the 'medium density area' and will result in adverse impacts to surrounding properties and adverse impacts on the character of the area. In this regard, it is considered that the proposal is not the public interest.

- **Clause 5(c)** - any other matters required to be taken into consideration by the Secretary before granting concurrence

The proposed variation exceeds the maximum 10% variation to the floor space ratio standard and is submitted to the Sydney Eastern City Planning Panel for determination.

- **Conclusion** - Variation to Clause 40(4)(a) & 40(4)(b) - 8 metre / 2 Storey height

The Applicant's Clause 4.6 variation to the maximum 8m height and 2 storey height adjacent to a site boundary does not demonstrate that compliance with the standards is unreasonable or unnecessary, does not demonstrate that the proposal satisfies the underlying objectives of the standards nor the objectives of the zone, and does not demonstrate that there are sufficient environmental planning grounds to warrant a variation. The proposed variations to Clause 40(4)(a) and Clause 40(4)(b) of the Seniors Living SEPP result in a development that is out of keeping with the existing and desired 2 storey character of buildings surrounding the site and the proposal will result in adverse visual bulk and privacy impacts to neighbouring properties and are therefore not in the public interest and are not supported.

## ITEM 4 – VISUAL PRIVACY

The proposal will result in adverse privacy impacts to adjoining properties.

The applicant submitted a plan showing proposed screening for what appears to be some bedroom windows (**Figure 14**), however location details have not been provided. Privacy concerns are also raised with various other windows and locations around the site and insufficient details have been provided to demonstrate that impacts from these windows will be minimised.



Part Perspective 1 showing Window Treatment for Privacy

Scale: NTS

**Figure 14** – proposed privacy screening

The key areas which are considered to result in adverse privacy impacts are detailed below:

- (a) External areas – perimeter path within side setback areas to be located minimum of 3m from boundaries and to be provided at existing ground level to minimise privacy impacts to rear yards of surrounding properties.
- (b) First Floor Level
  - Corridor windows facing toward No. 115 Barton Street;
  - Dining Room adjacent to central lift lobby - windows facing north-west toward No. 111 Barton Street;
  - Sitting Room windows:
    - 1. Facing rear of No. 109 Barton Street;
    - 2. Facing rear of No. 6 Jones Avenue;
    - 3. Facing rear courtyard of villas at No. 121 Barton Street;
  - Quiet Room windows facing toward No. 121 Barton Street;
  - Balconies / Windows to Rooms 7, 8, 25, 26 & 40-43 facing toward adjoining properties;
- (c) Second Floor Level
  - Windows for Rooms 13-16;
  - Activity deck;
  - Multi Purpose Room facing toward north-west.

Should the Panel determine to approve the application it is requested that proposed Deferred Commencement Condition No.4 be amended to read as follows:

**Deferred Commencement Condition No.4**

*Details shall be submitted to demonstrate that privacy impacts to adjoining properties will be suitably minimised with respect to the following locations around the site:*

- (a) *External areas – perimeter path within side setback areas to be located minimum of 3m from boundaries and to be provided at existing ground level to minimise privacy impacts to rear yards of surrounding properties.*
- (b) *First Floor Level*
- *Corridor windows facing toward No. 115 Barton Street;*
  - *Dining Room adjacent to central lift lobby - windows facing north-west toward No. 111 Barton Street;*
  - *Sitting Room windows:*
    1. *Facing rear of No. 109 Barton Street;*
    2. *Facing rear of No. 6 Jones Avenue;*
    3. *Facing rear courtyard of villas at No. 121 Barton Street;*
  - *Quiet Room windows facing toward No. 121 Barton Street;*
  - *Balconies / Windows to Rooms 7, 8, 25, 26 & 40-43 facing toward adjoining properties;*
- (c) *Second Floor Level*
- *Windows for Rooms 13-16;*
  - *Activity deck;*
  - *Multi Purpose Room facing toward north-west.*

**ITEM 5 – COMPARISON BETWEEN SENIOR’S LIVING SEPP AND HOUSING SEPP**

A comparison between the key provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and State Environmental Planning Policy (Housing) 2021 are provided below:

See table of comparisons in **APPENDIX 1** below.

**ITEM 6 – URBAN DESIGN REPORT**

The following comments are provided in response to the Urban Design Review provided by Rothelowman dated 30/11/2021.

The report addresses the built form, massing and layout in the following sections:

- Building Footprint
- Landscaping and Building Areas
- Height
- Shadows

The report makes the following Recommendations:



- More analysis to be done in respect to privacy and overlooking. This can use screening which should be designed to minimise creating any additional overshadowing.
- Also recommended to provide additional trees and clarification of deep soil areas.

Note:

The Urban Design Report describes to the existing built form situation in the precinct but doesn't delve into the building quality and style or materials and finishes and its implications to urban design.

#### Council Planner's Comment:

**Building Footprint:** The increased setbacks assist in softening the diagonal length of building. The wings provide variation to the setbacks. While the building wings prevent a continuous length of building, the stepping in and out does not reduce building massing. The building wings assist in providing deep landscape areas around the periphery of the site capable of having additional landscape elements which should be provided to soften the development.

**Landscaping and Building Areas:** The increased side and rear setbacks assists in reducing impacts on the neighbouring properties. Attention shall be provided to the revised location of stormwater pits and landscape elements within these setbacks to ensure there are no anomalies. Increased screen planting, trees and landscape planting shall be provided to improve privacy, soften and screen the proposed development.

**Height:** Building rotation and privacy screens alone are not sufficient to resolve the massing and bulk impacts and the upper most floor should be setback further from the properties to the north fronting Barton Street.

**Built form and massing:** The articulation is a contrast to the prevailing built form, however, increased setbacks for the upper level can assist in further reducing massing impacts on the neighbours. The increased setbacks of the upper floor with additional landscaping elements can together reduce the built form and massing impacts on neighbours.

**Shadows:** The shadows have been reduced to the sides and rear which is an improvement to the scheme with less impacts on neighbouring properties.

#### **ITEM 7 – FRONT FENCE**

A detailed front fence plan was submitted to Council on 2 December 2021. The plan shows a fence with a maximum height of 1.2m above the existing ground level. The proposal is part open form and is consistent with the requirements of Rockdale DCP 2011.

If the Panel determines to approve for the scheme, it is recommended that Condition 2 of the submitted draft Notice of Determination be amended to make reference to the submitted plan, as shown in *red italic* text below:

2. *The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.*

<b>Plan/Dwg No.</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Drawing Nos. 2014/DA03, DA04 to DA08, Site and Floor Plans, Revision C, (21/327344)	Boffa Robertson Group	08/11/2021	09/11/2021

Drawing No. 2014/DA03a to 2014/DA03c, Landscaping and Planning Considerations, Revision B, (21/327344)	Boffa Robertson Group	08/11/2021	09/11/2021
Drawing No. 2014/DA09 and 2014/DA10, Elevation Plans, Revision C, (21/327344)	Boffa Robertson Group	08/11/2021	09/11/2021
Drawing No. 2014/DA11 Section Plans, Revision C, (21/327344)	Boffa Robertson Group	08/11/2021	09/11/2021
Demolition Plan	Boffa Robertson Group	09/12/2020	15/03/2021
Landscape Plans (Pages 00 - 32)	LANDFX Landscape Architecture	19 November 2021	22 November 2021
<u>Part Ground Floor Plan and Front Fence Elevation (Job No. 2014, Drawing No. DA18b, Rev A)</u>	<u>Boffa Robertson Group</u>	<u>01/12/2021</u>	<u>02/12/2021</u>

## Conclusion

Consideration has been given to the seven (7) additional matters above. Council Officer's are of the view that the additional / amended information provides further evidence that demonstrates that the proposal will result in adverse visual bulk and privacy impacts to surrounding residents, that the proposal is out of keeping with the existing and future desired two storey character of the area, that the proposal is of an inappropriate layout and design and that the development is contrary to key objectives of the R3 Medium Density Residential zone and the underlying objectives of the height development standard contained in Clause 40 of the Seniors Living SEPP. The proposal is also contrary to newly adopted provisions contained within the Housing SEPP. The proposal will set an undesirable precedent and is not in the public interest.

An amended recommendation is provided below to address the matters discussed in this Supplementary Report, particularly with regards to the amended Clause 4.6 variation submitted to address the variation to Clause 40(4)(b) of the Seniors Living SEPP (2 storey height adjacent to the boundary of a site).

It is recommended that the application be REFUSED for the reasons detailed below.

## Recommendation

- A. That the Sydney Eastern City Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, not support the variation to the to the maximum 8m height prescribed by Clause 40(4)(a) or the maximum 2 storey adjacent to a site boundary prescribed by Clause 40(4)(b) of the *State Environmental Planning Policy (Housing for seniors or People with a disability) 2004*, as the proposed development would result in a development that is out of keeping with the existing and desired 2 storey character of dwellings surrounding the site and the proposal will result in adverse visual bulk and privacy impacts to neighbouring properties. The proposed variations are therefore not in the public interest because they are not consistent with the objectives of that particular standard and the objectives for development within the zone.

B. That development application, DA-2021/95, for Integrated Development including demolition of existing structures and construction of part 2 and part 3 storey residential aged care facility comprising of 137 rooms including basement level parking and fencing at 119 Barton Street, Monterey, be **REFUSED** pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:

1. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* (the Act), is not consistent with the Objects of the Act, particularly with regards to Sections 1.3(c) and 1.3(g), as follows
  - (c) *to promote the orderly and economic use and development of land,*
  - (g) *to promote good design and amenity of the built environment.*
2. Pursuant to the provisions of Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development exceeds the maximum building height controls contained in Clauses 40(4)(a) and 40(4)(b) of the State Environmental Planning Policy (Housing for seniors or People with a disability) 2004 requiring that development have a maximum of 8m and a maximum of 2 storey adjacent to site boundaries respectively. The proposal also exceeds the maximum 8.5m height permitted under clause 4.3 of Rockdale Local Environmental Plan 2011 (and Bayside Local Environmental Plan 2021), and the proposed building height will have adverse amenity impacts on surrounding residents particularly in terms of visual bulk, scale and privacy. The proposal is contrary to the requirements and objectives of these provisions. The applicant has submitted a Clause 4.6 variation for Clauses 40(4)(a) and 40(4)(b) which are not supported.
3. Pursuant to the provisions of Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development will have adverse amenity impacts on surrounding residents particularly in terms of visual bulk, scale and privacy impacts resulting from the proposed three storey height and diagonal layout of the scheme. The proposal is therefore contrary to the provisions of Clauses 29 and 33 of *State Environmental Planning Policy (Housing for seniors or People with a disability) 2004*.
4. Pursuant to the provisions of Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development will have adverse visual and, in the absence of adequate information, adverse acoustic privacy impacts on surrounding residents and is contrary to the provisions of Clause 34 of State Environmental Planning Policy (Housing for seniors or People with a disability) 2004.
5. Pursuant to the provisions of Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is contrary to the first, second and fourth objectives of the R3 - Medium Density Residential zone under the Rockdale Local Environmental Plan 2011 (as well as the recently gazetted Bayside Local Environmental Plan 2021) as the proposal is three storeys in height and provides housing in a 'high density environment' not 'medium density environment', and the proposal does not ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area. The relevant objectives are listed below:
  - *To provide for the housing needs of the community within a medium density residential environment.*
  - *To provide a variety of housing types within a medium density residential environment.*
  - *To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.*

6. Pursuant to the provisions of Section 4.5(a)(iii) of Environmental Planning and Assessment Act 1979, the proposed development is contrary to the objectives and controls of the Rockdale Development Control Plan 2011, particularly with regards to:
  - Part 4.2 - Streetscape and Site Context
  - Part 4.3.1 - Open Space and Landscape Planting
  - Part 4.4.5 - Visual Privacy
  - Part 4.4.5 - Acoustic Privacy
  - Part 4.6 - Design of Loading Dock
  - Part 5.1 - Building Design
  - Part 8 - Notification
7. Pursuant to the provisions of Section 4.15(b) of the Environmental Planning and Assessment Act 1979, the proposed development in its proposed form and based on the information currently before Council, will result in adverse visual bulk, privacy, noise and odour impacts to surrounding properties.
8. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed three storey portion of the development will be visible beyond the existing dwellings fronting Barton Street and will result in unacceptable impacts on the streetscape and character of the R3 Medium Density area. The proposal would set an undesirable precedent within the built environment.
9. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is incompatible in its layout, bulk, scale, size and design with surrounding developments and would adversely impact upon the existing and desired future scale of developments within the R3 Medium Density Residential zone.
10. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to allow a full and proper assessment of potential noise and odour impacts to surrounding residents. The applicant has not submitted an odour report and the acoustic report does not adequately address potential noise impacts resulting from site operations or from mechanical plant / exhaust systems.
11. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed layout and scale of the development is considered unsuitable for the battle-axe allotment which shares its boundaries with the rear yards of 18 dwelling houses and courtyards of 6 villas and results in adverse visual bulk, scale and privacy impacts to surrounding properties. In addition, in the absence of an odour report and in the absence of additional acoustic assessment, there is insufficient information to demonstrate that the proposal will not result in adverse odour and noise impacts to surrounding residents. Therefore, the site is not considered suitable for the proposed development.
12. Having regard to the submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, numerous issues raised in the submissions are considered valid as the proposal will result in unacceptable visual bulk, scale and privacy impacts to the adjoining properties. In addition, in the absence of adequate information, the proposal is likely to result in adverse noise and odour impacts to



surrounding properties. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and having regard to the reasons noted above, the proposed development will set an adverse precedent and is not considered to be in the public interest

- C. That the submitters be notified of the Sydney Eastern City Planning Panel's decision.

# APPENDIX 1 – COMPARISON BETWEEN SENIORS LIVING SEPP AND HOUSING SEPP

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
CI 26 - Location / Access to Facilities	<p>Access within 400m max from site to shops / banks / retail / commercial services / GP / community services / recreation facilities and accessed by suitable pathway max 1:14</p> <p>Public transport (available minimum once between 8am – 12pm and 12-6pm daily Monday to Friday) and within 400m of site and accessible by suitable pathway</p>	A Clause 26 report has been submitted which details three footpath locations that are required to be improved to allow compliance with the gradient requirements.	<p>Yes - subject to footpath works being carried out at three locations to ensure gradients comply.</p> <p>Yes</p>	Clause 94	Similar provisions	Acceptable subject to compliance with submitted Clause 26 report.	Yes
CI 28 – Water and Sewer	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 site currently has access to water and sewer services - provision exists in the street. A Section 73 will be required prior to Occupation Certificate.	Yes	Removed	Similar provisions	No change to assessment.	Yes

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
	the removal or disposal of sewage						
CI 29 - Compatibility Criteria	<p>Consideration to be given to clause 25(5)(b)(i), (iii) &amp; (v) including whether the proposed development is compatible with the surrounding land uses having regard to:</p> <p>(i) The natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development</p> <p>(iii) The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision.</p>	<p>The proposed development exceeds the maximum permitted height and does not comply with the rear setback requirements in the SEPP. The proposal will result in adverse scale and visual bulk impacts to surrounding residents and the height variation is not supported by Council officers nor the Council's Design Review Panel. The layout of the proposal is not supported by the Design Review Panel who recommended that an orthogonal scheme be provided in lieu of the diagonal scheme proposed. The Panel were of the view that the proposed scheme would result in visual bulk impacts despite the breaks in the built form.</p>	No	CI. 99 – Neighbourhood amenity and streetscape	See response in row below for amenity provisions.	See response in row below for amenity provisions.	NO

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
	(v) Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.						
CI 33 – Neighbourhood Amenity and Streetscape	<p>New buildings to contribute to the quality and identity of the area</p> <p>Maintain reasonable neighbourhood amenity and appropriate residential character</p> <p>Front setbacks in sympathy with existing building line</p> <p>Planting in sympathy with streetscape</p> <p>Retain major existing trees</p>	<p>The proposal has been amended to improve its relationship with Barton Street, increase setbacks from adjoining boundaries to 6m and reduced its intensity. However the proposal remains part three storey and will result in adverse scale and visual impacts when viewed from surrounding properties. The Council's Design Review Panel have reviewed the scheme and is not supportive.</p>	No - see Note 1	CI. 99 – Neighbourhood amenity and streetscape	<p>Seniors housing should be designed to—</p> <p>(a) recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation, and</p> <p>(b) recognise the desirable elements of—</p> <p>(i) the location's current character, or</p> <p>(ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area, and</p>	<p>Proposal has a different building shape as per (a) however proposal has not demonstrated that they have recognised the desirable elements of the sites current character – i.e. 2 storey development with orthogonal form as per DRP comments. The proposal also results in adverse impacts to surrounding properties, including the three storey walls adjacent to the boundary.</p>	NO



Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
					(c) complement heritage conservation areas and heritage items in the area, and (d) maintain reasonable neighbourhood amenity and appropriate residential character by— (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and (e) set back the front building on the site generally in line with the existing building line, and (f) include plants reasonably similar to		

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
					other plants in the street, and  (g) retain, wherever reasonable, significant trees, and (h) prevent the construction of a building in a riparian zone.		
CI 34 – Visual and Acoustic Privacy	<p>Appropriate location and design of windows and balconies and the use of screening devices and landscaping</p> <p>Locating bedrooms away from driveways, parking areas and paths</p>	<p>The proposal is surrounded by rear yards of 18 detached dwellings and 6 villas. The proposal aims to reduce visual privacy impacts by orienting the building on angles to minimise overlooking. However given the significant number of windows, juliette style balconies and large common terrace at level 2, the proposal will result in adverse visual privacy to adjoining properties. While setbacks to boundaries have been increased to allow additional planting, several areas are unable to contain trees due to conflicts with the stormwater system. Planning Principles also confirm that reliance on planting cannot be used to address privacy. Council's Environmental Health Officers have</p>	No	CI. 100 – Visual and Acoustic Privacy	<p>Appropriate location and design of windows and balconies and the use of screening devices and landscaping</p> <p>Locating bedrooms away from driveways, parking areas and paths</p>	No change to assessment	<b>NO</b>

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
		advised that inadequate information has been provided to demonstrate that noise from the facility will be minimised and acceptable.					
CI 35 – Solar Access and Design for Climate	<p>Adequate daylight to main living area of neighbours and residents</p> <p>Adequate sunlight to substantial areas of private open space</p> <p>Reduce energy use and maximise natural ventilation, solar heating and lighting with provision of northern windows and living areas</p>	<p>The applicant has provided shadow diagrams showing that the proposal will only start impacting the rear courtyard of one or two villas at 121 Barton Street after 1pm. Therefore, the amended scheme retains adequate daylight to main living areas of dwellings on neighbouring properties. Refer to assessment of Part 4.4.2 of RDCP 2011 for more detail.</p> <p>Within the site, most of the private open space areas at the periphery of the site benefit from adequate sunlight, however the areas between the wings of the building do not. This was not supported by the Design Review Panel who recommended north-south orientated courtyards to benefit from winter sun and to respect the site context.</p> <p>Sustainability and energy reduction measures have</p>	Yes - however, inadequate solar access between building wings during the winter months	<b>CI. 101 – Solar Access and Design for Climate</b>	<p>The design of seniors housing should—</p> <p>(a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, 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>Inadequate solar access provided for future occupants due to building orientation.</p> <p>Windows to several common spaces face south or have sunlight blocked by proposed built form.</p>	<b>NO</b>

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
		not been adequately employed including solar energy, heating and water saving devices and WSUD.					
CI 37 – Crime Prevention	Provide security and encourage crime prevention	<p>The proposed development provides access control and other measures in line with safer by design principles such as secured boundary fencing and CCTV facilities.</p> <p>Passive surveillance of the street and front garden is achieved by having some rooms fronting the street. Additional proposed measures shall be included as conditions of consent. The proposal is satisfactory in regards to safety and security.</p>	Yes	Cl. 103 – Crime Prevention	No significant change - Provide security and encourage crime prevention	Acceptable subject to conditions and submitted report.	Yes
CI 38 – Accessibility	<p>To be provided to public transport services / local facilities</p> <p>To parking on site</p>	An Access Review Report has been submitted. The report makes recommendations to achieve compliance with relevant standards. The recommendations are to be incorporated in the construction certificate documentation and implemented during construction. A condition of consent is proposed to achieve compliance with the recommendations of	Yes	Cl. 104 - Accessibility.	<p>To be provided to public transport services / local facilities</p> <p>To parking on site</p>	No change to assessment.	Yes

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
		the report. The proposal is satisfactory having regard to this clause.					
CI 39 – Waste Management	Appropriate facilities to be provided	A waste storage room is provided at basement level which can be accessed by a Medium Rigid Vehicle (SRV). Waste collection can be carried out by private contractor using a MRV.	Yes	<b>CI. 105 – Waste Management</b>	Appropriate facilities to be provided to maximise recycling.	Remains acceptable.	Yes
40 (2) - Site Area	Min. 1000sq/m	Site has an area of 7,218m <sup>2</sup> in a battle axe configuration	Yes	Cl. 84 (2)(a) – Site Area	No change - Min. 1000sq/m	Site has an area of 7,218m <sup>2</sup> in a battle axe configuration	Yes
40 (3) - Site Frontage	20m wide at building line	Site has a frontage of 34.385m to Barton Street	Yes	Cl. 84 (2)(b) – Site Frontage	No change - 20m wide at building line	Site has a frontage of 34.385m to Barton Street	Yes
40 (4)(a) – Height <i>“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.”</i>	Max. 8m	Maximum height of 9.975m (24.68% or 1.975m variation) under the SEPP - measured to the top ceiling height Height of 12.6m under the RLEP 2011 (48.2% or 4.096m variation) measured to highest point on the roof	<b>No</b> - max 9.975m (24.68% or 1.975m variation) Clause 4.6 variation submitted with the application not supported.	Cl. 84 (2)(c)(i) - Height  Cl. 84(3) – Height of Service Equipment	(i) Height max 9.5m (height defined by definition in Standard LEP Template)  Max 11.5m if servicing equipment on the roof is integrated into the building and screened from view from public places; and Is limited to max 20% of the roof surface.	12.6m in height (33% variation)  12.6m maximum height for residential portion and servicing equipment which is integrated into the roof.	<b>NO - 33% or 3.1m variation.</b>  <b>NO – 1.1m variation (9.6% variation)</b>
40 (4)(b) – Storeys	<i>"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</i>	Maximum of 3 storeys for part of the site. The third level is setback 6m from the sites northern boundary with No.109 Barton Street and 5.2m from the sites	<b>No - See Note 2.</b> Variation not supported. Clause 4.6 variation not provided.	<b>Cl. 84 (2)(c)(ii)</b>	No change – No more than 2 storeys if the building is adjacent to the boundary of the site.	Maximum of 3 storeys adjacent to boundary	<b>NO – 33% variation</b>



Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
	<p><i>associated development to which this Policy applies) must be not more than 2 storeys in height"</i></p> <p>"storey" means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:</p> <p>(a) a space that contains only a lift shaft, stairway or meter room, or</p> <p>(b) a mezzanine, or</p> <p>(c) an attic.</p>	boundary with No. 115 Barton Street, and is considered to be 'adjacent to' this site boundary. The applicant was requested to submit a clause 4.6 variation however is of the view that the provision has no work to do as the building is not adjacent to the sites boundary.					
40 (c) - Height at Rear 25% of site	<p>Max. 1 storey at rear of site</p> <p>Rear 25% of site depth = 23.8m</p> <p>Rear 25% of battle axe head = 16.0m</p>	<p>Setback of first floor at rear is 12.5m and steps in at one point to 23.8m and out again - portions of non compliance</p> <p>Setback of second floor at rear is 19.5m</p>	<b>No</b> - does not comply - applicant contends area based control to defend building step in and out	<b>Removed from SEPP</b>	<b>Removed from SEPP.</b>	<b>N/A</b>	<b>N/A</b>
48(a) - Building Height	Proposal cannot be refused if it's height is 8m or less	Maximum height of 9.975m (24.68% or 1.975m variation) and may be refused based on height.	<b>No</b>	<p><b>Cl. 107(2)(a)</b></p> <p><b>Cl.107(2)(b)</b></p>	<p>Proposal cannot be refused if it's height is 9.5m or less</p> <p>Max 11.5m if servicing equipment on the roof is integrated into the building and screened</p>	<p>Maximum height of 12.6m (33% or 3.1m variation) and may be refused based on height.</p> <p>12.6m maximum height for residential portion and servicing equipment</p>	<p><b>NO</b></p> <p><b>NO</b></p>

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
					from view from public places; and Is limited to max 20% of the roof surface.	which is integrated into the roof.	
48 (b) – Density and Scale	1:1	0.94:1 (6,798.2m2)	Yes	Cl. 107(2)	1:1	No change 0.94:1 (6,798.2m2)	Yes
48 (c) - Landscaped Area	Min. 25sq/m per bed (116 beds = 2,900 sq/m)  <b>landscaped area</b> means that part of the site area that is not occupied by any building and includes so much of that part as is used or to be used for rainwater tanks, swimming pools or open-air recreation facilities, but does not include so much of that part as is used or to be used for driveways or parking areas.	3,430m2 (1,793 m2 - Deep Soil area - landscaped area excludes built upon area)	Yes - however stormwater retention tanks located within setback areas will not permit appropriate planting in accordance with the submitted plans.	Cl. 107(2)	Min. 15m2 landscape area per bed (1,740m2)  Min. 15% of site area as deep soil (1,082m2)  Min. 10m2 Internal and external communal area Per bed = 1,160m2	3,430m2 landscape area  1,793 m2 - Deep Soil area  Appears to comply.	Yes - however stormwater retention tanks located within setback areas will not permit appropriate planting in accordance with the submitted plans.
48 (d) - Parking	1 per 10 beds = 12 spaces for 116 beds 1 per 15 beds dementia = 0 spaces no dementia beds 1 per 2 staff = 20 spaces for 40 staff	39 car parking spaces and 1 shared loading bay / Ambulance space	Yes - however separate ambulance bay should be provided	Cl. 107(2)	28 spaces required: * 1 per 15 beds = 8 spaces for 116 beds * 1 per 2 staff = 20 spaces for 40 staff * 1 ambulance bay (shared with loading bay)	39 car parking spaces and 1 shared loading bay / Ambulance space	Yes - however separate ambulance bay should be provided

Seniors Living SEPP 2004				Housing SEPP 2021 - Equivalent / New Provision			
SEPP (Housing for Seniors or People with a Disability) 2004 (Standard)	Requirement	Proposal	Complies with Seniors Living SEPP	SEPP (Housing) 2021 Standard	Requirement	Proposal	Complies with Housing SEPP
	1 ambulance bay (shared with loading bay)  Total Required = 32 spaces + 1 ambulance bay				Total Required = 32 spaces + 1 ambulance bay		
				91 Fire sprinkler systems in residential care facilities	(1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system. (2) Development for the purposes of the installation of a fire sprinkler system in a residential care facility may be carried out with development consent.	Details not provided	Details not provided.