

## COUNCIL ASSESSMENT REPORT

### SYDNEY EASTERN CITY

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| <b>PANEL REFERENCE &amp; DA NUMBER</b>                          | PPSEC-159<br>DA-2021/507   |
| <b>PROPOSAL</b>   | Demolition of all structures, tree removal, and construction of a part two storey and part three storey Seniors Housing development comprising 33 units and basement car parking for 16 vehicles, associated landscaping and land consolidation.   |
| <b>ADDRESS</b>  | 6-12 Dalley Avenue & 212 Banksia Street, Pagewood.<br>Lots 39, 40, 41 and 42 in DP 35159 & Lot 37 in DP 35160  |
| <b>APPLICANT</b>  | NSW Land and Housing Corporation   |
| <b>OWNER</b>  | NSW Land and Housing Corporation   |
| <b>DA LODGEMENT DATE</b>  | 29 October 2021  |
| <b>APPLICATION TYPE</b>   | Crown DA   |
| <b>REGIONALLY SIGNIFICANT CRITERIA</b>                          | Clause 4 within Schedule 6 of SEPP (Planning Systems) 2021 – Crown development over \$5 million  |
| <b>CIV</b>  | \$10,497,222.00 (excluding GST)  |
| <b>CLAUSE 4.6 REQUESTS</b>                                      | Clause 4.4 of Bayside LEP 2021 - FSR   |
| <b>KEY SEPP/LEP</b>   | <ul style="list-style-type: none"> <li>-Bayside LEP 2021</li> <li>-SEPP (Housing for Seniors of People with a Disability) 2004</li> <li>-SEPP (Resilience and Hazards) 2021</li> <li>-SEPP No.65 – Design Quality of Residential Apartment Development</li> <li>- SEPP (Biodiversity and Conservation) 2021</li> </ul> |
| <b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b> | <p>18 submissions. 16 unique.</p> <p>The key issues raised relate to: Privacy, overshadowing, insufficient amount of car parking, additional traffic generation, impact on on-street parking availability, property de-valuation, visual impact on the streetscape and inappropriate scale.</p>                        |

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| <b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>        | <ul style="list-style-type: none"> <li>-Architectural Plans</li> <li>-Landscape Plans</li> <li>- Survey Plan</li> <li>- Clause 4.6 FSR</li> <li>-Design Review Panel Minutes</li> <li>-Council Assessment Report</li> </ul> |
| <b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)</b> | N/A   |
| <b>RECOMMENDATION</b>                               | Approval  |
| <b>DRAFT CONDITIONS TO APPLICANT</b>                | Yes   |
| <b>SCHEDULED MEETING DATE</b>                       | 21 April 2022   |
| <b>PLAN VERSION</b>                                 | 23 March 2022   |
| <b>PREPARED BY</b>                                  | Patrick Nash, Senior DA Planner   |
| <b>DATE OF REPORT</b>                               | 5 April 2022  |

## EXECUTIVE SUMMARY

Bayside Council received DA-2021/507 on 29 October 2021 for demolition of all structures, tree removal, and construction of a part two storey and part three storey Seniors Housing development comprising 33 units and basement car parking for 16 vehicles, associated landscaping and land consolidation at 6-12 Dalley Avenue & 212 Banksia Street, Pagewood.

The site is located on the western side, of the three-way intersection of Banksia Street, Page Street, and Dalley Avenue. The site is irregular in shape, and by Survey has a frontage to Dalley Avenue of approximately 63m, a splayed frontage to Page Street of approximately 10m, and frontage to Banksia Street of approximately 74m. The site currently accommodates five (5) detached single brick dwellings.

The proposed Crown development has a capital investment value over \$5 million. It is therefore considered regionally significant and is required to be determined by the Sydney Eastern City Planning Panel.

The key issues identified relate to:

### Affordable Housing

The development is for the purposes of seniors housing and is being undertaken by the NSW Land & Housing Corporation (LAHC). The application is lodged under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

### Crown Development

The application is lodged by a public authority and therefore constitutes Crown development in accordance with clause 294 of the Environmental Planning and Assessment Regulation 2021.

### Floor Space Ratio

The proposed development exceeds the allowable FSR for the site. Notwithstanding this, the proposal is considered to be a high quality design outcome, does not cause any adverse impacts for surrounding properties and/or the streetscape and is in the public interest. Whilst clause 4.6 does not apply in this instance having regard to the relevant case law, a clause 4.6 variation has been provided for abundant caution and to demonstrate consistency with the relevant requirements.

### Design Review Panel

The application has been reviewed by the Design Review Panel who supported the proposal subject to some minor design changes which are generally accommodated within the amended plan submission.

### Matters where the consent authority must be satisfied

- SEPP (Resilience and Hazards) 2021 – part 4.6 Contamination and remediation to be considered in determining development application. The site is suitable for the proposed development.

Briefings were held with the Panel on 11 November 2021 and 24 February 2022 where the key issues discussed related to: floor space ratio, urban design, corner treatment, car parking and general compliance with the applicable planning controls.

The application was amended during the assessment process to respond to the design issues raised by the Design Review Panel and Council. There were also technical issues raised by Council's engineer concerning car parking layout and stormwater. The amended submissions satisfactorily resolves the issues identified.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions. The reasons for the approval recommendation are:

1. The development provides for social housing and is therefore consistent with the NSW Government's Plan *Future Directions for Social Housing in NSW*, the *Greater Sydney Region Plan 2018*, and the *Eastern City District Plan 2018*.
2. The proposed development is a permissible use in the zone.
3. The proposed development achieves a high degree of compliance with the applicable planning controls.
4. The proposed development will not result in any unreasonable impacts upon the amenity of surrounding properties and/or the streetscape.

## RECOMMENDATION

1. THAT Development Application DA-2021/507 for demolition of all structures, tree removal, and construction of a part two storey and part three storey Seniors Housing development comprising 33 units and basement car parking for 16 vehicles, associated landscaping and land consolidation at 6-12 Dalley Avenue & 212 Banksia Street, Pagewood be APPROVED pursuant to s4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.
2. THAT the submitters be notified of the Panel's decision.

## BACKGROUND

The history of the subject application is summarised as follows:

- 20 October 2021 - The DA was lodged with Council.
- 29 October 2021 – Payment confirmation was made and the application formally entered Council's system via the NSW Planning Portal.
- 10 November 2021 to 24 November 2021 – The application was notified in accordance with the requirements of Botany Bay DCP 2013. A total of 16 submissions were received.
- 11 November 2021 – A “kick off” briefing was held with the Sydney Eastern City Planning Panel.
- 3 February 2022 – The application was reviewed by the Design Review Panel.
- 21 February 2022 – A request for further information letter was sent to the applicant. In summary, the issues identified included: Issues raised in the DRP minutes, non-compliant building height not supported, excessive visual bulk and scale, floor space ratio, clarification of natural cross ventilation, consideration of SEPP (Housing) 2021, Development Engineer issues (car parking layout and stormwater management) and changes to the landscaping design, species selection and the like.
- 24 February 2022 – A further briefing was held with the Sydney Eastern City Planning Panel.
- 23 March 2022 – The applicant made an amended plan submission to address the issues raised by Council and the DRP. These plans are relied upon for assessment in this report.
- 5 April 2022 – The applicant submitted an amended BASIX Certificate and NATHERS.

## PROPOSAL

This development application has been submitted by the NSW Land and Housing Corporation and seeks consent for demolition of all structures, tree removal, and construction of a part two storey and part three storey Seniors Housing development comprising 33 units and basement car parking for 16 vehicles, associated landscaping and land consolidation.

The proposed development is further summarised as follows:

The development is comprised of two separate buildings, Building A with a height of two (2) and three (3) storeys and including a basement and Building B with a height of 2 storeys. Building A has frontage to Dalley Avenue and Page Street and accommodates

27 dwellings comprised of 2 studio apartments, 19 x one-bedroom dwellings, and 6 x two bedroom dwellings, all accessible via lift access.

Building B has frontage to Banksia Avenue and accommodates 6 x two bedroom dwellings with stair access to first floor dwellings and includes a dedicated waste storage room on the ground floor.

#### Demolition

Demolition of five (5) existing dwelling houses and associated structures, including garages, sheds, pathways, driveways, and three (3) existing vehicular access driveways off Dalley Avenue.

#### Basement

Vehicular access to the basement via a driveway on Dalley Avenue. The basement incorporates 15 car parking spaces, including 8 accessible spaces, 4 scooter parking spaces, 4 bicycle parking spaces, waste room and various services.

#### Private open space

Private open space areas for each dwelling in the form of courtyards or balconies which are directly accessible off living areas.

#### Landscaping

Various new landscaping works are proposed throughout the site.

#### Tree removal/retention

The proposal includes 33 trees from within the site and one (1) tree within the public domain. There are two (2) Morten Bay Fig trees that are identified for retention and have been incorporated into the design of the development.

#### Dwelling mix

The development provides a total of 33 self-contained dwellings; consisting of 2 x studio apartments, 19 x one-bedroom dwellings, and 12 x two bedroom dwellings. Key details of each of the proposed dwellings are provided below (as taken from the Statement of Environmental Effects):

| Unit No.          | Level        | No. of Bedrooms | Dwelling Area (m <sup>2</sup> ) | POS Required | POS (m <sup>2</sup> ) |
|-------------------|--------------|-----------------|---------------------------------|--------------|-----------------------|
| <b>BUILDING A</b> |              |                 |                                 |              |                       |
| A-01              | Lower Ground | 2               | 81                              | 15           | 16 + 19               |
| A-02              | Lower Ground | 2               | 71                              | 15           | 22                    |
| A-03              | Lower Ground | 1               | 56                              | 15           | 19                    |
| A-04              | Ground       | S               | 42                              | 15           | 18                    |
| A-05              | Upper Ground | 2               | 81                              | 10           | 10 + 7                |
| A-06              | Upper Ground | 2               | 72                              | 10           | 12                    |
| A-07              | Upper Ground | 1               | 57                              | 8            | 8                     |
| A-08              | Ground       | 1               | 54                              | 15           | 29                    |
| A-09              | Ground       | 1               | 56                              | 15           | 27                    |
| A-10              | Ground       | 1               | 55                              | 15           | 28                    |
| A-11              | Ground       | 1               | 52                              | 15           | 17                    |
| A-12              | Upper Ground | 1               | 51                              | 8            | 10                    |
| A-13              | Ground       | 1               | 51                              | 15           | 16                    |
| A-14              | Ground       | 1               | 51                              | 15           | 15                    |
| A-15              | Ground       | 1               | 52                              | 15           | 15                    |
| A-16              | First Floor  | S               | 42                              | 6            | 6                     |
| A-17              | First Floor  | 2               | 81                              | 10           | 10 + 7                |
| A-18              | First Floor  | 2               | 71                              | 10           | 13                    |
| A-19              | First Floor  | 1               | 57                              | 8            | 8                     |
| A-20              | First Floor  | 1               | 53                              | 8            | 8                     |
| A-21              | First Floor  | 1               | 54                              | 8            | 8                     |
| A-22              | First Floor  | 1               | 55                              | 8            | 8                     |
| A-23              | First Floor  | 1               | 52                              | 8            | 8                     |
| A-24              | First Floor  | 1               | 51                              | 8            | 12                    |
| A-25              | First Floor  | 1               | 51                              | 8            | 8                     |
| A-26              | First Floor  | 1               | 51                              | 8            | 8                     |
| A-27              | First Floor  | 1               | 52                              | 8            | 8                     |
| <b>BUILDING B</b> |              |                 |                                 |              |                       |
| B-01              | Ground       | 2               | 70                              | 15           | 28                    |
| B-02              | Ground       | 2               | 70                              | 15           | 47                    |
| B-03              | Ground       | 2               | 71                              | 15           | 34                    |
| B-04              | First Floor  | 2               | 71                              | 10           | 11                    |
| B-05              | First Floor  | 2               | 71                              | 10           | 11                    |
| B-06              | First Floor  | 2               | 71                              | 10           | 11                    |

### Site consolidation

Consolidation of five (5) existing lots in a single allotment.

### Public domain upgrades

New kerb ramps in Dalley Avenue, near the intersection of Bay Street and the upgrade of existing kerb ramps at the Wentworth Avenue and Page Street intersection.

### External finishes and materials

Externally, the development is proposed to be completed with a mixture of face brick, metal cladding, and metal roofing.

The 3D montages of the proposal are re-produced below for reference:





**Dalley Avenue frontage**



**Accessible Dalley Avenue entrance to Building A**





**Banksia Street frontage**



**Banksia Street – common garden**





Various depictions on each of the frontages

## SITE LOCATION AND CONTEXT

The site consists of five (5) Torrens title lots, legally described as Lots 39-42 in DP35159 and Lot 37 in DP 35160, known as No 6-12 Dalley Avenue and 212 Banksia Street, Pagewood. A detailed breakdown of the individual allotments comprising the subject site is provided below (as taken from the Statement of Environmental Effects):

| Address            | Property description | Frontage (m)  | Site Area (DP)                                    |
|--------------------|----------------------|---|---|
| 6 Dalley Avenue    | Lot 39 DP35159       | 14.630  | 531.1m <sup>2</sup>                               |
| 8 Dalley Avenue    | Lot 40 DP35159       | 14.630  | 531.1m <sup>2</sup>                               |
| 10 Dalley Avenue   | Lot 41 DP35159       | 14.630  | 531.1m <sup>2</sup>                               |
| 12 Dalley Avenue   | Lot 42 DP35159       | 19.110 (Dalley Avenue)<br>10.198 (Page Street)<br>35.947 (Banksia Street) | 512.2m <sup>2</sup>                               |
| 212 Banksia Street | Lot 37 DP35160       | 38.589  | 695.6m <sup>2</sup>                               |
|                    |                      |   | <b>Total Area (Survey): 2,820.2 m<sup>2</sup></b> |

The amalgamated site area is 2820.2m<sup>2</sup>. The site is located on the western side, of the three-way intersection of Banksia Street, Page Street, and Dalley Avenue. The site is irregular in shape, and by Survey has a frontage to Dalley Avenue of approximately 63m, a splayed frontage to Page Street of approximately 10m, and frontage to Banksia Street of approximately 74m. The site currently accommodates five (5) detached single brick dwellings. There are a number of existing trees dispersed throughout the site. The site has a cross fall where it slopes generally from the western side (No. 212. Banksia Street), to the eastern side (corner of Dalley Avenue and Banksia Street), from a high point of approximately RL 20.5m to a low point of approximately RL 15.5m, resulting in an overall fall of approximately 5m across the site.

The site is located in an established low to medium density residential area. Single storey detached dwelling house, similar to those on the subject site, adjoin the site to the west, with a two-storey dwelling adjoining to the northwest/west. Directly opposite, diagonally on the corner of Page Street and Dalley Avenue intersection is a three-storey residential flat building and the Pagewood Public School, whilst opposite the site in Banksia Street and Dalley Avenue are dwelling houses. Within the surrounding area, within a 200m radius of the site, there is a mixture of single dwelling houses, multi dwelling housing and residential flat buildings, including higher density development on the corner of Page Street and Holloway Avenue (approximately 200m south).



**Aerial view of the subject site**



**Banksia Street frontage**





**Banksia Street frontage looking towards the corner**



**Dalley Avenue frontage**



**Dalley Avenue frontage**



**Dalley Avenue looking towards the south east**



## **Environmental Planning and Assessment Act, 1979**

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

### **Division 4.6 – Crown Development**

The application is lodged by a public authority and therefore constitutes Crown development in accordance with clause 294 of the Environmental Planning and Assessment Regulation 2021.

In accordance with clause 4.33(1)(b) of the Environmental Planning & Assessment Act 1979, the consent authority must not impose a condition on a consent to a Crown development application, except with the approval of the applicant or the Minister. The draft conditions of consent have been sent to the application for their review.

### **S4.15 (1) Matters for Consideration General**

#### **S4.15 (1)(a)(i) Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

##### **State Environmental Planning Policy (Planning Systems) 2021**

Schedule 6(4) of this SEPP identifies that development carried out by or on behalf of the Crown with a capital investment value (CIV) of more than \$5 million is specified as Regionally Significant Development. The CIV of the proposed project exceeds \$5 million and would be considered Regionally Significant Development. The DA has been referred to the SECPP accordingly.

Note: The former SEPP (State and Regional Development) was repealed on 1 March 2022 and incorporated into the new Planning Systems SEPP.

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

The applicant has submitted a compliant BASIX Certificate for the proposed development. Commitments made within BASIX certificates result in reductions in energy and water consumption on site post construction. A condition has been imposed on the consent to ensure that the stipulated requirements are adhered to. The proposal is satisfactory in this regard.

##### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 2 - Vegetation in Non-Rural Areas applies to the proposal. The application seeks consent for the removal of 33 trees.

An aboricultural impact assessment report prepared by *Arterra Consulting Arboriculture* has been submitted with the application. Council's Tree Management Officer reviewed the submitted Arborist Report and did not object to the removal of the trees on the site, given that suitable replacement planting is offered in appropriate locations. It is noted that there are two trees within the subject site (Morten Bay Figs) as well as various street trees that will be retained and protected along the Dalley Avenue and Banksia Street frontage.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Biodiversity and Conservation) 2021.

### **State Environmental Planning Policy (Resilience and Hazards) 2021**

The provisions of this SEPP have been considered in the assessment of the development application, as the proposed development. Chapter 4 of the SEPP requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

In accordance with the requirements of Chapter 4, a Preliminary Environmental Site Investigation Report, Detailed Site Investigation and Remediation Action Plan have been submitted. The report concludes that the site is suitable for the proposed land use and Council's Environmental Scientist has accepted the recommendations contained within the report as being satisfactory and provided the following assessment:

*This site investigation included the collection of soil samples to assess potential for contamination. Given the use for low density residential purposes for around 70 years, it is not expected that the site will be particularly contaminated.*

*Surface soil samples were collected from 11 locations across the site (between 1 and 3 samples per lot for each lot). Samples were analysed for heavy metals (As, Cd, Cr, Cu, Hg, Ni, Pb and Zn), organochlorine pesticides (OCP) and organophosphate pesticides (OPP) and asbestos identification, and three samples for total recoverable hydrocarbons (TRH), benzene, toluene, ethylbenzene, xylene (BTEX), polycyclic aromatic hydrocarbons (PAH) and polychlorinated biphenyls (PCBs). These are chemicals/chemical groups that are commonly expected in urban areas depending on the activities that have occurred at a site.*

*Some metals were found in one or more samples above relevant health investigation levels or conservative ecological investigation levels. No other potential contaminants were reported above appropriate screening guidelines.*

*The single location with lead above human health screening levels was close to the house on the site so may be indicative of the historical use of lead in paint (i.e. some paint chips may have been present in the sample). This location is likely to be under the footprint of building A so is not likely to be accessible to any users of the new development.*

*Zinc and copper were reported above conservative screening values for ecosystems. These metals are almost always found in soils as they are common minerals. The guidelines used were ones based on very conservative assumptions about soil characteristics and did not include consideration of background amounts of these metals that would be expected to be present. The ASC NEPM guidelines for ecosystem protection provide an added contaminant limit that is supposed to be summed with an estimate of background amounts to get the screening guideline. In this case, only the added contaminant limit was used and it was chosen from the most conservative end of the tables. It is likely that the levels found in soil were similar to background levels in the area or may result from dust from cars or buildings. The levels are considered low. It is also noted that most of the topsoil at the site will be removed as part of the construction process.*

*Some heavier end petroleum hydrocarbons (TRH F3) were also found in one soil sample. The levels were above the ecological screening guideline. It is noted that*

*this location appeared to be where a car is commonly parked which would explain this detection. It is also an area where the soil will be excavated for the basement, so this detection is unlikely to be of concern for this development.*

*Further assessment of soil is proposed during the construction process to confirm these findings.*

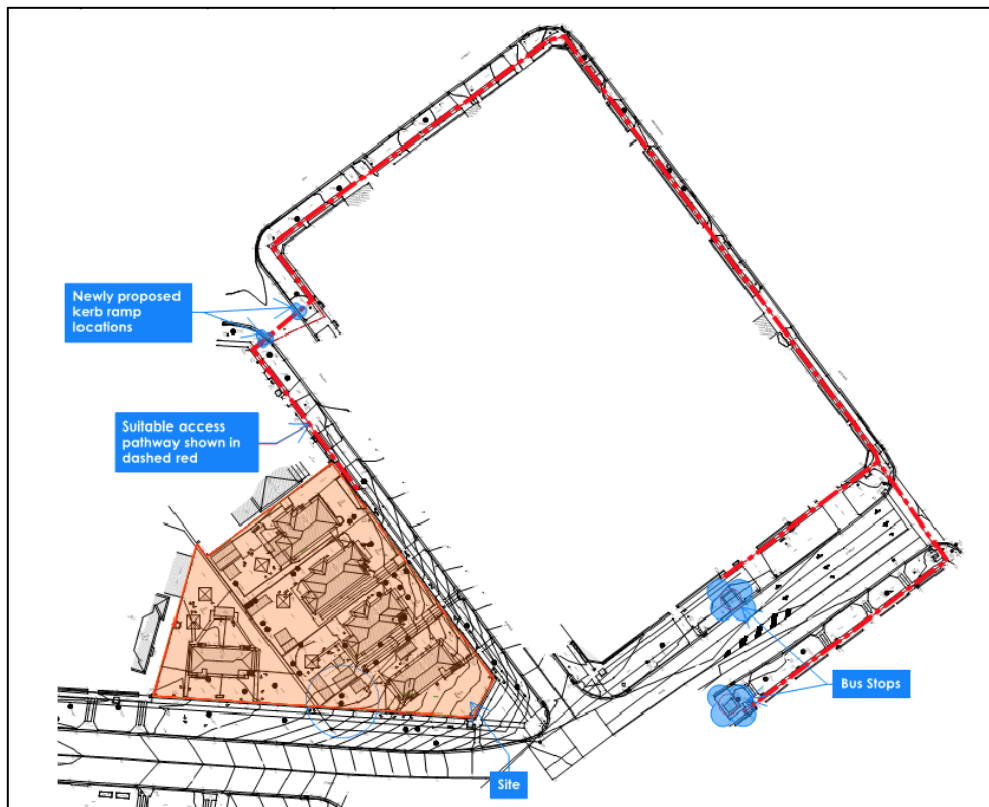
The recommended conditions from the Environmental Scientist have been incorporated into the consent. In accordance with Clause 7 (1)(b) of SEPP 55, Council is satisfied that the land is suitable for the purpose for which the development is proposed to be carried out.

### **State Environmental Planning Policy – Housing for Seniors with a Disability 2004**

SEPP (Housing for Seniors with a Disability) 2004 applies to the subject site as it is zoned primarily for urban purposes, is not excluded from the applicability of the SEPP by Clause 4 and is not subject to any of the environmental constraints listed in Schedule 1 of the SEPP.

#### Clause 26 – Loading and access to facilities

The site is not within 400m walking distance of the facilities and services listed in Clause 26(1) of the SEPP and therefore access to public transport services must be considered. In this regard, the nominated bus stops are located on Page Street, between Dalley Avenue and Wentworth Avenue and the nominated path of travel to these bus stops is via an existing concrete path, along Dalley Avenue, Bay Street, Wentworth Avenue, and Page Street. The location of the bus stops is indicated below with the southbound bus stop located in front of No. 31 Page Street, and the northbound bus stop in front of No. 60 Page Street. These bus stops are approximately 333m and 375m walking distance from the subject site.



The applicant has provided an Access Report which confirms that the distances and gradients of the path of travel between the site and bus stops are compliant with the requirements of Clause 26 of the SEPP. The report does however note that there is no suitable kerb ramps to allow an accessible path of travel across Dalley Avenue. To address this, the applicant proposes to construct new suitable kerb ramps on either side of Dalley Avenue so that a continuous path of travel is achieved. Suitable conditions of consent are included to address this.

Bus route 307 meets the frequency requirements prescribed by Clause 26(2)(c)(iii) and will take residents both to and from facilities and services, at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive). This bus service provides access to a wide range of localities where services, facilities, shops and recreation facilities can be readily accessed including the Mascot town centre and train station, Matraville Town Centre, Botany Town Centre and Eastgardens Westfield Shopping Centre.

#### Clause 28 – Water and Sewer

The site is serviced by existing services.

#### Clause 29 - Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

The design of the proposed development is considered to be compatible with the surrounding land uses having regard to the following criteria:

- *Clause 25(5)(b)(i)*: the proposed development is located in an established residential area and there are no known natural environmental considerations affecting the subject land (including known significant environmental values, resources or hazards) and the existing use of land in the vicinity of the proposed development is for residential purposes;
- *Clause 25(5)(b)(iii)*: there are services, facilities and infrastructure that 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
- *Clause 25(5)(b)(v)*: The impact of the bulk, scale, built form and character of the proposed development is considered to achieve a satisfactory level of compatibility with the existing uses and the likely future character of land in the vicinity of the development.

#### Clause 30 – Site Analysis

The application is supported by a Context Analysis Plan that satisfies the requirements of this clause.

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

In determining a development application made pursuant to this Chapter to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration the provisions of the *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004.



A detailed response to the above Guidelines has been provided from the project architect. It has been demonstrated that the development complies with the requirements of the Guideline with the exception of the following matters:

***2.23 Maintain, where possible, existing crossings and driveway locations on the street?***

**Response:** The proposed new driveway is in a different location to the existing driveways on Dalley Avenue. However, this allows for a centralised driveway and rationalisation of 3 existing driveways to 1. Opportunities for additional on-street parking are subsequently provided.

***3.06 Setting back upper levels behind the front building façade?***

**Response:** The upper levels are not setback, however, the proposal successfully manages the bulk and scale through articulation, varied finishes, roof profiles and considered landscaping. It is noted that the amended plans have improved the articulation of the three storey component of Building A as viewed from Dalley Avenue.

***3.29 Provide gates at the head of driveways to minimise visual ‘pull’ of the driveway?***

**Response:** A gate to the basement is provided at the bottom of the ramp. Nevertheless, the proposed landscaping at the front of the site, relatively short driveway length and driveway profile/downward slope minimises the visual pull of the driveway. The driveway has not been designed as a visually intrusive element and is acceptable on merit.

***3.30 Reduce the width where possible to single width driveways at the entry to basement carparking rather than double?***

**Response:** The number of vehicular crossings on Dalley Avenue will be reduced from 3 to 1. Consequently, the overall impacts of driveways is reduced as a result of the proposed development.

***3.31 Locate the driveway entry to basement carparking to one side rather than the centre where it is visually prominent?***

**Response:** The driveway has been located in the centre of the site. The applicant has advised that this is due to traffic advice and reduces the extent of cut and fill. See response to 3.29 regarding the driveway design which is an acceptable outcome in the site circumstances.

***4.03 Set upper storeys back behind the side or rear building line***

**Response:** The upper storeys have not been setback behind the side or rear building line. However, the setbacks as proposed, as well as the building height, do not result in any unreasonable amenity impacts for surrounding properties.

***4.20 Position driveways as to be a buffer between new and existing adjacent dwellings?***

**Response:** The driveway is centrally positioned on Dalley Avenue, well away from adjacent properties.

### Clause 32 – Design of residential development

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2 (clauses 33 to 39).

These matters have been considered below. It is noted that much of the detail and assessment below is adopted from the material provided by the applicant in the SEE:

### *Clause 33 – Neighbourhood amenity and streetscape*

The design of the proposal is sympathetic to the character of the location, recognising the mixed residential nature of the locality. Whilst the immediate locality is predominantly characterised by single-storey dwelling houses, particularly west of the site, the locality is undergoing transition with the renewal of older housing stock with newer contemporary two-storey dwelling houses and dual occupancy developments interspersed amongst older style single storey detached dwellings.

The proposal consists of two (2) separate buildings, Building A and B. These buildings have been separated to reduce the bulk and scale of the development, with each building fronting a different street. The bulk and scale of the development has been further reduced, through design features, such as providing a roof design that focusses gable ends to the street frontage which divides the development into sections and is reflective of separate dwellings, or larger attached dual occupancy developments common in the area.

The proposed heights of the amended proposal are compliant with the 10m building height development standard in BBLEP 2021. Further, the adopted building heights are compatible in scale to adjacent developments, at the street frontage. For example, the two-storey portion of Building A has a building height of RL 27.556m. This is lower than the height of the adjoining two-storey residence at No. 4 Dalley Avenue, which has a height of RL 28.10m. The two-storey building on the southern side of the development, Building B - fronting Banksia Street has a building height of RL 27.708m. This is higher, by 1.85m, than the adjoining single storey development at No. 210 Banksia Street (RL 25.85m) but is consistent with other two-storey developments in the area, and again lower than No. 4 Dalley Avenue, which adjoins the site.

The three-storey component of Building A, located on the corner Dalley Avenue and Banksia Street is consistent with the scale of the three-storey residential flat building, located directly opposite, on the corner of Dalley Avenue and Page Street, at No. 11A Dalley Avenue.

The multi dwelling housing controls in the DCP have been adopted as a guide to the necessary setbacks, and the proposal generally complies with these requirements.

The prominent Morton Bay Fig trees have appreciable street and landscape significance. They have been incorporated into the design and retained accordingly.

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

The proposed development has been designed to maintain visual and acoustic privacy to adjoining properties and within the development. There are no unreasonable visual or acoustic privacy impacts identified.

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

24 of the 33 (73%) proposed dwellings to receive a minimum of three hours sunlight between 9am and 3pm on June 21 to both living areas and to their private open space (POS) areas.

Due to the orientation of the subject site, the proposed development will result in minimal overshadowing impacts on the adjoining properties. No. 210 Banksia Street, adjoining to the west of the site will receive some additional minor overshadowing at the mid-winter solstice, between the hours of 9am and midday. The area of the property affected by this overshadowing is primarily the driveway and front setback area. Notwithstanding this, the dwelling will continue to receive a minimum 3 hours of sunlight to living areas and POS areas between midday and 3.00pm in accordance with the DCP provisions.

#### *Clause 36 – Stormwater*

No issues are identified with respect to stormwater.

#### *Clause 37 – Crime prevention*

The design and orientation of the proposed dwellings and POS areas will allow for surveillance of internal common areas and the adjacent public domain. Considered landscape design minimises concealment opportunities.

#### *Clause 38 – Accessibility*

An Access Report is provided which demonstrates conformity with the applicable accessibility requirements.

#### *Clause 39 – Waste Management*

There are no issues identified with the proposed waste management strategy.

#### Clause 40 – Development standards

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.

| <b>Development Standard</b> | <b>Required</b>    | <b>Proposed</b>   |
|-----------------------------|--------------------|---|
| Site size                   | 1000m <sup>2</sup> | 2,820.2m <sup>2</sup> , although not applicable to LAHC (cl 40(5)(a))                         |
| Site frontage               | At least 20m       | 63m to Dalley Avenue and 74m to Banksia Street, although not applicable to LAHC (cl 40(5)(a)) |

|  |   |   |
|--|---|---|
| Height in zones where residential flat buildings are not permitted.  |   | Not applicable as residential flat buildings are a permitted land-use in the R2 zone, by virtue of Schedule 1 <i>Additional Permitted Uses</i> , Clause 34, of BLEP 2021. |
| <ul style="list-style-type: none"> <li>- Height</li> <li>- Buildings adjacent to site boundary</li> <li>- Buildings located in the rear 25% of the site</li> </ul> | <ul style="list-style-type: none"> <li>- 8m or less (ground to ceiling level)</li> <li>- 2 storeys</li> <li>- Not to exceed 1 storey</li> </ul> | The rear 25% single storey control is not applicable to LAHC (cl 40(5)(a)).   |

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

A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development. A report has been provided which confirms that the proposal is capable of achieving compliance with the accessibility provisions of Schedule 3.

*Note: Pursuant to Clause 41(2), LAHC is exempt from the provisions of Clauses 2, 7 to 13 & 15 to 20 of Schedule 3 in relation to a dwelling or part of a dwelling that is located above the ground floor in a multi-storey building.*

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

| Development Standard  | Required   | Proposed  | Compliance                |
|---|--|---|---------------------------|
| Building Height *: (cl 50(a))<br><br>* distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point | 8m or less   | 8.9m  | No – see discussion below |
| Density and Scale: (cl 50(b))   | FSR 0.5:1 or less  | 0.82:1  | No – see discussion below |
| Landscaped Area: (cl 50(c))   | Minimum 35m <sup>2</sup> per dwelling (33 x 35m <sup>2</sup> = 1,155m <sup>2</sup> ) | 1402.7m <sup>2</sup> (equivalent to 42.5m <sup>2</sup> per dwelling). | Yes                       |



|                                    |   |   |     |
|------------------------------------|---|---|-----|
| Deep Soil Zone:<br>(cl 50(d))      | Minimum<br>15% of<br>area of site<br>(15% x<br>2820m <sup>2</sup> =<br>423m <sup>2</sup> )  | 659m <sup>2</sup> (23%)   | Yes |
|                                    | Minimum<br>two thirds<br>(66%) to be<br>preferably<br>located at<br>rear of site<br>(2/3 x<br>423m <sup>2</sup> =<br>282m <sup>2</sup> )                  | 480m <sup>2</sup>   | Yes |
| Solar Access: (cl<br>50(e))        | 70% of<br>living areas<br>& main<br>private<br>open space<br>to receive<br>minimum 3<br>hrs<br>sunshine<br>between 9<br>am and 3<br>pm at mid-<br>winter. | 73% (24 out of 33 units) of living<br>areas and private open space<br>areas will have 3 hours of<br>sunlight between 9am and 3pm<br>mid-winter. | Yes |
| Private Open<br>Space: (cl (50(f)) | Ground<br>level:<br>Minimum<br>15m <sup>2</sup> per<br>dwelling   | 15m <sup>2</sup> - 47m <sup>2</sup>   | Yes |
|                                    | One area<br>minimum<br>3m x 3m,<br>accessible<br>from living<br>area  | All units comply  | Yes |
|                                    | Upper<br>level/s:<br><br><u>Studio</u><br>Minimum<br>6sqm -   | 6m <sup>2</sup> - compliant dimensions  | Yes |

|                         |   |  |                       |
|-------------------------|---|--|-----------------------|
|                         | <p>Minimum dimensions 2m</p> <p><u>1 bedroom:</u><br/>Minimum 6sqm - Minimum dimensions 2m</p> <p><u>2 or more bedrooms</u><br/>Minimum 10sqm - Minimum dimensions 2m</p> | <p>8-12m<sup>2</sup> - compliant dimensions</p> <p>10-17m<sup>2</sup> - compliant dimensions</p> | <p>Yes</p> <p>Yes</p> |
| Car parking: (cl 50(h)) | <p>Minimum 1 car parking space for each 5 dwellings (LAHC concession) – 7 car parking spaces required.</p>  | 15 car parking spaces provided   | Yes                   |

### Comments:

**Building Height** – Clause 50 prescribes that developments with a height of 8 metres or less cannot be refused based on height. It is noted that the relevant measurement in relation to the 8 metres is the distance measured vertically from any point on the ceiling of the top most floor of the building to the ground level immediately below that point. On the basis of this definition, the proposed height is approximately 8.9m. The height exceedance is supported given that:

- The building heights are lower than the 10m maximum height limit in the LEP;
- The building heights are compatible in scale to surrounding developments;
- The extent of this non-compliance is relatively minor (900mm or 11.25%) and only relates to the three-storey component of the development, located towards the corner Dalley Avenue and Banksia Street away from adjoining properties. The entirety of Building B is compliant; and
- There are no adverse impacts directly attributable to the height exceedance.

**FSR** – Clause 50 prescribes that developments with an FSR of 0.5:1 or less cannot be refused based on density and scale. On the basis of the FSR measurement requirements under the SEPP (i.e. – external face of the wall), the proposed FSR is 0.86:1 and therefore exceeds the 0.5:1. The applicant justifies the breach as follows which is concurred with:

- *The adoption of appropriate front and side setbacks, consistent with Council's controls, and surrounding residential development.*
- *Adoption of building heights that are compatible in scale to surrounding developments, and lower than the 10m maximum height limit prescribed for the area by the BLEP.*
- *Adoption of a comprehensive landscaping scheme for the entire site, including substantial plantings along side and front setbacks and additional street tree plantings in the Page Street and Dalley Avenue frontages.*
- *The preservation of two large and prominent Morton Bay Figs fronting Banksia Street.*
- *Ensuring minimal additional overshadowing to adjoining properties.*
- *Provision of considered dwelling layouts, including the careful placement and sizes of window/door openings, the treatment of windows with obscured glazing and balconies with privacy screens and substantial buffer landscaping along boundaries to ensure no Overlooking of adjoining residential private open space areas or living areas occurs.*
- *Adoption of recommended acoustic treatments, to control noise impacts at external receivers.*
- *Development of high quality architecturally designed buildings, where building form, design and siting relates to the topography of the site, changes in roof profiles and staggering and modulation of elevation alignments and separation of buildings have minimised the impact of the bulk and scale;*
- *Ensuring dwellings could be provided with a high level of amenity demonstrated through compliance with the design standards of the Seniors Housing SEPP, e.g high levels of solar access, natural ventilation, accessibility etc.*
- *The large site area and it's corresponding long street frontages to Banksia Street and Dalley Avenue and the sites varied height differences across the site, is directly proportionate to the extent of development proposed on the site.*

Further justification is provided under the BLEP 2021 FSR discussion.

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

Whilst the Seniors Housing SEPP is the principle environmental planning instrument governing the development consideration of the proposal against the requirements of the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65), has also been undertaken. In determining the application, clause 28 of SEPP 65 states that the consent authority is required to consider:

- the advice (if any) obtained from a design review panel;
- the design quality of the development when evaluated in accordance with the nine design quality principles; and
- the design quality assessed against the Apartment Design Guide (ADG).

## **Design Review Panel & Design Quality Principles**

The proposal has been referred to the Design Review Panel on 3 February 2022. The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

## Principle 1 – Context and Neighborhood Character

DRP comment: *The proposed development sensitively responded to the existing context and neighbourhood character by analysing the surrounding built environment. The development seeks to enhance the existing streetscape and connect the low density residential character with the medium density area to the south of the subject site.*

*The high retention of existing trees on site maintains the green, verdant character of the existing streetscape. The development seeks to provide contemporary architectural character whilst relating to the existing built fabric of the Pagewood area. Whilst it is noted that every effort has been made to meld the new buildings into the predominant character of the area, there is some concern that the gabled expression to the northern end of Dalley Street is aggressive and could be further refined.*

Council: The project architect has adjusted the design of the gable expression. This has been achieved through a slight reduction in the height of the gables as well as utilizing a lighter coloured cladding finish. The DRP concern raised has been appropriately addressed and resolved.

## Principle 2 – Built Form and Scale

DRP comment: *The proposed development provides an appropriate built form to suit the surrounding area and the future desired character of Pagewood. The building masses align with the existing setbacks to the street frontages and strengthens the street edge. The building forms also align with the existing dwellings and private open space patterns in the street edge to maintain solar access.*

*The scale is an appropriate response to the existing 2 storey residential to the north and the 3 storey+ context to the south. The building mass is broken down along the elevation in key areas to illustrate a transitional scale from apartment building to individual residence.*

*Whilst it is noted that every effort has been made to meld the new buildings into the predominant character of the area, there is some concern that the gabled expression to the northern end of Dalley Street is aggressive and could be further refined.*

Council: Noted. See response above regarding the gable expression matter.

## Principle 3 – Density

DRP comment: *The proposed development addresses the density requirements for its intended use and to future proof the need for seniors living within the area. The panel agrees the site is able to support higher density based on its amenity to public transport, infrastructure, community facilities and the natural environment.*

Council: Noted

## Principle 4 - Sustainability

DRP comment: *The dwellings target a high efficiency and the development provides PV panels, rainwater capture and enhances biodiversity through landscape design. The development provides high levels of cross ventilation and passive heating and cooling strategies. Lobbies are naturally ventilated.*

*The panel notes that the waste management plan outlines the re-use, recycling and management of demolition and construction waste to reduce the developments environmental impact. The landscape features generous deep soil areas for groundwater recharge and on site detention is provided.*

*The panel would expect a higher than compliant BASIX standard for achievement of design excellence, as well as the provision of alternate mobility parking solutions and electric vehicle and scooter charging facilities.*

Council: The applicant has reviewed the BASIX Certificate which now achieves a higher standard. An average star rating of 8.1 is now achieved.

#### Principle 5 – Landscape

*DRP comment: The landscape enhances the streetscape and edges by softening the development and creating a threshold between public and private space. The species selected relate to the local area and increase biodiversity. All landscaped areas within the development are accessible and equitable to all. The landscape design provides low maintenance, well designed spaces that contribute to the local environment and public realm.*

*Notwithstanding the retention of trees and the high quality of landscape envisaged, the panel feels there is a need to provide spaces / benches / tables for quiet contemplation or to enable a sense of community and visits within the garden areas.*

*The design to the central area would be better appreciated if there were a rationalisation of the proposed trees and thereby a greater acknowledgement of the scale and mass of the existing fig trees that are being retained. This would enable the area to be better appreciated as a whole and facilitate CPTED guidelines to this space.*

*The plantings to the Dalley Avenue frontage would benefit from a wider variety and range of shrubs and ground covers to provide a sense of identity and character of a finer grain nature that reflects the residential character of the street and the immediate surrounds.*

Council: The plans have been amended accordingly. A small seating area has been provided in the communal garden fronting Banksia Street. It is positioned at the intersection of several pathways through the garden in a high visibility location, and is nearby the street frontage, prioritising CPTED outcomes. A curved bench is proposed with an adjacent space allowed for a wheelchair or other mobility aid, as well as bollard lighting to provide an intimate and inclusive amenity. The seating has also been aligned in coordination with the proposed trees to encourage appreciation of the two existing large fig trees. Tree planting in the common gardens fronting Banksia Street has been re-considered. The number of trees has been reduced, while the selected species have been adjusted to include an endemic species with a larger mature canopy than those previously proposed.

#### Principle 6 – Amenity

*DRP comment: The proposed development provides high levels of amenity across the site both internally and externally. The buildings provide high quality common space with generous corridors and entrances connecting each part of the development. Naturally ventilated and lit corridors provide pleasant, safe and healthy environments that allow for casual, social interaction between residents. Apartments are well designed with accessible clearances to bedrooms, living areas and kitchens.*

*Adequate storage is provided in line with the SEPP requirements. Each apartment is well connected to external space through generous courtyards and balconies overlooking the street frontage or central landscaped courtyard. Living areas are directly connected to POS and achieve good solar access and natural ventilation. All service areas including the basement, waste and common areas are accessible by all residents.*

Council: Noted.

#### Principle 7 – Safety

*DRP comment: The proposed development provides a safe environment externally and internally. CPTED principles have been applied through design to minimise any areas of concealment, provide passive surveillance from apartments and street frontages to all entry points, parking and service areas. The landscape design prevents concealment and provides a secure barrier to the development. Entrances are clearly defined and fit for purpose. Dwellings are secure and external façades, balustrades and fencing are anti climb to prevent trespassing. The development is well lit to provide secure spaces and prevent concealment.*

Comment: Noted.

#### Principle 8 - Housing Diversity and Social Interaction

*DRP comment: The proposed development provides the required apartment mix for a seniors living development within the local area. A variety of studio, 1 and 2 bedroom apartments with varying layouts create diversity of product and create a sense of individuality for residents. All apartments have direct access to external space and corridors are linked to the central landscaped space where residents can casually interact. The design discourages larger gatherings to maintain a peaceful and harmonious living environment for residents.*

*Whilst entrances, corridors and the central landscaped courtyard provide opportunity for casual interaction, there are no casual spaces or benches which might permit casual contemplation or family visits to occur outside of the unit interiors.*

Comment: Noted. Refer to discussion under 5 – Landscape.

#### Principle 9 – Aesthetics

*DRP comment: The proposed development presents a contemporary architectural language whilst remaining sensitive to its context. The buildings have a similar language in form and subtle differences in material to create distinction between the two. A strong brick base, lightweight metal top and articulate metal roof forms that fold over the upper levels create a variety of architectural expressions. The materiality of the project is both contemporary and modern whilst still acknowledging the materiality of the surrounding built fabric. The northern end of the site presents an individual or townhouse like rhythm to compliment adjoining properties and express a human scale. The southern end of the site presents a larger volume with strong verticality to break down the facade. This creates a sense of transition from the denser and larger buildings across Page street to the low density, detached residential character of Dalley Avenue. The western building along Banksia street presents an appropriate scale and blends well with the existing context. Well detailed brickwork, simple and clean metalwork balustrades and screens and vertical proportions present modern architectural language in line with the future desired character of the Pagewood area.*



*Whilst it is noted that every effort has been made to meld the new buildings into the predominant character of the area, there is some concern that the gabled expression to the northern end of Dalley Street is aggressive and could be further refined.*

Comment: Noted. Refer to previous discussion regarding the gable expression.

Conclusion - The Panel stated that they supported the application subject to the changes described above and noted that the application satisfies the design quality principles contained in SEPP 65. The applicant has amended the design of the development in a manner which satisfactorily addresses the concerns outlined by the DRP.

### **Apartment Design Guide (ADG)**

The proposal has been assessed against the Apartment Design Guide (ADG). It is noted that the proposed development has been designed to ensure compliance with the design requirements of the Seniors Housing SEPP as well as the specific *NSW LAHC Dwelling Design Requirements*, as published by the NSW Government Architects Office. Many of the ADG requirements are either not relevant or are duplicated.

Clause 30 of SEPP 65 prescribes standards that cannot be used as grounds to refuse development consent, should they be complied with. These are:

- Car parking – being equal to, or greater than the recommended minimum amount specified in Part 3J at the ADG. Clause 50(h) of the Seniors Housing SEPP prevails and the proposal is compliant with those provisions.
- Internal area of apartments – being equal to, or greater than, the recommended minimum internal area specified in Part 4D of the ADG. The proposal complies with this.
- Ceiling heights – being equal to, or greater than, the recommended ceiling heights specified in Part 4C of the ADG. The proposal complies with this.

The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG.

### **Bayside Local Environmental Plan 2021**

The provisions of the Bayside Local Environmental Plan have been considered in the assessment of the development application as per the table below.

| <b>Relevant Clauses</b>                 | <b>Compliance with Objectives</b> | <b>Compliance with Standard / Provision</b> |
|---|-----------------------------------|---|
| 2.3 Zone – R2 Low Density Residential   | Yes - see discussion              | Yes - see discussion                        |
| 2.7 Demolition requires consent         | Yes - see discussion              | Yes - see discussion                        |
| 4.3 Height of buildings                 | Yes - see discussion              | Yes - see discussion                        |
| 4.4 Floor space ratio Residential zones | Yes - see discussion              | No - see discussion                         |
| 4.6 Exceptions to development standards | Yes - see discussion              | Yes - see discussion                        |

| Relevant Clauses                                | Compliance with Objectives | Compliance with Standard / Provision |
|---|----------------------------|--------------------------------------|
| 6.1 Acid Sulfate Soil Class 5                   | Yes - see discussion       | Yes - see discussion                 |
| 6.2 Earthworks                                  | Yes - see discussion       | Yes - see discussion                 |
| 6.3 Stormwater and water sensitive urban design | Yes                        | Yes                                  |
| 6.11 Essential services                         | Yes – see discussion       | Yes – see discussion                 |

### **2.3 - Zone R2 Low Density Residential**

The subject site is zoned R2 - Low Density Residential under the provisions of Bayside Local Environmental Plan 2021. The proposal is defined as *Seniors housing* which constitutes a permissible development only with development consent. The proposed development satisfies the objectives of the zone.

### **2.7 - Demolition**

The proposal seeks consent for demolition of the existing buildings and associated structures across the site. In this regard, the proposal satisfies the provisions of this clause.

### **4.3 - Height of Buildings**

A maximum height standard of 10 metres applies to the subject site. The proposal has a maximum height of 10 metres which complies with the provisions and objectives of this clause.

### **4.4 – Floor Space Ratio**

A maximum FSR standard of 0.55:1 (GFA of 1551m<sup>2</sup>) applies to the subject site. The proposal has a maximum GFA of 2311m<sup>2</sup> and equates to an FSR of 0.82:1 which is non-compliant. A recent decision of the NSW Land and Environment Court (*Eastern Suburbs Leagues Club Pty v Waverley Council* [2019] NSWLEC 130) held that a clause 4.6 variation is not required to exceed height and/or floor space ratio standards in a Local Environmental Plan for seniors housing under SEPP (Housing for Seniors or People with a Disability) 2004. For abundant caution, the applicant has still provided a clause 4.6 to demonstrate consistency with the relevant requirements. This is addressed below:

### **4.6 - Exceptions to Development Standards**

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

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

*Clause (3)(b)- that there are sufficient environmental planning grounds to justify the variation.*

In considering the applicant's submission, the consent authority must be satisfied that:

- i. *Clause 4(a)(1)- the applicant's written request is satisfactory in regards to addressing subclause (3) above, and*
- ii. *Clause 4(a)(ii)- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*
- iii. *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*
- iv. *Clause 5(b)- the public benefit of maintaining the development standard.*

The applicants' clause 4.6 variation argues that there are sufficient environmental planning grounds to support the non-compliant FSR. The variation is templated to address at least one of the five tests including whether the variation is unreasonable or unnecessary and provides environmental planning grounds to argue their case. The applicant has chosen the Wehbe test (method 1) for their assessment. These components are summarised below with Councils response provided:

***Clause 4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case,***

Applicant Comment:

Compliance with the FSR standard is considered unreasonable and unnecessary given the following circumstances of this case:

- The proposed development achieves the objectives of the FSR standard and is consistent with the objectives of the zone notwithstanding non-compliance with the standard (see further discussion below).
- The FSR variation is necessary to facilitate provision of 33 affordable seniors housing units in accordance with LAHC's plans for the site. Strict compliance with the standard would prevent LAHC from achieving its affordable housing goals and reduce the number of affordable housing units available to the local community.
- There is a considerable public and social benefit arising from the provision of affordable housing. It is considered that the benefit of additional affordable housing allowed by the FSR variation far outweighs any minor perceived impacts associated with non-compliance with the FSR standard.
- The non-compliance would not result in any unreasonable environmental impacts.

Objectives of clause 4.4 – Floor space ratio

- a) To establish standards for the maximum development density and intensity of land use***

Noted

- b) To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality***

The proposed development is compatible with the bulk and scale of the existing and desired future character of the locality. This is achieved by:

- Adoption of building heights that are lower than the 10m maximum height limit prescribed for the area by Bayside Local Environmental Plan 2021, ensuring the development is consistent with the desired future character of the area.
- Adoption of building heights that are compatible in scale to existing surrounding developments. For example, the two storey portion of Building A has a building height of RL 27.556m. This is lower than the height of the adjoining two-storey residence at No. 4 Dalley Avenue, which has a height of RL 28.10m. The height of Building B, fronting Banksia Street is set marginally higher, but still lower than No. 4 Dalley Avenue, at RL 27.708m. These heights are common in the immediate area, particularly in instances of two storey developments, with pitched roof profiles.
- The three-storey component of Building A, located on the corner Dalley Avenue and Banksia Street, is compatible/consistent with other existing three-storey residential developments located on Page Street, including the residential flat building, located directly opposite, on the corner of Dalley Avenue and Page Street, at No. 11A Dalley Avenue. This is in addition to the higher density residential development located on the corner of Page Street and Holloway Avenue, located less than 200m southwest of the site.
- Division of the development into two separate buildings, Building A and B. Building B is designed, with minimal street frontage (with development/units to the rear), and two separate gable end roof profiles, at similar heights to surrounding developments, giving the appearance of a larger two-storey dual occupancy development, common/compatible to those in the area.
- Use of building form, design and siting that minimises the bulk and scale of the development, and includes; varied roof heights, changes in roof profiles, such as multiple gable ends - giving the appearance of separate dwellings; staggering and modulation of elevation alignments, including the setback lobby entry area, setback area above the basement driveway, and the use of recessed POS areas within the front elevations.
- The adoption of appropriate front and side setbacks, consistent with Council's controls, and surrounding residential development.

**c) *To minimise adverse environmental effects on the use of enjoyment of adjoining properties and the public domain***

The development has been designed to minimise any adverse environmental effects on adjoining properties and the public. This has been achieved through:

- The adoption of building setbacks and heights that do not result in any unreasonable adverse overshadowing, onto adjoining properties. Due to the orientation of the subject site, the proposed development will result in some minor additional overshadowing of the adjoining property to the west at 210 Banksia Street, at the mid-winter solstice, between the hours of 9am and midday. The area overshadowed is primarily the driveway and front setback area. Notwithstanding this, the dwelling will continue to receive a minimum 3 hours of sunlight to living areas and POS areas between midday and 3.00pm.
- Adoption of building setbacks and - considered dwelling layouts, including the careful placement and sizes of window/door openings, treatment of windows with obscured glazing and balconies with privacy screens, and the positioning of private open space areas, to ensure no overlooking.
- Adoption of recommended indicative treatments for major engineering services, as recommended in the acoustic assessment, to control noise impacts at external receivers.

- Provision of landscaping plantings along common boundary lines, including Lemon Myrtle (x6), Cheese Tree (x1) and Japanese Elm (x1), that will reach mature heights of between 5m-20m, providing screening and a sense of separation between the subject, and neighbouring development.
- Retention of some of the existing mature trees along the front boundaries, specifically the two large prominent Morton Bay Figs on Banksia Street, which are visually prominent trees in the streetscape, and contribute significantly to the locations character.
- Development of high quality architecturally designed buildings, where building form, design and siting relates to the topography of the site, changes in roof profiles and staggering and modulation of elevation alignments have minimised the impact of the bulk and scale of the buildings on the streetscape and adjoining properties.
- Provision of fencing that is appropriately located and designed (materials/height etc.).

***d) To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation.***

The development maintains an appropriate visual relationship to the existing character of the area through:

- The adoption of appropriate front and side setbacks, consistent with Council's controls, and surrounding residential development .
- Adoption of building heights that are compatible in scale to surrounding developments, for example the neighbouring two-storey residence at No. 4 Dalley Avenue, and the three-storey Residential Flat Building, located directly opposite, on the corner of Dalley Avenue and Page Street, at No. 11A Dalley Avenue.
- Adoption of building heights that are lower than the 10m maximum height limit prescribed for the area by Bayside Local Environmental Plan 2021, ensuring the development is consistent with the desired future character of the area.
- Provision of fencing that is appropriately located and designed (materials/height etc.), and common in the surrounding area.
- Provision of landscaping plantings along boundary lines including Lemon Myrtle (x6), Cheese Tree (x1) and Japanese Elm (x1), that will reach mature heights of between 5m-20m, providing screening and a sense of separation between the subject, and neighbouring development
- Locating the three-storey section of the development, in the lowest part of the site, fronting Page Street. Page Street is of mixed character, being a main regional road subject to high vehicular traffic, where schools and other higher density residential developments and lower detached residential development front. It is not uncommon/unexpected to view such developments when driving along Page Street.
- Adopting common building elements/features and materials found in the area, including pitched gable roof profiles, staggering and modulation of elevation alignments and varied material choices, including brickwork, paint, cladding, and concrete.
- Retention of some of the existing mature trees along the front boundary of Banksia Street, including two prominent Morton Bay Figs.
- Adoption of a comprehensive landscaping scheme for the entire site, prepared in consideration of the streetscape and surrounding locality, incorporating both

native and endemic species. The landscaping proposed will enhance the appearance of both the site and streetscape.

***e) To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks and community facilities***

The proposed development will not adversely affect the streetscape, skyline or landscape when viewed from adjoining public places. This is achieved through:

- The preservation of two large and prominent Morton Bay Figs fronting Banksia Street. These trees are the largest and most visually significant trees relating to the site, and greatly contribute to the adjoining streetscape and screening of the proposed built forms.
- Adoption of setbacks consistent with surrounding development. For example, Building A located closest to the western boundary, has a front setback to Dalley Avenue of 7.5m. This is the same as the neighbouring two-storey residence located at No. 4 Dalley Avenue, which also has a front setback of 7.5m. Building B has a staggered front setback to Banksia Street, starting at 3.471m and increasing. Similarly, Building B, on the southern side of the development mimics the building orientation and setback to Banksia Street of the adjoining residence, No. 210 Banksia Street, that is they are both aligned offset diagonally to the front boundary and similarly setback with their closest setbacks being 4.371m and 3.471m.
- Adoption of building heights that are compatible in scale to surrounding developments. For example, Building A has two different heights, being RL 27.556m for the pitched section and RL 26.5m for the flat roofed section, whilst the height of Building B, fronting Banksia Street, is set marginally higher at 27.708m. These heights sit lower than the height of the adjoining two-storey residence at No. 4 Dalley Avenue, which has a height of RL 28.10m. These heights are common in the immediate area, particularly in instances of two storey developments, with pitched roof profiles.
- The three-storey component of Building A, located on the corner of Dalley Avenue and Banksia Street has a RL of 26.50m, and is consistent with the scale of the three-storey Residential Flat Building, located directly opposite, on the corner of Dalley Avenue and Page Street, at No. 11A Dalley Avenue.
- Adoption of building heights that are lower than the 10m maximum height limit prescribed for the area by Bayside Local Environmental Plan 2021, ensuring the development is consistent with the desired future character of the area.
- The development has been designed to respond to the topography of the site and the overall landform of the site will generally be retained.

Officer Comment: The justification presented above is considered to be well founded. The proposal development is consistent with the objectives of the FSR development standard.

***Clause 4.6(3)(b)- Are there sufficient environmental planning grounds to justify contravening the development standard?***

Applicant Comment:

- The proposed floor space ratio of 0.82:1 represents a variation to the development standard prescribed in the BLEP 2021 (0.55:1), constituting a 49.1% increase, which equates to an additional 768sqm floor area. The increase in the floor space



ratio allows LAHC to deliver an additional 13 x 1 bed units to the site (assuming 55sqm unit areas) than would be able to be provided under the FSR control, each requiring greater accessibility areas for users with mobility issues such as those in wheelchairs, or walking assisted devices, typical with seniors housing development.

- The development complies with Council's prescribed height limit of 10m, for the location. The setbacks of the dwellings comply with, and in many instances exceed, the Botany Bay Development Control Plan 2013 minimum setback requirements, as relevant to Multi Dwelling Housing. Owing to the nature of the variation, the design, scale and materiality of the proposed development, it is argued the development is consistent with the character of the locality, and for these reasons justifies the departure from Council's floor space ratio.
- Any adverse environmental impacts on the use or enjoyment of adjoining properties and the public domain are minimised.
- The development provides for social housing and is therefore consistent with the NSW Government's Plan *Future Directions for Social Housing in NSW*, the *Greater Sydney Region Plan 2018*, and the *Eastern City District Plan 2018*.
- Furthermore, the development will retain, upgrade and expand publically owned social housing in the Bayside LGA, a key deliverable of the *Bayside Housing Strategy 2020-2036*, endorsed by Council 10 March 2021, to Promote housing affordability. Modelling found in the Strategy showed that there will be a substantial increase in the demand for social and affordable housing in the LGA to address local housing need. The Strategy finds that between 2016 and 2036 an additional 5,405 households will require social and affordable housing. Lone person households, which the subject development will cater for with studio and one-bed units, will increase 2,493 over the same period. The Strategy stipulates that while Council can increase the supply of affordable housing in the Bayside LGA through identified actions, completely closing the gap would require substantial investment by the NSW Government and cannot be achieved by Bayside Council alone. This being the reason, that Strategy identifies as a key action to implement and deliver the plan that Bayside Council should... *Continue to engage with NSW Land and Housing Corporation regarding the retention, upgrade and potential expansion of publically owned social housing in Bayside.*

Officer Comment:

The environmental planning grounds identified are sufficient to justify contravening the development standard.

**Clause 4.6(4)(a)(i)- Consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)**

Officer Comment:

An assessment of Clause 4.6(3) as outlined above has been undertaken. The justification provided by the applicant is satisfactory in addressing each point relating to planning grounds and unreasonableness.

**Clause 4.6(4)(a)(ii) - Consent authority that the proposal is in the public interest because it is consistent with the zone and development standard objectives**

The objectives of the R2 – Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure land uses are carried out in a context and setting that minimises impact on the character and amenity of the area.*
- *To enable residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.*

Applicant Comment:

The proposed development's non-compliant floor space ratio raises no inconsistencies with the objectives of the R2 zone. For example, the development provides for the housing needs of the community in a low-density residential environment, through the provision of various housing types, including studios, one and two bedroom units, all designed for seniors housing. The development is a direct response to the communities' immediate need for social and affordable housing, as identified in the *Bayside Housing Strategy 2020-2036*.

The development will not hinder the ability of surrounding lands to be developed for the purposes of providing facilities or services to residents. This is achieved by the developments compliant height, side and rear setbacks; adopting building designs that ensures that there will not be any overlooking or overshadowing issues. Noise attenuation measures have been incorporated into the design of the building to ensure noise emissions on nearby receivers from the operation of the base building services (i.e., electrical, hydraulic and mechanical plant) are compliant, with applicable guidelines.

The development is carried out in a context and setting that minimises any impact on the character and amenity of the area. This is achieved through the adoption of appropriate front and side setbacks, consistent with Council's controls, and surrounding residential development. The proposed height of the development is also compliant with Council's BLEP 2021 height control (10m), and is consistent with surrounding developments, being lower than neighbouring development at No 4 Dalley Avenue etc. The impact of the development is further minimised, owing to; considered dwelling layouts, including the careful placement and sizes of window/door openings, treatment of windows with obscured glazing and balconies with privacy screens and the positioning of POS areas; provision of fencing that is appropriately located and designed (materials/height etc.); provision of landscaping plantings along boundary lines, and retention of existing mature trees along the front boundary of Banksia Street, including two (2) large and visually significant Morton Bay Figs; and concentrating the three-storey elements away from adjoining properties.

The development is located in an accessible location that will maximise public transport patronage. For example, the site is located within 400m of bus stops located on Page Street, accessed by an accessible path of travel along Dalley Avenue, Wentworth Avenue, and Page Street. The bus stops are located to the front of No. 31 Page Street (southbound travel) and 60 Page Street (northbound travel). These bus stops are serviced by one (1) regular scheduled State Transit bus service (Route 307), which includes frequent accessible services, during weekdays and on weekends. This service would take residents to a wide range of localities where services, facilities, shops and recreation facilities can be readily accessed including the Mascot town centre and train station (accessible), Matraville town centre, Botany town centre and Eastgardens Westfield Shopping Centre.

The development encourages walking by providing a combination of steps and ramps to, and throughout the site, allowing safe and efficient pedestrian movements. To ensure accessible paths of travel are provided to and from the development, LAHC is proposing to construct new suitable kerb ramps on either side of Dalley Avenue – so that a continuous path of travel can be provided to bus stops on Page Street. This is in addition to the regrading of footpaths along the frontage of the site. The development encourages cycling through the provision of four (4) bicycle spaces in the basement, which is accessible and available to all residents.

Officer Comment:

It is supported that the proposal will successfully achieve the objectives of the clause and zone and provide a considered built form response that will deliver a positive urban design outcome. The proposal is in the public interest.

Given the above, the consent authority can be satisfied that the provisions of clause 4.6(4) have been achieved and that the clause 4.6 is well founded. Compliance with the FSR development standard in the circumstances of this case is unreasonable and unnecessary and the proposed variation is supported.

**6.1 – Acid Sulfate Soils**

Acid Sulfate Soils (ASS) – Class 5 affect the property. The proposal does not involve excavation work below 5m AHD. No further concerns are raised.

**6.2 – Earthworks**

The proposal involves excavation within the site to accommodate the basement level. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

**6.11 – Essential Services**

Services are generally available on site. Additional conditions have been incorporated requiring consultation with relevant utility providers with regard to any specific requirements for the provision of services on site.

**S4.15(1)(a)(ii) Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority**

The following are proposed instruments that are or have been the subject of public consultation under this Act:

- **Draft Housing SEPP**

The NSW Government has developed a new Housing State Environmental Planning Policy (Housing SEPP) which aims to facilitate the delivery of more diverse and affordable housing types. The draft Housing SEPP will:

- a) *Consolidate five existing housing-related SEPPs (State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental*

*Planning Policy (Housing for Seniors and People with a Disability) 2004; State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes); State Environmental Planning Policy No 21—Caravan Parks; and State Environmental Planning Policy No 36—Manufactured Home Estates;*

- b) Include the recently made provisions for short term rental accommodation and build-to-rent housing;*
- c) Include the recently updated social housing provisions;*
- d) Introduce provisions for co-living housing, a form of housing that provides small private rooms (which may or may not include private kitchen and bathroom facilities), offset by access to managed communal spaces;*
- e) Incorporate amendments to boarding house and seniors housing provisions;*
- f) Amend some local environmental plans in relation to secondary dwellings in rural zones, and the permissibility of boarding houses in R2 zones.*

The SEPP was gazetted after the submission of this DA. The savings and transitional provisions (savings provisions) in Schedule 7A of the Housing SEPP provide that the Housing SEPP does not apply to a proposed development made, but not yet determined, on or before after the commencement date. Given that the Development application was lodged before the commencement date of 26 November 2021 the provisions of the repealed Seniors Housing SEPP continue to apply to the proposed development in these circumstances.

Notwithstanding the above, some assessment of the proposal against the relevant provisions within *Part 5 – Housing for seniors and people with a disability* of SEPP (Housing) 2021 is provided below:

- The proposal would be compliant with the relevant requirements of clause 84 – Development standards noting that in accordance with clause 84(4) some of the requirements do not apply to a DA made by the Land and Housing Corporation.
- Clause 86 – Development standards for seniors housing is satisfied as the development is within R2 land and is being carried out by the Land and Housing Corporation.
- Clause 93 – Location and access to facilities and services. These requirements would be achieved.
- Clause 95 – Water and sewer. These facilities are available.
- The Division 5 Design Requirements and Division 6 Design principles are satisfied for similar reasons to those identified in the previous assessment against SEPP (Housing for Seniors or People with a Disability) 2004.

#### **S4.15 (1)(a)(iii) Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

#### **Botany Bay Development Control Plan 2013**

The application is subject to the Botany Bay DCP 2013. An assessment against the relevant parts of the DCP are provided below:

#### **Part 3A – Parking and Access**

The car parking rates are superseded by SEPP (Housing for Seniors or People with a Disability) 2004.

### **Part 3C – Access and Mobility**

The proposal has been designed so that the development is accessible from the public domain and internally. The development provides 8 accessible car spaces located within the basement level. The applicant has provided an access report which establishes that the relevant accessibility standards are capable of being complied with. Appropriate conditions have been included. The proposal is satisfactory and complies with the objectives of the DCP.

### **Part 3E – Subdivision and Amalgamation**

The proposal involves consolidation of five (5) existing allotments into a single allotment. Suitable conditions of consent are provided to address this.

### **Part 3G – Stormwater Management**

An assessment against stormwater management has been discussed in Clause 6.3 of the BLEP 2021 above.

### **Part 3I – Crime Prevention, Safety and Security**

The proposal provides opportunities for passive surveillance to both Dalley Avenue and Banksia Street. Suitable landscaping is proposed which will not restrict safety, visibility and legibility from the public domain and within the site.

### **Part 3J – Aircraft Noise and OLS**

#### ANEF 15-20

The site falls within the 15-20 ANEF Contour and is considered to be an acceptable impact, therefore no further investigation is required.

### **Part 3K – Contamination**

An assessment against contamination has been discussed in State Environmental Planning Policy No. 55 above.

### **Part 3L – Landscaping and Tree Management**

Refer to SEPP discussion.

### **Part 3N – Waste Minimisation and Management**

In Building A general waste will be transferred by the occupants from their dwelling to the waste room on lower ground, accessible via lift. The Maintenance Manager is responsible for managing the waste and bulky waste in the Waste Room in the basement of the building ready for council collection. The Building A waste collection point is at the top of the driveway on the verge, as indicated on the Site Plan. In Building B the residents are to take their waste to the Waste Room located on the ground floor of the building. The Maintenance manager is then to transfer the bins to the collection point (Banksia Street verge) for kerbside collection.

### **Other comment**

The Botany Bay DCP 2013 does not provide any specific controls for seniors housing development. Whilst most of the requirements are established in the Senior Living SEPP, there are no setback guidelines. As a result of this, the applicant has utilised the DCP multi dwelling housing (that being the most comparable building typology/form) for guidance. In this regard, the DCP specifies the following in relation to front setbacks:

*Building setbacks from the existing front boundary are to match the characteristic setback of adjoining properties, but are to be a minimum of 3 metres (or 4 metres if fronting a classified (SP2 Zoned) road).*

*The proposed development achieves a minimum front setback of 3 metres throughout the development, and where residential development adjoins the site, matching front setbacks have been adopted (i.e – at the northern and north western end of the site).*

For side setbacks, Control C10 of the DCP specifies a minimum side boundary setback of 3m, applicable for buildings greater than 7m in height. As the portions of the development that adjoin the boundaries with neighbouring properties are two storeys in height the proposed development provides a minimum side setback of 3 metres to throughout the site to achieve this requirement.

### **Part 8 – Pagewood Character Precinct**

This section of the DCP provides rationale for determining the appropriateness and descriptive strategic direction for development in Pagewood. The proposal is consistent with the desired future character of this Precinct in that:

- The proposal will enhance the public domain and streetscape within the Precinct;
- The proposal has a maximum height of 2 to 3 storeys (within the 10m height limit);
- The design of the development follows the natural topography of the land; and
- The external presentation of the building achieves an acceptable level of compatibility with the existing context.

#### **S4.15(1)(a)(iia) – Provisions any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

There is no planning agreement applicable to the proposal.

#### **S4.15(1)(a)(iv) Provisions of regulations**

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 *Demolition of Structures* when demolition of a building is involved. In this regard a condition has been imposed in the draft Notice of Determination to ensure compliance with the standard.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

#### **S4.15(1)(b) Likely Impacts of Development**

Potential impacts related to the proposal have been considered in response to SEPPs,



LEP and DCP controls. The impacts that have not already been addressed are as follows:

#### **S4.15(1)(c) Suitability of the Site**

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development

#### **S4.15(1)(d) Public Submissions**

The development has been notified in accordance with the requirements of Botany Bay DCP 2013 between 10 November 2021 and 24 November 2021. A total of 18 submissions have been received. The amended plans were not required to be re-notified because the proposal would result in similar or less impact upon surrounding properties.

The issues raised in the submissions are discussed below:

| <b>Issue</b>   | <b>Council Comments</b>   |
|--|---|
| Insufficient amount of on-site car parking is provided to cater for 33 dwellings.      | <p>Clause 50 of SEPP (Housing for Seniors or People with a Disability) 2004 prescribes standards that, if complied with, cannot be used to refuse development consent for self-contained dwellings. Clause 50 (h) sets a minimum car parking rate of 1 space for each 5 dwellings. On the basis of 33 dwellings, a total of 7 car parking spaces are required. The application includes a total of 15 car parking spaces and is therefore compliant. The application therefore cannot be refused on the basis of parking.</p> <p>Note: The proposal involves re-instatement of a number of existing vehicular crossings along Dalley Avenue and creates a single consolidated driveway. As a result, additional street parking will be established.</p> |
| Traffic impacts, particularly at the intersection of Wentworth Avenue and Page Street. | <p>The on site car parking provision (15 car parking spaces) is not considered to result in a development that will cause an unacceptable traffic generation. The application was supported by a car parking and traffic report which has concluded that:</p> <ul style="list-style-type: none"><li>• When compared to the existing site traffic generation, the proposal represents an increase in site peak hour/daily two-way traffic generation of 3vph and 30vpd.</li><li>• The estimated quantum of additional site generated traffic can easily be accommodated on the local road network. Its impact on the safety and operation of</li></ul>   |

|  |  |
|--|--|
|  | surrounding road network will be insignificant.  |
| Welfare of the residents who live in houses being proposed for demolition.                       | Whilst this concern is noted, it is not a matter for consideration under Part 4.15 of the EP&A Act.  |
| Three storey building is out of context with the existing streetscape. Excessive bulk and scale. | These issues are addressed throughout the main body of the report. The design of the development is considered to be an acceptable contextual response, as confirmed in the Design Review Panel review. The three storey component is located at the lowest part of the site, on the corner and does not immediately adjoin any other residential properties. The three storey scale is consistent with the scale of the three storey RFB located directly opposite, on the corner of Dalley Avenue and Page Street, at No.11A Dalley Avenue. In addition to this, the proposal is fully compliant with the maximum allowable height limit of 10m. |
| The proposed development will create a precedent in residential zoning in the area               | The proposed land use is currently permitted in the R2 – Low Density Zone within BBLEP 2021. Approval of the application is not considered to establish any precedent.   |
| Overshadowing impacts  | Due to the orientation of the subject site, the proposed development will result in minimal overshadowing impacts on the adjoining properties. No. 210 Banksia Street, adjoining to the west of the site will receive some additional minor overshadowing at the mid-winter solstice, between the hours of 9am and midday. The area of the property affected by this overshadowing is primarily the driveway and front setback area. Notwithstanding this, the dwelling will continue to receive a minimum 3 hours of sunlight to living areas and POS areas between midday and 3.00pm in accordance with the DCP provisions.                      |
| Privacy/overlooking impacts from windows and balconies   | Due to the orientation of the site, the proposed development only directly adjoins two (2) residential receivers: 4 Dalley Avenue and 210 Banksia St. The side elevations facing those properties are setback 3m, 2 storeys in scale, incorporate obscure glazing (unit A-23 and B-04) and incorporate privacy screening to the balconies (unit A-23 and B-04). The privacy outcomes as proposed are considered to be reasonable.  |

#### **S4.15(1)(e) Public interest**

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal is demonstrably consistent with these requirements. Impacts on adjoining properties have been considered and addressed.

The proposal will deliver the provision of more social housing in an accessible location consistent with the NSW Government's Plan *Future Directions for Social Housing in NSW*, the *Greater Sydney Region Plan 2018*, the *Eastern City District Plan 2018*, the *Bayside Housing Strategy 2020-2036*, and consistency with the relative objectives of the development standard under BLEP 2021. As such, granting approval to the proposed development will be in the public interest.

#### **DEVELOPMENT CONTRIBUTIONS**

Contributions do not apply.

#### **REFERRALS**

##### External

The application was referred to Ausgrid and Sydney Water for any comment. There was no statutory obligation for these referrals. No response from Ausgrid was received. Standard conditions of consent are therefore imposed. Sydney Water did not raise any objection to the proposed development subject to standard conditions which have been incorporated into the consent.

##### Internal

The development application has been referred to various Council officers for technical review as outlined below:

| <b>Officer</b>          | <b>Comments</b>                  |
|-------------------------|----------------------------------|
| Engineering             | Supported subject to conditions. |
| Environmental Scientist | Supported subject to conditions  |
| Tree management Officer | Supported subject to conditions  |
| Landscape Architect     | Supported subject to conditions  |
| Waste Management        | Supported subject to conditions  |
| Address and Road Naming | Supported subject to conditions  |

## **CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.