



STATEMENT OF ENVIRONMENTAL EFFECTS

Alterations and additions to an existing residential aged care facility including demolition of existing buildings and structures, tree removal, excavation, basement parking and subdivision under SEPP (Housing for Seniors or People with a Disability) 2004

Uniting St Columba's

Nos.106 – 114 Centennial Avenue and Nos. 7 – 13 Fig Tree Street, Lane Cove

Prepared for: Uniting

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1. Introduction

1.1 OVERVIEW

This Statement of Environmental Effects has been prepared on behalf of Uniting, the applicant for the proposed development. The report is to accompany a development application to Lane Cove Council seeking consent for alterations and additions to an existing Residential Aged Care Facility (RACF) under SEPP (Housing for Seniors or People with a Disability) 2004, at Nos.106 – 114 Centennial Avenue and Nos. 7 – 15 Fig Tree Street, Lane Cove.

More specifically, the proposal involves the construction of a mixed two-three storey addition to the existing facility. The existing building will retain 42 bedrooms, the addition will provide 100 bedrooms (therefore 142 beds in total), ancillary facilities, back of house and the like will be provided across the existing and proposed structures. Vehicular access will be from Fig Tree Street to basement parking and the existing portico and associated driveway will be demolished and relocated south east along Fig Tree Street. The enlargement of the existing facility is made possible through the purchase of a number of the neighbouring residential lots and their subsequent amalgamation.

The proposal is designed to provide high quality care accommodation and communal open space. Importantly, the proposed development responds to the verdant character of the site and surrounds, incorporating extensive landscaping along the streetscapes and boundaries of the site.

1.2 ABOUT UNITING

Uniting are a mission-led, not-for profit organisation and are a social housing provider under the provisions of the SEPP (Housing for Seniors or People with a Disability) 2004.

Uniting is responsible for the social justice, community services and chaplaincy work of the Uniting Church in NSW and the ACT, providing care and support for people through all ages and stages of life and with a focus on people experiencing disadvantage and vulnerability. Uniting provides residential aged care homes as "homes" with nurturing and supportive environments and personalised care. Residents are able to entertain family and friends and have access to leisure and wellness programs.

Uniting has an ethos of inspiring people, enlivening communities and confronting injustice. They provide numerous high quality aged care facilities across Australia providing a range of services. Key to their aims of providing the highest level of care is their 'Household model' of aged care delivery. This model is based on research into what works best in terms of mental and physical wellbeing for residents. The approach sees residents live as part of a vibrant and active household of 18 to 20 residents, with a shared kitchen, dining room, living room and other such inviting spaces that might be found in any home. A routine set of rules and schedules is not followed and activities within the households are run according to what the residents want to do. These households together form a wider community who share the communal facilities. The development is designed with a secure perimeter so that residents can move freely within the site.

The spaces are designed to provide an optimum number of beds to ensure appropriate social stimulation for residents, which also assists with behaviour and staff relationships. The provision of shared living, dining and communal areas, with access to open spaces ensures residents can socialise and enjoy a range of activities with mental and physical stimulation throughout the day. The kitchen and dining areas will be designed to be homely in feel, with the residents given a certain level of supervised independence within these spaces. The intent here is to provide the residents with a sense of place and feeling of 'home'. It has is widely accepted that the ability for residents to feel at home in a kitchen





and dining environment improves their wellbeing. To this end, the kitchen and dining spaces will allow for the preparation of simple meals by residents (for example, toast, sandwiches and coffee/tea). However, given the nature of the resident, the primary cooking and the preparation of main meals is not appropriate within the small kitchen spaces. Therefore, main meals will be prepared by Uniting staff within the commercial kitchen area and made ready for serving, prior to being transported to each residential dining area for residents to be served

Uniting have operated “St.Columbas’ Lane Cove” for 26 years and are now seeking to expand the facility to provide an additional 100 beds. The site is well located in terms of local services being only 150m north west of local shops and facilities on Burns Bay Road and 1.2km west of Lane Cove Town Centre. Charlish Park Playground and Lane Cove Bowling Club are approximately 100m east of the subject site and a bus service is provided within 400m on Burns Bay Road.

1.3 NEED FOR DEVELOPMENT

Australia’s population is ageing and will require more aged care beds and facilities in the coming years. This development will see improvements to an existing high quality facility and a significant enlargement to provide 100 additional beds. Additional landscaping, outdoor recreation spaces and other improved facilities including café, multi-purpose room, hair salon and better staff facilities will also be provided to the benefit of existing and future residents and employees.

The development will continue to provide aged care services, whilst the environment will be improved for both residents and staff, the nature of the service and type of resident will not differ from the current provision.

1.4 SUPPORTING DOCUMENT

This application is accompanied by the following supporting information:

- Architectural Plan Package - prepared by Morrison Design Group;
- Survey Plan – prepared by Project Surveyors;
- Landscape Plan – prepared by Arcadia;
- Geotechnical Report - prepared by Ascent;
- Civil and Stormwater Plans – prepared by Northrop;
- Access Assessment Report – prepared by Funktion;
- Arborist Report - prepared by Tree Talk;
- Waste Management Plan - prepared by Waste Audit;
- Contamination Assessment – prepared by JBS&C
- Model – prepared by Base3D
- Traffic Report - prepared by PTC; and
- Quantity Surveyors Report - prepared by Rider Levit Bucknall.





1.5 DETERMINING AUTHORITY

The proposal has a Capital Investment Value of \$33,590,000. As such, determination will be made via Sydney North Planning Panel (SNPP).

1.6 PURPOSE OF STATEMENT

The purpose of this Statement is to address the planning issues associated with the development proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Section 4.15 of the *Environmental Planning & Assessment Act, 1979* (EP&A Act).

This Statement has been divided into six sections. The remaining sections include a description of relevant background information; an analysis of the site and locality; a description of the proposal; an environmental planning assessment pursuant to s.4.15 of the EP&A Act; and a conclusion.



2. Site Analysis and Context

2.1 THE SITE

The subject site is known as Nos.106 – 114 Centennial Avenue and Nos. 11 – 13 Fig Tree Street, and parts of Nos.7 and 9 Fig Tree Street, Lane Cove and has a legal description of:

- No.114 Centennial Avenue - Lot 2 in DP 184731 and Lot A in DP38033
- Nos.112 Centennial Avenue and 11 & 13 Fig Tree Street - Lots B, C and D in DP 385033
- Nos.106, 108 & 110 Centennial Avenue- Lots 1, 2 and 3 in DP 339444
- No.7 Fig Tree Street - Lot C in DP 336859 (part lot); and
- No.9 Fig Tree Street - Lot B in DP 346581 (part lot).

The site has an irregular shape, being on a corner with a north western frontage to Centennial Avenue of 152.72m, a south western frontage to Fig Street of 142.82m, multiple staggered eastern boundaries of ranging from 7m to 45.72m, and multiple staggered southern boundaries ranging from 3.32m to 15.19m. The site has a surveyed area of 8,004m². The site slopes from the eastern to the western boundary with a fall over approximately 4m.

An aerial photograph is provided at Figure 1.



Figure 1 Aerial Photograph of the subject site (source: Six Maps)

The site comprises the existing single storey Uniting Church and part two and part three storey RACF, 4 single storey dwellings fronting Centennial Ave (being Nos.106, 108, 110 and 112), 2 existing dwellings fronting Fig Tree Street



(being Nos. 11 and 13) and parts of the rear gardens of two other dwellings, also fronting Fig Tree Street (being Nos.7 and 9).

Existing vehicular access is via Fig Tree Street to a basement parking area, and separately to a portico with associated loop driveway.

The church and RACF are brick constructions with pitched roofs to give a generally residential appearance which is reflective of the wider character of the area.

Photos of the site are shown at Figures 2 to 20 below:

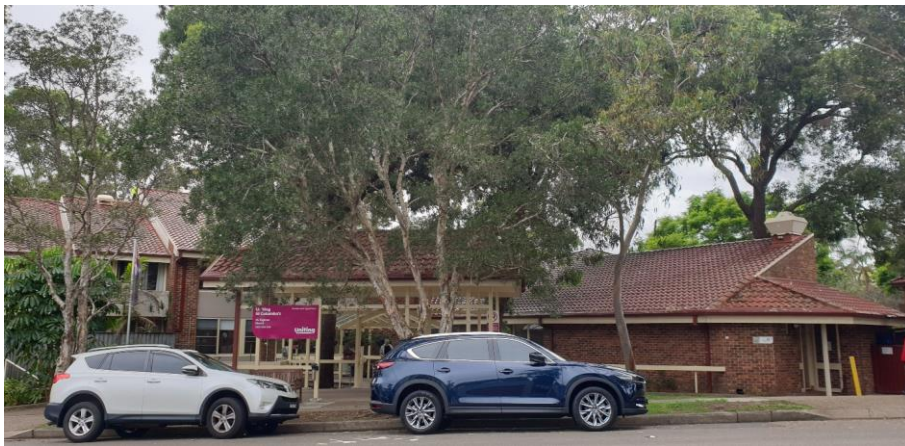


Figure 2 RACF main entrance fronting Fig Tree Street.



Figure 3 RACF and Church frontage to Fig Tree Street.





Figure 4 Existing porte-cochere to main entrance, fronting Fig Tree Street



Figure 5 Corner of Fig Tree Street and Centennial Avenue, looking eastward



Figure 6 Corner of Fig Tree Street and Centennial Avenue, looking south east along Fig Tree Street.

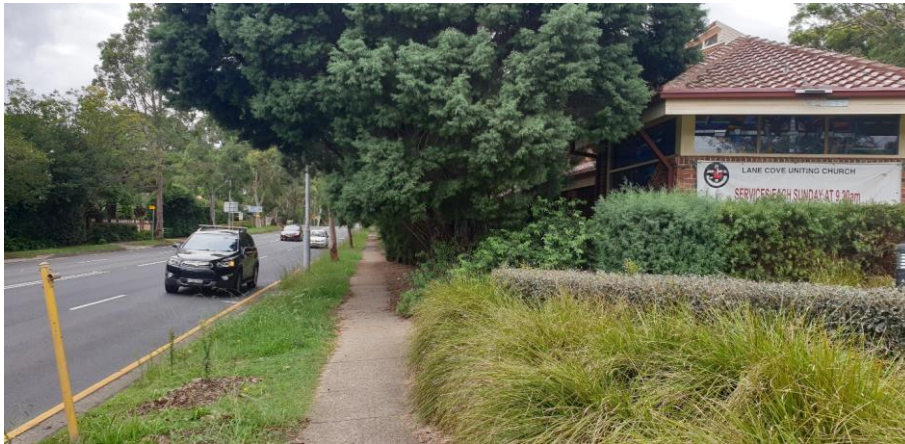


Figure 7 Corner of Fig Tree Street and Centennial Avenue, looking south eastward along Centennial Avenue.



Figure 8 Centennial Avenue frontage (looking eastward).



Figure 9 Centennial Avenue frontage (looking south eastwards from across Centennial Avenue).





Figure 10 Centennial Avenue frontage (looking south west from across Centennial Avenue).



Figure 11 Landscaping adjoining Centennial Avenue

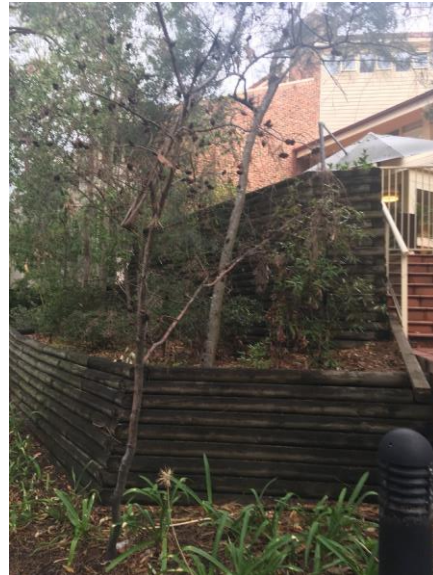


Figure 12 Terraced landscaping in communal area



Figure 13 No.13 Fig Tree Street (to be demolished).



Figure 14 No.11 Fig Tree Street (to be demolished).



Figure 15 No.9 Fig Tree Street (to be retained, rear garden partially amalgamated to subject site).



Figure 16 No.7 Fig Tree Street (to be retained, rear garden partially amalgamated to subject site).





Figure 17 No.112 Centennial Ave (to be demolished)



Figure 18 No.110 Centennial Ave (to be demolished)



Figure 19 No.108 Centennial Ave (to be demolished)





Figure 20 No.106 Centennial Ave (to be demolished)

2.2 CHARACTER OF THE LOCALITY AND SURROUNDING DEVELOPMENT

The area is residential in nature comprising predominantly of one and two storey detached dwellings, the subject site and existing facility being the largest building in the area.

The site adjoins No.104 Centennial Avenue to the north east, and No.5 Fig Tree Street to the south east, but of which contain single store dwelling houses.

The site is approximately 150m north west of local shops and facilities on Burns Bay Road and 1.2km west of Lane Cove Town Centre. Charlish Park Playground and Lane Cove Bowling Club are approximately 100m east of the subject site.

The site is wholly within the R2 – Low Density Residential zone, within the immediate context there are sites zoned as B1 – Neighbourhood Centre, R3 – Medium Density Residential, R4 – High Density Residential and RE1 – Public Recreation

Photos of the locality are shown below at Figures 21 to 32.



Figure 21 Local Centre at junction of Burns Bay Road and Fig Tree Street (looking south).



Figure 22 Local Centre at junction of Burns Bay Road and Fig Tree Street (looking east).



Figure 23 Local Centre at junction of Burns Bay Road and Fig Tree Street (looking west).



Figure 24 Local Centre at junction of Burns Bay Road and Fig Tree Street (looking south east).



Figure 25 Local Centre at junction of Burns Bay Road and Fig Tree Street (looking south east).



Figure 26 Medical centre at corner of Fig Tree Street and Burns Bay Road.



Figure 27 No.104 Centennial Ave.



Figure 28 Properties to the east of No.104 Centennial Ave.



Figure 29 Properties to the north of the subject site across Centennial Avenue.



Figure 30 Properties to the north of the subject site across Centennial Avenue.





Figure 31 Properties to the north south/south west of the subject site, across Fig Tree Street.



Figure 32 Properties to the north south/south west of the subject site, across Fig Tree Street.

2.3 SITE CONNECTIVITY

The site is well served by road and bus services. Centennial Ave provides road links to Mowbray Road and onwards to the A1/Pacific Highway and to the M1/M2 Motorway to the north. To the south Centennial Ave provides onward links to the A40.

The site is within 400m of bus stops on Burns Bay Road served by routes 251 (Lane Cove West to City Wynyard via Freeway), 252 (Gladesville to City King Street Wharf via North Sydney), 254 (Riverview to McMahons Point), 530 (Burwood to Chatswood) and 536 (Gladesville to Chatswood via Hunters Hill).

3. Background

3.1 PRE-DA HISTORY

A Pre-DA meeting was held at Council 30 October 2018 to discuss the initial scheme. Subsequent follow up meetings were held on 19 December 2019 and 24 January 2020 to discuss revised schemes based on Council comments.

Summarised comments from Council are responded through below and further detailed throughout this statement.

Table 1 Pre-DA Comments	
Council Comment (Summarised)	Response
Pre-DA meeting 30 October 2018:-	
<p><i>Building Height</i></p> <p>Building height is to be measured in accordance with the definition contained in the SEPP.</p> <p>Any height variation must consider the relationship with the adjoining development and streetscape, having particular regard to Clauses 33-35 of the Senior's Housing SEPP.</p> <p>The proposed roof height exceeds the maximum ridge height of the existing facility. The flat roof design results in boxing out of the massing. The level of the ground floor above existing ground level exacerbates the proposed building height.</p> <p>Any design should adopt the following principles:</p> <ul style="list-style-type: none"> - Stepping back the upper level from Centennial Ave. - The ground floor level should be minimised. - The maximum ridge should not exceed the existing facility. <p>A suitable transition should be provided between the proposal and neighbouring development.</p>	<p>The building height is measured in accordance with the SEPP definition.</p> <p>A height variation is proposed. It is considered that the development contributes to the streetscape. This is further justified throughout this report and within the Clause 4.6 variation request. Clauses 33-35 are addressed within the SEPP compliance table at Annexure A.</p> <p>The ridge height has been lowered to better integrate with the existing development. A pitched roof is now proposed. A three storey building is proposed, however the bulk is set back from Centennial Ave and Fig Tree Street and two storey projections front Centennial Ave.</p> <p>Stepping-back of the upper level from Centennial Ave is now proposed.</p> <p>The ground floor level matches the height of the existing ground floor to provide an accessible building. Also, the design intent is to soften any perceived bulk with landscaping and site topography. As noted, two storey projects front Centennial Ave, with the three storey element set back.</p> <p>The maximum ridge height is of a similar height to the existing facility and is commensurate with the sloping topography of the site.</p> <p>The revised development is considered to provide a suitable transition in scale.</p>
<p><i>Floor Space Ratio</i></p> <p>The FSR of subdivided residential lots must remain compliant with LCLEP2009.</p> <p>FSR of the RACF element is to be calculated in accordance with the definition pursuant to the Senior's Housing SEPP.</p>	<p>The subdivided residential lots remain fully compliant.</p> <p>The FSR of the RACF is calculated in accordance with the SEPP definition.</p>

Table 1 Pre-DA Comments	
Council Comment (Summarised)	Response
<p><i>Setbacks</i></p> <p>Setbacks of subdivided lots must meet the minimum requirements contained within LCDCP 2010.</p>	<p>The subdivided residential lots remain fully compliant and exceed requirements on N-E boundary to minimise impact on neighbours.</p>
<p><i>Site Isolation</i></p> <p>Site isolation of No.11 Fig Tree Street is a consideration. Further documentation and discussion is required.</p>	<p>No.11 Figtree Street has been purchased by Uniting Care and has been incorporated into the development.</p>
<p><i>Section 94E Direction</i></p> <p>Confirmation, if applicable, of any Section 94E Direction exemptions is to be provided.</p>	<p>A Certificate of Registration from the National Regulatory System of Community Housing is provided. This demonstrates that Uniting is a registered community housing provider</p> <p>Ministerial Direction issued under Section 7.17 (formally Section 94E) of the Act dated 14 September 2007 states the following:</p> <p><i>"Pursuant to section 94E of the Act, direct consent authorities that there are not public amenities or public services in relation to which a condition under Division 6 of Part 4 of the Act may be imposed on the class of development consents identified in Schedule A granted to a social housing provider as defined in the SEPP. This direction applies to development applications made by such a social housing provider on or after commencement of the SEPP"</i></p> <p>Schedule A of the Ministerial Direction states:</p> <p><i>"Development consents to carry out development for the purposes of any form of seniors housing as defined in State Environmental Planning Policy (Seniors Living) 2004."</i></p> <p>On this basis, the applicant is categorised as a Social Housing Provider, and the development is exempted from payment of developer contributions under Council's Policy.</p>
<p><i>Traffic and Transport</i></p> <p>The use of Charlish Lane for site access is not suitable</p> <p>Parking is to comply with the provisions of the SEPP in relation to the RACF, and Part R of the DCP in relation to the existing place of worship.</p>	<p>Charlish Lane is not proposed to be utilised as part of the revised scheme.</p> <p>Parking is compliant with the SEPP and relevant parts of the DCP.</p>
<p><i>Landscape and Tree Management</i></p> <p>The following are required at submission:</p> <ul style="list-style-type: none"> - Arboricultural impact assessment - Landscape Plan 	<p>These documents are provided with the submission.</p>
<p><i>Stormwater Management</i></p> <p>Consideration should be given to the existing pit locations on Centennial Ave.</p> <p>A Stormwater Concept Plan is to be provided at submission.</p>	<p>Noted.</p> <p>A Stormwater Concept Plan is provided with the submission.</p>
<p><i>Environmental Health</i></p>	



Table 1 Pre-DA Comments	
Council Comment (Summarised)	Response
<p>The following is required at submission</p> <ul style="list-style-type: none"> - Contamination Report - Construction Noise Management Plan - Details of the Food Preparation Fit 	These documents are provided with the submission.
Follow-up meeting 19 December 2019	
<p><i>Site Isolation</i></p> <p>The purchase of No.11 Fig Tree Street has resolved the site isolation matter.</p>	Noted.
<p><i>Site Access</i></p> <p>The new access point does not provide [Unclear what Council means]</p>	<p>It is assumed Council is referring to the vehicular access point at the site which was formerly No.15 Fig Tree Street. This access point provides clear and safe vehicular access to the development and is landscaped to soften its appearance on the streetscape.</p> <p>Fig Tree Street is characterised by residential driveways, the proposed is not fundamentally difference to those.</p>
<p><i>Setbacks</i></p> <p>The setback to Centennial Ave is to be reviewed having regard to the average setback along the street.</p>	The setback to Centennial Ave has been increased to better relate to the established building line. The façade has also been articulated with projecting elements to provide visual interest on the streetscape and to break up any perceived bulk.
<p><i>Building Height</i></p> <p>The SEPP requirement for a two storey presentation and interface to all boundaries is to be reviewed.</p>	<p>The proposed building is two to three storeys. However, it is designed to ensure that bulk and massing is broken up with articulation and varied pitched-roof form. Most notably we have provided a 6m setback on the eastern boundary (double that required) and then set back the upper floor further & deleted the balcony to reduce overlooking. In addition, the ground floor element is sunk into the ground and is softened with landscaping and by the site topography itself, thereby limiting visual impact, particularly when viewed from Centennial Ave.</p> <p>In addition, two storey articulated projections are proposed to front Centennial Ave with the three storey element set back.</p>
<p><i>Residue Allotments</i></p> <p>Any boundary adjustments are to be done in compliance with the minimum lot size provisions of LCLEP and the subdivision and setback provision of LCDCP.</p>	The subdivided residential lots will remain compliant.
Follow-up meeting 24 January 2019	
<p><i>Staging</i></p> <p>Council's preference is for a single DA. Any staging of works will need to be demonstrated as part of the application.</p> <p>Council can word conditions accordingly to allow staging as is necessary.</p>	Noted. Staged works are described in this report.
<i>Traffic</i>	





Table 1 Pre-DA Comments	
Council Comment (Summarised	Response
Any potential traffic management issues at each stage of works are to be highlighted and managed accordingly.	Traffic management issues are considered to be minimal. These are addressed in the submitted Construction Traffic Management Plan





4. Description of the Proposal

4.1 PROPOSED DEVELOPMENT

The proposed development involves alterations and additions to the existing RACF. The existing facility generally provides low care options. However, the proposal includes improvement to facilities and back-of-house so that the development can better service high care residents, to allow residents to age in place.

The proposal will include alterations and additions to the facility to provide:

- 100 additional beds (142 bed in total);
- Staff and resident amenities;
- Central landscaped courtyard; and
- Expansion of basement parking to provide an additional 33 car spaces (staff and visitors). There will be 45 car spaces in total across the entire site with 10 in the existing basement (which will not be connected to the new basement) and 2 on-grade short term car spaces.

The proposed extension is part-two part-three storeys above basement and is laid out as follows:

Basement

- Enlargement of existing basement
- Additional 31 parking spaces
- Store rooms
- Waste rooms
- Central kitchen
- Staff changing rooms
- Other back of house (BOH) facilities.

Ground Floor

- Portico entry
- Foyer and reception areas
- Café with external terrace
- Resident's hair dresser
- Staff offices, meeting rooms and BOH
- Waiting rooms and consulting rooms
- Chapel
- Store rooms
- Multi-purpose rooms
- Additional bedrooms
- Lounge and terrace area
- Central external courtyard and eastern external courtyard

First Floor

- Additional bedrooms
- Lounge, dining and living areas with external terraces
- BOH facilities



- Sitting rooms with balconies

Second floor

- Additional bedrooms
- Lounge, dining and living areas with external terraces
- BOH facilities
- Sitting rooms with balconies

The addition is constructed from light and dark coloured brickwork, sandstone facing, timber and lighter coloured paint finishes with pitched roofs with broad eaves. The proposed materials and architectural treatment is designed to have a mix of domestic finishes to break up the elevations and to create a sense of scale appropriate to a residential neighbourhood.

4.2 DEMOLITION AND EXCAVATION

The existing detached dwelling houses at Nos.106, 108, 110 and 112 Centennial Avenue, and Nos. 11 and 13 Fig Tree Street, ancillary garage, sheds and swimming pools are proposed to be demolished. Demolition detail is illustrated on the demolition plan provided with the architectural plan set. Demolition will comply with *AS 2601-1991: Demolition of structures*.

The site is to be excavated to permit a basement car park, with a depth of up to approximately 4m below natural ground level.

4.3 STAGING

It is sought to carry out the works in three distinct stages to allow for necessary works on the existing facility, demolition and construction of the new addition and final works to complete the project. It is therefore requested that Council permit the staging of works through the appropriate conditions of consent to permit the following stages to be signed off under separate Construction Certificates:

- Stage 1 - enabling works inside the existing RACF including the addition of the balcony noting the building will be occupied throughout.
- Stage 2 – demolition and construction of new RACF. In order to reduce impact on residents, it is planned to occupy Stage 2 before Stage 3 works can progress
- Stage 3 - the refurbishment and addition of a back of house to the existing RAC, including connection underground into the new basement area built in Stage 2.

For the avoidance of doubt, it should be noted that the development is not a 'Concept Development' (formally known as a 'Staged Development') pursuant to Clause 4.22 (Concept Development Applications) of the EP&A Act. Previously the term 'Staged Development' was used to describe applications which set out a concept proposal for a site (and for which detailed proposals for the development would follow in a subsequent development application).

This application seeks final approval for works, but seeks to implement these works at various stages to allow for the orderly and economic construction of the development, whilst maintaining the safe and comfortable running of the existing facility.

4.4 LANDSCAPING

A Landscape Concept Proposal has been prepared by Arcadia to demonstrate the high quality landscaping envisaged for the RACF. A Tree retention plan and an Arboricultural Report are also submitted which identify any trees to be removed as part of the RACF development, the report, states:

*Twenty-eight trees require removal to perform the works (26 site and 2 street trees).
Thirteen site trees and most street trees are well outside works areas.
Specific protection measures required for 20 site trees.*

Two trees require further consideration. Nearby street trees are to be protected with the exception of two trees along Fig Tree Street which will be impacted upon by new site access and driveway crossovers.

The landscaping through the development envisages a number of spaces each with a unique character. The various spaces will include the following themes and concepts:

Porte-cochere & Welcome Area

- Internal café with seating terrace
- Street tree planting
- Accent planting to provide representative entry character
- Paved outdoor café terrace framed by low planting to provide special segregation, but to retain view to street
- Generously proportioned pathway for ease of access
- Layered planting and trees to soften built form and provide a buffer to Fig Tree Street

Dementia Focused Garden

- Easy to navigate loop path
- Activity zones to encourage mental and physical stimulation
- Seating zones for relaxation and reflection
- Spaces to meet and socialise
- Colourful and visually stimulation planting palette
- Feature wall for visual interest

Central Communal Courtyard

- Tables and chairs in secluded zones for multiple activities
- Shaded flexible space for exercise, performances and events
- Central spine with water feature and deciduous planting
- Loop track
- Privacy screening for adjacent residents
- Feature lighting for visual amenity and safety

Community & Event Garden

- Activity zone for mental stimulation
- Seating zone for relaxation and reflection
- Lush, shade loving planting
- Private spaces for table top activities and reading
- Loop track
- Water feature



The gardens, terraces and outdoor spaces have been designed to provide a mix of mental stimulation and relaxed, peaceful spaces for both the resident's and staff enjoyment. Various elements such as the kitchen garden may allow for resident participation to allow for a range of activities.

The planting has been specifically selected to take advantage of both the climate, site orientation and positioning within the development. Native species are predominantly proposed and will be supplemented with appropriate and non-invasive ornamental introduced species.

Cut and fill, and retaining walls are required due to the topography of the site which slopes to the north-west. However, it is kept to a minimum and is predominantly within the building footprint.

Significant numbers of existing trees on the site are proposed to be protected and retained and substantial buffer planting is proposed at the boundaries

4.5 WASTE MANAGEMENT

A Waste Management Plan has been prepared to Council specifications and is submitted with the DA. The management plan outlines the proposed waste handling and storage for all types of waste associated with the RACF.

The existing RACF has operated on site for many years, existing waste handling arrangement will be maintained and waste collection will occur in the same manner.

4.6 SUBDIVISION

The development proposes the amalgamation of a number of residential sites. This includes boundary adjustments of Nos. 9 and 7 Fig Tree Street to incorporate part of these sites into the development site.

The subdivision plan has been designed to ensure that the subdivided lots, which will remain as residential lots with their existing dwellings intact, will be compliant with all relevant numerical controls and standards. Including FSR, site area and setback requirements.





5. Environmental Planning Assessment

5.1 PREAMBLE

This section of the Statement provides a planning assessment of the proposed development covering all relevant heads of consideration under Section 4.15 of the EP&A Act, 1979.

5.2 STATUTORY AND POLICY COMPLIANCE

The relevant matters for consideration under Section 4.15(1)(a) of the EP&A Act, 1979, are identified in Table 2.

Table 2 Section 4.15 Matters for Consideration				
EP & A Act, 1979.	Matters for Consideration	OK	See Comments	N/A
S.4.15(1)(a)(i)	SEPP No.55 – Remediation of Land	✓	✓	
"	SEPP (Infrastructure) 2007	✓	✓	
"	SEPP (Housing for Seniors or People with a Disability) 2004	✓	✓	
"	Lane Cove LEP 2009	✓	✓	
S.4.15(1)(a)(iii)	Lane Cove DCP 2010	✓	✓	
S.4.15(1)(a)(iv)	Any other prescribed matter: – AS 2601-1991: Demolition of structures.			✓

5.2.1 SEPP No.55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55) was gazetted on 28 August 1989 and applies to the whole State. It introduces planning controls for the remediation of contaminated land and requires an investigation to be made if land contamination is suspected.

Given the extent of excavation proposed a Preliminary Site Investigation has been submitted under separate cover.

The report concludes that:

- The sites appear to have been in residential use since at least the early 1940s
- Potentially contaminating activities were identified, including potential ACM and potential lead based paint associated with existing and former structures, demolition of former structure (potential sheds) and possible introduction of fill
- HMRA's were completed in 2011 and 2012 at 13 & 15 Figtree Road and at 106, 108, 110 & 112 Centennial Avenue, and asbestos, lead based paint, SMF and PCBs were identified in building materials at the site.
- A number of targeted investigations were carried out in 2020 which identified bricks, tiles, wood cuttings and similar to a depth of 0.5m. Elevated concentrations of lead, nickel, benzene, chlordane were also identified
- The report considers that the occurrence of benzene is minor and likely associated with termite control. Other contamination is limited in extent to shallow soil and typical of long term low density urban residential land use
- It is not considered that there is potential for gross or wide spread contamination which may preclude ongoing use or redevelopment for residential purposes



A number of recommendations are suggested and it is anticipated that Council will impose suitable conditions of consent to that effect. As such, the development site is considered acceptable in relation to contamination.

5.2.2 SEPP (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) was gazetted on 21 December 2007 and, among other things, aims to promote the timely provision of key community infrastructure.

Clause 102 of the SEPP deals with the impact of road noise or vibration on non-road development, and states that:

(1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration—

(a) residential accommodation,

(b) a place of public worship,

(c) a hospital,

(d) an educational establishment or centre-based child care facility.

(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

(3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—

(a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,

(b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

(4) In this clause, freeway, tollway and transitway have the same meanings as they have in the Roads Act 1993..

Seniors Housing is defined under the Lane Cove LEP as a form of *Residential Accommodation*. As such, the development is subject to Clause 102 of the SEPP. The RMS has calculated that Centennial Ave has an Average Annual Traffic Volume (AADT) of greater than 40,000 vehicles. As such, the development is subject to Clause 102 of the SEPP.

An Acoustic Report is submitted with the application which demonstrates that it is possible for the development to comply with the requirements of the SEPP subject to a range of recommendations. It is anticipated that these recommendations will be incorporated into the conditions of consent.

5.2.3 SEPP (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 commenced on 31 March 2004, and repealed the former State Policy relating to seniors living entitled *SEPP No.5 - Housing for Older People or People with a Disability*, which commenced on the 14 February, 1998.



The SEPP has the aim of increasing the supply of residences that meet the needs of seniors, by 'setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy'. That is, where a local planning instrument may prohibit or restrict seniors housing development, the SEPP provides a route which prevails over this prohibition or restriction.

In the case of the R2– Low Density Residential Zone Senior's Housing is not a permitted use. As such, the SEPP is relied upon for the delivery of this development.

The Seniors Housing SEPP consists of four chapters including Chapter 1 - Preliminary, Chapter 2 - Key Concepts, Chapter 3 – Development for Seniors Housing, and Chapter 4 - Miscellaneous. The intent and requirements of each of these chapters, as they apply to the proposed development, is addressed below.

Chapter 1 - Preliminary

Chapter 1 outlines the aims and objectives of the SEPP which are to increase the supply and diversity of well-designed housing for aged or disabled persons, and to make efficient use of existing infrastructure. This Chapter confirms that the Seniors Housing SEPP prevails over any other environmental planning instrument, to the extent of any inconsistency.

The Policy applies to land within NSW that is zoned primarily for urban purposes where dwelling houses, residential flat buildings, hospitals and special uses are permitted, or the land is being used for the purpose of a registered club.

The subject site is within R2 – Low Density Residential under the Lane Cove LEP 2009. Therefore the Seniors Housing SEPP applies to the land.

In addition, Clause 5 states that this SEPP shall prevail to the extent of any inconsistency with any other environmental planning instrument (EPI).

Chapter 2 - Key Concepts

Chapter 2 contains the key concepts of the SEPP providing detailed definitions of the types of housing to which the SEPP relates. Pursuant to Clauses 3 and 11, the proposed development is defined as a “*residential care facility*”, being:

- “ *residential accommodation for seniors or people with a disability that includes:*
- (a) meals and cleaning services, and*
 - (b) personal care or nursing care, or both, and*
 - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel or psychiatric facility.”*

Chapter 3 - Development for Seniors Housing

Chapter 3 of the Seniors Housing SEPP deals with a number of site and design related requirements which are to be satisfied to ensure that opportunities are created for the development of housing that is located and designed in a manner particularly suited to seniors who are independent, mobile and active as well as those who are frailer, and other people with a disability regardless of their age.

Pursuant to Clause 15, development for the purpose of any form of *seniors housing* is allowed if the proposed development is carried out in accordance with the Policy, despite the provisions of any other environmental planning instrument. The Chapter outlines various matters for consideration including site requirements, design requirements, development standards to be complied with and standards which cannot be used as grounds for refusal.



Assessment of the proposed development against the relevant development criteria is contained within the Compliance Table provided at Annexure A to this Statement. The assessment demonstrates that the proposed development is consistent with the principles, design requirements and guidelines outlined by the Policy.

Chapter 4 - Miscellaneous

Chapter 4 of the Seniors Housing SEPP predominantly provides savings and transitional provisions for development applications for Seniors Housing made before the Policy was introduced. These are not relevant to the subject DA.

Sprinkler System

Clause 55 requires that Residential Care Facilities have a fire sprinkler system. A sprinkler system will be installed and maintained in full accordance with the clause and any other relevant BCA requirements and Australian Standards.

5.2.4 Lane Cove Local Environmental Plan 2009

Lane Cove LEP (LCEP 2009) applies to the subject site. Under the LEP the subject site is within *the R2 – Low Density Residential zone*. The LEP prohibits seniors housing in the R2 Zone as follows:

Under LCLEP 2009, the definition of “seniors housing” is broadly consistent with the definition under the SEPP.

Seniors housing means a building or place that is—

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),
and that is, or is intended to be, used permanently for—
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

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

Under the SEPP, the definition for “seniors housing” is:

Seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

but does not include a hospital.”

The proposed development is for the purpose of a residential care facility and is prohibited within the zone. However, SEPP (Housing for Seniors or People with a Disability) prevails in such instances and is relied upon for the proposed development.

The relevant requirements within LCLEP 2009 have been addressed in a compliance table provided at Annexure B.

Clause 4.3 Building Height

Clause 4.3 of the LEP sets a building height of 9.5m and a maximum height variation of 1.34m is proposed. The SEPP height standard prevails over the LEP, notwithstanding, justification against the objectives of the control are provided below, as follows:

(a) *to ensure development allows for reasonable solar access to existing buildings and public areas,*

Comment: Please refer to section 5.3.6 of this report. Adequate solar access is provided.

(b) *to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable,*

Comment: The height variation does not introduce any additional overlooking beyond that of a compliant scheme as the additional height does not contain habitable floorspace.

(c) *to seek alternative design solutions in order to maximise the potential sunlight for the public domain,*

Comment: The proposed pitched roof ensures that the variation is set back from the public domain such that any additional height does not cause adverse impact when compared to a compliant scheme.

(d) *to relate development to topography.*

Comment: The height variation is, in part, a response to the complex site topography. It enables the building to be level across the varied topography which is vital for an aged care facility. The height variation in itself has no adverse impact on the site's topography outside of the building's footprint.

5.2.5 Lane Cove DCP 2010

The *Lane Cove Development Control Plan 2010* (LCDCP 2010) applies to all land to which the Lane Cove LEP 2009 applies. A Compliance Table is provided at Annexure C and considers the proposal against the relevant controls of the DCP.

The DCP has limited applicability as Seniors Housing is not a land use that is captured by the controls. However, the compliance table demonstrates that the proposal is largely consistent with the few relevant DCP controls which are applicable. Areas of non-compliance are discussed and justified within the compliance table.

5.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT

5.3.1 Topography & Scenic Impacts

Excavation is proposed as part of the development, in order to accommodate necessary parking and services. The site does not have any specific constraints, hazards or topographical features which are likely to require non-standard excavation or construction techniques. A Geotechnical Report has been submitted under separate cover which outlines the site's specific geotechnical constraints a number of standard recommendations are included in the report which are anticipated to be included as conditions of consent by Council. The site is considered appropriate for the development.

In terms of scenic impacts, the proposed alterations and additions represent a scale of development that commensurate with the planning controls applicable to the site. The proposal will fit comfortably within the existing residential area and will not give rise to any adverse scenic impacts.

Accordingly, the impacts of the proposed development on the topography of the locality, and its scenic impact, are considered to be acceptable in character and responds positively within the locality.

5.3.2 Micro-climate Impacts

The proposed development will have no significant impact on the micro-climate of the locality.

5.3.3 Water & Air Quality Impacts

During construction, appropriate sediment and erosion controls will be installed and maintained to prevent migration of sediment from the site. As the ground coverage of the current facility will be enlarged stormwater plans are submitted with the application which demonstrate appropriate measures for stormwater handling. It should be noted that significant areas of vegetation and deep soil are being retained and the scale of the development is commensurate with the controls applicable to the site, it is therefore not anticipated that non-standard stormwater handling will be required.

Stormwater Management details are submitted with the application. In regards to Stormwater Drainage, the development will require a piped drainage system to convey most of the additional roof extension runoff to an OSD tank. The OSD tank will discharge to an existing stormwater pit located at the north west corner of the site.

In regards to water quantity and water quality, the documentation outlines that the measures proposed are designed to deal with the anticipated quantity of water and non-standard measures are not required in respect to water quality.

5.3.4 Flora & Fauna Impacts

An Arboricultural Report is submitted with the application. The report states that twenty-eight trees (26 on site and 2 street trees) will be removed. All other trees assessed are proposed to be protected and retained.

New landscaping, appropriate to the locality, is proposed to be provided to offset the loss of existing trees and vegetation (refer to landscape plans submitted with the application under separate cover), high quality replacement trees are proposed.

5.3.5 External Appearance & Design

The proposed alterations and additions are designed to be complementary in appearance of the existing aged care facility although will visually appear as a different, later addition with individual architectural merit in its own right. The materials are proposed to be a light and dark brickwork, with lighter areas of render to produce a recessive appearance.

The proposed extension is designed to follow the established setbacks at Centennial Avenue and presents a more urban form to this aspect, this is appropriate given that Centennial Avenue is a main thoroughfare. Where the development fronts Fig Tree Street the extension is designed as a two storey building. The three storey element is on the northern side of the site where the topography enables additional height. Given that this is on the south of Centennial Avenue there is no overshadowing or overlooking impact caused by the three storey element. When viewed from Fig Tree Street the development utilises significant setbacks and articulation, and is predominantly set behind existing dwellings which front Fig Tree Road.

High quality landscaping is proposed throughout the site and brickwork from the existing building will be matched at the boundary fences to soften and integrate the development into the streetscape.



Figure 33 Aerial CGI as viewed from Centennial Ave



Figure 34 Proposed elevation to Centennial Ave.



Figure 35 Proposed elevation to Fig Tree Street

5.3.6 Solar Access

Shadow diagrams are submitted under separate cover. They provide shadow details at 9am, 12pm and 3pm on June 21 and March 21. The diagrams indicate that any shadow cast by the additions falls onto the subject site or predominantly over Fig Tree Street.

The diagrams demonstrate that the only overshadowing of adjoining dwellings is at 9am when some shadow is cast over dwellings on the opposite side of Fig Tree Street. The shadow then quickly moves to be cast only over the site itself and Fig Tree Street, with minor overshadowing of the rear garden of No.9 Fig Tree Street throughout the day.

This is not considered to harm the amenity of future residents who will continue to enjoy substantially levels of sunlight to a large part of the garden on midwinter. It should also be noted that the shadows cast have less impact on neighbours to the east than a 2 storey building built to the DCP recommended setbacks.

5.3.7 Views

There are no significant views of waterways or iconic buildings afforded from the site or from buildings in the immediate vicinity. Having regard to the surrounding properties and applicable planning controls, the proposed development will not result in any unreasonable level of view loss.

5.3.8 Aural & Visual Privacy

The proposed development has been configured and designed to ensure high levels of aural and visual privacy are retained for the subject site and adjoining sites. The development is within a corner site which is bounded by streets on two sides. It only relates to neighbouring dwellings at its eastern staggered boundary.

At this boundary the development generally presents east facing side walls with minimal windows. Where the eastern part of the southern façade faces the rear of No.9 Fig Tree Street the building is setback 7.3m from the residential boundary, with a minimum building separation distance of 13.8m. This is considered sufficient to mitigate any potential adverse overlooking impacts.

The development will continue to operate as seniors housing as it has done for many years. The site has not been subject to noise complaints by neighbours and due to the nature of the use it is unlikely to generate significant levels of noise in its enlarged form. Nonetheless, the proposal improves upon the current situation whereby deliveries and waste removal occur at street level. The new design proposes to put this underground where neighbours will be less disturbed. Also the roof over the truck turning area is designed to reduce any noise emanating from the driveway. It is therefore not considered that any adverse aural impacts will be introduced as a result of the development.

The enlarged part of the facility will introduce acoustic measures to insure full compliance with the Infrastructure SEPP in relation to Centennial Ave, which is considered to be road which has potential to generate adverse noise levels.

5.4 ECONOMIC & SOCIAL IMPACTS

Undertaking the demolition and construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. Once opened additional staff will also be employed at the facility. Accordingly, it is considered that the proposed development is likely to have only positive social and economic impacts in the locality.

The proposed development will allow for the existing facility to expand and provide an improved layout and refurbishment, which will directly improve the facility for its residents and staff. The development is of a manner that does not impact on the character amenity of the locality.



Enhancements to the living environment will have only positive social impacts as residents and their families are likely to see improvements in general health and mental wellbeing. Given the nature of the residents at the facility, they do not tend to leave the site unaccompanied for extended periods of time, as such there are unlikely to be any noticeable difference in the facilities' immediate relationship with the broader Lane Cove area.

In terms of cultural impact, again, there will be little to no adverse impact as a result of the proposed development. The site is not a heritage listed item, is not within a conservation area and it not identified as being within an area of high Aboriginal sensitivity.

As such, the proposal is considered to be both an economically and socially responsible form of development.

5.4.1 Crime Prevention through Environmental Design

Part B of the Department of Urban Affairs and Planning's (now Department of Planning and Environment) Crime Prevention and the Assessment of Development Applications: Guidelines under Section 4.15 of the Environmental Planning and Assessment Act 1979 identify four Crime Prevention through Environmental Design (CPTED) principles. Each of the principles seeks to reduce opportunities for crime and have been used to inform the NSW Police Safer by Design Guidelines for Crime Prevention. The principles are:

- Surveillance;
- Access control;
- Territorial reinforcement; and
- Space management

The subject development performs well in terms of achieving the safer by design guidelines for crime prevention. The development is deemed to be either safe or safe subject to the implementation of the following recommendations:

- The proposed landscaping will enhance privacy but does not obstruct sight lines to building entries;
- The pedestrian entrances for the are to be controlled by a security door;
- The main pedestrian and vehicular access points to the dwellings are to be illuminated during the evening to a level that allows clear lines of sight from the street frontages;
- The car parking area will be illuminated during the evening to a level that will allow clear sightlines;
- All painted surfaces on the external parts of the ground floor level are to be treated with a graffiti resistant coating; and
- The proposed development will comply with all design requirements stipulates in the SEPP (Housing for Seniors or People with a Disability) 2004.

5.5 THE SUITABILITY OF THE SITE

5.5.1 Access to Services

Clause 26 of the SEPP requires that services and facilities be located within 400m of the site or accessed via public transport which is located no more than 400m from the site via a suitable access pathway.

The site is approximately 150m from local shops and facilities on Burns Bay Road. This neighbourhood centre contains cafes and eateries, a grocery store, a chemist, dentist, chiropractor and a physiotherapist.

But stops are also available in the neighbourhood centre serving routes 251 (Lane Cove West to City Wynyard via Freeway), 252 (Gladesville to City King Street Wharf via North Sydney), 254 (Riverview to McMahons Point), 530 (Burwood to Chatswood) and 536 (Gladesville to Chatswood via Hunters Hill). As such, multiple services and facilities can be easily accessed via the routes to Chatswood and Lane Cove Town Centre. Chatswood in particular being a major town centre with extensive shopping, services, transportation and other facilities readily available.





As the site is within an established urban area, electricity, sewer, telephone, and water services are available to the subject site.

5.5.2 Parking and Access

The site's existing parking area for 10 spaces at basement level will be retained. Additional basement parking for 33 vehicles will also be provided in a separate new basement, and 2 at grade spaces will be provided to give a total of 45 parking spaces.

The SEPP parking provision states:

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

The development will provide 142 beds in total and no more than 38 staff will be on site at any one time. Therefore the SEPP parking rate will be:

- 122 beds @ 1 space/10 beds = 13
- 20 beds @ 1 space/15 beds = 2
- Staff (38): - 19 spaces
- Ambulance: -1 space
- Total = 34 spaces + 1 Ambulance Bay

The development provides 35 new spaces in addition to 10 existing spaces which is compliant with the SEPP provision.

5.5.3 Hazards

The site is not in an area recognised by Council as being subject to landslip, bushfire, flooding or any other particular hazards. The proposed development is not likely to increase the likelihood of such hazards occurring and is considered appropriate in this instance.

5.6 THE PUBLIC INTEREST

The proposed development will improve and expand the existing RACF in a form that meets the housing needs of the community, particularly the elderly. The proposed development will provide high quality care facility compatible with its surrounds and will have no adverse impact on the locality.

The proposed building has also been designed to protect the amenity of adjoining development, as well as to provide a high degree of amenity for residents within the proposed facility.

The site is located in close proximity to public transport services which allow convenient access to services and facilities and satisfies the site requirements of the Seniors Housing SEPP. The proposed development will generally have positive environmental impacts and acceptable impacts on the amenity of neighbouring properties. The proposed development is therefore considered to be in the public interest.





6. Conclusion

This Statement accompanies a development application for the alterations and additions to an existing Residential Aged Care Facility at Nos.106 – 114 Centennial Avenue and Nos. 11 – 13 Fig Tree Street, and parts of Nos.7 and 9 Fig Tree Street, Lane Cove. The proposed development has been assessed in light of Section 4.15 of the Environmental Planning & Assessment Act, 1979 and Council's planning Guidelines and Policies.

The proposal is permissible with consent pursuant to *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* and satisfies the relevant requirements of this instrument.

The siting, design and external appearance of the additions and alterations to the existing residential care facility are compatible with the character of the locality and will not result in any unreasonable amenity impacts to adjoining or nearby properties. Importantly, the development will allow for the enlargement of an existing Residential Aged Care Facility to support the needs of the elderly population.

The site is suitable for the proposed development and satisfies the intent of Zone R2 – Low Density Residential (see Annexure B). The development will improve the quality and service levels of the existing seniors housing development and will have manageable impacts on both the environment and the amenity of the locality.

Accordingly the proposal is considered to be in the public interest and worthy of approval.



ANNEXURE A

SEPP (Housing for Seniors or People with a Disability)
2004 –
Compliance



SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 – COMPLIANCE TABLE

Clause / Control	Requirement	Proposal	Complies?
Part 2 Site related requirements			
25 Application for site compatibility certificate [Cross-reference Clause 29]	(5) The Director-General must not issue a site compatibility certificate unless the Director-General: (b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:	-	-
	(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,	The proposal is compatible with the existing uses on the site, being an aged care facility, and is compatible with the natural environment, as described throughout this Statement.	✓
	(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,	The services and infrastructure available within and in proximity to the site are sufficient to meet the demands of the development, having regard to the location and access to facilities requirements of clause 26 (discussed below).	✓
	(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,	The proposed redevelopment's bulk and scale is considered to be compatible with that of existing development within the locality.	✓
26 Location and access to facilities	(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to: (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner.	Residents will have access to each of the facilities and services identified in subclause (1), as described below.	✓

SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 – COMPLIANCE TABLE

	<p>(b) in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development—</p> <p>(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</p> <p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</p> <p>(iii) that is available both to and from the proposed development 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), and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3)</p>	<p>Bus stops serving a number of routes to locations including Sydney CBD, Chatswood and Lane Cove Town Centre are within 400m of the subject site, they are accessible by means of a suitable access pathway with minimal gradient.</p> <p>The locations mentioned above all have the facilities referred to at subclause 1 within 400m of a bus stop.</p> <p>Buses run at frequencies in excess of 1 per hour in each direction throughout the day.</p>	✓
28 Water and sewer	<p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.</p>	<p>The development will be connected to the existing reticulated water and sewage disposal systems which are capable of servicing the proposed development.</p>	✓
29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply	<p>(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p>	<p>Refer to discussion against clause 25, provided earlier in this Compliance Table.</p>	✓

SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 – COMPLIANCE TABLE

Part 3 Design requirements

30 Site analysis	(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.	A site analysis plan is included with the architectural plan set submitted with this development application. Section 2 of this Statement describes the site, its characteristics and those of the locality. This is considered to constitute the written statement required by subclause (2).	✓
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.	The design principles set out in Division 2 are addressed within this Compliance Table. Assessment demonstrates that the development satisfies relevant design principles.	✓
33 Neighbourhood amenity and streetscape	The proposed development should: (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and	The proposed development recognises the desirable elements of the site and locality and contributes to the quality and identity of the area by enhancing the appearance of development on the site. The visual appearance and aesthetic qualities of the development are discussed in more detail at Section 4.3.5 of this Statement.	✓
	(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and	There are no heritage items immediately adjoining the site, nor is it within a heritage conservation area.	N/A
	(c) maintain reasonable neighbourhood amenity and appropriate residential character by: (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and	The development maintains a high degree of neighbourhood amenity and appropriate residential character and comprises a complementary architectural style to that of the existing building. The proposed building envelope respects the existing landform with minimal cut and fill proposed. The building height will be compatible with the character and built form of the locality.	✓

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	(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and	The front building line is consistent with the established building line of Centennial Avenue and Fig Tree Street.	✓
	(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and	The landscape plan indicates that the majority of street trees surrounding the site will be retained. Landscaping on site will be complementary to the streetscape.	✓
	(f) retain, wherever reasonable, major existing trees, and	Trees nominated for removal are identified on the Landscape Plan and within the Arboricultural Impact Assessment. Major trees are being retained where possible and removals relate to exempt species or are as a last resort	✓
	(g) be designed so that no building is constructed in a riparian zone.	There are no riparian zones in the vicinity of the subject site.	✓
34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and	Building orientation, window position and screening devices will ensure the visual privacy of residents of the aged care facility and neighbours is adequately protected.	✓
	(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	Bedrooms are situated an appropriate distance from driveways and parking areas to ensure the acoustic privacy of residents is not compromised.	✓
35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and	Substantial amounts of solar access is retained to private open spaces surrounding the building. The shadow diagrams indicate that all shadow cast by the proposed additions will fall onto the development site itself or predominantly over Fig Tree Street. Any shadow that is cast over neighbouring properties is fast moving and does not result in any additional adverse impact.	✓
	(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural	Building orientation and design ensures adequate solar access to reduce reliance on artificial light while eaves will protect against	✓

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	ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	summer sun. Operable windows will allow for natural ventilation and reduce the need for artificial cooling.	
36 Stormwater	The proposed development should: (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	Substantial landscaped area is provided to allow for infiltration of rainwater. Paving, driveways and other hardstand surfaces are minimised as far as possible. Stormwater will generally be retained within an on-site detention tank to minimise adverse impacts associated with the quantity and velocity of stormwater leaving the site. Where appropriate to do so it will also feed into the existing stormwater network.	✓
	(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	The proposal incorporates on-site stormwater detention to ensure that the post-development flows are consistent with pre-development flows, reuse is proposed.	✓
37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and	The site will be fully staffed and monitored at all times. Guests will be required to sign in on arrival. Observation will be possible to all parts of the site due to the high degree of outlook from each room.	✓
	(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and	A common entry to the facility is proposed and access to various locations within the facility is via security doors, as is necessary in a high care facility accommodation for elderly residents.	✓
	(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The site is a staffed secure facility.	✓
38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	The subject site has accessible pedestrian links to the bus stops in the Burns Bay Road local neighbourhood centre via a concrete footpath, as referred to previously within this Compliance Table.	✓

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	(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Existing basement parking and access is to be retained. Additional basement parking and associated access is also proposed from Fig Tree Street. The drives will be suitably landscaped and no wider than is required. Good visibility is afforded to pedestrians and drivers as there are no significant obstructions.	✓
39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	A Waste Management Plan (operational and demolition/construction) has been submitted with the development application and details operational waste management processes including waste storage and collection.	✓
Part 4 Development standards to be complied with			
40 Development standards - minimum sizes and building height	(1) General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.	Noted.	-
	(2) Site size The size of the site must be at least 1,000 square metres.	The site is 8,004m ²	✓
	(3) Site frontage The site frontage must be at least 20 metres wide measured at the building line.	The frontage to Centennial Ave is 156m.	✓
	(4) Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted: (a) the height of all buildings in the proposed development must be 8 metres or less, and (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and	The site is within the R2 – Low Density Residential zone. Residential Flat Buildings are not permitted in this zone. The development has a maximum height of 2.84m. This is 2.84m above the 8m SEPP height limit. The proposal is predominantly two storeys in height with a three storey section in the northern boundary with Centennial Avenue, where the land slopes downward.	No See Clause 4.6 variation request

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	(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.	N/A – see below	
	(5) Development applications to which clause does not apply Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following— (a) the Department of Housing, (b) any other social housing provider.	The facility is operated by a social housing provider therefore Clause 40(4)(c) is not applicable.	✓
Part 7 Development standards that cannot be used as grounds to refuse consent			
48 Standards that cannot be used to refuse development consent for residential care facilities	A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds: (a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or	The proposed building will exceed 8m in height. This is not a standard which is required to be met and Council can consider the merits of any scheme which exceeds 8m in height. In this instance there are no adverse impacts as a result of the building's height. Where it is adjacent to residential buildings it is no more than 3 storeys high and is a result of the site's sloping topography. There are no adverse amenity impacts in terms of overlooking or overshadowing as a result of the variation to the 8m height standard.	✓
	(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,	The proposed development has an FSR of 0.99:1	✓
	(c) landscaped area: if a minimum of 25 square metres of landscaped area per residential care facility bed is provided, (142 beds = 3,550m ² of landscaping)	The proposed development has a landscaped area of 3,498m ² or 24.63m ² per bed. Despite the variation of 0.37m ² per bed the development is considered to be acceptable. The proposed landscaping is high quality and the available outdoor spaces have been well designed. In excess of 40% of the site area is landscaping which is compliant with DCP requirements.	On merit

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		It should be noted that this is not a development standard that must be complied with and Council may permit reasonable variations.	
	<p>(d) parking for residents and visitors: if at least the following is provided:</p> <p>(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and</p> <p>(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and</p> <p>(iii) 1 parking space suitable for an ambulance.</p>	Complies – refer to section 4.5.2 of this report.	✓

ANNEXURE B

Lane Cove LEP 2009 – Compliance Table



LANE COVE LEP 2009

Clause / Control	Requirement	Proposal	Complies?
2.3 Zone Objectives	Zone = R2 – Low Density Residential	Seniors Housing pursuant to SEPP (Seniors Housing) 2004	Yes
	<p>Zone objectives:</p> <ul style="list-style-type: none"> - 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 retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area. - To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River. - To ensure that landscaping is maintained and enhanced as a major element in the residential environment.. 	<p>The development is for alterations and additions to an established use, it is therefore compatible with the existing and surrounding uses.</p> <p>The facility will meet the day to day needs of residents by providing much needed additional seniors housing in the area.</p> <p>The development preserves the amenity of neighbouring dwellings.</p> <p>The development is not a dwelling. Nonetheless, where it presents to Fig Tree Street (which is highly residential in character) the development is not highly visible and is generally set behind existing residential units.</p> <p>High quality landscaping is proposed for the development.</p>	Yes
4.1 Minimum subdivision size	<p>(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.</p> <p>Minimum subdivision size = 500m²</p>	<p>The sites at Nos.7 and 9 Fig Tree Street and No.1 Charlish Lane will be subdivided (with the dwellings retained). Each subdivided lot area will be:</p> <p>No.7 Fig Tree Street = 642.6m² No.9 Fig Tree Street = 550.9m²</p>	Yes
4.3 Height of Buildings	Maximum building height – 9.5m	Proposed building height – 10.84m.	SEPP Prevails

LANE COVE LEP 2009

4.4 Floor Space Ratio	Maximum FSR = 0.5:1	RACF site - Proposed FSR is = 0.99:1 No.7 Fig Tree Street = 0.43:1 No.9 Fig Tree Street = 0.32:1	SEPP Prevails Yes Yes
Part 6 Additional local provisions – Generally			
6.1A Earthworks	<p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters:</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p>	<p>Excavation is proposed for a basement beneath the building footprint and for associated vehicular access.</p> <p>The Stormwater Concept Plan demonstrates stormwater can be appropriately managed on site without adversely impacting on drainage patterns. There are no known topographical features that would require non-standard construction or drainage techniques, as such there or unlikely to be any adverse soil stability impacts</p> <p>The works facilitate the development which will allow for the continued use of the site as a seniors housing development. The site will be used as such for the foreseeable future.</p> <p>Excavated material will be reused on-site as fill with surplus material disposed of at a licenced waste management facility. A contamination report addresses matters of contamination.</p> <p>Excavation is contained within the footprint of the proposed building (other than associated vehicular access) and will be located an appropriate distance from site boundaries. No amenity impacts on adjoining properties are anticipated.</p> <p>It is likely that any required fill will be reused from the proposed excavation.</p> <p>The potential for disturbance to relics is considered highly unlikely given the long term use of the site and significant alteration over time, however It is anticipated that Council will impose an unexpected finds protocol to take into account any finds which may arise.</p>	Yes

LANE COVE LEP 2009

	(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.	The development works are a sufficient distance from watercourses and environmentally sensitive areas, and will have no adverse impacts on such features. Sediment and erosion controls will be installed and managed to prevent migration of sediment from the site.	
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ANNEXURE C

Clause 4.6 Variation – Building Height



Clause 4.6 Variation Statement – Height of Buildings: Clause 40(4)(a)

1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of Lane Cove Local Environmental Plan 2012 (LCLEP 2009) to accompany a development application to Lane Cove Council in respect of Nos.106 – 114 Centennial Avenue and Nos. 7 – 13 Fig Tree Street, Lane Cove. The subject application seeks consent to alterations and additions to an existing Residential Aged Care Facility (RACF), pursuant to *SEPP (Housing For Seniors or People with a Disability) 2004*.

2. PROPOSED VARIATION

Clause 40(4) of SEPP Seniors Housing

Clause 40(4) of SEPP (Seniors Housing) provides height controls in zones where residential flat buildings are not permitted. The site is within Zone R2 – *Low Density Residential* under the provisions of The *Lane Cove Local Environmental Plan 2009* (LCLEP 2009). Residential flat buildings are not permitted in the R2 zone under LCLEP 2009 and thus the provisions of Clause 40(4) are relevant to the proposed development.

Clause 40(4) provides:

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

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

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

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

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

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.”

SEPP (Seniors Housing) contains the following definitions of building height and ground level in Clause 3:

*“**height** in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.”*

*“**ground level** means the level of the site before development is carried out pursuant to this Policy.”*

Clause 3(2) of SEPP (Seniors Housing) relevantly states:

“In calculating the number of storeys in a development for the purposes of this Policy, a car park that does not extend above ground level by more than 1 metre is not to be counted as a storey.”



As indicated in the height blanket in Figure 1 below, there will be a breach of the prescribed SEPP (Seniors Housing) building height for sections of the proposed roof. The maximum exceedance in relation to the height prescribed under the SEPP (Seniors Housing), i.e from ground level to the ceiling of the topmost floor, will be 2.85m or 35.6%. Figure 1 below provides a height blanket showing the exceedance over the 8m. Notably, the lighter grey roof is the existing building to which the proposal provides a cohesive addition.

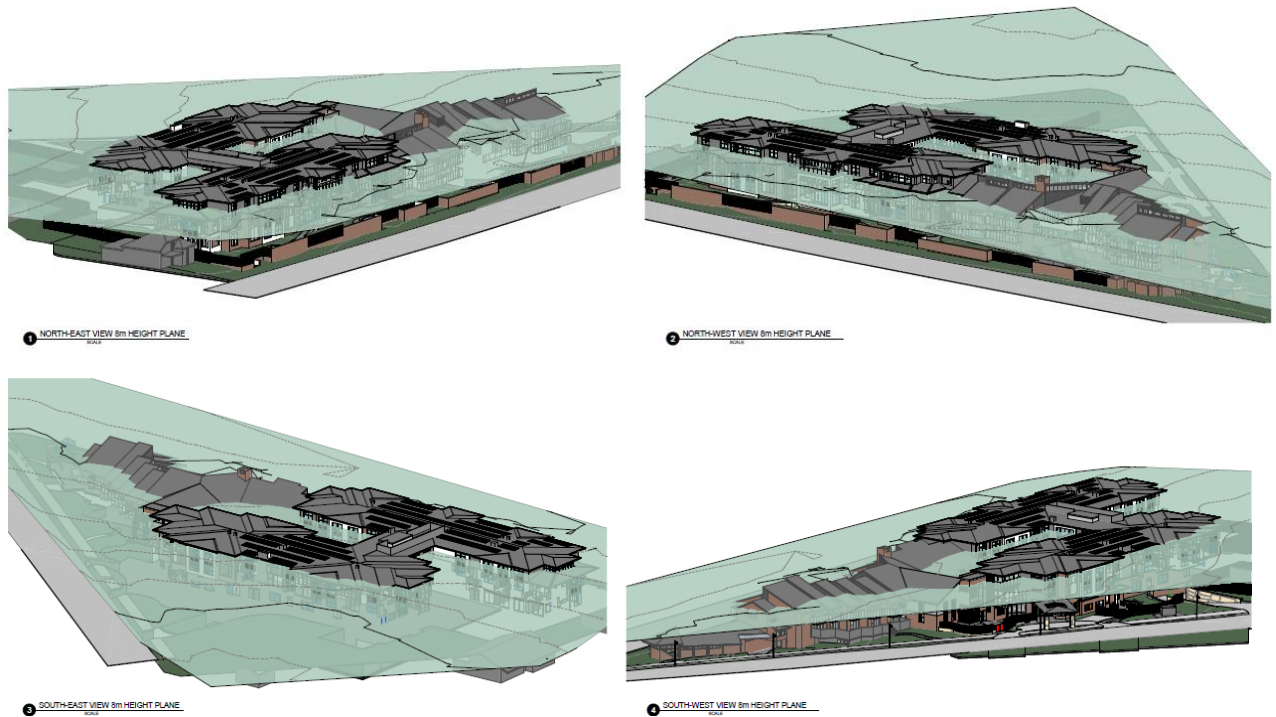


Figure 1: Height blankets showing areas of exceedance in grey

The prescribed building height under Clause 40(4)(a) of SEPP (Seniors Housing) is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of KLEP 2015.

In regards to Clause 40(4)(b), buildings adjacent to the boundary of the site are not in excess of 2 storeys. The three storey section along the northern boundary with Centennial Avenue, does not adjoin a boundary of the site.

In regards to Clause 40(4)(c), this clause does not apply to social housing providers.

3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

“(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning



instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

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

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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

the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,



(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4.”

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) & (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, Subclause 4.6(6).

4. COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

The judgement goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*



Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.

Compliance with the building height development standard is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in this Statement.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in Section 6 below.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, the following planning grounds are submitted to justify contravening the prescribed maximum building heights:

- a. The building height breach relates in part to site topography which falls from south east to north and north west. The development has been designed to provide an efficient floorplate with minimal level change, which is a requirement due to the elderly nature of the residents, and has been designed to limit any adverse impact on the amenity of neighbours or the streetscape. The majority of the variation is situated toward Centennial Avenue, which is a busy road with limited amenity value and the design of the building seeks to enhance the visual appearance of the street.
- b. The proposed building, incorporates significant façade and roof articulation to Centennial Avenue and provides generous setbacks to Fig Tree Street and the side setback. The additional height is to the north so that there is no overshadowing on the opposite side of the Centennial Avenue. This ensures there is no adverse impact on any adjoining residential property, to require strict compliance with the height control would have no perceptible planning benefit. However, it would significantly impact on the quality of the development in terms of design, its ability to provide much needed aged care beds, and on the wellbeing and quality of life of future occupants.
- c. The building form is such that it responds to the site topography and references the surrounding residential character and will therefore have no adverse impacts on the streetscape.
- d. The proposed floor to ceiling heights have been reduced following discussion with Council and coffered ceilings will be provided in communal areas. Whilst reduced ceiling heights are proposed of the development ensures high quality internal amenity of living spaces and rooms and allow for large windows and bright spaces, which is a critically important factor in relation to quality of life of the elderly residents who spend a large portion of their time indoors. Lowering the ceiling heights further would reduce the internal amenity of the facility with no material benefit for any adjoining property.
- e. From a practical point of view, the floor to ceiling heights are necessary to allow for services plant and equipment and, while it may ordinarily be possible to alter floor levels where services, plant and equipment are not required, this is not feasible in a development where changes in level are undesirable. In fact, the floor levels proposed have been adopted to avoid transitions in level and enhance access to and through the facility

- f. It has been demonstrated that the proposed development will be compatible with the character of the streetscape and locality, including the prevailing building heights along Collins Road, despite the exceedance of the prescribed building heights under the SEPP (Seniors Housing).
- g. The proposed development meets the objectives of the development standards and meets the objectives of the R2 Low Density Residential zone (as further detailed in Section 7 below).
- h. Shadows are predominantly cast over the site itself and Fig Tree Street to the south west. Where it does touch upon residential dwellings or gardens the shadow is fast moving and does not cause any significant adverse overshadowing impact. The neighbouring dwelling maintain solar compliance with the DCP. As such, lowering the height of the building would have no perceptible planning benefit in regard to solar access.
- i. The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:
 - The development facilitates ecologically sustainable development by providing much needed, well-designed Seniors Housing in an appropriate and accessible location. Furthermore, the development will have a positive economic and environmental impact on the locality (1.3b);
 - The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for an appropriate residential use (1.3c);
 - The development has been designed to be compatible with the surrounding built form and despite the height non-compliance, will not adversely impact neighbouring amenity. The development will provide excellent levels of amenity for prospective occupants and exhibits design excellence (1.3g).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development. The additional height will facilitate a high quality development with excellent levels of internal amenity that does not prejudice the character or appearance of the local streetscape or levels of residential amenity enjoyed by neighbouring properties.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. CLAUSE 4.6(4)(a)

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.

7. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(a)(ii))

7a. Objectives of Development Standard

There are no specific objectives in SEPP (Seniors Housing) listed in Clause 40(4)(a) and no objectives elsewhere in the relevant sections of SEPP (Seniors Housing) relating to building height. Notwithstanding, the Land and Environment Court in the case of *Winten Group Architects Pty Ltd v Kuringai Council* [2005] NSWLEC 546 has identified objectives for building height standards as:

"To control impacts on neighbours and to ensure that the proposed development is not overbearing in terms of bulk, scale and height and also in terms of overshadowing impacts and privacy concerns."

The note to Clause 40(4) states that the purpose of the development standard is to "avoid an abrupt change in the scale of development in the streetscape".

It is considered that these are the appropriate objectives of the development standards and are therefore adopted for the purposes of this objection.

They are addressed as follows:

- *To ensure that the proposed development is not overbearing in terms of bulk, scale and height.* The development is consistent with setback controls to all boundaries and exceeds the controls at the most sensitive boundary (being the north eastern corner) and provides a high level of façade articulation to break up any perceived bulk or scale. When viewed from Centennial Avenue the top storey (and non-compliant portion of the building) has been setback behind projecting two storey elements to ensure it appears recessive on the streetscape. Due to site topography

the building is predominantly below the height limit when viewed from Fig Tree Street, as such will maintain any portions of the non-compliant form will be imperceptible to the casual observer and will be as a result of the site topography itself.. In addition, the height is broadly similar to that of the existing aged care facility, which has come to be part of the established character of the area and is residential in appearance. The variation is therefore consistent with the established residential character of the street.

- *To ensure that the proposed development is not overbearing in terms of overshadowing impacts and privacy concerns:* As has been noted, the variation in itself does not introduce any adverse amenity impacts in terms of overshadowing or loss of privacy. The shadow cast by the development falls predominantly over Fig Tree Street to the south and south west. It is cast from the portion of the building which is compliant with the height control. Elements above the height limit have been designed so that any windows only overlook streets or are a sufficient distance from any boundary to not result in adverse levels of overlooking

The proposal is therefore consistent with the assumed objectives of the control.

7b. Objectives of the Zone

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone R2 are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*

The proposed development will provide for an extended high quality aged care facility in an appropriate accessible location. There is a clear need for additional seniors housing in the locality and the proposed development will be surrounded by similar appropriate uses.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal will not prejudice any land uses that provide facilities or services to meet the day to day needs of residents in the zone or wider locality. The development will give rise to positive social, economic and community outcomes by providing high quality housing to meet a demonstrated need in the locality.

- *To retain, and where appropriate improve, the existing residential amenity of a detached single family dwelling area.*

The proposal includes the retention of the dwellings on No.7 and No.9 Fig Tree Street. The proposed boundary realignments which form part of the proposal will meet the minimum lot size and retain internal and external amenity to these dwellings.



- *To encourage new dwelling houses or extensions of existing dwelling houses that are not highly visible when viewed from the Lane Cove River or Parramatta River.*

This objective is not applicable to the proposed development.

- *To ensure that landscaping is maintained and enhanced as a major element in the residential environment.*

The proposal includes significant landscaping including deep soil landscaping along the boundaries of the site and in about two-thirds of the central courtyard. The landscape plan includes the retention of a number of high quality trees and enhancement with new plantings.

The proposed development is consistent with the objectives of Zone R2 in that it will result in the development of a residential use in an accessible area. The use will be compatible with the mix of uses in the zone and will be compatible with the existing environmental and built character of the locality.



The building height variation is not antipathetic to the objectives for the zone and for that reason the proposed variation is acceptable

8. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

9. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6(5)(a))

Contravention of the building height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

10. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the building height. As such there is no public benefit in maintaining strict compliance with the development standard. Whilst the proposed building height exceeds the maximum permitted on the site by 2.85m pursuant to Clause 40(4)(A) of SEPP (Seniors Housing), the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standards and the objectives of the zone that make the proposed development in the public interest.

11. CONCLUSION

Having regard to all of the above, it is our opinion that compliance with the building height development standards is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standards would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation is supported.

ANNEXURE D

Lane Cove DCP 2010 – Compliance Table



Table 3 Lane Cove DCP

Clause / Control	Requirement	Proposal	Complies?
Part B – General Controls			
B7 Development near busy roads and rail corridors	<p>a) Acoustic assessments for noise sensitive developments as defined in clauses 87 and 102 of the Infrastructure SEPP may be required if located in the vicinity of a rail corridor or busy roads.</p> <p>For residential and the residential part of any mixed use development, appropriate measures must be taken to ensure that the following LAeq levels are not exceeded:</p> <p style="padding-left: 40px;">I. in any bedroom in the building : 35dB(A) at any time 10pm 7am</p> <p style="padding-left: 40px;">II. anywhere else in the building (other than a garage, kitchen, bathroom or hallway): 40dB(A) at any time.</p> <p>Increase the separation between the road/rail noise sources and the noise sensitive area. As an indication, doubling the distance from the noise source to the receiver will normally reduce the noise levels by between 3dBA and 6dBA.</p>	<p>The development is subject to Clause 102 of the SEPP.</p> <p>An Acoustic Report is submitted with the application which demonstrates that it is possible for the development to comply with the requirements of the SEPP subject to a range of recommendations. It is anticipated that these recommendations will be incorporated into the conditions of consent.</p>	Yes
	<p>a) Ensure that the building design allows for casual surveillance of access ways, entries and driveways.</p> <p>Avoid creating blind corners and dark alcoves that provide concealment opportunities in entry areas, pathways, stairwells, hallways and car parks.</p> <p>Provide a clear line of sight between one public or communal circulation space and the next.</p> <p>Provide entrances which are in visually prominent positions and which are easily identifiable, with visible numbering.</p>	<p>The building is designed so that casual surveillance is provided in the form of additional windows overlooking street frontage and to all access ways, entries, driveways and landscaped areas.</p> <p>Blind corners and dark alcoves are avoided by providing good outlook from the development and ease of visibility from the street frontages.</p> <p>Public and communal circulation space is clearly visible and will also be sign-posted as appropriate.</p> <p>Entry is being relocated but remains clearly visible from the street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Table 3 Lane Cove DCP

	<p>Provide adequate lighting of all pedestrian access ways, parking areas and building entries. Such lighting should be on a timer or movement detector to reduce energy consumption and glare nuisance.</p> <p>Provide clear lines of sight and well-lit routes throughout the development.</p> <p>For large scale retail, commercial, motel and Senior's Living development with a GFA of over 5,000m², provide a 'Safer by Design' assessment in accordance with the Crime Prevention Through Environmental Design (CPTED) principles from a qualified consultant.</p> <p>A formal crime risk assessment is to be carried out and provided as part of any development application for development of more than 20 new dwellings.</p> <p>Provide security access controls where appropriate.</p> <p>Public pedestrian areas within developments as well as communal access ways within multi-unit developments are to provide non-slip pavement surfaces.</p> <p>High density residential and mixed use development buildings should contain multiple stairs/ lift cores which limit the number of dwellings with access from the circulation core.</p>	<p>Noted. Can comply.</p> <p>The building is designed for dementia patients and therefore has clear lines of sight for easy orientation.</p> <p>A Safer By Design assessment is provided in Section 5.4.1.</p> <p>N/A</p> <p>Security access controls will be provided.</p> <p>All surfaces will be appropriate for a Senior's living development.</p> <p>N/A</p>	<p>Noted</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
8.1 Activation	<p>8.1 General</p> <p>a) Development is to be well connected to the street and contribute to the accessibility of the public domain</p> <p>Minimise the impact of services and vehicle access on the street character, activation and amenity of the street and public spaces by:</p> <p>i. Limiting the extent of blank walls and service doors to the street where possible particularly for major residential and mixed use or commercial development</p>	<p>Complies.</p> <p>Vehicle access points are limited to the existing portico access loop and a driveway to basement level. As lot amalgamation is proposed the number of drives to the street will be reduced from 6 residential and 1 delivery driveway to just 1 driveway. Loading and unloading is moved away from the street.</p>	<p>Yes</p> <p>Yes</p>

Table 3 Lane Cove DCP

	ii.	Limiting the number of vehicle access points by combining service and vehicle access points wherever possible for larger developments	Complies.	Yes
	iii.	Considering opportunities for shared vehicle access for multiple developments where possible	N/A	N/A
	iv.	Locating vehicle and service access points in secondary streets and laneways where available.	Vehicle access points are located on Fig Tree Street, with none proposed for Centennial Ave.	Yes
	v.	Improving the appearance of car parking and service entries	Landscaping is proposed adjacent to driveways and service entries.	Yes
		Integrate artworks into the design of private development, in publicly accessible locations such as main entrances, lobbies, street frontages, gardens, walls and rooftops.	No formal artwork is proposed. High quality landscaping is provided which will contribute significantly to the streetscape. There is potential for artwork to be displayed in the foyer in future.	Yes
		All development is to face the street and/or public open spaces and provide uses at ground level that provide activity	Complies.	
	8.2 Passive Surveillance			
	a)	All development at ground level is to offer passive surveillance for safety and security of residents and visitors.	Passive surveillance is provided throughout the development.	Yes
		All development is to contribute to the safety of any public domain areas.	The development will provide an active use and passive surveillance to the public domain.	Yes
		Development is to optimise the visibility, functionality and safety of building entrances.	Building entrances are well located, function and safely positioned.	Yes
		Development is to improve at least some these opportunities for casual surveillance by:	As previously noted, casual surveillance is provided by virtue of additional windows overlooking each street frontage and all entrances, drives and landscaped areas.	Yes
	I.	For mixed use commercial or retail development - orienting active areas within tenancies to provide direct outlook (without blinds) to streets and other public areas.		
	II.	For residential semi and detached dwellings - orienting habitable areas to provide direct outlook to the streets and other public areas.		

Table 3 Lane Cove DCP

	<p>III. Using bay windows and balconies to protrude beyond the main facade of the building to enable a wider angle of view to the street.</p> <p>IV. Using corner windows which provide oblique views to the street or open space.</p> <p>V. Providing casual views of common internal semi-public areas such as lobbies, foyers, hallways, recreation areas for mixed use commercial developments.</p> <p>Minimise opportunities for concealment in all development.</p> <p>Control access to residential flats, commercial and mixed use development by:</p> <p>I. Making adjoining uses, apartments or tenancies inaccessible from the balconies, roofs and windows of neighbouring buildings or dwellings.</p> <p>II. Separating and controlling the residential car parking component of developments from any other building use and from public and common areas.</p> <p>III. Providing direct access from car parks to apartment lobbies for residents.</p> <p>IV. Providing direct access from car parks to each floor of the development for all uses.</p> <p>V. Providing separate access for residents in mixed use buildings.</p> <p>VI. Providing an audio or video system at the entry or in the lobby for visitors to communicate with residents or tenants</p> <p>VII. Providing keyed car parking access for residents</p>	<p>Opportunities for concealment will be limited. Access to the parking areas and overall development will be monitored and controlled. The facility will be staffed at all times and the design limits blind corners and dark alcoves.</p>	<p>Yes</p>
<p>Part C – Residential Development</p> <p>Note: Dwelling Houses and Dual Occupancy controls relate to No.7 and 9 Fig Tree Street. These properties are being retained with boundary adjustments.</p>			
<p>C.1 Dwelling Houses and Dual Occupancies</p>	<p>1.3.1 Front setbacks</p> <p>a) The front setback of the building shall be consistent with the prevailing setback along the street (refer Diagram No.1). Where there is no predominant setback within the street, the setback should be a minimum of 7.5m. Irregular sites may be considered on their merits.</p>	<p>The front setbacks of Nos.7 and 9 Fig Tree Street are not being altered.</p>	<p>N/A – no change proposed.</p>

Table 3 Lane Cove DCP

	<p>b) The secondary street setback for corner allotments is to be a minimum of 2.0m (refer Diagram No.1).</p> <p>c) The front setback is to be free of structures such as swimming pools and ancillary elements such as rainwater tanks and air conditioning units. In certain circumstances carports and garages may be permitted in the front setback (see Section 1.9 Car Parking).</p> <p>d) In general, no part of a building or above ground structure may encroach into a setback zone. Exceptions are awnings, balconies, blade walls, bay windows and other articulation elements up to a maximum of 500mm.</p>		
	<p>1.3.2 Side Setbacks</p> <p>a) Side setbacks are to be a minimum of:</p> <p>I. 1.2m for a single storey dwelling</p> <p>II. 1.5m for a two storey dwelling.</p> <p>Irregular sites may be considered on their merits.</p> <p>b) First floor additions are to meet the above setback requirements. Where it can be demonstrated that there are no unreasonable amenity impacts, additions can maintain the existing setback of the floor below.</p> <p>c) A lesser setback may be considered for open carports, detached garages, steps and landings no more than 300mm above ground level (finished), where it can be demonstrated that there will be no unreasonable amenity impacts.</p>	<p>The side setbacks of Nos.7 and 9 Fig Tree Street are not being altered.</p>	<p>N/A – No change proposed.</p>
	<p>1.3.4 Rear setbacks</p> <p>a) A minimum rear setback for dwelling houses of 8m or 25% of the site depth (whichever is greater) is to be provided for sites up to 1000m² (refer to Diagram 2). The existing predominant rear setback and site constraints, especially for irregular sites, may be taken into account.</p>	<p>Requirement: No.7 Fig Tree, 25% lot depth</p> <ul style="list-style-type: none"> - Western boundary = 7.52m. - Eastern boundary = 10.55m <p>Proposed:</p> <ul style="list-style-type: none"> - Western boundary = 6.93m (variation of 0.59m or 7.8%) - Eastern boundary = 10.3m (variation of 0.2m or 1.8%) 	<p>On merit</p>

Table 3 Lane Cove DCP

	<p>c) A minimum rear setback of 6m for dual occupancies.</p> <p>d) Outbuildings, garages, carports, swimming pools, spas, decks and terraces may be located within the rear setback area.</p> <p>e) If a site adjoins bushland a greater setback may be required, see Part H - Bushland Protection.</p>	<p>Requirement: No.9 Fig Tree, 25% lot depth</p> <ul style="list-style-type: none"> - Western boundary = 9.06m - Eastern boundary = 12.05m <p>Proposed:</p> <ul style="list-style-type: none"> - Western boundary = 10.64m (Complies) - Eastern boundary = 8m (variation of 4.05m or 32.4%) <p>The proposed variations are considered acceptable and are consistent with the objectives of the control, which are:</p> <ul style="list-style-type: none"> - <i>To enhance and maintain vegetation corridors through landscaping within front and rear gardens and side boundaries.</i> - <i>Side and rear setbacks are to provide building separation, sunlight, landscaping, ventilation, public views (if appropriate) for the dwelling and its neighbours.</i> <p>The minimum landscape requirement for each lot is complied with and substantial landscaping is proposed across the whole development. Building separation is appropriate with a minimum distance of 14.3m provided between the dwellings and the southern elevation of the RACF. This exceeds building separation distance for buildings of this height in the apartment design guide (it is noted that the ADG does not apply in this instance, nonetheless, it provides a useful guide for acceptable building separation distances).</p> <p>The building depth is a response to Council's desired setback from Centennial Avenue and the need to have a 15m wide central courtyard for privacy. The room layout and depth has been established as the most efficient use of space for seniors living to enable a good quality of life and for sufficient furniture and any other necessary equipment in the room.</p> <p>In addition, the location of the driveway and vehicular turning space to the rear of Nos.7 and 9 Fig Tree Street are a response to Council's desire to have vehicular access from Fig Tree Street (and not Charlish Lane). In order to reduce the height of the RACF and to provide sufficient</p>	
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Table 3 Lane Cove DCP

		<p>building depth, courtyard spaces etc. the driveway is required to encroach slightly into the rear setback space of Nos.7 and 9.</p> <p>When all these requirements are combined it results in the proposed setback variations. As noted, adequate landscaping and building separation is maintained, and useable, high quality private open space is provided.</p>	
1.5 Landscaped Area	<p>a) A minimum of 35% of the site is to be landscaped area. A minimum width of 1m is required for inclusion as landscaped area</p> <p>b) Proposals should seek to retain significant natural features on the site including mature trees, rocky outcrops and other major vegetation stands (including continuous vegetation corridors to the rear) by careful design of the dwelling and other structures.</p> <p>c) The landscaped area should be effectively distributed on the site to minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.</p> <p>d) Landscape plans for dual occupancies are to show any vegetation being replaced, and screening for privacy and visual amenity.</p> <p>e) Landscaping at front boundaries shared with bicycle routes should be less than 900mm in height and should not impede pedestrian and bicycle routes or reduce visibility to these pathways.</p>	<p>No.7 Fig Tree Street = 41.5% of site area No.9 Fig Tree Street = 64% of site area</p> <p>No significant natural features on the sites at No.7 and 9 exist.</p> <p>Complies</p> <p>Not dual occupancies</p> <p>Front boundaries not being altered.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p>
1.8 Amenity	<p>1.8.2 Privacy – Visual and Acoustic</p> <p>a) Dwellings or additions shall be designed and orientated so that windows, balconies and decks are not situated directly opposite windows of the habitable rooms of any adjoining dwellings, unless privacy can be addressed.</p> <p>b) Roof terraces and decks above the upper storey are prohibited.</p> <p>c) Elevated decks, terraces or balconies greater than 1m above ground level (existing) to living areas are not to exceed a maximum depth of 3.0m. Deeper decks may be considered if privacy to adjoining properties is addressed.</p>	<p>The building separation distances between the rear of Nos.7 and 9 Fig Tree Street range from 14.3m to 26m. This is considered sufficient separation to avoid adverse overlooking and privacy issues.</p> <p>N/A</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>

Table 3 Lane Cove DCP

	d) The noise generated by mechanical equipment of any sort must not exceed the background noise level by more than 5dB (A) when measured in or on the lot adjacent to the equipment. Where sound levels are exceeded, sound proofing measures will be required.	N/A	N/A
	1.8.3 Private open space a) Where possible all dwellings are to have an area of private open space that receives northerly sun in winter. b) Where possible private open space is to be located directly accessible from a major living area within the dwelling and be on the same level as the living space or within 500mm of the floor level. c) Private outdoor open space can include a garden, terrace, paved area, deck or courtyard. d) The minimum area of one area of private open space per dwellings is 24m ² with a minimum depth of 4m and a maximum gradient of 1:50.	Complies Complies Complies Complies	Yes Yes Yes Yes
Note: The DCP does not contain specific controls in relation to Seniors Housing Development. As such an on-merit assessment is required, to assist in providing a framework for assessment relevant numerical controls in relation to Residential Flat Buildings (being the most similar development) are considered here. It should be noted that as these controls are not specific to Seniors Housing Development they are used for reference only, without prejudice, and cannot be used as a mechanism to refuse the application.			
C3 Residential Flat Buildings	3.3 Building Depth a) The maximum residential flat building depth is to be 18 m. b) This depth is exclusive of balconies	Complies.	Yes
	3.4 Building Width The maximum overall width of the building fronting the street shall be 40m. Greater widths may be permissible if the proposed building articulation is satisfactory in the streetscape	The building is wider than 40m at both street frontages. Articulation and differentiation in materials is proposed to ensure the bulk and form of the building is successfully broken up.	Yes
3.5 Setbacks	3.5.1 Front/Street		

Table 3 Lane Cove DCP

	<p>a) The front setback of the building shall be consistent with the prevailing setback along the street (refer Diagram No.1). However, Special Residential Areas subject to Block Plans should comply with the setback stated therein. Where there is no predominant setback within the street, and no Block Plan for the locality, the setback should be a minimum of 7.5m.</p> <p>b) The front setback area shall comprise terraces and gardens to the ground floor dwellings, deep soil zones, driveways and pathways.</p> <p>c) For corner allotments, the secondary setback requirement is the same as the side setback requirement for the proposed development.</p>	<p>The front setback is consistent with the prevailing setback of Centennial Avenue and provides appropriate façade articulation to break up any perceived bulk and scale of the development. Where the building fronts Fig Tree Street it is set well back from the frontage, providing large landscaped setbacks.</p> <p>The setback to Centennial Avenue contain private open space and landscaping. The setback to Fig Tree Street contains landscaping, drives and pathways.</p> <p>Complies</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p>3.5.2 Side and Rear</p> <p>a) To the boundary within the R4 zone, the minimum side and rear setback shall be: 6m up to 4 storeys 9m for 5-8 storeys 12m for 9 storeys and above.</p> <p>b) To the boundary shared with R2 and R3 zones the minimum set back will be 9m if habitable rooms/balconies orient this side.</p>	<p>N/A</p> <p>The side boundary is to the R2 Zone. Habitable rooms/balconies are setback further than required from the boundaries.</p> <p>The rear boundary of No.9 Fig Tree Street is setback 7.3m from the proposed building facade, with a minimum building separation distance of 13.8m. This is considered sufficient to mitigate any potential loss of amenity.</p>	<p>N/A</p> <p>Yes</p> <p>On Merit</p>
	<p>3.5.3 General</p> <p>a) In general, no part of a building or above ground structure may encroach into a setback zone. Exceptions are:</p> <ol style="list-style-type: none"> Encroachments into the setback zone of up to 2m may be permitted for underground parking structures no more than 1.2m above ground level (existing), where there is no unreasonable effect on the streetscape. Refer to Diagram 10. Awnings, balconies, blade walls, bay windows and other articulation elements up to a maximum of 500mm. 	<p>The proposed basement is below the building footprint.</p>	<p>Yes</p>

Table 3 Lane Cove DCP

	<p>iii. Setback variation may be required or permitted on merit to preserve existing trees.</p>	<p>There is some modest projection of two storey bays into the setback area fronting Centennial Avenue. This adds articulation and assists in breaking up any perceived bulk or scale.</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p>
3.8 Excavation	<p>a) All development is to relate to the existing topography of the land at the time of the adoption of this DCP.</p> <p>b) Excavation for major development is to be contained as close as practicable to the footprint of the development.</p> <p>c) For development within Centres, Council may consider full site coverage for underground excavation and podium footprints where it is demonstrated that mature landscaping, landscaped area and rainwater retention is able to be provided as roof terraces on podium structures.</p> <p>d) Uses at ground level are to respond to the slope of the street by stepping frontages and entries to follow the slope.</p> <p>e) The extent of excavation proposed for underground uses should not compromise the provision of deep soil areas or landscaped areas for residential flat buildings.</p>	<p>The existing building proposes some cut and fill to enable an appropriate layout for safe and efficient internal layouts. However at the boundaries the site relates to the existing topography.</p> <p>Basement excavation is contained within the proposed building footprint.</p> <p>N/A</p> <p>The building utilises landscaping and retaining walls to successfully respond and integrate into the topography of the site</p> <p>Complies.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
3.16 Visual Privacy	<p>a) Locate and orient new development to encourage visual privacy between buildings on site and adjacent buildings.</p> <p>b) Use detailed site and building design elements to increase privacy without compromising access to light and air. Detailing may include:</p> <ol style="list-style-type: none"> Offset windows of dwellings in new developments in relation to adjacent development windows Recessed balconies and/or vertical fins between adjacent balconies Solid or semi-solid balustrades to balcony Louvres or screen panels to windows and/or balconies Incorporating planter boxes into walls or balustrades to increase the visual separation between areas 	<p>The development is a corner allotment which is bounded by streets on two sides. It only relates to neighbouring dwellings at its eastern staggered boundary.</p> <p>The development generally presents side walls with minimal windows to properties to the east.</p> <p>Where it faces the rear of No.7 Fig Tree Street the development is set back a minimum of 6.4m from the boundary. This is considered appropriate minimise any adverse overlooking impacts</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Table 3 Lane Cove DCP

	vi. Utilise pergolas or shading devices to limit overlooking of lower dwellings or private open space.		
3.18 Landscaped Area	<p>a) A minimum of 40% of the site area is to be planted, comprising 25% landscaped area and a further minimum of 15% planting on structures or landscaped area.</p> <p>b) Exceptions may be made in centres for mixed use developments only. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building and sufficient soil depth and volumes to be provided to ensure that mature trees are achievable.</p> <p>c) Landscaping to front boundaries shared with bicycle routes should be less than 900mm in height and should not impede pedestrian and bicycle routes or reduce visibility to these pathways.</p>	43.7% landscaped area is proposed. 39% being deep soil and 4.7% being on terraces.	Yes