

### COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSNH-33 (2019)
<b>DA Number</b>	DA 306/19
<b>LGA</b>	North Sydney
<b>Proposed Development</b>	Demolition of existing dwelling houses at 54 and 58 Wycombe Road, and expansion of an existing Residential Aged Care Facility at 58A Wycombe Road, providing 87 beds within a three and four storey building over basement carparking for 22 vehicles.
<b>Street Address</b>	54-58A Wycombe Road, Neutral Bay
<b>Applicant/Owner</b>	Applicant – Cranbrook RACF Pty Ltd Owners: 54 Wycombe Road – Wenbing Zhou and Min Luo 56 Wycombe Road – James Harris, Michael Harris and Anthony Harris 58 Wycombe Road – Bruce and Elaine Cornell 58A Wycombe Road – Cranbrook RACF Pty Ltd, directors; Stephen Bauer, Marc Bauer, Campbell Meldrum, Kerry Mann and Phillip Andrews
<b>Date of DA lodgement</b>	30 September 2019
<b>Number of Submissions</b>	Original DA - 46 Objections and 5 in Support Amended Plans – 6 objections
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria</b>	General Development with a CIV > \$30M
<b>List of all relevant s4.15(1) matters</b>	North Sydney LEP 2013 <ul style="list-style-type: none"> <li>• Zoning – R2 Low Density Residential</li> <li>• Item of Heritage – Yes (56 Wycombe Road)</li> <li>• In Vicinity of Item of Heritage – Yes (31 Wycombe Road)</li> <li>• Conservation Area – Yes (Kurraba Point Heritage Conservation Area)</li> </ul> SEPP (Housing for Seniors or People with a Disability) 2004 SEPP (Vegetation in Non-Rural Areas) 2017 SEPP 55 – Remediation of Land SEPP (State and Regional Development) 2011 SREP (Sydney Harbour Catchment) 2005 Draft Environment SEPP North Sydney DCP 2013
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment No.1 - Clause 4.6 Request (SEPP Housing for Seniors 8m height limit)</li> <li>• Attachment No.2 - Clause 4.6 Request (SEPP Housing for Seniors 2 storeys adjacent to boundaries height limit)</li> <li>• Attachment No.3 - Clause 4.6 Request (SEPP Housing for Seniors 1 storey in rear 25% of site height limit)</li> <li>• Attachment No.4 – Applicant's Compliance Table</li> </ul>

	<ul style="list-style-type: none"> <li>Attachment No.5 – Architectural Plans</li> <li>Attachment No.6 – Shadow diagrams</li> <li>Attachment No 7 – DEP comments on amended plans</li> <li>Attachment No 8 – Council's Heritage Consultant comments</li> <li>Attachment No 9 – without prejudice draft conditions</li> </ul>
<b>Report prepared by</b>	Brett Brown, Consultant Planner
<b>Report date</b>	6 May 2020

#### **Summary of s4.15(1) matters**

Have all recommendations in relation to relevant s4.15(1) matters been summarised in the Executive Summary of the assessment report? **Yes**

#### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard has been received, has it been attached to the assessment report? **Yes**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

#### **Conditions**

Have draft conditions been provided to the Panel for consideration? **Yes**

### **EXECUTIVE SUMMARY**

The proposal seeks to expand an existing residential aged care facility (RACF) at 58A Wycombe Road to 3 adjoining properties to the south at 54, 56 and 58 Wycombe Road. The site is location within the Kurraba Point Conservation area. No 56 Wycombe Road is a heritage item, whilst the existing dwelling houses at Nos 54 and 58 are 'neutral' items within the conservation area. The proposal provides for the adaptive reuse of the heritage item whilst the dwellings at 54 and 58 are to be demolished to make way for a 2-4 storey extension to the existing facility at No 58A. A basement car park is provided with access via Aubin Street. Several significant trees are proposed to be removed as well as considerable other vegetation. The context of the site is predominantly low density residential however to the west is land zoned for high density residential development (R4 zone).

Review of the submitted plans resulted in a request for the applicant to address matters including excessive height, bulk and scale, lack of landscaping and impact on significant trees, demolition of 'neutral' items in the conservation area and other heritage impacts, concerns raised by the Design Excellence Panel and traffic and parking issues. In response the applicant submitted amended plans. Clarifications were also sought in relation to accessibility and gross floor area.

Whilst the amended plans addressed some of the concerns raised, the bulk of issues remain unresolved, and the assessment of impacts concludes that there will be a number of aspects of the proposal that will have an adverse impact on the character of the conservation area and will also fail to satisfy the relevant provisions of SEPP Housing for Seniors.

There is a demand for additional aged care facilities within the North Sydney LGA, as confirmed in the comments provided by Council's Community Development section. However, this should not be a reason to support otherwise unacceptable development.

It is also noted that the proposal has been facilitated by a Council request for exemption from the temporary provisions (at this stage, until July 2020) of SEPP Housing for Seniors that excludes application of the Policy from heritage conservation areas in the Greater Sydney Region. North Sydney is the only LGA that has such an exemption.

The Council's tacet support for seniors accommodation made it prudent that this application be assessed by an independent consultant.

## **DESCRIPTION OF PROPOSAL**

The development application seeks consent for the demolition of two dwellings on land known as 54-58A Wycombe Road and construction of a part three and part four storey extension to an existing residential aged care facility (RACF) that would increase the total number of beds to 87.

The proposed development comprises:

- Demolition of the dwelling houses, listed as neutral items within the Kurraba Point heritage conservation area, at 54 Wycombe Road and 58 Wycombe Road;
- Construction of a three and four storey RACF building, expanding the existing operation at 58A Wycombe Road across all four sites including the adaptive reuse of the Heritage Item at 56 Wycombe Road;
- Construction of a single level basement providing parking for 22 vehicles and services;
- Conversion of the existing basement at 58A Wycombe Road to service areas and relocation of the existing vehicle entry from Wycombe Road to Aubin Street;
- At grade ambulance bay and turn table for service vehicles;
- Expansive roof terrace area to be used as communal open space for the new building; and
- Removal of 31 trees and replacement tree planting throughout the site.

## **DESCRIPTION OF LOCALITY AND SITE**

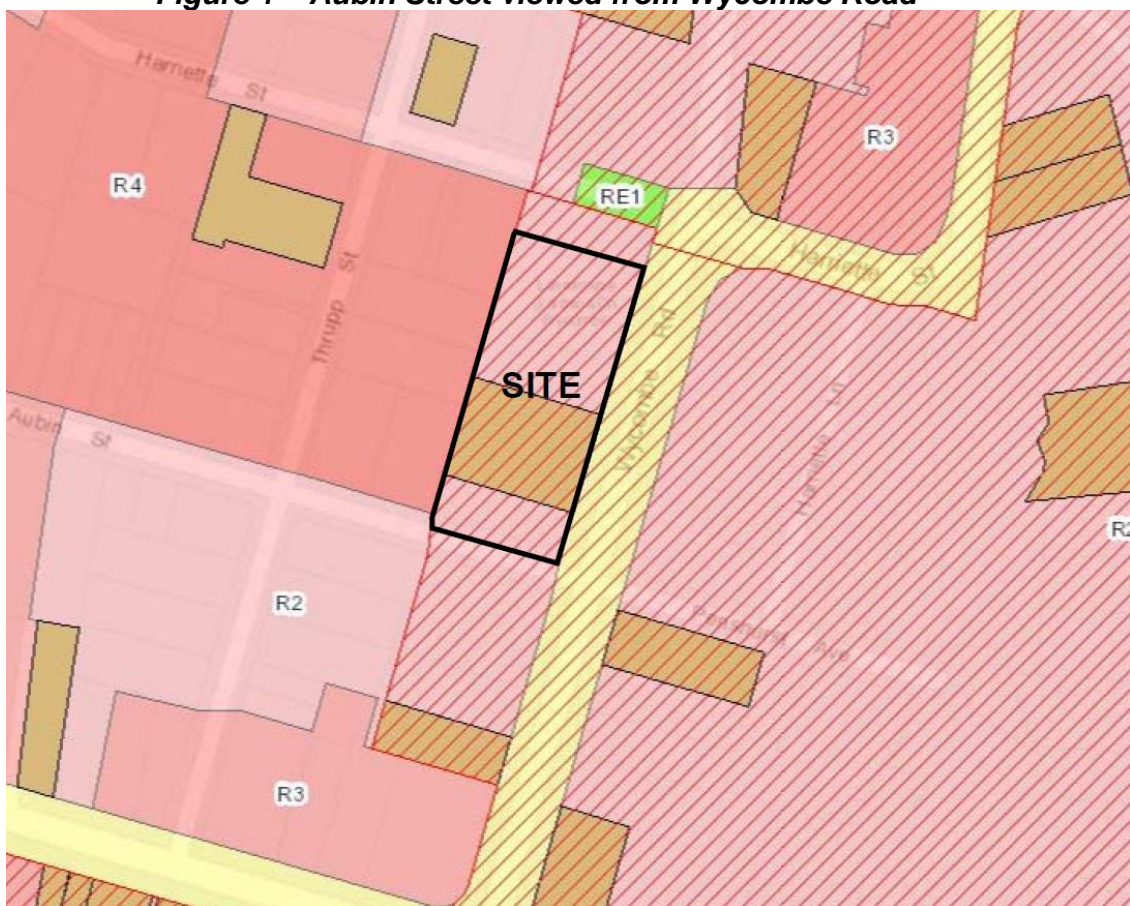
The site is within a mixed residential area and is less than 1km to the Military Road commercial area and North Sydney CBD. The site and areas to the north, south and east are zoned R2 Low Density Residential, and these areas generally contain detached one and two storey dwellings but also have a number of multi-level apartment buildings. To the west is the R4 High Density Residential zone that generally accommodates 2-4 storey apartment buildings (see **Figure 1**). The area is within the Kurraba Point Conservation Area and there are a number of heritage items including one on the subject site (see **Figure 2** – note conservation area is hatched, heritage items are brown).

The site is located on the western side of Wycombe Road between Aubin and Harriette Streets. Wycombe Road is a busy distributor road servicing the harbourside areas between North Sydney and Mosman. The area is well serviced by Sydney Buses and the site is around 500m to ferry services (see **Figure 3**).



Source - GoogleMaps

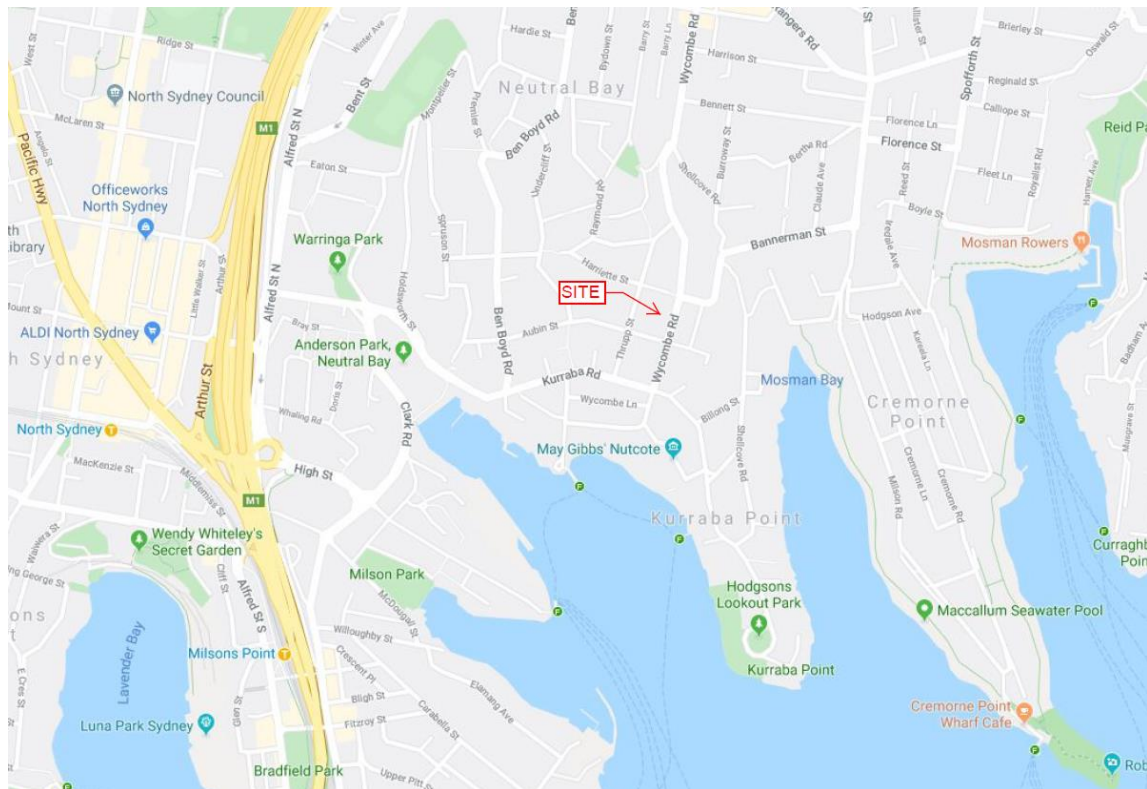
**Figure 1 – Aubin Street viewed from Wycombe Road**



Source – NSW Planning Portal

**Figure 2 – LEP Zoning and Heritage**





Source - GoogleMaps

**Figure 3 – Site Location**

The subject site comprises of four lots, known as 54 Wycombe Road, Neutral Bay (Lot 6 DP 86300), 56 Wycombe Road, Neutral Bay (Lot 1 DP 608905), 58 Wycombe Road, Neutral Bay (Lot 1 DP 99969) and 58A Wycombe Road, Neutral Bay (Lot 1 DP 79279)(see **Figure 3**).



**Figure 4 – Aerial image of the subject site and surrounds. (Nearmap – 21/01/2020)**

## RELEVANT HISTORY

The existing 25 bed residential care facility at 58A Wycombe Road was approved by North Sydney Council (DA113/2019) on 23 November 2009.

On 28 February 2019, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Housing for Seniors) was amended to prohibit development under the SEPP within heritage conservation areas in the Greater Sydney Region. On 27 May 2019, North Sydney Council resolved to seek an exemption from this provision. In the report put to Council, specific mention was made of the subject DA and that without the exemption, the DA could not be accepted. It was also noted in the report prepared by the Community and Library Services Director to Council that:

*Council should note that the application of this SEPP places various built form restrictions on new development including a 2-storey height limit, minimum site area and frontage requirements. In addition, should the lifting of the temporary prohibition be supported, any application for such development in Council's heritage conservation areas, will be required to comply with Council's LEP and DCP controls relating to heritage conservation, character and amenity controls as well as the usual provisions of Council's planning instruments.*

The report also noted the deficiency of aged care beds in the LGA. Council resolved to support the request for exemption and the SEPP was amended on 16 August 2019 allowing a Development Application to be made.

The subject Development Application was lodged on 30 September 2019. The application was notified in accordance with Council's Community Engagement Protocol from 25 October 2019 to 8 November 2019.

Following a site inspection by assessment staff and the receipt of referral advice, a preliminary assessment was undertaken. On 23 December 2019, Council sent a letter to the applicant outlining the following concerns:

#### *Planning*

*The application is not supported in its current form for the following reasons:*

- *The height, bulk and scale of the building is excessive when viewed from Aubin Street and Wycombe Road.*
- *The height of the building at the western rear boundary is excessive*
- *The density exceeds the 1:1 FSR referred to in CL 48(b) of SEPP (Housing for Seniors or People with a Disability) 2004.*
- *The landscaped area requirements of CL 48(c) of SEPP (Housing for Seniors or People with a Disability) 2004 have not been met.*

#### *Heritage Conservation*

*The application is not supported for the following reasons:*

- *The setting and curtilage of the Heritage Item is compromised by the proximity and forward building line of the new building.*
- *The setting of the Heritage Item is compromised by the removal of two significant trees.*
- *The development would result in a new building of uncharacteristic height, scale and massing which compromises the significant characteristic of the conservation area and the setting of the heritage item.*
- *The demolition of two neutral items within the Conservation area is not supported.*

#### *Landscaping and Arboriculture*

*The application is not supported for the following reasons:*

- *The T23 Magnolia grandiflora (11x17m), and T24 Ficus microcarpa 'Hillii' have high landscape significance and provide a constraint to development on the site.*
- *The extent of tree removal cannot be supported given the impact to the landscape character and tree canopy cover of the site.*
- *The Eucalyptus scoparia 20m high is listed as an endangered under the NSW Biodiversity Conservation Act 2016 and a venerable species under the Commonwealth Environment Protection and Biodiversity Conservation Act, 1999.*
- *The proposed replacement planting generally consists of perimeter planting and is not considered adequate to replace the proposed loss of such a large number of mature trees.*

#### *Design Excellence Panel*

*The applicant had the benefit of the Design Excellence Panel Minutes for the meeting 16 November 2019. The matters raised in the minutes require further reconsideration.*

#### *Traffic*

*Further information and amended plans are required:*

- *An accident study is required as the un signalised intersection of Wycombe Road and Aubin Street equates to level of service C.*
- *Bicycle parking and associated end of trip facilities are to be provided on site for staff.*

#### *Public Interest*

*It is noted that the application has received a significant number of submissions. These submissions can be accessed by request via GIPA Access to information and should inform any response to issues raised in this letter.*

On 12 February 2020, the SNPP was briefed on the subject Development Application.

The applicant lodged amended plans on 6 March 2020, which were notified in accordance with Council's Community Engagement Protocol from 13 March to 27 March 2020.

## **EXTERNAL REFERRALS**

### **Road and Maritime Services**

RMS has granted concurrence subject to conditions.

### **Sydney Water**

The Authority raised no objection subject to conditions requiring building plan approval via the Sydney Water online 'Tap In' service, and a Section 73 certificate. A condition is recommended accordingly (refer to Condition D9)

### **AUSGRID**

Ausgrid raised no objection subject to a condition relating to required notifications and working methodology near the overhead power lines and below ground assets (cables). A condition is recommended accordingly (refer to Condition C35).

### **Heritage**

Council commissioned an independent Heritage Assessment of the application. The key findings from that assessment are as follows:

*....recommended for refusal due to adverse impacts on the heritage significance of the CA16 Kurraba Point Conservation Area reflected in inconsistency with heritage objectives and controls of the North Sydney LEP 2013 and the heritage objectives and provisions of the North Sydney DCP 2013 Part 13 (as outlined in Table 3 above)*

*Specifically, the amended DA proposal adversely impacts on the heritage significance of the CA16 Kurraba Point Conservation Area as the proposal includes demolition of two "neutral" items, being the houses at Nos. 54 and 58 Wycombe Road which represent the original era of development for the heritage conservation area, and are part of the character of the heritage conservation area. In particular the house at No. 54 Wycombe Road is considered on analysis to be contributory to the heritage conservation area, as a very intact/original Inter-war California Bungalow which contributes to the streetscape of Wycombe Road and Aubin Street. Demolition of these two houses would erode the character*



*of the CA16 Heritage Conservation Area and would provide an unfortunate precedent which would threaten the integrity of the Heritage Conservation Area.*

The referral advice is provided in full at **Attachment 8**.

## **INTERNAL REFERRALS**

### **Design Excellence Panel (DEP)**

The original proposal was considered by the North Sydney DEP on 12 November 2019. As noted above, a number of concerns were raised. The amended proposal was considered by the DEP on 14 April 2020. The following comments were provided:

*The Panel provides qualified support for the proposal, subject to the identified issues being satisfactorily addressed, in particular increasing the width of courtyard 8. (a copy of the full comments is provided at **Attachment 7**.*

The issues raised by the DEP are summarised as follows:

- The proposed setback to Wycombe Road (ie forward of the heritage building) is still unacceptable;
- The materials and colours to be used are unclear and “*Consideration should be given to the use of a range of lighter and warmer finishes in the new building*”;
- The building separation between the existing RACF and the new northern wing (ie the space occupied by Courtyard 8) is inadequate and needs to be wider. The amenity of rooms within this area is unacceptable. Floor space lost in this area could be located to Aubin Street subject to consideration of height limits and amenity impacts;
- Inadequate information regarding retention of existing stone fence to Wycombe Road and the original building entry. The stone fence should be reinstated;
- There is limited private open space and communal ground level space;
- The 3 rooms over the loading dock have poor amenity and should be deleted;
- The amenity of the basement staff room is unacceptable and it should be relocated to a suitable ground level location.

Consultant Planner’s comments – the extent of changes that would be required to address all of the matters raised by the Panel are significant and would require considerable redesign. Council’s heritage consultant concurs with some of the Panel’s comments regarding the relationship of the proposal with the retained heritage building at No 56 Wycombe Road.

The author does not agree with the Panel comments regarding the amenity of certain rooms and the balconies provided and is of the view that the internal amenity is generally satisfactory.

### **Development Engineer**

The application was referred to Council’s Development Engineer who raised no objection to the proposed development subject to conditions.

### **Traffic Engineer**

The application was referred to Council’s Traffic Engineer who, following receipt of further information was satisfied of outstanding matters, and raised no objection to the proposed development subject to conditions.

### **Environmental Health Officer**

The application was referred to Council's Environmental Health Officer who raised no objection to the proposed development subject to conditions.

### **Community Development**

The application was referred to Council's Community Development section who supports the proposal as it assists in meeting the demand for additional aged care beds within the LGA.

### **Building Surveyors**

The application was referred to Council's Building Surveyor who concludes that the proposal is able to meet the requirements of the BCA and provided standard conditions.

### **Landscape Officer**

The application was referred to Council's Landscape Development Officer who has concluded that:

*.....the site constraints imposed by the large concentration of existing mature canopy trees, and the amenity value of these trees does not appear to have been given adequate consideration in this proposal. Whilst council recognises that the retention of trees T10, T26, & T30, and addition of 3 x new trees on the Wycombe Rd frontage under the amended proposal might represent a minor improvement over the earlier proposal, the amended plans and additional documentation received by council on 6/3/20 still falls well short of a proposal worthy of support. It is noted however, that no updated arborist report has been lodged to detail how the 3 x trees previously determined to require removal to allow the development might now be retained under the new proposal. The proposed replanting of 'canopy trees' includes mainly small to medium trees which will not replace the existing canopy. This amendment cannot be supported.*

*It is noted that a sewer main runs across the length of the western boundary of the subject site. Should this sewer main be required to be encased in order to facilitate this proposal, it is likely that further negative impact would be subjected to T22 Eucalyptus scoparia (20m). It would appear that this eventuality has not been considered in the arborist report prepared by Guy Paroissien dated 16/9/19.....A total of 31 trees are proposed for removal. A total of 16 trees are to be retained, of which 9 are street trees, and 7 are site trees.*

Consultant Planner's comments – whilst the removal of some trees may be acceptable as they would unreasonably restrict development potential, part of the character of the site and the conservation area is the existing vegetation. The impact of the proposal in relation to landscaping is considered to be unsatisfactory having regard to:

- the number of significant trees proposed to be removed;
- the uncertainty on the impact on the trees proposed to be retained;
- the failure to comply with the landscaped area requirement of the SEPP Housing for Seniors; and
- the lack of landscaped area to Aubin Street and in parts of the western boundary (as discussed elsewhere).

### **SUBMISSIONS**

The development application was notified in accordance with Council's Community Engagement Protocol from 25 October 2019 to 8 November 2019 and attracted fifty-one (51) submissions, 46 against the proposal and 5 in support. The letters of support generally relate to the need for this type of facility in North Sydney LGA. The issues raised can be summarised as follows:

- Too much development in the area
- Traffic and parking
- Impacts from 24 hour operation
- Access off Aubin Street
- Excessive height, bulk and scale
- Noise impacts
- Privacy impacts
- Loss of trees/biodiversity
- Heritage impacts
- Construction impacts
- Inadequate rear setback
- Overshadowing impacts
- Breach of controls in SEPP Housing for Seniors.

The renotification of the amended plans received on 6 March 2020, inviting comment between 13 March 2020 to 27 March 2020, resulted in 6 submissions against the proposal.

The concerns raised by notable groups are as follows:

National Trust

- Impact on heritage listed 56 Wycombe Road and the KPCA
- Demolition of neutral items in the KPCA
- Excessive scale
- Out of character with streetscape and building forms
- The alette of materials and colours inappropriate
- Loss of vegetation

Neutral Precinct - Public meeting attended by 12 people

- Minutes from meeting note that the amended plans maintained access from Aubin Street being a significant concern raised previously.

The concerns raised by the public generally can be summarised as follows:

- Excessive bulk and scale
- Out of character with neighbourhood
- Poor driveway location
- Excessive traffic and increase traffic hazard and pollution
- Excessive noise
- Loss of privacy
- Inconsistent with existing character, DCP Character Statements and character requirements of C133 of SEPP Housing for Seniors
- Detrimental impact to the streetscape
- Exceeds SEPP Housing for Seniors height controls
- Excessive bulk and scale/breaches SEPP FSR control

- Inconsistent with character of conservation area
- Inadequate setback to Aubin Street
- Traffic and parking impacts
- Loss of trees and insufficient deep soil area
- Variation of development standards is not unreasonable or unnecessary
- Impacts to the south
- Request retention of existing bamboo at rear of 58 Wycombe Road

A copy of all submission are available for the panels perusal.

## CONSIDERATION

The relevant matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings.

### Relevant planning controls

The application has been assessed against the relevant development standards in the SEPP Housing for Senior and NSDCP 2013 as indicated in the following compliance tables. The LEP has limited relevance to the proposal as where there is any inconsistency, the SEPP prevails. Non-numeric requirements are discussed following the tables.

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

Principal Development Standards			
	Proposed	Control	Complies
CL 40(2) Site Size	3439.2sqm	1000sqm	YES
CI 40(3) Min Site frontage	86m	20m	YES
CI 40(4)(a) Max Building (ceiling) height	9.69m	8m	NO* (requires cl 4.6 request)
CI 40(4)(b) Max Building height adjacent to boundaries (storeys)	3-4	2	NO* (requires cl 4.6 request)
CI40(4)(c) Max Building height in rear 25% of site	3-4	1	NO*(requires cl 4.6 request)
CI48 Consent cannot be refused if compliance with each of the following standards is achieved:			
(a) Building height (to ceiling)	9.69m	8m	NO*
(b) Floor Space Ratio	1.24:1	1:1	NO*
(c) Landscaped area	20.8sqm/bed	25sqm/bed	NO*
(d) Parking	1 space/10 beds 1 space/2 employees 1 ambulance space 1 minivan space	1 space/10 beds 1 space/2 employees 1 ambulance space	YES

\*see discussion below.

The non-numeric provisions of this SEPP are considered below.

**Clause 26 Location and access to facilities** – The submitted information does not satisfy the requirement of this clause that adequate, accessible public transport services are available



to provide access to the necessary goods, facilities and services is to be available. Whilst a bus stop is located within 400m of the site and it is served by a bus route that provides access to the Military Road commercial area (which is likely to provide the necessary services within 400m of a bus stop), the footpath gradient between the existing pedestrian entry (in front of Landsdown Gardens – No 58A Wycombe Road) and the bus stop, is around 1:10.5. The requirement is an average of no steeper than 1:14.

This non-compliance is acknowledged in the applicant's Access Report Addendum where it is noted that: *the general slope of Wycombe Road varies from 1:12 to 1:8 over the 40 metre distance between the site and bus stop adjacent to Harriette Street. I have checked the survey plan onsite using a digital smart level to verify the abovementioned gradients.*

Whilst the provisions of Clause 26 allows for steeper gradients (1:8-1:12) these are only over short distances and the average must be no more than 1:14. It is acknowledged that the majority of residents within a facility, as proposed would not often utilise public transport, however this does not negate the need to meet the requirements of this clause. Consent cannot be granted if this requirement is not met and so this is included as a reason for refusal of the DA.

**Clause 28 Water and sewer** – An infrastructure report has been submitted, however it does not deal with these services. The subject site presently has access to water and sewer services and so it is assumed that the proposed development can be adequately serviced in this regard and a condition of consent can ensure that a suitable arrangement is achieved

**Clause 29 Consent authority to consider certain site compatibility criteria** – the submitted documentation does not specifically address this clause.

This clause applies as the development is not subject to a Site Compatibility Certificate when required by subclause clause 24(1).

The relevant criteria that the consent authority must take into consideration are provided in clause 25 (5) (b) (i), (iii) and (v):

Clause 25  
(5)

...  
(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,*

(ii) *the impact that the proposed development is likely to have on the uses that, in the opinion of the relevant panel, are likely to be the future uses of that land,*

.....  
(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 proposal is not compatible with (v) above as it has a bulk, scale, built form and character which is not in keeping with the existing and future uses in the vicinity of the site which comprises low density residential development within the conservation area.

**Clause 30 Site Analysis** – an appropriate plan has been prepared and an Urban Design Report details how the proposal responds to this analysis of the sites constraints and opportunities.

**Clause 33 Neighbourhood amenity and streetscape** – the requirements of this clause are noted and commented upon below:

- (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*

Part of the conservation area's desirable elements are the contributory and neutral buildings within the conservation area. This is confirmed by the provisions of the DCP that seek to prevent demolition of such buildings in all but extreme circumstances. The proposal seeks to demolish the two neutral buildings on the site, which as discussed in the Heritage Consultant's comments, is unjustified and will have an adverse impact on the significance of the conservation area.

Further, the design of the new building is inconsistent with other desirable elements or 'characteristic elements' referred to in the DCP, as noted above and has the appearance of a 'modern residential flat building' which is noted as being uncharacteristic.

- (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*

As noted above, the proposal does not suitably harmonise with the conservation area or heritage items both on the site and in the vicinity. This is demonstrated by the exceedance of the majority of the primary development controls in SEPP Housing for Seniors and also the overall character of the proposed building form and insufficient landscaping.

- (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*

The proposal includes a 3 storey building close to the western boundary in an area where only 1 storey is permitted by SEPP Housing for Seniors. Whilst this can be partly justified by the location of the existing dwelling in this area (No 58 Wycombe Road) and the proximity of the garages on the adjoining Thrupp Street properties, the minimal setback of 2.55m and the lack of building articulation will result in excessive bulk and scale when viewed from adjoining properties.

Whilst the southern part of the building steps from 2-3 storeys from Wycombe Road and Aubin Street, generally the setbacks of the top level are not considered to be adequate having regard to the overall bulk and scale and the relationship to the lower density conservation area to the north, south and east. Further, there is no setback to the western boundary at the top level and the lack of landscaping in this area (which provides the vehicular access and turning area), creates an unacceptable visual impact. Also as noted above the separation requirements of the ADG to the existing flat building to the west are not met.

- (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*

The proposed front setback to Wycombe Road is considered to be adequate as it has been increased and is now acceptable to the independent heritage consultant. However, it is noted that the DEP still held the view that the setbacks were insufficient.

The setback to Aubin Street is also a 'front' setback. The proposed setback is minimal and allows little space for landscaping - 2.4m to the building with 850mm of landscaping. Whilst this is similar to the existing dwelling house in this location, the proposed building is of much greater scale and has excessive bulk within the Aubin Street streetscape.

*(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape,*

As noted in the Landscape Development Officer's comments, the proposed replacement planting is not considered to be acceptable given the level of tree removal proposed.

*(f) retain, wherever reasonable, major existing trees*

As noted in the Landscape Development Officer's comments, the proposed impact on significant trees is not considered to be acceptable. The comments also note that in relation to Trees 10, 26 and 30 that the amended plans indicate retention but the impacts of the proposal on these trees has not been considered by the applicant's arborist and their retention may not be viable.

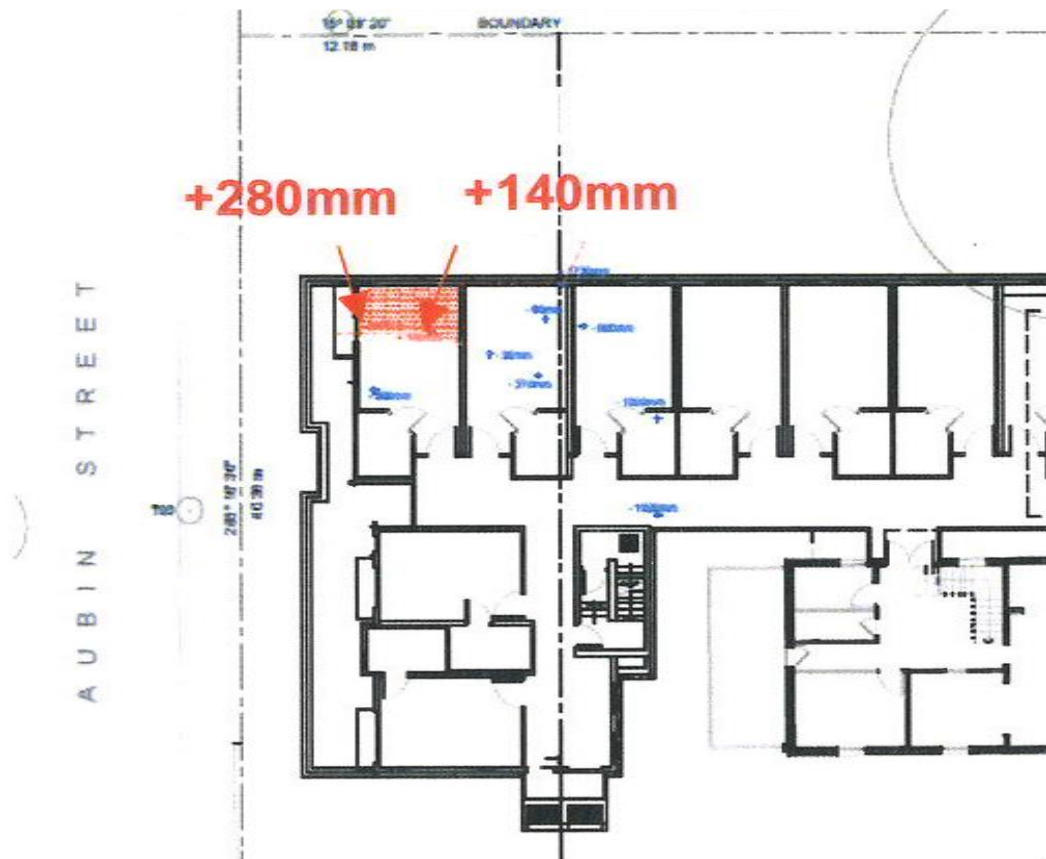
*(g) be designed so that no building is constructed in a riparian zone*

N/A.

**Discussion of numerical non-compliances with principle development standards (refer to table above)**

**Building Heights, clause 40(4)(a)**

Contrary to what is indicated in the submitted CI4.6 request relation to CI40(4)(a) of SEPP Housing for Seniors, assuming a ceiling height of 2.7m (the proposed floor to floor height is 3.2m) that part of the building along Aubin Street is between 0.3m (near Wycombe Road) and 0.9m (western end) above the 8m control. On this basis, the whole of the top level does not comply compared to the level of non-compliance indicated in the CI4.6 (see **Figure 6**).



**Figure 6. – Excerpt from C4.6 request relating to ceiling height (south wing)**

Also, in relation to the northern wing of the extension (again assuming a ceiling height of 2.7m) the ceiling height ranges from 9.69m on the western end to 8.73m at the eastern end. This least part of the whole top level is above the height control (0.73-1.69m above). Although the specific numbers are slightly different from the applicant's the following extract from the submitted C14.6 request confirms that most of this wing of the building is non-compliant with the height control.





The applicant has put forward ‘assumed’ height objectives. These are:

- The source of these 'objectives' has not been indicated.

(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

- (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*
- (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.....*

Notwithstanding this, consideration has been given to the applicant's assumed objectives. The proposed bulk and scale are not compatible with the existing and desired future character of this area. The subject area is part of the Kurraba Point Conservation Area (KPCA) and in the vicinity of the site, it is characterised by 1-2 storey buildings with pitched roofs (as indicated in **Figure 1** and **Figure 8**). The proposed building has a 3 storey appearance in most views which is not compatible with this existing character.

#### **Building Heights, clause 40(4)(b)**

The proposal also exceeds the two storey limit near boundaries as required by C140(4)(b) of SEPP Housing for Seniors. The note to this clause states:

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



Source - GoogleMaps

**Figure 8. – Development opposite the site in Wycombe Road**



Source – Boffa Robertson

**Figure 9 – Proposed Development viewed from Wycombe Road**

Working in tandem, the height and storeys limit acknowledge that buildings of 3 storeys (that comply with the 8m height limit) may be achievable, subject to the top level being setback (ie so it is not 'adjacent to a boundary') and so that the visible scale of the building is compatible with the scale of development in the streetscape. Whilst it is acknowledged that the proposed design provides some setback to the upper level, it is not considered adequate (and non-existent at the western end of the southern wing) and therefore the top level is clearly visible from the public domain. If it was setback further or contained within a roof structure, the outcome may be considered to achieve the stated height objective. The expansive roof terrace and balustrading also adds to the uncharacteristic building height.

Whilst retention of vegetation and new planting will soften the building (not shown in **Figure 9**), there is inaccuracy in the submitted information regarding tree retention as noted in the Council's Landscape Officer's comments and so it is considered that the submitted photomontages cannot be relied upon. Also, development should not rely heavily on the impact of planting to ensure appropriate visual impacts as vegetation is somewhat transient and the character of the area is established by building forms and other 'hard' elements in a landscaped setting. Without vegetation, it is more evident that the character of the built form is not in keeping with the character of surrounding development.

The proposal also has adverse amenity impacts including privacy due to a building separation of less than 12m to No 66 Aubin Street to the west of the southern wing, overshadowing of that building and excessive bulk and scale when viewed from the adjoining properties.

Therefore, it is considered that the proposal does not achieve the 'assumed' height objectives put forward by the applicant.

The environmental planning grounds put forward in the CI4.6 are also not considered to be sufficient to allow consent to be granted, particularly as there is not a lack of impact on neighbours and the character of the conservation area.

For the same reasons as those discussed above, the applicant's CI4.6 request relating to the storeys control of CI40(4)(b) is considered to be not well founded.

### **Building Heights, clause 40(4)(c)**

The applicant has also submitted a CI4.6 in relation to CI40(4)(c) of the SEPP which provides for a 1 storey height limit in the rear 25% of the site. The CI4.6 does not outline the full extent of the non-compliance as the that part of the building within the rear 25% of the site is 4 storeys as the basement level is not excluded from calculation in storeys as it is not '*a car park that does not extend above ground level by more than 1 metre*'.

This CI4.6 also provides 'assumed' objectives. It is considered that absent specific objectives for this development standard that one should rely on the other provisions of the SEPP to assist in the understanding of this control. In this regard Clause 33 Neighbourhood and streetscape, Clause 34 Visual and acoustic privacy and Clause 25 Solar access and design for climate are considered relevant. Notwithstanding this, consideration has been given to the applicant's assumed objectives.

The proposed bulk and scale are not compatible with the existing and desired future character of this area. Whilst the rear of the site has more of a relationship with the development to the west (which is zoned R4 and not within a conservation area), than to the conservation area, the proposed bulk and scale remains excessive. Whilst the lowest storey is below ground level, the building remains 3 storeys where 1 is permitted. It is agreed that 3 storeys could be justified within this part of the site due to:

- The 3 storey character of the adjoining development;
- The location of the existing 2 storey dwelling at No 58, right at the rear boundary;
- The location of garages on the adjoining properties (9 & 11 Thrupp Street) close to the boundary.

However, although some attempt has been made to provide setbacks that increase with height, no sections or elevations have been provided to show the relationship to the adjoining properties. Based on the minimal setbacks, the top 2 levels will be clearly visible. Also, the setbacks are less than 6m which mean that the redevelopment potential of the adjoining properties could be compromised as the 12m separation required by the ADG would not be achievable. The minimal setback also means that appropriate screen planting cannot be undertaken. For these reasons, the proposed height within the rear of the site is not considered acceptable.

In relation to the following two Clauses, the standards are not expressed as maximums but standards where, if compliance is achieved, development cannot be refused consent. The proposal exceeds these limits and therefore can be refused in relation to these matters, however no Clause 4.6 request is required to breach these controls.

#### **Density and scale – Clause 48(b)**

There is disagreement between the applicant and the author regarding the proposed FSR. Following a request to provide Gross Floor Area (GFA) drawings, the applicant provided some plans and further information with conflicting advice. The plans state that the submitted FSR was 1.2:1 and the amended FSR is 1.16:1 (a 0.04:1 reduction) whereas the cover letter notes that the submitted plans were 1.168:1 and the amended plans are 1.173:1 (a 0.005:1 increase) compared to the submitted plans. Furthermore, under the definition of GFA in SEPP Housing for Seniors, it is considered that the following areas should be included:

- Storage areas and cupboards
- Utility rooms
- Lift wells and stairs (except where used for access to parking between the basement and lobby level).

Unlike the standard instrument definition of GFA, the following does not specifically exclude vertical circulation and excludes only storage ancillary to plant/machinery:

**gross floor area** means the sum of the areas of each floor of a building, where the area of each floor is taken to be the area within the outer face of the external enclosing walls (as measured at a height of 1,400 millimetres above each floor level)—

- (a) excluding columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall, and
- (b) excluding cooling towers, machinery and plant rooms, ancillary storage space and vertical air conditioning ducts, and
- (c) excluding car parking needed to meet any requirements of this Policy or the council of the local government area concerned and any internal access to such parking, and
- (d) including in the case of in-fill self-care housing any car parking (other than for visitors) in excess of 1 per dwelling that is provided at ground level, and
- (e) excluding space for the loading and unloading of goods, and
- (f) in the case of a residential care facility—excluding any floor space below ground level that is used for service activities provided by the facility.



Including these areas, the FSR is 1.24:1. In any event the proposal exceeds the 1:1 FSR referred to in CI48(b) of the SEPP and therefore can be refused on the grounds of exceeding this density and scale. For the reasons relating to building height above and setbacks, as discussed below, the bulk and scale of the proposed development is considered excessive.

#### **Landscaped area – Clause 48(c)**

As noted above the proposal provides for 365sqm (17%) less landscaping than indicated in CI48(c) of the SEPP and therefore it can be refused for lack of landscaping. The proposed landscaping is considered to be inadequate having regard to the character of the site and the KPCA, and the level of tree removal proposed as discussed in comments by Council's Landscape Development Officer's. The lack of landscaping specifically along Aubin Street, in the rear setback adjacent to Aubin Street and adjoining that part of the building closest to the western boundary, will create unreasonable visual impacts on the streetscape and neighbours.

#### **SEPP 55 Remediation of Land**

The applicant has undertaken a Preliminary Site Investigation and whilst some contamination has been identified, the investigation concludes that the site can be made suitable for the proposed use subject to further soil and groundwater investigations. This, and appropriate conditions (if consent was granted) would satisfy the requirements of Clause 7 of the Policy.

#### **SEPP (Vegetation in Non-Rural Areas) 2017**

The proposed development is inconsistent with the aims of the Policy as it would result in the removal of a significant number of mature trees and impact the amenity of the surrounding area as the tree removal would detract from the significant landscaped character of the Conservation Area.

#### **State Environmental Planning Policy (Infrastructure) 2007**

The application was referred to Ausgrid in accordance with Clause 45(2)(a) of the SEPP. Ausgrid raised no objections to the proposal, subject to a condition (refer to Condition C35).

#### **North Sydney Development Control Plan 2013 Compliance Table**

<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development</b>		
	<b><i>Complies</i></b>	<b><i>Comments</i></b>
<b>1.2 Social Amenity</b>		
<b>Population Mix</b>	Yes	Apartment mix is not relevant here but the objectives of the population mix provisions are met.
<b>Maintaining Residential Accommodation</b>	Yes	The proposal significantly increases residential accommodation.
<b>Housing for Seniors and Persons with a Disability</b>	Yes	These provisions include a requirement to provide communal open space consistent with the requirements in the Residential Flat Design Code (now Apartment Design Guide) ie 25% of site and min 3 hours solar access. Notwithstanding that is it not an apartment building, the proposal provides communal areas to meet this requirement. It is noted that the rooftop terrace is necessary to achieve compliance and this is considered to be an element that adds to the bulk and scale of the development and is out of keeping with the character of the conservation area. The

<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development</b>		
	<b>Complies</b>	<b>Comments</b>
		DEP also felt that the ground level communal space was not adequate.
<b>1.3 Environmental Criteria</b>		
<b>Topography</b>	No	The proposal includes excavation within 1m of the western boundary for the proposed driveway ramp and turntable. The lack of a landscaped setback in this location will have a detrimental impact on the streetscape of Aubin Street and the outlook from the adjoining apartment building.
<b>Views</b>	Yes	The proposal is unlikely to have an adverse impact on any significant views available from surrounding properties.
<b>Solar Access</b>	No	The only notably affected property is the dwelling at 2/66 Aubin Street - at the lowest level on the eastern side of the building. The author has been advised that the dwelling includes a living room window that only faces the subject site. The submitted shadow diagrams indicate that this living area already receives less than 3 hours solar access at midwinter (ie will be in shadow sometime before 12 noon til 3pm). Whilst no elevational shadow diagrams have been provided, the proposal would appear to overshadow this window at 9am and therefore reduce the existing solar access even further. Given that this impact is likely to be caused by that part of the building that exceeds the height control, such impacts are considered unacceptable.
<b>Acoustic Privacy</b>	No	<p>The proposal will not generally have an adverse impact on any surrounding property with regard to acoustic privacy or noise intrusion with the exception of the dwellings at 66 Aubin Street to the west as they are only around 1.6m from the proposed driveway and the impact from this noise source on these dwellings has not been assessed in the acoustic report submitted. This needs to be further investigated.</p> <p>Whilst the rooftop terrace is large and capable of accommodating many people, given the nature of the use, excessive noise is unlikely. Any consent granted could impose conditions that would ensure use only during daylight hours (refer to non-prejudice condition I11).</p>
<b>Visual Privacy</b>	No	The proposed development has a building separation of around 11.6m from the existing residential flat building to the west at 66 Aubin Street. This is less than the 12m that is considered to be the minimum required to gain visual privacy through building separation. The roof terrace is setback 13m and has some planter boxes and therefore privacy impact are considered to be acceptable.
<b>1.4 Quality built form</b>		
<b>Context</b>	No	The proposal is excessively bulky having regard to the existing character of the area and its status as a conservation area.
<b>Siting</b>	No	Both the Design Excellence Panel and the Heritage Consultant have raised concerns regarding the siting of the proposal in relation to the retained heritage item in that the new additions are too close to the item and sit forward of it in the streetscape.
<b>Setback – Front and side</b>	Yes	The proposed front setback to Wycombe Road has been increased with the amended plans and is now considered to be generally satisfactory

<b>DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development</b>		
	<b><i>Complies</i></b>	<b><i>Comments</i></b>
		The front setback to Aubin Street is not considered to be adequate for the scale of building proposed. The proposed building is setback only around 2.4m with a landscape strip of around 850mm.
<b>Setback - Rear</b>	No	The rear setback does not match those of adjoining development or predominant setbacks in this Character Area. The minimum setback is only 2.55m with only 750mm available for planting. Whilst the existing tall bamboo in this area is to be retained and will provide some relief, it should not be relied upon to mitigate all privacy and visual impacts.
<b>Building Separation</b>	No	As noted above the west facing windows do not satisfy the building separation requirements as they relate to 66 Aubin Street which is only around 11m away. Whilst this requirement relates to apartment development, No 66 is a residential flat building and residents from the proposal will have direct views from their rooms into these dwellings.
<b>Form Massing Scale</b>	No	The proposed building form, massing and scale is considered to be unsatisfactory in terms of the envelope being excessively large, as indicated by the exceedance the SEPP Housing for Seniors height and FSR controls, the proposed setbacks and the lack of landscaped area.
<b>Built Form Character</b>	No	The proposed building envelope is excessively large and is not consistent with the desired future character of the area.
<b>Roofs</b>	No	The proposed flat roof and expansive roof terrace are contrary to the requirements for a pitched roof. Further as noted below, the character statement for the Kurraba Point Conservation area indicates pitched roofs is the characteristic roof typology.
<b>Colours and Materials</b>	No	The proposed colours and materials are not acceptable as indicated in the DEP comments at <b>Attachment 1</b> where it is noted that “consideration should be given to the use of a range of lighter and warmer finishes in the new building”.
<b>Front Fences</b>	Yes	The proposed front fence is a combination of new masonry and palisade fencing and reinstatement of the existing sandstone wall. This design is considered to be satisfactory.
<b>1.5 Quality Urban Environment</b>		
The majority of this section is not applicable as they do not relate to the form of development proposed and is better addressed under the prevailing controls in SEPP Housing for Seniors for those relevant matters eg. landscaped area.		
<b>1.6 Efficient Use of Resources</b>		
<b>Energy Efficiency</b>	Yes	BASIX is not applicable to this form of development, however an ESD report has been submitted and the development will need to meet the requirements of Section J of the NCC.

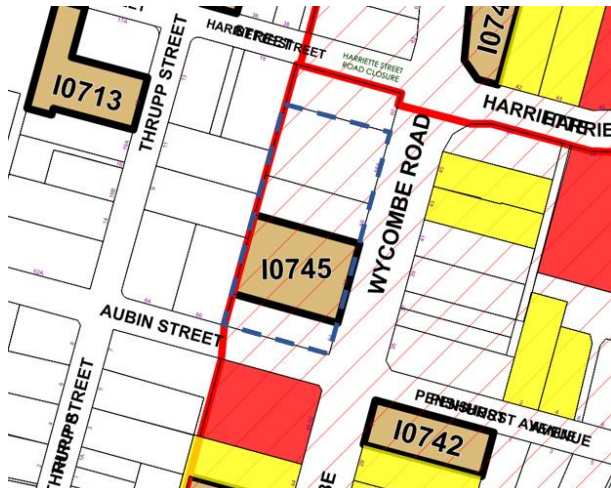
### DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development

	<b>Complies</b>	<b>Comments</b>
<b>Stormwater Management</b>	Yes	Acceptable subject to the conditions recommended by Council's Senior Development Engineer.

### DEVELOPMENT CONTROL PLAN 2013 – Part B Section 12- Access

As detailed in the submitted Accessibility Report, the proposal has been designed to be suitably accessible. However, access to the nearby bus stop does not meet the requirements of Clause 26 of SEPP Housing for Seniors as noted above.

### DEVELOPMENT CONTROL PLAN 2013 – Part B Section 13- Heritage and Conservation

	<b>Complies</b>	<b>Comments</b>
<b>13.4 Development in the vicinity of Heritage Items</b>		
	Yes	The site is adjacent to a number of heritage items. Council's Heritage Consultant has not raised any specific concerns regarding impacts on heritage items in the vicinity of the site.
<b>13.5 Heritage items</b>		
	No	The site contains a heritage item – No 56 Wycombe Road. As discussed in the comments by Council's Heritage Consultant, whilst the amended plans have reduced the impacts, there remains concerns about the impacts on the setting of this item.
<b>13.6 Heritage Conservation Areas</b>		
	No	The site is within the Kurraba Point Conservation Area (KPCA). As discussed in the comments by Council's Heritage Consultant, there are numerous concerns about the impact on the significance of the KPCA.
<b>13.8 Demolition</b>		
	No	<p>Nos 54 and 58 Wycombe Road are identified in appendix 1 of NSDCP 2013 as being 'neutral items' in the KPCA.</p>  <p>Figure 10. NSLEP 2013 Schedule 5 Heritage items (gold), Heritage Conservation Area (Red Crosshatch), NSDCP 2013 contributory items (yellow) and uncharacteristic items (red) with the subject site shown outline with a Blue Dashed Line</p> <p>Therefore, the proposal is contrary to this section of the DCP which notes:</p>

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 13- Heritage and Conservation		
	Complies	Comments
		<p><i>P5 Neutral items should not be demolished and demolition will generally not be supported by Council.</i></p> <p><i>P6 Despite P5 above, Council may consider the demolition of a neutral item, but only where the applicant can demonstrate:</i></p> <p><i>(a) the existing building is not capable of adaptation or modification in a way that will reasonably meet contemporary amenity and living standards while also improving the appearance and contribution of the building to the area's character.</i></p> <p><i>(b) that any replacement building improves the contribution of the site to the area's character in terms of form, setbacks, bulk, scale, materials and style.</i></p> <p><i>(c) that sustainability outcomes of the proposed replacement development reasonably justify the change.</i></p> <p><i>(d) that all reasonable alternatives to demolition have been considered.</i></p> <p>In regard to the above, the applicant has not adequately demonstrated that these matters can be satisfied and therefore demolition of No 54 and 58 Wycombe Road cannot be supported.</p>

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 16- Tree and vegetation management		
	Complies	Comments
<b>16.2 Controls for the management of trees and vegetation</b>		
	No	The proposal removes an excessive amount of existing vegetation including significant trees that contribute to the urban canopy and landscaping setting of the conservation area and fails to provide adequate areas of consolidated landscaped area for replacement planting. This outcome fails to meet objective O1: <i>To maintain the visual, social and environmental amenity of the area through the preservation of trees and other vegetation.</i>
<b>16.4 Protection of trees during construction</b>		
	Yes	Appropriate conditions of consent could ensure adequate protection of trees to be retained during construction.
<b>16.5 New tree planting</b>		
	No	<p>The proposal removes an excessive amount of existing vegetation including significant trees and fails to provide adequate areas for replacement planting. This outcome fails to meet the following objectives:</p> <p><i>O1 To ensure that the current level of canopy cover in North Sydney is maintained and enhanced over the long term;</i></p> <p><i>O2 To ensure that sustained amenity is achieved by establishing a range of age classes within the urban tree population.</i></p>

DEVELOPMENT CONTROL PLAN 2013 – Part C Section 6- South Cremorne Planning Area		
	Complies	Comments
<b>6.2 Kurraba Point Conservation Area (KPCA)</b>		
	No	This section notes the following characteristic buildings, built elements and uncharacteristic elements within the Conservation Area.

DEVELOPMENT CONTROL PLAN 2013 – Part C Section 6- South Cremorne Planning Area		
	Complies	Comments
		<p><b>6.2.5 Characteristic buildings</b>  <i>P1 Federation and Edwardian detached dwelling houses. Inter war dwelling houses. Inter war residential flat buildings.</i></p> <p><b>6.2.6 Characteristic built elements</b>  <b>Siting</b>  <i>P1 Centrally on lots with front and rear garden.</i></p> <p><b>Form, massing and scale</b>  <i>P2 Single and two storey, detached dwelling houses with hipped and gabled roofs.</i>  <i>P3 Skillion wings and reduced height and scale to rear.</i>  <i>P4 Open verandahs to front.</i>  <i>P5 Strong skyline of simple, pitched roofs and chimneys visible from the street stepped along the sloping streets.</i>  <i>P6 Multi-level residential flat buildings.</i></p> <p><b>Roofs</b>  <i>P7 Pitched between 30 and 45 degrees with some use of parapets to the street.</i>  <i>P8 Skillion roofs to rear extensions.</i>  <i>P9 Brick and rendered chimneys.</i></p> <p><b>External Materials</b>  <i>P10 Face and rendered brick on sandstone base.</i>  <i>P11 Slate, terracotta tiles, corrugated metal roofs.</i>  <i>P12 Original timber windows doors and decorative joinery.</i></p> <p><b>Windows, doors and joinery</b>  <i>P13 Consistent with building period and style. Timber.</i></p> <p><b>Fences</b>  <i>P14 Original low scale front fences. Timber fences to rear and side. Sandstone walls, timber gates; timber pickets; timber rails; face brick with piers.</i></p> <p><b>Car accommodation</b>  <i>P15 To the side or rear of dwellings.</i></p> <p><b>6.2.7 Uncharacteristic elements</b>  <i>P1 Modern residential flat buildings; modern infill development; over-scaled additions; over-scaled and poorly detailed carports and garages to the street frontages; front and side dormers and rooflights; extensive glazing; glazed balustrades; removal of original detailing; infilled verandahs; rendered and painted face brickwork; modernised facades; high walls and fences to the street.</i></p> <p>The proposal has the appearance of a 'modern residential flat building' and thus would be an uncharacteristic element in the KPCA. Council's heritage consultants notes that:</p> <ul style="list-style-type: none"> <li><i>The demolition of two houses on the site, being Nos. 54 and 58 Wycombe Road, which represent the original era of development for the heritage conservation area, with the house at No. 54 Wycombe Road in particular being</i></li> </ul>



DEVELOPMENT CONTROL PLAN 2013 – Part C Section 6- South Cremorne Planning Area		
	Complies	Comments
		<p>considered part of the character of the heritage conservation area;</p> <ul style="list-style-type: none"> <li>Proposed construction of a new building on the site which does not have a compatible and complementary building form or scale characteristic of the heritage conservation area.</li> </ul>

## SECTION 7.11 CONTRIBUTIONS

A contribution under Council's Section 7.11 Contributions Plan would not be levied against the development. Contributions are levied against additional residential development. Pursuant to Clause 11 of SEPP (Housing for Seniors or People with a Disability) 2004, a Residential Aged Care Facility is residential accommodation, however does not comprise dwellings. Council's contribution plan provides contribution rates for different dwelling types, however does not specifically address this development type. The plan therefore does not establish the required nexus between the development and the burden on local infrastructure and therefore it would be unreasonable to levy a contribution against the proposed development under these circumstances.

## ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

## PUBLIC INTEREST

Whilst the provision of additional aged care beds in the North Sydney LGA, where there is a demonstrated demand for such accommodation, this benefit does not outweigh the negative impacts of the proposal and particularly the detrimental effect on the significance of the Kurraba Point Conservation Area. Overall the proposed development is not considered to be in the public interest for the reasons provided within this report.

## ENVIRONMENTAL APPRAISAL

## CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes

8.	Site Management Issues	Yes
9.	All relevant S4.15(1) considerations of Environmental Planning and Assessment Act 1979	Yes

### **SUBMITTERS CONCERNS**

The relevant concerns of submitters have largely been addressed in this report. Additional comments are provided below:

- Too much development in area

This is an issue that cannot be considered as part of this assessment. The proposal is permitted under the relevant legislation.

- Traffic and parking

Council's traffic engineer has raised no objection to the proposal having regard to traffic and parking.

- Impacts from 24 hour operation

If consent was granted, this could be subject to conditions such as those provided at **Attachment 9** where limits on visiting and delivery times are recommended to ensure that impacts are mitigated.

- Access off Aubin Street/Location of driveway

Whilst the proposal will certainly increase traffic movements in Aubin Street, Council's traffic engineer has raised no objection to the relocation of the vehicular access point from Wycombe Road to Aubin Street.

It is agreed that the proposed driveway has an inadequate setback to the western boundary. Whilst the landscape plan indicates a thin strip of planting, once a retaining wall is provided, there will be very little scope for planting. Also, the wall of the adjoining apartment building is only 1.5m away. The current design will have unreasonable impacts on the streetscape of Aubin Street and on the amenity of the adjoining dwellings. It is noted that the submitted acoustic assessment did not assess the noise impacts of the use of the sloping driveway on these dwellings as it only provided an assessment of the dwelling on the opposite side of Aubin Street (50 Wycombe Road).

- Excessive height, bulk and scale

As noted previously, the proposal is considered to have excessive height bulk and scale having regard to the provisions of SEPP Housing for Seniors and the existing and desired future character of the conservation area.

- Noise impacts

The noise impacts of the proposal have been generally concluded to be satisfactory, subject to appropriate conditions of consent, however the potential for traffic and delivery noise impacts on the adjoining property at 66 Aubin Street needs to be further investigated.

- Privacy impacts

As noted above the proposal is less than 6m to the western boundary and has windows to the rooms less than 12m from the adjoining building at 66 Aubin Street. This will create unreasonable privacy impacts. If consent was granted, this could be subject to conditions such as those provided at **Attachment 9** where privacy measures would be required to ensure that impacts are mitigated.

- Loss of trees/biodiversity

Council's Landscape Development Officer has concluded that the amount of tree removal is excessive and information regarding trees to be retained is insufficient. The landscaped area provided is not considered to be adequate having regard the provision of Clause 48(c) of SEPP Housing for Seniors.

- Heritage impacts

As noted above Council's heritage consultant concludes that the proposal will have adverse heritage impacts.

- Construction impacts

If consent was granted, this could be subject to conditions such as those provided at **Attachment 9** which include measures to ensure that impacts are mitigated.

- Inadequate rear setback

As noted above, it is concluded that the proposed rear setback is insufficient and out of keeping with the character of the area. And will result in unreasonable privacy and overshadowing impacts on neighbours.

- Overshadowing impacts

The proposal will have unreasonable overshadowing impacts on 2/66 Aubin Street.

- Breach of controls in SEPP Housing for Seniors.

The proposal exceeds the building height, storeys limit adjacent to boundaries and height within rear setback limits of Clause 40 of the SEPP and is excessive having regard to the FSR and landscaped area provisions in Clause 48 of the SEPP.

## CONCLUSION

The proposal provides a public benefit through meeting a demonstrated demand for additional aged care beds in the North Sydney LGA. However, the proposed extensions are considered to be insensitive to the location of the site within the Kurraba Point Conservation Area and the existing heritage item on the site which is integrated into the design.

The excessive nature of the proposal can be seen in the number of development standards of SEPP Housing for Seniors that are breached (3) and also having excessive FSR and inadequate landscaped area in regard to the provisions of Clause 48 of this SEPP. The 3 storey height and excessive building bulk is out of keeping with the existing and desired future character of the site and the conservation area. The level of tree removal and lack of appropriate landscaping will also be of detriment to the character.

The setbacks of the proposal to Wycombe Street are unacceptable due to impacts on the heritage item and the setbacks to Aubin Street and the western boundary will result in unreasonable impacts on the visual quality of the public domain. The western setback will also result in unreasonable visual, privacy and overshadowing impacts on adjoining properties.

Given the level of non-compliance with the SEPP (Seniors Housing) and impacts to the Conservation Area and residential amenity of the adjoining properties, the application is recommended for refusal.

## RECOMMENDATION

**THAT** the Sydney North Planning Panel, as the consent authority, refuse Development Application No.306/19 for demolition of existing structures and alterations and additions to an existing residential aged care facility at No.54-58A Wycombe Street, Neutral Bay, for the following reasons:

1. The proposal will have adverse heritage impacts in that it will:
  - a. Be of detriment to the heritage significance to the heritage item on the site at No 56 Wycombe Road, due to inadequate separation from the building and unsympathetic and uncharacteristic building form and design;
  - b. Result in the demolition of two buildings which are 'neutral items' within the Kurraba Point Conservation Area (KPCA) which is contrary to the requirement of control P5 in Section 13.8 of NSDCP 2013 that such buildings be retained unless adequate justification can be provided. It is considered that justification put forward is not adequate;
  - c. Be of detriment to the heritage significance of the Kurraba Point Conservation Area (KPCA) contrary to the provisions of Section 13.6 of NSDCP 2013 due to the excessive height and scale of the building and unsympathetic and uncharacteristic design.
2. The proposed height breaches the 8m height limit, the 2 storey height limit adjacent to boundaries and the 1 storey height limit in the rear 25% of the site under CI40(4)(a),(b) and (c) of SEPP (Housing for Seniors or People with a Disability) 2004 and is excessive and out of keeping with the character of the Kurraba Point Conservation Area (KPCA) in which the site is located.
3. The proposed building bulk and scale (1.24:1 FSR) is excessive having regard to the FSR standard provided in CI48(b) of SEPP (Housing for Seniors or People with a Disability) 2004 (1:1 FSR) and is out of keeping with the character of the Kurraba Point Conservation Area (KPCA) in which the site is located.
4. Clause 26(1) states that: "*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)*". The written evidence provided by the applicant confirms that the access to the adjacent bus stop has a gradient that exceeds the 1:14 average required by CI26(2) of SEPP (Housing for Seniors or People with a Disability) 2004.
5. The proposed setbacks to the Aubin Street frontage and to the western boundary in regard to the driveway and that part of the building which is setback around 2.5m are inadequate and will not allow adequate space for landscaping. This will result in an unreasonable visual impact on the streetscape and when viewed from adjoining properties.

6. The proposed landscaped area of the site is inadequate having regard to the development standard provided in CI48(c) of SEPP Housing for Seniors and is out of keeping with the character of the Kurraba Point Conservation Area (KPCA) in which the site is located. This will be exacerbated by the loss of a number of significant trees on the site.
7. The proposal will have adverse impacts on adjacent properties including:
  - a. Visual impact and impact on development potential (in relation to ADG setback/building separation requirements) of Nos 9 and 11 Thrupp Street due to the proposed building height and 2.55m setback proposed;
  - b. Privacy, overshadowing and visual impacts on No 66 Aubin Street due to excessive height, bulk, building separation of less than 12m, lack of boundary landscaping and potential acoustic impacts from the proposed driveway and loading dock;
  - c. Visual impact on surrounding properties due to excessive height, bulk and inadequate setbacks.

**Brett Brown**  
**CONSULTANT TOWN PLANNER**

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**Stephen Beattie**  
**MANAGER OF DEVELOPMENT SERVICES**

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Note from Manager of Development Services:

This independent Consultant Planners report has been reviewed for completeness and quality, and is considered appropriate for the consideration of the Sydney North Planning Panel.