

SYDNEY NORTH PLANNING PANEL COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-499
DA Number	DA2024/0499
LGA	Northern Beaches
Proposed Development	Demolition works and construction of three residential flat buildings
Street Address	<p>Lot 1 DP 213608, 120 Frenchs Forest Road West FRENCHS FOREST NSW 2086</p> <p>Lot 2 DP 213608, 118 Frenchs Forest Road West FRENCHS FOREST NSW 2086</p> <p>Lot 14 DP 25713, 11 Gladys Avenue FRENCHS FOREST NSW 2086</p> <p>Lot 24 DP 25713, 116 Frenchs Forest Road West FRENCHS FOREST NSW 2086</p>
Applicant	BMHP Group Pty Ltd
Date of DA lodgement	13/05/2024
Number of Submissions	7
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	General development exceeding \$30 million CIV.
List of all relevant s4.15(1) (a) matters	
List all documents submitted with this report for the Panel's consideration	<p>Architectural plans</p> <p>Statement of Environmental Effects</p> <p>Clause 4.6 Variation Request - Building Height</p> <p>Design Verification Statement</p>
Clause 4.6 requests	Warringah Local Environmental Plan 2011 - 4.6 Exceptions to development standards
Summary of key submissions	<ul style="list-style-type: none"> • Application of SEPP Housing Section 16 and 18 additional FSR and building height incentives • Building height variation • Site access and car parking design • SEPP Housing Design Quality Principles • ADG objectives, primarily communal open space • Design Excellence provisions • Frenchs Forest Precinct objectives, DFC and Character Statement • Provisions for future undergrounding of power lines • Front and side setback treatments • Tree removal, landscaping and biodiversity • Stormwater and waste management
Report prepared by	Adam Croft, Principal Planner

Report date	
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Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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 summarized, in the Executive Summary of the assessment report? e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **YES**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) 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)? Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **NO**

Conditions

Have draft conditions been provided to the applicant for comment? Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report **NO**

EXECUTIVE SUMMARY

The development application seeks consent for demolition works and the construction of three residential flat buildings comprising 124 apartments.

The application is reported to the Sydney North Planning Panel (SNPP) for determination as the proposal has an estimated capital investment value of more than \$30 million.

The application was referred to Council's Design and Sustainability Advisory Panel (DSAP). The DSAP raised fundamental concerns in relation to character, scale and built form, amenity, site access and circulation and landscaping. Despite the amendments made in response to the DSAP recommendations, the revised proposal fails to fully address the issues raised by the DSAP and Council.

The application was advertised for a period of 28 days and attracted 7 submissions, 6 of which were in objection and 1 which was in support. The key concerns raised within the public submissions pertain to traffic and car parking, amenity, density and building height. The issues raised are addressed in detail in this report.

The proposal has been assessed against the relevant provisions of SEPP Housing and the Apartment Design Guide (ADG). The proposal seeks to apply the 30% floor space ratio (FSR) and building height incentives available through *Section 16 Affordable housing requirements for additional floor space ratio* (Section 16) and *Section 18 Affordable housing requirements for additional building height* (Section 18) of SEPP Housing through the dedication of 15% of the total gross floor area (GFA) of the

development, equating to 19 apartments, as affordable housing for a period of at least 15 years. As assessed within this report, Council considers that the affordable housing provisions have not been properly applied within the development to facilitate the proportion of additional building height that is proposed. The assessment of the proposed building height variation is summarised below.

The proposed design is also found to be unsatisfactory in relation to the Context and Neighbourhood Character, Landscape, Amenity, Housing Diversity and Aesthetics design quality principles in Schedule 9 of SEPP Housing. In addition, the proposal fails to meet the objectives of the ADG in relation to public domain interfaces, provision of suitable communal open space, landscape design and water and waste management.

The proposed heights of Buildings A and C exceed the additional 30% building height available through Section 16 and 18 of SEPP Housing by 3.71% and 6.9% respectively. As discussed in detail in the Clause 4.6 section of this report, Council considers that in these circumstances, the proposed building height variation must be assessed against the Warringah Local Environmental Plan (WLEP) building height standard rather than SEPP Housing Section 16 and 18 standards. On assessment, it is concluded that the submitted Clause 4.6 request relating to the 33.71% and 36.9% height breaches does not demonstrate consistency with the objectives of the height of buildings standard or provide sufficient environmental planning grounds to justify the variations.

The proposal also fails to demonstrate compliance with the WLEP 2011 (WLEP) requirements pertaining to design excellence, the objectives for development in the Frenchs Forest Precinct and provisions to enable the future undergrounding of power lines at the Frenchs Forest Road West frontage.

In relation to the Warringah Development Control Plan 2011 (WDCP), the proposal does not achieve the requirements or objectives of various controls regarding car parking and site servicing, tree removal, landscaping and biodiversity or stormwater and waste management, as detailed in the internal referral comments included in this report. The proposed design found to be inconsistent with the desired future character (DFC) of the locality and the Character Statement for the Frenchs Forest Road West Neighbourhood precinct, primarily due to the extent of paving and structures within the front and side setback areas that prevent the inclusion of appropriate landscape treatments and canopy tree planting as anticipated by the controls.

In summary, the proposal does not satisfy a number of primary planning controls within SEPP Housing, the ADG, WLEP and WDCP as detailed within this report, all of which contribute to an unacceptable development outcome.

Accordingly, it is recommended that the SNPP **REFUSE** the application for the reasons attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for demolition works and the construction of three residential flat buildings up to 7 storeys in height over 3 levels of basement car parking.

Specifically, the development comprises:

- Demolition of all existing structures
- Excavation, site preparation and stormwater works
- New vehicle crossing and driveway
- Construction of three residential flat buildings over 6 and 7 storeys containing:
 - 3 basement car parking levels accommodating:

- 140 residential spaces (including 13 accessible), 13 visitor spaces, 17 car share spaces, 3 car wash spaces and 3 EV spaces;
- 64 motorcycle spaces and 279 bicycle spaces;
- Plant, garbage and store rooms;
- 124 residential apartments (9 x 1 bedroom, 77 x 2 bedroom & 38 x 3 bedroom), inclusive of:
 - 13 affordable housing units dedicated to Council under Clause 6.11 of the WLEP; and
 - 19 affordable housing units dedicated for a period of 15 years in accordance with Chapter 2, Part 2, Division 1 of SEPP Housing);
- Landscape works; and
- Ground level and rooftop communal open space areas.

The below images illustrate the general character, design and external appearance of the proposed development.



Figure 1. Photomontage of the proposed development as viewed from Frenchs Forest Road West



Figure 2. Photomontage of the proposed development from the south-east

AFFORDABLE HOUSING

As noted in the above description of development, the proposal includes a total of 32 affordable housing units.

13 of the proposed affordable units are to be dedicated to Council under Clause 6.11 of the WLEP, which requires development on the subject site to comprise a minimum affordable housing component equivalent to 10% of the gross floor area of the development.

The proposal also provides an additional 19 affordable units (for a minimum of 15 years) based on the FSR and building height incentive provisions available through Section 16 of SEPP Housing.

AMENDMENT OF PROPOSAL

Following lodgement of the application, amendments were made to the proposal that are summarised below:

- Reconfiguration of the basement, building footprints and internal layouts
- Reduction in proposed apartments from 127 to 124
- Removal of subterranean apartments
- Provision for future vehicle access to 9, 9A and 9B Gladys Avenue
- Provision of ADG compliant boundary setbacks and increased internal separation distances
- Provision of roof top communal open space

The amended application was re-exhibited in accordance with the Northern Beaches Community Participation Plan, which resulted in 1 additional submission in objection to the proposal.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

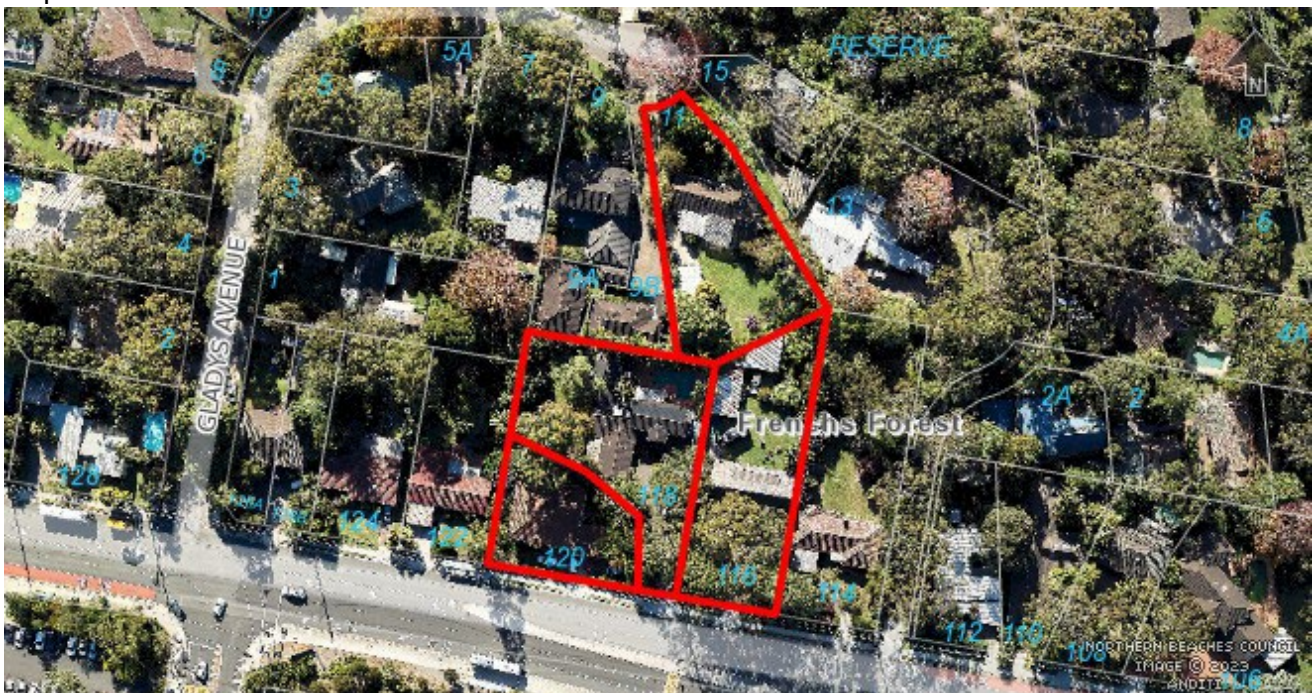
Warringah Local Environmental Plan 2011 - 4.3 Height of buildings
Warringah Local Environmental Plan 2011 - 2.5 Additional permitted uses for particular land
Warringah Local Environmental Plan 2011 - Zone R3 Medium Density Residential
Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
Warringah Local Environmental Plan 2011 - 6.11 Affordable housing
Warringah Local Environmental Plan 2011 - 8.3 Objectives for development in Frenchs Forest Precinct
Warringah Local Environmental Plan 2011 - 8.5 Design excellence—Sites F, G and I
Warringah Local Environmental Plan 2011 - 8.7 Minimum street frontages—Sites G, H and I
Warringah Local Environmental Plan 2011 - 8.10 Power lines—Site G
Warringah Development Control Plan - C2 Traffic, Access and Safety
Warringah Development Control Plan - C3 Parking Facilities
Warringah Development Control Plan - C4 Stormwater
Warringah Development Control Plan - C9 Waste Management
Warringah Development Control Plan - D3 Noise
Warringah Development Control Plan - D6 Access to Sunlight
Warringah Development Control Plan - D7 Views
Warringah Development Control Plan - D8 Privacy
Warringah Development Control Plan - D14 Site Facilities
Warringah Development Control Plan - D18 Accessibility and Adaptability
Warringah Development Control Plan - E2 Prescribed Vegetation
Warringah Development Control Plan - E4 Wildlife Corridors
Warringah Development Control Plan - 2 Desired future character
Warringah Development Control Plan - 5.2 Precinct 05 Frenchs Forest Road West Neighbourhood

SITE DESCRIPTION

Property Description:	Lot 1 DP 213608, 120 Frenchs Forest Road West FRENCHS FOREST NSW 2086 Lot 2 DP 213608, 118 Frenchs Forest Road West FRENCHS FOREST NSW 2086 Lot 14 DP 25713, 11 Gladys Avenue FRENCHS FOREST NSW 2086
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	Lot 24 DP 25713, 116 Frenchs Forest Road West FRENCHS FOREST NSW 2086
Detailed Site Description:	<p>The subject site consists of four (4) allotments located on the northern side of Frenchs Forest Road West and to the south of Gladys Avenue.</p> <p>The site has frontages of 70.105m along Frenchs Forest Road West and 10.06m along Gladys Avenue. The site is irregular in shape with a maximum depth of approximately 118.5m² and a surveyed area of 5740.4m².</p> <p>The site is located within the R3 Medium Density Residential zone and Site G of the Frenchs Forest Town Centre. The site is also identified in the Frenchs Forest 2041 Place Strategy as being within the Frenchs Forest Road West Neighbourhood Centre.</p> <p>The site presently accommodates four detached dwelling houses and various associated outbuildings. The site also contains 99 trees and a variety of smaller vegetation.</p> <p>The site generally slopes from southwest to northeast with a maximum fall of approximately 8m.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwelling houses. Northern Beaches Hospital is located across Frenchs Forest Road West to the south and Forest High School (Site F) is located to the south west.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time.

A search of Council's records has revealed the following relevant history:

PLM2023/0050 - Construction of three residential flat buildings consisting of 100 residential apartments over two basement levels.

On 8 June 2023, a pre-lodgement meeting was held between Council and the Applicant. Council's advice highlighted various concerns and concluded that the development was **not supported** in the form proposed.

As part of the pre-lodgement, the proposal was referred to Council's Design and Sustainability Advisory Panel (DSAP) for review.

The DSAP Report included a total of 24 recommendations in relation to the proposed development, generally relating to:

- Strategic context, urban context: surrounding area character;
- Scale, built form and articulation;
- Access, vehicular movement and car parking;
- Landscape;
- Amenity;
- Façade treatment/Aesthetics; and
- Sustainability.

The DSAP Report concluded that:

"The Panel does not support the proposal in its current form, however with further design development, taking into account the comments and recommendations is capable of exhibiting 'design excellence'."

DA2024/0499 (Current Application)

Following the DSAP Meeting and completion of internal and external referral responses, Council wrote to the Applicant on 6 August 2024 requesting the amendment of the Development Application to address numerous concerns. A meeting was also held between the Applicant and Council to discuss the potential resolution of these concerns.

On 19 November 2024, Council received amended plans and supporting documentation in response to the RFI letter and proceeded to re-notify and re-refer the amended application. Following a review of the amended proposal by the assessing planner and internal referral sections, a number of matters were identified that had not been satisfactorily resolved.

In accordance with the directive of the SNPP, Council advised the Applicant that further amendments would not be accepted and proceeded to complete this Assessment Report based on the plans before it.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>Part 4, <u>Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to various planning and referral matters raised in Council's RFI letter.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter could be addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter could be addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development would not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development would not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered unsuitable for the proposed development for the reasons outlined in this report and given for the recommended refusal of the application.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	<p>This assessment has found the proposal to be contrary to various requirements within SEPP Housing, the WLEP and WDCP and would create an undesirable precedent that would undermine the desired future character of the area and be contrary to the expectations of the community.</p> <p>In this regard, the development, as proposed, is not considered to be in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 03/12/2024 to 15/01/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Joshua Bakhos	60 Gerald Street GREYSTANES NSW 2145
Mrs Alice Sarah Magniac	10 Gladys Avenue FRENCHS FOREST NSW 2086

Name:	Address:
Thomas Cleary	3 / 6 - 12 Pacific Street MANLY NSW 2095
Mrs Gloria Edith Coroneos	11 Lockwood Avenue FRENCHS FOREST NSW 2086
Eric Edward Blewitt	10 B Gladys Avenue FRENCHS FOREST NSW 2086
Mr Philip Geoffrey Jones	16 Coolangatta Avenue ELANORA HEIGHTS NSW 2101
Mr David Ballesty	6 Dalley Street QUEENSCLIFF NSW 2096

The above issues are addressed as follows:

- **Traffic and Parking**

The submissions raised concerns that the proposal would significantly increase traffic movements and on-street parking demand in Gladys Avenue, noting the cumulative impact of approved and future developments.

Comment:

Council's Traffic section raised no concerns in relation to the submitted traffic analysis or the impacts of the development on Gladys Avenue, subject to the extension of the existing "No Stopping" restriction on the western side of the street. Additionally, it is noted that control G9(5.2) does not permit vehicular access to sites within the Frenchs Forest Road West Neighbourhood Centre from Frenchs Forest Road West. The proposed on-site car parking provision complies with the requirements of the WDCP, SEPP Housing and the ADG.

This matter does not warrant refusal of the application.

- **Amenity**

The submissions raised concerns that the proposal would give rise to adverse overshadowing and acoustic impacts to the adjoining properties to the west.

Comment:

The submitted shadow diagrams demonstrate that the proposal maintains a compliant level of sunlight access to No. 9 Gladys Avenue and all other adjoining properties in accordance with the WDCP control, as assessed in detail in this report. The application is also accompanied by an Acoustic Assessment which advises that the proposal is capable of complying with the adopted noise emission criteria, subject to the recommendations included in the report. Council's Environmental Health section raised no concerns in relation to acoustic amenity and included suitable conditions to ensure compliance with the recommendations of the report.

This matter does not warrant refusal of the application.

- **Density and Height**

The submissions raised concerns that the proposal would result in the introduction of increased density and height within the locality.

Comment:

The subject site is zoned R3 Medium Density Residential and the proposed development typology is anticipated on the site. As there are no controls in the WLEP or WDCP that directly relate to density, the achievable density is dictated by the built form and amenity controls contained within the WLEP, WDCP, SEPP Housing and the ADG. The proposed buildings generally comply with these controls, indicating that the density is generally acceptable. Notwithstanding, the proposal is not supported due to the breaches of the additional 30% building height incentive available through Section 16 of SEPP Housing.

This matter does not warrant refusal of the application.

- **Affordable Housing**

The submissions questioned whether the proposal includes affordable housing as required.

Comment:

The proposal makes provision for the dedication of 10% of the total gross floor area of the development to Council for use as affordable housing in accordance with Clause 6.11 of the WDCP. The proposal also incorporates an additional 15% of the total gross floor area to be used as affordable housing for a period of 15 years in order to obtain the additional 30% FSR and Building Height incentives available under Section 16 of SEPP Housing. Were the application recommended for approval, conditions would be included in relation to the maintenance of affordable housing.

This matter does not warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Design and Sustainability Advisory Panel	<p><i>Not Supported (Based on DA as lodged).</i></p> <p>The application was referred to the DSAP for consideration and comment.</p> <p>The DSAP raised a number of issues with the design of the development and did not support the proposal. The Panel made a total of 17 recommendations to improve the design quality, contextual fit, amenity, landscape outcome and sustainability aspects of the proposal.</p> <p>The applicant has sought to respond to the DSAP recommendations through the amended proposal.</p> <p>Each of the Panel's recommendations are listed below with commentary from the assessing planner.</p> <p><u>Strategic context, urban context: surrounding area character</u></p>

Internal Referral Body	Comments
	<p>1. Resolve issues such as the overshadowing of communal open space, the long-term health of trees and grass in shadow (especially all mature existing trees that are to be retained) and the overshadowing impacts on neighbouring sites.</p> <p><u>Comment:</u> The amended proposal includes additional communal open space areas on the roof tops of buildings A and B that will receive uninterrupted sunlight access. However, the amenity of these communal rooftop areas remain unacceptable due to the lack of equitable access and sun protection. The alignment of building B and the adjacent communal area between the building and southern frontage have been amended; Council's Landscape section raised no concerns in relation to the long-term health of the retained trees in relation to sunlight access.</p> <p>This matter has not been fully resolved.</p> <p>2. Amend the design by reducing building height and increasing building separation (as required) so that access to northern sunlight can be maximised to all COS and landscape and so that access to sunlight on surrounding sites is not unduly compromised. Amendments like setting back the upper levels of the buildings (in full compliance of the ADG), reducing excessive height, increasing building separation by widening and/or tapering Building B towards the south should be explored to ensure viability of both the retained landscape and COS.</p> <p><u>Comment:</u> The amended proposal has adequately addressed sunlight access to communal open spaces and adjoining properties. It is noted that the upper levels now comply with the required ADG building separation distances to all property boundaries.</p> <p>This matter has been resolved.</p> <p><u>Scale, built form and articulation</u></p> <p>3. Set back upper levels of Buildings B and C in accordance with ADG setbacks;</p> <p><u>Comment:</u> The upper levels of buildings B and C have been amended generally in accordance with the ADG with 9m setbacks now provided to the side boundaries. The reduced separation distance of 15m between buildings B and C is found to be acceptable given the design and placement of windows at the southern elevation of building C.</p> <p>This matter has been resolved.</p> <p>4. Avoid narrow separation between Buildings A and B;</p> <p><u>Comment:</u> The separation distances between buildings A and B now fully comply with the ADG requirements.</p>

Internal Referral Body	Comments
	<p>This matter has been resolved.</p> <p>5. Avoid overshadowing communal open space by reviewing site layout. <u>Comment:</u> This matter has been resolved.</p> <p><u>Access, vehicular movement and car parking</u></p> <p>6. Enhance the Gladys Avenue streetscape through the removal of the bin holding area and providing truck access into the basement for collection; <u>Comment:</u> This recommendation has not been taken up and bin collection remains via the bin holding area. The combined footprints of the bin holding area and adjacent trafficable turf area preclude the provision of adequate planting within the Gladys Avenue frontage.</p> <p>This matter has not been resolved.</p> <p>7. Consider site amalgamation to enhance the residential character of Gladys Avenue. <u>Comment:</u> This recommendation has not been taken up. While it is considered that amalgamation with 9, 9A and 9B Gladys Avenue would result in an improved planning outcome, it is not essential to facilitate the proposed development. It is noted that the proposal makes provision for a future shared driveway connection to those properties.</p> <p><u>Landscape</u></p> <p>8. Consider a revised site layout that provides more solar access to communal open space and avoids long term impacts on the health of grass and trees, while achieving outcomes sought for FSR, building height and amenity; <u>Comment:</u> The revised site layout is acceptable in relation to solar access to communal areas and vegetation and provides a compliant FSR and generally acceptable internal amenity. The proposed building height remains unsupported as assessed in this report.</p> <p>This matter has not been fully resolved.</p> <p>9. Re-consider the retention of the existing landscape pocket on Frenchs Forest Road West to allow for a revised site layout with the resolution of design issues identified in this review. <u>Comment:</u> The retention of the existing landscaping in the south-eastern corner of the site was a key consideration in the revised site layout. The proposed alignment of building B is considered to strike an appropriate balance between the retention of canopy trees and the desired building line on the northern side of Frenchs Forest Road West.</p>

Internal Referral Body	Comments
	<p>This matter has been resolved.</p> <p><u>Amenity</u></p> <p><i>10. Reduce the floor plate size of Building A to resolve the amenity issues identified above;</i> <u>Comment:</u> The width of the building A floor plate has been reduced by approximately 3m. The revised building layout addresses the amenity issues raised in relation to unnamed rooms without windows, excessive living room depths, the amenity of circulation spaces and the number of units per lift core.</p> <p>This matter has been resolved.</p> <p><i>11. Consider amending the layout and form of Buildings A and B to enhance building separation and amenity.</i> <u>Comment:</u> The siting and layouts of buildings A and B have been revised to provide compliant separation distances and suitable internal amenity.</p> <p>This matter has been resolved.</p> <p><i>12. Avoid subterranean apartments;</i> <u>Comment:</u> Each of the 3 buildings have been amended to ensure that all units are suitably located in relation to the finished external levels.</p> <p>This matter has been resolved.</p> <p><i>13. Consider dimension and size of private open space areas.</i> <u>Comment:</u> All units incorporate private open spaces of sufficient area and dimensions.</p> <p>This matter has been resolved.</p> <p><u>Sustainability</u></p> <p><i>14. Decarbonisation of energy supply</i></p> <ul style="list-style-type: none"> • <i>All services should be electric – gas for cooking, hot water and heating should be avoided. See note above re cooking.</i> • <i>Heat pump systems or instantaneous electric systems for providing electric hot water should be considered.</i> • <i>The storage of hot water can be considered a de facto battery if heated by PVs during the day.</i> • <i>As much onsite power generation as possible should be included. Additionally, on site battery storage has benefits for the grid and may be a highly desirable back-up during the transition to a de-carbonised grid.</i>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> <i>Unshaded roof space is a valuable resource for PV installations. Their efficacy can be greatly enhanced when placed over a green roof, which has additional visual, thermal and ecological benefits.</i> <p><u>Comment:</u> The above recommendations have not been taken up, with the exception of PV panels which are shown indicatively on the roofs of each building.</p> <p><i>15. EV charging: Provide EV charging points for each unit (Min 15 amp) to suit level 1 charging. Also consider charging and storage for E Bikes and E Mobility Scooters.</i></p> <p><u>Comment:</u> The proposal provides 3 EV charging points in accordance with the WDCP requirement.</p> <p><i>16. Passive design and thermal performance of building fabric</i></p> <ul style="list-style-type: none"> <i>Higher BASIX thermal performance standards that commenced on 1 October 2023 require an average 7 stars NatHERS, with no unit below 6 stars. Given the coastal location a very comfortable indoor environment should be achievable.</i> <i>Particular attention is required for the south facing apartments to ensure they meet this requirement.</i> <i>The inclusion of ceiling fans to all bedrooms and living rooms will provide comfort with minimal energy while reducing the need and energy required for air-conditioning.</i> <p><u>Comment:</u> All units and the overall average of the development meet the required NatHERS star ratings. Ceiling fans do not appear to be shown on the submitted plans.</p> <p><i>17. Water use minimisation</i></p> <ul style="list-style-type: none"> <i>All fixtures and appliances should be water (and energy) efficient</i> <i>Water storage for rainwater from the roofs should be included and plumbed to at least the landscaping and toilets</i> <i>Landscape design and planting should be water tolerant and suitable for the microclimate</i> <p><u>Comment:</u> The proposal meets the required water, energy and thermal performance targets as indicated on the BASIX Certificate.</p> <p>Note: The above recommendations made by the DSAP in relation to sustainability measures exceed the requirements of SEPP Sustainable Buildings, which apply to the development. It is noted that Clause 1.5 of the SEPP makes clear that the requirements of the SEPP prevail in the event of an inconsistency. The proposal complies with the applicable SEPP Sustainable Buildings requirements and the incorporation of recommendations 15-17 is at the applicant's discretion.</p>

Internal Referral Body	Comments
	<p><u>Assessment Officers Comments</u></p> <p>The comments and recommendations provided by the DSAP were based on the original design of the proposal at the time of lodgement of the DA, which has since been amended in response to the Panel recommendations and additional matters raised by Council. Despite the various improvements made in the amended proposal, the development remains unacceptable for the reasons discussed in this report. The extent of these issues is such that the proposal is found not to exhibit design excellence or achieve an outcome commensurate with those envisaged by the WLEP, WDCP, SEPP Housing or the ADG.</p>
Environmental Health (Industrial)	<p><i>Supported with conditions.</i></p> <p>General Comments</p> <p>Environmental Health has been requested to provide comment in relation to this proposal for "Demolition works and construction of three residential flat buildings".</p> <p>In the above regard, particular consideration is given to potential noise amenity impacts of the proposal, both for the community and for future occupants of the dwellings within the development.</p> <p>The plans supplied with the proposal details several communal areas within the development, with one area facing Frenchs Forest Road, and others within more central area of the development thus reducing the likelihood of noise impacts on surrounding receivers.</p> <p>As these area appear to be intended for the occupants as recreational open space it is considered appropriate to recommend a condition of consent in relation to amplified music in these areas to preserve amenity.</p> <p>The acoustic report supplied with the proposal outlines a number of requirements relating to building elements such as glazing, potential roof, wall and ceiling penetrations, and supplementary ventilation systems.</p> <p>It is also noted in the acoustic report that details of mechanical plant and equipment have not been finalised at this stage.</p> <p>Despite this, the proposal is supported with the recommendation to include appropriate conditions of consent requiring compliance with recommendations of the acoustic report relating to acoustic treatment of particular building elements.</p> <p>Additionally, a further condition is recommended requiring that, prior to the issuing of a Construction Certificate, a further acoustic report is to be provided to the Certifying Authority, which demonstrates that mechanical plant intended to be installed will comply with noise emission criteria as outlined in the acoustic report submitted with this proposal.</p>

Internal Referral Body	Comments
	<p><u>Update - 4/12/2024</u></p> <p>The has amended the proposal which has been duly considered with Environmental Health's referral response amended to reflect the amended acoustic report.</p> <p>Recommendation</p> <p>SUPPORTED - subject to conditions</p>
Landscape Officer	<p><i>Not Supported.</i></p> <p>The proposal is not supported with regards to landscape issues.</p> <p><u>Additional Information Comment 11/12/24:</u> The amended reports and plans are noted.</p> <p>Landscape referral remains unsupportive due to the following concerns:</p> <ul style="list-style-type: none"> • The balconies proposed in the front 3.5 metre setback of Building A are not supported. This front setback should "<i>...be landscaped and free of any structures, basements, car parking or site facilities other than driveways, mail boxes, garbage storage areas and fences</i>" as outlined in WDCP 5.2.3 and 5.2.8. The 3.5 metre setback is required to be primarily landscaped area to allow for planting to help soften the scale of the development. • The western side setback of Building A and the eastern side setback of Building B are compromised where egress stairs are located. Building A and B are 7 storeys and the areas around the egress not having any significant planting is not an acceptable solution. It is noted the desired future character is for an "urban forest" and "making a feature of the forest" which necessitates significant tree planting between built forms. Greater tree planting in these areas will help offset the large tree (12 metre height and above) canopy loss proposed. • The Arboricultural Impact Assessment (AIA) does not provide justification for the removal of tree 4 other than that the encroachment is 11.5%. This encroachment almost meets the minor encroachment threshold of 10% so unless otherwise justified tree 4 shall be retained. Complete root investigations if necessary. • The AIA shows tree 33a with a 0% tree protection zone encroachment. The plans show encroachment into the tree protection zone and structural root zone by balcony and stairs. Further comment is to be provided by the Arborist as this tree shall be retained. • Trees 78, 79, 82, and 83 are proposed for removal. The Survey Plan shows tree 83 located on the neighbouring property and as such it must be retained unless owners consent is provided for its removal. Trees 78, 79, and 82 are co-located on the boundary, therefore owners consent is required from the neighbouring property owner for their removal, otherwise they must be retained. No concerns are raised with the removal of these trees should owners consent be provided; however, it is

Internal Referral Body	Comments
	<p>noted that the adjoining property owner does not have any obligation to consent and may choose to not provide an agreement. If these trees are to be retained their retention shall be supported by commentary from the Arborist.</p> <ul style="list-style-type: none"> • Continue the mass planting (minimum 2.5 metre width) behind the the structure shown in the eastern setback communal open space between Building B and Building C. • Clarification is required for the bin storage area layout and structure on the Gladys Avenue frontage. The Traffic Impact Assessment shows swept paths for a Council waste truck entering the property (Attachment 4 sheet 2 of 9). From conversations with Council's Waste Services team it is understood that the waste truck will not be required to access the property, rather a wheel in wheel out service will be provided with the truck parked on Gladys Avenue. If the wheel in wheel out service is provided the 'trafficable turf' and waste truck parking area shown on the plans will not be required and shall be replaced with mass planting (including at least one additional large tree). This planting will soften any proposed structure when viewed from Gladys Avenue and help establish a landscape setting for this frontage, as required under WDCP. <p><u>Original Comment:</u> <i>Clarification is required for the bin storage area layout and structure on the Gladys Avenue frontage. The Traffic Impact Assessment shows swept paths for a Council waste truck entering the property (Attachment 4 sheet 2 of 13). From conversations with Council's Waste Services team it is understood that the waste truck will not be required to access the property, rather a wheel in wheel out service will be provided with the truck parked on Gladys Avenue. Landscape referral notes Council's Waste Services request for more information on the bin storage area structure. If the wheel in wheel out service is provided the 'trafficable turf' area shown on the plans will not be required and shall be replaced with mass planting (including one additional tree). This planting will soften any proposed structure when viewed from Gladys Avenue and help satisfy the landscape requirements under the WDCP.</i></p> <p><i>Trees 82 and 83 are proposed for removal. The Survey Plan shows tree 83 located on the neighbouring property and as such it must be retained unless owners consent is provided for its removal. Tree 82 is co-located on the boundary, therefore owners consent is required from the neighbouring property owner for its removal, otherwise it must be retained. If these trees are to be retained their retention shall be supported by commentary from the Arborist.</i></p> <p><i>Landscape referral is generally supportive of the overall landscape proposal subject to the following amendments:</i></p> <ul style="list-style-type: none"> • <i>The structure shown in the eastern setback communal open space between Building B and Building C shall be relocated to allow a continuation of planting along the eastern boundary in the available deep soil area,</i> • <i>Substitute 1 x Acmena smithii to the north of Building A with 1 x Angophora costata,</i>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> Substitute 3 x <i>Acmena smithii</i> to the east of Building B with 3 x <i>Angophora costata</i>. <p>Landscape referral notes the request for further information by Council's Bushland and Biodiversity team, and as such further comment regarding trees will be provided upon receipt and review of this information.</p>
NECC (Bushland and Biodiversity)	<p>Not Supported.</p> <p>AMENDED COMMENTS</p> <p>Amended documents have been submitted with the application showing a reduction in the number of trees being removed. While it is acknowledged that the design amendments appear to have reduced the overall ground footprint, outstanding issues raised in the Landscape referral could have an impact on the Biodiversity Referral:</p> <ul style="list-style-type: none"> Additional tree planting has been requested which will help offset the proposed tree removal. No justification has been provided in relation to the removal of Tree 4 which is located within the Wildlife Corridor. Clarification is sought in relation to impacts to Tree 33a Removal of trees 78, 79, 82 and 83 cannot be supported unless Owners consent has been obtained, if these trees are to be retained, their retention will have to be supported by the Arborist. The amended Statement of Environmental Effects has not addressed the applicable Warringah DCP Biodiversity Controls. <p>Therefore, the Biodiversity Referral will recommence once the final vegetation and tree removal and planting figures are defined. Furthermore, amendments to the proposed Landscape plan should be made to ensure that no plants identified as weeds are included as part of the proposal.</p> <p>ORIGINAL COMMENTS</p> <p>The comments in this referral relate to the following applicable controls and provisions:</p> <ul style="list-style-type: none"> Warringah DCP Clause E4 - Wildlife Corridors. Warringah DCP Clause E6 - Retaining unique environmental features. <p>The proposal has been submitted with an Arboricultural Impact Assessment (Earthscape Horticultural Services, April 2024) that has assessed the condition of a total of 102 trees distributed across the sites that are the subject of the application. The report has recommended removal of trees based on current exemptions by species (species identified as exempt under current rulings in the Northern Beaches) and height (Trees under 5 metres). No objections are raised in relation to those removals. However, at least 31 Prescribed trees are being proposed for removal.</p> <p>In addition, a number of prescribed trees with habitat values have been identified on site and will be potentially impacted, and records indicate the</p>

Internal Referral Body	Comments
	<p>potential presence of threatened species (Powerful Owl - <i>Ninox strenua</i>) within the site. Therefore, a Flora and Fauna Assessment will have to be prepared and submitted with the application as indicated in the Biodiversity Guidelines for Development Applications available on Council's website: chrome-extension://efaidnbmninnibpcapjpcglclefindmkaj/https://files-preprod-d9.northernbeaches.nsw.gov.au/nbc-prod-files/media/files/2024-05/Biodiversity%20Requirements%20for%20Development%20Applications%20-%202024.pdf?1715582608</p> <p>The biodiversity referral will recommence upon reception of the above mentioned Flora and Fauna Assessment report.</p>
NECC (Development Engineering)	<p>Not Supported.</p> <p>Comments 13/1/25 The previous comments on the stormwater management plans are still applicable as the applicant has not addressed Councils previous RFI.</p> <p>Previous comments The proposed residential housing development is not supported for the following reasons:</p> <p>Stormwater management- Accor stormwater plan 1) As required by Councils Water Management for Development Policy a DRAINS model is to be submitted to Council with the relevant summary information for review. Please note state of nature predeveloped conditions are to be used for the determination of post development flows to the 1/100 AEP storm events. 2) The external pipe connection point being the existing Council stormwater inlet pit in Gladys Avenue is to establish the pit invert level to Aust Height Datum. (AHD) A Drainage long section and Hydraulic Grade Line (HGL) Analysis is to be provided also detailing any existing service crossings to AHD in Councils road reserve. The HGL analysis is to demonstrate that the outlet of the On Site Detention tank is not submerged(flooded) and is operating as a free drained outlet.</p> <p>Groundwater Management/Basement construction. As the basement excavation is considerably deep the basement will intercept the groundwater table, in accordance with the principles set down in The Sydney Coastal Council Groups Groundwater Management Manual, the basement will be required to be tanked to prevent the continual pumping of groundwater seepage to Councils stormwater drainage system.</p>
NECC (Riparian Lands and Creeks)	<p>Supported with conditions.</p> <p>Updated referral The amended proposal has been reviewed. No additional comments or conditions required.</p> <p>Original referral dated 14/06/2024 Supported This application was assessed in consideration of:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • Supplied plans and reports; and • Relevant LEP and DCP clauses; <p>The proposal is for demolition of existing structures and construction of three residential flat buildings.</p> <p>The site of the proposal is at the top of Middle Creek Catchment. The site does not contain or abut any riparian areas, but stormwater from site will drain to Middle Creek.</p> <p>Appropriate sediment and erosion control during construction is essential to prevent downstream damage.</p> <p>No objections to the proposal.</p>
NECC (Water Management)	<p>Supported with conditions.</p> <p>Updated referral The amended proposal has been reviewed. No additional comments or conditions required.</p> <p>Original referral dated 28/05/2024 Supported This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WM Policy), and; • Relevant LEP and DCP clauses; <p>The proposal is for demolition of houses and construction of three residential flat buildings.</p> <p>Section 4.0 of the WMD Policy applies. Water sensitive urban design (WSUD), water reuse and infiltration into the soil, and the resulting quality of stormwater leaving the site are interconnected concepts that guide a merit-based assessment under the section.</p> <p>The proposed stormwater treatment chain includes rainwater tank, Atlan Stormsacks, and Atlan Filter vault with cartridges. It is noted that the proposal exceeds the required amount of deep soil. Planter Boxes are included but not as part of the stormwater treatment chain.</p> <p>Section 4.1 of the WMD Policy applies. Under this section the proposal must meet Table 5 – General Stormwater Quality Requirements. A stormwater plan has been provided including the layout and output from MUSIC modelling. On review, no objections regarding water quality modelling.</p> <p>Groundwater. A geotechnical report has been provided which indicates the proposal does not intercept any standing water table. Seepage may be expected following rainfall. Please be aware that a Council dewatering permit application must be made for any dewatering of groundwater, or for expected multiple instances or continuous dewatering of tailwater. The water to be discharged must be compliant with the Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) (Blue Book), Council's Compliance and Enforcement Policy and legislation including Protection of the Environment Operations Act 1997 and Contaminated Lands Act 1997.</p> <p>All approvals, water discharges and monitoring results are to be documented</p>

Internal Referral Body	Comments
	<p>and kept on site. Copies of all records shall be provided to the appropriate regulatory authority, including Council, upon request.</p> <p>No objections regarding water management.</p>
Strategic and Place Planning	<i>Not Supported.</i>
	STRATEGIC PLANNING ASSESSMENT
	Discussion of reason for referral
	<p>This application has been referred as the subject site to clause 35A(1) of the Environmental Planning & Assessment Regulations 2021 (the Regulations). The site is zoned R3 Medium Density Residential under Warringah Local Environmental Plan 2011 (WLEP 2011).</p>
	<p>Consideration of Application</p> <p>ADDITIONAL INFO RECEIVED – 12/12/24</p> <p>Strategic Planning note the Supplementary Statement of Environmental Effects (SEE) prepared by Boston Blyth Flemming, dated 12 December 2024, which responds to clause 35A(1) of the Regulations.</p> <p>Strategic Planning remains unsupportive due to the following concerns:</p> <p><u>Strategic Planning intent</u></p> <p>The overall intent of the Frenchs Forest 2041 Place Strategy in relation to the proposed development is the delivery of high-quality medium rise apartment buildings which imbue an urban residential character. The proposed development satisfies this intent by providing for three residential flat buildings comprising 124 apartments (9 x 1-bed, 77 x 2-bed, 38 x 3-bed). Of these, 13 will be dedicated as affordable housing to Council and 17 are proposed as affordable housing under the Housing SEPP for a period of 15 years.</p> <p>The proposed development is considered consistent with the following objectives of the Place Strategy:</p> <ul style="list-style-type: none"> • Actions for Frenchs Forest Road West Precinct: <ul style="list-style-type: none"> o ...include medium rise apartments buildings up to 6 storeys to imbue an urban residential character to the north of Frenchs

Internal Referral Body	Comments
	<p>Forest Road West</p> <ul style="list-style-type: none"> o Provide an interface to the surrounding low-density residential areas and offer a diversity of housing o Plan for apartment buildings and an urban residential character north of Frenchs Forest Road West o ...no vehicular access from Frenchs Forest Road West. <p>However, the proposed development is considered inconsistent with the following objectives of the Place Strategy:</p> <ul style="list-style-type: none"> • Big Move 5 – Build on the established character of Frenchs Forest to create a place for people <p>The Supplementary SEE notes that the proposed residential flat development will contribute positively to the character of the area in terms of its architectural quality and integrated landscape outcome. Strategic Planning is of the view that the current design does not contribute positively to the character of the area and note that further design improvements should be explored, which will be addressed by other Council business units.</p> <p><u>Design excellence</u></p> <p>The Place Strategy notes that design excellence provisions will apply to certain development. Comment is deferred to Council's DSAP regarding this.</p> <p>Generally, Strategic Planning is concerned with how the overall development responds to the design excellence criteria established by clause 8.5 of Warringah LEP 2011, which has been shaped by the irregular shape of the site and proposed site layout.</p> <p>The Gladys Avenue entrance is dominated by vehicular access/egress and the pedestrian entrance is not clear for Buildings B and C as they are located a considerable distance from the street frontages. The location of mailboxes and collection areas as per DCP Part G9, Control 5.2.5, Requirements 4 to 4.4 are not identified on the plans.</p> <p><u>Desired future character</u></p> <p>The desired future character places importance on the incorporation of bushland elements, mature trees, urban tree canopy and creation of tree-lined streets with planting that provides natural shade and habitat. The proposed common open space facing Frenchs Forest Road West adjoining Building B is a positive design response. However, more can be done with</p>

Internal Referral Body	Comments
	<p>Building A's setback to Frenchs Forest Road West and Building C's Gladys Avenue frontage.</p> <p><u>Utilities services</u></p> <p>The Place Strategy identifies that clause 8.10 of Warringah LEP 2011 requires a developer to give adequate consideration to undergrounding existing powerlines on Frenchs Forest Road West.</p> <p>As there is no easement in place for the existing 33kV overhead transmission lines along Frenchs Forest Road West, Council's preferred design response is to ensure that buildings are set back at least 3.5m from the property boundary to ensure the safety and maintenance of this powerline.</p> <p>Fences and other structures are not encouraged within the 3.5m setback. The plans show the following elements encroaching within the 3.5m setback to Frenchs Forest Road West: fences, balconies, hydrant booster in front of Building A, kiosk substation in front of Building B. The location of these elements within the 3.5m setback to Frenchs Forest Road West is not considered a good design response to the future undergrounding of the overhead powerlines, which may require earthworks outside of the subject site to remove the poles and facilitate minor footpath realignment.</p> <p>ORIGINAL COMMENTS – 21/5/24</p> <p>The application is for the demolition of the existing dwellings and structures on the site and construction of three residential flat buildings providing 127 apartments (9 x 1-bed, 85 x 2-bed, 33 x 3-bed). Of these, 9 apartments dedicated to Council and 21 apartments dedicated to affordable housing. The two basement levels contain 139 vehicle spaces, 13 visitor and 17 car share are proposed.</p> <p>Matters for consideration are discussed below.</p> <p><u>The Regulations</u></p> <p>A response to clause 35A(1) of the Regulations is required. Clause 35A states:</p> <p><i>35A Additional requirement for development application in Frenchs Forest Precinct</i></p>

Internal Referral Body	Comments
	<p>1. <i>A person must not apply to a consent authority for development consent to carry out development on land in the Frenchs Forest Precinct unless the application is accompanied by an assessment of the consistency of the proposed development with the Frenchs Forest 2041 Place Strategy.</i></p> <p>The documentation submitted (including the Statement of Environmental Effects) has not demonstrated an assessment of the consistency of the proposed development with the Frenchs Forest 2041 Place Strategy.</p> <p>The application cannot be supported in its current form unless a response is provided to clause 35A(1) of the Environmental Planning and Assessment Regulation 2021 either in the Statement of Environmental Effects as a new Section titled 'Statement of Consistency', or as a separate supporting document.</p>
Strategic and Place Planning (Development Contributions)	<p><i>Not Supported.</i></p> <p>ASSESSMENT OF DEVELOPMENT APPLICATION</p> <p>The Frenchs Forest Town Centre Contributions Plan 2023 applies to the site</p> <p>The subject site is within the Frenchs Forest Planned Precinct. The Department of Planning and Environment prepared the Frenchs Forest 2041 Place Strategy on 17 December 2021 and the land was rezoned on 1 June 2022.</p> <p>The Frenchs Forest Town Centre Contributions Plan 2023 (the Contributions Plan) is an IPART reviewed plan that came into force on 20 December 2023; and funds the delivery of local infrastructure required to support development under the Frenchs Forest 2041 Place Strategy. The Contributions Plan levies both residential and non-residential development that will result in additional population.</p> <p>The Contributions Plan applies to the subject site and to the development proposed under DA2024/0499.</p> <p>A contribution will be calculated in accordance with Table 2 in the Contributions Plan. The applicable contribution rates are indexed in accordance with Chapter 3.3 of the Plan.</p> <p>A credit will be provided for the four existing 3-bed dwellings on the subject site.</p> <p>As per the submitted plans (TRIM 2024/842772), the proposed development provides the following dwelling yield:</p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • 1-bed dwellings – 9 • 2-bed dwellings – 77 • 3-bed dwellings – 38 • Total: 124 dwellings <p>The Contributions Plan, in its Glossary of terms and abbreviations defines a bedroom as “any room or space within a dwelling capable of being used as or converted to a bedroom as determined by Council”.</p> <p>An assessment of the submitted plans (TRIM 2024/842772) has identified 19 dwellings containing study rooms and/or storage rooms that are considered to be bedrooms (for the purposes of this contribution plan) and have not been counted as bedrooms on the submitted plans.</p> <p>The 19 dwellings in question are:</p> <ul style="list-style-type: none"> • Building A – A101, A201, A301, A102, A202, A302, A105, A205, A305 • Building B – BG05, B105, B205, B305, B108, B208, B308, B109, B209, B309 <p>Due to the size and configuration of these rooms, they are considered to be bedrooms for the purpose of calculating a development contribution under the Frenchs Forest Contributions Plan, resulting in the 19 dwellings being considered 3 bedroom dwellings.</p> <p>Therefore, the residential development contribution will be based on the following dwelling yield:</p> <ul style="list-style-type: none"> • 1-bed dwellings – 9 • 2-bed dwellings – 58 • 3-bed dwellings – 57 • Total: 124 dwellings <p>At present, uncertainty remains to the final quantum and composition of dwellings to be supported by the Assessment Officer. Due to this uncertainty, a calculation of the required development contribution cannot be provided at this time, and the application is not supported.</p> <p>Once the final quantum and composition of dwellings is known, the application must be referred to Strategic and Place Planning 3 to calculate the required contribution and apply a condition of consent.</p> <p>RECOMMENDATION</p> <p>A. DA2024/0499 is not supported at this time as it is premature to provide a total contribution amount until the final yield to be approved has been confirmed by the Assessing Officer.</p> <p>B. The Assessing Officer is to determine whether 19 of the dwellings in question</p>

Internal Referral Body	Comments
	<p>are labelled correctly in the number of bedrooms for the purpose of determining the development contributions given that a bedroom is defined the Frenchs Forest Town Centre Contributions Plan as follows:</p> <p><i>a bedroom means “any room or space within a dwelling capable of being used as or converted to a bedroom as determined by Council”.</i></p> <p>C. Prior to determination of the DA2024/0499, the Assessing Officer is to refer the DA back to SPP3 with advice on the final quantum and composition of dwellings being approved in particular the 19 dwellings (namely Dwellings A101, A201, A301, A102, A202, A302, A105, A205, A305 in Building A and Dwellings BG05, B105, B205, B305, B108, B208, B308, B109, B209, B309 in Building B). This will allow a calculation of the required contribution and finalisation of a condition of consent.</p>
Strategic & Place Planning (Affordable Housing Contributions)	<p>Supported with conditions.</p> <p>INTRODUCTION</p> <p>On 16 May 2024, Strategic and Place Planning 2 provided a referral response for this application. At the time, the application was required to be re-submitted identifying 10% of total residential GFA of the development (after the application of any floor space ratio bonus pursuant of the Housing SEPP) to be dedicated as affordable housing to Council, inclusive of the remainder of any required GFA (after dedication of units for affordable housing) to be paid via a monetary contribution to Council in accordance with the Scheme and WLEP 2011.</p> <p>An updated response is provided based on the additional information received on 19 November 2024. The contribution calculation and conditions will require further amendment if there are changes to the quantum of total GFA and/or changes in the total GFA of dwellings to be dedicated.</p> <p>SUBJECT SITE</p> <p>The subject site is 116-120 Frenchs Forest West and 11 Gladys Ave, Frenchs Forest (lot 14 & 24 DP 25713; Lot 1 & 2 DP 213608).</p> <p>The land is zoned R3 Medium Density residential under the Warringah LEP 2011 and is identified as a site contained within the WLEP 2011 affordable housing contributions scheme map. The site currently contains 4 residential houses.</p> <p>ASSESSMENT OF DA</p> <p>The submitted Statement of Environmental Effects (SEE) has been prepared by Boston Blyth Fleming Town Planners.</p> <p>The SEE advises that the application seeks consent for demolition works, and construction of three residential flat buildings over basement and mezzanine parking comprising a total of 124 units (9 x 1 bedroom units, 77 x 2 bedroom unit and 38 x 3 bedroom units).</p>

Internal Referral Body	Comments
	<p>Affordable Housing Contributions Scheme</p> <p>The application is on land identified as being within the Northern Beaches Council Affordable Housing Contributions Scheme (The Scheme), French's Forest Planned Precinct "Area A". The following affordable housing contribution rates apply to development applications for residential floorspace within this area:</p> <p>Where the contribution is provided as a dedication of dwellings:</p> <ul style="list-style-type: none"> • Within area "A" the dedication in favour of the consent authority, free of cost, one or more complete dwellings with a gross floor area equivalent to 10% of the accountable total floor space. <p>Where the contribution is provided as an equivalent monetary contribution:</p> <ul style="list-style-type: none"> • \$11,000 per square metre* <p>*(as described in the Scheme dated September 2021 with the contribution indexed on an annual basis on 1 March every year in accordance with clause 3.2.1 of the Scheme).</p> <p>The Scheme identifies that generally the contribution is to be provided via dedication of dwellings, or if the percentage of accountable total floor space (the gross floor area of the residential component of the development) results in an area which equates to less than 50 square metres, or where Council otherwise considers it appropriate to achieve a better affordable housing outcome, a monetary contribution equivalent to the market value of the dwellings that would otherwise be required will be sought as condition of development consent. In some cases, a contribution may also comprise a dedication and monetary contribution.</p> <p>The Scheme also identifies a principle that Affordable housing must consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with the same type of dwellings within the development to which the development application relates, especially in terms of internal fittings and finishes, solar access and privacy.</p> <p>Warringah Local Environmental Plan 2011</p> <p>The application is on land identified within the WLEP 2011 affordable housing contributions scheme map in the Frenchs Forest Town Centre requiring not less than 10% of the gross floor area of the building to be used for affordable housing subject to the requirements of clause 6.11 of Warringah LEP 2011.</p> <p>Clause 6.11 of Warringah LEP 2011 applies to development in an affordable housing contribution area that involves—</p> <ol style="list-style-type: none"> the erection of a new building with a gross floor area of more than 200 square metres, or alterations to an existing building that will result in the creation of more than

Apartment		Gross floor area (m ²)
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Internal Referral Body	Comments			
	CG01	3 bed	335.6	
	CG02	2 bed		
	CG03	3 bed		
	C101	3 bed	373.5	
	C102	2 bed		
	C103	2 bed		
	C104	3 bed		
	C201	3 bed	373.5	
	C202	2 bed		
	C203	2 bed		
	C204	2 bed		
	BG05	2 bed	222.2	
	BG06	3 bed		
	Total		1304.8	
	Table 1 - Affordable housing allocation			
**Calculations of GFA are based on the information provided in the application and is subject to change once the final quantum of GFA has been determined.				
RECOMMENDATION				
A. If approval of the DA is being recommended by the Assessing Officer, conditions have been provided.				
Traffic Engineer	Not Supported.			
	Referral comments 24/12/24			

Internal Referral Body	Comments
	<p>This development application involves the demolition of the existing structures to facilitate the construction of three residential flat buildings, comprising a total of 124 units (9 x 1-bedroom units, 77 x 2-bedroom units and 38 x 3-bedroom units).</p> <p>Traffic Generation</p> <p>The future traffic generation for the 124-unit development will be similar to the previously proposed 127-unit development. The new development is expected to generate approximately 24 vehicle trips (0.19 vtph per unit) during the AM peak hour, and 19 vehicle trips (0.15 vtph per unit) during the PM peak hour. The nett increase for the site is estimated to be 20 vehicle trips during the AM peak hour, and 15 vehicle trips during the PM peak hour.</p> <p>The SIDRA analysis of the intersections shows that the existing road network overall operates at a Level of Service (LOS) A during the AM peak and Level of Service (LOS) B during the PM peak. The LOS is maintained for both the AM and PM peak following the addition of the subject development.</p> <p>The existing intersection of Gladys Avenue and Frenchs Forest Road West however operates at LOS C during the AM and PM peak and remains at LOS C post-development which is still considered satisfactory. The 95% Queue Length (Q95) in Gladys Avenue has increased during the AM peak from 9.5m to 14.3m post-development. The additional traffic may result in increased queuing of vehicles exiting Gladys Avenue which may then block access into Gladys Avenue from Frenchs Forest Road West. It is therefore likely that the existing 'No Stopping' restriction on the western side of Gladys Avenue will need to be extended to provide safe access into Gladys Avenue.</p> <p>Parking</p> <p>The amended Traffic and Impact Assessment (TIA) undertaken by Genesis Traffic, states that parking is provided on three levels of basement parking. A total of 176 vehicle spaces is proposed comprising 140 residential spaces, 13 visitor spaces (including 3 car wash bay and 3 Electrical Vehicle Charging Spaces) and 17 Car Share spaces. The parking spaces provided do not exceed the maximum number of resident and visitor parking permitted, and would satisfy the minimum required car share, wash bay, electric vehicle charging, parking spaces for people with disabilities.</p> <p>The development also requires a minimum of 64 motorcycle parking spaces (0.5 spaces per dwelling), 248 resident bicycle spaces (2 spaces per dwelling) and 31 visitor bicycle parking spaces (0.5 spaces per dwelling) provided on Basement 2. The TIA indicates that the 124 resident bicycle spaces will be provided on the Mezzanine level while 124 bicycle spaces will be provided within the individual enclosed storage spaces.</p>

Internal Referral Body	Comments
	<p>The columns in the basement car park (300mm wide) are typically indicated by black bars between the car park spaces. There are clear drawing errors on the Basement 1 and 2 plans - Drawing No.s A101/A and A102/A, Revisions A; where some black bars are shown within the car park spaces and several even located in the parking aisles. Both drawings need to be reviewed and updated to show the actual location of the columns.</p> <p>The Basement 1 plan has additional errors showing a residential parking space blocking the access to the lifts to Building B and has notes indicating 21 motorcycle where 23 motorcycle spaces are shown on this plan.</p> <p>Access & Circulation</p> <p>An 8.6m wide two-way driveway will be provided at the Gladys Avenue cul-de-sac to provide access to the at-grade loading bay and basement car park. The WDCP requires that servicing and loading be accommodated internally within the building. The TIA states that refuse collection will occur on-site in the provided loading bay accessed via Gladys Avenue. Council waste trucks will enter the loading area in a reverse manner and exit the site in a forward direction.</p> <p>The proposed loading bay is supported by the Transport network team for waste collection otherwise the vehicle would block the adjacent access driveways should kerbside collection be attempted from the street, which would also be impractical due to the large number of bins for the development.</p> <p>The TIA does not provide details on how the 124-unit development site will be serviced. The loading bay is located adjacent to a bin hold area and bin hoist/service lift, connecting to Basement 1 level where the Garbage Rooms are located for each building. There does not appear to be any loading facility within the basement car park.</p> <p>The Plans still show a minimum headroom clearance of 2.2m for access to the basement car park, which is insufficient for a Small Rigid Vehicle (SRV) where a 3.5m clearance height is required. It is not clear whether delivery drivers will have access to the bin hoist or whether they are expected to wheel their loads down the steep driveway. The proposed loading bay may be reasonable for waste collection, however is not considered acceptable for other services such as removalists or deliveries of bulky goods. If the loading bay is to be used, further details are required on how deliveries can be made to the overall development site. The existing 'No Stopping' restrictions in the turning area prevent a delivery vehicle parking to unload which would also not be particularly convenient and far from Building A.</p> <p>The blind aisle on the Basement 2 plan appears to be less than the 1m required for the car park space located in the south-east corner of the building. Dimensions are required on this plan to confirm whether the minimum 1m has actually been provided. Otherwise, the southern wall which also provides the ramp access up to Basement 1, would need to be extended slightly further outwards or changes to the car park layout are required to comply with the</p>

Internal Referral Body	Comments
	<p>standards. It should also be noted that the Genesis Traffic drawings have the North bearing shown incorrectly.</p> <p>The TIA provides some swept path assessments showing B85 and B99 vehicle passing, however these are incomplete and/or do not show the most critical areas where passing does not seem possible. There are a number of poorly located car park spaces which are both difficult to access and have reduced visibility for either the driver parking the vehicle or the oncoming vehicle passing through the area. The parking spaces of greatest concern are the two spaces located between the ramp and lifts to Building A on Basement 1, and the same spaces on Basement 2. The spaces are also located in the parking aisles of highest traffic movement for Basement 1 and 2. It is not possible for two vehicles to pass each other between the lifts and the subject spaces. It is recommended that the subject parking spaces be removed to provide greater circulation width, or reallocated for use as storage or motorcycle parking, which reduces the obstruction and pinch point at this location.</p> <p>No additional swept paths have been provided to demonstrate access to any of the parking spaces. It is not clear how the Basement 2 parking space located in the south-east corner of Building A is safely accessed. There are no convex mirrors or waiting bays shown on this level and even if these additional measures were installed, the area for manoeuvring is constrained and is likely to require multiple reversing manoeuvres in the travel path of oncoming vehicles which have restricted visibility. It is requested that additional swept paths be provided for this location and any other critical spaces within the car park with access concerns.</p> <p>The new development provides a total of 124 units which is 3 units less than the previous 127 units, however this proposal provides one additional parking space with a total of 140 residential parking spaces. It should be noted that special area controls apply to developments within the Precinct 05 Frenchs Forest Road West Neighbourhood Centre. To support the reduction of car trips and encourage the use of sustainable transport, minimum parking rates apply for dedicated Car Share spaces, Electrical Vehicle Charging spaces as well as motorcycle and bicycle parking. The maximum parking rates have been applied for this development, however this has been done at the consequence of safe access and a more efficient and functional parking layout for future residents. The maximum allowable number of parking spaces should therefore be reduced accordingly. The amended proposal has addressed only some of the design deficiencies previously raised. The proposal is still not acceptable in its current form and further improvements are required. It is requested that the above recommendations be considered and addressed in the amended plans for review.</p> <p>Referral comments 15/7/24 This development application involves the demolition of the existing structures</p>

Internal Referral Body	Comments
	<p>to facilitate the construction of three residential flat buildings, comprising a total of 127 units (9 x 1-bedroom units, 85 x 2-bedroom units and 33 x 3-bedroom units).</p> <p>Parking</p> <p>The proposed development property is located within Part 8 Frenchs Forest Precinct of the Warringah Local Environmental Plan 2011 (WLEP) and Part G9 Frenchs Forest Town Centre of the Warringah Development Control Plan 2011 (WDCP). Under WDCP, the proposed development property is within Precinct 05 Frenchs Forest Road West Neighbourhood Centre. The WDCP has special area controls to provide adequate on-site parking for a mix of development and vehicle types, and to support the reduction of car trips and encourage the use of sustainable transport. The WDCP specifies maximum parking rates for residents and visitor parking; and minimum parking rates for dedicated Car Share spaces, Electrical Vehicle Charging spaces as well as motorcycle and bicycle parking.</p> <p>The Traffic and Impact Assessment (TIA) undertaken by Genesis Traffic, states that parking is provided on three levels of basement parking. A total of 169 vehicle spaces is proposed comprising 139 residential spaces, 13 visitor spaces (including 3 car wash bay and 3 Electrical Vehicle Charging Spaces) and 17 Car Share spaces. It is noted that 7 residential spaces and 7 visitor spaces are identified as small car spaces (2.3m wide x 5m long) compared to a standard parking space (2.4m wide x 5.4m long). The parking spaces provided do not exceed the maximum number of resident and visitor parking permitted, and would satisfy the minimum required car share, wash bay and parking spaces for people with disabilities.</p> <p>The development also requires a minimum of 64 motorcycle parking spaces (0.5 spaces per dwelling), 254 resident bicycle spaces (2 spaces per dwelling) and 32 visitor bicycle parking spaces (0.5 spaces per dwelling). The TIA indicates that the resident bicycle spaces will be provided within the individual enclosed storage spaces. The 32 visitor bicycle parking spaces are provided with double tier bike racks/lockers on Basement 1 level. It is not clear on the Architectural Plans the location and total number of motorcycle spaces provided. The notes on the relevant plans would suggest that there is a total of 52 spaces, however only 44 spaces appear to be shown on the plans. Neither total amounts to the required 64 motorcycle parking spaces. Clarification is required on the actual number of spaces provided and all spaces need to be clearly marked.</p> <p>Access and Circulation</p> <p>Vehicular access to the development site is provided via a new two-way driveway located off the Gladys Avenue cul-de-sac. The access driveway width is 8.2m at the site frontage and 5.5m at the property boundary. The circulation roadway and ramp widths between the basement levels is generally between 6.1-6.5m wide, however the ramp from the Mezzanine level to the Lower</p>

Internal Referral Body	Comments
	<p>Ground level is only 4.1m. The Architectural Plan proposes 20 residential and 20 motorcycle parking spaces on the Lower Ground level. The reduced ramp widths and parking aisle widths on the Lower Ground level relies on the provision of 3 Waiting Bays and installation of convex mirrors for residents to access parking spaces. The swept path assessment provided for the Lower Ground level shows vehicles encroaching over the marked Waiting Bay areas in order to access parking spaces. Residents with parking spaces on this level already need to circulate over 2 levels and would be further inconvenienced by the poor car park layout. The awkward access to the Lower Ground parking level can be avoided by providing a minimum ramp width of 6.1m similar to what has been proposed between the other car park levels.</p> <p>AS2890.1:2004 requires the aisle be extended a minimum of 1m beyond the last parking space for blind aisles. The TIA states that a non-compliant 0.7m blind aisle has been provided with a 6.2m wide aisle to facilitate easier turning manoeuvres. These adjustments have not been made as the non-compliances apply to the blind aisles located at the southern end of the basement levels which are 5.8 and 5.825m wide. Regardless, the parking modules should be designed in accordance with AS2890.1:2004 by providing the required widths rather than modifications to accommodate any deficiencies.</p> <p>The WDCP requires that servicing and loading be accommodated internally within the building. The Applicant proposes a loading bay (3.5m wide x 8.82m long) accessed off Gladys Avenue to enable on-site waste collection. The loading bay is located adjacent to a bin hold area and bin hoist/service lift, connecting to Basement 1 level where the Garbage Rooms are located for each building. There does not appear to be any loading facility within the basement car park. The Plans show a minimum headroom clearance of 2.2m for access to the basement car park. This minimum provides general access for both cars and light vans, but not for a Small Rigid Vehicle (SRV) where a 3.5m clearance height is required. The proposed loading bay may be reasonable for waste collection, however, is not considered acceptable for other services such as removalists or deliveries of bulky goods. The current proposal would require a removalist/delivery driver to unload from the at-grade loading bay, use the service lift to access the basement level, enter the boom gate and move the goods along the parking aisle just to reach the lift for the required building. A delivery to Building A would traverse a distance of over 150m with the existing traffic circulating around the car park. The basement car park should therefore be designed to incorporate a centrally located service bay.</p> <p>Traffic Generation</p> <p>The future traffic generation has been assessed in accordance with Roads and Maritime Services (RMS) 'Guide to Traffic Generating Developments 2002' and the updated traffic generation rates in the Technical Direction (TDT 2013/04a) document. The TIA reports that the 127-unit development will generate approximately 24 vehicle trips (0.19 vtpm per unit) during the AM peak hour, and 19 vehicle trips (0.15 vtpm per unit) during the PM peak hour. The traffic generation from the existing 4 dwellings is approximately 4 vehicle trips (0.95</p>

Internal Referral Body	Comments
	<p>vtph per dwelling) during the AM peak hour, and 4 vehicle trips (0.99 vtph per dwelling) during the PM peak hour. The nett increase for the site is estimated to be 20 vehicle trips during the AM peak hour, and 15 vehicle trips during the PM peak hour.</p> <p>The projected development traffic movements were added onto the surveyed background traffic and reanalysed using SIDRA. The assessment shows that the existing road network overall operates at a Level of Service (LOS) A and is maintained at LOS A following the addition of the subject development. The existing intersection of Gladys Avenue and Frenchs Forest Road West however operates at LOS C and remains at LOS C post-development which is still considered satisfactory. The SIDRA analysis shows that the 95% Queue Length (Q95) in Gladys Avenue has increased from 9.5m to 14.3m post-development. The additional traffic may result in increased queuing of vehicles exiting Gladys Avenue which may then block access into Gladys Avenue from Frenchs Forest Road West. It is therefore likely that the existing 'No Stopping' restriction on the western side of Gladys Avenue will need to be extended to provide safe access into Gladys Avenue.</p> <p>The WDCP controls for resident and visitor parking applies a maximum permitted number, while a minimum number is required for car share, to reduce car ownership and provide additional and more sustainable transport options. If the Applicant proposes to apply the maximum numbers for resident and visitor spaces, this should not be at the expense of a sub-standard parking layout which does not provide for the needs of future residents of the 127 unit development.</p> <p>There are a number of issues which cannot be supported due to the proposed parking facilities and location, parking layout, access and circulation. Changes should be made to the design to improve safety, functionality and comply with AS2890.1:2004. Amended plans to address the above issues should be accompanied by a swept path analysis to demonstrate access to circulation roadways, and manoeuvring into parking spaces.</p> <ul style="list-style-type: none"> • Increase ramp width from 4.1m to minimum 6.1m wide, between the Mezzanine level to the Lower Ground level, to reduce the number of Waiting Bays and convex mirrors required for access and safety. • Waiting Bay areas to be located outside the swept paths for access to parking spaces. • Provide a minimum of 1m beyond the last parking space for blind aisles. The basement footprint could be increased by 0.3m (further south). • The use of Small Car spaces to provide 7 residential spaces and 7 visitor spaces is unacceptable. The reduced parking space size are not in isolated areas of the building but apply to entire parking aisles. The basement footprint could be increased by 0.4m (further west) to provide the standard 5.4m length. The required 2.4m width can be provided by removing a car/motorcycle space and/or rearranging the parking layout. • Provision of minimum 64 motorcycle parking spaces. Clarification on actual number of spaces provided and all spaces to be clearly marked

Internal Referral Body	Comments
	<p>on the Plans.</p> <ul style="list-style-type: none"> • Provision of a centrally located Service Bay within Basement 1 level for a minimum Small Rigid Vehicle (SRV). Minimum 3.5m clearance height is required for SRV. • Visitor and Car Share spaces are to be publicly accessible, i.e cannot be located behind a roller shutter where they are not accessible by visitors. The 'Residential Only Shutter' is marked on the Basement 1 Level plan near the lift access for Building B. There is 1 Visitor EV Charging space (Basement Level 1) and 7 Visitor Small Car spaces (Mezzanine) located behind the shutter. The location of the roller shutter and Visitor Spaces need to be relocated to ensure public access. <p>The development site consolidates 4 existing allotments which should provide the opportunity for a compliant and uncomplicated parking layout. The proposed access and parking arrangement is a sub-standard design and does not facilitate safe or efficient access from the public road to the basement car park, and movement between car park levels. There are also requirements for drivers to give way or wait in marked Waiting Bays (some within the swept paths areas which is not permitted) located in parking aisles or at the top/bottom of the ramp if they detect a vehicle entering from the convex mirror. The maximum allowable number of parking spaces should be reduced accordingly to produce a safe, efficient and compliant parking layout. The proposal is not acceptable in its current form and it is requested that the above recommendations be considered and addressed in the amended plans for review.</p>
Waste Officer	<p><i>Not Supported.</i></p> <p>Waste Management Assessment. Unsupported - the proposal is unacceptable. As of 9/12/2024 waste referral comments requiring further clarification are:</p> <p><u>Street Level Bin Holding Area.</u> Amended plans indicate Bin Holding Area Screen to be provided - plans to illustrate that the design has been amended and the bin holding area has a roof with 2.1 metre ceiling clearance and walls (minimum 1.3m) that obscure the bins from view.</p> <p>If a bin tug and trailer is to be used to transfer bins from internal waste rooms to the street level bin holding area a storage area for equipment must be identified on the plans.</p> <p><u>Vegetation Bin Storage</u> Location of the storage area for the 16 x 240 litre vegetation bins has not been identified on the plans and again, such storage area will need a roof and walls to obscure the bins from view (minimum clearance 2.1m for the roof and minimum 1.3m high for the walls)</p>

Internal Referral Body	Comments
	<p><u>Bulky Goods Room.</u></p> <p>Doors must open outwards</p> <p><u>Waste Rooms A, B & C</u></p> <p>Doors must open outwards</p> <p><u>Collection of Waste</u> Collection of waste and both recycling streams from units is weekly between 6am and 6pm on the scheduled waste collection day. Waste Management plan needs to be amended to reflect the service provided by Councils Waste Service Contractor.</p> <p><u>Access for collection</u></p> <p>5.3 Servicing Arrangement</p> <p>Waste and recycling collection will occur on-site adjacent to the bin holding area which will be accessed via Gladys Avenue. Council waste trucks will enter in a reverse manner and exit the site in a forward direction. A swept path analysis for a 12.5m HRV has been undertaken to demonstrate the intended vehicle circulation movements within the site. It does not take into account that the Bin Holding Area will be enclosed and have a roof with 2.1m clearance. Access must be as per Chapter 4 4.7 of the DCP.</p> <p>Gladys Avenue is a dead-end cul-de-sac and a local road that connects to Frenchs Forest Road. It is subject to a 50km/h speed limit and permits a single traffic lane in either direction with a carriageway width of 7m. On-street parking is permitted along the western side of the street. This will be sole access and exit from the property and access will need to be ensured for waste collection vehicles up to 3 times on collection day.</p> <p>Original Comments Unsupported - the proposal is unacceptable.</p> <p>This proposal complies with nearly all Councils' waste design requirements. Room sizes, locations and access are all compliant.</p> <p>Several points of clarification are required though.</p> <p><u>Street Level Bin Holding Area</u> This area requires a roof with 2.1 metre ceiling clearance. It appears that there is no roof shown on the plans. Please provide details of roof design. This area is not required to be an enclosed room.</p>

Internal Referral Body	Comments
	<p>Walls that obscure the bins from view (minimum 1.3 metres high) are required along with a roof. Please note that bins are not to be stored in this area on a permanent basis.</p> <p><u>Vegetation Bin Storage</u> Location of the storage area for the 16 x 240 litre vegetation bins to be shown on the plans please. Please note that the three basement bin rooms will be full of garbage and recycle bins with limited space for the vegetation bins.</p> <p><u>Bulky Goods Room</u> The doors must swing outward.</p> <p><u>Compaction of Waste</u> Council does not support the use of garbage compactors. The proposal in the Waste Management Plan to install a compactor at building A will not be acceptable to Council. An appropriately sized linear bin slide or more frequent attendance by the building manager to rotate bins will be required to manage the waste volume from building A.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p><u>Planning Comments</u></p> <p>Based on Council's mapping, the site is not identified as having high or extremely high potential for Aboriginal sites. Given the character and extent of prior disturbance of the site, the recommended preliminary inspection by a qualified Aboriginal heritage professional was not required by Council. The below condition would be included were the application recommended for approval.</p> <p><u>Referral Comments</u> There are known Aboriginal sites in the area. No sites are recorded in the current development area, however, the area of the proposed development is identified as having high potential for unrecorded Aboriginal sites.</p> <p>The Aboriginal Heritage Office recommends a preliminary inspection ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional. The assessment would provide information on what potential Aboriginal heritage issues exist</p>

External Referral Body	Comments
	on the land and recommendations for any further action if required. Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.
Roads and Maritime Service - SEPP (Transport and Infrastructure) 2021, s2.122 - Traffic generating development	Reference is made to Council's referral dated 14 May 2024 regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Clause 2.122 of the State Environment Planning Policy (Transport and Infrastructure) 2021. TfNSW has reviewed the submitted application and raises no objection as the proposed development is unlikely to have a significant impact on the classified road network.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

Housing and Productivity Contribution

Part 2 Development for which contribution is require and determination of contribution, Division 2 Housing and productivity contribution amounts, Clause 7 Base component.

This Clause details the base component amounts that apply to the calculation of the housing and productivity contribution, as set out in the following table:

Region	HPC class of development	Amount	HPC unit
Greater Sydney	Residential subdivision	\$12,000	new dwelling lot
	Residential strata subdivision	\$10,000	new strata dwelling lot
	Non-strata multi-dwelling development	\$10,000	new non-strata dwelling
	Commercial development	\$30	square metre of new GFA
	Industrial development	\$15	square metre of new GFA

Comment:

The proposal is for a new residential flat building development comprising 92 apartments (excluding 32 affordable housing dwellings) and is sited within the Greater Sydney region. As such, the applicable contribution is \$880,000.00. Payment of the contribution would be required as a condition of consent were the application recommended for approval.

Note: The above calculation has taken into account the four existing dwelling houses on the site.

SEPP (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. 1730548M_03 dated 14 November 2024).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Housing) 2021

Chapter 2 Affordable Housing

15C Development to Which Division Applies

Section 15C of SEPP Housing stipulates that:

(1) This division applies to development that includes residential development if—

- (a) the development is permitted with consent under Chapter 3, Part 4, Chapter 5, Chapter 6 or another environmental planning instrument, and*
- (b) the affordable housing component is at least 10%, and*
- (c) all or part of the development is carried out—*

- (i) for development on land in the Six Cities Region, other than in the City of Shoalhaven or Port Stephens local government area—in an accessible area, or*
- (ii) for development on other land—within 800m walking distance of land in a relevant zone or an equivalent land use zone.*

Comment:

The development is permitted with consent under the WLEP. The affordable housing component (under the SEPP) is 15% of the total gross floor area. The site is located on land in the Six Cities Region and is in close proximity to the Northern Beaches Hospital and adjacent future town centre.

16 Affordable housing requirements for additional floor space ratio

Section 16 of SEPP Housing stipulates that:

- (1) The maximum floor space ratio for development that includes residential development to*

which this division applies is the maximum permissible floor space ratio for the development on the land plus an additional floor space ratio of up to 30%, based on the minimum affordable housing component calculated in accordance with subsection (2).

(2) The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional floor space ratio (as a percentage)}}{2}$$

(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1).

Comment:

The proposal seeks to apply the FSR incentive through the dedication of 15% of the total gross floor area as affordable housing.

The additional FSR proposed is equivalent to 30% of the maximum permissible FSR for development on the land and is in accordance with the formula in Section 16(2) of SEPP Housing.

18 Affordable housing requirements for building height

Section 18 of SEPP Housing stipulates that:

(2) The maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an additional building height of up to 30%, based on a minimum affordable housing component calculated in accordance with subsection (3).

(3) The minimum affordable housing component, which must be at least 10%, is calculated as follows—

$$\text{affordable housing component} = \frac{\text{additional building height (as a percentage)}}{2}$$

Comment:

The proposal also seeks to apply the building height incentive; however the proposed height is up to 36.9% of the maximum height for development on the land. The additional building height does not correspond to the 30% additional FSR or the minimum required affordable housing component.

As the maximum building height exceeds the maximum permitted under Section 18, this will form a reason for refusal of the application.

Accordingly, the building height variation is assessed against the development standard under Clause 4.3 and Clause 4.6 of the WLEP within this report.

19 Non-discretionary development standards—the Act, s 4.15

(1) The object of this section is to identify development standards for particular matters relating to residential development under this division that, if complied with, prevent the consent authority from

requiring more onerous standards for the matters.

(2) The following are non-discretionary development standards in relation to the residential development to which this division applies—

(a) a minimum site area of 450m²,

Comment:

The site area exceeds 450m².

(b) a minimum landscaped area that is the lesser of—

- (i) 35m² per dwelling, or*
- (ii) 30% of the site area,*

Comment:

The proposed landscaped area of 41.2% of the site area (2363m²) exceeds the minimum required 30% (1722m²).

(c) a deep soil zone on at least 15% of the site area, where—

- (i) each deep soil zone has minimum dimensions of 3m, and*
- (ii) if practicable, at least 65% of the deep soil zone is located at the rear of the site,*

Comment:

This subsection does not apply pursuant to subsection (3).

(d) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter,

Comment:

This subsection does not apply pursuant to subsection (3).

(e) the following number of parking spaces for dwellings used for affordable housing—

- (i) for each dwelling containing 1 bedroom—at least 0.4 parking spaces,*
- (ii) for each dwelling containing 2 bedrooms—at least 0.5 parking spaces,*
- (iii) for each dwelling containing at least 3 bedrooms— at least 1 parking space,*

Comment:

The application is unclear as to the allocation of parking spaces to the proposed affordable housing under SEPP Housing. It is considered that this matter could be resolved through the imposition of conditions were the application recommended for approval.

(f) the following number of parking spaces for dwellings not used for affordable housing—

- (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces,*
- (ii) for each dwelling containing 2 bedrooms—at least 1 parking space,*
- (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,*

Comment:

The proposal complies with the above car parking rates.

(g) the minimum internal area, if any, specified in the Apartment Design Guide for the type of residential development,

Comment:

The internal area of all units complies with the minimum requirements of the ADG.

(h) for development for the purposes of dual occupancies, manor houses or multi dwelling housing (terraces)—the minimum floor area specified in the Low Rise Housing Diversity Design Guide,

Comment:

N/A - the development is for the purposes of a residential flat building.

(i) if paragraphs (g) and (h) do not apply, the following minimum floor areas—

- (i) for each dwelling containing 1 bedroom—65m²,*
- (ii) for each dwelling containing 2 bedrooms—90m²,*
- (iii) for each dwelling containing at least 3 bedrooms—115m² plus 12m² for each bedroom in addition to 3 bedrooms.*

Comment:

N/A - paragraph (g) applies to the development.

(3) Subsection (2)(c) and (d) do not apply to development to which Chapter 4 applies.

20 Design requirements

(3) Development consent must not be granted to development under this division unless the consent authority has considered whether the design of the residential development is compatible with—

- (a) the desirable elements of the character of the local area, or*
- (b) for precincts undergoing transition—the desired future character of the precinct.*

Comment:

Due to the deficient front (southern) and side boundary setbacks, the proposal is unable to provide new canopy tree planting that is commensurate with the scale of the development and that successfully ameliorates the bulk of the buildings. It is considered that more substantial perimeter canopy planting is essential given the additional FSR and building height that is achievable under Section 16 of SEPP Housing.

21 Must be used for affordable housing for at least 15 years

(1) Development consent must not be granted to development under this division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued for the development—

(a) the development will include the affordable housing component required for the development under section 16, 17 or 18, and

(b) the affordable housing component will be managed by a registered community housing provider.

Comment:

This matter could be resolved through the imposition of conditions were the application recommended for approval.

Chapter 4 Design of Residential Apartment Development

144 Application of Chapter

Section 144 of SEPP Housing stipulates that:

(1) This chapter applies to development only if:

(a) the development consists of:

(i) the erection of a new building,

(ii) the substantial redevelopment or the substantial refurbishment of an existing building, or

(iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys, not including underground car parking storeys, and

(c) the building contains at least 4 dwellings.

Comment:

As previously outlined the proposed development is for the erection of a residential apartment development up to 7 storeys in height and comprises 124 self-contained dwellings. As per the provisions of Clause 144 outlining the application of the policy, the provisions of Chapter 4 of SEPP Housing are applicable to the assessment of this application.

As previously outlined within this report, Clause 29 of the Environmental Planning and Assessment Regulation 2021 requires the submission of a Design Verification Statement from the qualified designer at lodgement of the development application. This documentation has been submitted with the development application.

Referral to design review panel for development applications

Clause 145 of SEPP Housing requires:

(2) Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development).

Comment:

Northern Beaches Council has an appointed Design and Sustainability Advisory Panel (DSAP). Refer to the DSAP referral comments section within this report.

Determination of development applications and modification applications for residential apartment development

Clause 147 of SEPP Housing requires that:

- (1) Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—*
- (a) the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
 - (b) the Apartment Design Guide,*
 - (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.*

Comment:

The below part of the report makes an assessment against (a) the design quality principles contained within Schedule 9 and (b) the provisions of the ADG.

In relation to (c), Council has considered the advice received from the DSAP and the applicant has made various amendments to the proposal in response to the DSAP recommendations. The amended proposal addresses several of the concerns raised by the DSAP, however a number of unresolved matters remain that prevent the proposal from being supported.

Non-discretionary development standards for residential apartment development

Clause 148 of SEPP Housing contains non-discretionary development standards that, if complied with, prevent the consent authority from requiring more onerous standards for the matters (i.e 'must not refuse' standards).

The following are non-discretionary development standards under sub clause (2):

- (a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide
- (b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide,
- (c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.

Comment:

As noted in the below assessment, the proposal meets the minimum requirements of the ADG in relation to Part 3J, 4D and 4C. This assessment has not required more onerous standards and does not recommend refusal based on any of these matters.

DESIGN QUALITY PRINCIPLES - Schedule 9

Principle 1: Context and Neighbourhood Character

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

Comment:

The desired future character of the locality is set out by the planning controls contained within the Warringah LEP and DCP. It is noted that these controls have been developed in accordance with the Frenchs Forest 2041 Place Strategy and differ from those applicable to the nearby low-density residential zone.

The DFC for the Frenchs Forest Town Centre *"is an urban forest, with green streets and new open space, making a feature of the forest that has always shaped the site's story."*

The Character Statement for Precinct 05 provides that *"The Frenchs Forest Road West Neighbourhood will provide a contextually appropriate interface to surrounding low density residential areas...characterised by High quality medium rise apartment buildings, up to 6 storeys to create a new urban residential character to the north of Frenchs Forest Road West."*

The proposed siting and design of the development does not adequately respond or contribute to the surrounding context. While the proposed buildings largely comply with the required building separation distances, the street frontage and side setback areas comprise numerous structures and paved surfaces that prevent the inclusion of sufficient landscaping and canopy planting. As a result, the proposal does not provide adequate compensatory canopy trees or achieve the landscape outcome that is envisaged by the DFC.

While the proposed 7 storey buildings A and B exceed the 6 storey built form set out in the Character Statement, it is noted that these heights are generally achievable pursuant to Section 16 of SEPP Housing and would be acceptable if compliance with the 30% additional building height incentive was maintained.

Due to the unacceptable landscape and character outcomes, the proposal is **inconsistent** with Principle 1.

Principle 2: Built Form and Scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment:

The appropriate level of bulk and scale is dictated by what is permissible under the applicable planning controls. The proposal complies with the FSR incentive available pursuant to Section 16 of SEPP Housing and as noted above, the 7 storey height would be acceptable if the proposal complied with the 30% additional building height incentive. The proposal also complies with the deep soil area and generally complies with the building separation distances required by the ADG.

The scale, articulation and treatment of the proposed buildings respond appropriately to the planning controls site context and surrounding public domain.

The proposal is therefore **consistent** with Principle 2.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

Comment:

As there are no density-specific controls applicable to the site, the density of the site is dictated by the controls. The proposal complies with the FSR control across all buildings and responds appropriately to the site-specific built form controls contained within WDCP 2011 - Section G9. While the proposal breaches the allowable building height, the height-breaching elements do not relate to habitable floor space. The proposed apartments within the development meet the required internal dimensions and are afforded a high level of internal amenity, while maintaining sufficient separation distances to adjoining properties.

The proposal is therefore **consistent** with Principle 5.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

Comment:

The application is accompanied by the required documentation to ensure that the building achieves the relevant sustainability targets in relation to energy, water, and thermal performance. The proposal meets the solar access, natural ventilation and deep soil targets specified in the ADG.

The proposal is therefore **consistent** with Principle 4.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and

contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management.

Comment:

For the reasons discussed above, the proposal fails to achieve a landscape outcome that fits within the context of the site and contributes to the DFC of the locality.

The proposal is therefore **inconsistent** with Principle 5.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

Comment:

The proposed design affords a high level of internal amenity for future occupants of the development while minimising impacts upon the amenity of adjoining properties. The internal layouts, dimensions and orientation of the proposed units achieve adequate sunlight access, ventilation, outlook, privacy and access for residents as required by the ADG. However, the proposed communal open space areas do not provide adequate amenity for residents that would contribute to a positive living environment or resident wellbeing.

The proposal is therefore **inconsistent** with Principle 6.

Principle 7: Safety

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

Comment:

The proposal has adequate regard from the provisions of CPTED. The proposal defines the interface between the public domain and private spaces within the development and provides opportunities for passive surveillance.

The proposal is therefore **consistent** with Principle 7.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

Comment:

The proposed development includes a mix of one, two and three-bedroom apartments, including affordable housing, to cater for a range of occupants and contributes to the variety of housing on offer in the locality.

While communal open space areas are provided, the amenity of these areas are unacceptable as discussed further below in relation to the ADG requirements.

The proposal is therefore **inconsistent** with Principle 8.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment:

The proposal incorporates a variety of suitable materials, colours and textures and for the reasons discussed in relation to the above Principles and the below provisions of the ADG, is found to be of appropriate proportions, composition and overall built form. However, the proposal fails to achieve an appropriate balance between the built form and overall landscape design that would ensure compatibility with the DFC.

The proposal is therefore **inconsistent** with Principle 9.

APARTMENT DESIGN GUIDE

The following table is an assessment against the criteria of the 'Apartment Design Guide' as required by SEPP Housing.

Development Control	Criteria / Guideline	Comments
Part 3 Siting the Development		
Site Analysis	Does the development relate well to its context and is it sited appropriately?	Inconsistent The proposed site layout is generally acceptable

		with regard to the siting and setbacks of the buildings. However, the landscape design is unacceptable and fails to relate to the site context and DFC.
Orientation	Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Consistent The proposed siting and layout of the development are compatible with the desired streetscape and will optimise solar access to the subject site and adjoining properties.
Public Domain Interface	Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Inconsistent The proposed building incorporates safe and secure access from the street frontage and provides opportunities for casual surveillance of the public domain. However, the inclusion of various structures within the Frenchs Forest Road West setback limits the provision of landscaping to enhance the visual amenity of the development.
Communal and Public Open Space	Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid winter)	Inconsistent The proposal includes 1376.4m ² of communal open space and circulation areas at ground level in addition to 370m ² on the rooftops of buildings A and B. The total communal open space area is equivalent to 30.4% of the site area. The communal open space areas achieve the required the required solar access. While the proposal complies with the design criteria at 3D-1, the communal areas are inconsistent with the

		design guidance at 3D-1 and 3D-2. Specifically, the communal rooftop areas do not incorporate any weather protection or equitable access as they are accessible only by a stair with no lift.												
Deep Soil Zones	<p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1"> <thead> <tr> <th>Site area</th><th>Minimum dimensions</th><th>Deep soil zone (% of site area)</th></tr> </thead> <tbody> <tr> <td>Less than 650m²</td><td>-</td><td rowspan="4">7%</td></tr> <tr> <td>650m² – 1,500m²</td><td>3m</td></tr> <tr> <td>Greater than 1,500m²</td><td>6m</td></tr> <tr> <td>Greater than 1,500m² with significant existing tree cover</td><td>6m</td></tr> </tbody> </table>	Site area	Minimum dimensions	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3m	Greater than 1,500m ²	6m	Greater than 1,500m ² with significant existing tree cover	6m	<p>Consistent</p> <p>The proposal provides 8.8% (506m²) of the site as deep soil area with minimum dimensions of 6m.</p>
Site area	Minimum dimensions	Deep soil zone (% of site area)												
Less than 650m ²	-	7%												
650m ² – 1,500m ²	3m													
Greater than 1,500m ²	6m													
Greater than 1,500m ² with significant existing tree cover	6m													
Visual Privacy	<p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>Inconsistent - acceptable on merit</p> <p><u>Internal separation</u></p> <p>The proposal provides compliant internal separation distances of 12m between buildings A, B and C for the first 4 storeys and 18m between buildings A and B above the fourth storey. The 15m separation distance between buildings B and C for storeys 5 to 7 is less than the required 18m, but is acceptable as the southern elevation of building C at these levels contains only highlight windows with a sill height of 1.8m.</p>
Building height	Habitable rooms and balconies	Non-habitable rooms												
Up to 12m (4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												

		<u>External separation</u> The proposal provides compliant building setbacks of 6m for the first 4 storeys and 9m for storeys 5-7 to all property boundaries.
Pedestrian Access and entries	Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations.	Consistent The proposed pedestrian and building entries are easily identifiable and provide suitable access to the development.
Vehicle Access	Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?	Inconsistent The location of the proposed driveway enables safe and suitable access to the site. However, the bin holding area and adjacent trafficable turf area do not allow for suitable landscaping of the setback to contribute to the visual quality of the Gladys Avenue streetscape.
Bicycle and Car Parking	For development in the following locations: <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street. Parking and facilities are provided for other modes of transport. Visual and environmental impacts are minimised.	Consistent The proposal includes adequate provision of car, motorcycle and bicycle parking to meet the requirements of SEPP Housing and the WDCP.
Part 4 Designing the Building		

Amenity												
Solar and Daylight Access	To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space: <ul style="list-style-type: none">Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.	Consistent 70% (87/124) of apartments within the development will receive the required hours of sunlight access.										
	<ul style="list-style-type: none">A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.	Consistent There are no apartments within the development that will receive no direct sunlight.										
Natural Ventilation	The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by: <ul style="list-style-type: none">At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	Consistent 60.5% (75/124) of apartments within the development are cross ventilated.										
	<ul style="list-style-type: none">Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line.	Consistent No cross-over or cross-through apartments have a depth greater than 18m.										
Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum ceiling height</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr></table>	Minimum ceiling height		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	Consistent The building design is satisfactory in this regard.
Minimum ceiling height												
Habitable rooms	2.7m											
Non-habitable	2.4m											
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area											
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope											

	<table><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use									
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use											
Apartment Size and Layout	Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	Consistent The building design is satisfactory in this regard.
	Apartment type	Minimum internal area										
	Studio	35m ²										
	1 bedroom	50m ²										
	2 bedroom	70m ²										
	3 bedroom	90m ²										
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Consistent The building design is satisfactory in this regard.										
	Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Consistent The building design is satisfactory in this regard.										
In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Consistent The building design is satisfactory in this regard.											
Master bedrooms have a minimum area of 10m2 and other bedrooms 9m2 (excluding wardrobe space).	Consistent The building design is satisfactory in this regard.											
Bedrooms have a minimum dimension of 3.0m and must include built in wardrobes or have space for freestanding wardrobes, in addition to the 3.0m minimum dimension.	Consistent The building design is generally satisfactory in this regard. Various apartments have studies with windows that may be capable of use as bedrooms, but do not meet the minimum required dimensions. It is considered that this matter could be resolved were											

		the application otherwise supportable.															
	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments4m for 2 and 3 bedroom apartments	Consistent The building design is satisfactory in this regard.															
	<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts</p>	Consistent The building design is satisfactory in this regard.															
Private Open Space and Balconies	<p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling Type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Consistent The building design is satisfactory in this regard.
	Dwelling Type	Minimum Area	Minimum Depth														
	Studio apartments	4m ²	-														
	1 bedroom apartments	8m ²	2m														
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
	<p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>																
	<p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>																
Common Circulation and Spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p>	Consistent The building design is satisfactory in this regard.															
	<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	Consistent The building design is satisfactory in this regard.															
Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><tr><th>Dwelling Type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m²</td></tr><tr><td>1 bedroom apartments</td><td>6m²</td></tr><tr><td>2 bedroom apartments</td><td>8m²</td></tr><tr><td>3+ bedroom apartments</td><td>10m²</td></tr></table>	Dwelling Type	Storage size volume	Studio apartments	4m ²	1 bedroom apartments	6m ²	2 bedroom apartments	8m ²	3+ bedroom apartments	10m ²	Consistent The building design is satisfactory in this regard.					
	Dwelling Type	Storage size volume															
	Studio apartments	4m ²															
	1 bedroom apartments	6m ²															
	2 bedroom apartments	8m ²															
	3+ bedroom apartments	10m ²															
	<p>At least 50% of the required storage is to be</p>																

	located within the apartment.	
Acoustic Privacy	Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.	Consistent The building design is satisfactory in this regard.
Noise and Pollution	Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.	Consistent The building design is satisfactory in this regard.
Configuration		
Apartment Mix	Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.	Consistent The building design is satisfactory in this regard.
Ground Floor Apartments	Do the ground floor apartments deliver amenity and safety for their residents?	Consistent The building design is satisfactory in this regard.
Facades	Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.	Consistent The facade design is well-articulated through the placement of windows and balconies and incorporates finishes that are suitable for the site context.
Roof Design	Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features. Can the roof top be used for common open space? This is not suitable where there will be any unreasonable amenity impacts caused by the use of the roof top.	Inconsistent The building design is generally satisfactory in this regard. The use of the roof tops for communal open space would not adversely impact the amenity of surrounding properties, however the design of the roof top communal areas does not incorporate equitable access or suitable weather protection.
Landscape Design	Was a landscape plan submitted and does it respond well to the existing site conditions and context.	Inconsistent The proposed landscape design is unacceptable for the reasons outlined in this report.
Planting on Structures	When planting on structures the following are recommended as minimum standards for a range of plant sizes:	Consistent The building design is satisfactory in this regard.

	Plant type	Definition	Soil Volume	Soil Depth	Soil Area
	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent
	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent
	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent
	Shrubs			500-600mm	
	Ground Cover			300-450mm	
	Turf			200mm	
Universal Design	Do at least 20% of the apartments in the development incorporate the Livable Housing Guideline's silver level universal design features				Consistent The proposal includes 13 Silver Level Living apartments and 13 adaptable apartments, constituting 21% of the total number of apartments.
Adaptable Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.				N/A
Mixed Use	Can the development be accessed through public transport and does it positively contribute to the public domain? Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.				N/A
Awnings and Signage	Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.				N/A

	Signage must respond to the existing streetscape character and context.	
Performance		
Energy Efficiency	Have the requirements in the BASIX certificate been shown in the submitted plans?	Inconsistent The submitted plans are not BASIX stamped.
Water Management and Conservation	Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Inconsistent The proposal does not comply with Council's Water Management Policy.
Waste Management	Has a waste management plan been submitted as part of the development application demonstrating safe and convenient collection and storage of waste and recycling?	Inconsistent The proposal does not comply with Council's Waste Management Policy.
Building Maintenance	Does the development incorporate a design and material selection that ensures the longevity and sustainability of the building?	Consistent The material selection is satisfactory with regard to longevity and sustainability.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

Transport for NSW (TfNSW)

Section 2.122 and Schedule 3 of this Policy requires that the following development(s) are referred to TfNSW as Traffic Generating Development:

Purpose of Development	Size or Capacity (Site with access to any road)	Size of Capacity (Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road)
Apartment or residential flat building	300 or more dwellings	75 or more dwellings

Note: Under Section 2.122(2) of Chapter 2, 'relevant size of capacity' is defined as meaning:

“(2) (a) in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.”

Comment:

The application was referred to Transport for NSW who did not raise any objection to the proposal.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	No

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings	Buildings A & B: 22.75m (17.5m + 30%)	Building A: 23.4m	33.71% (WLEP)	No

			or 2.86% (SEPP)	
		Building B: 22.65m	N/A	Yes
	Building C: 16.9m (13m + 30%)	Building C: 17.8m	36.9% (WLEP) or 5.3% (SEPP)	No
Floor Space Ratio	Buildings A & B: 2.6:1 (10,833.42m ²) (2:1 +30%)	10,833m ²	N/A	Yes
	Building C: 1.3:1 (2045.81m ²) (1:1 + 30%)	2045.8m ²	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.5 Additional permitted uses for particular land	Yes
4.3 Height of buildings	No (see detail under Clause 4.6 below)
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	No
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes
6.11 Affordable housing	Yes
8.3 Objectives for development in Frenchs Forest Precinct	No
8.5 Design excellence—Sites F, G and I	No
8.6 Minimum site areas—Sites G, H and I	Yes
8.7 Minimum street frontages—Sites G, H and I	Yes
8.10 Power lines—Site G	No

Detailed Assessment

2.5 Additional permitted uses for particular land

The site is located within Area 24 on the Additional Permitted Uses Map. The proposed development is for a residential flat building only and does not include any additional permitted uses.

Zone R3 Medium Density Residential

The underlying objectives of the R3 Medium Density Residential zone:

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

Comment:

The proposal would contribute to housing supply within the medium density zone.

- *To provide a variety of housing types within a medium density residential environment.*

Comment:

The proposed residential flat building typology is appropriate for the site and locality.

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

Comment:

N/A - the proposal does not include any of the additional permitted uses applicable to the site.

- *To ensure that medium density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The design of the proposal is such that it does not achieve an appropriate landscape setting as envisaged by the desired future character. Specifically, the proposal does not adequately justify the removal of a number of trees and the proposed building footprints and associated impervious surfaces do not enable sufficient new canopy planting.

- *To ensure that medium density residential environments are of a high visual quality in their presentation to public streets and spaces.*

Comment:

The architectural design and visual quality of the proposal are appropriate within the medium density context. However, the public domain presentation is unacceptable due to the inadequate tree retention and ability to provide new planting discussed above.

Conclusion

The proposal is found to be **inconsistent** with the objectives of the zone as assessed above.

This matter forms a recommended reason for refusal.

4.6 Exceptions to development standards

Application of Section 16 of SEPP Housing

The application includes the dedication of 15% of the total gross floor area as affordable housing in order to obtain the additional 30% FSR and building height incentives available through Section 16 of SEPP Housing.

While the proposal complies with the additional 30% FSR, the additional proposed building heights of 33.71% for Building A and 36.9% for Building B do not correspond to the additional 30% FSR achieved or the proportion of affordable housing that is proposed to be dedicated (15%).

The additional permitted FSR is contingent upon the dedication of affordable housing in accordance with the formula at Section 16(2), and the additional permitted building height must correspond to the additional permitted FSR. In this regard, Section 16(3) reads (bold emphasis added):

*(3) If the development includes residential flat buildings or shop top housing, the maximum building height for a building used for residential flat buildings or shop top housing is the maximum permissible building height for the development on the land plus an **additional building height that is the same percentage as the additional floor space ratio permitted under subsection (1)**.*

Importantly, based on the above, Council's position is that the proposed building height variation must be assessed against the WLEP building height standard rather than SEPP Housing standard, as the height reverts back to the LEP where the SEPP max height is not met.

According, the application seeks consent to vary a development standard as follows:

Development Standard	Height of Buildings
Requirement	Building A: 17.5m Building C: 13m
Proposed	Building A: 23.4m Building C: 17.8m
Percentage variation to requirement	Building A: 33.71% Building C: 36.9%

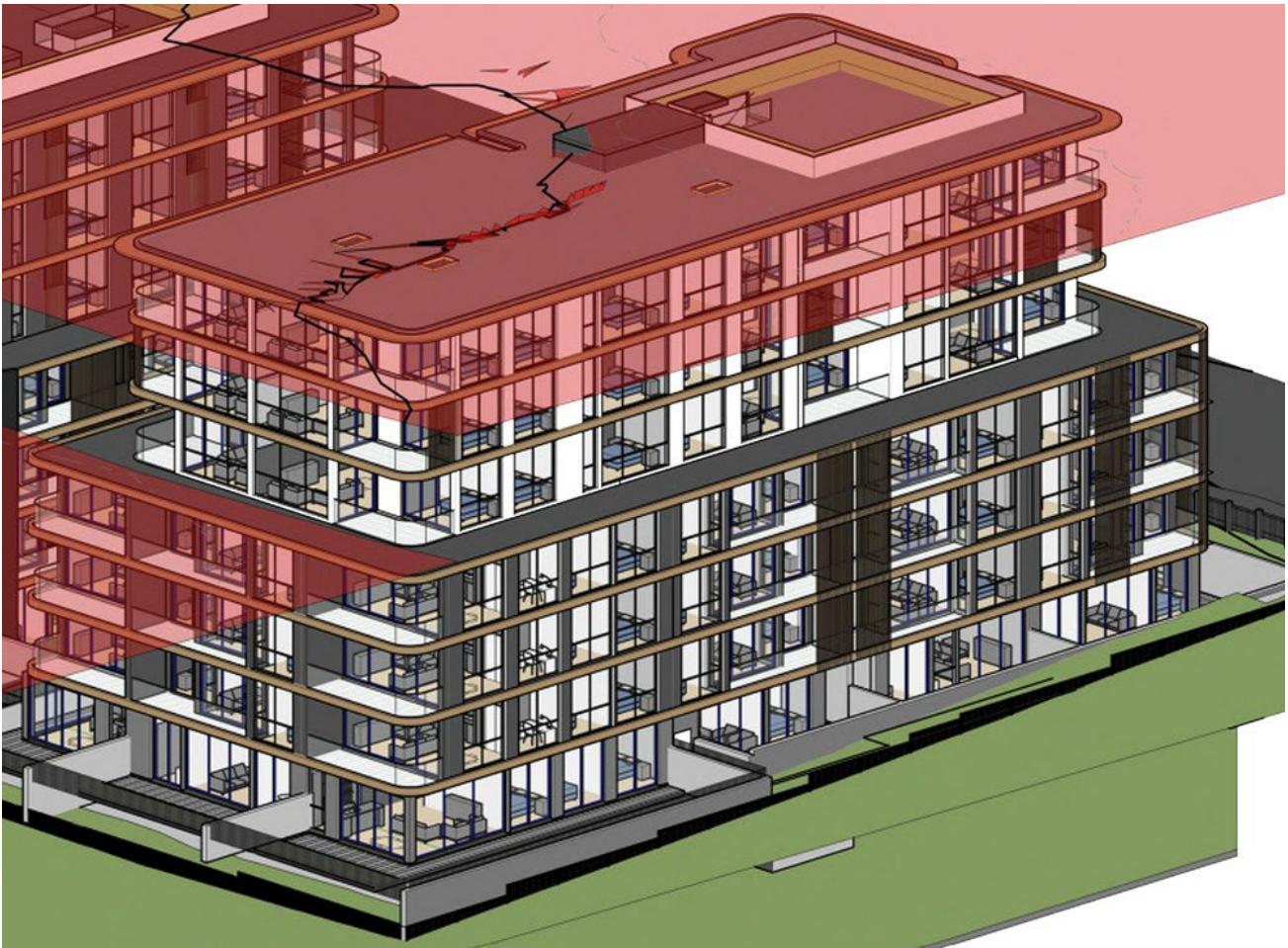


Figure 3. Applicant's illustration of the proposed Building A breach of the SEPP Housing building height standard relating to the lift overrun



Figure 4. Applicant's illustration of the proposed Building C breach of the SEPP Housing building height standard relating to the lift overrun

The above height plane diagrams are not certified and illustrate the extent of the breaches of the SEPP Housing building height standard, rather than the WLEP standard, so are included for illustrative purposes only. Figures 5 and 6 below illustrate Council's calculation of the proposed maximum breaches of the WLEP standard.

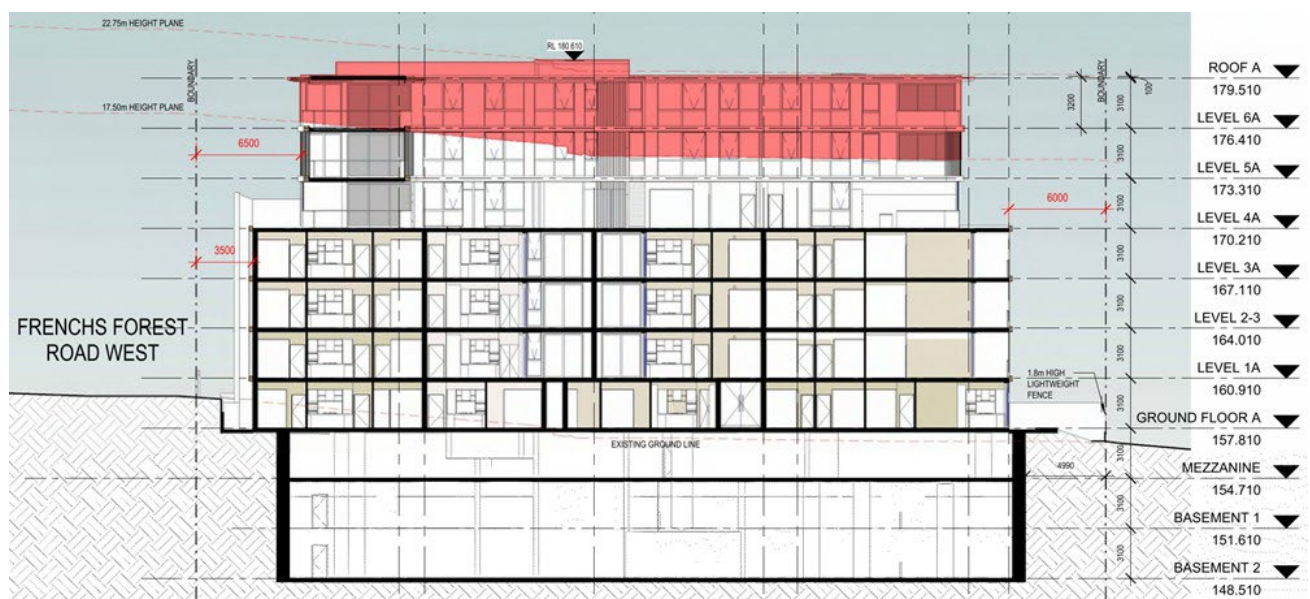


Figure 5. Council calculation of the proposed Building A breach of the WLEP building height standard (shaded red)

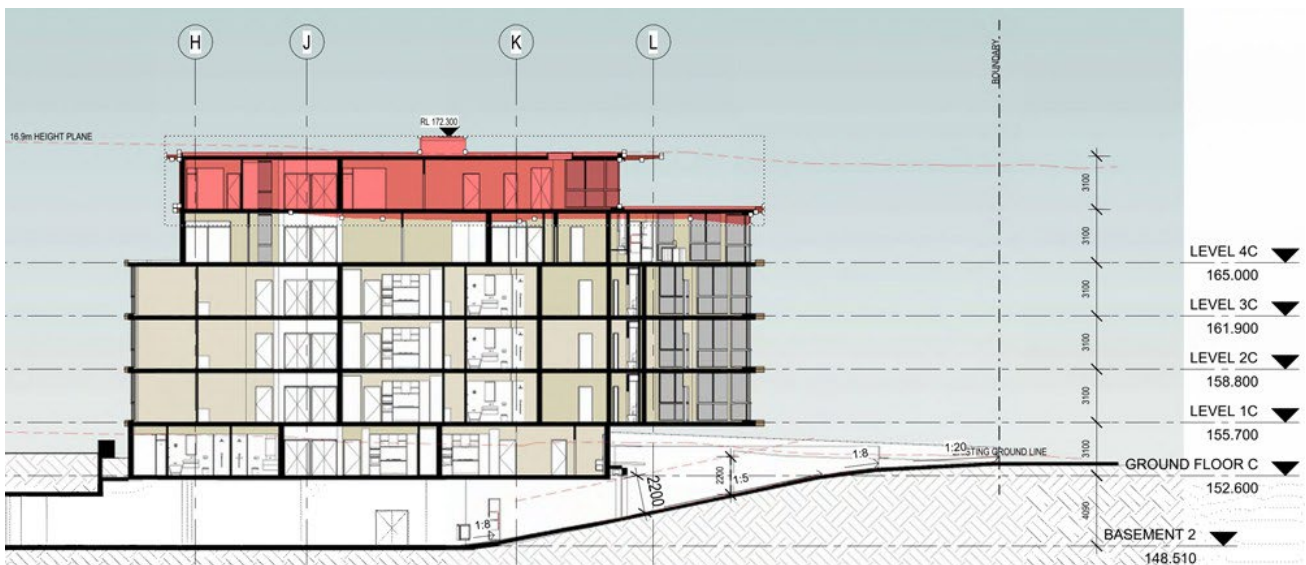


Figure 6. Council calculation of the proposed Building C breach of the WLEP building height standard (shaded red)

With reference to Section 35B of the *Environmental Planning and Assessment Regulation 2021*, the development application is accompanied by a document that sets out the grounds on which the Applicant seeks to demonstrate the matters set out in Clause 4.6(3)(a) and (b) of the WLEP 2011 (the 'Clause 4.6 Request').

Subclause (1) of this clause provides that:

(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.*

Comment:

The objectives of this clause have been considered pursuant to Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*.

Subclause (2) of this clause provides that:

(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.

Comment:

Clause 4.3 is not expressly excluded from the operation of this clause.

Subclause (3) of this clause provides that:

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—

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

Comment:

Council is not satisfied that the Applicant has demonstrated that compliance with Clause 4.3 Height of Buildings is unreasonable or unnecessary in the circumstances of this application because the proposed building height is inconsistent with the objectives of the development standard:

(1) The objectives of this clause are as follows—

(a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

Comment:

The proposal is not compatible with the height and scale of surrounding development or the desired future character as it exceeds both the applicable WLEP building height standard and the additional building height permitted under SEPP Housing. As both of these development standards are a maximum height rather than automatic entitlements, the proposal should therefore, at minimum, achieve full compliance with the SEPP Housing height standard.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

Comment:

The proposed building elements that breach the SEPP Housing height standard are located centrally within the site and would not give rise to material visual, view loss, privacy or overshadowing impacts.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

Comment:

The proposed height breach would not cause unreasonable impacts upon the scenic quality of the locality.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

Comment:

As noted above, the proposed height breaching elements are centrally located and would not cause adverse visual impacts when viewed from the surrounding public domain.

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

Comment:

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the Applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

The Clause 4.6 Request argues, in part:

Ground 1 - Topography

The topographical characteristics of the site makes strict compliance with the building height standard difficult to achieve with the building height breaches associated with the northern edges of buildings B and C able to be directly attributed to the topography of the land which falls away in a northerly direction.

Comment:

The footprints of Buildings A and C fall from south to north by approximately 2.4m and 900mm respectively. The gradients within the building footprints are not so significant or extreme that they substantially contribute to the resulting height breaches or make compliance with the height standard unreasonably onerous. Rather, it is apparent that the desire to incorporate the additional 30% FSR and the building design's lack of responsiveness to the topography that are considered to be the primary causes of the height variations.

Therefore, Ground 1 **is not** a sufficient environmental planning ground.

Ground 2 - Minor nature of breach & lack of impact

The building height breaching elements are appropriately described both quantitatively and qualitatively as minor. I am satisfied that the building height breaching elements do not contribute to building height or massing to the extent that the overall building will be incompatible with the desired future character of the precinct as anticipated through strict compliance with the applicable in-fill affordable housing incentive provisions which anticipate buildings having a height and floor space 30% more than the maximum prescribed by the applicable Local Environmental Planning instrument. I am also satisfied that the building height breaching elements will not give rise to adverse streetscape or residential amenity impacts. Consistent with the findings of Commissioner Walsh in Eather v Randwick City Council [2021] NSWLEC 1075 and Commissioner Grey in Petrovic v Randwick City Council [2021] NSW LEC 1242, the particularly small departure from the actual numerical standard and absence of impacts consequential of the departure constitute environmental planning grounds, as it promotes the good design and amenity of the development in accordance with the objects of the EP&A Act.

Comment:

As discussed above, the proposed building height variation is assessed against the WLEP height standard as the additional proposed building height does not correspond to the additional FSR achieved or the proportion of affordable housing proposed to be dedicated pursuant to Section 16 of SEPP Housing. When considered in the context of the WLEP height standard, the proposed variations cannot be described as minor or lacking in impact as they relate to more than a full storey of Buildings A and C.

Therefore, Ground 2 **is not** a sufficient environmental planning ground.

Ground 3 – Objectives of SEPP Housing

Approval of the minor building height breaching elements will achieve the objective of the Division 1 in-fill affordable housing provisions within SEPP Housing being to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households (clause 15A).

Comment:

It is acknowledged that the proposal facilitates the delivery of affordable housing. However, it is the dedication of 15% of the total GFA as affordable housing that entitles the development to exceed the WLEP FSR and height standards by up to 30%. Given that the proposal exceeds the height standard by up to 36.9% but only includes 15% of the GFA as affordable housing, the additional proposed building height beyond the 30% uplift does not facilitate the provision of any additional affordable housing.

It is considered that any justifiable breach of the 30% height uplift would need to be accompanied by a corresponding increase in the dedication of affordable housing GFA in accordance with the formula in Section 16 of SEPP Housing to be considered as a sufficient environmental planning ground.

Therefore, Ground 3 **is not** a sufficient environmental planning ground.

Ground 4 - Objectives of the Environmental Planning and Assessment Act 1979

Approval of the minor building height breaching elements will promote the delivery of affordable housing consistent with objective 1.3(d) of the Act.

Comment:

As discussed above, the proposed dedication of affordable housing only entitles the development to exceed the WLEP height standard by a maximum of 30% but does not justify a further variation of the height permitted pursuant to Section 16 of SEPP Housing.

Therefore, Ground 4 **is not** a sufficient environmental planning ground.

Accordingly, Council is not satisfied that the Applicant has demonstrated that there are sufficient environmental planning grounds to justify the contravention of Clause 4.3 Height of buildings.

Public Interest:

Matters relevant to public interest in respect of the development are considered in the relevant sections of this report as per Section 4.15(1)(e) of the EPA Act.

Conclusion:

Council **is not** satisfied as to the matters set out in Clause 4.6 of the WLEP 2011.

Based on the proposal's inconsistency with objective (a) of the height of buildings development standard, and the lack of sufficient environmental planning grounds, it is considered that the proposed departure from the development standard is **not acceptable** and that flexibility in the application of the standard is inappropriate in this case.

6.4 Development on sloping land

The site is mapped as Landslip Risk Area B and a Geotechnical Investigation report has been submitted with the application. The Geotechnical Investigation includes recommendations relating to excavation support, vibration control, groundwater and basement and footing design, which would be

incorporated into the conditions were the application recommended for approval.

6.11 Affordable housing

The site is identified within the “10%” area on the *Affordable Housing Contributions Scheme Map* of WLEP 2011.

Pursuant to clause 6.11(2) of WLEP 2011, development consent must not be granted unless the consent authority is satisfied that the proportion of the gross floor area of the proposed development used for affordable housing is not less than 10% (being the proportion nominated on the Map).

The application proposes the dedication of thirteen (13) affordable housing dwellings, equivalent to 10.1% (1,304.8m²) of the proposed total gross floor area of the development. Accordingly, the requirements of this control are satisfied.

Were the application recommended for approval; suitable conditions would be included with regard to this control.

8.3 Objectives for development in Frenchs Forest Precinct

An assessment of the proposal against the Objectives for development in Frenchs Forest Precinct is undertaken below:

The objectives of this Part are as follows—

(a) to facilitate development in accordance with the objectives and principles of the Frenchs Forest 2041 Place Strategy,

Comment:

The proposal is generally consistent with the objectives and principles of the strategy.

(b) to promote design excellence in relation to buildings, open space and public domain areas,

Comment:

The proposal does not demonstrate design excellence for the reasons outlined in the WLEP Clause 8.5 assessment in this report.

(c) to ensure a balance between the provision of high quality housing and a mix of retail, business, employment, civic, cultural and recreational facilities,

Comment:

The proposed residential development is consistent with the anticipated use of the site.

(d) to accommodate additional employment opportunities, service functions and space for business,

Comment:

While the proposal does not seek to implement the additional permitted uses for the site, the proposed residential use is acceptable.

(e) to ensure development positively contributes to the visual quality and pedestrian comfort of the

public domain and provides a seamless integration between public and private spaces,

Comment:

Due to the deficient landscape design, the proposal does not contribute positively to the visual quality or public domain interface of the site as assessed in this report.

(f) to ensure development is designed with consideration of transport infrastructure,

Comment:

The proposal is not considered to cause adverse impacts in relation to the surrounding transport network.

(g) to ensure development is sustainable and contributes to reducing greenhouse gas emissions,

Comment:

The proposal complies with the applicable sustainability requirements under the SEPP Sustainable Buildings.

(h) to ensure high quality landscaped open space.

Comment:

The proposed landscaped open space component of the development is not of a high quality design that would be compatible with the DFC or character statement for the locality as assessed in this report.

Conclusion

Based on this assessment, it is concluded that the proposal is **inconsistent** with the objectives of the control. This matter is included as a reason for refusal.

8.5 Design excellence—Sites F, G and I

In accordance with the provisions of clause 8.5(2) of WLEP 2011, development consent must not be granted unless the consent authority considers that the development exhibits design excellence.

The matters to be considered when determining whether a development exhibits design excellence are outlined in clause 8.5(3) of WLEP 2011, and are addressed below:

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

Comment:

The proposed buildings exhibit a high standard of architectural design and are sited and orientated to afford a high level of amenity for future occupants, while minimising impacts upon the amenity of surrounding properties. The selected materials and detailing are appropriate for the building typology and surrounding context.

The dimensions and design of the landscaped areas surrounding the buildings fail to

achieve compatibility with the desired character of the locality and do not facilitate adequate landscape screening to break down the bulk of the buildings.

(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,

Comment:

While the proposal would promote urban renewal within the locality, the landscape outcome would not positively contribute to the visual quality and amenity of the public domain.

(c) whether the development detrimentally impacts on view corridors,

Comment:

The proposal will not detrimentally impact upon views, noting that there is no significant view corridors identified from surrounding land. The separation distances between each of the buildings would ensure that outlooks are maintained for residents of adjoining properties and future occupants of the development.

(d) how the development addresses the following matters—

(i) the suitability of the land for development,

Comment:

The proposed development is suitable for the R3 Medium Density zoning of the site. The proposal's performance against the relevant built form and amenity controls demonstrates that the proposed use, scale and density are generally consistent with those anticipated for the site.

(ii) existing and proposed uses and use mix,

Comment:

The proposal is considered to respond to the existing and proposed uses of adjoining properties. The proposed built form provides appropriate interfaces to the R2 zone to the north and the adjacent properties to the east and west.

(iii) heritage issues and streetscape constraints,

Comment:

There are no identified heritage items or values in the vicinity of the site. The proposal buildings themselves will not give rise to adverse streetscape impacts, though it is noted that the deficient landscaped areas within the Frenchs Forest Road West and Gladys Avenue frontages do not enable appropriate streetscape interfaces.

(iv) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

Comment:

The proposal has adequate regard for existing and future developments on adjoining properties. The proposed boundary setbacks, spaces between buildings on the site and articulation of the buildings

into podium and tower elements ensures an appropriate visual presentation and level of bulk to adjoining properties.

(v) bulk, massing and modulation of buildings,

Comment:

With regard to the proposed bulk, massing and modulation of the development is suitable for the site and its context in that:

- The proposal complies with the applicable FSR controls across buildings A, B & C;
- The separation of bulk into three separate buildings with suitable articulation affords visual relief as viewed from surrounding properties and the public domain;
- The buildings are effectively articulated to reduce the perceived length of their facades;

Notwithstanding the above, the proposed building height breach and landscape component of the development are not satisfactory and not supported and will form reasons for the refusal of the application.

(vi) street frontage heights,

Comment:

The proposal presents to Frenchs Forest Road West as 7 storeys (buildings A & B) and to Gladys Avenue as 5 storeys. The proposed street frontage heights and street wall setbacks/presentation are considered to be acceptable in relation to the streetscape and DFC.

(vii) environmental impacts including overshadowing, wind and reflectivity,

Comment:

The proposal provides compliant setbacks that are sufficient to maintain a compliant level of solar access for adjoining properties. Based on the breaks provided between each of the buildings and the level of facade articulation, no adverse wind or reflectivity impacts are anticipated.

(viii) the achievement of the principles of ecologically sustainable development,

Comment:

The application is supported by a BASIX Certificate which confirms that the proposed development meets the relevant requirements. The proposal meets the ADG solar access and natural ventilation requirements the roof areas comprises PV arrays.

(ix) pedestrian, cycle, vehicular and service access, circulation and requirements,

Comment:

The proposal makes adequate provision for car and bicycle parking. Pedestrian access and circulation is well-resolved. However, various concerns are raised in relation to vehicular circulation and waste services design.

(x) the impact on, and proposed improvements to, the public domain,

Comment:

As discussed above, the proposed landscape design does not contribute positively to the visual quality of the public domain. Further, the proposal does not make provision for the future undergrounding of the existing power lines on Frenchs Forest Road West as required.

(xi) the quality and integration of landscape design.

Comment:

The proposal does not provide landscaped areas of adequate dimensions integrated with the building design. The front and side setbacks are extensively occupied by various structures and paving that prevent the inclusion of substantial deep soil landscaping, including canopy trees, to break down the bulk of the building and contribute to the overall setting and character of the locality.

In accordance with the provisions of clause 8.5(4), development consent must not be granted unless a design review panel has reviewed the development, and the consent authority considers the findings of the panel.

Comment:

Upon lodgement, the application was referred to Council's DSAP, who made a number of recommendations to improve the quality of the design, landscape and sustainability aspects of the proposed development. As discussed in the DSAP referral section of this report, the amended proposal incorporates various changes in response to the Panel's recommendations.

Despite the amendments made with regard to those recommendations, on balance, Council is not satisfied that the proposed development sufficiently exhibits design excellence. Specifically, the proposal is unsatisfactory in relation to landscape and public domain outcomes, building heights and vehicular and waste access.

Conclusion

Based on the above assessment and the commentary provided in relation to the DSAP recommendations in this report, the proposal **is not** considered to exhibit a sufficient level of design excellence in accordance with the provisions of this clause.

8.7 Minimum street frontages—Sites G, H and I

The proposed site frontage length to Frenchs Forest Road West complies with the minimum required 30m.

8.10 Power lines—Site G

Requirement:

In deciding whether to grant development consent to development on Site G, the consent authority must consider whether the development includes adequate measures to ensure that existing power lines on Site G will be relocated underground.

Comment:

Council has resolved that the undergrounding of the existing power lines for the entire length Frenchs Forest Road West will be undertaken concurrently.

The proposed development includes various structures including paved private open space areas, planter boxes, fire egress stairs and a hydrant booster and electrical substation within the front setback to Frenchs Forest Road West. The proliferation of structures within the setback area do not enable the relocation of the existing power lines underground.

This matter is included as a reason for refusal.

Warringah Development Control Plan

Built Form Controls

Built Form Control - G9	Requirement	Proposed	% Variation*	Complies
5.2.3 Front Setbacks	(1) A 3.5m setback is to be provided on the northern side of Frenchs Forest Road West.	Building A POS: 1.5m	57.1%	No
		Building A wall: 3.5m	N/A	Yes
		Building B: 12.7m	N/A	Yes
	(2) Development with a frontage to Sylvia Place, Bluegum Crescent and Gladys Avenue must be setback a minimum of 6.5m.	9.5m	N/A	Yes
5.2.3 Side and Rear Setbacks	(1) Development with frontage to Frenchs Forest Road West shall have a nil side setback to ensure a continuous frontage to the street.	6.0m - 9.0m	N/A	No
5.2.4 Street Wall and Upper Floor Setbacks	(1) Development fronting Frenchs Forest Road West shall have the fifth floor set back at least 3.0m from the street wall.	L4-L6: 3.0m	N/A	Yes
	(3) Developing fronting Gladys Avenue shall have the fourth floor set back at least 3.0m from the street wall.	L3-L4: 0m L5: 5.7m	N/A	No
5.2.8 Landscaped Area	(1) For all residential flat building developments, landscaped area is to be at least 45% of the site area. (2,583.18m ²)	32.1% 1845m	28.6%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4 Stormwater	No	No
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes
D8 Privacy	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	No	No
D15 Side and Rear Fences	Yes	Yes
D18 Accessibility and Adaptability	Yes	Yes
D19 Site Consolidation in the R3 and IN1 Zone	Yes	Yes
D20 Safety and Security	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	No	No
E2 Prescribed Vegetation	No	No
E4 Wildlife Corridors	No	No
E6 Retaining unique environmental features	No	No
E10 Landslip Risk	Yes	Yes
2 Desired future character	No	No
5.2 Precinct 05 Frenchs Forest Road West Neighbourhood	No	No
6 Parking	Yes	Yes
8 Sustainability	Yes	Yes
9 Water management	No	No
10 Waste management	No	No

Detailed Assessment

C2 Traffic, Access and Safety

Based on the detailed Traffic Engineer comments included in this report, the proposal does not comply with the following requirements of the control:

- 1. Applicants shall demonstrate that the location of vehicular and pedestrian access meets the*

objectives.

6. *Facilities for the loading and unloading of service, delivery and emergency vehicles are to be:*

- *appropriate to the size and nature of the development;*
- *screened from public view; and*
- *designed so that vehicles may enter and leave in a forward direction.*

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

C3 Parking Facilities

Based on the detailed Traffic Engineer comments included in this report, the proposal does not comply with the following requirements of the control:

3. *Carparking, other than for individual dwellings, shall :*

- *Provide safe and convenient pedestrian and traffic movement;*
- *Include adequate provision for manoeuvring and convenient access to individual spaces;*
- *Incorporate unobstructed access to visitor parking spaces;*
- *Minimum car parking dimensions are to be in accordance with AS/NZS 2890.1.*

5. *Adequate provision for staff, customer and courier parking, and parking and turning of vehicles with trailers must be provided if appropriate to the land use.*

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

C4 Stormwater

Based on the detailed Development Engineer comments included in this report, the proposal does not comply with Council's Water Management for development Policy as required by the control.

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

C9 Waste Management

Based on the detailed Waste Officer comments included in this report, the proposal does not comply with Council's Waste Management Guidelines as required by the control.

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

D3 Noise

The application is accompanied by an acoustic assessment, the recommendations of which would be incorporated into the consent were the application recommended for approval.

A further condition would also be included to ensure that the noise associated with the ongoing operation of mechanical plant equipment complies with this control.

D6 Access to Sunlight

Compliance with control

1. Development should avoid unreasonable overshadowing any public open space.

Comment:

The proposed building heights and setbacks at the Frenchs Forest Road West frontage are in accordance with the applicable WDCP and SEPP Housing controls and will not cause unreasonable overshadowing of the public domain.

2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.

Comment:

At 9am the proposal will cause substantial overshadowing of Nos. 9, 9A and 9B Gladys Avenue and moderate overshadowing of 122 Frenchs Forest Road West. These properties are unaffected by midday and will continue to receive the minimum required 3 hours of sunlight between 12pm and 3pm. At 3pm there is moderate overshadowing of the western and southern setbacks of No. 114 Frenchs Forest Road West, however the minimum 3 hours of solar access is maintained throughout the morning and early afternoon.

Based on the above assessment, the proposal complies with the requirements of the control.

D7 Views

There are no existing significant views identified from surrounding properties.

The proposed development is appropriately sited and designed to avoid unreasonable impacts upon the views and outlooks available from surrounding properties.

D8 Privacy

The proposal is found to be acceptable in relation to privacy for the reasons discussed in the ADG assessment section of this report.

D14 Site Facilities

The proposed bin holding area is not appropriately screened by landscaping and insufficient details of the structure have been provided to demonstrate that it is designed to avoid issues relating to odour, noise and visibility of containers, as required by this control.

D18 Accessibility and Adaptability

The submitted access report advises that the proposal is capable of achieving compliance with requirements of the WDCP, BCA and the Access to Premises Standard.

Requirement 9 dictates that 10% (5) of the apartments be capable of being adapted (Class C) under AS4299. The proposed development includes 13 (10.5%) adaptable apartments in accordance with the requirement.

E2 Prescribed Vegetation

Based on the detailed Landscape Officer comments included in this report, the proposal does not comply with the following requirement of the control:

2. Development is to be situated and designed to minimise the impact on prescribed vegetation, including remnant canopy trees, understorey vegetation, and ground cover species.

In addition, the proposal is not designed to achieve the desired landscape character of the locality and does not provide owners consent for the proposed removal of trees located or co-located on adjoining properties.

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

E4 Wildlife Corridors

Based on the detailed Biodiversity Officer comments included in this report, the proposal does not comply with the following objectives of the control:

- To preserve and enhance the area's amenity, whilst protecting human life and property.*
- To improve air quality, prevent soil erosion, assist in improving water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.*
- To provide natural habitat for local wildlife, maintain natural shade profiles and provide psychological & social benefits.*
- To retain and enhance native vegetation and the ecological functions of wildlife corridors.*

The inconsistency with the objectives of this control forms a recommended reason for refusal.

2 Desired future character

Desired Future Character

Frenchs Forest is an urban forest, with green streets and new open space, making a feature of the forest that has always shaped the site's story.

Character Statement

The Frenchs Forest Road West Neighbourhood will provide a contextually appropriate interface to surrounding low density residential areas, whilst increasing housing diversity and activating Frenchs Forest Road West with a range of office, health and medical uses to support the town centre and Hospital. The precinct will be characterised by:

- High quality medium rise apartment buildings, up to 6 storeys to create a new urban residential character to the north of Frenchs Forest Road West.*
- Mixed use buildings with a range of ground floor uses, located directly opposite the town centre on Frenchs Forest Road West to create an active and engaging streetscape.*
- Non-residential ground floor uses along Frenchs Forest Road West, including medical and health related uses, supporting the Northern Beaches Hospital.*

- *A pedestrian focused street at Frenchs Forest Road West to deliver a high quality streetscape on Frenchs Forest Road West.*

Comment:

The proposal fails to achieve the DFC for the locality largely due to the unacceptable landscape outcome. Specifically, both the front and side setbacks are occupied by various structures including paved private open space, planter boxes, basement egress stairs and permeable paving, all of which limit the provision of adequate deep soil to accommodate substantial canopy planting. It is considered that the side setbacks must predominantly comprise deep soil areas with canopy tree plantings that contribute to the desired urban forest character and compensate for the proposed tree removal.

The design of the proposed buildings would be generally acceptable with regard to the surrounding low density residential areas and Gladys Avenue and Frenchs Forest Road West streetscapes if suitable landscaped deep soil areas were provided within the front setbacks. The proposal does not incorporate any of the additional permitted uses applying to the site, however this does not preclude consistency with the desired future character.

The proposed development is **inconsistent** the desired future character of the Frenchs Forest Road West Neighbourhood and the broader Frenchs Forest Town Centre.

5.2 Precinct 05 Frenchs Forest Road West Neighbourhood

5.2.3 Building Setbacks

Front Setbacks

- 1. A 3.5m setback is to be provided on the northern side of Frenchs Forest Road West.
The front setback is to be finished with high quality materials and an active pedestrian frontage across Frenchs Forest Road West.
The front setback must not be used for car parking or vehicular access.*
- 2. Development with a frontage to Sylvia Place, Bluegum Crescent and Gladys Avenue must be setback a minimum of 6.5m.*
- 3. Building setbacks from street frontages are to be landscaped and free of any structures, basements, car parking or site facilities other than driveways, mailboxes, garbage storage areas and fences.*

Comment:

The proposed buildings comply with the 3.5m and 6.5m setbacks stipulated by requirements (1) and (2). However, the Frenchs Forest Road West setback includes paved private open space areas in contravention of requirement (3).

Side and Rear Setbacks

- 1. Development with frontage to Frenchs Forest Road West shall have a nil side setback to ensure a continuous frontage to the street.*

Comment:

The proposal does not provide nil side setbacks or a continuous street frontage to Frenchs Forest Road West. Instead, ADG compliant side setbacks and internal separation distances are proposed for

buildings A and B, and building B is set back beyond the 3.5m building alignment.

Merit Assessment

The non-compliances described above are considered against the objectives of the control as follows:

A. To provide a consistent streetscape along Frenchs Forest Road West in order to achieve the Desired Future Character and Character Statement for the Precinct.

B. To provide landscaped streetscapes consistent with those of adjacent low-density residential areas for all street frontages other than Frenchs Forest Road West.

C. To ensure spatial separation between buildings that will provide an appropriate interface to adjoining low density residential areas.

Comment:

Front Setbacks (3) - The inclusion of paved areas in lieu of landscaping within the Frenchs Forest Road West setback is inconsistent with the desired character and streetscape outcomes for the development. This matter is included as a reason for refusal.

Side and Rear Setbacks (1) - The subject site contains a stand of substantial canopy trees at the eastern side of the frontage to Frenchs Forest Road West in an area mapped as a wildlife corridor pursuant to the WDCP. Compliance with requirement (1) would necessitate the removal of 6 additional moderate and high value canopy trees. Given the location of the site within the Frenchs Forest Road West Neighbourhood Centre and the broader Town Centre, the retention of these high value trees is considered to take priority over the intended continuous frontage in achieving the DFC and Character Statement. The proposed variation to this requirement is therefore supported.

5.2.4 Street wall and upper floor setbacks

1. Development fronting Frenchs Forest Road West shall have the fifth floor set back at least 3m from the street wall.

3. Developing fronting Gladys Avenue shall have the fourth floor set back at least 3m from the street wall.

Comment:

Buildings A and B comply with requirement (1).

Building C does not comply with requirement (2) as the fifth floor, rather than the fourth floor, is set back from the street wall.

Merit Assessment

The non-compliance with requirement (2) described above is considered against the objective of the control as follows:

A. To reduce bulk and scale of buildings, minimise streetscape impacts and provide an appropriate scale transition to adjoining low density residential development.

Comment:

The width of building C at the Gladys Avenue frontage is limited and is not excessive in bulk or scale.

The tapered shape of the building is considered to sufficiently offset the bulk of the additional storey at the street wall alignment and maintains an appropriate transition in scale to the R2 zone. The proposed design is considered to achieve the objective of the control.

5.2.8 Landscaped area

- 1. For all residential flat building developments, landscaped area is to be at least 45% of the site area.*
- 2. Development must retain and protect any significant trees on the site and adjoining sites. Any tree removal will require offset planting at a ratio of 2 to 1.*
- 3. Canopy trees must be planted within the front setback of residential flat buildings.*
- 4. Building setbacks are to be landscaped and generally free of any structures, basements, car parking or site facilities other than driveways, mailboxes, garbage storage areas and fences.*
- 5. Communal open space shall be located to minimise impact on adjoining neighbours' amenity including privacy and noise.*

Comment:

The proposed landscaped area of 41.2% does not comply with the 45% stipulated by requirement (1), however the landscaped area required under Section 19(2)(b) of SEPP Housing takes precedence over this WDCP control.

The proposed tree removal and compensatory planting is found to be unacceptable by Council's Landscape section, contrary to requirement (2).

The proposed paved areas and trafficable turf within the front setbacks to buildings A and B do not enable planting of canopy trees, contrary to requirement (3).

As discussed throughout this report, the inclusion of various structures within the front and side setbacks precludes the provision of suitably landscaped setback areas, contrary to requirement (4).

The proposed communal open space areas are appropriately located to minimise amenity impacts upon adjoining properties in accordance with requirement (5).

Merit Assessment

The non-compliances with requirements (1) to (4) described above is considered against the objective of the control as follows:

- A. To ensure that new development achieves the Desired Future Character and Character Statement for the precinct.*
- B. To retain existing trees, encourage new tree plantings and maximise deep soil areas.*
- C. To ensure communal open space minimises amenity impacts to adjoining neighbours.*

Comment:

For the reasons discussed above and elsewhere in this report, the proposed landscape design fails to achieve the DFC and Character Statement and does not enable the retention of existing trees or encourage new planting and maximise deep soil areas.

Conclusion

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of the control. Accordingly, this assessment finds that the proposal is **not**

supported in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

Council is not satisfied that the Applicant's written request under Clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify variation of the development standard contained within Clause 4.3 Height of Buildings has adequately addressed and demonstrated that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify the variation.

PLANNING CONCLUSION

This development application for demolition works and the construction of three residential flat buildings is reported to the SNPP for determination as the proposal has an estimated capital

investment value of more than \$30 million.

The assessment has concluded that the proposal is unsatisfactory in relation to the following matters:

- Section 16 (FSR and building height incentives) and the design quality principles of SEPP Housing;
- The public domain interface, landscape design and water and waste management objectives of the ADG;
- The height of buildings standard and the design excellence, Frenchs Forest Precinct objectives and undergrounding of power lines provisions of the WLEP; and
- The car parking and site servicing, landscaping and biodiversity, stormwater and waste management, DFC and Frenchs Forest Road West Neighbourhood Character Statement and front and side setback provisions of the WDCP.

In relation to Section 16 of SEPP Housing, the additional proposed FSR complies with the provisions of Section 16(1) and is therefore permitted. However, in relation to Section 18 of SEPP Housing, the additional building height does not comply Section 18 (2) as the additional proposed building heights of 33.71% and 36.9% (for Buildings A and C) exceed the maximum 30% additional height available. The height does not correspond to the additional proposed FSR or the proportion of affordable housing GFA that is proposed to be dedicated, which is contrary to Sections 16(2) and (3) and Section 18(2) and (3).

Accordingly, the proposed building height variation must be assessed against the WLEP building height standard rather than SEPP Housing standard, as the height standard reverts back to the WLEP where the SEPP maximum height is not met. The assessment finds that the proposed variation under Clause 4.6 is not supportable in relation to the objectives of the WLEP height standard or the demonstration of sufficient environmental planning grounds.

The public exhibition of the application has attracted 6 submissions in objection and 1 submission in support. The key concerns relate to traffic and car parking, amenity, density and building height, all of which are addressed in detail in this report.

It is recommended that the SNPP refuse the application for the reasons set out within the assessment report.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Sydney North Planning Panel, as the consent authority REFUSE Development Consent to Development Application No DA2024/0499 for the Demolition works and construction of three residential flat buildings on land at Lot 1 DP 213608, 120 Frenchs Forest Road West, FRENCHS FOREST, Lot 2 DP 213608, 118 Frenchs Forest Road West, FRENCHS FOREST, Lot 14 DP 25713, 11 Gladys Avenue, FRENCHS FOREST, Lot 24 DP 25713, 116 Frenchs Forest Road West, FRENCHS FOREST, for the reasons outlined in Attachment 1.

ATTACHMENT 1

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Housing) 2021 and the Apartment Design Guide.

Particulars:

i. Due to the inadequate front and side setback treatments and overall landscape outcome, the proposal fails to achieve compatibility with the desired elements of the character of the locality, contrary to Section 20 Design Requirements of SEPP Housing.

ii. Due to the various non-compliances with the objectives of the ADG, the proposal fails to achieve the following Design Quality Principles at Schedule 9 SEPP Housing:

- *1: Context and Neighbourhood Character*
- *5: Landscape*
- *6: Amenity*
- *8: Housing Diversity and Social Interaction*
- *9: Aesthetics*

iii. The proposal is inconsistent with the following objectives of the ADG:

- *3A Site Analysis*
- *3C Public Domain Interface*
- *3D Communal and Public Open Space*
- *4O Landscape Design*
- *4V Water Management and Conservation*
- *4W Waste Management*

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Section 16 and 18 of SEPP Housing, Clause 4.3 Height of Buildings and Clause 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.

Particulars:

i. The proposed additional building height does not correspond to the proposed additional floor space ratio or the proportion of gross floor area proposed to be used for affordable housing as required by Section 16 and 18 of SEPP Housing.

ii. The consent authority is not satisfied that the applicant's variation request under Clause 4.6 of WLEP 2011 seeking to justify a contravention of Clause 4.3 Height of buildings has adequately demonstrated that:

- compliance with the standard is unreasonable or unnecessary, or
- there are sufficient environmental planning grounds to justify the contravention.

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 8.3 Objectives for Development in Frenchs Forest Precinct and Clause 8.5 Design excellence—Sites F, G and I of the Warringah Local Environmental Plan 2011.

Particulars:

Due to the unacceptable public domain, landscape and character impacts and the various non-compliances with the applicable building height, landscape, amenity and water and waste management controls, the proposal is inconsistent with the following WLEP provisions:

- The objectives of the R3 Medium Density Residential zone,
- Clause 8.3 Objectives for Development in Frenchs Forest Precinct, and
- Clause 8.5 Design excellence—Sites F, G and I.

5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 8.10 Power lines—Site G of the Warringah Local Environmental Plan 2011.

Particulars:

The inclusion of paving and structures within the setback area to Frenchs Forest Road West do not enable the relocation of the existing power lines underground.

6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C2 Traffic, Access and Safety and C3 Parking Facilities of the Warringah Development Control Plan.

Particulars:

The proposal does not comply with various requirements contained within the following sections of the WDCP:

- *C2 Traffic, Access and Safety*
- *C3 Parking Facilities*

7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4 Stormwater of the Warringah Development Control Plan.

Particulars:

i. The proposal does not provide sufficient information in relation to the below matters which are required to demonstrate compliance with Council's Stormwater Policy:

- DRAINS modelling,
- The external pipe connection point to the existing Council stormwater inlet pit in Gladys Avenue, and
- Hydraulic Grade Line Analysis.

ii. As the basement excavation will intercept the groundwater table, in accordance with the principles set down in The Sydney Coastal Council Groups Groundwater Management Manual,

the basement is required to be tanked to prevent the continual pumping of groundwater seepage to Council's stormwater drainage system.

8. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C9 Waste Management and D14 Site Facilities of the Warringah Development Control Plan.

Particulars:

i. The proposal fails to comply with Council's Waste Management Design Guidelines in the following ways:

- No equipment storage area for a bin tug and trailer is identified on the plans,
- No storage area for vegetation bins is identified on the plans,
- The doors to the bulking goods store and waste rooms A, B and C must open outwards,
- The proposal does not demonstrate that Council waste trucks can enter and circulate through the site.

ii. The proposed bin holding area is not designed to minimise visual, odour and noise impacts and does not incorporate adequate landscaping for visual screening.

9. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause E1 Preservation of Trees or Bushland Vegetation, Clause E2 Prescribed Vegetation, E4 Wildlife Corridors and E6 Retaining unique environmental features of the Warringah Development Control Plan.

Particulars:

Due to the proposed tree removal and inability to provide sufficient compensatory canopy planting within the proposed landscaped areas, the proposal does not comply with various requirements contained within the following sections of the WDCP:

- *E1 Preservation of Trees or Bushland Vegetation*
- *E2 Prescribed Vegetation*
- *E4 Wildlife Corridors*
- *E6 Retaining unique environmental features*

10. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause G9 Frenchs Forest Town Centre of the Warringah Development Control Plan.

Particulars:

i. Due to the excessive proportion of paving and structures within the front and side setback areas and subsequent inability to provide adequate landscaping, including canopy trees, the proposal does not comply with the requirements in Clause G9 Frenchs Forest Town Centre of the WDCP:

- *2 Desired Future Character*
- *5.2 Character Statement - Precinct 05 Frenchs Forest Road West Neighbourhood*
- *5.2.3 Building Setbacks*
- *5.2.8 Landscaped Area*

ii. The proposal does not comply with the requirements in Clause G9 Frenchs Forest Town Centre of the WDCP:

- *9 Water Management*
- *10 Waste Management*