

Panel Reference	PPSSSH-56
DA Number	DA 2021/0016
LGA	Georges River Council
Proposed Development	Demolition of existing structures, retention of a heritage item and construction of a hostel rooms for use as seniors housing
Street Address	762-766 Forest Road & 21 Prospect Road, Peakhurst, NSW 2210 (Lot 8, DP 659072, Lot 1 DP 603371 & Lot 24 DP 12997) and portion of Council land
Applicant/Owner	Applicant: Mrs Sonia Joy Fenton (Owner: Sunny Super Pty Ltd ATF Sonia Fenton)
Date of DA lodgement	18 January 2021
Number of Submissions	132 submissions (34 in support and 98 objections)
Recommendation	Refusal
Regional Development Criteria (Schedule 7)	Pursuant to Clause (3) (b) of Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> ('SRD SEPP'), the proposal is classified as Regionally significant development as the development is Council related development over \$5 million (small portion of Council owned land).
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i>; • <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>; • <i>State Environmental Planning Policy (Infrastructure) 2007</i>; • <i>State Environmental Planning Policy 55 – Remediation of Land</i>; • <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i>; • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>; • <i>Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment</i> • <i>Hurstville Local Environmental Plan 2012 ('the LEP')</i>; • <i>Draft Georges River Local Environmental Plan 2020</i>; • <i>Draft State Environmental Planning Policy – Remediation of Land</i> • <i>Draft Environment SEPP</i> • <i>Draft Housing SEPP</i> • <i>Hurstville Development Control Plan No.1</i>; and • <i>Georges River Interim Policy Development Control Plan 2020</i>.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects • Clause 4.6 request – Building Height under Seniors Housing SEPP • Architectural plans and photomontage

	<ul style="list-style-type: none"> • Landscape Plan • Civil Design Plan • Traffic and Parking Assessment report • Access Report • Acoustic Report • Heritage Impact Statement • Plan of Management • Waste Management Plan
Report prepared by	Kim Johnston - Consultant Planner (KJ Planning)
Report date	3 September 2021

Summary of matters for consideration under Section 4.15 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 summarised, in the Executive Summary of the assessment report?	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 (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No (refusal)

EXECUTIVE SUMMARY

The Proposal

The development application (DA 2021/0016) seeks consent for the demolition of several existing buildings on the site, including the partial demolition of an addition to a heritage building, retention of the heritage building and the construction of hostel containing 70 rooms as seniors housing under the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* ('the Seniors Housing SEPP').

The proposed hostel building is to comprise a basement level with car parking, a pool, gym and service areas and three levels of hostel rooms including communal laundry rooms and a common room. A communal roof terrace is also proposed on Level 2. The Heritage building (former function centre) is to be used for communal dining and lounge areas, staff facilities, and

office and music room. There are no works proposed to the heritage item with the exception of the demolition of the rear addition along the Prospect Road boundary.

Vehicle access is proposed from Prospect Road to the basement and via an existing circular driveway (separate entry and exit points) from Forest Road. A total of sixteen (16) car parking spaces are proposed and pedestrian access is provided from Prospect Road and Forest Road frontages. Associated landscaping and stormwater infrastructure is proposed as well as tree removal including 22 trees to be removed with four (4) to be retained in heritage garden.

Site and Locality

The subject site is known as No. 762 – 764 Forest Road and 21 Prospect Road, Peakhurst and comprises three (3) allotments as well as a small portion of Council owned land. The site is regularly shaped with two (2) road frontages including to Prospect Road to the north and Forest Road to the south. The site is located on the northern side of Forest Road between Collaroy Avenue in the west and Baumans Road to the east. The site comprises a total area of 2,673.1m² (prior to the proposed acquisition of Council's land; 2,686.7m² following acquisition).

Currently existing on the site is a two (2) storey Victorian period heritage listed building known as "Collaroy" currently used as the Function Centre, 'Gardens on Forest' and a single storey clad dwelling on the Prospect Road frontage. A formal garden area exists in front of the heritage item along the Forest Road boundary, being part of the heritage listing, which is largely being retained by the proposal with the exception of some tree removal.

The site is located within a low density residential area with development to the north, east and west comprising single and two storey dwellings. An aged care village exists to the south on the opposite side of Forest Road.

Zoning and Permissibility

The site is located in the R2 – Low Density Residential zone pursuant to Clause 2.2 of the *Hurstville Local Environmental Plan 2012* ('Hurstville LEP 2012'). The proposal is permissible pursuant to Clause 15(a) of the Seniors Housing SEPP as a Hostel. Demolition of the existing structures is permissible pursuant to Clause 2.7 of the Hurstville LEP 2012. The proposal is permissible with consent.

Planning Controls

The following Environmental Planning Instruments, Development Control Plans, and policies are relevant to the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy 55 – Remediation of Land;*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment*
- *Hurstville Local Environmental Plan 2012;*

- *Draft Georges River Local Environmental Plan 2020;*
- *Draft State Environmental Planning Policy – Remediation of Land;*
- *Draft Environment SEPP;*
- *Draft Housing SEPP;*
- *Hurstville Development Control Plan No.1 ('the DCP'); and*
- *Georges River Interim Policy Development Control Plan 2020.*

It is noted that *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* does not apply as the proposed hostel does not involve *dwellings*.

Submissions

The application was placed on public exhibition from 24 February 2021 to 10 March 2021 and 132 submissions were received. Of these submissions, 34 were in support and 98 were objections. These were provided as submissions to Council as well as on numerous occasions attached to letters and emails from State Member for Oatley Mark Coure MP and the Federal member for Banks, David Coleman MP.

The submissions (objections) raised the following issues:

- Height of the development and inconsistent with planning controls (incl setbacks)
- Bulk and scale, out of character with the area and adverse impact on the streetscape
- Traffic congestion and servicing from Prospect Road
- Social impacts and lack of a Social Impact Statement (SIS)
- Use of the premises unclear
- Insufficient car parking
- Impacts on heritage value
- Removal of trees
- Insufficient landscaped area
- Inconsistent with design principles of the Seniors Housing SEPP
- General overdevelopment in the area
- Lack of accessible rooms and accessible parking
- Location of the site away from services and transport and infrastructure
- Lack of notice/notification of proposal
- Inconsistent with the objectives of the R2 zone/not permissible
- Close to other aged care facilities
- Security concerns of 24 hours operation in area with young families
- Potential impacts from external lighting
- Disruption from construction
- Negative impact on property prices
- Acoustic impacts from balconies and communal areas
- Overshadowing
- Privacy
- Potential cumulative impact on local character
- Room layouts
- Contrary to Council's Community Strategic Plan
- Satisfies the regionally significant development criteria
- SEPP 65 applies
- Eligibility of residents under SEPP

- Loss of reception venue
- Conflicts of interests

Reason for Referral to the Regional Panel

The application is referred to the Sydney South Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Clause (3) (b) of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* as Council related development over \$5 million. The Council is the owner of a small portion of the site on which the development is to be carried out (a 13.75m² former pathway). In this instance, Council has engaged an independent planning consultant to undertake the assessment of this application given this area of Council-owned land.

Panel involvement

A briefing was held with the Panel on 29 April 2021 where the following key issues were discussed:

- Urban design
- Height of the building and Clause 4.6 Request
- Heritage Impacts
- Amenity Impacts and the Seniors Housing SEPP Design Principles
- Landscaping, Tree Removal and Landscaped Area
- Use of the Premises and Social Impacts
- Traffic Generation, Car Parking and Lack of public transport
- Technical issues – stormwater, traffic and waste
- Council-owned Land

Key Issues (refer to Section 5 of the report for detailed consideration)

A summary of the key issues associated with the proposal includes:

1. **Urban Design** - The proposal presents an excessive bulk and scale that does not provide a sympathetic response to the existing or desired future character of the area. The design of the proposed facades to the side and rear boundaries are considered unacceptable with the proposal presenting as a 3 storey continuous wall of development. This does not present a harmonious fit to the context and is considered excessive in its current form given the lack of façade articulation. The proposal does not demonstrate sufficient architectural design features to mitigate these adverse design impacts. The bulk and the potential impact on neighbourhood character are fundamental considerations under the Seniors Housing SEPP, which the proposal fails to adequately address.
2. **Building Height and Clause 4.6 Request** – The proposal exceeds the maximum height of building development standard pursuant to Clause 40(4) (a), (b) and (c) the Seniors Housing SEPP for the site by up to 1.8 metres and two (2) storeys in parts of the site. The height exceedence outlined in the Clause 4.6 request represents an abrupt change in the scale of development in the streetscape and contributes to the proposal being incompatible with the prevailing character of the area and is not supported.

3. **Heritage impacts** - The site contains an item of local heritage significance, “*Collaroy*”. Council’s Heritage consultant concluded that a minimum setback of 10 metres to the front alignment of the heritage item, to provide a generously proportioned and well landscaped front setback, is required. The removal of the Canary Island Palm to the east of the driveway (Tree 10) is not supported and the retention of the existing visual link to the heritage item from Prospect Road should also be maintained.
4. **Privacy and Overshadowing** - Several amenity impacts on adjoining properties result from the proposal, including visual privacy concerns with numerous overlooking opportunities to adjoining properties, and potential overshadowing arising from the proposal on adjoining properties to the west have not been sufficiently addressed.
5. **Landscaping, landscaped area and tree removal** – The concerns include the proposed removal of Tree 10 which is part of the heritage garden, the lack of adequate boundary landscaping and the lack of adequate landscaped area. The significant tree removal proposed on the site is also not supported.
6. **Safety and security/Crime Prevention** - There are numerous concerns with the safety and security of the proposal in terms of the CPTED principles including the location of the proposed pool and gym in the basement, the design of other communal areas and the lack of adequate safety and security measures for the proposed facility.
7. **Technical design issues** – There are a number of technical design issues including stormwater, car parking and waste management which are unsatisfactory.
8. **Traffic generation and lack of public transport** – It is considered that the likely additional traffic generation and servicing requirements resulting from the proposal are unsatisfactory within Prospect Road, which is a narrow, busy street. This results in the site not being suitable for this proposed development as it would have an adverse impact on Prospect Road.
9. **Use of premises and social impacts** – The proposed use of the premises has not been adequately demonstrated with a lack of detail included in relation to the operation and management of the facility. The potential impacts on the surrounding area have also not been adequately addressed by the applicant.
10. **Council land** – A small portion of land included in the site is owned by Council. Owners consent from Council has been provided for the application, however, this portion of Council owned land will need to be subdivided, the public road closed and purchased from Council prior to any consent being active on the site.

Conclusion and Recommendation

The proposal has been assessed having regard to the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment 1979* (‘EP&A Act’), the provisions of the relevant State environmental planning policies, in particular the Seniors Housing SEPP, the Hurstville LEP 2012 and the DCP.

Following a preliminary assessment of the proposal and a briefing with the Panel, the applicant was requested to address the key issues outlined above. Following discussion of the preliminary

draft concept amendments provided by the applicant when several issues remained unresolved, the applicant decided not to pursue the proposed amendments and instead rely on the original development application.

On balance, it is considered that the proposal cannot be supported in its current form. The proposal presents an excessive bulk and scale that does not provide a sympathetic response to the existing or desired future character of the area and is inconsistent with numerous design principles under the Seniors Housing SEPP. The exceedence of various height development standards, the lack of adequate landscaped area and the likely impacts on heritage and amenity of adjoining properties results in an unacceptable outcome on the site.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1) (b) of the *EP&A Act*, DA 2021/00016 is recommended for refusal subject to the reasons contained at **Schedule 1** of this report.

Full Report

1. Site and Locality

The Site

The subject site is legally described as Lot 1 in DP 603371, Lot 8 in DP 659072 and Lot 24 in DP 12997 ('the site') and is known as No. 762 – 764 Forest Road and 21 Prospect Road, Peakhurst. The site comprises three (3) allotments and includes a small portion of land which is currently owned by Council, comprising 13.6m² ('Council land').

The site is regularly shaped with two (2) road frontages including to Prospect Road to the north and Forest Road to the south. The site is located on the northern side of Forest Road between Collaroy Avenue in the west and Baumans Road to the east (**Figure 1**).

The site has a northern frontage to Prospect Road of 47.59 metres, a southern frontage to Forest Road of 44.5 metres while the eastern and western boundaries to adjoining residential development comprises 61.975 metres and 66 metres respectively. The site comprises a total site area of 2,673.1m² (prior to the proposed acquisition of Council's land), and a total site area following land acquisition from Council of 2,686.7m² (**Figure 2**).

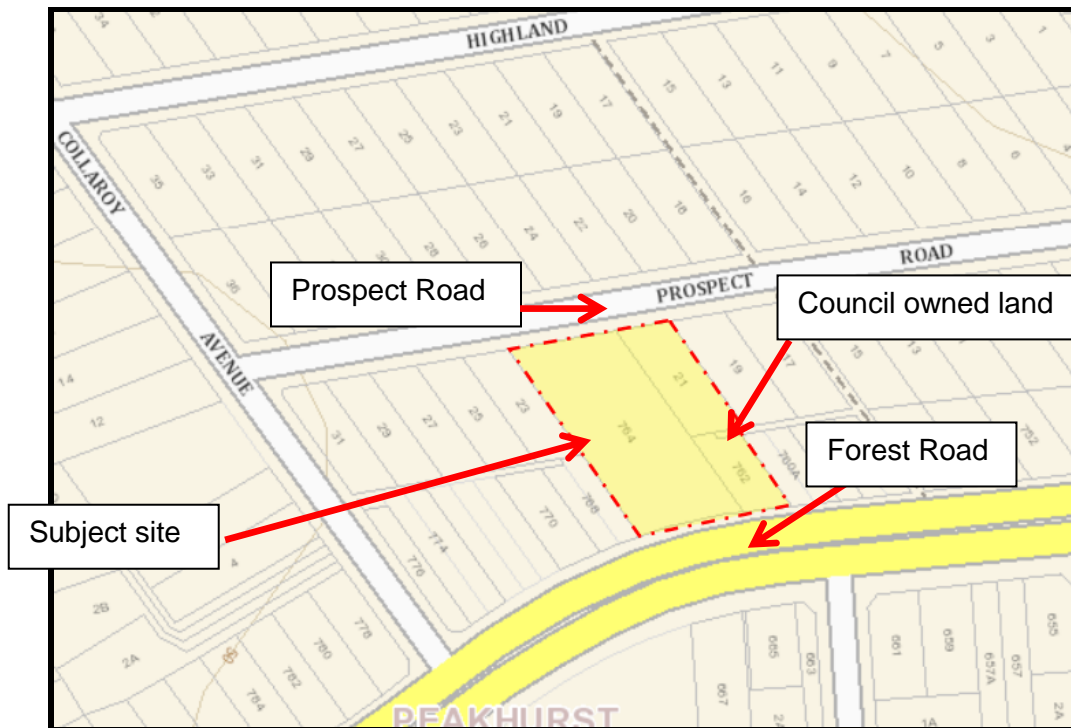


Figure 1: Site Location (Source: SIX Maps)



Figure 2: The Subject Site (Source: SIX Maps)

Existing Development

Existing development on the site consists of a number of buildings including (Figures 3 to 6):

- Two (2) storey Victorian period local heritage listed building currently a Function Centre, 'Gardens on Forest' (No 746 Forest Road) (to be retained) (**Figure 3**);
- Part one (1) and part two (2) storey brick building on the Prospect Road frontage currently used in conjunction with the Function Centre which was an addition to the heritage item in the 1960s and 2000s (to be demolished) (**Figures 4 & 5**);
- A single storey clad cottage on the Prospect Road frontage currently used as a dwelling (to be demolished) (**Figure 6**); and
- A single storey structure (cabana) in the south-eastern corner of the site serving the function centre (to be demolished).

A formal garden area exists in front of the heritage item along the Forest Road boundary, which is part of the heritage listing and comprises several large palm trees. This area is largely being retained by the proposal with the exception of some tree removal as outlined in this report. The site contains 26 trees, with 22 trees proposed to be removed and four (4) retained in heritage garden.

The site has a moderate slope of around 3% from the eastern to the north western corner of the site. The site contains numerous trees, generally located within the southern portion of the site in front of the heritage item (function centre) and visible from the Forest Road frontage.

Vehicle access is provided via Forest Road, where a circular driveway provides separate entry and exit points while there is also two (2) service vehicle access points from Prospect Road. A further vehicle access point exists to No 21 Prospect Road.



Figure 3: The site from Forest Road (Heritage item)



Figure 4: The Site from Prospect Road – looking southwest



Figure 5: The Site from Prospect Road – looking southeast



Figure 6: Existing development at 21 Prospect Road

The Surrounding Development

The site is located within a low density residential area, with a mix of other uses, including aged care premises and a School. The locality is dominated by Forest Road, the main arterial road in the area. Prospect Road comprises a relatively narrow road with the site located close to a crest in the roadway of this local road.

Adjoining development to the east consists of a two storey clad dwelling with vehicle access from Forest Rd , known as No 760A Forest Road (**Figure 7**) and a single storey brick dwelling facing Prospect Road known as No 19 Prospect Road (**Figure 8**). To the west, a single storey clad cottage exists at No 768 Forest Road (**Figure 9**) and a single storey clad dwelling facing Prospect Road at No 23 Prospect Road - **Figure 10**).

Adjoining development to the north, on the opposite side of Prospect Road, are single and two (2) storey detached dwellings comprising a mix of original and more recent housing (**Figure 11**). To the south, on the opposite side of Forest Road, is the Uniting aged care village with several different levels of care across a number of buildings. There are also some detached dwelling houses in this area (**Figure 12**).

There are a number of aged care premises located in the area including Banks Lodge located approximately 300 metres to the northeast on Baumans Road as well as the large complex on the southern side of Forest Road, Roberts Lodge, addressing Boundary Road. Peakhurst Public School is located approximately 300 metres to the north of the site and the Peakhurst shopping precinct is located approximately 400m to the west of the site.



Figure 7: Adjoining Development to the east along Forest Road - No 760A Forest Road



Figure 8: Adjoining Development to the east along Prospect Road - No 19 Prospect Road



Figure 9: Adjoining Development to the west along Forest Road - No 768 Forest Road



Figure 10: Adjoining Development to the west along Prospect Road - No 23 Prospect Road

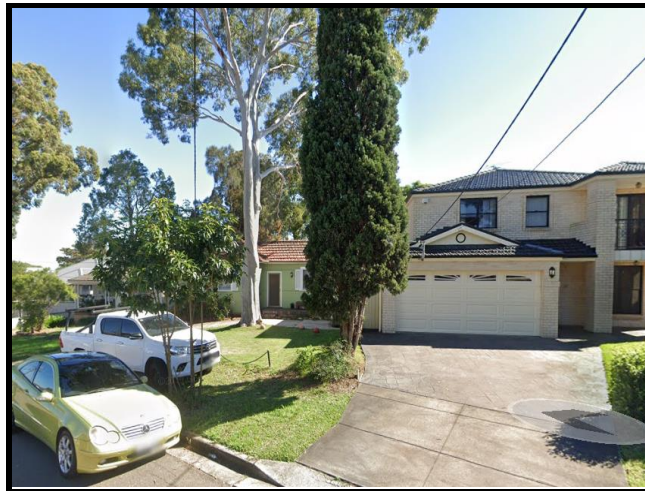


Figure 11: Dwellings to the north of the site on the opposite side of Prospect Road



Figure 12: Development to the south of the site on the opposite side of Forest Road

2. The Proposal

Development consent is sought for the demolition of several structures on the site, retention of a heritage building and the construction of a hostel containing 70 rooms as seniors housing under the provisions of 'the Seniors Housing SEPP'.

Specifically, the proposal includes (**Figures 13 - 16**):

- *Demolition* – The following structures are proposed to be demolished:
 - Existing dwelling at No 21 Prospect Road,
 - Addition to the heritage item (Function centre) adjoining Prospect Road; and
 - Single storey structure in the south-east corner of the site;
- *Excavation* - Approximately 3 to 4.8 metres for proposed basement and pool;
- *Construction of a three (3) storey hostel building* – This building is proposed to contain 70 Hostel rooms in an L- shape configuration to comprise the following:
 - Basement level –14 car spaces with the main vehicle access from Prospect Rd, plant, garbage rooms and gym, pool and change rooms;
 - Ground level – containing 21 hostel rooms comprising 20 Type B Hostel rooms (bathroom and kitchenette) comprising and a common area with a kitchenette, each with either a courtyard or terrace area and a communal laundry;
 - First floor – containing 25 hostel rooms comprising 8 x Type A Hostel rooms (no bathroom, kitchenette), 15 x Type B hostel rooms (bathroom and small kitchenette) and one (1) Type C Hostel room (Accessible with bathroom and kitchenette), each with a terrace area (except Type C) and a communal laundry;
 - Second floor – containing 24 hostel rooms comprising 7 x Type A Hostel rooms (no bathroom, kitchenette), 15 x Type B hostel rooms (bathroom and small kitchenette), one (1) Type C Hostel room (Accessible with bathroom and kitchenette), each with a terrace area (except Type C) and a communal laundry and communal roof terrace;

Pedestrian access is provided from Prospect Road and Forest Road frontages. Two (2) car spaces are proposed in the Forest Road setback adjoining the existing driveway area (separate entry and exit driveways from Forest Road).

- *Use of Heritage building* (former function centre) - for communal dining and lounge areas, staff facilities, office and music room. There are no works proposed to the heritage item with the exception of the demolition of the rear addition along the Prospect Road boundary;
- *Tree removal* – 22 trees to be removed, including a Canary Island Date Palm located within the heritage garden, with four (4) trees to be retained in heritage garden;
- *Landscaping* - within heritage garden in front of heritage item (including Victorian elements - arbours, gazebos, seating and hedge planting), boundary planting to side boundaries, street tree planting along Prospect Rd and planting in communal areas

- *Operation of the Hostel* – maximum of 70 residents (maximum of one (1) person per room), use of outdoor communal areas limited to 7.00am to 9.00pm weekdays and 7.00am to 10.00pm on weekends and no visitors between 10.00pm and 7.00am.

The main development data is outlined in **Table 1**.

Table 1: Development Data

CONTROL	PROPOSAL
Site area	2,673.1m ² (2,686.7m ² with Council land)
GFA	2,685.7m ²
FSR	1.005:1 (excl Council portion – 12.6m ² over) 0.99 :1 (including Council land – 1m ² under)
No of rooms	70 single rooms (max 70 occupants)
Max Height	9.8 metres (SH SEPP); 10.18 metres (HLEP 2012)
Landscaped area	1.070m ² (15.2m ² /room) (Shortfall - 9.72m ² /room or 679.8m ² total)
Car Parking spaces	16 spaces (+1 ambulance)
Setbacks	5.9m – Forest Road; 4m – Prospect Road and 3m to 1.68 side

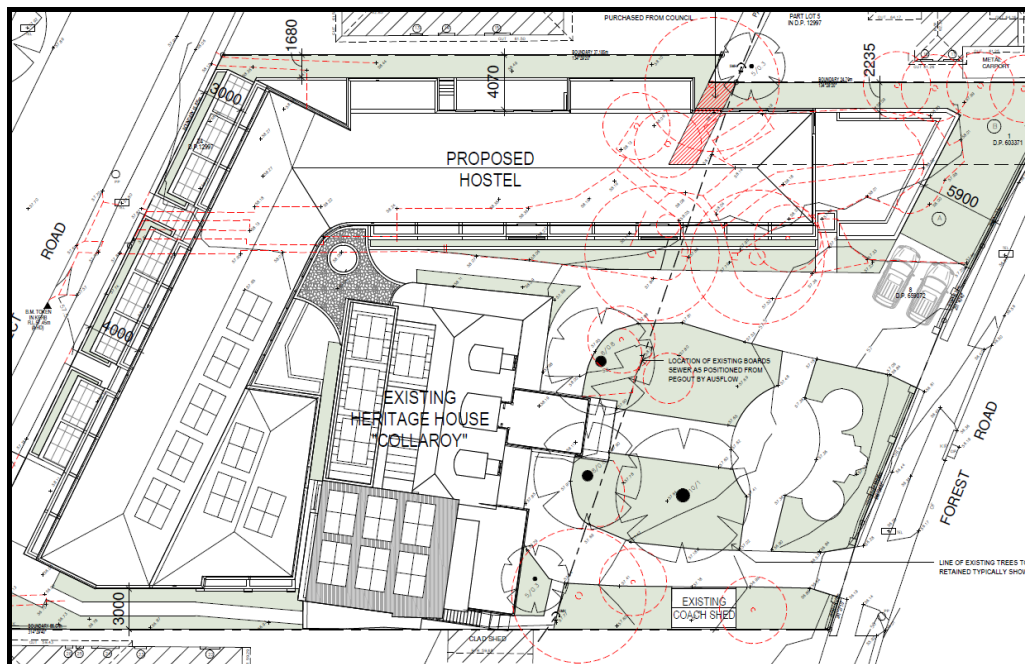


Figure 13: The Proposed Development (Source: Innovate Architects, October 2020)



Figure 14: Proposed Development - Prospect Road Streetscape (Source: Innovate Architects, October 2020)



Figure 15: Proposed Development – Forest Road Streetscape (Source: Innovate Architects, October 2020)

Hostel Operations

The *Statement of Environmental Effects* prepared by Planning Ingenuity dated 18 December

2020 ('SEE') states that the proposed facility will provide for meal services, common areas for general and event use and offices to accommodate future employees within the heritage item. The hostel will also offer room cleaning services, a staff member on-site 24 hours a day, 7 days a week and various support services for future residents.

The Operational Plan of Management (incorporating the Hostel Rules) ('the POM') provides the following information in relation to the general operation of the premises:

- Maximum of 1 resident shall occupy each room at any given time;
- The Hostel will accommodate a maximum of 70 residents in 70 rooms
- The common outdoor areas are only used between the hours of 7.00am and 9.00pm on weekdays and 7am to 10.00pm on weekends
- The Operator shall be responsible for the operation, administration, cleanliness and fire safety of the Premises including compliance with all terms and conditions of this plan
- The Operator's responsibilities include to ensure there is one staff member is on-site 24 hours a day, 7 days a week, laundering services, cleaning services, meal services, waste management and the like operate on a regular basis
- The Operator is responsible for ensuring nursing care, physical and mental support is available to the residents (refer below).

In relation to staff and personal care, the following is included:

- Full-time equivalent staff are to be trained in first aid and various general emergency care procedures. These are available to residents at all times.
- Registered nurses are available Monday to Friday, 9am to 5pm or at the Operator's discretion, via contractor.
- Care services are to be managed by the Operator
- Subject to the consent of the resident concerned, a plan for each resident's personal in-home care can be arranged with the Operator.
- Staff to assist in resident's day-to-day physical and mental health.
- The Operator and staff are to facilitate ongoing care for residents if required and liaise with private medical professionals and families regarding respite, in house care or on-site rehabilitation services
- Personal care will be available via contractor to provide relevant services. Service provisions will be the subject of reasonable user charge

In relation to transport, the POM states that on-site transport can be provided at the operator's discretion based on demand and requirements of the residents.

Vehicle Access and Servicing

Car parking is proposed within the basement parking level, including 14 spaces, which also includes a gym, pool, and waste and plant rooms. Two (2) car parking spaces are provided adjoining the driveway on the site from Forest Road as well as one (1) Ambulance space at the front entry of the heritage building. A total of 17 car spaces are proposed (**Figure 16**).

The existing entry and exit driveways from Forest Road are to be retained and will be used for visitors and emergency vehicle access. A new vehicle access point is proposed from Prospect Road in the north-west corner of the site for vehicle access to the proposed basement. Garbage



Landscaping is proposed within the existing heritage garden in front of heritage item including the provision of arbours, gazebos, seating and hedge planting in the Victorian style. Landscape planting to side boundaries, street tree planting along Prospect Rd and planting in communal areas is also proposed and is outlined in **Figure 17**.



Background to the Proposal

A brief history of the development application is provided in **Table 2** below.

Table 2: Chronology of the DA

DATE	EVENT
18 January 2021	DA lodged.
24 February 2021 to 10 March 2021	Exhibition of the application (renotified due to Council error – no changes to the proposal). There were 132 submissions (34 in support, 98 objections) plus an online petition with around 980 signatures received.
22 January 2021	Council referred the application to various external agencies including Ausgrid and Transport for NSW ('TfNSW') as well as internal Council staff and engaged consultants for review.
29 April 2021	<p>Briefing to the Panel where the following issues were identified:</p> <ul style="list-style-type: none"> • Inconsistencies with the Seniors Housing SEPP specifically: <ul style="list-style-type: none"> ▪ Exceeds maximum height and FSR standards ▪ Heritage impacts- bigger setback required to Forest Rd to respect heritage item ▪ Bulk, scale and character relative to the surrounding area ▪ Solar access, insufficient information ▪ Shortfall in requisite landscaped area ▪ Stormwater issues ▪ CPTED issues ▪ Accessibility ▪ Waste management inadequate • Location of communal facilities and usability • Owners consent from Council land, purchase agreement and subdivision yet to be considered • Particular community concerns include: <ul style="list-style-type: none"> o Building height, bulk, scale and impacts on streetscape <ul style="list-style-type: none"> ▪ Direct impacts on amenity of Prospect St residents in terms of privacy, overlooking and overshadowing ▪ Traffic and parking congestion on the street and difficulty of servicing ▪ Plan of Management and staffing of site ▪ Loss of existing use <p>The Panel considered that the number of issues to be resolved suggests a fundamental rethink of the proposal is needed, more in line with the SEPP objectives, the development standards and the neighbourhood character and constraints.</p>
12 May 2021	<p>Council requested additional and amended information in relation to the following:</p> <ol style="list-style-type: none"> 1. Bulk and Scale (Urban Design) 2. Height and Clause 4.6 3. Heritage impacts 4. Amenity impacts 5. Council owned land

	6. Landscaping, tree removal and landscaped area 7. Use of premises and social impacts 8. Traffic generation, car parking and lack of public transport 9. Technical issues – stormwater, traffic and waste management
9 June 2021	Meeting held between Council and the applicant to further discuss Councils RFI letter dated 12 May 2021. The issues were discussed and the applicant agreed to consider changes to the proposal and provide concepts for changes for Council's consideration.
23 June 2021	<p>The applicant provided revised sketch concepts to Council responding to the issues of the RFI letter dated 12 May 2021. The main changes included the following:</p> <ul style="list-style-type: none"> • The building address the street in a similar rhythm to that of the adjoining residences; • The two street front components have been reduced to 2 storeys; • Three distinct pavilion forms to Prospect Road with a large visual aperture through to the heritage item. • Setbacks to both Forest Road and Prospect Road increased with additional landscaping; • Larger setbacks to the northern boundary; • Removal of the basement, with at grade car parking; • No vehicle access off Prospect Road. • Façade redesign; and • Ceiling heights increased to 2.7m internally.
22 July 2021	A meeting was held between the Council and the applicant to discuss the concept plans. Council acknowledged that the concept plans were an improvement and had addressed some of the issues, however, further changes were considered necessary. These further changes were outlined by Council's Urban Design Consultant to further reduce the massing of the building along the eastern boundary, breaking up the bulk and including more modulated design and introduction of a pitched roof form (away from the mansard proposed) to introduce a true attic to accommodate rooms. The setbacks from Prospect Road, including removal of rear structures from the Heritage building to accommodate these further setbacks were also identified. Sketches from Urban Design Consultant were provided to the applicant to further refine the proposal.
27 July 2021	The applicant advised Council that, following discussions with the owners, it was decided to continue with the original application lodged on 18 January, 2021 and therefore the concept amendments would not be formally lodged under Clause 55 of the Regulation. .

3. Statutory Consideration

3.1 Environmental Planning and Assessment Act 1979

The proposal has been assessed and considered against the provisions of Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), the objects of the EP&A Act, and the principles of ecologically sustainable development as follows:

Objects of the EP&A Act

The consent authority is required to consider the objects pursuant to Section 1.3 of the EP&A Act when making decisions under the EP&A Act. The objects of the EP&A Act are considered in **Table 3**. The proposal is considered to be contrary to some of the objects.

Table 3: Consideration of the EP&A Act Object

OBJECTS OF THE EP&A ACT	PROPOSAL	COMPLY
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources</i>	The proposal is for a hostel under the Seniors Living SEPP. While there are significant concerns with the form of the development, the hostel use of the proposal is for a social housing purpose, which satisfies this object.	Yes
<i>(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment</i>	The proposal has been designed having regard to the principles of ESD, particularly in relation to energy efficiency.	Yes
<i>(c) to promote the orderly and economic use and development of land</i>	The proposal involves a hostel use of the land which is considered to promote the orderly use of the land.	Yes
<i>(d) to promote the delivery and maintenance of affordable housing</i>	The proposal is providing social housing under the Seniors Housing SEPP.	Yes
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>	The site is located within an urban area which almost entirely consists of impermeable surfaces and existing development. There are no known threatened species or other significant vegetation located on the site or other significant species mapped within the site or its immediate vicinity. The proposal is unlikely to adversely impact on the natural environment.	Yes
<i>(f) to promote the sustainable management of built and cultural heritage</i>	The site contains a local heritage item and is not located within a Heritage Conservation Area. A Heritage Impact Statement concluded that the proposal will have an acceptable impact on the heritage significance of the identified heritage items on the site. Following consideration of the impact on heritage, it is considered that there are several aspects of the proposal which will have an unacceptable impact on heritage. These impacts are considered in detail in Section 5.3.	No
<i>(g) to promote good design and amenity of the built environment</i>	There are concerns with the urban design aspects of the proposal which are considered in	No

	Section 5.1 of this report. The proposal is considered to be unsatisfactory having regard to urban design.	
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal can achieve this objective by complying with relevant consent conditions relating to the construction phase of the development (where consent is granted).	Yes
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The proposal is a regionally significant development and therefore the Sydney South Planning Panel is the consent authority.	Yes
(j) to provide increased opportunity for community participation in environmental planning and assessment	The application was notified to adjoining owners in accordance with the DCP. The submissions were received and are discussed in this report.	Yes

Ecologically Sustainable Development (ESD)

The EP&A Act adopts the definition of ESD in the *Protection of the Environment Administration Act 1991*. Pursuant to Section 6(2) of that Act, ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) the Precautionary principle – The proposal is unlikely to result in any serious or irreversible environmental damage given the zoning of the site;
- (b) Inter-generational equity – The proposal will not have adverse impacts on the environment for future generations;
- (c) Conservation of biological diversity and ecological integrity – The site is within an urbanised and established residential area which does not contain any significant flora or fauna. There are no threatened species or significant vegetation within the site or within the immediate vicinity of the site;
- (d) Improved valuation, pricing and incentive mechanisms – The proposal includes a number of energy and water initiatives, waste reducing measures to reduce the ongoing cost, resources and energy requirements of the development for the longer term.

Integrated Development

The development is not identified as integrated development and does not require approval under any of the other Act pursuant to Section 4.46 of the EP&A Act.

3.2 Section 4.15(1) Assessment

Section 4.15(1) of the EP&A Act requires various matters to be considered in the determination a development application as outlined below:

- (1) *Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*
- (a) *the provisions of:*
- (i) *any environmental planning instrument; and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph)*
- that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
 - (c) *the suitability of the site for the development,*
 - (d) *any submissions made in accordance with this Act or the regulations,*
 - (e) *the public interest.*

These matters are considered below in the context of the proposal.

3.2.1 **S4.15(1)(a) - Environmental Planning Instruments, Proposed Instruments, Development Controls Plans, Planning Agreements and the Regulations**

The following environmental planning instruments, proposed instruments and development control plans apply to the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy 55 – Remediation of Land;*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;*
- *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment*
- *Hurstville Local Environmental Plan 2012 ('the LEP');*

- *Draft Georges River Local Environmental Plan 2020;*
- *Draft State Environmental Planning Policy – Remediation of Land*
- *Draft Environment SEPP;*
- *Draft Housing SEPP;*
- *Hurstville Development Control Plan No.1; and*
- *Georges River Interim Policy Development Control Plan 2020.*

The provisions of these planning matters are considered below.

Environmental Planning Instruments

(a) State Environmental Planning Policy – State and Regional Development 2011

State Environmental Planning Policy (State and Regional Development) 2011 ('SRD SEPP') applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 3(b) of Schedule 7 of the SRD SEPP as the Council is the owner of land on which the development is to be carried out (albeit a small portion of the land, however, the criteria is '*some of the land*'). Accordingly, the Sydney South Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

(b) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The Seniors Housing SEPP aims to encourage the provision of housing that will increase the supply and diversity of residences that meet the needs of seniors or people with a disability that makes efficient use of existing infrastructure and services, and is of good design.

The Hostel is proposed under the provisions of the Seniors Housing SEPP which pursuant to Clause 4(1) (a) (i) of the Policy applies to land zoned *primarily for urban purposes* where dwelling houses are permissible. The site is located within the R2 Low Density zone under the Hurstville LEP 2012, where dwelling houses are permissible. Clause 5(3) of the Seniors Housing SEPP states that this Policy prevails to the extent of any inconsistency with any other environmental planning instrument. The relevant requirements of the Policy are considered below:

Chapter 2: Key Concepts

Pursuant to Clause 12, a Hostel is defined as:

- hostel** is residential accommodation for seniors or people with a disability where
- (a) *meals, laundering, cleaning and other facilities are provided on a shared basis, and*
 - (b) *at least one staff member is available on site 24 hours a day to provide management services. Note — A facility may be a hostel (as defined by this Policy) even if it does not provide personal care or nursing care to its residents. A facility that provides such care may be a residential care facility (as defined by this Policy), regardless of how the facility may describe itself.*

The proposal involves the communal provision of meals and cleaning services, common living and exercise rooms within the existing heritage item part of the proposed hostel, and communal laundries are provided on each floor of the hostel. At least one staff member will be available on the site, 24 hours a day, to provide management services as outlined in the POM. The proposal is to house seniors and people with disabilities, with a particular focus on vulnerable women. The proposal is consistent with the definition of a *Hostel*.

Chapter 3: Development for Seniors Housing

This Chapter provides for the permissibility of, and site and design requirements for, seniors housing. Pursuant to Clause 15(a), this Chapter allows any form of Seniors Housing development, which includes *hostels* pursuant to the definition in Clause 10, on land zoned primarily for urban purposes, despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy. Since the site is on land zoned primarily for urban purposes (R2 low density residential), *hostels* are permissible on the site regardless of the LEP provisions.

Seniors Housing developments may only be carried out for the accommodation of seniors or people who have a disability, people who live within the same household with seniors or people who have a disability, and staff employed to assist in the administration of and provision of services to housing provided under this Policy (CI 18(1)). Relevant conditions must be imposed by the consent authority to this effect (CI 18(2)), which can be undertaken on any consent granted for the proposal.

The development standards and design requirements for seniors housing pursuant to Chapter 3 of the Policy are considered below and in a detailed table of compliance in **Attachment A**. The proposal is inconsistent with a number of the design requirements of Part 3 as well as the development standards in Part 4. The proposal is also inconsistent with some of the development standards in Part 7 which would allow the Council to refuse consent.

In summary, the proposal is contrary to Chapter 3 of the Seniors Housing SEPP since:

- The proposal is inconsistent with several matters pursuant to Clause 29(2) which requires consideration of the Site Compatibility Certificate criteria of CI 25(5)(b) including the following:
 - The proposal is generally inconsistent with existing uses in the vicinity of the site (low density residential development in detached housing);
 - The height and general bulk and scale of the proposal is incompatible with the surrounding built form which generally comprises one and two storey detached dwellings on generous staggered front and side setbacks under the height limit (9m). The current proposal presents an excessive bulk and scale that does not provide a sympathetic response to the existing and desired future character of the area;
- The proposal is considered to be inconsistent with the design principles and accordingly fails to satisfy Clause 32 of the Seniors Housing SEPP as it has not had adequate regard to these principles in Division 2 including:
 - Neighbourhood amenity & streetscape (CI 33) – the proposal will have an adverse

- impact on the neighbourhood and streetscape as a result of the excessive bulk and scale of the proposal;
- Solar access and design for climate (CI 35) – insufficient information has been provided to adequately assess solar access for adjoining properties;
- Stormwater (CI 36) – considered unsatisfactory;
- Crime prevention (CI 37) – concerns with safety and security
- Accessibility (CI 38) – lack of adequate accessible car parking
- Waste management (CI 39) - considered unsatisfactory;
- The proposal is inconsistent with a number of the height development standards in Part 4 including the maximum height in metres, number of storeys adjoining a boundary and the maximum number of storeys in the rear 25% of the site; and
- The proposal is inconsistent with several development standards in Part 7 which could be used to refuse consent including:
 - Building height – exceeds by 1.8 metres;
 - Density and scale (if Council-owned parcel is not purchased by the owner); and
 - Landscaped area – shortfall of 679.8m².

The proposal's inconsistencies with the Seniors Housing SEPP are discussed further in the Key Issues section.

(c) State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 ('Infrastructure SEPP') applies to the proposal and aims to facilitate the effective delivery of infrastructure across the State by, among other things, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development. The relevant clauses of the Infrastructure SEPP include the following:

- *Clause 45 (Determination of development applications—other development)*

This Clause applies to a development application for development comprising or involving development carried out (among other things) within 5 metres of an exposed overhead electricity power line. These power lines run along both the Forest road and Prospect Road boundaries of the site. Accordingly the application was referred to Ausgrid, being the local energy provider. There were no objections raised subject to standard conditions as outlined below in the referrals discussion. Relevant conditions can be imposed on any consent granted.

- *Clause 101 – Development with frontage to classified road*

The site has a frontage to a classified road (Forest Road) and accordingly this clause is applicable to the proposal.

This Clause states:

- (1) *The objectives of this clause are—*

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
 - (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposal involves retaining the current vehicle entry and exit points to Forest Road, which comprise a circular driveway, allowing vehicles to enter in one driveway and exit via the other. This ensures that vehicles can enter and leave the site in a forward direction in separate vehicle crossings, ensuring minimal disruption to the traffic lanes. This vehicular access ensures there is likely to be minimal disruption to Forest Road.

The proposal is unlikely to result in the emission of smoke or dust which would adversely affect the adjoining classified road. The Acoustic Report considers that the proposal achieves compliance with the relevant acoustic standards for road traffic noise intrusions subject to recommendations. TfNSW considered the proposal pursuant to this clause and raised no objections subject to conditions. Relevant conditions can be imposed on any consent granted.

The proposal is considered to be consistent with this Clause.

- *Clause 102 - Impact of road noise or vibration on non-road development*

This Clause states:

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration—*
 - (a) residential accommodation,*
 - (b) a place of public worship,*
 - (c) a hospital,*
 - (d) an educational establishment or centre-based child care facility.*
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate*

measures will be taken to ensure that the following LAeq levels are not exceeded—

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The proposal is located on Forest Road, which is a road recommended for a noise assessment (> 20,000 and < 40,000 AADT) and the proposal also involves residential accommodation. Accordingly this clause is applicable to the proposal. The proposal is accompanied by an Acoustic Report which considered the proposal having regard to the *Developments near Rail Corridors or Busy Roads – Interim Guideline* (Department of Planning & Environment) and AS/NZS 3671.1989 '*Acoustics – Road Traffic noise intrusion – Building Siting and Construction*' requirements (consistent with Subclause (2)). The proposal was satisfactory subject to recommendations of the report. Relevant conditions can be imposed on any consent granted.

The proposal is considered to be consistent with this Clause.

- *Clause 104 – Traffic-generating development*

Pursuant to Clause 104, certain development must be referred to the Roads and Maritime Services, now *Transport for NSW* ('TfNSW') for comment based on the type, capacity or location of the proposal. In this instance, the proposal does not meet these criteria and accordingly, a referral to TfNSW is not required.

The proposal is considered to be consistent with the Infrastructure SEPP.

(d) State Environmental Planning Policy No. 55 – Contamination of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* ('SEPP 55') have been considered in the assessment of the development application. Clause 7(1) of SEPP 55 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The site has been used as a function centre since the 1940s as well as for residential development and accordingly, it is considered that there is unlikely to be any contamination on the site. The site is also not known to have had any of the activities carried out on it contained in Table 1 of the Contaminated Land Guidelines. Council's Health Officer has reviewed the proposal and stated that there were no objections in relation to the absence of a contamination report as conditions will be included to address anything (including asbestos) that may be encountered with the demolition of the structures.

The proposal is considered to be consistent with SEPP 55, subject to the imposition of relevant conditions of consent on any consent granted in relation to potential contaminated material being discovered during demolition and construction.

(e) State Environmental Planning Policy – Vegetation in Non-Rural Areas 2017 (Vegetation SEPP)

State Environmental Planning Policy – Vegetation in Non-Rural Areas 2017 ('the Vegetation

SEPP') aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. This Policy applies to the site pursuant to Clause 5(1) as the site is within the Georges River Councils LGA and within the R2 zone. The proposed vegetation and tree clearing for the proposal is ancillary to the development requiring consent and accordingly this policy is not applicable to this proposal.

(f) State Environmental Planning Policy – Building Sustainability Index BASIX– 2004

State Environmental Planning Policy – Building Sustainability Index BASIX– 2004 ('BASIX SEPP') applies to the proposal. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No. 1164274M_03 prepared by Efficient Living Pty Ltd dated 16 December 2020 committing to environmental sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with the BASIX SEPP subject to the recommended conditions of consent.

(g) Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

The *Greater Metropolitan Regional Environmental Plan No 2 — Georges River Catchment* ('Georges River REP') aims to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment. The site is within the area affected by the Plan and generally applies to proposals which may have an adverse impact on the catchment.

The proposed use is generally in accordance with the aims of this Plan in that best practice water management techniques will be utilised which reduces potential water pollution from the site within the catchment. Council's Development Engineers have raised various issues with the proposed stormwater management on the site which remain outstanding.

Clause 7 of the Policy requires that when a Council determines a development application that the planning principles of the Policy are to be applied. These planning principles contain both general (Clause 8) and specific (Clause 9) matters. The proposal is considered to be generally consistent with these principles subject to amendments and additional information in relation to stormwater management which is further addressed under the DCP requirements.

Clause 11 of the Georges River REP includes a Planning control table which deals with development defined in that table. The proposal does not fall within the scope of the Planning Control Table. The proposal is considered to be consistent with this Policy.

(h) Hurstville Local Environmental Plan 2012

The *Hurstville Local Environmental Plan 2012* ('HLEP 2012') is the principal planning instrument applying to the site. The site is not affected by active street frontages, land acquisition, riparian land, foreshore scenic protection or any other foreshore issues. The relevant clauses of the Plan

are considered below.

Aims of the Plan

The aims of the Plan pursuant to Clause 1.2(2) include (most relevant in bold):

- (a) to encourage and co-ordinate the orderly and economic use and development of land that is compatible with local amenity,**
- (b) to provide a hierarchy of centres to cater for the retail, commercial, residential accommodation and service needs of the Hurstville community,*
- (c) to provide a range of housing choice that—**
 - (i) accords with urban consolidation principles, and**
 - (ii) is compatible with the existing environmental character of the locality, and**
 - (iii) is sympathetic to adjoining development.**
- (d) to conserve, protect and enhance the environmental heritage, cultural heritage and aesthetic character of Hurstville,**
- (e) to maintain and enhance the existing amenity and quality of life of the Hurstville community,*
- (f) to ensure development embraces the principles of quality urban design,**
- (g) to ensure development is carried out in such a way as to promote the efficient and equitable provision of public services, infrastructure and community facilities,*
- (h) to protect and enhance areas of remnant bushland, natural watercourses, wetlands and riparian habitats,*
- (i) to retain, and where possible extend, public access to foreshore areas and link existing open space areas for environmental benefit and public enjoyment,*
- (j) to ensure development embraces the principles of ecologically sustainable development,*
- (k) to strengthen the role of Hurstville City Centre as a major business, retail and cultural centre of southern Sydney,*
- (l) to encourage a range of employment, services, housing and recreation to meet the needs of existing and future residents of the Hurstville City Centre,*
- (m) to concentrate intensive land uses and trip-generating activities in locations most accessible to transport and centres,*
- (n) to foster economic, environmental and social wellbeing so that the Hurstville City Centre continues to develop as a sustainable and prosperous place to live, work and visit.*

The proposal is inconsistent with some of these plan aims including (a), (c), (d) and (f):

- Aim (a) – the proposal is considered to be incompatible with local amenity as it consists of a bulk, scale and height which is inconsistent with the prevailing character of the neighbourhood and is likely to result in adverse impacts on amenity arising from the potential overshadowing and overlooking of adjoining properties;
- Aim (c) – the proposal does not provide housing choice which is compatible with the existing environmental character of the locality or is sympathetic to adjoining development. The proposal is excessive in bulk and scale and does not provide a sympathetic response to the existing and desired future character of the area.
- Aim (d) – the proposal does not conserve, protect or enhance the environmental heritage of Hurstville given the proposal does not retain the heritage tree (Tree 10) and

does not propose development which is sympathetic to the existing heritage building on the site given the lack of an adequate setback to the new built form; and

- Aim (f) – the proposal does not adequately embrace the principles of quality urban design given the significant concerns with the design and scale aspects of the proposal as outlined in this report.

While there are significant concerns with the proposed building form on the site which are fundamental to the refusal of this proposal, the proposed use of the site for hostel accommodation is supported and is likely to achieve the aim in (g) as the proposal would promote the provision of community facilities.

Zoning & Permissibility (Part 2)

The site is located in the R2 – Low Density Residential zone (**Figure 18**). The proposal is permissible pursuant to Clause 15(a) of the Seniors Housing SEPP and accordingly the land use table in Clause 2.3 is not relevant in this case. Uses which are permissible in the zone (and therefore adjoining properties) with consent include (among other uses) attached dwellings, boarding houses, community facilities, dual occupancies, and dwelling house. *Multi dwelling housing* and *residential flat buildings* are prohibited in the zone.

The objectives of zone pursuant to Clause 2.3 of the LEP are relevant and include (emphasis added):

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- ***To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.***
- ***To ensure that a high level of residential amenity is achieved and maintained.***
- ***To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.***
- *To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.*

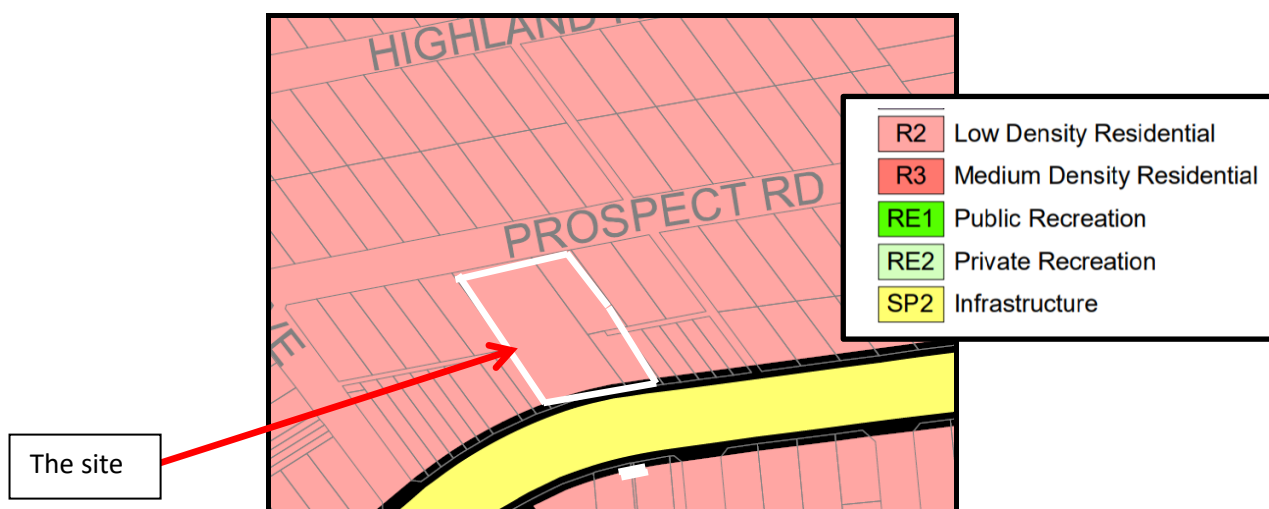


Figure 18: Zoning of the site pursuant to Hurstville LEP 2012 (Source: www.legislation.nsw.gov.au)

The proposal is considered to be inconsistent with these zone objectives as it presents an excessive bulk and scale which is unsympathetic to the existing and desired future character of the area. The proposal does not provide for the housing needs of the community within a low density residential environment as the proposed built form is more aligned with a medium to high density development resulting from the additional height, and the lack of adequate setbacks and articulation in the facades.

The proposal is also considered to result in adverse impacts on the amenity of the surrounding area and does not achieve a high level of residential amenity for residents in the area (further considered in the Key Issues section). The lack of adequate landscaping, particularly along the side boundaries, exacerbates the bulk and scale of the proposal and does not allow for landscaping to be a major element in the proposal. Accordingly, the proposal is considered to be inconsistent with the 3rd, 4th and 5th objectives (in bold above) and is therefore unsatisfactory.

The site is included in Schedule 1 pursuant to Clause 2.5 for additional permitted uses, which includes the use of No 764 for a function centre. This is not relevant for the current proposal as the application does not propose a function centre. Subdivision pursuant to Clause 2.6 is not proposed. Demolition is proposed to the rear addition of the heritage item as well as the single dwelling house at No 21 Prospect Street, which is permissible pursuant to Clause 2.7, with relevant conditions recommended to be imposed on any draft consent requiring compliance with AS2601. The proposal is generally consistent with Part 2: of the Hurstville LEP 2012.

Principal Development Standards (Part 4)

The height of buildings and the floor space ratio development standards pursuant to Clauses 4.3(2) and 4.4(2) respectively do not apply to the proposal pursuant to Clause 5(3) of the Seniors Housing SEPP and therefore the development standards of the Hurstville LEP 2012 are not relevant to this proposal. However, a comparison of these development standards is outlined in **Table 1**.

Table 4: Comparison of Development Standards

Development Standard	Hurstville LEP 2012 (Height –	Draft Georges River LEP 2020	Seniors Housing SEPP	Proposal
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	<i>Top Of Roof)</i>	<i>(Height – Top Of Roof)</i>	<i>(Height – Ceiling Of Top Storey))</i>	
Height of buildings	9 metres (top of roof)	9 metres (top of roof)	8 metres (ceiling height of top storey)	9.8 metres (SEPP definition) 10.18 metres (LEP definition)
Floor space ratio (current site area)	0.6:1 (1,603.86m ²)	0.55:1 (1,470.2m ²)	1:1 (2,673.1m ²)	2,685.7m ²

The proposal is inconsistent with the height development standards under the Seniors Housing SEPP and accordingly a written request under Clause 4.6 of the Hurstville LEP 2012 has been provided for the height exceedence. This is considered below.

Miscellaneous Provisions (Part 5)

The site is not affected by land acquisition pursuant to Clause 5.1 and there are no miscellaneous permissible uses proposed pursuant to Clause 5.4. The site contains an item of environmental heritage pursuant to Clause 5.10 and Schedule 5 of the LEP, comprising item 197 known as “*The Gardens on Forest*”, illustrated in **Figure 19**. The potential impact on heritage is further discussed in the Key Issues section of this report. There are no other relevant provisions in Part 5 of the Hurstville LEP 2012.



Figure 19: Heritage Listing pursuant to Clause 5.10 of the Hurstville LEP 2012 (Source: www.legislation.nsw.gov.au)

Additional Local Provisions (Part 6)

The site is not affected by acid sulphate soils (CI 6.1), riparian land (CI 6.2), foreshore areas (CII 6.3 and 6.4), active street frontages (CI 6.6) or airspace operations (given the height proposed) (CI 6.9). There are adequate services to the site, consistent with Clause 6.7. There are no other relevant provisions in Part 6 of the Hurstville LEP 2012.

The proposal is generally consistent with the Hurstville LEP 2012.

Clause 4.6 Variation – Building Height under the Seniors Housing SEPP

The Development Standard to be varied and extent of the variation

The development standard to be varied is Clause 40(4) (a), (b) and (c) of the Seniors Housing SEPP for the maximum height of buildings in zones where residential flat buildings are not permitted. Importantly, the Seniors Housing SEPP defines building height differently, stating:

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

Clause 40(4) of the Seniors Housing SEPP states:

Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted—

- (a) *the height of all buildings in the proposed development must be 8 metres or less, and*
Note—*Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).*
- (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*
Note—*The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*
- (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*

The proposal involves an overall building height as defined in the Seniors Housing SEPP of 9.8 metres, representing a 22.5% variation to the development standard. The building height exceedence of the proposal is outlined in **Table 5** and illustrated in **Figure 20 to 23**.

Table 5: Seniors Housing SEPP height limits

HEIGHT COMPONENT	MAX PERMISSIBLE	PROPOSAL	COMPLY
Overall height limit (to the ceiling)	8 metres or less	9.8m (22.5% variation) (within E-W wing fronting Prospect Rd)	No
Number of Storeys adjacent to a boundary	Two (2) storeys	Three (3) storeys (adjacent to eastern and western side boundaries)	No
Height in rear 25% of the site	1 storey	Three (3) storeys (along the Prospect Rd frontage)	No

The applicant's request states the following in relation to the height exceedence of the proposal:

- The maximum building height pursuant to the definition contained within the SEPP (from ground to upper floor ceiling height) is 9.8m and this occurs to a portion ceiling located*

within the east-west wing, fronting Forest Road. The non-compliance is a result of the topographical incline of the site, namely, an existing driveway which serves the function centre. This is a maximum variation of the SEPP 8m height of 1.8m or 22.5%. It is also noted that the variation pertains to the remaining roof form, however is relatively minor at approximately 8.2m (**Figures 20 & 21**).

- In relation to Clause 40(4)(b), the proposed development provides buildings adjacent to the boundary of the site which exceed 2 storeys, that is, the proposed three storey portion adjacent to the eastern (side) boundary and western (side) boundary (**Figures 22 and 23**).
- In relation to Clause 40(4) (c), the building height located within the rear 25% of the site exceeds the permitted single storey. The proposal will provide a 3 storey built form to the rear of the subject site, noting that this provided to the secondary road frontage being Prospect Road. Given the secondary frontage, it is considered that Clause 40(4) (c) does not strictly apply, however in the interest of abundant caution has been addressed in this Clause 4.6 Variation (**Figure 24**).

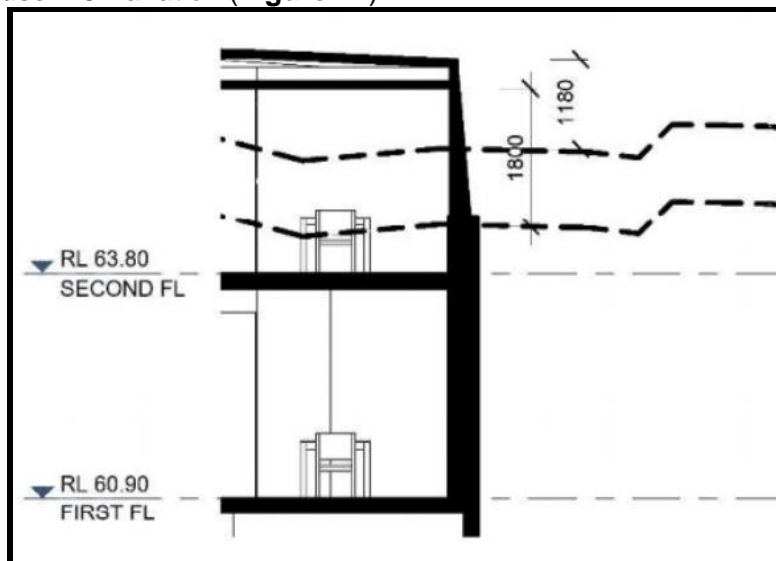


Figure 20: Section indicating height non-compliance (Source: Planning Ingenuity December 2020)



Figure 21: 8 metre height limit - Seniors Housing SEPP (Source: Planning Ingenuity December 2020)



Figure 22: Three storey elements along the eastern boundary (Source: Planning Ingenuity December 2020)



Figure 23: Three storey elements along the western (side) boundary (Source: Planning Ingenuity December 2020)

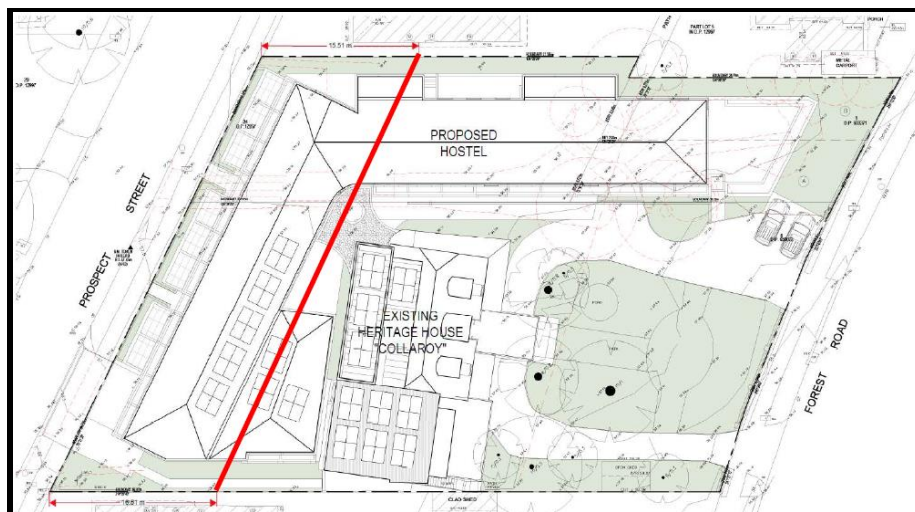


Figure 24: Three storey built form within the rear 25% of the site fronting Prospect Road (Source: Planning Ingenuity December 2020)

The maximum height of buildings for the site pursuant to Clause 4.3(2) of the Hurstville LEP 2012 is 9 metres, which is measured to the top of the roof (and not to the ceiling as the Seniors Hosing SEPP). The proposal also exceeds this maximum building height, with the exceedence occurring in the north-western corner of the site along the western (side) boundary. The applicant states that this pertains to the existing driveway serving the function centre, and contains a non-compliance of 10.18m (**Figure 25**).



Figure 25: The 9 metre height limit under the Hurstville LEP 2012 (Source: Planning Ingenuity December 2020)

Variations to Development Standards

Variations to development standards can be considered by the consent authority pursuant to Clause 4.6 of the Hurstville LEP 2012. The provisions of Clause 4.6 relevant to this proposal include the following:

- (1) *The objectives of this clause are as follows—*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) *the consent authority is satisfied that—*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Planning Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note— When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following—*
 - (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) *clause 5.4,*
 - (ca) *clause 6.6.*

The exceptions to this clause outlined in Clause 4.6(6) and (8) do not apply to this proposal while subclause (7) is a matter for the consent authority.

To support the non-compliance, the applicant has provided a request for a variation to Clause 40(a), (b) and (c) of the Seniors Housing SEPP in accordance with Clause 4.6(3) of Hurstville LEP 2012. The Clause 4.6 request for variation is assessed below.

Preconditions to be satisfied

Preston CJ, in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* ('Initial Action'), outlined the permissive power in Clause 4.6(2) to grant development consent for a development that contravenes the development standard is subject to conditions. These conditions are set out in Clause 4.6(4) which establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.

The two preconditions include:

1. Tests to be satisfied pursuant to CI 4.6(a) – this includes matters under CI 4.6(3)(a) and (b) and whether the proposal is in the public interest (CI 4.6(a)(ii)); and
2. Tests to be satisfied pursuant to CI 4.6(b) – concurrence of the Planning Secretary.

These matters are considered below for the proposed development having regard to the applicant's Clause 4.6 request.

First Precondition

The first precondition requires the satisfaction of two (2) tests pursuant to CI 4.6(4) (a) which includes:

- Clause 4.6(4)(a)(i) – whether the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), which requires the applicant to seek to justify the contravention by demonstrating:
 - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (CI 4.6(3)(a)), and
 - that there are sufficient environmental planning grounds to justify contravening the development standard (CI 4.6(3)(b)); and
- Clause 4.6(4)(a)(ii) – whether the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

These tests for the first precondition are considered below.

Compliance with the development standard is unreasonable or unnecessary in the circumstance of this case - Clause 4.6(3) (a)

There has been significant case law on this aspect of Clause 4.6 requests. Preston CJ, in *Initial Action*, reconfirmed the five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary as outlined in *Wehbe v Pittwater Council (2007) NSWLEC 827* ('Wehbe'). The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.

The rationale is that development standards are not ends in themselves but means of achieving ends, as outlined in *Wehbe*, with the 'ends' being environmental or planning objectives, with compliance with a development standard the usual means by which that is achieved. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).

The applicant considers that the proposed development satisfies the first Wehbe test, in that the objectives of the standard are achieved notwithstanding noncompliance with the standards and in this way satisfies Clause 4.6(3) (a) and meets the first part of the first precondition.

Clause 40(4) of the Seniors Housing SEPP does not contain objectives for the height development standard. A note is provided to Clause 40(4) (b) in relation to the maximum height to two (2) storeys adjoining a boundary which states:

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

The applicant's Clause 4.6 request stated that an objective for the rear 25% of the site to comprise a maximum of only one (1) storey was provided in *Winten Group Architects Pty Ltd v Ku-ring-gai Council [2005] NSWLEC 546* ('Winten'). This objective stated:

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

The applicant's justification in relation to the first Wehbe test, being that the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard, is considered below in the context of each of the proposed height exceedence.

Consultant Planner comment:

Clause 40(4) (a)

The greatest extent of the proposed exceedence on the overall height limit occurs in the north-western portion of the proposed building, although a smaller exceedence does occur for the majority of the built form. This north-western portion of the site, however, contributes significantly to the streetscape elevation of the proposal and has the greatest potential to adversely impact on the adjoining properties. The resulting bulk and scale of this portion of the building has an unacceptable impact on the neighbours and presents as overbearing in terms of bulk, scale and height (this is discussed further in the urban design discussion in the key issues section of this report).

The proposed height above the development standard contributes to the adverse impacts on the character of the area which comprises a low density residential area comprising detached two storey dwellings. It is also considered that the height exceedence is visually apparent from the public domain given the significant change in height experienced from the street (**Figure 26**).

In relation to the overshadowing impacts and privacy concerns, the 8m building height limit

exceedence does not contribute to any significant additional privacy impacts, however, the proposed overshadowing arising from this exceedence has not been adequately addressed (as discussed in the key issues section). Therefore, overshadowing impacts are considered unacceptable arising from this exceedence.

The proposed overall height exceeding the maximum permissible height in this location results in an abrupt change in the scale of development in the streetscape. A setback of 3 metres with minimal landscaping along the side boundary results in an unacceptable relationship of the proposed building with the adjoining detached dwelling house to the west of the site.



**Figure 26: Photomontage of the proposal illustrating the change in scale along Prospect Road
(Source: Innovate Architects, December 2020)**

Accordingly, it is considered that the exceedence of the overall building height development standard of Clause 40(4) (a) is inconsistent with the relevant height objectives.

Clause 40(4) (b)

The proposed exceedence of the maximum two (2) storey height limit to boundaries results in the building form being overbearing in terms of bulk and scale to adjoining properties. The proposed third storey does not read as an attic level and does not mitigate the impacts arising from this proposed additional level. The excessive height and the lack of adequate setbacks and articulation of the building form do not allow the proposal to control impacts on adjoining neighbours as required by the objectives.

The proposed exceedence by one (1) storey to the boundaries also contributes to adverse impacts to neighbours through additional overlooking opportunities, to both the east and west side boundaries. These opportunities would be reduced in a compliant building scheme.

In relation to the overshadowing impacts, the exceedence by one (1) storey has not been adequately addressed (as discussed in the key issues section). Therefore, overshadowing impacts are considered unacceptable arising from this exceedence. The proposed additional storey is considered to result in an abrupt change in the scale of development in the streetscape. A setback of 3 metres with minimal landscaping along the side boundary results in an unacceptable relationship of the proposed building with the adjoining detached dwelling house to the west of the site.

Accordingly, it is considered that the exceedence of the number of storeys development

standard of Clause 40(4) (b) is inconsistent with the relevant height objectives.

Clause 40(4) (c):

The exceedence of the one (1) storey building height to Prospect Road has a significant and adverse impact on adjoining neighbours and when viewed from the public domain arising from the bulk, scale and height of the proposal. This impact is particularly experienced from Prospect Road. The proposed architectural measures are insufficient to ameliorate these impacts given the 3 storey continuous wall of development of approximately 39 metres in façade length to Prospect Road, the insufficient setbacks, and, inadequate facade articulation provided. Furthermore, the proposed third storey, being two (2) storeys above the maximum height, is not sufficiently setback or articulated into an attic to mitigate the adverse impacts arising from the excessive bulk and scale.

With regards to privacy, the elements of the building which exceed the maximum 1 storey limit do not result in any additional adverse privacy impact to adjoining neighbouring properties given orientation of openings largely to the street. In relation to solar access, the elements of the building above the one (1) storey height limit at the rear of the site have not been adequately addressed (as discussed in Section 5.1 of this report). Therefore, overshadowing impacts are considered unacceptable arising from this exceedence.

The proposed three storey nature of the Prospect Road elevation results in an abrupt change in the scale of development in the streetscape (refer to **Figure 26** above) being inconsistent with the height objectives.

Accordingly, it is considered that the exceedence of the one (1) storey to the rear 25% of the site development standard of Clause 40(4) (c) is inconsistent with the relevant height objectives.

Summary:

As outlined above, it is considered that the proposal with the height exceedence does not satisfy the objectives of the height development standard pursuant to the Seniors Housing SEPP. In this way, the proposal has not demonstrated consistency with the first Webbe test, as the objectives of the standard is not achieved and therefore does not meet the first part of the first precondition. Accordingly, the applicant has not adequately demonstrated that compliance with development standard is unreasonable and unnecessary in the circumstances of this case.

There are sufficient environmental planning grounds to justify contravening the standard - Clause 4.6(3) (b)

The grounds relied on by the applicant in the written request under this part of CI 4.6 must be “*environmental planning grounds*” by their nature, as outlined in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 (*‘Four2Five’*) and confirmed in *Initial Action*. While *environmental planning* is not defined in the EP&A Act, Preston CJ considered in *Initial Action* it would refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s 1.3 of the EPA Act.

The environmental planning grounds relied upon must be ‘sufficient’ in two respects, the first being that they must be sufficient to *justify* contravening the development standard with the focus being on the aspect or element of the development that contravenes the development standard and not on the development as a whole, and why that contravention is justified on

environmental planning grounds. The second respect relates to whether the written request has *demonstrated* that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4) (a) (i) that the written request has adequately addressed this matter.

Applicant's Justification:

The applicant has provided a justification for the exceedence of the building height controls, including environmental planning grounds which apply to all three development standards as well as additional grounds which relate to the two (2) storey maximum number of storeys and the maximum one (1) storey height limit to the rear 25% of the site. The applicant considers that the proposed non-compliance with the rear 25% of the site does not strictly apply as the site has two street frontages which preclude strict compliance with this standard. For the purposes of this assessment, it is considered that Prospect Road represents the rear boundary.

A summary of the environmental planning grounds as submitted by the applicant to justify contravening the prescribed maximum building heights include (emphasis added):

General

- The extent of variation sought is minor and is a product of the site topography;
- The proposal has been designed to comply with the 9m requirement to provide a built form that is compatible with neighbouring residential dwellings and character of the zone.
- There are no physical or visual impacts to the heritage item, streetscape or amenity of neighbouring properties.
- The proposed built form articulation and generous setbacks to Forest Road, Prospect Road and the side boundaries as well as the architectural design measures including framed elements to the ground and first floor with a recessed attic style second floor reduces any perceivable bulk or scale created by the non-compliant elements.
- The proposed ceiling heights maximise solar gain and amenity for future residents and the extent of non-compliance does not result in any further impacts to the amenity of neighbouring properties beyond a compliant building form.
- The social benefits of providing a hostel, aged care facility within an accessible location should be given weight in the consideration of the variation request.
- The proposal is compatible with the character of the streetscape and locality, including the prevailing building heights along Forest and Prospect Road, despite the exceedence.
- The proposed development meets the objectives of the development standards and the objectives of the R2 Low Density Residential zone.
- There is no significant amenity impacts of the non-compliance on the locality, the amenity of future building occupants and on area character, including:
 - No additional impact on overshadowing of adjoining properties;
 - No additional privacy impacts on adjoining properties; and
 - No additional view loss for adjoining properties.
- The proposal achieves the objects in Section 1.3 of the EP&A Act, specifically the proposal:
 - Facilitates a sustainable development by providing Seniors Housing in an appropriate and accessible location and will have a positive economic and environmental impact on the locality (Object 1.3b);

- Promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for an appropriate residential use (Object 1.3c);
- Is compatible with the surrounding built form and despite the height non-compliance, will not adversely impact neighbouring amenity and will provide amenity for prospective occupants (Object 1.3g).

Two (2) storey height limit at boundaries (additional reasons)

- The recessive mansard style roof form and a greater setback (when compared to two storey form) ensures the proposal will be predominantly two storeys when viewed from the public domain with the additional storey being an attic space and therefore compatible with the desired character of the zone.
- Given general compliance with both height development standards, the provision of an additional storey is not considered to have any further impact to the sense of enclosure or amenity of neighbouring properties.
- The location and siting of the heritage structure and landscaped setting, restrict the capability of the proposal providing a larger building envelope at ground level, with the removal of the third storey impacting on the feasibility given a 1:1 FSR would not be achievable.

One (1) storey height limit at rear 25% of the site (additional reasons)

- The proposed non-compliance is not considered to be strictly as the site has two street frontages which preclude strict compliance with this standard.
- The built form at the rear of the site will not be visually obtrusive or jarring when viewed from Prospect Road and the proposal represents generally minor non-compliances and is compatible with regards to the bulk and scale of Prospect Road.
- The proposal is designed to present as a two storey built form with attic third storey at the rear of the site. The proposed design measures limit the bulk and scale of the development when viewed from the public domain and are an improvement on the current building form which has a nil setback to Prospect Road and does not afford any visual benefit to the streetscape character of the site.
- The site is constrained by the location and siting of the heritage item and the proposal cannot achieve a 1:1 FSR (per the SEPP Seniors) without the proposed non-compliance.

Consultant Planner comment:

The environmental planning grounds relied upon by the applicant are not supported due to:

- *Minor and due to site topography* – The largest exceedence of the proposal for the overall height limit is 1.8 metres at its greatest and 200mm for the majority of the building form. While the topography of the site influences the height exceedence in the north-western corner of the site, there are no such site constraints on the large part of the site which would prevent a compliant development. A more site-specific design could be provided which integrates the proposed building form into the site and increases the compliance with the planning controls.
- *Complies with the 9m (LEP) height standard* – While the proposal complies with the LEP development standard for the majority of the proposed building form, the proposal

provides for a different land use type than that of residential scale building such as dwelling which is the intention of the 9 metre height limit. The proposed form of the building lacks sufficient articulation for the building to comprise an overall height of 9 metres with this low density residential area.

- *Compatible with neighbouring residential dwellings and character of the zone* – As outlined in the key issues section of this report, it is considered that the proposal does not provide a building form which is compatible with the adjoining residential development nor is it compatible with the general character of the low density zone.
- *Built form articulation, generous setbacks & architectural design measures* – The proposed built form has not been designed with adequate setback or articulation nor does it propose a bulk and scale of development that is compatible with the surrounding development. The significant urban design issues of the proposal are further considered in the key issues section of this report.
- *Ceiling heights* - The proposed floor to floor heights have been reduced to below the applicable building standards to allow greater compliance with the overall height limits to be achieved, which is not supported.
- *Social benefits* – There are social benefits arising from the proposal in that hostel accommodation is to be provided for vulnerable parts of the population, however, a compliant development could be provided which also provided this accommodation on the site.
- *Compatible with the character of the streetscape and locality* - The proposed development presents a 3-storey continuous wall of development (approx. 39m in façade length) to Prospect Road and when viewed from Forest Road, does not present a harmonious fit to the context and is considered excessive in its current form which arises from the height exceedence.
- *Compliance with the objectives of the development standards and the zone* – This is addressed above.
- *No significant amenity impacts* – There are a number of potential amenity impacts arising from the proposal as discussed in Section 5. However, the amenity impacts arising from the height exceedence primarily relate to potential overshadowing and visual impacts. The potential overshadowing from the proposal itself as well as arising from the height exceedence has not been adequately addressed. There are also significant visual impacts arising from the height exceedence as the bulk of the development has not been adequately addressed.
- *Achieves the objects in Section 1.3 of the EP&A Act* – The proposal is considered to be inconsistent with Object (g) due to the proposed height breach as it contributes to the compromised amenity of the surrounding properties (refer to Section 3.1).

Two (2) storey height limit at boundaries & One (1) storey height limit at rear 25% of the site

- *Roof form and greater setback* - As outlined in Section 5.1 of this report, the proposed roof form does not adequately mitigate the impacts of the bulk and scale resulting from

the proposed building form. The continuous roof form with inadequate articulation, setbacks and variations make it appear to be a normal habitable floor level, contributing to the excessive form and therefore is not compatible with the desired character of the area.

- *No additional sense of enclosure or amenity impacts to neighbouring properties* – As outlined in Section 5.1 of this report, the proposed built form with reduced side setbacks and height exceedence creates an increased sense of enclosure and visual impact to the adjacent residential developments.
- *Site constraints and feasibility* – While the heritage item and landscaped setting restrict a larger floor plate building from being achieved at ground level, the ability to achieve a 1:1 FSR is unlikely to be achieved on this site given such a constraint. The density controls provided through the FSR development standard are maximums and are not always going to be achieved on a site. This raises concerns with regard to site suitability pursuant to Section 4.15(1) (c) of the EP&A Act.
- *Not visually obtrusive or jarring from Prospect Road* – While the applicant contends that the Prospect Road frontage is not a rear boundary, it is important to consider that this boundary is where the proposal has the greatest impact. The proposal is almost entirely concentrated in this portion of the site and is also the location which has the greatest potential for conflict with the compatibility of the neighbourhood given the low density, detached nature of the existing housing along Prospect Road.

While most of the non-compliance with the overall height for the development is less than 200mm, the remaining non-compliances with number of storeys adjoining boundaries and the rear 25% of the site are much greater. In this instance, the proposal is one (1) storey greater than the height limit along the boundaries and two (2) storeys higher than the height limit along the Prospect Road frontage. Importantly, while the proposed Housing SEPP proposes to remove the rear 25% height limit of one storey, the development standard limiting the overall development to a maximum of two (2) storeys adjacent to the boundary is retained.

In general, it is considered that the proposal with its inherent height exceedence represents an abrupt change in the scale of development in the streetscape and in this way, the proposed height non-compliances are not supported for the proposal in its current form.

In this respect, the applicant's justification is not supported and it is considered that the environmental planning grounds have not been adequately demonstrated in this request. Accordingly, it is considered that Clause 4.6(3) (b) has not been satisfied.

The proposal is in the public interest as it is consistent with the objectives of the standard and the zone objectives – Clause 4.6(4) (a) (ii)

The second opinion of satisfaction in the first precondition, in cl 4.6(4) (a) (ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out.

Applicant's Justification:

The proposed development is consistent with the objectives of Zone R2 in that it will result in the

development of a residential use in an accessible area. The use will be compatible with the mix of uses in the zone and will be compatible with the existing environmental and built character of the locality. The building height variation is not antipathetic to the objectives for the zone and for that reason the proposed variation is acceptable.

Specific objectives are also addressed:

- The proposed development will provide for a high quality hostel facility in an appropriately accessible location. There is a clear need for additional seniors housing in the locality, particularly to serve affordability objectives, and the proposed development will serve a specific portion of the community within the immediate and wider locality.*
- The proposal will not prejudice any land uses that provide facilities or services to meet the day to day needs of residents in the zone or wider locality. The development will give rise to positive social, economic and community outcomes by providing high quality hostel to meet a demonstrated need in the locality.*
- The proposed development will provide for a hostel facility which will serve disadvantaged women over 55 years of age and has been designed to ensure the amenity of neighbouring residential dwellings will be retained as discussed in this Statement. The proposal has also been purposefully designed to reflect the built form and character of the heritage item on the subject site and includes the provision of landscaping throughout. The non-compliances will not affect the proposals achievement of this objective.*
- The proposal will provide a high level of amenity, being solar access and ventilation, to future residents of the proposed hostel whilst maintaining an appropriately level of privacy and solar gain to neighbouring properties.*
- The proposal provides significant landscaping including deep soil landscaping along the boundaries of the site and to Forest and Prospect Roads. The proposed landscaping has been specifically designed to complement the character of the heritage landscaped setting on the subject site and will provide improved visual amenity from the public domain, neighbouring properties and within the subject site. The Landscape Plan includes the retention of a number of trees and enhancement with new plantings.*

Consultant Planner comment:

This matter requires demonstration that the proposal is in the public interest as it is consistent with the objectives of both the development standard and the zone objectives.

Consistency with the objectives of the height development standard has already been considered above where it was concluded that the proposal does not adequately demonstrate that the proposal achieves the objectives of the height development standard. The zone objectives now need to be considered.

As outlined in Section 3.2.1(h) of this report, the proposal is considered to be inconsistent with the objectives of the R2 Low Density zone. The objectives of zone pursuant to Clause 2.3 of the LEP are relevant and include (emphasis added):

- To provide for the housing needs of the community within a low density residential environment.*
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

- **To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.**
- **To ensure that a high level of residential amenity is achieved and maintained.**
- **To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.**
- To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.

The proposal is considered to be inconsistent with these zone objectives as it presents an excessive bulk and scale which is unsympathetic to the existing and desired future character of the area. The proposal does not provide for the housing needs of the community within a low density residential environment as the proposed built form is more aligned with a medium to high density development resulting from the additional height, and the lack of adequate setbacks and articulation in the facades.

The proposal is also considered to result in various adverse impacts on the amenity of the surrounding area and does not achieve a high level of residential amenity for residents in the area (further considered in the Key Issues section). The lack of adequate landscaping, particularly along the side boundaries, exacerbates the bulk and scale of the proposal and does not allow for landscaping to be a major element in the proposal.

Accordingly, the proposal is considered to be inconsistent with the 3rd, 4th and 5th objectives (in bold above). The applicant's justification that the proposal is consistent with the zone objectives is not supported and therefore it is considered that the proposal is not in the public interest as it is consistent with the objectives of the standard and the zone.

It is considered that the written request has not adequately demonstrated both of the matters required for the first precondition.

Second Precondition - Clauses 4.6(4) (b) and (5) – Concurrence of the Secretary

The second precondition that must be satisfied before the consent authority can grant consent for development that contravenes a development standard is that the concurrence of the Secretary has been obtained pursuant to Clause 4.6(4) (b) of the Hurstville LEP 2012.

Pursuant to Clause 64 of the *Environmental Planning and Assessment Regulation 2000*, the Secretary has granted assumed concurrence to various proposals as outlined in Planning Circular PS 20-002 issued on 5 May 2020 subject to conditions. The conditions relevant in this case are that the proposal is for *regionally significant development* and accordingly the Panel can assume the Secretary's concurrence for this application. Accordingly, this second precondition has been satisfied by the proposal.

In *Initial Action*, Preston CJ, considered that the Court should still consider the matters in Clause 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard.

The matters for which the Secretary is to take into consideration in deciding whether to grant of concurrence include:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

These matters are considered below in the context of the applicant's written request.

Applicant's Justification

The applicant considers that:

- the contravention of the building height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning; and
- in relation to the public benefit in maintaining the development standard, there are no unreasonable impacts that will result from the proposed variation to the 8m building height, overall 2 storey limit and 1 storey rear setback limit. As such there is no public benefit in maintaining strict compliance with the development standard. Pursuant to Clauses 40(4) (a), (b) and (c) of SEPP (Seniors Housing), the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development standards and the objectives of the zone that make the proposed development in the public interest.

Consultant Planner comment:

It is agreed that there is no matter of state or regional significance which arises out of the proposed height exceedence, however, there is considered to be a public benefit in maintaining the development standard as it provides for a greater level of amenity to the surrounding area. The variation would result in adverse impacts to the streetscape and adjoining properties and is inconsistent with the objectives of the development standard and the zone.

Therefore, it is considered that the written request has not adequately demonstrated the matters required for the second precondition.

Accordingly, since the proposed Clause 4.6 request has not adequately demonstrated compliance with either of the preconditions, it is recommended that the Clause 4.6 is not supported for the exceedence of the maximum height limit for the proposed development.

Proposed Instruments (S4.15 (1) (a) (ii)

(i) Draft Georges River Local Environmental Plan 2020

The *Draft Georges River Local Environmental Plan 2020* ('Draft LEP 2020') was publicly exhibited from 1 April to 31 May 2020 and 1,153 community submissions were received. Accordingly, the Draft LEP 2020 is a consideration pursuant to Section 4.15(1) (a) (ii) of the EP&A Act.

Following several amendments being made to the draft Plan by the Local Planning Panel, the

Draft LEP was submitted to the Department for final legal drafting on 30 June 2020. The Draft LEP (map 4) proposes to retain the R2 Low Density Residential zoning for the site (**Figure 27**) and impose the following development standards:

- Height of buildings – 9 metres (retained from current LEP) (**Figure 28**); and
- FSR and 0.55:1 (max GFA of 1,470.2m²) (reduced from 0.60:1 from current LEP) (**Figure 29**).

The development standards of the Seniors Housing SEPP will continue to prevail over these development standards under the Draft LEP.

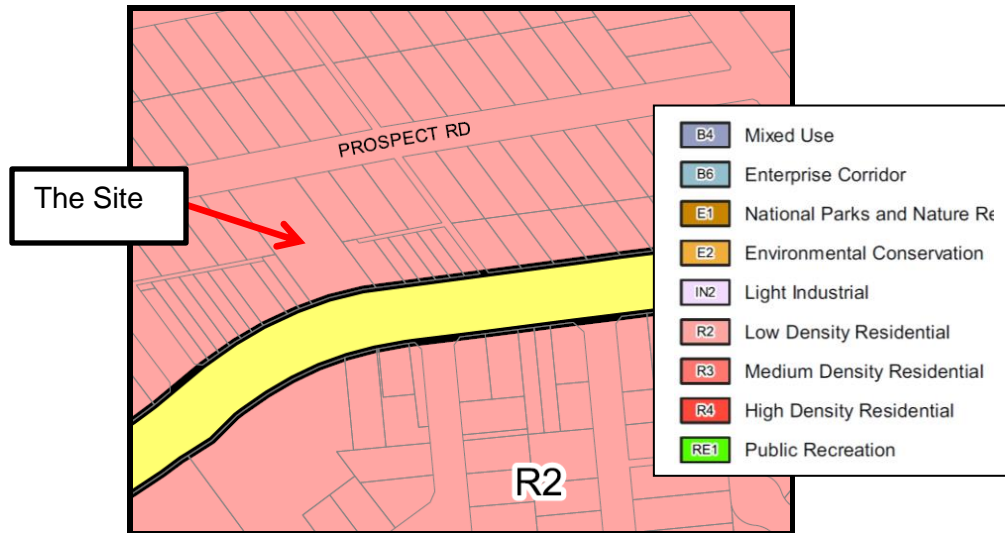


Figure 27: Proposed Zoning - Draft - LEP 2020 (Source: www.georgesriver.nsw.gov.au)



Figure 28: Proposed Height Map - Draft 2020 (Source: www.georgesriver.nsw.gov.au)

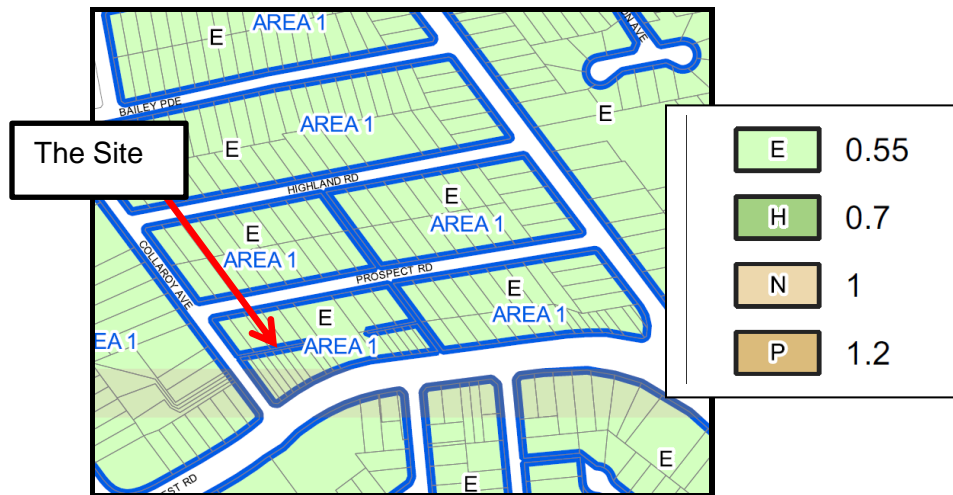


Figure 29: Proposed FSR Map - Draft LEP 2020 (Source: www.georgesriver.nsw.gov.au)

(j) Draft Remediation of Land SEPP

The draft *Remediation of Land SEPP* will replace SEPP 55 when gazetted and will include the following additional requirements:

- To require all remediation work that is to be carried out without development consent, to be reviewed and certified by a certified contaminated land consultant
- To categorise remediation work based on the scale, risk and complexity of the work
- To require environmental management plans relating to post-remediation management of sites or ongoing operation, maintenance and management of on-site remediation measures (such as a containment cell) to be provided to Council.

The proposed changes will deliver the following improvements:

- reduce the risks associated with remediation projects
- encourage proponents to better consider and plan remediation work
- better protect the community from unnecessary risks, disturbance and inconvenience
- ensure there is consistent regulation of contaminated land and facilitate enforcement of long-term environmental management plans.

The overarching objective of SEPP 55 is to promote the remediation of contaminated land to reduce the risk of potential harm to human health or the environment, which remains relevant and will be replicated in the new SEPP. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land. The proposal is considered to be consistent with SEPP 55 as outlined above and is also considered to be generally consistent with Draft Remediation of Land SEPP. Relevant conditions can be recommended to be imposed. The proposal is consistent with this draft instrument.

(k) Draft Environment SEPP

A draft *State Environmental Planning Policy (Environment)* for the protection and management of the natural environment is proposed. The Draft Environment SEPP proposes to simplify the

planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property and seeks to combine seven existing SEPPs into a simple, modern and accessible instrument. This includes the Georges River REP. The changes include removing duplication with other legislation and updating the remaining provisions and transferring them to the SEPP (Environment), including provisions regarding aims and objectives, heads of consideration and prohibitions for certain types of development including waste management facilities or chemical/fuel storage plants on flood liable land.

There are no draft provisions of this policy which would affect the proposal. Accordingly, the proposal is not inconsistent with this policy.

(I) Draft Housing SEPP

The NSW Government has developed a new *Housing State Environmental Planning Policy* (Housing SEPP) which aims to facilitate the delivery of more diverse and affordable housing types. An Explanation of Intended Effect (EIE) for a proposed Housing SEPP was exhibited between 29 July and 9 September 2020, with submissions received having been considered in the formulation of a public consultation draft of the proposed Housing SEPP currently on exhibition. It is intended that the Housing SEPP is finalised in October 2021.

The proposed Housing SEPP will:

- consolidate five existing housing-related SEPPs (State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004; State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes); State Environmental Planning Policy No 21—Caravan Parks; and State Environmental Planning Policy No 36—Manufactured Home Estates;
- include the recently made provisions for short term rental accommodation and build-to-rent housing;
- include the recently updated social housing provisions;
- introduce provisions for co-living housing, a form of housing that provides small private rooms (which may or may not include private kitchen and bathroom facilities), offset by access to managed communal spaces;
- incorporate amendments to boarding house and seniors housing provisions;
- amend some local environmental plans in relation to secondary dwellings in rural zones, and the permissibility of boarding houses in R2 zones.

The proposed Housing SEPP allows the proposal on the site pursuant to Clause 67 as Part 4 (Seniors Housing) applies to the R2 zone. The development standards for minimum sizes and building height pursuant to Clause 40 of the current Seniors SEPP are provided in the draft Housing SEPP in Clause 74, however, the definition of building height is amended to be consistent with the Standard Instrument and removes the maximum of one (1) storey for the rear boundary.

It is considered, however, that the proposal still exceeds the maximum of two (2) storeys adjoining a boundary and also exceeds the maximum proposed height of 9 metres. The proposal is also incompatible with the surrounding area in terms of height, design and scale and is still considered to be unacceptable.

Similarly, the design principles of Clause 33-39 of the Seniors Housing SEPP are included in the proposed Housing SEPP in Clause 87-93. Accordingly, the concerns in relation to urban design and bulk and scale, amenity, safety and security and stormwater and waste management continue under the proposed Housing SEPP and remain significant concerns.

Development Control Plan (S4.15 (1) (a) (iii))

(m) *Hurstville Development Control Plan No. 1*

The *Hurstville Development Control Plan No 1* ('the DCP') applies to the site, with the relevant sections as outlined below:

- Section 3: General planning considerations relevant to the site – considered below.
- Section 4: Specific controls for residential development – does not apply to seniors housing development;
- Appendix 1 – Supporting Information (Clause 7 – Waste Management and Clause 9 - Preservation of Trees and Vegetation)

The relevant considerations of Sections 3 and 4 are outlined below.

Section 3: General Planning Considerations

Part 3.1: Vehicle Access, Parking and Manoeuvring

This section provides controls for vehicle access, car parking and manoeuvring, however, the car parking requirements for the proposal are contained within the Seniors Housing SEPP. In this regard, the proposal provides 14 residential spaces (70 rooms/5 spaces), 2 staff spaces (1 space/2 staff) and 1 ambulance space, complying with the requirements of the Seniors housing SEPP. The proposal cannot be refused on the basis of car parking pursuant to Clause 49(d) of the SEPP. The remainder of this Part of the DCP remain relevant to the current proposal.

The site is located in an 'accessible location' as required by the SH SEPP, although the access to public transport is limited. Council's traffic engineer considers that green travel plans should be provided with the proposal and that a shuttle bus should be provided by the facility to assist with public transport options for residents. It is considered that a shuttle bus should be provided for the site and is recommended to be imposed on any consent granted for the proposal.

A Traffic Report has been provided and reviewed by Council's traffic engineer and several concerns were raised in relation to the car parking design, which are considered in the key issue sections of this report.

Part 3.2: Subdivision

The proposal does not involve subdivision.

Part 3.3: Access and Mobility

The controls for access and mobility are addressed in the Access report, which concluded that the proposal has the capacity to meet the performance requirements of the BCA and relevant standards through deemed to satisfy provisions and is capable of compliance with the DCP. Relevant conditions can be imposed on any consent granted.

Part 3.4: Crime Prevention Through Environmental Design

These controls apply to residential flat buildings, mixed use developments, commercial developments, light industrial developments, public buildings and multi dwelling housing and accordingly do not strictly apply to the proposed development. There are numerous components of the proposal which are contrary to the crime prevention controls in relation to the layout of the proposal, including the location of communal areas and the potential for concealment opportunities in the basement. These concerns are further addressed the key issues section of this report.

Part 3.5: Landscaping

The controls in this Part of the DCP only apply to residential development in the R2 and R3 zones and accordingly, do not strictly apply to the proposal. A Landscape Plan has been provided, with raises the following issues:

- Removal of one of the heritage trees is not supported (discussed above) and an Arborist report is required (DS3.1); and
- Landscaping is provided along both of the front boundaries and along the side boundaries, however, this area is only 1.6m wide when 2 metres is required for significant boundary planting to be provided and to comply with the DCP (DS4.1 & 5.1). .

These concerns are further addressed the Seniors Housing SEPP assessment.

Part 3.6: Public Domain

Council's Engineers consider the proposal is consistent with this part of the DCP and that relevant conditions of consent can be imposed to ensure compliance.

Part 3.7: Stormwater

This chapter applies to development that involves management of stormwater and accordingly is applicable to this proposal. The Stormwater Drainage Plan has been reviewed by Council's Development Engineer and it is considered that there were insufficient details regarding the stormwater drainage for the site. This matter is further considered in the key issues section of this report.

Section 4: Specific Controls for Residential Development

The controls of Section 4 do not apply to seniors housing developments and are therefore not relevant to the proposal. However, these controls apply to the adjoining properties where dual occupancies and dwelling houses are permissible (it is noted above that *Multi dwelling housing* and *residential flat buildings* are prohibited in the zone). Accordingly, consideration of these controls is warranted, particularly in relation to height and setbacks, outlined in **Table 6** and considered in the Key Issues section of this report.

Table 6: Consideration of Section 4 of the Hurstville DCP

DCP Control	Dual Occ	Dwelling House	Proposal	Comply
Height	6.8m (wall height)	LEP control 9m	10.18m (LEP)	No

(PC 2)	9m (ridge) 2.4m – 3.6m (ceiling)	7.2m (ceiling) 7.8m (flat roof - ridge) 9m (ridge – pitched)	9.8m (SEPP)	
Front Setback (PC 3)	5.5 metres	4.5 metres or 20% of average setback of adjoining lots	Forest Rd - 5.9m Prospect Rd – 3m (basement) 3m (gnd terrace) 4m (gnd building)	Yes No
Side Setback (PC 3)	900mm (gnd); 1.2m (1 st)	<ul style="list-style-type: none"> 900mm (gnd); 1.2m (1st) 	1.68m (gnd – 2 nd) Mainly 4.07m	Yes
Rear setback (PC 3)	7m (gnd); 9m (1 st)	<ul style="list-style-type: none"> 3m (basement/ gnd) 6m (1st floor) 	3m – balcony 4m – building	No
Landscaped area (PC10)	20%	20%	40% (1,070.2m ²)	Yes

Appendix 1: Supporting Information*Clause 7 - Waste Management*

The objectives of these controls, which apply to all land, are to provide on-going control for waste handling and minimisation in all premises. The *Operational Waste Management Plan* ('Waste Plan') provided with the application is not supported as it has significantly underestimated the likely waste and recycling to be generated on-site once operational. The Plan has also provided insufficient room for waste storage and management. The proposal is considered to be unacceptable in regard to waste management, which is further considered in the key issues section of this report.

Clause 9 - Preservation of Trees and Vegetation

The primary aims of this Section are to, among other things, encourage the planting and preservation/conservation of suitable trees and other vegetation which will contribute positively to the City's visual amenity, environmental heritage, habitat connectivity and ecological sustainability. The removal of the heritage tree (Tree 10) is not acceptable and is considered in the key issues section.

(n) Georges River Interim Policy Development Control Plan 2020

The *Georges River Interim Policy Development Control Plan 2020* was approved by Council on 24 June 2019 and is effective from 22 July 2019 ('the Interim Policy'). The aim of the Interim Policy is to address current inconsistencies in development controls arising from the amalgamation of Kogarah and Hurstville Councils. The Interim Policy is a public document used by Development Assessment planners in their assessment of residential DAs and will ensure that assessment is consistent across the LGA.

The provisions of this Interim Policy only relate to dwelling houses, dual occupancies, multi dwelling housing and residential flat buildings. Accordingly, the Interim Policy is not relevant to the current proposal.

(o) Development Contributions

The proposed development would require the payment of development contributions; however, given the concerns with this proposal, these contributions have not been calculated for the development application.

Planning Agreements (S4.15 (1) (a) (iia))

There are no planning agreements that pertain to this site.

The Regulations (S4.15 (1) (a) (iv))

Clause 92 of the Regulations contains additional matters that the consent authority must consider, which include, in the case of a development application for the demolition of a building, the provisions of AS 2601. Relevant conditions can be recommended to be imposed on any consent issued for compliance with this Australian Standard in Schedule 1.

3.2.2 S4.15(1)(b) - Likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The consideration of impacts on the natural and built environments includes:

- Context and setting – The proposed built form does not achieve a sympathetic response to the existing and desired future context, it does not provide visual interest to the public domain and the building facades fail to contribute positively to the existing streetscape character. Front setbacks are insufficient and the basement driveway also presents a poor outcome resulting in adverse impacts to surrounding properties and the streetscape. The bulk and scale of the proposal is also not supported as it is incompatible with the existing prevailing character of the surrounding residential area. These issues are discussed further in the key issues section of this report.
- Access and traffic – The proposal has been considered having regard to access, car parking and traffic generation in the accompanying Traffic Report and by Council's engineer. Following a thorough consideration of the proposal and the relevant controls, it is considered that there are some concerns in regard to the design of the car parking areas and vehicle access. Traffic generation is also considered to be unsatisfactory given the likely adverse impacts on Prospect Road. These issues are discussed further in the key issues section of this report.
- Public Domain – The proposal will not utilise any of the existing footpaths or public roads. The proposal will not impede pedestrian access in the area and will not impinge on any public areas.
- Utilities – All utilities are available at the site.
- Heritage – The site contains a heritage item, which is discussed further in the key issues section of this report. It is considered that the proposal is unsatisfactory having regard to impacts on heritage.

- Natural environment – The proposed development is unlikely to result in significant adverse impacts to the natural environment as the site is within the urban footprint of Hurstville and there are minimal changes to the natural topography (with the exception of the basement). While there are several trees and other vegetation proposed to be removed, additional landscaping is proposed. Potential impacts to the heritage garden are considered in the heritage assessment, while the general lack of landscaping is also separately addressed.
- Noise and Vibration – The proposal has the potential to create a noise disturbance in the area as the site is located adjoining residential development. An Acoustic Report has been prepared for the proposal, which Council's Health Officer considers is satisfactory subject to the recommendations being imposed as conditions (on any consent granted).
- Natural hazards – The site is not affected by any natural hazards.
- Social and economic impact – It is considered that the proposal is unsatisfactory in that there has been insufficient consideration of the potential social impacts on the surrounding residential area and the lack of details on the proposed operation of the facility on the site. In relation to economic impacts, the proposal is likely to have a positive economic impact on the area in relation to employment operations during construction and operation and business investment in the area.
- Site design and internal design – There are numerous urban design concerns with the proposal which have been considered in the Seniors Housing SEPP assessment, while the proposed vehicle access is unsatisfactory given the adverse impact on the public domain. These issues are considered further in the key issues section.
- Construction – Relevant conditions can be imposed on any consent issued.
- Cumulative impacts – The proposal has the potential to result in an adverse cumulative impact if the proposal was supported in its current form as the proposal involves an unacceptable building form which is incompatible with the area.

Accordingly, it is considered that the proposal is likely to result in some adverse impacts on the built environment in the locality which are discussed in the key issues section of this report (where relevant).

3.2.3 S4.15(1)(c) - Suitability of the Site for the Development,

The site is suitable for a proposed hostel development, however, not in the form which is currently proposed given the adverse urban design outcome and bulk and scale issues on the site (further considered in Section 5 of this report). The site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposal.

3.2.4 S4.15(1)(d) - Any submissions made in accordance with this Act or the regulations,

The application was publicly exhibited and notified to immediately adjoining properties for 28 days from 24 February 2021 to 10 March 2021 (renotified due to Council error – no changes to

the proposal). Council received 132 written (emailed) submissions in response as well as an online petition with around 980 signatures (as at the close of the exhibition period). Of these submissions, 34 submissions were in support and 98 were objections.

It is noted that this tally of submissions comprises the number of unique submissions which were provided as submissions to Council. The majority of these submissions were provided on multiple occasions as they were often accompanied by numerous letters and emails from State Member for Oatley Mark Coure MP and the Federal member for Banks, David Coleman MP.

The issues raised in the submissions raising objection to the proposal are discussed in detail in **Attachment B**. The submissions in support stated that the proposal is needed to prevent/reduce the number of homeless older women (which is increasing) and it is in a good accessible location (Forest road). The issues raised in submissions are further considered in the key issues section of this report (where relevant).

3.2.5 S4.15(1)(e) - The Public Interest

The proposal does not satisfy the relevant planning controls and is inconsistent with some of the objects of the EP&A Act in relation to the adverse impacts on heritage and the lack of good urban design for the proposal. The proposed development will adversely affect the amenity of immediately adjoining properties and will negatively affect the character and nature of the neighbourhood. Accordingly, it is considered that the proposal is not in the Public interest.

4. REFERRALS

4.1 Internal Council Referrals

The application was referred to the following internal Council referral officers and engaged consultants:

- *Urban design (consultant for Council)* - Council engaged an Urban Design Consultant to review the design of the proposal, in the absence of a SEPP 65 design review panel. There were significant concerns raised in relation to the design and bulk and scale of the proposed built form. The proposal in its current form was not supported. The urban design review is provided at **Attachment C**. The urban design issues are considered further in the key issues section of this report. The proposal is considered to be unacceptable in regard to urban design.
- *Council's Heritage Consultant* - Council engaged a Heritage Consultant, Edwards Heritage Consultants, to review the proposal and the submitted Statement of Heritage Impact. Council's heritage review dated 7 March 2021 considered three distinct aspects of the proposal from a heritage perspective, including the demolition of the rear additions to the building, whether the proposed hostel building was satisfactory and the proposed tree removal and landscaping. Council's Heritage Consultant considered that changes to the proposed building footprint/setback and tree retention were required for the proposal to be satisfactory from a heritage perspective. There were no changes made to the proposal and accordingly these heritage concerns remain. These issues are further discussed in Key Issues section.

- *Consulting Arborist (20/10/20)* – Council engaged a Consultant Arborist to review the proposal, however, an Arborist's report was not provided with the application and the applicant informed Council that the report would not be provided.
- *Engineering (Traffic)* – Council's traffic engineer raised several concerns with the proposal which are considered in the assessment of the DCP above. This issue is considered further in the key issues section.
- *Engineering (Stormwater)* – Council's Drainage Engineer reviewed the proposal and raised several concerns with the proposal which are considered in the assessment of the DCP above. The proposal is considered to be unacceptable in regard to stormwater management.
- *Engineering (public domain)* – Council's engineer considered the proposal and raised no objections, subject to standard conditions being imposed on any consent granted.
- *Environmental Health Officer* – Council's Environmental health Officer considered various issues including potential land contamination, acoustic impacts and compliance with food [remises and swimming pool regulations. The absence of a contamination report was considered satisfactory given the site's residential use while the Acoustic Report was considered satisfactory. Relevant conditions could be imposed to ensure compliance with the relevant health requirements.
- *Waste Officer* – Council's Waste Officer reviewed the proposal and considered there were no concerns in relation to the demolition and construction waste management, however, raised several concerns in relation to the proposed waste management arrangements for the ongoing use of the premises. This issue is considered in the assessment of the DCP and the key issues section of this report. The proposal is considered to be unacceptable in regard to waste management.
- *Property* – Council's property division has provided owners consent for the development application given a small portion of the land is owned by Council. Council's Property section also advised that this small portion of Council-owned land comprises a public pathway (road reserve) and that there would be no in-principal objection to a formal road closure and sale of this public pathway however, this is subject to a resolution of Council to proceed. Any road closure and sale will be at market value with all costs associated with the proposed road closure to be at the applicant's expense. These include, but are not limited to, valuation, survey, legal, and advertising, lodgement and registration costs. This issue is considered further in the key issues section.

4.2 External Agency Referrals

The application was referred to the following external government agencies. No objections were raised to the proposal subject to relevant conditions of consent as outlined below:

- *Ausgrid* – The application was referred to Ausgrid pursuant to Clause 45 of the Infrastructure SEPP. No objections were raised subject to standard conditions. Satisfactory subject to standard conditions to be imposed on any consent granted.
- *Transport for NSW* – The application was referred to Transport for NSW ('TfNSW') for

comment in accordance with Clause 101 of the Infrastructure SEPP and concurrence under Section 138 of the *Roads Act 1993*. TfNSW has reviewed the submitted application and would provide concurrence to the proposed works on the Forest Road frontage under Section 138 of the *Roads Act 1993*, subject to Council's approval and several requirements being included in the development consent.

Relevant conditions can be imposed on any development consent.

5. KEY ISSUES

Following a thorough consideration of the relevant statutory considerations and issues raised in community submissions, there are a number of key issues which require further consideration. These issues include the following and are considered in detail below:

- Urban design
- Height of buildings
- Impact on Heritage
- Privacy and overshadowing impacts
- Landscaping, landscaped area and tree removal
- Safety and security
- Technical and design issues (stormwater, waste management and car parking)
- Traffic generation and lack of public transport
- Social impacts and use of the premises
- Council owned land.

5.1 Urban Design

The design of the seniors housing developments is an important consideration under the Seniors Housing SEPP. The importance of this matter is emphasised in both the aims of the Policy in Clause 2 as well as the design guidelines provided in Chapter 3.

The aims of the Policy include (emphasis added):

2 Aims of Policy

- (1) *This Policy aims to encourage the provision of housing (including residential care facilities) that will—*
 - (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
 - (b) *make efficient use of existing infrastructure and services, and*
 - (c) **be of good design.**
- (2) *These aims will be achieved by—*
 - (a) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
 - (b) **setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and**
 - (c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban*

purposes.

The design principles of the Seniors Housing SEPP (Division 2 of Part 3; Clause 33 to 39) requires that a consent authority must not consent to a development application unless it is satisfied that the proposal demonstrates that adequate regard has been given to these principles. A number of these design principles have not been adequately demonstrated for the proposal. These matters are outlined in the compliance table for the Seniors Housing SEPP in **Attachment A** and are further considered in the relevant issues in this section of the report.

The design principles relevant to urban design include (emphasis added):

33 Neighbourhood amenity and streetscape

The proposed development should—

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*
- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by—*
 - (i) providing **building setbacks** to reduce bulk and overshadowing, and*
 - (ii) using **building form and siting** that relates to the site's land form, and*
 - (iii) adopting **building heights** at the street frontage that are compatible in scale with adjacent development, and*
 - (iv) considering, where buildings are located on the boundary, the **impact of the boundary walls on neighbours**, and*
- (d) be designed so that the **front building of the development is set back** in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) retain, wherever reasonable, major existing trees, and*
- (g) be designed so that no building is constructed in a riparian zone.*

These design principles require building forms to respond to the characteristics of the site to achieve the aims of the Policy which include for developments to be of good design. The potential impact on neighbourhood character is a fundamental consideration under the Seniors Housing SEPP. This is a critical element of this Policy given it sets aside the local controls to provide this housing. The policy considers that good design will be achieved by having adequate regard for the design principles.

Built form matters are also contained in the matters for consideration pursuant to Clause 29(2), which requires the consent authority to consider some of the criteria for site compatibility certificates. In particular, Clause 25(5) (b) (v) must be considered, which states:

- (v) without limiting any other criteria, the impact that the **bulk, scale, built form and character of the proposed development** is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,*

The aims of the Hurstville LEP 2012 also requires that development, among other things, embraces the principles of quality urban design (Clause 1.2(2) (f)) and is

Detailed concerns and issues are discussed below. Height is considered in Section 5.2 below.

Prevailing Character of the Area

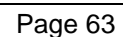
The site is located within a low density residential area, which is predominantly characterised by lower scale, fine-grain residential development comprising one and two storey detached buildings on staggered consistent front and side setbacks. The current planning controls envisage a maximum height of two (2) storey developments within the R2 residential zone with an external wall height of up to 6.8 metres (DCP controls) and a maximum height of 9 metres (LEP controls).

The existing developments in the vicinity of the site present a strong staggered building alignment due to the existing geometry of the lots, with varied landscaped front setbacks to streets of approximately 3 to 10 metres (as measured perpendicular to street boundary from aerial photography). Vehicle entries to basement parking areas are largely recessed away from the street boundary to mitigate potential visual impact to the streetscape character.

Facades

Having examined this prevailing character of the area, it is considered that the proposal presents an excessive bulk that does not provide a sympathetic response to the existing and desired future character of the area.

The design of the proposed facades to both the side and rear boundaries are considered unacceptable. The proposal presents a 3 storey continuous wall of development, with an approximate facade length of 39 metres to Prospect Rd and nearly 52 metres to the eastern side boundary with limited changes in alignment (**Figure 30**). This does not present a harmonious fit to the context and is considered excessive in its current form. The blank wall side facades lack high quality materials and the architectural design does not create visual interest when viewed from the adjoining properties and the surrounding area.



The parallel building alignment to street frontages with insufficient street setbacks and facade articulation to Prospect Road (3 metres to terraces/courtyards and 4 metres to the building on all levels) and side boundaries (minimum. 1.68 metres) further exacerbates its perceived bulk and scale and is incompatible with the existing residential streetscape character. There is no setting back of upper levels.

Building Form and Siting

The proposal also does not adequately integrate the retained heritage item with the main components of the proposed development. The proposed narrow gap of between 0 to 4 metres is an insufficient separation around the heritage item, which coupled with the lack of landscaping, further impacts on the visual relief for adjoining properties.

Roof Form

The mansard roof has been proposed as an 'attic style' third storey to mitigate the visual appearance of the proposal. This roof form, however, fails to achieve this objective as the continuous roof form exhibits inadequate articulation, setbacks or variations making it appear as a normal habitable floor level, contributing to the excessive form. A considerable reduction in its footprint area is required to create an appropriate roof profile that will moderate the proposed form. This could be achieved with increased setbacks and breaking up of the roof form.

Building Setbacks

The proposal involves insufficient setbacks to the side and rear boundaries. The DCP provides varied setback controls for different types of residential development within the R2 zone (Section 4), with the common objectives for setbacks including (Section 4.3.3 PC3 and 4.4.3 PC3):

"...compatible with predominant patterns of buildings and gardens that define the existing and desired character of each neighbourhood".

The bulk and scale of the proposed built form is exacerbated by the lack of adequate side and rear setbacks. The inadequate setbacks are also inconsistent with the predominant setbacks in the area which are generally 3 to 10 metres staggered from the front boundary. These reduced setbacks create an increased sense of enclosure and visual impact to the adjoining residential developments. The three (3) storey egress stairs within the setback area further exacerbate this adverse visual impact.

A detailed streetscape analysis has not been provided, which would have assisted in informing an appropriate built form outcome for the site.

Ceiling Heights

The floor to floor heights appear to be under the minimum requirements and there is a lack of clarity and detail regarding these heights. In this regard, the approximate floor to floor height of the ground and first floor levels is 2.9 metres while Level 2 is 2.4 metres, which is unacceptable. The reduced floor-to-floor height will compromise the internal residential amenity as such heights will reduce daylight access, natural ventilation and a sense of space for small rooms. Accordingly, the floor-to-floor/floor-to-ceiling heights are unacceptable for the proposal.

Accordingly, it is considered that the proposal is inconsistent with the aims of the Seniors Housing SEPP pursuant to Clause 2(1) (c) and also does not achieve the neighbourhood amenity and streetscape design principles pursuant to Clause 33, required by Clause 32 of the Seniors Housing SEPP.

The proposal is also considered to be contrary to several of the aims of the Hurstville LEP 2012 in that the proposal does not represent the development of land that is compatible with local amenity (Clause 1.2(2) (a) and (e)), does not provide housing choice which is sympathetic to adjoining development (Clause 1.2(2) (c) (iii)) and does not adequately embrace the principles of quality urban design (Clause 1.2(2) (f)).

The proposal is also considered to be contrary to the zone objectives in that the building form compromises the amenity of the surrounding area and does not ensure that a high level of

residential amenity is achieved or maintained.

5.2 Height of Buildings

The proposal consists of a new large L-shaped building which exceeds the three (3) development standards for height under the Seniors Housing SEPP. As outlined in the consideration of the Clause 4.6 variation in Section 3.2.1(h) of the report, the proposal exceeds these development standards in the following ways:

- Overall height limit to ceiling (max 8m) - 9.8m (22.5% variation);
- Number of Storeys adjacent to a boundary (max 2 storeys) - 3 storeys (adjacent to eastern and western side boundaries); and
- Height in rear 25% of the site (max 1 storey) - 3 storeys (along Prospect Rd).

Accordingly, pursuant to Clause 49(a) of the Seniors Housing SEPP, the height of the development could form a reason for refusal given it is inconsistent with Clause 40(4) (a), (b) and (c). A Clause 4.6 request has been provided for all three (3) development standards, which is considered to be unsatisfactory and is recommended not to be supported.

The greatest extent of the proposed exceedence on the overall height limit occurs in the north-western portion of the proposed building, although a smaller exceedence does occur for the majority of the built form. This north-western portion of the site, however, contributes significantly to the streetscape elevation with the resulting bulk and scale of this portion of the building having an unacceptable impact on neighbours and presents as overbearing in terms of bulk, scale and height (discussed further in Section 5.1).

The exceedence of the maximum height of two (2) storeys adjoining the boundaries of the site is the most critical of the height exceedence in terms of impact on the streetscape and adjoining properties. These proposed heights result in the proposal being incompatible with the prevailing character of the area and bulk and scale of existing development in the area.

In summary, the impacts arising from the height of the proposed development include:

- *Built form articulation, setbacks & architectural design measures* – The proposed architectural measures are insufficient to ameliorate the impacts of the 3 storey continuous wall of development to Prospect Road. The proposed third storey, being two (2) storeys above the maximum height, is not sufficiently setback or articulated into an attic to mitigate the adverse impacts arising from the excessive bulk and scale when viewed from Prospect Road (refer to Section 5.1 of this report).
- *Incompatible with the character of the streetscape and locality* -The proposed height above the development standard contributes to the adverse impacts on the character of the area and the proposal represents a significant change in height experienced from the street.
- *Compliance with the objectives of the development standards and the zone* – The height of the proposal is considered to be inconsistent with the zone and height objectives as it presents an excessive bulk and scale which is unsympathetic to the existing and desired future character of the area.

- *Amenity impacts* – There are a number of potential amenity impacts arising from the height of the proposal including potential overshadowing and visual impacts as the bulk of the development has not been adequately addressed (refer to Section 5.1 and 5.5 of this report).
- *Inconsistent with the objects of the EP&A Act (Section 1.3)* – The proposal is considered to be inconsistent with Objects (g) in relation to promoting good design and amenity of the built environment, which is exacerbated by the proposed height breach as it contributes to the compromised amenity of the surrounding properties. These matters are considered further in Section 3.1 of this report.
- *Ceiling heights* - The proposed floor to floor heights have been reduced to below the applicable building standards to allow greater compliance with the overall height limits to be achieved.
- *Sense of enclosure or amenity impacts to neighbouring properties* – The proposed built form with reduced side setbacks and height exceedence creates an increased sense of enclosure and visual impact to the adjacent residential developments.
- *Complies with the 9m (LEP) height standard* – While the proposal complies with the LEP development standard for the majority of the proposed building form, the proposal provides for a different land use type than that of residential scale buildings such as dwellings which is the intention of the 9 metre height limit. The proposed form of the building lacks sufficient articulation for the building to comprise an overall height of 9 metres with this low density residential area.
- *Cumulative impact* – There is likely to be an adverse cumulative impact on the street if the proposed was to be supported as it would set an undesirable precedent for similar three (3) storey developments in this low density residential area. If successive three (3) storey development were to be constructed, the character of the area would be lost and significant amenity impacts would arise for the properties in this area.

The proposed overall height exceeding the maximum permissible height in this location results in an abrupt change in the scale of development in the streetscape and is considered to be unsatisfactory.

5.3 Impact on Heritage

The site contains an item of local heritage significance, comprising “*The Gardens on Forest*”, historically known as “*Collaroy*”, which is listed in Schedule 5 of the Hurstville LEP 2012 as Item I97 (**Figure 19** in LEP assessment). This item, described as a two storey late 19th century Victorian period former dwelling house, was constructed in 1885 and has been used for functions since 1947. The landscaped gardens at the front of the site also contribute significantly to the heritage value of the item (**Figure 31**). The original building has been largely encompassed by various incremental additions which have substantially modified the original setting and context of Collaroy.

The statement of significance, sourced from the NSW Heritage Inventory, states the following:

The property at 764 Forest Road in Peakhurst is of local significance as it encapsulates the original Victorian period house known as “Collaroy” built c1885 and some of its

garden elements. Although the house has been modified significantly, it retains the overall form and original front façade with the veranda. The site is evident of changes due to the needs of the community and example of adaptive reuse since the late 1940s.

The listing includes the façade and gardens only.

The aesthetic quality of the original house has been compromised by the latest additions to the front however, the original front façade is remarkably intact featuring the architectural elements of “Collaroy” from the 1880s. The garden is a significant landscape feature within the immediate area and features some of the trees remnant from the 1940s or earlier.

The building’s surviving Victorian style elements and its association with “Collaroy” would provide a historical connection to the local community. Use of the site as a reception and function centre since the late 1940s would also be important from the local community’s sense of place.



Figure 31: Collaroy - Gardens on Forest heritage item (Source: GBA Heritage, December 2020)

A Statement of Heritage Impact (‘SHI’), prepared by GBA Heritage dated December 2020, accompanied the development application, which concluded that the proposal will have an acceptable heritage impact. The SHI considered that the proposed hostel building would be located away from *Collaroy* in sections of the site with reduced heritage sensitivity and would have a sympathetic design. The SHI concluded that the proposal would have no physical impact on any significant elements of Collaroy House or its front garden and that the primary views of the item and its front garden would be retained. The loss of the rear view of part of Collaroy’s roof (from Prospect Road) would only impact on a secondary view of the item which was considered acceptable.

The SHI also noted the proximity to the Holy Trinity Anglican Church at 671 Forest Road, which is also a listed heritage item under the LEP, and considered the proposal, would not adversely impact on that item’s heritage significance. In forming these conclusions, the SHI considered that Clause 5.10 of the LEP had been satisfied.

Council engaged a Heritage Consultant, Edwards Heritage Consultant, to review the proposal and the SHI. Council's Heritage Consultant considered three distinct aspect of the proposal from a heritage perspective, comprising the demolition of the rear additions to the building, whether the proposed hostel building was satisfactory and the proposed tree removal and landscaping. These are considered below.

Demolition of the rear additions to the building

The proposed demolition works are confined to the later additions to the building, and are limited to fabric of little significance and would positively contribute to reinforcing and re-establishing the ability to appreciate more of the original footprint and form of "Collaroy". The proposed demolition works are supported.

Whether the proposed hostel building is satisfactory

In relation to the proposed new building, the Council's heritage review considered that the new built form would sit higher than the heritage item and will significantly protrude forward of the front alignment of *Collaroy*. The review noted that the additions have been carefully designed to adopt a lean and contemporary architectural form that distinguishes it as 'new work' and will effectively frame *Collaroy*.

The review considered that the height difference is acceptable as the difference will not be clearly evident, with the geometry and materiality of the third storey largely reading as a roof form. However, in terms of the significant protrusion forward of the front of *Collaroy*, the Council's Heritage Consultant stated that consideration must be given to the impact on the curtilage and setting as well as important views to the heritage item.

The Council's Heritage Consultant review stated:

The proposed additions will visually alter the backdrop and setting to the heritage item, and while they will not obscure the primary views to 'Collaroy' when viewed from Forest Road, the setback of 5.9m to the front boundary means that the new building presents an elongated footprint which extends substantially forward of 'Collaroy', thus resulting in the perception of 'hemming in' the heritage item and thus substantially reducing its perceived and actual curtilage.

Some encroachment forward of the front alignment of the heritage item is acceptable and can be tolerated, but this should be balanced by the retention of a generously proportioned and well landscaped front setback. In this manner, it is recommended that the minimum front setback to the additions should be 10m, which would effectively be in-line with the footprint of the hipped roof form as shown on the site plan (reproduced below). This should correspond with pulling in the mansard roof form to retain the two-storey podium presentation to the front.

The site plan from the heritage review is illustrated in **Figure 32**. A further issue raised by Council's urban design consultant is that of the lack of an adequate separation between the proposed new building and the existing heritage item on the site. The proposed narrow gap of between 0 to 4 metres is an insufficient separation around the heritage item.

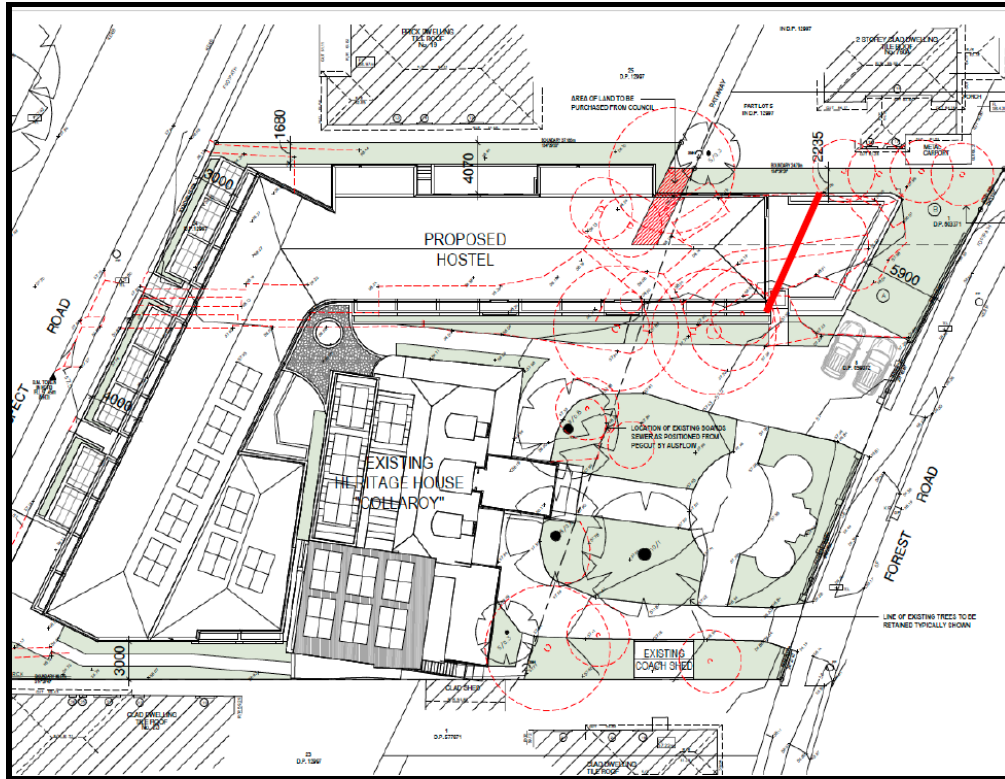


Figure 32: Heritage Consultant's proposed changes (Source: Edwards Heritage, March 2021)

Proposed tree removal and landscaping

This review noted that the landscaped gardens referred to in the statement of significance were largely confined to the front garden area given the rear gardens had been removed for the later additions to *Collaroy*.

The review noted that there were a number of significant landscape plantings which included a mature Norfolk Island Pine, two Canary Island Palms either side of the main front entry and a single Canary Island Palm towards the eastern side of the driveway. These significant trees, labelled as Trees 1, 2, 3 and 10, are illustrated in **Figure 33**. Council's heritage review considered that these trees pre-dated 1943 and that many of the other landscape plantings extant within the front gardens post-date this time and therefore are not considered to directly contribute to the significance of the heritage item.

It is noted that while Trees 1, 2 and 3 are proposed to be retained, Tree 10 is proposed to be removed. Council's Heritage Consultant considered that while the proposed tree removal and new landscaping is generally found to be acceptable, it could not support the removal of the Canary Island Palm tree (Tree 10). The removal of this tree would also be contrary to Clause 33(f) of the Seniors Housing SEPP which requires the retention, wherever reasonable, of major existing trees.

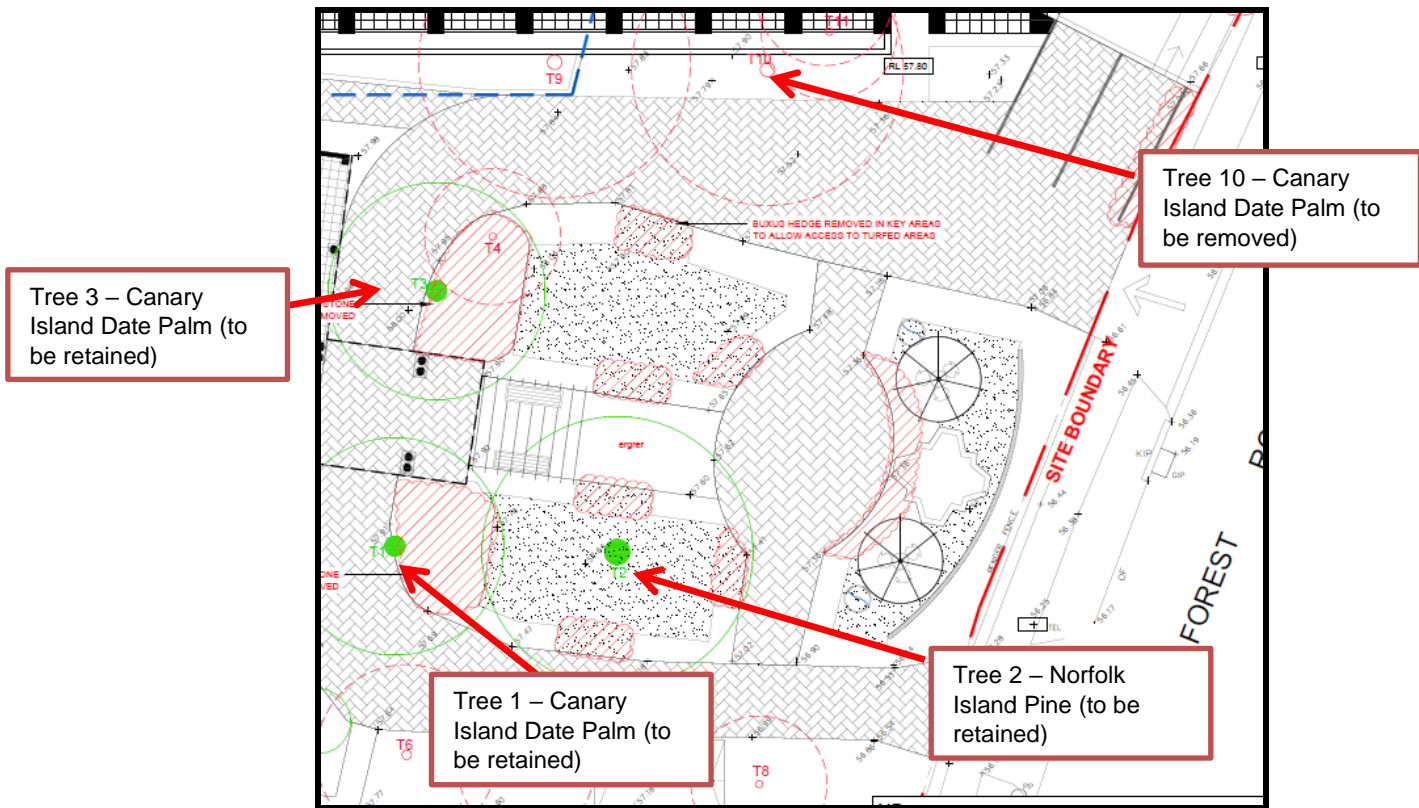


Figure 33: Proposed Vegetation removed and retained (Source: Taylor Brammer, December 2020)

View of Heritage Item Roof from Prospect Road

The urban design review noted that the featured jerkinhead roof of the heritage item is partially visible from Prospect Road and that it would be a beneficial urban design outcome to maintain this existing view link. This was noted in the SHI, where it was concluded that this rear view is of

“secondary significance and largely lacks the visual context offered by the rest of the building”

and that

“...the proposed new building would require the minor loss of a partial, secondary view and would have an acceptable heritage impact”.

This existing visual link to the heritage item from Prospect Road should be retained to give context to the heritage item on this site.

Following consideration of the potential impacts on heritage, there are a number of heritage concerns with the proposal including:

- The lack of a well-proportioned and landscaped front setback to ensure the heritage item is not hemmed in by the proposal, which should correspond with pulling in the mansard roof form to retain the two-storey podium presentation to the front;

- The removal of the Canary Island Palm to the east of the driveway (noted as Tree 10 on the Landscape Plan) since this tree contributes to the significance of the landscaped setting of the heritage item;
- The loss of the existing visual link to the heritage item from Prospect Road; and
- The lack of an adequate separation between the proposed new building and the existing heritage item on the site.

Accordingly, the proposal is considered to be unsatisfactory as it does not achieve the objectives for heritage conservation pursuant to Clause 5.10(1) (b) of the Hurstville LEP 2012 and the proposal adversely impacts on the heritage significance of the heritage item, contrary to Section 5.10(4) of the Hurstville LEP 2012. The proposal also fails to achieve one of the aims of the Hurstville LEP 2012 in that the proposal does not appropriately conserve and enhance the environmental heritage of Hurstville (Clause 1.2(2) (d)).

5.4 Privacy and Overshadowing Impacts

There are a number of impacts on the amenity of the area and on adjoining properties, arising from the proposal. These amenity impacts form the basis of the design principles of the Seniors Housing SEPP (Division 2 of Part 3; Clause 33 to 39). The Seniors Housing SEPP requires that a consent authority must not consent to a development application unless it is satisfied that the proposal demonstrates that adequate regard has been given to these principles. The proposal has not demonstrated that such principles have been adequately addressed.

These design principles and potential impacts on amenity include the following:

- Visual and acoustic privacy (CI 34); and
- Solar access and design for climate (CI 35)

The principles for neighbourhood amenity (CI 33), stormwater (Clause 36), Crime prevention (Clause 37), accessibility (Clause 38) and waste management (CI 39) are considered in the remaining key issues in this section of the report.

Maintaining privacy between properties is an important element of the design principles under the Seniors Housing SEPP, where visual and acoustic privacy of neighbours in the vicinity and residents needs to be considered. Clause 34 for visual and acoustic privacy of the Seniors Housing SEPP states:

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by—

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

The proposal involves numerous significant overlooking opportunities to adjoining properties, including the following:

- The proposed breezeway to the eastern side boundary comprises windows and doors facing the adjacent residential developments and is likely to create overlooking and visual privacy issues (**Figure 34**). This is likely to adversely affect the privacy of dwelling at 760A Forest Road and No 19 Prospect Road including habitable room windows and private open space areas.
- The accessible rooms (Rooms 21, 46 and 70) with window openings facing the breezeway result in visual privacy issues for future residents within the site;
- The proposed terrace areas for Rooms 19, 20, 44, 45, 68 and 69 face directly towards the eastern boundary and are likely to create overlooking and visual privacy issues for adjoining properties including 768 Forest Road and 23 Prospect Road; and
- The lack of any significant boundary landscaping cannot assist in minimising overlooking opportunities towards adjoining properties.

Accordingly, the proposal has not demonstrated that adequate regard has been given to the visual privacy principles set out in Clause 34 as required by Clause 32 of the Seniors Housing SEPP. Acoustic privacy has been satisfactorily addressed by the submitted Acoustic report.



Figure 34: Proposed Breezeway to the eastern boundary (Source: Innovate, October 2020)

Overshadowing, Solar access and design for climate

The design principles of the Seniors Housing SEPP (CI 35) require a proposal to consider the solar access and design for climate controls in the layout of the proposal and states:

The proposed development should—

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

The shadow plan provided outlines the likely shadowing cast to adjoining properties, which

indicates that the majority of the shadow will be cast to the western adjoining properties comprising No 23 Prospect Road and No 768 Forest Road. This shadow is large at 9am, smaller at noon and no shadow by 3pm. It is unclear from this plan, however, the extent of this shadow between midday and 3pm and therefore whether these adjoining properties receive adequate solar access throughout the day in midwinter (**Figure 35**).

It is considered that the potential to overshadow these adjoining properties can only be demonstrated with an elevational shadow study to demonstrate the impact on these neighbouring properties to the west of the site. The proposal is considered to be contrary to Clause 35 of the Seniors Housing SEPP in that adequate regard has not been provided to the solar access principles required by Clause 32 of the Seniors Housing SEPP.

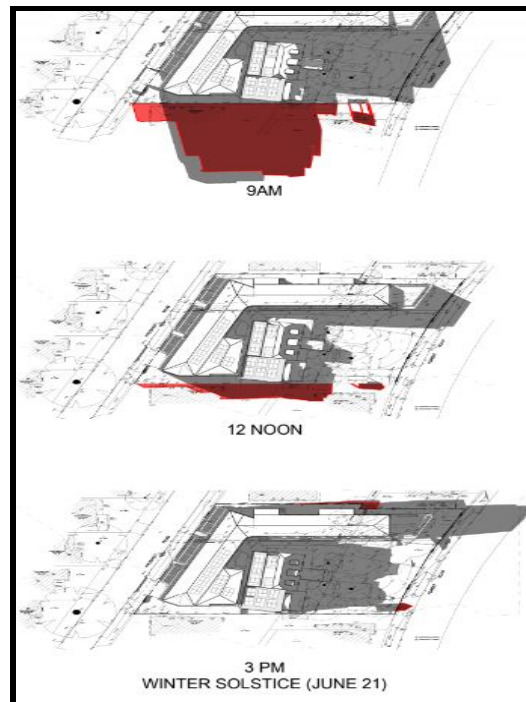


Figure 35: Shadow Plan - Midwinter (Source: Innovate, October 2020)

5.5 Landscaping, Landscaped area and Tree Removal

Landscaping is an important element in the design of a proposal as it assists with integrating development into the site and surroundings. The zone objectives pursuant to Clause 2.3 of the Hurstville LEP 2012 include encouraging greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.

Tree Removal

The proposal involves significant tree removal from the site as outlined on the Landscape Plan (**Figure 36**), comprising the removal of 22 of the 26 trees currently existing on the site. In particular, there are a number of large canopy trees in the south-eastern portion of the site which are proposed to be removed, which is likely to alter the existing landscape character of the site, especially when viewed from Forest Road. This extensive removal of the existing tree cover on the site will further exacerbate the bulk of the proposed building form when viewed

from adjoining properties.

An Arborist's report was not submitted with the proposal and accordingly, it is unknown whether some of these existing trees could have been retained and the condition and health of these trees is also unknown. On balance, therefore, the proposed extent of tree removal is not supported. The removal of Tree 10 within the heritage garden is not supported and is considered in Section 5.3.



Figure 36: Proposed Landscape Plan (Source: Taylor Brammer, December 2020)

Boundary Landscaping

The Landscape Plan outlines the proposed landscaping along the front, side and rear boundaries (**Figure 36**). The setback zones along the side and rear boundaries are predominantly proposed to comprise egress path/decomposed granite maintenance paths with limited opportunity for deep soil planting to screen off the overbearing bulk and scale whilst mitigating associated amenity impacts on neighbouring properties.

These side boundary setback areas also comprise only narrow spaces consisting of between 1.68 metres to the east and 3 metres to the south. The proposed landscaping in these boundary areas comprise sparse planting of trees and low height shrubs which will not assist in maintaining privacy or integrating the proposed building form in the surrounding area.

Accordingly, it is considered that the proposed boundary landscaping is insufficient and these areas are too narrow to provide sufficient landscaping in order to reduce the visual impact of the proposal on adjoining properties.

Landscaped Area

The Seniors Housing SEPP provides a minimum amount of landscaped area which, if incorporated into the proposal, cannot be used to refuse consent on that basis (Cl 49(c)). In this

case, the Seniors Housing SEPP requires a minimum of 25 square metres of landscaped area to be provided per hostel bed.

In this instance, 1,750m² of landscaped area would be required however, only 1.070 square metres is provided in the proposal, equating to 15.2 square metres per room. This represents a shortfall of approximately 10 square metres per room or 679.8 square metres in total. This non-compliance could form a reason for refusal.

This significant shortfall in the required landscaped area further indicates the excessive bulk and scale of the proposal and highlights the lack of adequate landscaping on the site as outlined above. The proposal relies heavily on the landscaped area in the front setback to Forest Road (the heritage garden) at the expense of landscaping spread more evenly throughout the site, particularly at the boundaries.

The proposal is considered to be unsatisfactory having regard to the significant lack of landscaping throughout the site and the lack of adequate boundary landscaping to assist in reducing privacy and visual impacts of the proposal. Therefore, the proposal is considered to be inconsistent with the zone objectives.

5.6 Safety and Security

Crime prevention and safety and security are matters for consideration required by the Seniors Housing SEPP, the DCP (Section 3.4), the *Crime Prevention Through Environmental Design* principles and Section 4.15(1) (b) the likely impacts of development. Crime Prevention through Environmental Design ('CPTED') is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods, which attempts to reduce opportunities for crime by using design and place management principles.

The POM sets out the arrangements for the operation of the facility and includes various security arrangements including entry to the premises being secured at all times and a staff member being present on the site at all times.

CPTED Principles

There are four CPTED principles that need to be considered in the assessment of development applications to minimise the opportunity for crime, comprising surveillance, access control, territorial reinforcement and space management. In relation to the proposal, it is considered that subject to conditions, the access control for the proposal is satisfactory while territorial reinforcement and space management is also effectively provided for the proposal. Surveillance within the proposal has not been adequately addressed in the proposal, particularly for common areas and requires further consideration.

Good surveillance means that people can see what others are doing and people feel safe in public areas when they can easily see and interact with others. Clear sightlines between public and private places and effective lighting of public places are conducive to good surveillance. Natural surveillance is achieved when space users can see and be seen by others, which highlights the importance of building layout, orientation and location; the strategic use of design; landscaping and lighting. This natural surveillance is a by-product of well-planned, well-designed and well-used space. This natural surveillance has not been achieved by the proposal, given the location of the pool and gym in the basement is an isolated location as well as the

other communal areas being located away from the main thoroughfares and communal rooms.

Seniors Housing SEPP

One of the design principles of Part 3 of the Seniors Housing SEPP, Clause 37, states the following in relation to crime prevention:

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by—

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

The DCP also provides controls in relation to crime prevent in Part 3.7 - *Crime Prevention Through Environmental Design*.

There are several concerns in relation to the site planning of the proposed facility which are considered to be contrary to the design principles within the Seniors Housing SEPP, the DCP and the CPTED Guidelines, which have the opportunity to impinge on personal security of future residents at the facility. In particular, the location of communal areas and potential concealment opportunities in the basement are of concern.

The safety issues include the following:

- The location of the proposed pool and gym in the basement is an isolated location with inadequate casual surveillance;
- The communal rooms and roof terrace are located away from the main communal areas of the development (located in the heritage item);
- The laundry rooms on each level are also located away from the main circulation areas and therefore also lack adequate surveillance;
- The basement has several odd shaped rooms (including the garbage room) which could result in hiding places, while the entry to the lift in the basement is not clearly visible from the majority of the basement area;
- One (1) staff member on site at all times is insufficient for 70 future residents of the proposed Hostel; and
- There is a general lack of security and supervision measures proposed for the site, particularly given the future occupants who may be disabled or have other health requirements may require assistance. The community submissions raised this as a significant concern, particularly given the proximity of the School and the numerous families who reside in the street. The POM does not address safety and security aspects of the proposal; in particular there has been no consideration for any security measures such as CCTV or alarm systems. This lack of an adequate consideration of safety and security results in this aspect of the proposal being unsatisfactory.

There are numerous components of the proposal which are contrary to the crime prevention controls of the DCP, including the following:

- The proposed breezeway along the eastern side boundary faces directly to the adjoining residential properties resulting in increased overlooking opportunities, contrary to Part 3.7, Design Solution DS1.2;
- Concerns with the location of communal areas, inconsistent with Design Solution DS1.8, including:
 - Location of the proposed pool and gym in the basement is an isolated location with inadequate casual surveillance.
 - Communal rooms and roof terrace are located away from the main communal areas of the development (located in the heritage item).
 - Laundry rooms on each level are also located away from the main circulation areas and therefore also lack adequate surveillance;
- The basement has several odd shaped rooms (including the garbage room) which could result in hiding places, while the entry to the lift in the basement is not clearly visible from the majority of the basement area. This design is contrary to Design Solution DS1.29 which requires that hidden recesses are avoided.

As a result of the lack of natural surveillance in these common areas and the lack of adequate on-site personnel to supervise and manage the facility, the proposal is considered to be unsatisfactory having regard to the principles for safety and crime prevention.

5.7 Technical Design Matters – stormwater, car parking and waste

The proposal is considered to be unsatisfactory having regard to a number of technical and design matters, comprising stormwater management, waste management and car parking design. These issues are outlined below.

(a) Stormwater

Council's Development Engineer reviewed the proposal and considered that the stormwater drainage plan was inadequate and had not been prepared in accordance with Council's stormwater management Policy. The stormwater drainage plan comprised insufficient details regarding the stormwater drainage for the site, particularly in relation to OSD, the drainage outlet connection to Forest Road through the nature strip and the basement pump system.

The proposal is considered to be inconsistent with Part 3.7.3 PC1 (b) and DS1.5 of the DCP in that:

- The proposal has not adequately demonstrated that rainwater is directed into an approved stormwater drainage system and therefore is inconsistent with PC1 (b);
- The development application has not been supported by a concept stormwater management plan showing how surface and roof waters are to be discharged by gravity to the street or easement and the size of all pipes and is therefore inconsistent with DS1.5.
- The proposal is contrary to the purpose of the chapter pursuant to Part 3.7.2 as it fails to achieve the objectives to provide for the efficient and functional management of

stormwater, to achieve acceptable discharge rates for stormwater discharge off site and to ensure development does not exacerbate overland flow issues for other properties

(b) Car Parking

There are several concerns with the proposal in relation to the design of car parking areas, which include the following inconsistencies with Part 3.1 of the DCP:

- Concerns with the basement layout in that the plans are inadequate to demonstrate compliance with AS2890.1 2004 & AS2890.2 Part 2 for the design and layout of parking facilities, inconsistent with DS1.5. In particular, a driveway and basement ramp profile (longitudinal section) and swept path diagram of vehicles demonstrating that they can enter and leave the site for each garage in a forward direction have not been provided. Furthermore, the proposed garbage room prevents two-way vehicular access within the car parking circulation aisle and ramp;
- The basement is accessed via Prospect Road and will have a significant visual impact on the street given it is 6.58m wide and between 4.4-5.4m high. This proposed basement entry exacerbates this bulk and scale and is considered to be a non-contributory element to the existing residential streetscape character. It is considered that the proposed basement car park has not been designed to minimise the visual impact on the street, contrary to DS1.12;
- The proposed basement entry is located directly adjoining and under habitable rooms and balconies, contrary to DS1.13 which requires accessway to underground car parking to be located away from habitable rooms to reserve the amenity of these habitable areas;
- The proposed accessible space has not been designed in accordance with as 2890.6, contrary to DS1.16;
- A shuttle bus should be provided so that future residents can access services and green travel plans provided to future residents; and
- There is insufficient information to demonstrate compliance in relation to the driveway and ramp profile, contrary to DS3.3.

(c) Waste Management

The Waste Plan provided with the application is not supported as it has significantly underestimated the likely waste and recycling to be generated on-site once operational. The proposal as outlined in the Waste Plan has also not provided sufficient room for waste storage and management. The waste generation, based on adopted rates by the NSW EPA 2019 estimate that the proposal will result in 5,600L of general waste, 5,600L commingled recycling and 1,750L of garden organics being generated per week.

The proposed open garbage collection area located at ground level at the street is considered to be unacceptable and should be enclosed and incorporated into the main building design as it is likely to impact on the neighbour's residential amenity through odour impacts and noise issues. The location of the proposed garbage room in the basement is also not supported given it

prevents two-way vehicle movements within the ramp to the basement level. The proposed waste management arrangements are contrary to the requirements of Appendix 1, Clause 7 of the DCP and in this way are unsatisfactory.

In relation to waste collection, the Traffic Report states (emphasis added):

*Garbage collection is expected to be undertaken by a private contractor **directly outside the site in Prospect Road**. In this regard, bins will be kept within a dedicated storage room located within the basement and transferred up to a temporary on-site holding area adjacent to the basement ramp by bin tug for collection. **The contractor will wheel the bins out from the temporary holding area to be loaded into the truck, before returning the bins back to the temporary holding area**. Bins will not be lined up along the kerbside area for collection.*

The proposal is considered to be unsatisfactory having regard to these technical and design issues.

5.8 Traffic Generation and Lack of Public Transport

The site has two street frontages, however, the majority of the car parking and servicing would be from Prospect Road. The application was referred to Transport for NSW ('TfNSW'), where no objection to the development was raised and identified the development will not have a significant impact on the state road network, being Forest Road in this case. Traffic generation arising from the proposal was an issue in the submissions and was considered in the Traffic Report provided with the application. It is considered that the potential impact of the proposal on Prospect Road requires further consideration.

Prospect Road is a narrow road as cars are usually parked on both sides resulting in a single lane being available for traffic for the majority of the day. Vehicles must constantly pull over and stop to allow oncoming traffic to pass. The crest in Prospect Road, being located near the rear frontage of the subject site, also adds more congestion as vision is obstructed of oncoming traffic (**Figure 37**) and vehicles often need to wait within the road for cars to pass.

The traffic flow in the street is reasonably constant and the street is heavily used for on-street car parking throughout the day which arises from a number of factors. These include the proximity to Peakhurst Primary School approximately 300 metres to the north-west on Bailey Parade, the use of Prospect Road as a rat-run to avoid Forest Road and other nearby streets with heavy traffic and traffic signals and the car parking restrictions (clearway) along Forest Road which are in force throughout most of the day.

Numerous aged care facilities are also located in the vicinity of the site which also adds to the traffic and parking demand in this street. This often results in a heavy car parking demand in the street throughout the day. The reception centre on the site also generates significant traffic, although it is acknowledged that if the proposal was supported that this reception centre traffic would be eliminated.



Figure 37: Prospect Road at the rear of the site

The Traffic Report considered the potential traffic generation of the proposal from the perspective of the additional traffic flows generated as a result of the proposed car parking spaces in the basement of the development and its impact on the operational performance of the adjacent road network, particularly during peak periods.

The potential traffic generation is usually provided by reference to the *Guide to Traffic Generating Developments (October 2002)* prepared by Roads and Maritime Service and the traffic generation rates in the RMS *Technical Direction (TDT 2013/04a)* document, however, *hostels* are not listed in either of these publications. Accordingly the Traffic Report applied an observed traffic assessment which assumed a conservative estimate that each of the parking spaces associated with the proposed hostel is accessed once during a two hour period in both the morning and afternoon peak periods. This resulted in a traffic generation rate of 0.5 peak hour vehicle trips *per car space*, with this estimate yielding a potential traffic generation rate of up to 8 vehicle trips per hour (vph) during both the AM and PM peak hour based on the 16 car spaces.

The Traffic Report concluded that this projected level of traffic activity as a consequence of the development proposal is minimal, particularly when compared to the existing function centre on the site with a capacity of 350 guests, and would not have any unacceptable traffic implications in terms of road network capacity.

The traffic generation analysis in the Traffic Report is not considered to accurately reflect the likely traffic generation of the proposal as it does not consider traffic associated with visitors, staff or servicing of the proposed facility. While the SEE states that 4 staff is required for the operation of the facility, it is likely to be more than this when the services which are required to run the premises are further considered. Staff are required to include, but not necessarily limited to, catering staff for the commercial kitchen, medical staff, office staff, household staff and cleaners. The provision of a staff room would indicate that a number of staff would be employed

on the site at any one time. The likely number of visitors to the facility is unknown however if the hostel was operating at its 70 resident capacity, it is likely to generate several visitors a day across the resident population.

The servicing requirements of a facility of this size are also a significant source of traffic. The servicing for the kitchen in the delivery of food and drink, the removal of waste and tradesman for repairing any faulty equipment or services are likely to be required on a reasonably regular basis resulting in further traffic to the site.

In relation to the servicing requirements of the site, the waste collection arrangements are considered to be unsatisfactory. The narrow carriageway of the street when cars are parked on both sides (**Figure 37**) will make servicing the site with a large waste collection vehicle difficult. The garbage truck will be required to be parked on the street to empty around 5,600 litres of general waste per week, which is a significant disruption to the street. This could also be a safety hazard given the crest of the street at this point with vehicles trying to pass the garbage truck at a dangerous point. The entire street is likely to be blocked until the waste collection is completed which is unsatisfactory given the traffic generation and narrow carriageway in the street. This would likely be repeated for any recycling services and any other services requiring large vehicles.

In relation to the lack of public transport, it is noted that there is a bus stop within 100 metres of the site and accordingly, the proposal achieves the access requirements of the Seniors Housing SEPP (CI 26). Notwithstanding this, however, the site does have limited public transport options and is not located close to services which may be required by the future residents of the facility. Council's Traffic Engineer has requested that Green Travel Plans be provided for the site and that a shuttle service should be encouraged to be provided by the Operator for the site. This will assist future residents to access necessary services and could be imposed as conditions if an approval was granted.

Accordingly, it is considered that the likely additional traffic generation and servicing requirements resulting from the proposal are unsatisfactory within this narrow, busy street which results in the site not being suitable for this proposed development as it would have an adverse impact on Prospect Road.

5.9 Social impacts and Use of the Premises

There has been significant concern raised in the Community's submissions surrounding the exact use proposed at the site and that there is a lack of staff being proposed to operate the facility. There were also significant concerns raised about the type of people likely to be living at the premises, the criteria for selecting future residents and what social impacts may arise from the proposal on their neighbourhood.

Nature of the Proposed Use

The proposal has been lodged pursuant to the Seniors Housing SEPP, with the SEE stating that the proposal is for "...a *hostel facility containing 70 rooms for use as seniors housing for women...*" (page 1).

Further mentions on the use of the premises include:

...The proposed development will serve the specific purpose of providing a seniors housing hostel which will accommodate women who are disadvantaged and over the age of 55 or with disability. The proposed development will service the immediate and wider locality through the provision of a high quality facility which offers security and safety for its future residents. The facility will provide well-furnished private rooms with a range of shared facilities which will facilitate a socially inclusive environment, nurturing improvements to physical and mental health (page 1).

....The hostel facility will provide for one staff member to be available on-site, 24 hours a day, for the management and support of the residents. Whilst not being submitted pursuant to the Affordable Rental Housing SEPP 209, the proposal is specifically aimed at supporting disadvantaged and elderly women (page 1).

....The proposed development will provide for a unique seniors housing hostel which will cater for the specific housing needs of the community, namely women over 55 years of age.

The SEE states in relation to operational details of the proposal (in Section 3.6) that the *Operational Management Plan* details the operation and function of the proposed seniors housing hostel facility.

The SEE also states that the proposed facility will provide for meal services, common areas for general and event use and offices to accommodate future employees within the heritage item. The hostel will also offer room cleaning services, a staff member on-site 24 hours a day, 7 days a week and various support services for future residents.

The *Operational Plan of Management* (incorporating the Hostel Rules) ('POM') provides the following information in relation to the general operation of the premises:

- Maximum of 1 resident shall occupy each room at any given time;
- The Hostel will accommodate a maximum of 70 residents in 70 rooms
- The common outdoor areas are only used between the hours of 7.00am and 9.00pm on weekdays and 7am to 10.00pm on weekends
- The Operator shall be responsible for the operation, administration, cleanliness and fire safety of the Premises including compliance with all terms and conditions of this plan
- The Operator's responsibilities include to ensure there is one staff member is on-site 24 hours a day, 7 days a week, laundering services, cleaning services, meal services, waste management and the like operate on a regular basis
- The Operator is responsible for ensuring nursing care, physical and mental support is available to the residents (refer below).

In relation to staff and personal care, the following is included:

- The full-time equivalent staff are trained in first aid and various general emergency care procedures. These are available to residents at all times.
- Registered nurses are available Monday to Friday, 9am to 5pm or at the Operators discretion, via contractor.
- Care services are to be managed by the Operator
- Subject to the consent of the resident concerned, a plan for each resident's personal in-home care can be arranged with the Operator.

- Staff are to assist in resident's day-to-day physical and mental health.
- The Operator and staff are to facilitate ongoing care for residents if required and liaise with private medical professionals and families regarding respite, in house care or on-site rehabilitation services
- Personal care will be available via contractor to provide relevant services. Service provisions will be the subject of reasonable user charge

In relation to transport, the POM states that on-site transport *can be provided upon discretion of the Operator based on demand and requirements of the residents. If provided, this will offer services to the surrounding centres.*

In general, it is considered that the POM defers the vast majority of decisions regarding the provision of services and care, beyond the provision of the facility, to the 'Operator'. That Operator is unknown at this stage. While for Hostels, the Seniors Housing SEPP only compels the Operator to provide meals, laundering and cleaning facilities on a shared basis, there is insufficient information on the nature of the operation of the proposed facility and the potential social impacts of the facility on the surrounding area.

It is also apparent that the POM is essentially the rules for the facility but doesn't make it any clearer as to the type of support services which may be provided on the site for what may be a vulnerable section of the community. While the proposal satisfies the access to services requirement pursuant to Clause 26 of the Seniors Housing SEPP, the site is relatively isolated in terms of access to services, particularly medical services which would be more available in a more central location. The location of the bus stop along Forest Road is the only reason the proposal satisfies this Clause, which will become important, particularly if no services or transport is provided at or from the site.

It is also considered that while the proposal indicates that the facility is catering to aged and/or disabled people, with a focus on disadvantaged women, since the proposal has not been lodged pursuant to the Affordable Rental Housing SEPP, there is no mechanism for ensuring that disadvantaged women, in particular, will benefit from the proposal. The only certainty is that the future residents of the proposal would be either aged or disabled members of the community. Greater consideration by the applicant on the potential social impacts arising from the proposal should be considered given the community's concerns.

Social Impacts

Social impacts are the consequences experienced by people due to a proposal. In this case, the proposal will generate positive impacts on the provision of social housing accommodation, however, the potential impacts on the surrounding residential area and its residents of this type of accommodation have not been considered. A social impact assessment could have identified the positive and negative impacts and provided solutions or design modifications to mitigate potential negative impacts.

Accordingly, the proposed use of the premises and the potential impact on the surrounding area has not been adequately addressed by the applicant and accordingly, the proposal cannot be supported.

5.10 Council Land

The Council land on the eastern boundary of the site currently comprises a dedicated public

road, notwithstanding it is not a formed road or used as a pathway in this location. Council's property officer indicate that this portion of land was likely a night soil lane. Owners' consent was not initially provided from Council pursuant to Clause 49(1) (b) of the *Environmental Planning and Assessment Regulation 2000* ('the Regulation').

Owner's consent has since been granted by Council, however, this portion of the Council land will need to be formally closed (subject to a resolution of Council to proceed), subdivided and sold. This can form a deferred commencement condition on any consent granted and is considered to be resolved.

6. CONCLUSION

The development application seeks consent for the demolition of several existing buildings on the site, including the partial demolition of an addition to a heritage building, retention of the heritage building and the construction of hostel containing 70 rooms as seniors housing under the provisions of the Seniors Housing SEPP.

The proposal has been assessed having regard to the matters for consideration under Section 4.15(1) of the EP&A Act, the provisions of the relevant State environmental planning policies, in particular the Seniors Housing SEPP, the Hurstville LEP 2012 and the DCP.

The proposal presents an excessive bulk and scale that does not provide a sympathetic response to the existing or desired future character of the area and is inconsistent with numerous design principles under the Seniors Housing SEPP. The exceedence of various height development standards, the lack of adequate landscaped area and the likely impacts on heritage and amenity of adjoining properties results in an unacceptable outcome on the site.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1) (b) of the *EP&A Act*, DA 2021/00016 is recommended for refusal subject to the reasons contained at **Schedule 1** of this report.

DETERMINATION AND STATEMENT OF REASONS

The reasons for this recommendation are:

- The proposed development does not meet various objectives and controls of the relevant environmental planning instruments and development control plan.
- The proposal has not been designed to satisfy key provisions of the Seniors Housing SEPP.
- The proposed design is inconsistent with the anticipated, desired future character for development in this area.
- The proposal has failed to adequately address various technical issues including stormwater management, car parking and waste management.

THAT pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act, 1979*, as amended, the Sydney South Planning Panel, refuse development consent to Development

Application DA 2021/0016 for demolition of existing structures, retention of a heritage item and construction of a hostel rooms for use as seniors housing on Lot 8, DP 659072, Lot 1 DP 603371 & Lot 24 DP 12997 and portion of Council land and known as 762-766 Forest Road & 21 Prospect Road, Peakhurst, NSW 2210 subject to the following reasons:

Schedule 1: Reasons for Refusal – DA 2021/0016

Premises: 762-766 Forest Road & 21 Prospect Road, Peakhurst, NSW (Lot 8, DP 659072, Lot 1 DP 603371 & Lot 24 DP 12997) and portion of Council land

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the variation to the building height development standard pursuant to Clause 40(a)(a), (b) and (c) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* lodged pursuant to Clause 4.6(3) has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify the contravention of the development standard.
2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the height of the proposal is inconsistent with:
 - (a) The zone objectives pursuant to Clause 2.3 of the *Hurstville Local Environmental Plan 2012* in that it presents an excessive bulk and scale which is unsympathetic to the existing and desired future character of the area, it does not provide for the housing needs of the community within a low density residential environment and it results in adverse impacts on the amenity of the surrounding area due the height of the development above the prevailing height of development in the area; and
 - (b) The objectives for height pursuant to Clause 40(4) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in that the proposal represents an abrupt change in the scale of development in the streetscape.
3. The proposed development is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (i) of the *Environmental Planning and Assessment Act 1979* as the proposal is contrary to the aims of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* pursuant to Clause 2(1) (c) in that the proposed seniors housing is not of good design.
4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is contrary to Clause 29(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* which requires consideration of Clause 25(5)(b)(v) in that the proposed built form and character of the proposed development is likely to have an adverse impact on the existing uses in the vicinity of the development.
5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal

has not had adequate regard to the design principles of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* pursuant to Clause 32 including:

- (a) Neighbourhood amenity and streetscape pursuant to Clause 33 in that the proposal will have an adverse impact on the neighbourhood and streetscape as a result of the excessive bulk and scale of the proposal and does not retain one of the major trees on the site (Tree No 10);
 - (b) Visual privacy pursuant to Clause 34 in that the proposal will result in significant overlooking opportunities towards the adjoining properties as a result of windows and balconies being orientated to side boundaries;
 - (c) Solar access and design for climate pursuant to Clause 35 in that it has not been demonstrated that there will be adequate solar access for adjoining properties adequately assess;
 - (d) Stormwater pursuant to Clause 36 in that the proposed stormwater management arrangements are unsatisfactory;
 - (e) Crime prevention pursuant to Clause 37 in that there safety and security concerns of communal areas;
 - (f) Accessibility pursuant to Clause 38 in that there is a lack of adequate accessible car parking; and
 - (g) Waste management pursuant to Clause 39 in that the proposed waste management arrangements are unsatisfactory.
6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is contrary to the objectives of the *Hurstville Local Environmental Plan 2012* pursuant to Clause 1.2 in that:
- (a) The proposal is not for the development of land that is compatible with local amenity (Clause 1.2(2)(a) and (e));
 - (b) The proposal does not provide housing choice which is sympathetic to adjoining development (Clause 1.2(2)(c)(iii));
 - (c) The proposal fails to appropriately conserve and enhance the environmental heritage of Hurstville (Clause 1.2(2)(d));
 - (d) The proposal does not adequately embrace the principles of quality urban design (Clause 1.2(2)(f));
7. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the objectives of the R2 Low Density Residential zone pursuant to Clause 2.3 of the *Hurstville Local Environmental Plan 2012* in that:
- (a) The proposal provides for housing that compromises the amenity of the surrounding area;
 - (b) The proposal does not ensure a high level of residential amenity is achieved and maintained; and
 - (c) The proposal does not encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.
8. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal

adversely impacts on the heritage value of the item on the site contrary to Clause 5.10(4) and is inconsistent with the objectives for heritage conservation contrary to Clause 5.10(1)(b) of the *Hurstville Local Environmental Plan 2012* in that:

- (a) The proposal lacks a well-proportioned and landscaped front setback to ensure the heritage item is not hemmed in by the proposal;
 - (b) The proposed removal of the Canary Island Palm to the east of the driveway (noted as Tree 10 on the Landscape Plan) adversely impacts on the heritage garden of the item;
 - (c) The proposal results in the loss of the existing visual link to the heritage item from Prospect Road; and
 - (d) The proposal lacks an adequate separation between the proposed new building and the existing heritage item on the site.
9. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal provides insufficient landscaped area and boundary landscaping such that it is contrary to Clause 33(e) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in that the proposal does not embody planting that is in sympathy with other planting in the streetscape and is not of good design required by the aims of the policy (Clause 2(1)(c)) in relation to landscaping.
10. The proposed development is considered unacceptable as the proposal is inconsistent with the objects of the *Environmental Planning and Assessment Act 1979* pursuant to Section 1.3 in that:
- (a) The proposal does not promote the sustainable management of the built heritage resulting from the inadequate setbacks of the proposed building, the removal of a tree regarded as part of a heritage garden and the loss of vistas through to the heritage item from Prospect Road contrary to Object (f); and
 - (b) The proposed built form, including the proposed height of the building, does not promote good design and is incompatible with the character of the area contrary to Object (g).
11. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (b) of the *Environmental Planning and Assessment Act 1979* as the proposal is unsatisfactory in that there has been insufficient consideration of the potential social impacts on the surrounding residential area and the lack of details on the proposed operation of the facility on the site. A Social Impact Statement (SIS) is required to address the potential social impacts arising from the proposal.
12. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (b) of the *Environmental Planning and Assessment Act 1979* as the proposal is unsatisfactory in that the likely traffic generation and servicing requirements resulting from the proposal is unsatisfactory and this additional traffic generation within a narrow, busy street results in the site not being suitable for this proposed development as it would have an adverse impact on Prospect Road.
13. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (b) of the *Environmental Planning and Assessment Act 1979* as the

proposal involves communal areas which are located in isolated locations which lack natural surveillance and which are contrary to the *Crime Prevention Through Environmental Design Guidelines*. There is also a lack of security and on-site staff to effectively and safely manage the facility.

14. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (b) of the *Environmental Planning and Assessment Act 1979* as the proposal is likely to result in an adverse cumulative impact on the street if the proposed was to be supported as it would set an undesirable precedent for similar three (3) storey developments in this low density residential area, which would erode the character of the area and create significant amenity impacts.
15. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with Part 3.1 Vehicle access, parking and manoeuvring of the Hurstville Development Control Plan No 1 in that:
 - (a) The proposed basement driveway from Prospect Road is 6.58m wide and between 4.4-5.4m high which presents a poor outcome resulting in a significant visual impact on the street and surrounding properties, contrary to Performance Criteria PC1 (b) and inconsistent with Design Solution DS1.12 as the proposed driveway to underground car parks has not been designed so as to minimise the visual impact on the street.
 - (b) The proposal has not satisfactorily demonstrated that the car parking area, internal vehicle circulation and vehicle access complies with the relevant Australian Standards. Accordingly, the proposal is inconsistent with Performance Criteria PC1 (b) and Design Solution DS1.5 in that it is unclear whether the proposal provides car parking that is safe, easily accessible, does not obstruct the passage of vehicles or create traffic conflicts, or impact pedestrians or cyclists.
 - (c) The proposed basement entry is located directly adjoining and under habitable rooms and balconies, contrary to Design Solution DS1.13 which requires accessways to underground car parking to be located away from habitable rooms to preserve the amenity of these habitable areas.
 - (d) The proposed accessible space has not been designed in accordance with as 2890.6, contrary to Design Solution DS1.16; and
 - (e) There is insufficient information to demonstrate compliance in relation to the driveway and ramp profile, contrary to Design Solution DS3.3.
16. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with Part 3.7 Stormwater of the *Hurstville Development Control Plan No 1* in that:
 - (a) The proposal is contrary to the purpose of the chapter pursuant to Part 3.7.2 as it fails to achieve the objectives to provide for the efficient and functional management of stormwater, to achieve acceptable discharge rates for stormwater discharge off site and to ensure development does not exacerbate overland flow issues for other properties;

- (b) The proposal has not adequately demonstrated that rainwater is directed into an approved stormwater drainage system and therefore is inconsistent with Performance Criteria PC1 (b); and
 - (c) The development application has not been supported by a concept stormwater management plan showing how surface and roof waters are to be discharged by gravity to the street or easement and the size of all pipes and is therefore inconsistent with Design Solution DS1.5.
17. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the waste management objectives and requirements of Appendix 1, Clause 7 *Hurstville Development Control Plan No 1* in that the waste management plan and waste arrangements including the location of the bin holding area and garbage room is unacceptable and does not adequately demonstrate compliance with the requirements.
18. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (e) of the *Environmental Planning and Assessment Act 1979* as the proposal is not in the public interest as it is inconsistent with the relevant planning controls in relation to the adverse impacts on the streetscape, heritage and amenity of immediately adjoining properties. The proposal also lacks good urban design and will negatively affect the character and nature of the neighbourhood.

Attachment A: Table of Compliance – Seniors Housing SEPP

Standard	Control	Proposal	Comply
Part 2: Site-related requirements			
Location & access to facilities (CI 26)	shops, banks and other retail and commercial services, community services and recreation facilities, and a GP within 400m or public transport	Bus stop on Forest Road (80m to east) with services to Hurstville station, Parramatta and Westfield accessed via relatively flat concrete footpath	Yes
Bush fire prone land (CI 27)	Consider bushfire planning and consult with RFS	Site is not affected by bushfire prone land	N/A
Water & sewer (CI 28)	To be connected to reticulated water system and adequate facilities for sewage removal/disposal	Adequate services provided on the site.	Yes
Site Compatibility Certificate criteria (CI 29(2))	Consent authority must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).		
	<i>CI 25(5)(b)(i) - natural environment and existing uses and approved uses of land in vicinity</i>	The proposal is generally inconsistent with existing uses in the vicinity of the site which is low density residential development in detached housing. The use of the proposal, being a hostel to accommodate people on a short term basis, and the size of the proposed development, renders this proposal incompatible with the largely low density residential nature of the area.	No
	<i>CI 25(5)(b)(iii) - services and infrastructure available to meet demands arising from proposal and any proposed financial arrangements for infrastructure provision</i>	Adequate physical infrastructure on the site. Retail, community and medical services are not readily available near the site; however, Peakhurst shopping centre is 400m to west along Forest Road (accessible footpath) providing a supermarket, post office and other retail/commercial uses. Bus services provided in close proximity to the site.	Yes
	<i>CI 25(5)(b)(iii)) - impact that the bulk, scale, built form and character of the proposed development is likely to have on existing</i>	The height and general bulk and scale of the proposal is incompatible with the surrounding built form which generally comprises one and two storey	No

	<i>uses, approved uses and future uses of land in the vicinity</i>	detached dwellings on generous front and side setbacks under the height limit (9m). The design of the proposal has been considered by an Urban Design Consultant who concluded that the current proposal presents an excessive bulk and scale that does not provide a sympathetic response to the existing and desired future character of the area.	
Part 3: Design requirements			
Site analysis (CI 30)	Site analysis required	Provided	Yes
Design of residential development (CI 32)	Must not consent unless satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.	<p>The proposal is considered to be inconsistent with the following design principles and in this way has not had adequate regard to these principles in Division 2:</p> <ul style="list-style-type: none"> ▪ Neighbourhood amenity & streetscape (CI 33); ▪ Visual and acoustic privacy (CI 34) ▪ Solar access and design for climate (CI 35); ▪ Stormwater (CI 36) ▪ Crime prevention (CI 37); ▪ Accessibility (CI 38)' ▪ Waste management (CI 39) 	No
Neighbourhood amenity & streetscape (CI 33)	<p>The proposed development should—</p> <p>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p>	<p>The proposal is incompatible with the desirable elements of the current character of the area which is a low density residential area. The proposal does not contribute to the quality and identify of the area given:</p> <ul style="list-style-type: none"> • The proposed development presents a 3 storey continuous wall of development (approx. 39 metres in façade length) to Prospect Rd and when viewed from Forest Road, which does not present a harmonious fit to the context and is considered excessive in its current form. The parallel building alignment to street frontages with 	No

		<p>insufficient setbacks and facade articulation to Prospect Road (3 metres to the first 2 floors and 4 metres to the third level) and side boundaries (min. 1.68 metres) further exacerbates its perceived bulk and scale and is incompatible with the existing residential streetscape character.</p> <ul style="list-style-type: none"> The proposed vehicle entry gate with a width of 6.58 metres and height of up to 5.4 metres closer to the street boundary is a non-contributory element to the existing residential streetscape character. 	
	(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and	The heritage value of the item on the site has been considered in the design of the proposal; however, some amendments are required as recommended by Council's Heritage Consultant.	No
	(c) maintain reasonable neighbourhood amenity and appropriate residential character by—		
	(i) providing building setbacks to reduce bulk and overshadowing, and	Building setbacks are unsatisfactory as outlined above;	No
	(ii) using building form and siting that relates to the site's landform, and	The site is generally flat and accordingly the proposal is satisfactory.	Yes
	(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and	The proposal is generally incompatible with building heights of the surrounding area.	No
	(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on	The proposal includes a continuous built form that appears to be more of a medium and higher density development that is inconsistent with the	No

	neighbours, and	predominant character of the area. Greater (deeper/wider) vertical indentations to building facades should be incorporated to achieve a more 'pavilion' style development with increased opportunity for pockets of landscaping to break up the form and its visual bulk.	
	(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and	Building setbacks are unsatisfactory to Prospect Road and to the side boundaries as discussed.	No
	(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and	The proposed landscaping is unsatisfactory.	No
	(f) retain, wherever reasonable, major existing trees, and	The proposed removal of Tree 10 (Canary Island date palm) is not supported.	No
	(g) be designed so that no building is constructed in a riparian zone	The site does not contain a riparian zone.	N/A
Visual and acoustic privacy (CI 34)	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by— (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and	Visual privacy is generally not maintained for adjoining properties as a result of the following: <ul style="list-style-type: none"> The proposed breezeway with doors and windows facing the adjacent residential development may create overlooking and visual privacy issues. Units 19-20, 44-45 and 68-69 with terraces facing directly to the eastern boundary will create overlooking and visual privacy issues. 	No
	(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from	An Acoustic Report has been provided which outlines that the proposal is satisfactory having regard to acoustic impacts (both	Yes

	driveways, parking areas and paths	within and external to the site).	
Solar access and design for climate (CI 35)	The proposed development should— (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and	There is some overshadowing to the west of the site to No 23 Prospect Rd and No 768 Forest Road, although this shadow has largely cleared by noon. Hourly shadowing diagrams required to ascertain the full extent of overshadowing to these adjoining western properties arising from the proposal. There is some overshadowing to No 760A Forest Road in the afternoon; from around 2pm, however, has access to sunlight in the morning during midwinter. Adequate solar access is provided to this property throughout the day in midwinter.	No
	(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	The majority of rooms (East to West block) face north while the remaining units face west to north-west (north to south block). The rooms also provide for cross though ventilation.	Yes
Stormwater (CI 36)	The proposed development should— (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	Stormwater management is considered unsatisfactory by Council.	No

Crime prevention (CI 37)	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by—</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>There are concerns with the location of communal areas:</p> <ul style="list-style-type: none"> • The location of the proposed pool and gym in the basement is an isolated location with inadequate casual surveillance. • The communal rooms and roof terrace are located away from the main communal areas of the development (located in the heritage item). • The laundry rooms on each level are also located away from the main circulation areas and therefore also lack adequate surveillance. • The basement has several odd shaped rooms (including the garbage room) which could result in hiding places, while the entry to the lift in the basement is not clearly visible from the majority of the basement area. • One (1) staff member on site at all times is unlikely to be sufficient for 70 people. • The POM outlines that swipe card access and security doors will be provided. 	No
Accessibility (CI 38)	<p>The proposed development should—</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p>	There is a level footpath providing access from the site to the bus stop on Forest Road.	Yes
	<p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	Parking is proposed in the basement and front setback area adjoining Forest Road, with separate pedestrian access points. The Access report considers that the proposal is satisfactory.	Yes

Waste management (CI 39)	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Waste management is considered unsatisfactory by Council.	No
Part 4: Development Standards to be complied with			
Site Size (CI 40(2))	Min 1,000m ²	Site Area - 2,673.1m ²	Yes
Site frontage (CI 40(3))	Min 20 metres (measured at building line)	44.5 metres (southern) to 47.59 metres (northern)	Yes
Max height (CI 40(4)(a)) <i>Where RFBS not permissible</i>	8 metres or less	9.8 metres	No CI 4.6
Max No of storeys adjoining the boundary <i>Where RFBS not permissible</i>	2 storeys	3 storeys (Northern (Prospect Rd) & eastern (side) boundaries)	No CI 4.6
Max height of building in rear 25% of site <i>Where RFBS not permissible</i>	1 storey	3 storeys (northern - Prospect Rd)	No CI 4.6
Standards for accessibility (CI 41(1) & Schedule 3)	Accessibility and useability standards for hostels	Achieved or readily achievable in detailed design phase as outlined in the Access Report	Yes
Part 7: Development Standards that cannot be used as grounds to refuse consent			
Building height (CI 49(a))	8 metres or less in height	9.8 metres	No
Density & Scale (CI 49(b))	FSR - 1:1 or less (Current site – 2,673.1m ² GFA); Incl Council and – 2,686.7m ² GFA)	FSR - 1.005:1 (2,685.7m ²) (current site area) – 12.6m ² over FSR - 0.99:1 (incl Council land) 1m ² under	No (without Council land) Yes (with Council land)
Landscaped area (CI 49(c))	Min 25m ² landscaped area/hostel bed (1,750m ² required)	Landscaped area - 1,070.2m ² (15.2m ² /room)	No
Parking (CI 49(d))	Residential - 1 space/5 hostel dwellings Staff - 1 space/2 persons employed & on duty at any one time, and 2 ambulance space	Residential – 14 spaces (70 rooms/5) staff - 2 spaces (4 staff/2 1 ambulance space	Yes

Attachment B: Consideration of Submissions

ISSUE	CONSULTANT PLANNER'S RESPONSE
<p>Excessive building height</p> <p>Submissions raised concern the development exceeded numerous height controls including the number of storeys and the overall height in metres.</p>	<p>The maximum building height for the site, pursuant to Clause 40(4) (a), (b) and (c) the Seniors Housing SEPP, is 8m above existing ground level to the ceiling of the top floor. The proposal exceeds these building height maximums in both overall metres and number of storeys. A Clause 4.6 variation has been submitted for these variations, however, it is considered that these variations do not adequately demonstrate that the development standard is unreasonable or unnecessary in the circumstances of this case. The three-storey form is considered to be incompatible with the surrounding residential context which permits two-storey development. This issue is further discussed in Sections 3.2.1(h) and 5.2 of this report.</p> <p>Outcome: The proposed height of the development exceeds Clause 40(4) of the Seniors Housing SEPP and is considered to be unsatisfactory. This issue forms a reason for refusal.</p>
<p>Bulk and scale and out of character with the area</p> <p>Submissions raised concern the development results in an adverse impact on the streetscape as it commands a full street frontage and is inconsistent with planning controls, including height and setbacks. The concerns also stated that the proposal contributes to a general overdevelopment in the area and that the proposal is inconsistent with design principles of the Seniors Housing SEPP</p>	<p>It is considered that the proposal presents an excessive bulk and scale that does not provide a sympathetic response to the existing and desired future character of the area. The design of the proposed facades to both the side and rear boundaries are considered unacceptable, while the proposal presenting as a 3 storey continuous wall of development to adjoining development does not present a harmonious fit to the context and is considered excessive in its current form.</p> <p>The proposal involves insufficient setbacks and facade articulation to Prospect Road and side boundaries and is incompatible with the existing residential streetscape character. The proposal consists of a continuous built form which will result in a development that appears as a medium to high density development which is inconsistent with the predominant low density character of the area. The proposed continuous roof form exhibits inadequate articulation, setbacks and variations making it appear as a normal habitable floor level (and not as an attic), contributing to the excessive form. The proposal is considered to be contrary to the neighbourhood amenity and character requirements of the design principles of the Seniors Housing SEPP as outlined in Section 5.1.</p> <p>Outcome: The proposal is considered to be inconsistent with the zone objectives. This issue forms a reason for refusal.</p>
<p>Traffic impact</p>	<p>The site has two street frontages, however, the majority of the car parking and servicing would be from Prospect Road. The application was referred to Transport for NSW ('TfNSW'). TfNSW raised no objection</p>

<p>Submissions raised concern the development will generate traffic that will adversely impact the existing road network.</p> <p>Submissions also raised concern about the lack of public transport in the vicinity of the site (and away from services and infrastructure), the existing congestion along Prospect Road (without the proposed development) and the surrounding uses including schools and aged care facilities and parking restrictions along Forest Road which contribute to added congestion along Prospect Road. Disruption from construction was also raised.</p>	<p>to the development and identified the development will not have a significant impact on the state road network.</p> <p>The Traffic Report considered the likely traffic generation and found that the proposal did not result in traffic generation which could not be accommodated in the existing road network. In relation to the lack of public transport, it is noted that there is a bus stop within 100 metres of the site and accordingly, the proposal achieves the access requirements of the Seniors Housing SEPP (CI 26). Notwithstanding this, however, the site does have limited public transport options; therefore Council's Traffic Engineer has requested that Green Travel Plans be provided for the site and that a shuttle service should be encouraged to be provided by the Operator for the site. This would assist future residents to access necessary services and could be imposed as conditions if an approval was granted.</p> <p>The community's concerns were with the likely increase in traffic in the street, both entering and exiting the premises, servicing traffic, primarily waste collection vehicles and deliveries to the site, as well as potentially having to cater for an overflow of car parking not provided on the site. Construction traffic is likely to create significant disruption to the street; however, such impacts would be short term and could be appropriately managed. These issues are further discussed in Section 5.7 and 5.8 of this report.</p> <p>Outcome: The proposal is considered to have an adverse impact on the area resulting from the increased traffic generation arising from the proposal. This issue forms a reason for refusal.</p>
<p>Car Parking</p> <p>Submissions raised concerns that there was a lack of adequate car parking for the development</p>	<p>The concerns regarding a lack of car parking was based on the proposal involving 70 potential future residents with only 14 car parking spaces and Prospect Road already heavily used for on-street car parking. The community were concerned that these on-street parking problems were likely to be exacerbated by the proposal. The proposal is for a hostel under the Seniors Housing SEPP, which requires 1 space for every 5 rooms, which equates to 14 spaces (CI 49(d)). This car parking has been provided in the proposed basement. Additional car parking for staff (1 space/2 staff) and an ambulance space have also been provided in the Forest Road setback. The proposal provides car parking in accordance with the Seniors Housing SEPP and therefore cannot be used as a reason for refusal (CI 49(d)). Within the site, Council's Development Engineer has reviewed the proposal and raised some concerns which are addressed in Section 5.7 of the report.</p> <p>Outcome: No changes to the proposed development as there is sufficient car parking provided under the Seniors Housing SEPP.</p>
<p>Consistency with zone</p>	<p>The proposal is considered to be inconsistent with the R2 zone objectives as it presents an excessive bulk</p>

<p>objectives</p> <p>Submissions raised concern over the consistency of the development with the zone objectives and whether it is permissible in the R2 zone.</p>	<p>and scale which is unsympathetic to the existing and desired future character of the area. The proposal does not provide for the housing needs of the community within a low density residential environment as the proposed built form is more aligned with a medium to high density development resulting from the additional height, and the lack of adequate setbacks and articulation in the facades.</p> <p>The proposal is also considered to result in various adverse impacts on the amenity of the surrounding area and does not achieve a high level of residential amenity for residents in the area (further considered in the Key Issues section). The lack of adequate landscaping, particularly along the side boundaries, exacerbates the bulk and scale of the proposal and does not allow for landscaping to be a major element in the proposal.</p> <p>Accordingly, the proposal is considered to be inconsistent with the 3rd, 4th and 5th objectives (in bold above) and is therefore unsatisfactory. The proposal is permissible on the land pursuant to Clause 15(a) of the Seniors Housing SEPP. This issue is considered in further detail in Section 3.2.1(h) and 5.1, 5.2, 5.4, 5.5 and 5.6.</p> <p>Outcome: The proposal is considered to be inconsistent with the zone objectives. This issue forms a reason for refusal.</p>
<p>Social impacts</p> <p>Submissions raised concern the development will be unsafe with likely antisocial and illegal behaviour from future residents, which was concerning as the area is dominated by young families. It was also considered that a Social Impact Statement (SIS) should be prepared to consider the social impacts of the proposal for the potential amenity impacts of the surrounding area.</p>	<p>It is considered that the proposal is unsatisfactory in that there has been insufficient consideration of the potential social impacts on the surrounding residential area and the lack of details on the proposed operation of the facility on the site. A Social Impact Statement (SIS) is required to address the potential social impacts arising from the proposal. This issue is considered in further detail in Section 5.9.</p> <p>Outcome: The proposed is considered to be unsatisfactory as the social impacts have not been adequately addressed. This issue forms a reason for refusal.</p>

<p>Use of the Premises</p> <p>Submissions raised concern the development was insufficiently described and operational details were lacking and that one staff member is insufficient to operation the facility. Security concerns of 24 hours operation</p>	<p>It is considered that the Statement of Environmental Effects and the Plan of Management lacks sufficient information which adequately outlines the operation of the facility and defers the vast majority of decisions regarding the provision of services and care to the operator (which is unknown at this stage). This issue is considered in further detail in Section 5.9.</p> <p>Outcome: The proposal is considered to be unsatisfactory as the social impacts have not been adequately addressed. This issue forms a reason for refusal.</p>
<p>Heritage impacts</p> <p>Submissions raised concerns that the proposal was unsympathetic to, and overpowers, the heritage building on the site (being one of the oldest in the area). The proposed development bulkiness, the design of the building and its height will completely envelope the heritage building and it will completely hide its visibility and functionality, which defeats the purpose of originality of heritage listed building.</p>	<p>Following consideration of the potential impacts on heritage, there are a number of heritage concerns with the proposal including:</p> <ul style="list-style-type: none"> • The lack of a well-proportioned and landscaped front setback to ensure the heritage item is not hemmed in by the proposal, which should correspond with pulling in the mansard roof form to retain the two-storey podium presentation to the front; • The removal of the Canary Island Palm to the east of the driveway (noted as Tree 10 on the Landscape Plan) since this tree contributes to the significance of the landscaped setting of the heritage item; • The loss of the existing visual link to the heritage item from Prospect Road; and • The lack of an adequate separation between the proposed new building and the existing heritage item on the site. <p>The concerns with respect to heritage are considered in Section 5.3.</p> <p>Outcome: The proposal adversely impacts on the heritage item on the site. This issue forms a reason for refusal.</p>
<p>Property value</p> <p>Submissions raised concern the development will have an effect on property value for surrounding lands.</p>	<p>Impact of development to property values is not a matter for consideration under clause 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Outcome: No further consideration of this matter.</p>
<p>Tree removal</p>	<p>The proposed extent of tree removal is not supported by an Arborist's report and it is considered that this</p>

<p>Submissions raised concern regarding the removal of 22 of the 26 trees on the site, including one with heritage value.</p>	<p>is an excessive number of trees to be removed. The removal of Tree 10 within the heritage garden is not supported. The concerns with respect to tree removal are considered in Section 5.3 (heritage tree) and 5.5.</p> <p>Outcome: The proposal provides unacceptable tree removal and landscaping on the site. This issue forms a reason for refusal.</p>
<p>Insufficient landscaped area</p> <p>Submissions raised concern with the shortfall of 680sqm in landscaped area.</p>	<p>The Seniors Housing SEPP provides a minimum amount of landscaped area which, if incorporated into the proposal, cannot be used to refuse consent on that basis (Cl 49(c)). In this case, the proposal is required to provide a minimum of 25 square metres of landscaped area per hostel bed (1,750m²), however, only 1.070 square metres is provided in the proposal, equating to 15.2 square metres per room. This represents a shortfall of approximately 10 square metres per room or 679.8 square metres in total. This non-compliance could form a reason for refusal.</p> <p>This significant shortfall in the required landscaped area further demonstrates the excessive bulk and scale of the proposal and highlights the lack of adequate landscaping on the site. The proposal relies heavily on the landscaped area in the front setback to Forest Road (the heritage garden) at the expense of landscaping spread more evenly throughout the site, particularly at the boundaries. The concerns with respect to landscaped area considered in Section 5.5.</p> <p>Outcome: The proposal provides insufficient landscaped area and is unsatisfactory. This issue forms a reason for refusal.</p>
<p>Visual privacy impacts</p> <p>Submissions raised concern the development will have visual privacy impacts to adjoining residences, particularly from overlooking from terraces and balcony areas.</p>	<p>The proposal results in several opportunities for overlooking into adjoining properties including:</p> <ul style="list-style-type: none"> • The proposed breezeway to the eastern side boundary comprises windows and doors facing the adjacent residential developments and is likely to create overlooking and visual privacy issues for 760A Forest Road and No 19 Prospect Road • The accessible rooms (Rooms 21, 46 and 70) with window openings facing the breezeway result in visual privacy issues for future residents within the site; • The proposed terrace areas for Rooms 19, 20, 44, 45, 68 and 69 face directly towards the eastern boundary and are likely to create overlooking and visual privacy issues for adjoining properties including 768 Forest Road and 23 Prospect Road; and • The lack of any significant boundary landscaping cannot assist in minimising overlooking opportunities towards adjoining properties. <p>The proposed terrace areas overlooking Prospect Road are unlikely to adversely affect visual privacy</p>

	<p>given they directly face the street. The concerns with respect to privacy are considered in Section 5.4.</p> <p>Outcome: The proposal adversely impacts on privacy for adjoining properties, contrary to the design principles of the Seniors housing SEPP. This issue forms a reason for refusal.</p>
<p>Acoustic impacts</p> <p>Submissions raised concern about the acoustic impact arising from the proposed balconies and communal areas.</p>	<p>An Acoustic Report has been provided which outlines that the proposal is satisfactory having regard to acoustic impacts (both within and external to the site). The Plan of Management also provides conditions on the use of the outdoor terrace areas which will ensure there is no use of these areas after 9pm weekdays and 10pm on weekends.</p> <p>Outcome: No changes to the proposed development.</p>
<p>Lighting impacts</p> <p>Submissions raised concern about the impact lighting from the development will have on adjoining residences.</p>	<p>There were concerns that any external lighting required for the proposed development would adversely impact on adjoining properties. Conditions can be imposed on any consent granted requiring any lighting installed to comply with relevant Australian Standards, and therefore not have adverse impacts to surrounding residences and uses.</p> <p>Outcome: No changes to the proposed development.</p>
<p>Accessibility</p> <p>Submissions raised concern there was that accessible parking is not provided and there are only 3 accessible rooms proposed.</p>	<p>An Access report has been provided with the application which assessed the compliance of the proposal with the relevant access standards and requirements. The Access Report concluded that compliance is readily achievable during the detailed design stage of the development.</p> <p>Outcome: No changes to the proposed development.</p>
<p>Overshadowing</p> <p>Submissions raised concern there would be unacceptable overshadowing of adjoining properties arising from the proposal.</p>	<p>There is potential for overshadowing of adjoining properties particularly to the west of the site arising from the proposal. The shadow diagrams are inadequate to undertake a full assessment of this issue, which is discussed in Section 5.4.</p> <p>Outcome: The proposal does not adequately consider potential overshadowing impacts arising from the proposal. This issue forms a reason for refusal.</p>
<p>Contrary to Council's Community Strategic Plan</p>	<p>The Council's Community Strategic Plan represents the community's aspirations for the next 10 years. The Plan identified six themes/pillars that are important to the community which underpin the Council's future work. The six pillars comprise a protected environment and green open spaces, quality, well</p>

	<p>planned development, active and accessible places and spaces, a diverse and productive economy, a harmonious and proud community with strong social services and infrastructure and leadership and transparency. This proposal is assessed under the requirements of the <i>Environmental Planning and Assessment Act 1979</i> and in this way is not contrary to this Plan.</p> <p>Outcome: No further consideration of this matter.</p>
<p>Cumulative impact</p> <p>Submissions raised concerns about the potential cumulative impact arising from more 3 storey buildings.</p>	<p>The proposed height of the development exceeds the maximum height limits under the Seniors Housing SEPP. Approval of the development could result in an adverse cumulative impact. The proposed height of the development is considered in Section 5.2 of the report.</p> <p>Outcome: The proposal does not propose an acceptable height. This issue forms a reason for refusal.</p>
<p>Eligibility of residents under SEPP</p> <p>Submissions raised concerns about the eligibility of people who could reside at the premises.</p>	<p>Seniors Housing developments may only be carried out for the accommodation of seniors or people who have a disability, people who live within the same household with seniors or people who have a disability, and staff employed to assist in the administration of and provision of services to housing provided under this Policy (CI 18(1)). Relevant conditions must be imposed by the consent authority to this effect (CI 18(2)), which can be undertaken on any consent granted for the proposal.</p> <p>Outcome: No further consideration of this matter.</p>
<p>Applicable planning controls</p> <p>Submissions raised concerns that the proposal satisfies the regionally significant development criteria and that SEPP 65 applies to the proposal.</p>	<p>The proposal satisfies the criteria as regionally significant development as outlined in Section 3.2.1(a) of the report and will be determined by the Sydney South Regional Panel. SEPP 65 does not apply to the proposal as the proposed hostel rooms are not <i>dwelling</i>s.</p> <p>Outcome: No further consideration of this matter.</p>
<p>Room layouts</p> <p>Submissions raised concerns that the not all the proposed rooms include bathrooms.</p>	<p>The proposed hostel complies with the requirements of the Seniors housing SEPP, which is discussed in further detail in Section 3.2.1(b) of the report.</p> <p>Outcome: No further consideration of this matter.</p>
<p>Close to other aged care</p>	<p>The submissions stated that there were at least 4-5 other aged care facilities in the vicinity of the site and</p>

<p>facilities</p> <p>Submissions raised concerns that there are at least 4 other aged care facilities in the area and therefore this proposal is not required.</p>	<p>therefore this proposed hostel is not required. The proposal is permissible pursuant to the Seniors Housing SEPP, with no restrictions on the number that can be approved in any given area. Furthermore, the proposal involves a hostel, which is a different form of accommodation to the majority of the existing aged care facilities in the area.</p> <p>Outcome: No further consideration of this matter.</p>
<p>Loss of reception venue</p> <p>Submissions raised concerns that the proposal would result in the loss of the reception venue.</p>	<p>The use of the site is a decision of the owner within the permissible uses pursuant to Clause 2.3 of the Hurstville LEP 2012. The site is included in Schedule 1 pursuant to Clause 2.5 of the Hurstville LEP 2012 for additional permitted uses, which includes the use of No 764 for a function centre.</p> <p>Outcome: No further consideration of this matter.</p>
<p>Conflicts of interest</p> <p>Submissions raised concerns that the applicant's architect was on the Local Planning Panel and the applicant is on a Council committee.</p>	<p>The architect and the applicant are not on the Panel who will determine the application and therefore there are no conflicts of interest on behalf of the applicant or the owner.</p>
<p>Lack of notice/notification of proposal</p> <p>Submissions raised concerns that the notification period was insufficient and notification was inadequate.</p>	<p>The proposal was notified by Council in accordance with the provisions of the DCP.</p> <p>Outcome: No further consideration of this matter.</p>

Attachment C: Urban Design Comments

Subject: GMU review comments for 742-746 Forest Rd and 21 Prospect Rd (DA 2021/0016)

GMU has reviewed the received DA documentations for 762-764 Forest Rd and 21 Prospect Rd (DA 2021/0016). We have also conducted a site visit and reviewed the current planning controls applied to the site and its immediate area to understand the existing and desired future character of the area. The proposal seeks approval for a 3-storey seniors hostel development in an 'L' shape wrapping around the retained heritage listed "Collaroy House" (No. 764 Forest Rd). Based on the review, we consider that the current proposal presents an excessive bulk and scale that does not provide a sympathetic response to the existing and desired future character of the area. Detailed concerns and issues are discussed below.

Existing context and character

The site visit and desktop research suggest that the area is predominantly characterised by lower scale (1-2st) fine-grain residential development. The current DCP controls envisage max. 2-storey developments within the R2 residential zone, with an external wall height of up to 6.8m. Due to the existing geometry of the allotments, the existing developments in the vicinity of the site present a strong staggered building alignment with varied landscaped front setbacks to streets (approx. 3-10m as is measured perpendicular to the street boundary from Nearmap). Vehicle entries to basement parking areas are largely recessed away from the street boundary to mitigate its potential visual impact to the streetscape character.

The Uniting Banks Lodge (residential aged care facility) located along Baumanns Rd is larger in its footprint area. It generally presents a 2-storey form plus pitched roof. The angled building alignment with increased front setbacks and landscaped side setbacks (approx. min 3.5m) assist in reducing its perceived bulk and scale whilst providing an improved fit to the context and predominant streetscape character.

Excessive bulk and scale

The proposed development presents a 3-storey continuous wall of development (approx. 39m in façade length) to Prospect Rd and when viewed from Forest Rd, which does not present a harmonious fit to the context and is considered excessive in its current form. The parallel building alignment to street frontages with insufficient setbacks and facade articulation to Prospect Rd (3m to the first 2 floors and 4m to the third level) and side boundaries (min. 1.68m) further exacerbates its perceived bulk and scale and is incompatible with the existing residential streetscape character.

The current DCP provides varied setback controls for different types of residential development within the R2 zone. However, one of the main common objectives for setbacks is to be "compatible with predominant patterns of buildings and gardens that define the existing and desired character of each neighbourhood". A detailed streetscape analysis is recommended to assist in informing an appropriate built form outcome for the subject development.

As shown in the photomontages and elevations, the exhibited continuous built form will result in a development that appears to be more of a medium and higher density development that is inconsistent with the predominant character of the area. We consider that increased setbacks and deeper/wider vertical indentations to building facades should be incorporated to achieve a more 'pavilion' style development with increased opportunity for pockets of landscaping to break up the form and its visual bulk. The intention of using additional trees and plants to mitigate the perceived scale is not considered appropriate to address the issue.

The proposal claims that the third level is specially designed in a mansard style roof form as an attic space to mitigate the visual appearance. However, the continuous roof form with inadequate articulation, setbacks and variations make it appear to be a normal habitable floor level, contributing to the excessive form. We consider that a considerable reduction in its footprint area is required to create an appropriate roof profile that will moderate the proposed form, i.e., increased setbacks, breakups in the roof form etc.

The proposal intends to facilitate the proposed new development through removing the existing large canopy trees located at the south-eastern corner of the site (No. 762 Forest Rd). We are concerned that it might alter the existing landscape character of the site, especially when viewed from Forshaw Ave and when approaching from Forest Rd.

It is noted that the featured jerkinhead roof of the heritage house is partially visible from Prospect Rd. Subject to further heritage advice; we consider that it would be good to maintain the existing view link to the heritage house from Prospect Rd. This could be potentially achieved through built form design with different treatments to the internal layout plan and architectural design.

Insufficient floor-to-floor heights

The height plane and section diagrams suggest that the majority of the building sits under the 8m (SEPP) and 9m (LEP) height controls. However, we noted that this is achieved through lowered floor-to-floor/floor-to-ceiling heights (i.e., 2.9m for ground to Level 2). There are no RL's indicated for the topmost floor on the plans. As is measured from the drawings, it appears that the floor to ceiling height of the top level is only at 2.4m which is not acceptable. Further clarification is required.

The reduced floor-to-floor height will compromise the internal residential amenity. Increased floor-to-floor/floor-to-ceiling heights are required to provide improved opportunity for daylight access and natural ventilation and a sense of space for small rooms. We understand that the proposed bulk and scale would be further exacerbated if appropriate floor-to-floor/floor-to-ceiling heights were employed.

Landscaping

The current DCP requires a min 2m landscaped area alongside boundaries to reduce the visual impact of buildings. Underground parking areas are to be concentrated under building footprints to maximise deep soil landscaping. In DCP Section 4, one of the common performance criteria for setbacks and building separation is to "create deep soil areas that are sufficient to conserve existing trees or to accommodate intensive new landscaping".

However, the architectural and landscape plans suggest that the proposal only provides min 1.68m to the eastern boundary and 3m to the south. The proposed setback zones will be predominantly occupied by egress path/decomposed granite maintenance path with limited opportunity for deep soil planting to screen off the overbearing bulk and scale whilst mitigating associated amenity impacts on neighbouring properties.

Amenity impact

- The proposed built form with reduced side setbacks creates an increased sense of enclosure and visual impact to the adjacent residential developments. The 3-storey fire egress should be incorporated within the main building design.

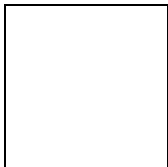
- It is noted that the retained heritage house is not integrated into the main development. There is a narrow gap (approx. 0.4-1m) between the new building and the retained heritage component. We consider it would be good if an increased separation distance to be provided for landscaping. This will provide an improved visual relief for the neighbouring developments.
- The proposed breezeway with selected aluminium framed doors and windows facing the adjacent residential development may create overlooking and visual privacy issues.
- The proposed vehicle entry gate with a width of 6.58m and height of up to 5.4m closer to the street boundary is seen as a non-contributory element to the existing residential streetscape character.
- The open garbage collection area should be enclosed and incorporated into the main building design as it will impact on the neighbour's residential amenity i.e., odorous and noise issues etc.
- The blank wall side facades should be treated with high quality materials and architectural design to create visual interest when viewed from the surrounding areas.
- The accessible units with window openings facing the breezeway result in visual privacy issues and should be reconsidered.
- Units 19-20, 44-45 and 68-69 with terraces facing directly to the eastern boundary will create overlooking and visual privacy issues.

Additional information required

- The SEE report claims that given the site constraints, a 3-storey development is required to achieve the allowable FSR of 1:1 under the SEPP Seniors. However, there is no GFA calculation diagram provided for assessment. Further clarification and details are required.
- The proposed RL levels are required on all the elevation and section drawings.
- Further shadow impact analysis is required (i.e., sun-eye diagram or elevational study) to demonstrate the actual impact on the neighbouring developments.
- Further arborist's advice is required to determine if the removal of the proposed trees are considered appropriate and acceptable

Kind Regards
Liz Zhang

Associate Urban Designer



GM Urban Design & Architecture