



## STATEMENT OF ENVIRONMENTAL EFFECTS

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Construction of a hostel facility containing 70 rooms for use as seniors housing for women, including basement parking, communal facilities and associated landscaping (under SEPP (Housing for Seniors or People with a Disability) 2004)

762-764 Forest Road and 21 Prospect Road  
Peakhurst

Prepared for: Innovate Architects

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# 1. Introduction

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This Statement of Environmental Effects has been prepared on behalf of the applicant for the proposed development. The report is to accompany a development application to Georges River Council seeking consent for the construction of a *hostel facility containing 70 rooms for use as seniors housing for women, including basement parking, communal facilities and associated landscaping* at Nos. 762-764 Forest Road and No. 21 Prospect Road, Peakhurst.

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.

This application has been made pursuant to the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP). Clause 5 of the SEPP states that this SEPP shall prevail to the extent of any inconsistency with any other environmental planning instrument (including Hurstville Local Environmental Plan 2012 (HLEP 2012)). In accordance with Clause 12 of the Seniors SEPP, the proposal has been designed to satisfy the requirements of the *hostel* definition through the provision of shared facilities, including meal services, laundering, cleaning and the provision of numerous internal and external communal areas. 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 2009*, the proposal is specifically aimed at supporting disadvantaged and elderly women.

The subject site is occupied by a heritage item and existing function centre known as '*The Gardens on Forest*', which operates under historic approvals which impose limited operational constraints. The proposal has been purposefully designed to complement the Victorian heritage structure and landscaped setting fronting Forest Road. Specifically, the internal layout and external appearance of the heritage item is to be retained and will involve a change of use to provide for a range of communal facilities which will be available to the future residents of the proposed hostel facility.

The proposed development also involves the construction of a new, L-shaped three storey building addressing Forest and Prospect Road with basement parking accessed from the north-western corner of the site. The proposal will involve the provision of 70 rooms, of which 55 contain private bathrooms and kitchenettes with the remaining 15 containing only kitchenettes. The new building includes the provision of a communal room located on ground floor with additional shared facilities available on each level. The basement level will accommodate 14 parking spaces and includes a shared swimming pool, gym and change room. It is noted that two parking spaces are provided within the front setback fronting Forest Road.

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

This Statement is divided into five sections. The remaining sections include, a locality and site analysis; a description of the proposal; an environmental planning assessment and a conclusion.

## 2. Site Analysis and Context

### 2.1 THE SITE

The subject site is located on the northern side of Forest Road and southern side of Prospect Road. The site is comprised of three allotments, known as Nos. 762-764 Forest Road and No. 21 Prospect Road, Peakhurst with a legal description of Lot 1 in DP 603371, Lot 8 in DP 659072 and Lot 24 in DP 12997 (respectively). The location of the site is outlined red in **Figure 1**.



**Figure 1** Aerial Image of subject site

The site is regular in shape with a total area of 2,673.1m<sup>2</sup>. The site has a primary (southern) frontage to Forest Road of 44.5m and rear (northern) frontage to Prospect Road of 47.59m. The site has a combined eastern (side) boundary of 61.975m which abuts two residential dwellings. The western (side) boundary has a length of 66m and similarly adjoins two residential dwellings. It is noted that the eastern (side) boundary is currently occupied by a portion of (unused) land owned by Council. The owner of the subject site will instigate a process to acquire this land which serves no functional purpose for Council, however, this will occur through a separate process to the subject development application. Such an acquisition would ultimately increase the site area to 2,686.7m<sup>2</sup>.

The subject site is currently occupied by a function centre (known as ‘Gardens on Forest’) and single storey residential dwelling. The site contains various structures with differing architectural styles, ages and heritage significance. No. 764 Forest Road is currently occupied by a heritage item (I97) identified as ‘Gardens on Forest’. The heritage item is oriented toward Forest Road, containing a two storey Victorian period house known as ‘Collaroy’, constructed in approximately 1885. This structure, as identified in the NSW Heritage Register, has been considerably modified, however retains the ‘overall form and original front façade with verandah’. The heritage listing is also inclusive of the



Victorian Garden forward of the structure which adjoins Forest Road. It is noted that this structure, originally built to serve as a dwelling, was converted into the current function centre use during the 1940s.

To the rear of the heritage listed structure is a part one, part two storey building constructed as alterations and additions during the 1960s and following this in the 2000s. This structure adjoins the heritage item and services the existing function centre, with a partial nil setback to Prospect Road and a high fence along the street boundary. It is noted that this structure is not identified as having heritage significance. Also located on the subject site within the south-eastern corner of the site is additional landscaped area and a single storey structure serving the function centre. The north-eastern corner of the site also contains an existing single storey residential dwelling at No. 21 Prospect Road.

The site is generally flat throughout and contains a heritage sensitive landscaped setting forward of the heritage structure, with a number of trees located throughout.

Photos of the site are shown at **Figures 2 to 5**.



**Figure 2** View of subject site from Forest Road



**Figure 3** View of subject site from Prospect Road





**Figure 4** Two storey heritage building and landscape setting on subject site



**Figure 5** Structure located along eastern boundary of subject site

## 2.2 SURROUNDING DEVELOPMENT

The immediate surrounds comprises a mixture of one and two storey dwellings and dual occupancies, characteristic of the R2 Low Density Residential zoning.





Adjoining the site directly to the east are two residential dwelling houses, known as No. 760A Forest Road and No. 19 Prospect Road (**Figure 6 and 7**).



**Figure 6** No. 760A Forest Road



**Figure 7** Nos. 19 (right) and 17 (left) Prospect Road

Adjoining the site directly to the west are two residential dwelling houses, known as No. 768 Forest Road and No. 23 Prospect Road (**Figure 8 and 9**).





**Figure 8** Nos. 768 (right), 770 (centre) and 772 (left) Forest Road



**Figure 9** Nos. 23 (left) and 25 Prospect Road (right)

To the south of the site and on the opposite side of Forest Road are a number of one and two storey residential dwellings, dual occupancies and an existing aged care facility (**Figures 10 to 11**). The aged care facility is known as *Uniting Nunyara Peakhurst* which contains a rear boundary to Forest Road and primary frontage to Neilson Avenue. This site similarly contains a heritage item (I96) identified as the *Holy Trinity Anglican Church*.





**Figure 10** Residential dwellings, dual occupancies and aged care facility to the south of the subject site



**Figure 11** Existing three storey aged care facility as viewed from Neilson Avenue

To the north of the site and on the opposite side of Prospect Road are a number one and two storey residential dwellings (Figure 12).





**Figure 12** Residential dwellings opposite subject site on Prospect Road

It is also noted that the subject site is within close proximity to another seniors housing facility known as *Uniting Banks Lodge Peakhurst*, located on Baumans Road (**Figure 13**).



**Figure 13** Uniting Banks Lodge Peakhurst – Seniors Housing Facility



## 3. Description of the proposal

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The development application proposes the demolition of selected structures on the subject site and the construction of a three storey seniors housing development, in the form of a hostel, with basement parking. The proposal is designed as a *hostel* which will include the provision of 70 rooms, shared facilities and associated landscaping. Importantly, no works are proposed to the existing heritage structure on the subject site, including its external appearance and internal layout. Minor amendments are proposed to the heritage landscape setting per the Landscape Plan submitted with this application. The hostel will accommodate seniors women, with a focus on disadvantaged women.

The proposed development is depicted on the plans prepared by *Innovate Architecture*, which are included with the development application and described in detail below.

### 3.1 DEMOLITION AND EXCAVATION

The proposal will involve the demolition of selected structures on the subject site. As detailed, the subject site is occupied by a heritage structure and landscaped setting identified as '*The Gardens on Forest*' which is proposed to be retained as part of this application.

The rear addition (constructed in the 1960s and 2000s) adjoining Prospect Road is proposed to be demolished as part of this application. Similarly, the existing single storey residential dwelling currently located at No. 21 Prospect Road is to be demolished, along with the single storey structure serving the function centre located on the eastern boundary. The proposal will also involve the removal of selected trees and vegetation as detailed further in Section 3.2 below. The site is also to be excavated to permit the provision of a basement car park, with a depth of up to approximately 3.2m to 4.8m (for the proposed pool) below natural ground level.

Demolition will comply with *AS 2601-1991: Demolition of structures*.

### 3.2 TREE REMOVAL

A number of trees are proposed to be removed from the site as part of the proposal. Where trees are proposed to be removed, they will be replaced according to the Landscape Plan prepared by *Taylor Brammer*. Importantly, the significant trees which form part of the heritage landscaped setting are to be retained as part of this application. However, it is noted that approximately four (4) trees within the landscaped heritage setting are to be removed as part of this application. As identified above, the trees to be removed will be replaced accordingly with vegetation which will complement the character of the locality.

### 3.3 BUILDING ARRANGEMENT AND CONFIGURATION

The proposal seeks to construct a three storey hostel which has been purposefully designed to relate to the heritage item on the subject site. Specifically, the proposal utilises an 'L-Shaped' format as to retain the prominence of the heritage structure and garden setting as viewed from Forest Road, whilst addressing both street frontages. The architectural character of the building presents as a contemporary and refined two storey built form with attic style upper level.

Importantly, the proposed design provides appropriate curtilage to the heritage item. That is, the 'L-shape' form provides a three storey structure running in an east-west orientation directly addressing Prospect Road and similar three storey structure running in a north-south orientation addressing Forest Road. The site planning ensures that the proposal will





facilitate a high level of amenity for future occupants and neighbouring properties whilst retaining the dominance of the heritage item and character of the locality. As detailed, the existing heritage item, including external appearance and internal layout, is to be unchanged as part of this application and serve the future occupants of the proposed hostel. This will include necessary facilities to satisfy the definition of a hostel per the Seniors SEPP, including meals services, communal living rooms, bathroom facilities and offices for staff. These facilities are further discussed in a Plan of Management annexed to this SEE.

The proposal provides pedestrian access via the existing heritage garden from Forest Road and additional access at the rear from Prospect Road. Vehicular access is provided from the rear north-western corner from Prospect Road to the proposed basement level, whilst the existing driveway from Forest Road is to be retained.

Each level is described in detail below:

#### Basement:

The basement level is accessed from the north-western corner of the site from Prospect Road via the proposed driveway ramp. The proposed basement level has a RL of 55.00 and is located predominantly below the natural ground level. The layout has been designed to generally occupy the footprint of the built form above and includes the provision of 14 vehicular parking spaces.

The south-eastern portion of the proposed basement also includes the provision of a swimming pool, gym and associated change rooms for the use of future residents. This level also includes a garbage room, plant, services and pool equipment room, with lift and stair access provided to the upper levels.

#### Ground Floor:

As detailed, the ground floor is designed in an 'L-shaped' format with built forms running in an east-west and north-south orientation, fronting Prospect Road and Forest Road respectively. The ground floor provides a total of 21 rooms (of which one is accessible).

Within the east-west wing of the ground floor, the proposal provides 11 rooms, all of which contain bathrooms and kitchenettes (one being accessible). The east-west wing also includes the provision of vertical access to the upper and lower levels, a shared laundry and communal foyer space. Pedestrian access is provided via two entries along Prospect Road, with private open spaces provided for each room.

The north-south wing includes a total of 10 rooms, all of which contain bathrooms, kitchenettes and private open spaces. The north-south wing also includes the provision of vertical access to the upper and lower levels and a shared disabled toilet. Fronting Forest Road is a shared communal area accessible to all residents which includes dining, living and kitchen areas. These spaces are intended to facilitate social interaction between residents. Pedestrian access from Forest Road is provided via the existing heritage garden via an open walkway and covered link.

As detailed, the heritage item will be unchanged as part of this application. The existing heritage structure will provide for a communal open space, including dining and sitting rooms, kitchens, bathrooms and staff offices. Further, the existing heritage landscaped setting will also be retained which will provide vital communal open space for future residents. Minor amendments to the heritage landscape setting are proposed per the Landscape Plan prepared by *Taylor Brammer* to improve its desired communal use.

It is noted that the existing driveway (accessed from Forest Road) providing vehicular access to the entry of the heritage item will be retained as part of this application and will provide an additional two parking spaces plus one emergency vehicle space.







#### First Floor:

The first floor is designed to occupy the footprint of the ground floor and provides a total of 25 rooms (of which one is accessible and majority contain private open spaces).

Within the east-west wing of the first floor, the proposal provides 13 rooms, of which 6 contain bathrooms and kitchenettes (one being accessible) and 7 with kitchenettes only. The east-west wing also includes the provision of vertical access to the upper and lower levels, a shared laundry, accessible toilet and communal space.

The north-south wing includes a total of 12 rooms, all of which contain bathrooms, kitchenettes and private open spaces. The north-south wing also includes the provision of vertical access to the upper and lower levels and a shared accessible toilet.

As detailed, the heritage item will be unchanged as part of this application. The first floor of the heritage structure will retain the existing communal areas including lounge rooms, music rooms, kitchens, bathrooms and staff rooms.

#### Second Floor:

The second floor is designed to occupy the footprint of the first floor and provides a total of 24 rooms (of which one is accessible and majority contain private open spaces).

Within the east-west wing, the proposal provides 14 rooms, of which 6 contain bathrooms and kitchenettes (one being accessible) and 8 with kitchenettes only. The east-west wing also includes the provision of vertical access to the upper and lower levels, a shared laundry, accessible toilet and communal space.

The north-south wing includes a total of 10 rooms, all of which contain bathrooms and kitchenettes with majority providing private open spaces. The north-south wing also includes the provision of vertical access to the upper and lower levels and a shared accessible toilet. Fronting Forest Road is also a communal roof terrace available to all residents.

### **3.4 LANDSCAPING**

A Landscape Plan has been prepared by *Taylor Brammer* and has been submitted separately with the development application. The proposal will remove a number of trees as identified per the submitted Landscape Plans. To offset tree removal and ensure that the development harmonises with the landscape character of the area and heritage item, substantial deep soil landscaped areas for planting is proposed across the site. As discussed, the proposal has been designed to retain the heritage landscape setting fronting Forest Road (with improvements proposed per the Landscape Plan) and will provide for vital communal open space for future residents.

In accordance with the above, the proposed landscaping has been purposefully designed to reflect the Victorian character of the heritage item. This will include the provision of additional arbours, gazebos, seating and hedge planting to improve the communal open space to be utilised by future residents. Additionally, the proposal will include landscaping along the eastern and western (side) boundaries to provide a visual and acoustic buffer to the neighbouring residential dwellings. As viewed from Prospect Road, the provision of additional screen planting will soften the built form and provide a sense of security and privacy for future residents occupying the ground floor rooms.

### **3.5 PARKING AND ACCESS**

Vehicular access to the subject site is provided from Forest Road and Prospect Road. Access to the basement is provided from the north-west corner of the site from Prospect Road via the proposed driveway to the basement level.





The parking area will provide for 14 parking spaces serving the hostel. As detailed in the accompanying Traffic Report, the vehicular access, geometry and parking space dimensions have been designed to comply with AS2890.1.

The vehicular access provided from Forest Road (within the heritage landscape setting) is proposed to be retained as part of this application as are the two existing parking spaces. This existing driveway is to also be utilised by emergency service vehicles.

### **3.6 OPERATIONAL DETAILS**

An Operational Management Plan is submitted under separate cover which details the operation and function of the proposed seniors housing hostel facility.

### **3.7 WASTE MANAGEMENT**

A Waste Management Plan (WMP) has been submitted under separate cover. The management plan outlines the proposed waste handling and storage for all types of waste associated with the hostel including the ancillary functions of the communal areas.





## 4. Environmental Planning Assessment

### 4.1 PREAMBLE

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

### 4.2 STATUTORY AND POLICY COMPLIANCE

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

Table 1 Section 4.15 Matters for Consideration				
EP & A Act, 1979.	Matters for Consideration	OK	See Comments	N/A
S.4.15(1)(a)(i)	SEPP No.55 – Remediation of Land	✓	✓	
"	SEPP (Housing for Seniors or People with a Disability) 2004	✓	✓	
"	SEPP (Vegetation in Non-Rural Areas) 2017	✓	✓	
"	SEPP (Building Sustainability Index: BASIX) 2004	✓	✓	
"	Hurstville Local Environmental Plan 2012	✓	✓	
S.4.15(1)(a)(ii)	Housing Diversity SEPP	✓	✓	
S.4.15(1)(a)(iii)	Hurstville Development Control Plan 1	✓	✓	
S.4.15(1)(a)(iv)	Any other prescribed matter: – AS 2601-1991: Demolition of structures.			✓

The matters identified in the above Table as requiring specific comment are discussed below. The two primary statutory documents applying to the proposed development on the subject site are the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* and *Hurstville Local Environmental Plan 2012* (HLEP 2012). As the Hurstville Development Control Plan 1 (HDCP 1) does not contain any specific provisions relating to seniors housing, it is considered only under S.4.15(1)(e) as a public interest consideration. The relevant provisions of these documents are summarised below and the proposal's compliance with them assessed

#### 4.2.1 SEPP No.55 – Remediation of Land

State Environmental Planning Policy (SEPP) 55 – Remediation of Land was gazetted on 28 August 1989 and applies to the whole State. It introduces planning controls for the remediation of contaminated land and requires an investigation to be made if land contamination is suspected.

It is considered that there is no reason to suspect that the subject site is subject to any contamination. The subject site previously operated a residence after which it was occupied by a function centre. There is no apparent history of use which may have introduced contamination that requires remediation and is therefore considered acceptable.





#### 4.2.2 SEPP (Housing For Seniors or People with a Disability) 2004

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

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

##### Chapter 1 - Preliminary

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

The Policy applies to land within NSW that is zoned primarily for urban purposes where dwelling houses, residential flat buildings, hospitals and special uses are permitted, or the land is being used for the purpose of a registered club. The subject site is within Zone R2 Low Density Residential under HLEP 2012. Dwelling houses are permitted with consent within Zone R2 and therefore SEPP (Seniors Housing) applies to the land.

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

##### Chapter 2 - Key Concepts

Chapter 2 describes the 'key concepts' of SEPP (Seniors Housing) providing detailed definitions to clarify the type of person whom is considered a *senior* and the type of person whom is considered a *person with a disability*. This Chapter also defines the types of housing to which the Policy relates.

Pursuant to Clauses 3 and 12, the proposed development is defined as a "*hostel*", being:

*In this Policy, a **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.*

In accordance with the above definition, the proposed development has been designed as a 70 room, seniors housing hostel facility. The proposal will include the provision of a range of shared facilities contained within the existing heritage item and proposed built form. As described under Section 3.3 of this Statement and the Plan of Management (PoM), the existing building facilities within the heritage item will provide for meal services, numerous internal common areas for general and event use and offices to accommodate future employees.

Within the proposed built form, the hostel will include the provision of communal living areas (with kitchen facilities), shared laundries and shared accessible bathrooms. The proposal will also provide for a gym, swimming pool and change room for future residents. Externally, the proposal will provide for a number of communal outdoor areas. The primary space will be located within the existing heritage landscaped setting.



In addition to the above (and per the PoM), the hostel will offer room cleaning services, a staff member on-site 24 hours a day, 7 days a week and various support services for future residents. As detailed (and within **Annexure A**), the proposed development will satisfy the requirements of the *hostel* definition.

### Chapter 3 - Development for Seniors Housing

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

Pursuant to Clause 15, development for the purpose of any form of seniors housing, despite the provisions of any other EPI, is permissible if the proposed development is carried out in accordance with the SEPP. This Part of the SEPP outlines numerous matters for consideration including site requirements, design requirements, development standards to be complied with and standards which cannot be used as grounds for refusal. The proposal's compliance with the development criteria relevant to the proposed development are detailed in **Annexure B** of this Statement.

As detailed in **Annexure B**, the proposed development is consistent with the principles, design requirements and guidelines outlined by the SEPP with the exception of *Height in zones where residential flat buildings are not permitted* under Part 4, Clause 40(4) of the SEPP being "*development standards to be complied with*". This is a development standard in the SEPP which requires a Clause 4.6 Variation Request to be varied which is therefore provided in **Annexure D** of this Statement.

Under Clause 49 of the SEPP, provisions for building height and landscaped area fall under Part 7 of the SEPP being "*development standards that cannot be used as grounds to refuse consent*". The proposed building height and landscaped area do not meet the nominated provisions under Clause 49. Whilst these nominated provisions are not met, they do not constitute non-compliance with a development standard and therefore a Clause 4.6 Justification Statement is not required. It is noted that the end of Clause 49 states that:

**Note:** *The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.*

It is reasonable to interpret this "note" as there being no limitation on Council granting consent to a proposed development that does not meet the nominated provisions contained within Clause 49, instead they are taken to be guidelines within which a development should be considered. In any case, the proposed landscape area requirements under Clause 49 are discussed below. As identified above, the maximum building height under Part 4 and Part 7 of the overlap. As such, justification for the proposed variation per Part 7 is contained within the Clause 4.6 Variation contained within **Annexure D**.

### Chapter 4 - Miscellaneous

Chapter 4 of SEPP (Seniors Housing) provides savings and transitional provisions for development applications for Seniors Housing made before the Policy was introduced. None of these provisions are applicable to the subject application.

#### 4.2.2.1 Landscaped Area – Part 7, Clause 49(c)

Clause 49 (c) of the Seniors SEPP relates the minimum landscaped area requirement for hostel developments. Specifically, the Clause requires 25m<sup>2</sup> of landscaped area per hostel bed to be provided. This elicits a total landscaped requirement of 1,750m<sup>2</sup> or 65%. The proposed development has been designed with a total landscaped area of 1,070m<sup>2</sup> or 39%, which equates to 15.2m<sup>2</sup> of landscaping per hostel bed. This represents a shortfall of 680m<sup>2</sup> or 9.8m<sup>2</sup> per hostel bed.





The non-compliance pertaining to landscaped area is predicated on the nature of the subject site, specifically, the location and siting of the existing heritage item and landscaped setting. The requirement to retain the heritage item as viewed from the public domain limits the flexibility of site planning and overall design of the proposed structure and consequently results in the proposed shortfall. Notwithstanding, the proposal will provide a high quality landscape design which will soften the proposed built form from both frontages and to the side boundaries, as discussed below.

When viewed from Forest Road, despite the shortfall, the proposal will retain the character of the heritage landscaped setting and vegetation when viewed from the streetscape. Minor amendments proposed as part of the Landscape Plan offer improved functionality and useability for this primary communal open space. The proposal will continue to provide a high quality, character appropriate landscaped setting which will improve streetscape appearance and amenity for future residents of the hostel. That is, the 5.2m<sup>2</sup> shortfall per bed will not impact the quality of the landscaped areas. Although it is noted that vegetation within the south-eastern corner of the site will be impacted, the existing vegetative screening which defines this edge will be retained. Furthermore, this corner will also be furnished to serve as an additional communal open space which will extend from the ground floor communal living area.

Similarly and when viewed from Prospect Road, the proposal will significantly improve the provision of landscaping to the secondary boundary. In the site's current arrangement, the rear boundary contains the existing (1950s) structure which is constructed with a nil setback and offers no vegetation or landscaped area. The proposal will demolish this element and include the provision of a 4m setback which is to be occupied by deep soil landscaping and vegetation (per the Landscape Plan). This offers a considerable improvement to the landscaped character of the site which will benefit the desired setting and vegetative network of the R2 Zone.

In terms of landscaping to the side setbacks, the proposal will also offer suitable areas for deep soil landscaping and mature vegetation. The proposed development has been purposefully designed with 2m – 4m setbacks to the eastern (side) boundary and 3m setbacks to the western (side) boundary. The proposed setbacks will accommodate appropriate landscaping which will offer a visual and physical buffer to the neighbouring residential dwellings. Despite not meeting the minimum requirement, the landscaping to the neighbouring side boundaries has been maximised particularly considering the constraints imposed by the heritage item on the subject site. Importantly, it is noted that achieving a compliant scheme would not result in any additional landscaped area to the side boundaries given the limitations of building envelope.

Furthermore, it is also noted that the non-compliance of landscaped area is a result of the “verticality” of the proposed development. That is, the footprint of the proposal is physical restrained and the required landscaped area is a consequence of the efficiency of design (containing 70 beds). If rooms were to be removed compliance would ultimately be achieved, however this would not result in any physical or numerical increase to the landscaped area. Therefore, removing rooms to achieve compliance with Clause 49(c) is counterproductive and not in public interest.

Although not technically applied to the proposed development, it is noted that *Section 4 Specific Controls for Residential Development*, specifically, *4.2 Multi Dwelling Housing*, requires a total landscaped area of 20%. It is noted that multi dwelling developments are not permitted within the R2 Zone, however the proposal's bulk, scale and architectural character is most reflective of this typology. Accordingly, it is considered that the proposed 51.8% landscaped area is compatible with the character of the R2 Zone.

As such, the proposal is considered acceptable despite the numeric shortfall in landscaped area.

#### **4.2.3 SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate accompanies the application and outlines various sustainability commitments as part of the proposed development. The BASIX certificate(s) demonstrate compliance with the requirements of the BASIX scheme and is therefore consistent with the SEPP.





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

This SEPP was gazetted on 25 August 2017 and repeals Clause 5.9 of PLEP 2014. The Vegetation SEPP works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW.

The Vegetation SEPP regulates clearing that is not ancillary to development requiring consent. Whereas, clearing that is ancillary to development requiring consent will be assessed as part of the development assessment process. As such, the Vegetation SEPP is not applicable to the proposed development as the proposed removal of trees is ancillary to development requiring consent and will be assessed by Council's Landscape Officer.

#### 4.2.5 Housing Diversity SEPP

The Department of Planning, Industry and Environment is exhibiting an Explanation of Intended Effect (EIE) for a proposed new State Environmental Planning Policy (SEPP) that aims to facilitate the delivery of diverse housing that meets the needs of the State's growing population and will support the development of a build-to-rent sector. The proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) would consolidate three current SEPPs and update some planning provisions in response to community and council concerns about boarding house and senior's housing development.

The Explanation of Intended Effect (EIE) ended exhibition on 9 September 2020. The specific legislation detailed in the Housing Diversity SEPP has not been released and there are no relevant matters for consideration in draft form. As such, no further consideration is required at this stage.

#### 4.2.6 Hurstville Local Environmental Plan 2012

The Hurstville Local Environmental Plan 2012 (HLEP 2012) applies to the subject site. Under the LEP, the subject site is within Zone R2 – *Low Density Residential* as indicated on the *Land Zoning Map*. The proposed development is characterised as *seniors housing* comprising of a *hostel* which is permissible with consent in Zone R2, pursuant to SEPP (Seniors Housing), as described at Section 5.2.3 of this Statement.

The objectives of Zone R2 are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To 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 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 scale of development will complement the low density character of the locality with landscaping which incorporates a variety of plant species that will harmonise with the natural environment. The proposal has been purposefully designed to respond to the heritage character of the

subject site and ensure a high level of amenity for future residents and neighbouring properties. For these reasons, the proposal demonstrably aligns with the zone objectives of Zone R2.

A Compliance Table which considers the proposal against the provisions of HLEP 2012 is provided at **Annexure B**.

#### 4.2.6.1 Heritage

As discussed in this Statement, the subject site contains a heritage item (I97) identified as '*The Gardens on Forest*'. This heritage item is located at No. 764 Forest Road and contains a two storey Victoria period house known as 'Collaroy' constructed in approximately 1882. Per Section 2.1 of this Statement, the heritage value of this structure pertains to the original form and façade with verandah, which is also inclusive of the Victorian Garden adjoining Forest Road. It is noted that this structure, originally built to serve as a dwelling, was converted into the current function centre use during the 1940s.

To the rear of the heritage listed structure is a part one, part two storey building constructed as an alterations and additions during the 1950s and following this, in 2006 and 2010. This structure adjoins the heritage item and services the existing function centre, with a nil setback to Prospect Road. It is noted that these ancillary structures are not identified as being heritage significant.

In accordance with the above, the proposed development will demolish the previous additions and provide an 'L-shaped' form which is sensitive of the character and importance of the items on the subject site. The proposal is skilfully designed by *Innovate Architects* to integrate with the heritage character of the site through the provision of appropriate curtilage, a refined form and sympathetic materiality. Importantly, the primary façade of the proposed structure fronting Forest Road will be visually subordinate to the heritage item. That is, the proposed development will not detract from the qualities of the heritage character given the design language which includes a sympathetic framed form to ground and first floor with a recessed 'attic' style second floor. Numerically, the proposed structure fronting Forest Road contains a width of 10.65m, which only represents 23.6% of the overall street frontage. Further, the proposal also utilises appropriate landscaping to soften the interface between the proposed structure and heritage item. The Landscape Plan prepared by *Taylor Brammer* incorporates appropriate vegetation and landscaped elements to ensure compatibility with the character of the site.

From Prospect Road, it is noted that the site in its current arrangement does not afford any heritage qualities. As such, the proposal will demolish the previous additions and provide a built form with appropriate setbacks and landscaping to ensure compatibility with the R2 Zone. The proposed development has been assessed in the Heritage Impact Statement prepared by *GBA Heritage* and concludes;

- *The proposed development would have no physical impact on any significant elements of Collaroy House or its front garden.*
- *The proposed new hostel building would be located in areas of the subject site that have reduced heritage sensitivity.*
- *The primary significant views of Collaroy House and its front garden will be retained. The loss of a rear view of part of Collaroy House's roof would impact a view of secondary heritage significance would have an acceptable impact.*
- *The setting of Collaroy House, as a house fronting a large garden, would be retained.*
- *The proposed hostel building interprets the design of Collaroy House in its scale, form, colouring and detailing, but does not replicate or mimic any specific design elements.*
- *The proposed development is consistent with the heritage requirements and guidelines of the Hurstville LEP 2012 and the Hurstville DCP No.1.*

- *Should any unexpected relics be disturbed during excavation of the site, they must be managed under the Archaeological provisions of the NSW Heritage Act.*

As such, the proposal is deemed to be compatible with 'The Gardens on Forest' heritage item whilst providing a high quality hostel development compatible with the R2 Zone.

#### **4.2.7 Hurstville Development Control Plan 1**

The *Hurstville Development Control Plan 1* (HDCP 1) applies to all land to which the HLEP 2012 applies. A Compliance Table is provided at **Annexure C** and considers the proposal against the relevant controls of the DCP.

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

##### **4.2.7.1 Building Envelope**

As stipulated above, the HDCP 1 does not contain any specific controls pertaining to Seniors Housing. As such, the proposed development has been designed through careful site analysis and heritage consideration to ensure the character of the locality and amenity of neighbouring properties is appropriately retained. Importantly, the proposed building height, density and landscaping is predicated on the provisions of the Seniors SEPP as discussed in this Statement.

With regards to setbacks, the proposal has been designed to ensure consistency with the built form of the neighbouring properties along Forest and Prospect Road. From Forest Road, the built form is setback 5.9m to ground and first floor, with an increased setback of 11.7m to the second floor. The proposed built form aligns with that of the neighbouring residential dwelling (to the east). The proposal acknowledges that the second floor represents additional height and therefore provides an increased setback to ensure a compatibility with the bulk, scale and character of the R2 Zone.

From Prospect Road, the proposal represents a considerable improvement over the existing site conditions, in which a nil setback is currently provided. The proposed built form provides a 3m setback to the framed elements on the ground and first floor, with a 4m setback to the external façade across all levels. The proposed setbacks have been specifically designed to ensure consistency with the prevailing street setback and the immediately adjoining properties. As detailed, the built form is designed with framed elements on the ground and first floor with a recessed 'attic' style upper level. The proposed setbacks also permit the provision of appropriate vegetation and deep soil landscaping and therefore reflects the desired R2 Zoning.

With regards to side setbacks, the proposal has been designed to mitigate potential impacts regarding increased sense of enclosure and the amenity of neighbouring properties. To the eastern (side) boundary, the proposal provides a 2m-4m setback which exceeds that of the neighbouring properties and reduces the sense of enclosure created by the proposal. The purposeful orientation of rooms, provision of non-habitable spaces and location of blank facades to this boundary reduces amenity impacts to the neighbouring properties and is therefore considered acceptable in this regard.

Similarly, the proposal provides a 3m setback to the western (side) boundary, which is predominately comprised of a blank façade and is limited in overall length. This setback is greater than that of the existing heritage item (which varies from nil to 2.1m) and will not result in any adverse impact with respect to bulk, scale or character. It is also considered that the rooms opposing this boundary (noting this is limited to 6) will not result in any adverse amenity impact as is discussed in this Statement. In consideration of the side setbacks, it is noted that ample area is provided for the provision of deep soil landscaping and vegetation per the Landscape Plan.

As such, the proposal is considered acceptable, on-merit, with regards to the building envelope and footprint.

## 4.3 IMPACTS ON NATURAL & BUILT ENVIRONMENT

### 4.3.1 Topography & Scenic Impacts

The proposal will result in additional excavation to accommodate the proposed basement level located within the northern and north-eastern portion of the site. The proposed excavation to a depth of up to 3.2m to 4.8m is required to accommodate the proposed basement level and pool respectively. The completed building will predominantly occupy excavated basement area which represents an efficient use of the site for the provision of on-site parking and other facilities necessary for the building to function.

It is noted that the basement excavation extends beyond the building envelope, however will achieve an acceptable amount of landscaping and provide additional planting as identified in the Landscape Plan. Access to the basement parking will be provided from Prospect Road via the proposed driveway and will incorporate vegetation along both frontages and within the side setbacks to ensure that it will not dominate the streetscape and minimise changes to the local topography. Once completed, the quantum and depth of excavation will not be readily discernible from the public domain and contained predominantly within the building envelope to minimise any impacts on the amenity and stability of adjoining properties.

This application is accompanied by a Geotechnical Report which has provided a series of recommendations to be followed during the construction phase to ensure no impacts to the neighbouring properties will result. As such, the proposal will not generate any adverse visual impacts as a result of the modification to the site topography.

In terms of scenic impacts, the proposal is considered to be consistent with the established and desired future character of development and will not give rise to any adverse impacts on the scenic quality of the locality. As discussed throughout this Statement, the proposal has been designed to retain the predominance of the heritage structure and landscaping on the subject site as viewed from Forest Road. That is, the proposed excavation and built form will not detract the character of the heritage item whilst providing a built form and architectural character which will improve the character of the site, namely from Prospect Road.

### 4.3.2 Micro-climate Impacts

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

### 4.3.3 Water & Air Quality Impacts

During construction, appropriate sediment and erosion controls will be installed and maintained to prevent migration of sediment from the site. Once constructed, roof and surface water from the development will be captured within on-site detention and rainwater tanks at basement level.

Stormwater plans have been submitted with the development application. The plans illustrate that storm and waste water from the development can be managed on site. Therefore, the proposal will have positive impacts on the water quality of the locality.

In terms of air quality, the site will be managed during construction to mitigate any potential impacts on air quality, particularly during excavation. It is expected that appropriate dust mitigation measures will be employed during excavation. During operation, the proposed use is not anticipated to generate any unusual odour or fumes. The proposal is unlikely to have any notable impact on air quality.

### 4.3.4 Flora & Fauna Impacts

The proposal necessitates the removal of a number of trees located throughout the subject site. The removal of the trees will be replaced according to the Landscape Plan prepared by *Taylor Brammer*.





The Landscape Plan will provide a number of mature trees throughout the subject site. The proposed development will include the provision of landscaping to both frontages and within the side setbacks to soften the built form and improve upon the flora network on the subject site. As identified in this Statement, the proposal will not involve any major works located within the heritage landscaped setting, noting four trees are to be removed and replaced. The remaining landscaping proposed on-site will complement the character of the R2 Zone and is therefore considered acceptable in this regard.

#### **4.3.5 External Appearance & Design**

The proposed development has been designed as a high quality, seniors housing development which is purposefully sited to address both street frontages whilst retaining the predominance of the existing heritage structure and landscaped setting on the subject site. As detailed in this Statement, the proposal is designed in an 'L-shaped' format to ensure an appropriate curtilage is provided around the heritage item. The proposed site planning includes an east-west wing occupying the width of the northern frontage to Prospect Road and north-south wing which aligns with the eastern (side) boundary to address Forest Road.

From Forest Road, the proposal will present as a part two, part three storey structure, noting that the uppermost floor is specially designed as a recessed attic style form as viewed from the streetscape. Importantly, the north-south wing is limited in width as to ensure the primary façade of the heritage item and landscape setting will not be obscured or over-bearred by the proposed development. The proposal is designed with refined framing elements on ground and first floor and recessed attic style design on the second floor. These design elements are correlated to the proposed setbacks from the streetscape, neighbouring properties and heritage item. This enables the provision of extensive landscaping and consequently a compatible bulk, scale and character when viewed from Forest Road.

To the rear of the subject site, the proposal has been designed to address Prospect Road and incorporates a consistent architectural language. The utilisation of the framed elements, balcony articulation, fenestration and the recessed uppermost floor ensures that the bulk, scale and character of the development is consistent with the residential dwellings located along Prospect Road. Given the width of the built form addressing the streetscape, the proposal is also articulated with vertical breaks and separation throughout the façade (including podium landscaping) as to reduce the perceived visual bulk when viewed from the streetscape. These elements, in conjunction with the proposed landscaping fronting Prospect Road, ensures that the development is compatible with the residential dwellings in the locality.

In accordance with the above, the proposal has incorporated materiality including tiled framed elements, open-bar balustrades, cladding, glazing and powder coated horizontal beams. These elements are to be finished in a combination of lighter and darker neutral colours to provide a high degree of visual depth and interest. The second storey is purposefully finished in a darker vertical cladding representing the appearance of an attic space when viewed from the public domain and neighbouring properties. The proposed materiality results in the provision of a contemporary design which incorporates specific elements to ensure compatibility with the heritage item on the subject site. Namely, the proposed design ensures a visually recessive built form which is consistent with the bulk, scale and character of the heritage item and surrounding R2 Zone.

As discussed, the substantial landscaping and tree planting proposed throughout the site, including deep soil areas, will reduce the overall presence of the development when viewed from the public domain. The heritage landscape setting fronting Forest Road is to be retained, with additional elements proposed to improve the amenity and useability for future occupants of the subject site. Landscaping will also screen the bulk of hard surfacing on site, as well as the pedestrian walkways and driveway entries. The landscape design will also include the planting of a number of mature height trees and podium elements to enhance the existing landscaped character of the site and locality.





Overall, the proposed building will frame the heritage item on the subject site and nestle comfortably within its surroundings, setting a strong precedent for high quality, modern and attractive design within the locality. Accordingly, the proposed development is compatible with the desired future character for development in the Peakhurst locality.

Perspectives of the proposed development are provided at **Figures 14** and **15**.



**Figure 14** Perspective of the development from Forest Road



**Figure 15** Perspective of the development from Prospect Road



#### 4.3.6 Solar Access

Solar Access diagrams have been prepared and are submitted under separate cover. They demonstrate the existing and proposed shadow impact of the development at 9am, 12pm and 3pm during midwinter, the summer solstice and September equinox.

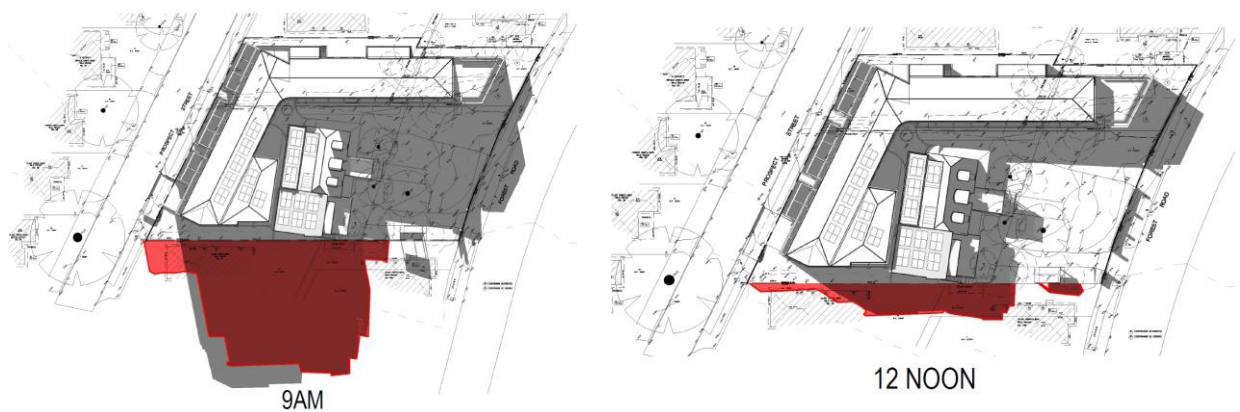
The diagrams demonstrate that the proposal will result in an acceptable amount of overshadowing during mid-winter, which can be reasonably anticipated given the site orientation and increase of density afforded by the SEPP Seniors. When comparing the existing and proposed building envelope, it is noted that the extent of overshadowing to the neighbouring properties is relatively minor (**Figure 16**). *Part 4.4 Dwelling Houses on Standard Lots, Solar Access*, requires the following for neighbouring properties;

*Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.*

As demonstrated on the submitted shadow diagrams, the proposed development will result in a minor degree of additional overshadowing from 9am to 12pm to the residential dwellings at the west. However, given the site orientation, these neighbouring properties will receive three hours of solar access to living areas and private open spaces from 12pm to 3pm and will therefore satisfy the above requirement.

To the east, the proposed development will result in a relatively minor degree of overshadowing to the neighbouring properties from approximately 2pm to 3pm mid-winter. Despite this, No. 760A Forest Road and 19 Prospect Road will still receive 6 hours of solar access to their respective northern facades and open spaces during mid-winter and is therefore considered acceptable.

In accordance with the above, the bulk of overshadowing is cast by the proposal is onto the subject site given the site orientation. As such, the proposal is considered acceptable with regards to overshadowing.







3 PM

**Figure 16** Shadow diagrams of existing (red) and proposed (grey) development during mid-winter

#### 4.3.7 Views

Given the topography of the locality and the nature and orientation of surrounding development, there are no significant views across the site from adjoining properties or the public domain and it is therefore considered that the proposed development will not result in loss of any significant views.

Whilst the development is likely to appear in long views over the site, it is not considered that these are significant nor are they views cherished by the local community. The building will present as a high quality, well designed residential institution set amongst enhanced landscaping. It is noted that minor view loss to the heritage item on the subject site from Prospect Road will result, however is considered acceptable given this view is currently obscured from the rear boundary.

#### 4.3.8 Aural & Visual Privacy

In terms of privacy, the proposed development has been designed to minimise, as far as practicable, the likelihood of any adverse overlooking or invasion of aural privacy of neighbouring properties. The proposal employs orientation and the use of blade walls, blank façades and landscaping to provide clear definition and separation between the development and neighbouring properties. Internally, rooms sharing common walls will be constructed to comply with BCA requirements and all potential noise generating sources will be located in the basement level and away from residential rooms. It is considered that the proposed development will not create any aural impacts greater than what is expected from a development of this scale.

In terms of visual privacy, the proposed development has been designed to orientated rooms away from adjoining properties as far as practicable and utilises architectural elements that minimise direct lines of sight. The proposal specifically orientates rooms to the street frontages and internally within the subject site, specifically, the heritage building and landscaped setting.

The proposed eastern elevation has been predominantly designed with blank façades, and where openings are proposed, has provided increased setbacks. Specifically, the proposed openings to the eastern (side) boundary are provided from non-habitable walkway spaces which have integrated 2m-4m setbacks to provide sufficient separation to the neighbouring properties. Given the proposed use and setbacks, overlooking to the neighbouring residential dwellings is considered to be reasonably mitigated.

To the western (side) boundary the proposal provides openings (and balcony spaces) from two rooms per level (being a total of 6 rooms). These spaces are setback 3m to the edge of the balcony and 4m-4.5m to the edge of the glazing. Despite opposing the boundary of the neighbouring property, the proposed setbacks are considered to provide sufficient separation from the neighbouring property to mitigate potential overlooking. It is important to note that the



existing heritage item on the subject site contains a nil setback to the side boundary, and therefore the proposed setbacks represent a superior outcome. Notwithstanding and if necessary, Council can impose a condition of consent for the provision of privacy screens.

With regards to the existing heritage item, it is noted that no physical changes are proposed which will impact the aural or visual privacy of the neighbouring properties. In fact, given the proposed function use will no longer operate, the aural privacy of neighbouring properties is considered to be significantly improved as part of this application. As such, the proposal is considered acceptable in terms of aural and visual privacy impacts on adjoining development and the amenity of future residents.

## 4.4 ECONOMIC & SOCIAL IMPACTS

The proposal will have no adverse economic impacts. Undertaking the construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects.

The proposal is considered to have strong positive social impacts. The provision of a well-located seniors housing hostel development with excellent levels of amenity is consistent with the aim of SEPP (Seniors Housing). The proposal will overcome a lack of suitable housing and to provide high quality accommodation for seniors, whilst maintaining compatibility with the predominant scale and character of development in the locality.

Specifically, the proposal will provide for hostel accommodation for women over the age of 55 or with specific disadvantages. This proposal will serve a specific portion of the population through the provision of a high quality, inclusive environment. The proposed facility will provide an appropriate style of aged care housing that will provide a high standard of care. A number of new jobs will also be created as a result of the proposed facility and may increase employment opportunities for local residents.

The site will provide adequate parking and given the nature of the user and visitors is unlikely to contribute significantly to peak flows of traffic or have an adverse impact on the wider road network. The site is served by public transport and is within close proximity to a large shopping centres. These centres and facilities will in turn likely see an economic boost from an increase in local residents who will have easy access to them.

The application includes a Plan of Management is submitted under separate cover. This is to ensure neighbourly operation is achieved and outlines details such as parking arrangements, staffing levels, servicing (including garbage collection) and security details.

## 4.5 THE SUITABILITY OF THE SITE

### 4.5.1 Access to Services

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

The closest bus stop is approximately 95m away from the entrance on Forest Road. The access is a paved, level footpath which is acceptable for use in accordance with the SEPP (Seniors Housing).

Bus No. M91 and 943 serves the site with services running approximately once per hour in each direction. The M91 route travels from Parramatta CBD to Hurstville Railway Station, whilst the 943 route travels from Lugarno to Hurstville Railway Station. The bus routes pass via a number of shopping and town centres, including Hurstville, Penshurst, Padstow Heights, Peakhurst, Lugarno, Granville and Parramatta.





The provision of frequent bus services to Hurstville Railway Station provides access to wider Sydney. Hurstville town centre also affords district level shopping which includes a range of larger and smaller stores, cafes, restaurants and other facilities. The site is also within proximity to smaller retail centres.

#### **4.5.2 Parking, Traffic Generation and Access**

Parking requirements for seniors housing developments are prescribed within the Seniors Housing SEPP, and have been identified within the Compliance Table at **Annexure A**. Per Clause 49 of the SEPP, the development requires 14 spaces for residents, 1 space per 2 persons employed in connection with the development and 1 parking space for an ambulance. The proposed development provides a total of 14 parking spaces within the basement, and 3 at-grade spaces accessed from Forest Road (including 1 emergency vehicle space).

As identified above, the proposed parking meets the requirements when calculated pursuant to the rates prescribed in the Seniors Housing SEPP. A Traffic and Parking Assessment has been carried out and is submitted under separate cover. As identified in the Traffic and Parking Assessment, the proposed development will not result in any adverse increase of traffic generation, functioning or capacity of the surrounding network.

#### **4.5.3 Hazards**

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

### **4.6 THE PUBLIC INTEREST**

The proposed development increases the supply of housing and provides for a specific form of accommodation that meets the needs of elderly and disadvantage women in the immediate and wider locality. The proposed development will provide suitable housing that is generally consistent with the nature of the use and the planning controls applicable to the site

The proposed building has been designed to respect the amenity of adjoining residential developments as well as to provide a high degree of amenity for future residents within the proposed facility. The proposal also relates suitably to the scale and character of heritage item and existing development in the area. The proposed development seeks to minimise building bulk through articulation and modulation, and breaking the building down into elements with recessed forms.

Accordingly, the proposal is considered to meet the objectives of Council's local planning instruments and is also consistent with the objectives and provisions of *SEPP (Housing for Seniors or People with a Disability) 2004*.

The site is suitably located in close proximity to public transport services which allow easy access to neighbourhood facilities. The proposed development will generally have positive environmental impacts and only minor and acceptable impacts on the amenity of the neighbourhood. The proposed development is therefore, considered to be in the public interest.







## 5. Conclusion

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This Statement accompanies a development application for the '*construction of a Hostel facility containing 70 rooms for use as Seniors Housing, including basement parking, communal facilities and associated landscaping*' at Nos. 762-764 Forest Road and No. 21 Prospect Road, Peakhurst. The proposed development has been assessed in light of Section 4.15 of the Environmental Planning & Assessment Act, 1979 and Council's planning Guidelines and Policies.

The proposal is permissible with consent pursuant to *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* and satisfies the relevant requirements of this instrument. Furthermore, the proposal satisfies the provisions of the *Hurstville Local Environmental Plan 2012* and is generally consistent with the controls under the *Hurstville Development Control Plan 1*.

The siting, design and external appearance of the proposed residential care facility has been purposefully design to relate to the heritage structure and landscaped setting on the subject site. The proposed development is also compatible with the character of the locality and will not result in any unreasonable amenity impacts to adjoining or nearby properties. Importantly, the development will allow for the provision of a hostel facility which will support the needs of the elderly and disadvantaged women throughout the immediate and wider locality.

Conclusively, the site is suitable for the proposed development and satisfies the intent of Zone R2 – Low Density Residential. The development will positively contribute to the quality of housing stock in the locality serving a specific portion of the population and will have manageable impacts on both the natural and built environment in the locality, namely the heritage item located on the subject site. Accordingly the proposal is considered to be in the public interest and worthy of the Georges River Council's support.



## ANNEXURE A

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



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

Clause / Control	Requirement	Proposal	Complies?
Part 2 Site related requirements			
26 Location and access to facilities	<p>(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:</p> <p>(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and</p> <p>(b) community services and recreation facilities, and</p> <p>(c) the practice of a general medical practitioner.</p>	Residents will have access to each of the facilities and services identified in subclause (1), as described below.	Yes
	<p>(2) Access complies with this clause if:</p> <p>b) in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)—there is a public transport service available to the residents who will occupy the proposed development:</p> <p>(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</p> <p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</p>	<p>The Georges River Local Government Area is within the Greater Sydney Greater Capital City Statistical Area.</p> <p>The subject site is within 400m of a number of bus stops on Forest Road and Bonds Road, accessed by an existing concrete pathway.</p> <p>The bus stops are serviced by routes M91, 943 and 945. Route M91 provides access from Parramatta to Hurstville, route 943 provides access from Lugarno to Hurstville and route 945 provides access from Hurstville to Bankstown. There are various bus stops within these centres located within 400m of the facilities and services referred to in subclause (1).</p> <p>All routes operate as per the frequency nominated by this clause. The gradient of the pathway to routes M91 and 943 complies with subclause (3), as described below.</p>	Yes

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	(iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3)		
	<p>(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:</p> <p>(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,</p> <p>(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,</p> <p>(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.</p>	The aforementioned bus stops, specifically, routes M91 and 945 can be accessed via an existing concrete pathway that meets the requirements of this subclause, as demonstrated in the Access Report prepared by <i>Code Performance</i> .	Yes
27 Bushfire prone land		The subject site is not on bush fire prone land.	Yes
28 Water and sewer	(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be	The development will be connected to sewer and potable cold water assets subject to a section 73 application to Sydney Water. It is expected that this will be secured via condition of consent.	Yes



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	connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.		
29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply	<p>(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.</p> <p>Note. Clause 24 (1) sets out the development applications to which that clause applies.</p> <p>(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p>	<p>The proposed development is compatible with the surrounding land uses having regard to the natural environment and uses; services and infrastructure; and surrounding built form, as set out below:</p> <p>(i) As set out in this Statement, the proposed development will have a positive impact on both the natural and built environment surrounding the site. In particular, the proposal will positively contribute to the heritage item and landscape setting of the site. Further, the proposal will not adversely impact neighbouring amenity on adjoining or nearby properties.</p> <p>(iii) As set out in the discussion regarding Clause 26 above, the subject site is within an accessible location, close to services and amenities. The construction of high quality housing in this location will have a positive impact on nearby services, bringing additional income into the local economy.</p> <p>(v) As discussed in Section 4.3 of this Statement, the proposed development will be of scale and bulk that is compatible with the streetscape and general built form in the locality. The proposal has been specifically designed to reflect the character of the heritage item of the site and address both street frontages. Further, the proposal will not adversely impact neighbouring amenity and will have</p>	Yes

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		acceptable impacts on nearby existing and future uses in terms of solar access, visual and aural privacy and views.	
Part 3 Design requirements			
30 Site analysis	(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.	A site analysis plan is included with the architectural package submitted with this development application. Section 2 of this Statement describes the site and its characteristics and the characteristics of the locality, and alongside the site analysis prepared by <i>Innovate Architects</i> is considered to constitute the written statement required by subclause (2).	Yes
31 Design of in-fill self-care housing	In determining a development application made pursuant to this Chapter to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> published by the Department of Infrastructure, Planning and Natural Resources in March 2004.	The proposal does not provide in-fill self-care housing	Yes
32 Design of residential development	A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.	The design principles set out in Division 2 are addressed within this Compliance Table. Assessment demonstrates that the development satisfies relevant design principles.	Yes
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	The proposed development has been designed to recognise and utilise the heritage character of the subject site, dual street frontage and desirable landscape character of the site. In particular, the	Yes

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	described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and	design retains heritage structures and landscaped setting fronting Forest Road. The proposed building has been designed to provide appropriate curtilage around this structure alongside well considered landscaping. The proposal will therefore positively contribute to the heritage character of the subject site and surrounding zoning.	
	(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	<p>As discussed throughout this Statement, the proposed development has been purposefully designed to retain the predominance of the heritage structure and landscape setting fronting Forest Road. The proposal has utilised an 'L-shaped' format as to address both street frontages, with a lesser built form fronting Forest Road.</p> <p>Further commentary with respect to heritage is provided in the Heritage Impact Assessment prepared by <i>GBA Heritage</i>, which accompanies this application.</p>	Yes
	<p>(c) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p>	<p>Adequate setbacks and separation distances to neighbouring properties have been provided. The development maintains a high degree of neighbourhood amenity and has an appropriate residential character through a thoughtful design which seeks to integrate seamlessly with the heritage item and existing built form.</p> <p>The subject site is generally flat and therefore the proposed building easily responds to the natural topography of the site. Car parking is located at basement level to minimise its visual impact on the streetscape.</p>	Yes

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	<p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p>	<p>The building height is generally compliant with the SEPP and HLEP 2012 requirements and remains in character with surrounding built form in the locality. Although it is noted that the proposal is non-compliant with certain requirements, the built form is compatible with the streetscape and heritage items on the subject site.</p> <p>Boundary walls and other treatments have been designed to reflect the general character of the street, heritage items and neighbouring properties.</p>	
	(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and	The proposed development has been designed in sympathy with the heritage item on the subject site and existing built forms along both street frontages. The proposed development replicates the front setbacks that are compatible with the dwellings along Forest Road and Prospect Road.	Yes
	(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and	Plant species have been chosen to harmonise with existing planting on the site, specifically, the heritage landscaped setting. Plant species and landscape concept is detailed in the Landscape Plan prepared by <i>Taylor Brammer</i> and submitted with this development application.	Yes
	(f) retain, wherever reasonable, major existing trees, and	As set out previously, the development has been designed to retain the heritage landscaped setting on the subject site, which is also inclusive of various major trees on the subject site. Where trees on the site are proposed to be removed, these will be replaced accordingly.	Yes



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	(g) be designed so that no building is constructed in a riparian zone.	The proposed development will not be constructed in a riparian zone.	Yes
34 Visual and acoustic privacy	The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by: (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and	The proposed rooms are setback from shared boundaries and have been designed to minimise overlooking of neighbouring properties. Specifically, the proposal is designed with rooms orientated to the street frontages and internally within the subject site, utilising blank facades to the neighbouring properties as far as practicable. Landscape screening has been incorporated where necessary to further mitigate any potential adverse overlooking.	Yes
	(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	Parking has been located at basement level. The proposed driveway ramp is adjacent to two rooms at ground level, however will not give rise to undue acoustic impacts through high quality construction methodology. A number of rooms are also adjacent to pathways at ground level, however these are not considered to give rise to adverse visual or acoustic impacts given the provision of various landscaping and other buffer elements.	Yes
35 Solar access and design for climate	The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and	Shadow diagrams submitted with the development application demonstrate that although the proposal will result in a degree of overshadowing to the neighbouring development, this is considered acceptable as discussed in this Statement per Section 4.3.6.	Yes
	(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 proposed rooms have been orientated to the front and rear boundary, with a number of rooms orientated internal to the site in order to minimise overlooking to the neighbouring residential dwellings. The orientation of these rooms to the north and west	Yes

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		ensures adequate solar access. Operable windows will allow for natural ventilation and reduce the need for artificial cooling.	
36 Stormwater	The proposed development should: (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and	Substantial landscaped and deep soil areas are provided to allow for infiltration of rainwater. Paving, driveways and other hardstand surfaces are minimised as far as possible. Stormwater is designed to minimise adverse impacts associated with the quantity and velocity of stormwater leaving the site. Refer to submitted Stormwater Plans.	Yes
	(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	The Stormwater Plan indicates that the stormwater will be appropriately managed and disposed of on site.	Yes
37 Crime prevention	The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and	CPTED principles have been incorporated into the design of the development. Communal open space, pathways and accesses all have good levels of natural passive surveillance from the proposed rooms. Furthermore, entrances to the site are legible, clear and inviting.  It is also noted that the proposal has orientated rooms to the front and rear boundaries.  A manager will be on site 24 hours per day.	Yes
	(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and	All of the entrance pathways onto the site from Forest Road and Prospect Road are shared. Accordingly, the proposal has been designed to provide openings to both road frontages and internally (being the main open space) as to provide adequate casual surveillance.	Yes

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	(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	Entrances to the proposed rooms are internally from the hallway, which will only be accessible to residents and visitors. These spaces will benefit from passive surveillance of the proposed rooms and communal spaces. These rooms are also to be likely accessed via a secure entry system to provide additional security.	Yes
38 Accessibility	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	The subject site has accessible pedestrian links to the bus Forest Road, via public concrete footpaths, as demonstrated in the Access Report prepared by <i>Code Performance</i> that accompanies this Statement.	Yes
	(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Proposed parking for residents is located at basement level, accessed via a vehicular ramp from Prospect Road.  An Accessibility Report is submitted with the development application and demonstrates that the proposed development will provide for safe and convenient access for residents, and will comply with relevant standards.	Yes
39 Waste management	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Appropriate waste and recycling facilities are provided on site, as detailed in the submitted Waste Management Plan.	Yes
Part 4 Development standards to be complied with			
40 Development standards - minimum sizes and building height	(1) General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.	Noted.	-

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	(2) Site size The size of the site must be at least 1,000 square metres.	The site is 2,685.8m <sup>2</sup> .	Yes
	(3) Site frontage The site frontage must be at least 20 metres wide measured at the building line.	The site frontage is greater than 20 metres wide measured at the building line.	Yes
	(4) Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted: (a) the height of all buildings in the proposed development must be 8 metres or less, and	The height of the building exceeds the 8m height development standard by a maximum of 9.8m. A Clause 4.6 variation statement accompanies this SEE at <b>Annexure D</b> and demonstrates that compliance with the 8m development standard will be unnecessary and unreasonable in the circumstances of the case. Furthermore, it has been demonstrated that, despite the non-compliance, the development still meets the objectives of the standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.	No – Refer to Clause 4.6 in <b>Annexure D</b>
	(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and	The proposed development provides three storey development to Prospect Road and the eastern (side) boundary. As above, this is discussed within the Clause 4.6 Variation contained within <b>Annexure D</b> of this Statement.	No – Refer to Clause 4.6 in <b>Annexure D</b>
	(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.	The subject site has a three storey portion to the rear boundary, being Prospect Road which is also considered a secondary frontage. Notwithstanding, this non-compliance is addressed in the Clause 4.6 contained within Annexure D of this Statement.	No – Refer to Clause 4.6 in <b>Annexure D</b>



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### Division 3 Hostels and self-contained dwellings – standards concerning accessibility and useability

41 Standards for hostels and self-contained dwellings	<p>(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.</p> <p>(2) Despite the provisions of clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15–20 of Schedule 3, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.</p>	Refer to Access Report prepared by <i>Code Performance</i> . The proposal is compatible with the with the requirements as discussed in this compliance table.	Yes
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### Part 7 Development standards that cannot be used as grounds to refuse consent

49 Standards that cannot be used to refuse development consent for hostels	<p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a hostel on any of the following grounds—</p> <p>(a) building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or</p>	<p>The proposed development does exceed the 8m height control by a maximum of 9.8m as described above. It should be noted that this is not a development standard that must be complied with and Council may permit reasonable variations.</p> <p>Notwithstanding, given this is varied per Clause 40 of the Seniors SEPP, a Clause 4.6 Variation provided in <b>Annexure D</b> of this Statement.</p>	No
	<p>(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,</p>	Proposed GFA is 2,685m <sup>2</sup> , which equates to a site area of 0.99:1 when including the land to be purchased from Council (2686.7m <sup>2</sup> ).	Yes

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	(c) landscaped area: if a minimum of 25 square metres of landscaped area per hostel bed is provided,	<p>The proposal provides 70 hostel beds, which requires the provision of 1,750m<sup>2</sup> (65%) of landscaped area. The proposal provides a landscaped area of 1,070m<sup>2</sup> or 39.8% and is technically non-compliant. The proposal provides a landscaped of 15.2m<sup>2</sup> per bedroom and is considered acceptable as discussed in Section 4.2.2.1 of this Statement.</p> <p>It should be noted that this is not a development standard that must be complied with and Council may permit reasonable variations.</p>	On merit
	(d) parking: if at least the following is provided— (i) 1 parking space for each 5 dwellings in the hostel, and (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and (iii) 1 parking space suitable for an ambulance.	<p>The proposal provides 70 hostel beds, which requires the provision of 14 spaces. 4 staff members are to be employed in connection with the development, which will required 2 parking spaces.</p> <p>The proposal provides 14 spaces within the basement and 3 spaces at ground level accessed via the existing driveway from Forest Road. It is noted that of the 3 spaces at ground level, one ambulance space is provided.</p>	Yes
	Note— The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.	Noted.	-
Schedule 3 Standards concerning accessibility and useability for hostels and self-contained dwellings			
Part 1 Standards applying to hostels and self-contained dwellings			

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

2 Siting standards	<p>(2) If the whole of the site does not have a gradient of less than 1:10:</p> <p>(a) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and</p> <p>(b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.</p> <p>(3) Common areas Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.</p>	Refer to Access Report prepared by <i>Code Performance</i> .	Yes
3 Security	<p>Pathway lighting:</p> <p>(a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and</p> <p>(b) must provide at least 20 lux at ground level.</p>	Refer to Access Report prepared by <i>Code Performance</i> .	Yes
4 Letterboxes	<p>Letterboxes:</p> <p>(a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and</p> <p>(b) must be lockable, and</p> <p>(c) must be located together in a central location adjacent to the street entry or, in the case of self-contained dwellings, must be located together in one or more central locations adjacent to the street entry.</p>	Mailboxes are provided at ground level. Refer to Access Report prepared by <i>Code Performance</i> .	Yes

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5 Private car accommodation	If car parking (not being car parking for employees) is provided: (a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and (b) 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.	Refer to Access Report prepared by <i>Code Performance</i> for detailed assessment.	Yes
6 Accessible entry	Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.	Refer to Access Report prepared by <i>Code Performance</i> .	Yes
7 Interior: general	(1) Internal doorways must have a minimum clear opening that complies with AS 1428.1. (2) Internal corridors must have a minimum unobstructed width of 1,000 millimetres. (3) Circulation space at approaches to internal doorways must comply with AS 1428.1.	Refer to Access Report prepared by <i>Code Performance</i> .	Yes
8 Bedroom	At least one bedroom within each dwelling must have: (a) an area sufficient to accommodate a wardrobe and a bed sized as follows: (i) in the case of a dwelling in a hostel—a single-size bed, (ii) in the case of a self-contained dwelling—a queen-size bed, and	Refer to Access Report prepared by <i>Code Performance</i> .	Yes



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	<p>(b) a clear area for the bed of at least:</p> <p>(i) 1,200 millimetres wide at the foot of the bed, and</p> <p>(ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and</p> <p>(c) 2 double general power outlets on the wall where the head of the bed is likely to be, and</p> <p>(d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and</p> <p>(e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and</p> <p>(f) wiring to allow a potential illumination level of at least 300 lux.</p>		
9 Bathroom	<p>(1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1:</p> <p>(a) a slip-resistant floor surface,</p> <p>(b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,</p> <p>(c) a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future:</p> <p>(i) a grab rail,</p> <p>(ii) portable shower head,</p> <p>(iii) folding seat,</p>	<p>Refer to Access Report prepared by <i>Code Performance</i>. The proposal provides shared sanitary facilities on each level on the basis that 'shared facilities' are permitted per the Hostel definition.</p> <p>Given individual rooms are not required to have a bathrooms and common facilities are provided (as is required within the Seniors SEPP), the proposal will satisfy this requirement. Furthermore, it is also noted that bathrooms are provided to individual rooms (where practicable) to provide added amenity for occupants.</p>	Yes

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	<p>(d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,</p> <p>(e) a double general power outlet beside the mirror.</p> <p>(2) Subclause (1) (c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.</p>		
10 Toilet	A dwelling must have at least one toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	<p>Refer to Access Report prepared by <i>Code Performance</i>.</p> <p>As above, the proposal provides shared sanitary facilities on each level on the basis that 'shared facilities' are permitted per the Hostel definition. It is noted that certain rooms are provided with toilets where practicable as added amenity.</p>	Yes
11 Surface finishes	Balconies and external paved areas must have slip-resistant surfaces.	Refer to Access Report prepared by <i>Code Performance</i> .	Yes
12 Door hardware	Door handles and hardware for all doors (including entry doors and other external doors) must be provided in accordance with AS 4299.	Refer to Access Report prepared by <i>Code Performance</i> .	Yes
13 Ancillary items	Switches and power points must be provided in accordance with AS 4299.	Refer to Access Report prepared by <i>Code Performance</i> .	Yes

## ANNEXURE B

### Hurstville LEP 2012 – Compliance Table



**Table 2 HURSTVILLE LEP 2012**

Clause / Control	Requirement	Proposal	Complies?
4.2 Zone Objectives & Land Use Table	<p><b>Zone R2 Low Density Residential</b></p> <ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a low density residential environment.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• 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.</li> <li>• To ensure that a high level of residential amenity is achieved and maintained.</li> <li>• To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.</li> <li>• To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.</li> </ul>	<p>The proposed development will provide for a low density seniors housing development which will serve a specific portion of the community.</p> <p>The proposal is not antipathetic to this objective.</p> <p>The proposal will provide a hostel based seniors housing development which will accommodate a specific portion of the community. As discussed in this Statement, the proposal has been specifically designed to ensure the amenity of neighbours is retained whilst maintaining the character of the heritage item on the subject site.</p> <p>The development will provide high levels of amenity to the proposed hostel rooms and will maintain the amenity of neighbouring properties as discussed in this Statement.</p> <p>The proposal will provide a high quality development which will complement the character of the heritage item, landscaped area and character of the residential zone.</p> <p>The proposal is not antipathetic to this objective.</p>	Yes
4.3 Height of buildings	(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map. 9m	<p>SEPP (Seniors Housing) prescribes maximum building height standards. This Policy prevails over any other environmental planning instrument to the extent of any inconsistency. As such, the building height requirements of the LEP are not applicable to this development application.</p> <p>Notwithstanding, it is noted that the proposed development marginally exceeds the 9m maximum height development standard as prescribed under the LEP by 10.18m.</p> <p>The Land and Environment Court has accepted that the effect of Clause 5(3) is that strict compliance with height and floor space ratio</p>	N/A

**Table 2** HURSTVILLE LEP 2012

		provisions in a local environmental plan is not required for a seniors housing development, specifically, <i>Eastern Suburbs Leagues Club Ltd v Waverley Council</i> [2019] NSWLEC 130. In this case, Moore J held that, consistent with the Court of Appeal decision in <i>Hastings Point Progress Association Inc v Tweed Shire Council</i> [2009] NSW CA 285 the Seniors SEPP, by virtue of cl 5(3), ousted the necessity for a cl 4.6 variation request.	
4.4 Floor Space Ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. 0.6:1	SEPP (Seniors Housing) prescribes floor space ratio for developments under the SEPP. This Policy prevails over any other environmental planning instrument to the extent of any inconsistency. As such, the FSR requirements of the LEP are not applicable to this development application.	N/A
5.10 Heritage Conservation	2) Requirement for consent Development consent is required for any of the following— (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item, (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed, (d) disturbing or excavating an Aboriginal place of heritage significance, (e) erecting a building on land— (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,	<p>The subject site contains a heritage item (I97) identified as ‘<i>The Gardens on Forest</i>’. The proposal, as discussed in this Statement, has been purposefully designed to ensure that the heritage structure and landscaped setting on the subject site will be retained as part of this application.</p> <p>It is also noted that the subject site is located opposite a heritage item (I96) identified as <i>Holy Trinity Anglican Church</i>. The proposal will have no impact on the heritage qualities of this item.</p> <p>A <i>Heritage Impact Statement</i> prepared by GBA Heritage is submitted with this application.</p>	Yes



**Table 2** HURSTVILLE LEP 2012

	(f) subdividing land— (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.		
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## ANNEXURE C

### Hurstville DCP 1 – Compliance Table



Table 3 Hurstville DCP 1

Clause / Control	Requirement	Proposal	Complies?
3.0 General Planning Considerations			
3.1 Vehicle Access Parking and Manoeuvring	DS1.1 In determining the prescriptive parking requirements for each type of land use, Council has been informed by a range of technical studies and documents, including detailed review of car parking rates in business and industrial zoned land and the Roads and Traffic Authority Guide to Traffic Generating Developments, October 2002. However, Council uses these prescriptive parking requirements on a discretionary basis only, and may be flexible in establishing parking conditions according to expert reports on the existing parking and traffic conditions in the vicinity of the subject site	The proposed parking is provided in accordance with the requirements of the Seniors SEPP per <b>Annexure A</b> .	N/A
	DS1.2 In calculating the number of car spaces required, Council takes into consideration: a. the type of development (or land use) proposed b. the size and scale of the development c. the intensity of the development d. street hierarchy and existing traffic situation	As above.	N/A
	DS1.3 Table 1 and Table 2 provide on-site parking requirements for each specific land use. Where parking calculations produce a fraction, the requirement is rounded up e.g. 3.2 spaces = 4 spaces. Note: Parking requirements may also be contained in area specific DCPs.	As above.	N/A
	DS1.4 Within an existing premise where a change of use is proposed from a shop/business premise to a food and drink premises, the following parking requirements will apply: - Where the public area in the proposed use is less than 100m2 no additional parking is required.	Not applicable.	N/A

Table 3 Hurstville DCP 1

	<p><b>Layout, Circulation, Access and Egress</b></p> <p>DS1.5 Refer to AS 2890.1 2004 and AS2890.2 Part 2 for the design and layout of parking facilities.</p> <p>DS1.6 Council does not encourage, but may consider stacked parking for parking spaces in a controlled parking situation which:</p> <ul style="list-style-type: none"> <li>a. allows no more than two cars in the stacked parking arrangement;</li> <li>b. is likely to maintain a very low turnover; or</li> <li>c. is able to function easily within the management of the site's future operation</li> </ul>	<p>The proposed parking is provided in accordance with the Australian Standards. Refer to Traffic Report submitted with this application.</p> <p>No stacked parking is proposed.</p>	<p>Yes</p> <p>N/A</p>
	<p><b>Stenciling of Street Driveways</b></p> <p>DS1.7 All driveways in Hurstville are to be finished in plain concrete.</p> <p>DS1.8 In streets which have brick paved surfaces, driveways are constructed to Council's Engineering Specification including a concrete base with matching brick paving surface.</p>	<p>Noted.</p> <p>Noted.</p>	<p>-</p> <p>-</p>
	<p><b>Ramps, Transitions &amp; Driveways</b></p> <p>DS1.9 Alignment levels for all points of vehicular access must be obtained prior to submission of a development application. These levels will be made available by Council's Engineering Department following the payment of the appropriate fee.</p> <p>Note: Ramp grades are to be designed in accordance with AS/NZS 2890.2 2004 Part 2.</p> <p>DS1.10 The AS/NZS 2890.1 2004 Ground Clearance Template is to be used as follows:</p> <ul style="list-style-type: none"> <li>a. prepare a longitudinal section of the grade change or irregularity to natural scale, and to the same scale as the template – scale to be 1:20</li> </ul>	<p>Noted. Proposed ramp to comply with Australian Standards. Refer to submitted Traffic Report.</p> <p>Noted. Refer to Traffic Report.</p>	<p>Yes</p> <p>Yes</p>
	<p><b>Underground/Basement Parking Areas</b></p> <p>DS1.11 Underground parking areas are to be concentrated under building footprints so as to maximise deep soil landscaping.</p>	<p>The proposed basement parking is predominantly contained within the building footprint. Minor extension of the basement parking will not result in any significant deep soil loss.</p>	<p>Yes</p>

Table 3 Hurstville DCP 1

	DS1.12 Driveways to underground car parks are to be designed so as to minimise the visual impact on the street, and to maximise pedestrian safety. Pedestrian access to the development should be separate and clearly defined.	The proposed driveway is provided from Prospect Road and is separated by landscaping to the western side boundary minimise visual and acoustic impact to the neighbouring residential dwelling.	Yes
	DS1.13 Access ways to underground car parking areas is to be located away from doors and windows to habitable rooms wherever possible.	The proposed basement ramp is suitably situated away from the proposed hostel rooms. Blank facades are proposed to the driveway in accordance with landscaped elements to protect the privacy of future occupants.	Yes
	DS1.14 Basement car parking is preferable in commercial and residential flat buildings.	The proposed basement parking is acceptable given the proposed seniors housing development.	Yes
	DS1.15 All underground parking areas are to have security doors. Where mechanical ventilation is proposed the motor room and exhaust shafts are to be shown on the development application plans.	Basement parking is to be secured as required and provide key card access or the like.	Yes
	<b>Parking for People with a Disability</b> DS1.16 Parking complies with AS 1428 Design for access and mobility and AS/NZS 2890.6.	Refer to Access Report and Traffic Report submitted with this application.	Yes
	DS1.17 The provision of parking areas for drivers with a disability is an important consideration in any development. Council encourages the provision of parking for those with a disability beyond the minimum requirements of the Australian Standards.	As above.	Yes
	<b>Section 94</b> DS1.18 Council may consider accepting a cash contribution in lieu of on-site parking where a Section 94 Plan is in place. This applies to retail and commercial developments. The contribution is a payable under Section 94 - developer contributions, of the Environmental Planning and Assessment Act 1979.	Not applicable.	N/A
	<b>Car Washing Area</b> DS1.19 A designated car washing area (which may also be a designated visitor car space) is required for service stations and residential developments of four or more dwellings.	Not applicable.	N/A



Table 3 Hurstville DCP 1

	DS1.20 Car wash bays which collect waste water must be covered and discharge the water to the sewer in accordance with the requirements of Sydney Water		
	<b>Environmental Design</b> DS2.1 Proposals for parking areas are to be accompanied by a landscape plan, prepared by a qualified landscape architect or designer, illustrating means to soften the visual impact of parked cars and any associated structures, as per these landscaping controls.	The proposal will provide basement level parking. Notwithstanding, the application is submitted with a Landscape Plan to soften the edge of the basement where applicable.	Yes
	DS2.2 Significant environmental features within the land such as rock outcrops, benches and trees are to be retained as a landscaped feature of the parking area.	Not applicable, basement parking provided. It is noted that the existing driveway and heritage landscaping fronting Forest Road is to be retained.	Yes
	DS2.3 Council considers that landscaping needs to be included in every car parking design, within and on the perimeters of the car parking area. Accordingly, the following is required: a. planting beds fronting a street or public place are to have a minimum width of 1 metre b. shade trees are to be provided in open parking areas at the ratio of 1 shade tree for every 6 spaces c. plants to avoid are those which have a short life, drop branches, gum or fruit or those which interfere with underground pipes	As above.	Yes
	DS2.4 Parking areas are to incorporate a 150mm concrete kerb or edge treatment to reduce the likelihood of vehicles damaging adjoining landscaped areas. The use of bollards should also be considered	Not applicable.	N/A
	<b>Drainage</b> DS2.5 All parking areas are to have adequate drainage for runoff and seepage. Council requires that minimum gradients be provided in car parks.	Refer to submitted Stormwater Plans.	Yes
	DS2.6 A detention tank or pipe with reduced outlet should be offered, preferably integrated with a pollution trap. Parking areas may provide for temporary detention of water to a maximum depth of 150mm to reduce	Refer to submitted Stormwater Plans.	Yes

Table 3 Hurstville DCP 1

	the velocity of stormwater run-off. Such parking areas are to be designed to provide pollution traps around the perimeter so as to reduce the impact of pollutants on the water quality of downstream watercourses. See Council's Drainage Code for further information.		
	<b>Streetscape</b> DS2.7 Proposals for multi-level car parking areas are to provide a facade at the street frontage which is consistent with the streetscape and character of adjacent development.  DS2.8 If a proposed parking area adjoins a residential property Council requires fencing and/or mounding to be included in the landscaping proposal to protect the privacy of the residential property and reduce noise.	Not applicable.  Not applicable.	N/A  N/A
	<b>Safer By Design Visibility</b> DS3.1 On-site parking spaces are to be located in areas visible from nearby habitable windows, entrances, public spaces etc.  DS3.2 On-site driveways are to provide an unobstructed view of passing pedestrians and vehicles.	The proposal provides basement parking in which the ramp will be visible when viewed from the rooms fronting Prospect Road.  The proposed driveway will not obstruct any views of pedestrians and vehicles.	Yes  Yes
	<b>Safety</b> DS3.3 Sloping ramps from car parks, garages and other communal areas are to have at least one full car length of level driveway before they intersect pavements and carriageways.	Waiting area and 5% ramp slope provided within site boundary which is considered acceptable for the safety of pedestrians and vehicles.	Yes
	<b>Security</b> DS3.4 Entry to basement car parks, including pedestrian routes, are to be available only to residents through security access/egress routes via main buildings.  DS3.5 Visitor parking shall be provided in open unrestricted areas. If visitor parking is provided within a secure parking area (basement or	The proposed basement parking entry will be secured via key card or the like and only available to residents and employees.  Visitor parking provided within the basement which is to be accessed via intercom. (confirm)	Yes  Yes

Table 3 Hurstville DCP 1

	<p>otherwise) suitable access provisions shall be made such as a security intercom.</p> <p>DS3.6 Exit points for driveways to basement car parks for block edge development may require pedestal activated boom gates.</p>	Not applicable.	N/A
	<p><b>Lighting</b></p> <p>DS3.7 The intensity of lighting in the entranceway to covered or underground car parks is to be graded from the most bright (at the entrance proper), to minimum levels of accepted illumination (away from entrances), to allow for the gradual adjustment of driver/pedestrian “light” vision.</p>	Lighting will be provided to ensure the safety of pedestrians and vehicles.	Yes
	<p><b>Pedestrians and Car Park Layouts</b></p> <p>DS3.8 To help minimise the likelihood of conflict when sites have both pedestrian and vehicular access, the following is required:</p> <p>a. parking areas are to be designed so that through traffic is either excluded or appropriately managed</p> <p>b. pedestrian entrances/exits are to be separated from the vehicular entrances/exits (parking spaces must not obstruct required exit doors)</p> <p>c. developments generating a significant amount of pedestrian movement throughout the car park (such as shopping centres or office parks) are to establish clear and convenient pedestrian routes. These routes should minimise the number of points which cross vehicle paths and be appropriately marked to heighten driver awareness (e.g. painting, use of contrasting materials, lighting and/or signage).</p>	<p>Traffic generation created by the proposed development will not be extensive as detailed in the Traffic Report.</p> <p>Pedestrian and vehicular entry are considerably separated from Prospect Road. It is noted that the pedestrian and vehicular entry from Forest Road will be maintained however will not result in any significant impacts given this driveway is not to be heavily utilised.</p> <p>Not applicable.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>
3.3 Access & Mobility	DS1.1 Development is to comply with Table 1 – Assessment Criteria	Refer to Access Report prepared by <i>Code Performance</i> .	Yes
3.4 Crime Prevention Through Environmental Design	<p><b>Site and Building Layout</b></p> <p>DS1.1 Avoid blank walls fronting the street.</p>	The proposal will not provide any blank walls to Forest or Prospect Road.	Yes

Table 3 Hurstville DCP 1

DS1.2 Offset windows, doorways and balconies to allow for natural observation while protecting privacy.	The proposed openings are predominantly provided to the front and rear boundary and internally within the site. This ensures that the privacy of occupants is retained whilst ensuring natural surveillance.	Yes
DS1.3 Access to dwellings or other uses above commercial/retail development should not be from rear lanes.	Not applicable.	N/A
DS1.4 Entrances should be located in prominent positions, be easily recognisable through design features and directional signage and should allow users to see into the building before entering.	The proposed entrances from both street frontages will be easily recognised from the public domain. This will incorporate appropriate wayfinding signage as required.	Yes
DS1.5 Pathways within and to the development should be direct and all barriers along the pathways should be permeable including landscaping and fencing.	The proposed building entrances from Prospect Road are directly from the street frontage, with landscaping and fencing provided. From Forest Road, the existing entry will be retained.	Yes
DS1.6 Consider the installation of mirrors, glass or stainless steel panels to allow users to see ahead and around corners in corridors and stairwells.	Noted.	-
DS1.7 Locate active uses or habitable rooms with windows adjacent to the main communal/public areas e.g. playgrounds, swimming pools, gardens, car parks etc.	The proposal provides rooms to both frontages and to the internal garden communal open space.	Yes
DS1.8 Communal areas and utilities e.g. garbage bays should be easily seen and lit.	All communal areas will be lit and visible from the proposed rooms.	Yes
DS1.9 Where elevators or stairwells are provided, open style or transparent materials are encouraged on doors and/or walls of elevators/stairwells.	Noted.	-
DS1.10 Waiting areas and entries to elevators/stairwells should be close to areas of active uses, and should be visible from the building entry.	The primary lift has an adequate communal foyer area waiting area and will be visible from numerous rooms. This will only be available to residents.	Yes
DS1.11 Seating should be located in areas of active uses	Numerous indoor and outdoor communal areas are provided with seating.	Yes

Table 3 Hurstville DCP 1

	<b>Car Parks</b>		
	DS1.25 Avoid large expanses of car parks. Where large expanses of car parks are proposed, surveillance such as security cameras should be provided.	Not proposed.	N/A
	DS1.26 Where possible, locate entry/exit points in close proximity and close to the car park operator or shops, cafes etc.	Not applicable.	N/A
	DS1.27 Minimise the number of entry and exit points to car parks.	One driveway provided from Prospect Road.	Yes
	DS1.28 Access to lifts, stairwells and pedestrian pathways should be clearly visible within the car parks.	Lift easily accessible from within basement.	Yes
	DS1.29 Car park design should avoid hidden recesses.	Basement parking provided.	Yes
	DS1.30 Locate car parks in areas that can be observed by adjoining uses.	Not applicable.	N/A
	DS1.31 Pedestrian corridors/routes should be clearly identified in car parks servicing large developments.	Basement carpark is relatively small and will not result in any pedestrian vehicle conflict.	Yes
	DS1.32 Locate disabled parking spaces in highly visible and convenient areas.	Refer to Access Report.	Yes
	DS1.33 Where staff car parking is provided it should be separate and secured from the public car park.	No public car park proposed.	Yes
	<b>Open Space</b>		
	DS1.34 Open spaces should be clearly designated and situated at locations easily observed by people. Parks and playgrounds should be located in front of buildings; shopping centres etc and should face the street rather than back lanes.	Communal open spaces will be observable from the existing heritage item and proposed rooms.	Yes
	DS1.35 Seating, play equipment, BBQ areas etc should be provided to encourage the use of open spaces.	Open spaces provided with numerous facilities to improve functionality.	Yes
	DS1.36 Seating should be conveniently located and easily seen.	Seating will be easily visible as described above.	Yes



Table 3 Hurstville DCP 1

	DS1.37 Facilities e.g. toilets and telephones, should be located close to areas of active uses and access to facilities should be direct and free of obstruction.	Facilities only to be utilised by residents and visitors.	Yes
	DS1.38 Pathways should be direct, follow pedestrian desire lines and avoid blind corners.	Pedestrian pathways from Prospect Road are direct. From Forest Road, they follow the existing heritage pathway.	Yes
	<b>Lighting</b> DS2.1 Dwelling and commercial unit main entries should be well lit at night. DS2.2 Use diffused lights and/or movement sensitive lights. DS2.3 All lighting must be vandal resistant and easy to maintain. DS2.4 Direct lights towards access/egress routes and possible hiding places to illuminate potential offenders, rather than towards buildings or resident observation points. DS2.5 Illuminate possible places for intruders to hide. DS2.6 Lighting should have a wide beam of illumination, which reaches to the beam of the next light, or the perimeter of the site or area being traversed, thereby avoiding dark shadows. DS2.7 Generally areas should be lit to enable users to identify a face 15 metres away. DS2.8 Avoid light spillage onto neighbouring properties as this can cause nuisance and reduce opportunities for natural surveillance. DS2.9 Use energy efficient lamps/fittings/switches to save energy	Entries to the building will be well lit. Noted. Can be conditioned. Noted. Lighting to illuminate entries and potential concealment spaces. Noted. Noted. Lighting will be provided, however will respect adjoining residential dwellings. As above. Noted. Per BASIX Certificate.	Yes Yes - Yes - - Yes Yes Yes
	<b>Car Parks</b> DS2.12 Illuminate all external edges and access points to car parks during its opening hours.	Basement and ramp to be illuminated for residents and employees.	Yes

Table 3 Hurstville DCP 1

	<p>DS2.13 Ensure that the intensity of lighting to covered or underground car parks is graded to allow for the adjustment of driver and pedestrian vision. Brighter light should be used at entrance and pedestrian access ways and dimmer light should be used elsewhere.</p> <p>DS2.14 Lighting should be sufficiently bright to enable a car park user to see into the rear seat of a parked car before they enter the car.</p>	<p>Noted. To comply.</p> <p>Noted. To comply.</p>	<p>-</p> <p>-</p>
	<p><b>Open Space</b></p> <p>DS2.15 Illuminate access points to areas of open space and pathways.</p> <p>DS2.16 Locate brighter lights in highly used areas.</p> <p>DS2.17 Ensure lighting does not produce dark shadows close to pathways and entries/exits.</p> <p>DS2.18 Lighting should be increased where parks are used by pedestrians as a thoroughfare or shortcut. As a guide, areas should be lit to enable users to identify a face 15 metres away.</p> <p>Note: Details of all lighting (location, type and intensity) for public areas must be submitted with a development application for multi dwellings housing, residential flat buildings, commercial premises and car parks.</p>	<p>Outdoor and indoor communal open spaces and access pathways to be well lit.</p> <p>Noted. Brighter lighting to be provided to communal spaces.</p> <p>Noted.</p> <p>Not applicable.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
	<p><b>Landscaping</b></p> <p>DS2.19 Avoid medium height vegetation with concentrated top to bottom foliage. Plants such as low hedges and shrubs, creepers, ground covers and high canopied vegetation are good for natural surveillance. Refer Figure 1 – Vegetation placement for passive surveillance.</p> <p>DS2.20 Trees with dense low growth foliage should be spaced or crown raised to avoid a continuous barrier.</p> <p>DS2.21 Use low ground cover or high canopied trees, clean trunks, to a height of 2m around children's play areas, car parks and along pedestrian pathways.</p>	<p>Refer to Landscape Plan submitted with this application which demonstrates proposed landscaping throughout the site.</p> <p>As above.</p> <p>Not applicable.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>

Table 3 Hurstville DCP 1

	<p>DS2.22 Avoid vegetation, which conceals the building entrance from the street.</p> <p>DS2.23 Select planting species having regard to their type and location to minimise possible places for intruders to hide.</p> <p>DS2.24 When planting is provided within 5m of a pedestrian pathway, it should be lower than 1 metre or thin trunked with high canopy.</p> <p>DS2.25 Planting should not prevent informal surveillance by adjacent residents.</p> <p>DS2.26 Prickly plants can be used as effective barriers. Species include bougainvilleas, roses, succulents, and berberis species.</p> <p>DS2.27 Avoid large trees, carports, skillion extensions, fences, and downpipes next to second storey windows or balconies that could provide a means of illegal access to the building.</p> <p>DS2.28 Ensure vegetation is maintained regularly</p>	<p>Vegetation will not conceal entrances from Forest or Prospect Road.</p> <p>Refer to Landscape Plan.</p> <p>Noted.</p> <p>Planting will not impact casual surveillance.</p> <p>Noted.</p> <p>Not proposed.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>-</p> <p>Yes</p> <p>-</p> <p>N/A</p> <p>-</p>
	<p><b>Fencing</b></p> <p>DS4.1 Front fences are to be predominantly open in design to allow sight through the fences eg picket fences, wrought iron.</p> <p>DS4.2 If noise insulation is required, install double-glazing at the front of the building rather than a high solid fence (greater than 1 metre).</p> <p>DS4.3 Fences are not to inhibit surveillance of the communal areas, pathways, and footpath by occupants of the building. Both the height of the fence in relation to the building as well as the nature of the construction materials need to be considered.</p>	<p>Fencing to the rear boundary is predominantly open per the submitted plans. The front boundary fencing will be predominantly retained.</p> <p>Noted.</p> <p>Fencing will not remove opportunity for causal surveillance to the front, rear or internally on-site.</p>	<p>Yes</p> <p>-</p> <p>Yes</p>
	<p><b>Security and Operational Management</b></p> <p>DS5.1 Locks are to be fitted on all doors and windows to the Australian Standard.</p>	<p>Noted. To comply with Australian Standards.</p>	<p>Yes</p>

Table 3 Hurstville DCP 1

	DS5.2 Security devices such as grilles on door and window openings must be 'permeable' to allow casual surveillance. Solid shutters are not permitted on the window and door openings, which have frontage to the street or are adjacent to open space.	Noted.	-
	DS5.3 Install viewers on entry doors to allow building occupants to see who is at the door before it is opened.	Can be provided per condition of consent.	Yes
	DS5.4 Install intercom, code or card locks or similar for main entries to residential flat buildings and commercial premises including car parks.	Intercom to be provided to basement and building entry points.	Yes
	DS5.5 Entry doors are to be self-closing and signs displayed requesting building occupants not to leave doors wedged open.	Noted.	-
	DS5.6 Consider installing user/sensor electronic security gates at car park entrances, garbage areas and laundry areas etc., or provide alternative access controls	Noted.	-
	DS5.7 Pedestrian entry to basement parking must be through secured access via the main building.	Pedestrian entry provided via lifts and stairs within new building	Yes
	DS5.8 External storage areas are to be well secured and well lit.	Noted.	-
	DS5.9 If security grilles are used on windows they must be operable from inside in case of emergencies.	Noted.	-
	DS5.10 Ensure skylights and/or roof tiles cannot be readily removed or opened from outside.	Roof not accessible to public.	Yes
	DS5.11 Provide lockable gates on side and rear access	Lockable gates provided as necessary.	Yes
	<b>Car Parks</b> DS5.13 Use security devices, such as an intercom or remote lock facility in multi-level car parks where appropriate.	Not applicable.	N/A

Table 3 Hurstville DCP 1

	DS5.14 Locate a help point on each parking level and/or allocate security staff for larger developments.	Not applicable.	N/A
	DS5.15 Use only a limited area of a multi-level car park outside peak hours.	Not applicable.	N/A
	DS5.16 Consider the installation of boom gates or similar devices at entrances and exits of the car park	Not applicable.	N/A
	<b>Building Identification</b> DS6.1 Each individual dwelling or commercial unit is to be clearly numbered and unit numbers and directions should be provided on each level of the development.  DS6.2 Each building entry must clearly state the dwelling or unit numbers accessed from that entry.  DS6.3 Street numbers are to be at least 7cm high, and positioned between 1m and 1.5m above ground level on the street frontage.  DS6.4 Street numbers should be made of durable materials preferably reflective or luminous, and should be unobstructed (e.g. by foliage).  DS6.5 Location maps and directional signage should be provided for larger developments.  DS6.6 Both directional and behavioural signage should be provided at entrances to open space areas and parks.	Building is to be identified from both street frontages.  Noted.  Noted.  Noted.  Not applicable.  Not applicable.	Yes  -  -  -  N/A  N/A
	<b>Car Parks</b> DS6.7 Building identification and directional signage in car parks should be clearly visible, easy to read and simple to understand and utilise strong colours, standard symbols and simple graphics.  DS6.8 Both pedestrians and drivers should be provided with a clear understanding of the direction to stairs, lifts and exits.	Basement car park to include appropriate wayfinding signage.  Noted. To be provided.	Yes  -



Table 3 Hurstville DCP 1

	<p>DS6.9 In multi-level car parks, creative signage should be used to distinguish between floors to enable users to easily locate their cars.</p> <p>DS6.10 Signage should advise car parks users of the security measures that are in place and where to find them eg. Intercom systems.</p> <p>DS6.11 Signage should be provided in car parks to advise users to lock their cars and not display valuables.</p> <p>DS6.12 Where exits are closed after hours, ensure this information is indicated at the car park entrance.</p>	<p>Not applicable.</p> <p>Noted, to be provided.</p> <p>Noted.</p> <p>Not applicable.</p>	<p>N/A</p> <p>-</p> <p>-</p> <p>N/A</p>
	<p><b>Building Ownership</b></p> <p>DS7.1 Use psychological barriers such as fences, gardens, lawn strips, varied textured surfaces to define different spaces within a development.</p> <p>DS7.2 To distinguish dwellings or groups of dwellings use design features e.g. colouring, vegetation, paving, artworks, fencing, furniture etc.</p> <p>DS7.3 Ensure the speedy repair or cleaning of damaged or vandalised property and the swift removal of graffiti.</p> <p>DS7.4 Provide information advising where to go for help and how to report maintenance or vandalism problems.</p>	<p>The proposal uses fencing and vegetation to define different spaces.</p> <p>High quality architectural design provided.</p> <p>Noted. To be provided in accordance with PoM.</p> <p>Per PoM.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><b>Open Space</b></p> <p>DS7.5 Provide features that reflect the community's needs and that will consequently be well utilised (e.g. play equipment, seating areas etc).</p> <p>DS7.6 Consider using cultural themes applicable to the area and encourage community involvement in design.</p> <p>DS7.7 Encourage volunteer management and maintenance of public areas.</p>	<p>The proposal provide features that will reflect the needs of future residents.</p> <p>Proposal constructed to retain significance of heritage item.</p> <p>Not applicable.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p>
	<p><b>Building Materials</b></p> <p>DS8.1 Use toughened or laminated glass at ground floor public areas.</p>	<p>Proposal will incorporate high quality materials.</p>	<p>Yes</p>

Table 3 Hurstville DCP 1

	DS8.2 Roller shutters for commercial premises or car parks should be in the form of an opaque or clear security grille rather than a solid material.	Not applicable.	N/A
	<b>Car Parks</b> DS8.3 Use materials that enhance natural surveillance within the car park.  DS8.4 Encourage the use of transparent materials for walls and doors of car parks.  DS8.5 Paint the ceilings and walls of the car park in light colours to enhance brightness.  DS8.6 Reflective film can be used on windows overlooking car parks. Potential intruders will not know if they are being observed during daylight hours.  DS8.7 Consider the installation of open style security grilles to individual parking spaces rather than separate garaging.  DS8.8 Where feasible include security grilles from underground car parks to the street to provide some surveillance	Basement parking is provided.  Can be provided to garage door if required.  Noted.  Noted.  Noted.  Noted.	Yes  Yes  -  -  -  -
	<b>Building Maintenance</b> DS9.1 Ensure the speedy repair or cleaning of damaged or vandalised property and the swift removal of graffiti.  DS9.2 Provide information advising where to go for help and how to report maintenance or vandalism problems.  DS9.3 Strong, wear resistant laminate, impervious glazed ceramics, treated masonry products, stainless steel materials, anti-graffiti paints and clear over sprays will reduce the opportunity for vandalism. Flat or porous finishes should be avoided in areas where graffiti is likely to be a problem.	Noted.  Per PoM.  The proposal will provide high quality materials as indicated on the Architectural Plans.	-  Yes  Yes

Table 3 Hurstville DCP 1

	<p>DS9.4 Where large walls are unavoidable, consider the use of vegetation or anti-graffiti paint. Alternatively, modulate the wall, or use dark colours to discourage graffiti on vulnerable walls.</p> <p>DS9.5 External lighting should be vandal resistant. High mounted and/or protected lights are less susceptible to vandalism.</p> <p>DS9.6 Communal/street furniture should be made of hardwearing vandal resistant materials and secured by sturdy anchor points or removed after hours</p>	<p>Not proposed.</p> <p>Noted.</p> <p>Noted.</p>	<p>N/A</p> <p>-</p> <p>-</p>
3.5 Landscaping	<p><b>Street and neighbourhood landscape character</b></p> <p>DS1.1 Where a street or neighbourhood has an existing desirable landscape character, similar species are planted on site, except where the species are identified as being undesirable in accordance with Appendix 1 – Recommended species for landscaping.</p> <p>DS1.2 Where a street or neighbourhood does not have an existing desirable landscape character, a coherent range of species are planted on site in accordance with Appendix 1 – Recommended species for landscaping.</p>	<p>The proposed development has been designed to retain and improve the landscaped character of the subject site and to complement the heritage character of the site. Landscaping is proposed to all boundaries to soften the built form and match the character of the R2 Zone.</p> <p>Not applicable.</p>	<p>Yes</p> <p>N/A</p>
	<p><b>Landscaping area and dimensions</b></p> <p>DS2.1 No design solution is provided and each proposal is assessed on its own merits.</p>	<p>Landscape Plan submitted with this application.</p>	<p>Yes</p>
	<p><b>Significant trees and vegetation</b></p> <p>DS3.1 Site layout and design, including buildings, structures and hardstand, ensures the long term retention and health of existing significant trees and vegetation.</p> <p>DS3.2 Where significant trees or vegetation are required to be removed to allow for site development, they are to be replaced with the same or similar species achieving the same coverage at maturity.</p>	<p>The proposal will retain the heritage landscape setting and significant trees on the subject site. The Landscape Plan includes planting which will complement the heritage character of the site.</p> <p>Any vegetation to be removed from the subject site will be replaced accordingly. A condition of consent can be imposed.</p>	<p>Yes</p> <p>Yes</p>
	<p><b>Front, side and rear boundaries</b></p> <p>DS4.1 Landscaping in front setbacks consists of:</p> <p>a. an area of sufficient dimensions to accommodate planting</p>		

Table 3 Hurstville DCP 1

	<p>Note: this area must be a minimum of 2m</p> <p>b. shade trees that grow to a height consistent with or greater than that of the building</p> <p>c. screening shrubs where required to mitigate the visual impact of blank walls</p> <p>d. low shrubs and ground covers to ensure complete coverage of planting area</p> <p>DS5.1 Landscaping is provided along the entire length of rear boundaries where buildings are located and consists of:</p> <p>a. an area of sufficient dimensions to accommodate planting</p> <p>Note: this area must be a minimum of 2m</p> <p>b. shade trees that grow to a height consistent with or greater than that of the building</p> <p>c. screening shrubs where required to mitigate the visual impact of blank walls</p> <p>d. low shrubs and ground covers to ensure complete coverage of planting area</p>	<p>The proposal provides significant landscaping to the front, side and rear boundaries per the submitted Landscape Plan. This will accommodate trees of differing mature heights, screening and landscaped elements.</p> <p>The secondary boundary facing Prospect Road is provided with sufficient landscaping along the frontage, excluding pedestrian and vehicular access in addition to courtyard spaces to the ground floor rooms. This will incorporate a variety of vegetation which will benefit the character of the locality.</p>	<p>Yes</p> <p>Yes</p>
	<p><b>Communal and private open space</b></p> <p>DS6.1 A minimum of one shade tree is planted in each area of private open space.</p> <p>DS6.2 Trees planted in areas of communal open space are to provide shade to a minimum of 25% of the area at maturity.</p> <p>DS6.3 A minimum of 50% of private and communal open space areas are to be covered in turf and / or planting area.</p> <p>DS6.4 Trees planting in area of private or communal open space are to:</p> <p>a. enable the penetration of winter sun and mitigate the penetration of afternoon summer sun</p> <p>b. enable the penetration of desirable cooling winds in summer and mitigate the penetration of undesirable cold winds in winter</p>	<p>Vegetation provided where practicable within private open spaces at ground level.</p> <p>Communal open space provided with existing and proposed trees which will allow natural shading.</p> <p>Soft landscaping provided to communal open spaces as far as practicable.</p> <p>Refer to Landscape Plan.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><b>Carparks</b></p> <p>DS7.1 Landscaping is to be provided within and around the perimeter of carparking areas that accommodate over 6 vehicles.</p>	<p>Basement car parking is provided and this is therefore not applicable.</p>	<p>N/A</p>

Table 3 Hurstville DCP 1

	<p>DS7.2 Shade trees are provided at a ratio of at least 1 for every 6 carparking spaces Note: this requirement may be reduced for Child Care Centres or for other uses where there is typically a short term usage pattern, eg primarily customer drop off/pick up.</p> <p>DS7.3 Raised or sunken planting beds having a minimum width of 1m are provided around the entire perimeter of carparks.</p> <p>DS7.4 Landscaped areas and trees are to be protected with a 150mm concrete kerb or edge treatment to protect them from damage by vehicles.</p>	<p>As above.</p> <p>As above. It is noted that landscaping is provided to side boundaries.</p> <p>Not applicable.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
	<p><b>Landscaping plans</b></p> <p>DS8.1 Development that involves landscaping is to be supported by a:</p> <ul style="list-style-type: none"> <li>a. a survey plan showing the location of existing trees, their type and condition and what are being proposed to be removed</li> <li>b. concept level landscape plan showing the extent, function and character of landscaped area</li> <li>c. detailed landscape plan showing excavation, location of site services, proposed levels, drainage, construction detail; and a detailed planting schedule</li> </ul>	<p>Landscape Plan prepared by <i>Taylor Brammer</i> is submitted with this application.</p>	<p>Yes</p>
	<p><b>Landscaping near areas of ecological significance</b></p> <p>DS9.1 Landscaping comprises species that are consistent with the dominant species in the adjoining area of ecological significance.</p> <p>Note: exceptions may be made where adjoining an area that is bushfire prone.</p>	<p>The proposal has been designed to complement the landscaped heritage setting as identified in the submitted Landscape Plan.</p>	<p>Yes</p>
	<p><b>Stormwater management</b></p> <p>DS11.1 Opportunities for on-site stormwater infiltration are provided through measures such as:</p> <ul style="list-style-type: none"> <li>a. turf and raised planting beds</li> <li>b. minimising the extent of impervious surfaces</li> </ul> <p>DS11.2 Landscaped areas and suitably drained and ensure the soil and sediment does not exit the site.</p>	<p>Stormwater Plans submitted with this application. It is noted that permeable surfaces have been provided where practicable.</p> <p>Noted. Refer to Stormwater Plan.</p>	<p>Yes</p> <p>Yes</p>

Table 3 Hurstville DCP 1

	<p><b>Maintenance</b></p> <p>DS12.1 Trees that have short life, drop branches or have gum or fruit or those that can damage underground pipes through invasive root systems are avoided.</p> <p>DS12.2 Turfed areas are readily accessible by standard lawn cutting devices.</p> <p>DS12.3 Planting beds are provided with a durable automatic irrigation system.</p> <p>DS12.4 One hose cock is provided for each separate area of communal or landscaped open space.</p> <p>DS12.5 Where they are difficult to access, landscaping areas are planted with durable, long life species that have minimal maintenance requirements.</p>	<p>Maintenance is to be in accordance with the PoM and managed by the on-site manager.</p> <p>Landscaping on the site is easily accessible.</p> <p>To be provided.</p> <p>Noted.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><b>Safety</b></p> <p>DS13.1 Landscaping is sited and designed in accordance with the principles of CPTED.</p> <p>DS13.2 Landscaping enables clear sight lines to be achieved along pathways and minimise opportunities for concealment.</p> <p>DS13.3 Dense screening vegetation is not provided within front setbacks.</p>	<p>Landscaping will comply with CPTED, noting that no areas of concealment or casual surveillance is impacted by the proposal.</p> <p>As above.</p> <p>Vegetation will be provided to the front setback to permit privacy however will not obscure sight lines.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
	<p><b>Utilities</b></p> <p>DS14.1 Landscaping does not interfere with the effective functioning of overhead, surface level or underground utilities.</p>	<p>Noted.</p>	<p>-</p>
3.7 Stormwater	<p><b>Stormwater management systems</b></p> <p>DS1.1 Stormwater flows are managed within the drainage sub-catchment the site is located.</p>	<p>Stormwater Plans submitted with this application.</p>	<p>Yes</p>



Table 3 Hurstville DCP 1

	<p>DS1.2 Original or existing stormwater flow patterns are formalised and are not significantly altered in terms of direction and fall.</p> <p>DS1.3 Development does not concentrate, divert or increase overland flow of stormwater onto an adjoining property and where overland flow is an issue in a rare storm event as determined by Council's Hurstville Flood Study, a post-development flood analysis is to be provided.</p> <p>DS1.4 Measures are implemented during construction to reduce soil erosion from development sites.</p> <p>DS1.5 A development application is 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.</p> <p>DS1.6 On-site retention of roof run-off using rainwater tanks or detention tanks for storage and re-use must be provided.</p> <p>DS1.7 All runoff is discharged to the adjacent road kerb and council's drainage system or an easement over a downstream property.</p> <p>DS1.8 On-site infiltration is maximised by minimising sealed surfaces and increasing porous surfaces to reduce stormwater runoff.</p>		
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## ANNEXURE D

**Clause 4.6 Variation –**  
Clause 40(4)(a), (b) & (c) SEPP Seniors





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

## 1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of Hurstville Local Environmental Plan 2012 (HLEP 2012) to accompany a development application to George River Council in respect of Nos. Nos. 762-764 Forest Road and 21 Prospect Road, Peakhurst. The subject application seeks consent for the construction of a hostel facility containing 70 rooms for use as seniors housing, including basement parking, communal facilities and associated landscaping, pursuant to *SEPP (Housing For Seniors or People with a Disability) 2004*.

## 2. PROPOSED VARIATION

### Clause 40(4) of SEPP Seniors Housing

Clause 40(4) of SEPP (Seniors Housing) provides height controls in zones where residential flat buildings are not permitted. The site is within Zone *R2 – Low Density Residential* under the provisions of *Hurstville LEP 2012*. Residential flat buildings are not permitted in the R2 zone under HLEP 2012 and thus the provisions of Clause 40(4) are relevant to the proposed development.

Clause 40(4) provides:

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

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

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

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

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

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

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

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

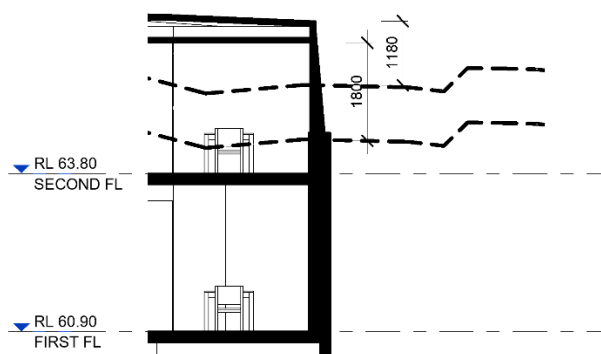
*“**ground level** means the level of the site before development is carried out pursuant to this Policy.”*



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

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

As indicated in the section and height blanket diagram in **Figures 17** and **18**, 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. The proposal is therefore non-compliant with the prescribed building height under Clause 40(4)(a) of SEPP (Seniors Housing). It is noted that Clause 40(4) (a) is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of HLEP 2012.



**Figure 17** Section Drawings indicating non-compliance



**Figure 18** 8m height blanket diagram

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 19 and 20**). The proposal is therefore non-compliant with the prescribed maximum number of storeys under Clause 40(4)(b) of SEPP (Seniors Housing). It is noted that Clause 40(4)(b) is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of HLEP 2012.

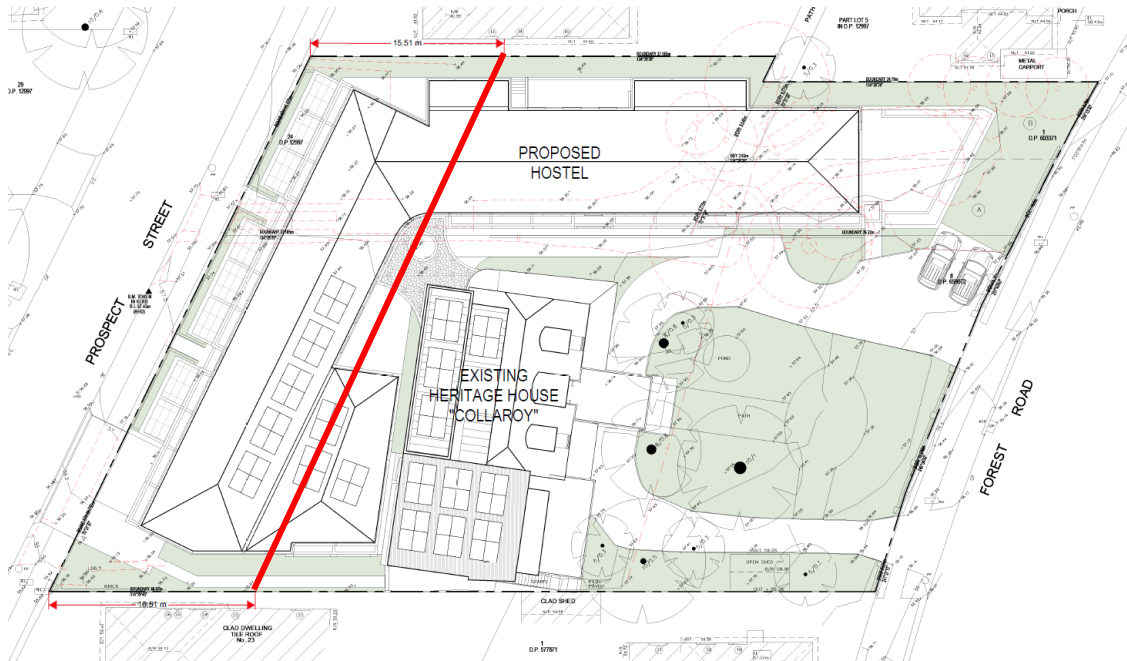


**Figure 19** Three storey element along eastern (side) boundary



**Figure 20** Three storey element along western (side) boundary

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. It is noted that Clause 40(4)(c) is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of HLEP 2012.



**Figure 21** Three storey built form within rear 25% of site fronting Prospect Road

It is noted that Clause 4.3 of the HLEP 2012 prescribes the maximum building height for the site and refers to the Height of Buildings Map. The relevant map indicates that the maximum building height permitted at the subject site is 9m. The proposed development, as indicated in the submitted architectural plans, is predominantly compliant with the 9m building height development standard and should be given weight in consideration of this variation request. The minor non-compliance pertains to the western (side) boundary and north-western corner of the site which pertains to the existing driveway serving the function centre, and contains a non-compliance of 10.18m (**Figure 22**).



**Figure 22** 9m HLEP 2012 height blanket diagram



### 3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

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

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

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

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

- (a) the consent authority is satisfied that—*
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (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.

It is noted that Clauses 40(4)(a), (b) and (c) of the SEPP (Seniors Housing) are not “expressly excluded” from the operation of Clause 4.6.

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

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

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

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



The Judgment goes on to state that:

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

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

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

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

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

Compliance with Clause 40(4)(a), (b) and (c) is considered to be unreasonable and unnecessary as the objectives of that standard are achieved for the reasons set out in Section 7 this Statement. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

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

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

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



1. The extent of variation sought is 1.8m or 22.5% which is a minor non-compliance and is a product of the site topography. The development has been designed to provide an efficient floorplate with minimal level change, which is a requirement due to the nature of the residents, and has been designed to limit any adverse impact on the amenity of neighbours or the streetscape. The variation is predominantly situated towards Prospect Road and is generally compliant with the HLEP 2012 and therefore the extent of non-compliance will not be perceivable to the casual observer.
2. The extent of variation to the SEPP has no bearing on the proposal's general compliance with the HLEP 2012 building height development standard. The proposal has been purposefully designed to predominantly comply with the 9m requirement to provide a built form that is compatible with the neighbouring residential dwellings and character of the R2 Zone. It is noted that the extent of non-compliance is limited to minor portion of the built form and is a result of the existing driveway serving the function centre.
3. The extent of non-compliance pertaining to the built form (excluding the point where it is greatest) is relatively minor and will not result in any visual or physical impact to the heritage item, streetscape or amenity of neighbouring properties (as discussed below).
4. The proposed building has been designed with built form articulation and provides generous setbacks to Forest Road, Prospect Road and the side boundaries. As above, the height non-compliance orientated to Forest Road will not have any bearing on the character of the locality given the minor non-compliance and is limited given the increased setback to the upper most floor from the front boundary. To Prospect Road, although the height non-compliance is greater this is a result of the topographical cross fall of the site and will be suitably concealed by the architectural design measures. Importantly, the majority of built form fronting Prospect Road (and entire form fronting Forest Road) is compliant with the 9m height limit of the LEP. Further, the proposal provides a high quality design which utilises framed elements to the ground and first floor, with a recessed 'attic' style second floor. This reduces any perceivable bulk or scale created by the non-compliant elements.
5. The proposed ceiling heights have been designed, as far as practicable, to maximise the solar gain and amenity for future residents. Insistence on strict compliance would result in the removal of rooms or reduction of floor to ceiling heights which would be unreasonable and unnecessary given the minor extent of non-compliance. Lowering the ceiling heights would reduce the internal amenity of the hostel with no material benefit for any adjoining property. As discussed in further detail below, the extent of non-compliance does not result in any further impacts to the amenity of neighbouring properties beyond a compliant building form.
6. 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 provision of a high level of amenity for future occupants necessitates a non-compliance proposed for the ceiling height. It would be a loss to the community (and contrary to the public interest) to deny the variation and require removal of hostel rooms within a well located and well-designed development.



7. It has been demonstrated that the proposed development will be compatible with the character of the streetscape and locality, including the prevailing building heights along Forest and Prospect Road, despite the exceedance of the prescribed building heights under the SEPP (Seniors Housing).
8. The proposed development meets the objectives of the development standards and meets the objectives of the R2 Low Density Residential zone (as further detailed in Section 7 below).
9. It is considered that there is an absence of any significant material impacts of the proposed non-compliance on the amenity of the environmental values of the locality, the amenity of future building occupants and on area character. Specifically:
  - a. The height breach creates no significant additional overshadowing to adjoining properties when considering the extent of overshadowing against the backdrop of the applicable planning controls. That is, the height breach is a result of the topography of the site and the neighbouring properties will continue to receive the prescribed solar access per the HDCP 1. Importantly, the proposal predominantly complies with the HLEP 2012 building height development standard. As such, the elements of the building that breach the height limit would have an insignificant or nil additional impact on the overshadowing of adjoining properties;
  - b. The height breach does not result in any significant additional privacy impacts. The extent of privacy impacts caused by the height breach will have no greater impact on the privacy of adjoining properties when compared to the complying elements of the building. The loss of privacy caused by the non-compliant elements would be insignificant or nil; and
  - c. The height breach does not result in any significant additional view loss and no significant views are enjoyed across the subject site. It is noted that the proposal will retain views of the heritage item when viewed from Forest Road and will not be impacted by the minor non-compliance. The extent of view loss caused by the non-compliant element would be insignificant or nil
10. The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:
  - The development facilitates a sustainable development by providing much needed, well-designed Hostel Seniors Housing in an appropriate and accessible location. Furthermore, the development will have a positive economic and environmental impact on the locality (1.3b);
  - The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for an appropriate residential use (1.3c);
  - The development has been designed to be compatible with the surrounding built form and despite the height non-compliance, will not adversely impact neighbouring amenity. The development will provide excellent levels of amenity for prospective occupants (1.3g).

Furthermore and having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, the following planning grounds



are submitted to justify contravening the prescribed number of storey (2) limit. As stipulated with regards to Clause 40(4)(a) above, a number of the environmental planning grounds for the 8m building height variation apply to the proposed non-compliance of the maximum storey height. Additional planning grounds specifically pertaining to the proposed 3 storey height are provided as follows:

1. The proposed third storey has been specifically designed to present as an attic space through the use of increased setbacks, built form articulation and materiality. Specifically, the proposal has been designed with simplified framing elements to the ground and first floor (which defines the primary building bulk), with a recessive built form to the upper most level. This ensures that the bulk and scale of the development is consistent with the character of the R2 Zone and complements the envelope of the heritage item fronting Forest Road.
2. In accordance with the above, the proposal is designed with a recessive mansard style roof form which integrates glazed dormer style openings, narrow terraces and a darker neutral cladding materiality. The provision of these design elements and materiality permits the provision of a third storey which does not result in any significant increase of bulk or scale when viewed from the public domain.

As viewed from Forest Road, the proposed third storey incorporates a greater setback (when compared to the two storey form) to ensure that the proposal will be predominantly two storeys when viewed from the public domain. From Prospect Road and as detailed above, the design elements demonstrably indicate that the additional storey will appear as an attic space and is therefore compatible with the desired character of the R2 Zone.

3. Where the proposed third storey adjoins the boundaries shared with neighbouring properties, the abovementioned design measures have also been utilised. Importantly (and as discussed), the proposed development generally represents a minor shortfall with regards to the 8m floor to ceiling height per the Seniors SEPP and is predominantly compliant with the 9m building height development standard per the HLEP 2012. Given (principal) compliance with the aforementioned, the provision of an additional storey is not considered to have any further impact to the sense of enclosure or amenity of neighbouring properties.
4. The proposed third storey permits the provision of additional rooms within the hostel which will have a direct social benefit for disadvantaged and senior women, providing for vital accommodation within the locality. Insistence on strict compliance would result in the removal of the third storey adjoining side boundaries of the subject site which would result in a considerable reduction of rooms. This is considered unreasonable and unnecessary given the extent of non-compliance is designed to generally comply with 9m HLEP 2012 development standard and compatibility with the built form of the locality.
5. The site constraints, specifically the location and siting of the heritage structure and landscaped setting, restricts the capability of the proposal to provide a larger building envelope at ground level. That is, the required curtilage around the heritage item limits the proposal's capability to maximise the 1:1 FSR standard per the Seniors SEPP without the provision of an additional third storey. Requesting the removal of the third storey will considerably impact the development feasibility given a 1:1 FSR is not achievable without the provision of an additional level. This is a site specific condition that Clause 40(4)(d) of the





Seniors SEPP does not contemplate, given that the subject site is severely restricted in terms of acceptable building footprint and envelope.

6. It is considered that there is an absence of any significant material impacts of the proposed non-compliance on the amenity of the environmental values of the locality, the amenity of future building occupants and on area character. Specifically:
  - a. The additional storey creates no significant additional overshadowing to adjoining properties when considering the extent of overshadowing against the backdrop of the applicable planning controls. That is, the proposed third storey is predominantly compliant with the building height development standard (per the HLEP 2012) and any overshadowing is created by a compliant building form. As such, the elements of the building that breach the height limit would have an insignificant or nil additional impact on the overshadowing of adjoining properties;
  - b. The height breach does not result in any significant additional privacy impacts. The extent of privacy impacts caused by the additional storey has been mitigated through the orientation of rooms and living areas to the front and rear boundaries and internally within the subject site. Where the proposed three storey form opposes the properties to the east, this comprises of non-habitable walkways as to mitigate additional privacy concerns. To the west, the proposal is limited in width, is setback greater than the existing heritage item and will only provide a limited number of rooms which are setback 3m from the boundary. As such, the loss of privacy caused by the non-compliant elements would be insignificant or nil; and
  - c. The additional storey does not result in any significant additional view loss and no significant views are enjoyed across the subject site. It is noted that the proposal will retain views of the heritage item when viewed from Forest Road and will not be impacted by the non-compliance. The extent of view loss caused by the non-compliant element would be insignificant or nil



In addition and having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, the following planning grounds are submitted to justify contravening the prescribed number of storeys (1) within the rear 25% area of the site. It is again noted that a number of environmental planning grounds pertaining to Clause 40(4)(a) and (b) are applicable to the proposed three storey height within the rear 25% of the site. Additional environmental planning grounds are as follows:

1. The proposed non-compliance pertaining to the single storey requirement within the rear 25% of the site is not considered to be strictly applicable to the proposed development given rear frontage to Prospect Road. This is a site specific condition that Clause 40(4)(c) of the Seniors SEPP does not contemplate, given that the subject site has two street frontages which precludes strict compliance with this standard.
2. Despite the above, the proposal (as discussed per Clause 40(4)(b)) has been specifically designed to ensure that the built form at the rear of the site will not be visually obtrusive or jarring when viewed from the casual observer along Prospect Road. Specifically, numerous two storey dwellings are located along Prospect Road, in which the proposal is visually and physically compatible. To the rear of the site, the



proposal represents generally minor non-compliances to the Seniors SEPP 8m height limit and 9m HLEP 2012 building height development standard. However, this is not significant and is a result of the existing driveway serving the function centre. By virtue of predominant compliance with the LEP development standard, the proposal is compatible with regards to the bulk and scale of Prospect Road.

3. Despite providing a three storey built form to the rear of the subject site, the proposal is demonstrably designed to present as a two storey built form with attic third storey. The proposed design measures (as stipulated throughout this variation request) limit the bulk and scale of the development when viewed from the public domain. In the sites current arrangement, the existing structure provides a part one, part two storey building with a nil setback to Prospect Road and does not afford any visual benefit to the streetscape character of the site. Accordingly, the demolition and subsequent proposal (despite being three storeys in height) represents a significant improvement to the visual qualities of Prospect Road and the R2 Zone. Importantly, the proposal also incorporates an increased 4m rear setback which will suitably accommodate high quality landscaping to the public domain.
4. As stipulated under the environmental planning grounds per Clause 40(4)(b), insistence on strict compliance would result in the removal of two levels fronting Prospect Road which is considered unreasonable and unnecessary given benefits afforded by the proposal. The removal of two floor levels would not only result in a significant loss of accommodation for seniors housing, however would also provide a single storey built form addressing the streetscape which does not reflect the desired character of developments along Prospect Road.
5. As discussed under the environmental planning grounds per Clause 40(4)(b), the site is constrained by the location and siting of the heritage item. The proposal cannot achieve a 1:1 FSR (per the SEPP Seniors) without the proposed non-compliance, as there is no opportunity to redistribute floor area throughout the subject site without adverse impacts to the locality or amenity of neighbours. That is, providing additional floor area in the location of the heritage item or along the eastern (side) boundary is an inferior planning and design outcome to the proposed.
6. It is considered that there is an absence of any significant material impacts of the proposed non-compliance on the amenity of the environmental values of the locality, the amenity of future building occupants and on area character. Specifically:
  - a. The two additional storey creates no significant additional overshadowing to adjoining properties when considering the extent of overshadowing against the backdrop of the applicable planning controls. That is, the proposed second and third storey are generally compliant with the SEPP Seniors 8m height and 9m building height development standard (per the HLEP 2012) and any overshadowing is created by a compliant building form. Importantly, neighbouring properties will retain 3 hours of solar access during mid-winter. As such, the elements of the building that breach the height limit would have an insignificant or nil additional impact on the overshadowing of adjoining properties;

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- b. The height breach does not result in any significant additional privacy impacts. The extent of privacy impacts caused by the additional storeys has been mitigated through the orientation of rooms to the rear boundary. Where the proposed second and third storey opposes the properties to the west, the proposal is limited in width, is setback greater than the existing heritage item and will only provide a limited number of rooms which are setback 3m from the boundary. As such, the loss of privacy caused by the non-compliant elements would be insignificant or nil; and
  - c. The additional storey does not result in any significant additional view loss and no significant views are enjoyed across the subject site. It is noted that the site in its current arrangement does not afford any views to the heritage item from Prospect Road. The non-compliant elements will therefore not result in any further view loss and is considered acceptable.

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

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

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

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

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

## 6. CLAUSE 4.6(4)(a)

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

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

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

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

### 7a. Objectives of Development Standard

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

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

The note to Clause 40(4) states that the purpose of the development standard is to “avoid an abrupt change in the scale of development in the streetscape”. It is considered that these are the appropriate objectives of the development standards and are therefore adopted for the purposes of this objection. They are addressed as follows in accordance with each standard.

- ***To ensure that the proposed development is not overbearing in terms of bulk, scale and height***

The proposal provides compatible setbacks to side boundaries, considerable landscaping and a built form which is consistent with the heritage item on the subject site and character of the R2 Low Density Residential zone. The purposeful design provides a high quality, articulated built form that presents to the public domain as a two storey



development with attic third floor. Principal compliance with the 9m building height development standard per the HLEP 2012 provides a building envelope which is complementary to the surrounding residential dwellings.

As discussed, the proposal is also compliant with the 1:1 FSR standard prescribed by the Seniors SEPP and represents the most efficient and logical distribution of floor area throughout the subject site. The proposed built form is designed to provide a sympathetic character and scale to the heritage item and neighbouring residential dwellings. When viewed by the casual observer along Forest Road, the non-compliances pertaining to the 8m building height and 2 storey limit will not be visually apparent given the implemented design measures, increased setbacks and provision of high quality landscaping. Similarly and from Prospect Road, the proposal will significantly improve the character of the subject site despite exceeding the single storey limit. As viewed from this domain, the built form is articulated through vertical separation, landscaping and the provision of a refined design which will not compete with the character of the locality. As detailed, the proposal as viewed from Prospect Road is predominately compliant excluding a minor portion on the north-western corner which is a result of the sites topography and existing driveway.

The proposal will positively contribute to the existing and desired future character of the Peakhurst locality when viewed in conjunction with residential dwellings throughout the locality and heritage item on the subject site. To the casual observer, the building will appear to have compliant height (with respect to Clause 40(4)(a), (b) and (c) and has been tailored to create an improved relationship with the adjoining buildings and the heritage item.

Clause 40(4)(a):

When considering Clause 40(4)(a) with regard to bulk, scale and height, the non-compliance of 1.8m pertaining to the 8m building height limit will have no negative consequence on the character of the locality in terms of bulk or scale. As detailed, the 1.8m non-compliance is limited to a minor portion the site where the topography undulates. That is, the proposal generally represents a non-compliance of 0.2m throughout the site and not visually apparent from the public domain. Insistence on strict compliance would reduce the amenity of future occupants without offering any discernible improvement to the bulk and scale of the proposal when viewed from Forest Road.

Clause 40(4)(b):

Despite the proposed three storey height contravening the maximum two storey limit per Clause 40(4)(b), the proposal has been specifically designed with a recessed, attic third storey to ensure the bulk and scale of the development will not be visually jarring from the public domain. Given predominant compliance with the 9m building height development standard of the LEP, the proposed third storey is within the bulk and scale as desired within the R2 Zone. It is noted that a two storey built form could be provided along the eastern (side) boundary with an identical building envelope, however would not offer the articulation as is proposed and is therefore an inferior outcome.

Clause 40(4)(c):

As discussed in this Variation, the proposed three storey built form to Prospect Road will not result in any unreasonable bulk or scale when viewed from the public domain. The proposal when viewed from the rear has incorporated additional design measures include vertical breaks and portioning. This ensures compatibility with the



bulk and scale of the neighbouring residential dwellings. To the casual observer, the two storey form with attic will appear as compatible with the R2 Low Density Zoning.

Overall and in accordance with the *Note* contained within Clause 40(4), the proposal will provide for a bulk, scale and character which is compatible with the R2 Low Density Zoning and character of the heritage item. The proposal will not result in a built form which is abrupt when compared to the built form along Forest and Prospect Road and is considered acceptable in this regard.

- ***To ensure that the proposed development is not overbearing in terms of overshadowing impacts and privacy concerns:***

This Objective seeks to ensure that the height breach will not compromise the use and enjoyment of neighbouring properties in terms of privacy or daylight access. As discussed, the proposal will enhance the existing streetscape through the replacement of dated building stock on the subject site through a high quality seniors housing development that responds to the heritage item and desired future character of the locality. The amenity of neighbouring properties has been considered with regards to each sub-clause contained within Clause 40(4) below.

Clause 40(4)(a):

In terms of privacy, the elements of the building above the 8m SEPP Seniors height limit are predominantly limited to a minor portion of the ceiling which will not include the provision of any openings from habitable rooms. Only along the western (side) boundary are openings located above the 8m limit, however it is noted that these openings are compliant with the 9m building height standard. That is, any privacy impacts created by the proposal are a result of a compliant building envelope. Therefore, the elements that breach the height limit has no greater impact on the privacy of adjoining properties when compared to elements that comply with the height limit.

In relation to solar access, the elements of the building above the 8m height limit creates no significant additional overshadowing to adjoining properties when considering the extent of overshadowing against the backdrop of the applicable planning controls. That is, the height breach is relatively minor and a result of the site topography. The elements of the building that breach the height limit would have insignificant additional impacts on the overshadowing of adjoining properties between 9am and 3pm in midwinter.

Clause 40(4)(b):

In terms of privacy, the elements of the building which exceed the maximum 2 storey limit per SEPP Seniors do not result in any adverse privacy impact to the neighbouring properties given orientation of openings (from living areas) to the front and rear boundary and internally within the subject site. Where the proposed three storey form opposes the properties to the east, this comprises of non-habitable walkways and setbacks of 2m to 4m as to mitigate additional privacy concerns. To the west, the proposal is limited in width, is setback greater than the existing heritage item and will only provide a limited number of rooms which are setback 3m from the boundary. Therefore, the elements that breach the 2 storey limit have no greater impact on the privacy of adjoining properties when compared to elements that comply with the height limit.





In relation to solar access, the elements of the building above the 2 storey height limit along the eastern and western (side) boundaries do not create any significant additional overshadowing to adjoining properties when considering the extent of overshadowing against the backdrop of the applicable planning controls. That is, the proposal is predominantly compliant with the 8m SEPP building height and 9m HLEP 2012 control. Further, the proposal incorporates setbacks compatible with the character of the locality and does not provide for a bulk or scale beyond that which is reasonably anticipated by the SEPP standards.

Clause 40(4)(c):

With regards to privacy, the elements of the building which exceed the maximum 1 storey limit (within the rear 25% of the site) per the SEPP do not result in any adverse privacy impact to the neighbouring properties given orientation of openings (from living areas) to the rear boundary. Where the proposed three storey form opposes the properties to the west, the proposal is limited in width, is setback greater than the existing heritage item and will only provide a limited number of rooms which are setback 3m from the boundary. It is noted that the non-compliant element to the eastern (side) boundary does not provide with it any openings which will impact the privacy of neighbouring properties.

In relation to solar access, the elements of the building above the 1 storey height limit at the rear of the site do not create any significant additional overshadowing to adjoining properties when considering the extent of overshadowing against the backdrop of the applicable planning controls per the HLEP 2012. That is, the proposed second and third storey are generally compliant with the SEPP Seniors 8m height and 9m building height development standard (per the HLEP 2012) and any overshadowing is created by a compliant building form. As stipulated, where the non-compliance is greatest to Prospect Road, this is a result of the driveway serving the existing function centre.

Overall, it is noted that at no point do the proposed non-compliances pertaining to Clause 40(4)(a), (b) or (c) result in any view loss. That is, no significant views or outlooks are currently enjoyed across the subject site. Specifically, it is noted that no views from Prospect Road are currently enjoyed across the subject to the heritage item and therefore the proposed non-compliance pertaining to 40(4)(c) is acceptable.

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

**7b. Objectives of the Zone**

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

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

The proposed development will provide for 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.

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



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

- *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.*

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 proposal's achievement of this objective.

- *To ensure that a high level of residential amenity is achieved and maintained.*

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.

- *To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.*

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.

- *To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.*

The proposal will not prejudice this objective.

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

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

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

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 5 May



2020, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

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

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

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

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the 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. The proposed building height exceeds the maximum permitted on the site by 1.8m, permitted overall storey height by 1 floor and rear setback height by 2 storeys. 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 is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standards and the objectives of the zone that make the proposed development in the public interest.

**11. CONCLUSION**

Having regard to all of the above, it is our opinion that compliance with Clauses 40(4)(a), (b) and (c) is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

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