



Minto Planning Services

Town Planning Consultants

**TOWN PLANNING REPORT
SITE COMPATIBILITY CERTIFICATE**

**PROPOSED HOUSING FOR SENIORS OR PEOPLE
WITH A DISABILITY**

58 LAITOKI ROAD, TERREY HILLS

**On behalf of
Tolucy P/L**

September 2020

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58 LAITOKI ROAD, TERREY HILLS

Prepared under instructions from

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TABLE OF CONTENTS

1.	INTRODUCTION	4
2.	THE SITE	6
3.	THE SURROUNDING ENVIRONMENT	11
4.	THE PROPOSAL	13
5.	ZONING & DEVELOPMENT CONTROLS	16
6.	SECTION 4.15 ASSESSMENT	48
7.	CONCLUSION	53

1. INTRODUCTION

This Town Planning Report accompanies an Application lodged with the NSW Department of Planning & Infrastructure for a Site Compatibility Certificate in relation to the construction of Housing for Seniors or People with a Disability comprising of a Residential Care Facility containing 90 beds and 48 Services Self-care Dwellings pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 upon land identified as Lot 368 in DP 752017 and which is known as 58 Laitoki Road, Terrey Hills.

By way of background it is advised that:

1. A Site Compatibility Certificate was previously issued for the site on the 14th July 2017.
2. Pursuant to that Certificate Development Consent No. 2018/1752 was approved by the Land & Environment Court of NSW via Proceedings No. 2018/398283 on the 12th July 2019.
3. That decision was the subject of an Appeal under Section 56A of the Land & Environment Court Act.
4. The s56A appeal was heard on 19 - 24 and 25 March 2020.
5. On 3 August 2020 Justice Moore handed down his decision and upheld appeal Grounds 1, 4 and 10 which are summarised as follows: -
 - a. Ground 1: The Commissioner prejudged the application giving rise to a reasonable apprehension of bias.
 - b. Ground 4: The Commissioner failed to give adequate reasons in his judgment.
 - c. Ground 10: The Commissioner erred by finding that clause 26 of the SEPP does not apply to serviced self-care housing.
6. The Class 1 proceedings will be reheard by a Commissioner other than Horton C.
7. The proceedings have been adjourned until 17 November 2020 to allow the applicant to obtain a new Site Compatibility Certificate. Should more time be necessary, the Court will grant a further adjournment.
8. The Department by way of a letter dated 16th July 2020 advised that a Cumulative Impact Study (CIS) was required to be included as part of the application for a Site Compatibility Certificate.
9. This document has been amended so as to include the requested Cumulative Impact Study.

It is advised that the need for a Certificate of Site Compatibility arises as a result of the land the subject of this application being zoned RU4 - Primary Production Small Lots under the provisions of the Warringah Local Environmental Plan 2011 and adjoining land zoned R2 - Low Density Residential.

In such circumstances Clause 24(2) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 states that:

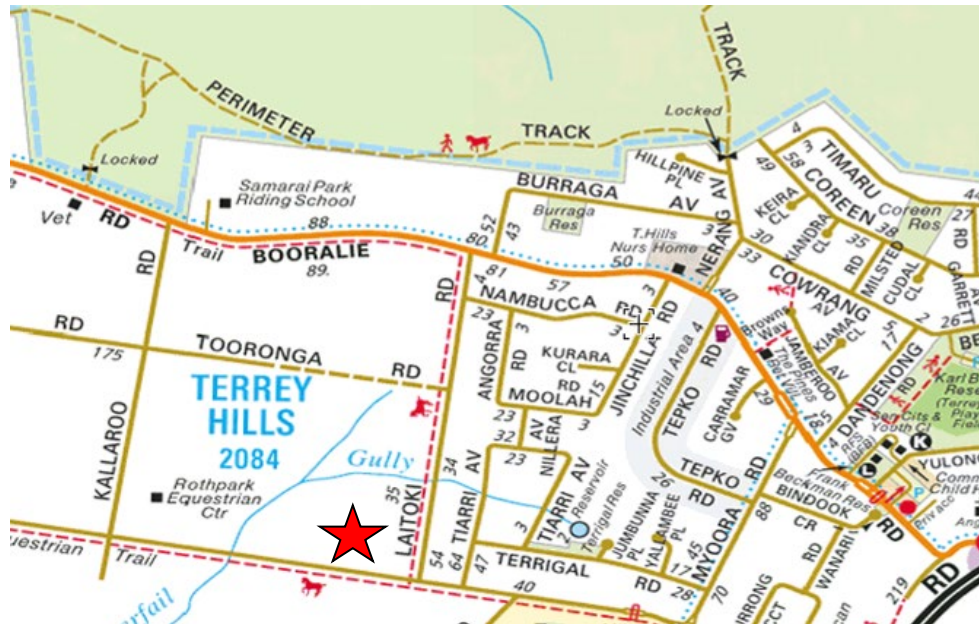
- (2) A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General's opinion:*
 - (a) the site of the proposed development is suitable for more intensive development, and*
 - (b) development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).*

This Report describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed.

It provides an assessment of the proposed development against the requirements of Clause 25(5)(b) of the SEPP. As a result of that assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Department.

2. THE SITE

The site the subject of this application is identified as Lot 368 in DP 752017 and is known as 58 Laitoki Road, Terrey Hills. The property is also known as 52 Cooyong Road, Terrey Hills. The subject property is located on the north western corner of the intersection of Laitoki Road which forms the eastern boundary of the site and Cooyong Road which forms the sites southern boundary.



Site Location Map

The subject property is a generally rectangular shaped allotment (the western boundary is splayed and generally follows the alignment of Neverfail Gully Creek which adjoins the site) having a total site area of 19,536m² with a width (frontage to Laitoki Road) of 151.115m and an average site depth of 252m.

The site is a gently sloping allotment of land having a constant fall from the front south eastern corner adjoining the junction of Laitoki Road and Cooyong Road (RL 198.26) through to an existing watercourse (Approx. RL 170) which runs parallel to the western boundary. The total fall over the site is approximately 28m and represents a site slope of approximately 11%.

The watercourse adjacent to the western boundary of the site forms part of Neverfail Gully and which eventually flows into Cowan Creek. Within the site, Neverfail Gully has a defined channel (approximately 5-7m wide and 2-3.5m deep from top of bank) and a riparian zone that is vegetated with numerous exotic and limited native species. The portion of the site adjacent to the watercourse is severely weed infested and displays some evidence of bank erosion.

All surface water from the property currently drains to the existing watercourse.

An assessment of the existing trees located upon and adjoining the site has been undertaken by Arterra Consulting Arboriculture and their report forms part of the information accompanying this application. That report identified the following relative to the site and the proposal:

In summary 220 trees were assessed for this report and their origin and whether they are removed or retained is shown below:

The broad species breakdown is as follows:

- **68 (31%)** are *Ceratopetalum gummiferum* (New South Wales Christmas Bush).
- **45 (21%)** are *Allocasuarina littoralis* (Black She-oak)
- **34 (16%)** are *Pittosporum undulatum* (Sweet Pittosporum)
- **28 (13%)** are *Eucalyptus sieberi* (Black Ash)
- the remaining **45 (19%)** are a mix of primarily endemic species (**32**), together with a few Australian natives (**6**), exotic and invasive (**7**) species.

A total of 119 trees are proposed for removal, 56 of which are exempt species, or have been rated with Low or Very Low/Remove retention values. The remaining 63 trees to be removed are either within the footprint of the proposed works or are so close to the works as to require removal to facilitate the works.

101 Trees are proposed to be retained and protected, all of which are situated around the perimeter of the site with the majority situated along the Cooyong Road frontage. 32 trees along this frontage are currently noted as 'Conditionally Retained'. The most significant tree impacts are likely to occur along the Cooyong Road frontage due to the potentially significant re-grading of the roadside verge currently proposed to accommodate Council required road widening and the installation of kerb and guttering. The trees impacted in this area are currently shown as 'Conditionally Retained' based on the proposed verge area re-grading being minimised to enable retention of these trees, albeit with some experiencing major TPZ incursions. However, should the re-grading proceed as currently proposed, all 32 trees currently shown as 'Conditionally Retained' will likely require removal.

It should be noted that although a significant number of trees are currently proposed for removal, 40 are exempt species under the Northern Beaches (Warringah) Council LEP. The proposed landscape treatment also incorporates extensive replanting of locally endemic species to offset the tree removals and assist in restoring the endangered Duffys Forest Ecological Community.

As identified within the Arboricultural Report the site supports tree species representative of the Duffys Forest EEC. A Flora and Fauna Assessment has therefore been prepared by Narla Environmental. This report summarised the existing vegetation as follows:

A large area, occupying the majority of the centre of the Subject Site, was historically cleared of native vegetation and consisted primarily exotic groundcover species. The area represents a highly-disturbed landscape which is exposed to regular disturbance by domestic horses (Equus caballus). This area is mapped as 'Historically Cleared Exotic Grassland' (Figure 4) as it is dominated by perennial exotic grasses (Pennisetum clandestinum and Paspalum dialatum) and contains less than 5% native groundcover.

Adjacent to the historically cleared areas, along the northern, southern and western boundaries of the Subject Site, dense stands of tall, woody weeds have established. These areas include a multitude of significant environmental and priority weeds which pose a severe threat to the vegetation and floristic biodiversity of the Subject Site if left unmanaged.

The native vegetation present primarily within the eastern extent, south-eastern boundary and localised pockets within the centre of the Site and along the western boundary have been identified as conforming to the 'Duffys Forest Ecological Community in the Sydney Basin Bioregion' (TSSC 2002). This community is listed as an Endangered Ecological Community (EEC) within New South Wales under the BC Act and is of high retention value.

The proposal has been assessed against the Biodiversity Offset Scheme and the Flora & Fauna Report found that the proposed development does not trigger the BOS since:

- the proposed development will not involve clearing of vegetation in excess of 0.5 ha, and
- the proposed development will not impact upon an area mapped on the Biodiversity Value Map.

In such circumstances a test of significance (5-part test) is applicable. In response to this requirement the Flora & Fauna Report found that:

Assessments of Significance pursuant to s. 7.3 of the BC Act (5-Part Tests) of threatened species, populations and communities known or predicted to occur on the Subject Site revealed no significant impact would occur as a result of the proposed development, subject to intense, on-going management of the Subject Site for the objective of maintaining and enhancing local and regional biodiversity.

Existing improvements located upon the site include:

- A single storey brick and timber dwelling house with a pitched tile roof and which is located centrally upon the site.
- An inground swimming pool located to the north west of the dwelling.
- A detached metal garage structure located to the north east of the dwelling.
- Stables and a dressage area located upon the western portion of the site, and
- A number of metal awning structures together with timber rural style fences.

Vehicular access to the property is currently provided via two main entry points from Cooyong Road as identified on the survey plan. These access points generally align with the entry points to the proposed development.

The subject property is not heritage listed and is not considered to have any heritage significance which would impact upon the proposed development. A search of the AHIMS Web Services (Aboriginal Heritage Information Management Systems) did not identify any aboriginal sites or places recorded in or near the subject site. On this basis no further investigation was considered necessary in relation to this issue.



The site viewed from the intersection of Laitoki Road and Cooyong Road



The subject site as viewed from the north east in Laitoki Road



The subject site as viewed from the south west in Cooyong Road

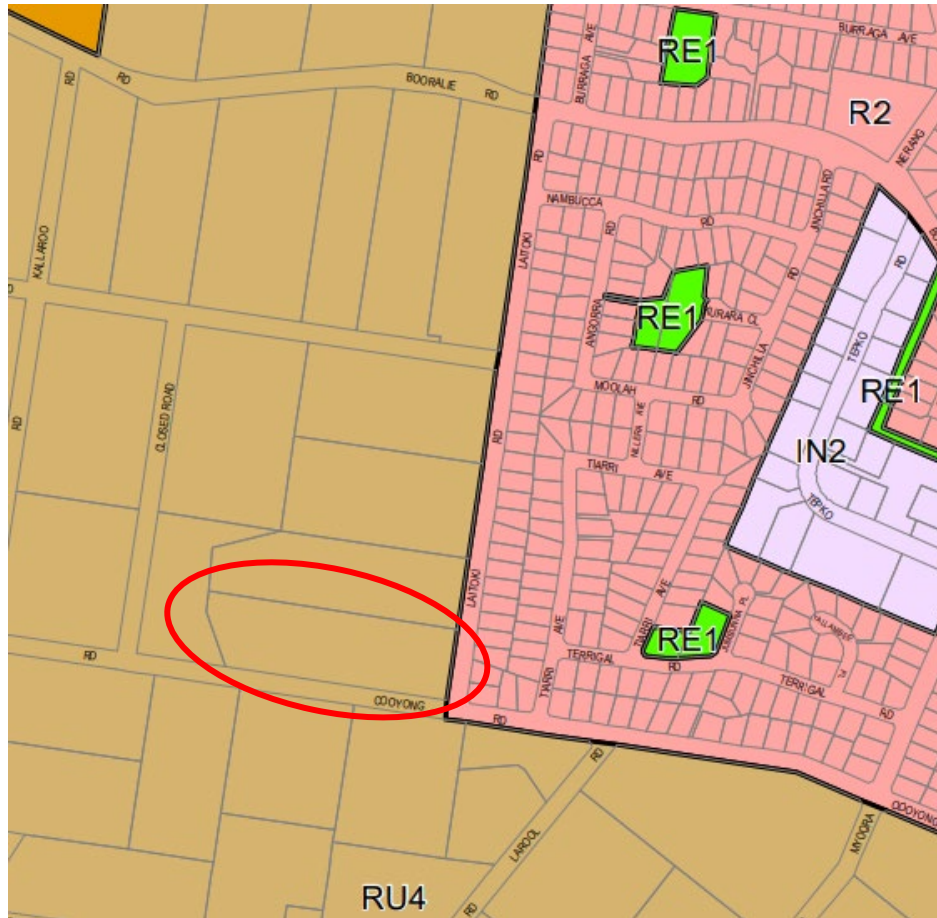


An aerial view of the subject site

3. THE SURROUNDING ENVIRONMENT

The subject property as evidenced from the following extract from the Warringah LEP Zoning Map is located on the zone boundary between RU4 - Primary Production Small Lot land and land which is zoned R2 - Low Density Residential.

The RU4 land comprises land on the western side of Laitoki Road and the southern side of Cooyong Road and includes the subject site. The land on the eastern side of Laitoki Road is zoned R2 - Low Density Residential.



Extract from Warringah LEP Zoning Map

As a consequence of the above zonings traditionally there has been a clear distinction between the character of the lands located on either side of Laitoki Road. In this respect the western side which is zoned RU4 and which includes the subject site has traditionally been characterised by rural properties of similar size and characteristics to the subject site and which are currently used for a range of horse related activities, whilst the R2 zoned land located on the eastern side is characterised by conventional 600-700m² low density residential allotments supporting a mix of one and two storey detached dwelling houses.

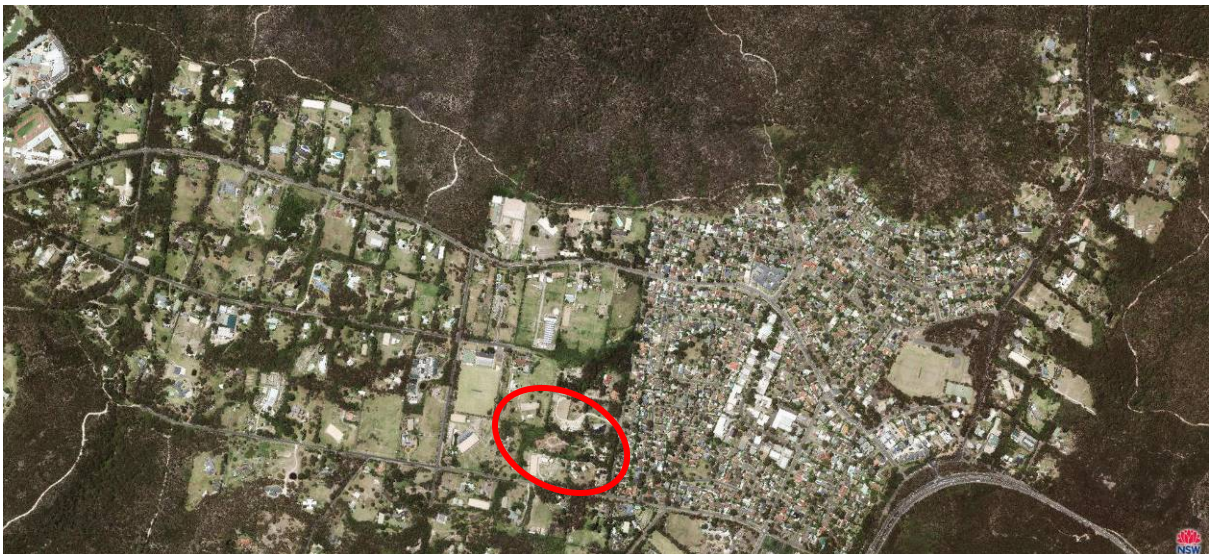
The exception to the above is an existing Seniors Housing development which has recently been completed upon land located at 83 Booralie Road, Terrey Hills. This property is similarly located on the western side of Laitoki Road and is also zoned RU4 - Primary Production Small Lot and was the subject of a similar Site Compatibility Certificate.

Other features of the surrounding locality of relevance to the proposal include:

- The Terrey Hills Shopping Centre which is located approximately 850m to the east of the site on Booralie Road and which contains a range of retail and commercial services likely to be required on a daily basis.
- The Terrey Hills Nursing Home which is a large scale aged care facility and which is located approximately 500m to the north east of the site on Booralie Road.

The site is located approximately 500m to the west of bus stops located adjacent to the intersection of Cooyong Road and Myoora Road which are serviced by a number of bus services which provide access to a range of centres including Mona Vale and Gordon. In addition to the above and in order to satisfy the requirements of the SEPP, a minimum 12-seater mini bus is to be provided for the use of residents and will operate as an 'on demand' service available from 7am to 7pm.

The character of the surrounding locality is evident in the aerial photograph below.



An aerial view of the subject and adjoining properties

4. THE PROPOSAL

The proposal seeks approval for the demolition of the sites existing improvements followed by the erection of a development pursuant to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and which is to comprise of the erection of a 90-bed residential aged care facility together with 48 Independent Living Units upon the subject site.

The proposal also seeks approval for the Community title subdivision of the resultant development.

The following detailed description is provided for the two components which comprise the proposed development.

Residential Aged Care Facility

The Residential Aged Care Facility (RACF) is located on the western portion of the site. This 90-bed facility comprises a predominantly two storey building with basement parking. The building is to be constructed of a mixture of face brickwork, colorbond and timber look cladding with a pitched metal colorbond roof. The RACF building is setback 20m to the site's southern boundary which fronts Cooyong Road. Setbacks ranging from 20.819m to 29.153m are provided to the western boundary. A varying setback of between 13.849m to 14.139m is provided to northern boundary.

The proposed setbacks are considered to be appropriate having regard to the scale of the proposed built form, the requirements of the Council and the SEPP.

The main front entrance to the RACF building is to be located on the buildings eastern elevation and is provided with a covered porte cochere. The proposed western driveway services this front entrance as a drop off/pick up area and area for ambulance parking.

All of the 90 beds provided upon the site will provide for "aging in place" with rooms primarily dedicated to respite and dementia care. It is to be noted that there are no specific required design differences between a dementia room and a general room.

As can be seen from the above, the proposal provides for a specialised facility providing care for the aged and infirmed and which will be designed to fully comply with all of the operational provisions of SEPP (Housing for Seniors or People with a Disability) 2004, the Building Code of Australia and the Commonwealth Aged Care Accreditation Standards.

This part of the proposed development has been architect designed, and in my opinion provides for a high-quality design which will make a positive contribution to the character of the area.

An Architectural Design Statement has been prepared in support of the proposal and forms part of the information accompanying this application.

Serviced Self-Care Housing - Independent Living Units (ILU)

In addition to the proposed RACF building the proposal provides for 48 independent living units located upon the centre and eastern portion of the site. These units are divided into two separate buildings and separated by a new cul-de-sac driveway. This new driveway utilises the approximate location of the existing eastern most driveway on site.

The buildings comprise built forms having two storeys and which are provided with a setback of 20m to Cooyong Road and 10m to Laitoki Road. A varying setback of 14.5m to 27.12m is provided to the northern boundary of the site.

This part of the proposed development has also been architect designed, and in my opinion provides for a high-quality design which will make a positive contribution to the character of the area.

An Architectural Design Statement has been prepared in support of the proposal and forms part of the information accompanying this application.

As previously identified vehicular access to the site is to be via two new access points and which are to be located in similar locations to the existing driveway access points to the site. The access roads provide for two-way traffic and allow a range of vehicle types and sizes. The road network also allows for vehicles to enter and exit the site in a forward direction.

Pedestrian access is to be provided throughout the site and comprises of external pathways and stairs which provide access ultimately to pedestrian entries located on Laitoki Road. The external pathways are provided in conjunction with an alternate pathway which runs through the centre of each of the buildings and which utilises the proposed internal lifts located within each building.

The proposed development will require the clearing of a small area of native vegetation from the Subject Site. Out of the total of 0.28ha of native vegetation that occurs on the subject at the time of preparing this report, a maximum of 0.08ha of native vegetation is expected to be removed from the site to allow for the construction of the proposed development and ancillary structures. This includes all hard landscaping, landscaped stormwater disposal, effluent disposal pathways and driveways.

To compensate for this, at least 0.61ha of native vegetation will be replaced across the Subject Site through active revegetation with local provenance flora representative of the vegetation communities required to be removed.

In this regard a detailed landscape plan has been prepared for the site and which provides for the extensive revegetating of the property so as to provide both active and passive recreation zone as well as perimeter landscape screening, riparian planting and replenishment planting.

Stormwater management associated with the proposal is detailed on the accompanying Stormwater Management Report and Plans and provides for all collected surface water to be discharged to the existing watercourse via a headwall and energy dissipater and includes separate on-site detention and retention systems together with a water quality control device. Retained water is to be used for garden watering in accordance with the accompanying BASIX certificate.

The proposal also includes the Community title and Strata title subdivision of the resultant development as per the accompanying draft subdivision plans.

A dedicated mini-bus service will be provided on-site for use by residents, visitors and staff of both the RACF and ILU and will provide services to local transport points and retail facilities. This service will be available from 7am to 7pm.

5. ZONING AND DEVELOPMENT CONTROLS

The proposed development is identified as Integrated development and is permissible with the consent of the Council under the provisions of the Environmental Planning and Assessment Act 1979 and SEPP (Housing for Seniors or People with a Disability) 2004. Consent is also required from the NSW Office of Water under the Water Management Act in respect of the watercourse which adjoins the western boundary of the subject site.

The following is an assessment of the proposal against the relevant provisions of the Act, the SEPP (Housing for Seniors and People with a Disability) and all of the relevant planning instruments and policies of Northern Beaches Council (Warringah Council).

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

Background

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP) came into effect on the 31st March 2004 and replaced the previous State Environmental Planning Policy (SEPP) No. 5 - Housing for Older People or People with a Disability.

The aim of this policy is to:

- (a) *Increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) *Make efficient use of existing infrastructure and services, and*
- (c) *Be of good design.*

Various forms of housing are permissible under the provisions of the SEPP, including a residential care facility and serviced self-care housing, both of which are proposed as part of this application.

The policy allows for the provision of this form of housing on land zoned for urban purposes or upon land adjoining land zoned for urban purposes. The subject land is zoned RU4 - Primary Production Small Lots under the Warringah Local Environmental Plan 2011 and adjoins land zoned R2 - Low Density Residential. The proposal is therefore considered to satisfy the definition of land adjoining land zoned for urban purposes under Clause 4(4) of the SEPP.

Clause 24(1)(a)(i) of the SEPP applies to land adjoining land zoned for residential purposes and requires the obtaining of a Site Compatibility Certificate.

Clause 24(2) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 states that:

- (2) *A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General's opinion:*
 - (a) *the site of the proposed development is suitable for more intensive development, and*
 - (b) *development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).*

This application is provided in response to the above requirements.

Clause 11 - Residential Care Facilities

A residential care facility is defined as:

Residential accommodation for seniors or people with a disability that includes:

- (a) *meals and cleaning services, and*
- (b) *personal care or nursing care, or both, and*
- (c) *appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

not being a dwelling, hostel, hospital or psychiatric facility.

The subject application provides for a residential care facility with a total of 90 beds which satisfies this definition.

Clause 13 - Self-contained dwellings

The subject application proposes development of the subject site for a purpose defined under the SEPP as being 'serviced self-care housing' and which is defined as:

***serviced self-care housing** is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care*

and where a ‘self contained dwelling’ is defined as;

self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

The subject application provides for a total of forty eight (48) self-contained dwellings with services provided on site via the proposed RACF building and which satisfy these definitions.

In response to the requirements of this Clause it is confirmed that residents of the self-contained dwellings will have access to all of the support services provided via the proposed RACF development including nursing care, meals and cleaning.

Clause 17 - Development on land adjoining land zoned primarily for urban purposes

In accordance with the requirements of this clause it is advised that the proposal does provide for serviced self-care housing and the housing will be suitable for occupation for people with a disability.

In response to the requirement to provide serviced self-care housing the services provided via the Residential Care Facility will be available for use by all residents of the proposed development on a user-pays basis.

Clause 21 - Subdivision

Clause 21 of the SEPP permits land on which development has been carried out under this chapter to be subdivided with the consent of the consent authority.

The proposal seeks to subdivide the subject land in accordance with this provision by way of a combination of a Community and Strata title subdivision as detailed on the plans which accompany this application.

The proposed community title subdivision will ensure that all residents have access to the communal facilities proposed including the proposed mini-bus.

Heritage Conservation Areas & Heritage Items

Clause 22 - Heritage Conservation Areas & Heritage Items

Clause 22 of the SEPP requires referral of an application proposed to be carried out in a heritage conservation area or within the vicinity of a heritage item having State significance to the Heritage Council of NSW.

In this regard Council's Heritage Map indicates that neither the subject or adjoining sites are identified as heritage items nor are they located in a Heritage Conservation Area.



Part 1A - Site Compatibility Certificates

Clause 24 - Site Compatibility Certificates Required for Certain Development

Clause 24(1)(a)(i) of the SEPP applies to land adjoining land zoned for urban purposes and requires the obtaining of a Site Compatibility Certificate.

Clause 24(2) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 states that:

- (2) *A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General's opinion:*
- (a) the site of the proposed development is suitable for more intensive development, and*
 - (b) development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).*

This application is provided in response to the above requirements.

Clause 25 - Application for Site Compatibility Certificate

Pursuant to Clause 25(1) of the SEPP this application is made on behalf of Tolucy P/L and who have the written consent of the owners of the land. That consent forms part of the information accompanying this application.

It is considered that the form of this application and the supporting documentation satisfies the requirements of Clause 25(2) of the SEPP.

In accordance with Clause 25(2D) of the SEPP it is advised that as part of its initial assessment of this Site Compatibility Certificate that the Sydney North Planning Panel on the 9th June 2020 resolved that a Cumulative Impact Study is required in relation to this application.

Cumulative Impact Study

Pursuant to the requirements of Clause 25(C2) of the SEPP the following cumulative impact study is provided. This study is based upon the following documentation:

- *Assessment of Traffic & parking Assessment Report prepared by Transport & Traffic Planning Associates, Ref. No. 18006, Issue A and dated September 2020.*
- *Social Impact Statement prepared by Judith Stubbs & Associates and dated September 2020.*
- *Preliminary Water & Sewer Servicing Assessment prepared by Martens Consulting Engineers, Ref. No. P1504710JR10V01 and dated September 2020.*
- *Bushfire Response Letter prepared by Building Code & Bushfire Hazard Solutions, Ref. No. 191143C and dated 15/9/20.*

It is submitted based upon the above documentation that:

- (a) *take into account the capacity of existing or future services and infrastructure (including water, reticulated sewers and public transport) to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision, and*

Comment

It is my opinion based upon the above reports that there is sufficient capacity of existing or future services and infrastructure (including water, reticulated sewers and public transport) to meet the demands arising from the proposal.

Informing this opinion reference is made to the following:

- The Preliminary Water & Sewer Servicing Assessment prepared by Martens Consulting Engineers and which confirms that there is sufficient capacity in the water supply and sewerage systems having regard to both this development and the proposed development at 25 Laitoki Road.
- Page 24 of the Traffic & parking Assessment Report prepared by Transport & Traffic Planning Associates and which in part states that:

The transport needs of residents, visitors and staff will be adequately catered for by the available bus services and the “on demand” mini bus service operated by the development.

- (b) *take into account the capacity of existing or future road infrastructure to meet any increase in traffic as a result of proposed development.*

Comment

It is my opinion based upon the above reports that there is sufficient capacity of existing or future road infrastructure to meet any increase in traffic as a result of proposed development.

Informing this opinion reference is made to the following:

- Page 24 of the Traffic & Parking Assessment Report prepared by Transport & Traffic Planning Associates and which in part states that:
 - *there will be no adverse or unsatisfactory traffic implications and there is quite adequate capacity on the existing (and future) road system to accommodate the traffic generated by the envisaged developments.*
 - *the envisaged vehicle access, internal circulation and servicing provisions will be quite suitable and appropriate.*

In addition to the above reference is made to the Social Impact Statement prepared by Judith Stubbs & Associates and which at page 7 of that report examines the Cumulative Impact of the proposal and wherein it is stated that:

The proposal will add to the cumulative impact of existing and approved seniors' developments and current Site Compatibility Certificates in the Terrey Hills suburb. Apart from Terrey Hills Nursing Home (102 high care places), these developments have been approved and undertaken since the ABS 2016 Census.

The 145 new residents of the proposal contribute 55% of the cumulative impact of the seniors' developments to the total population. The cumulative impact to population of 263 people represents an 8% increase in the Terrey Hills suburb and a minor 0.1% increase in the Northern Beaches LGA.

Due to the inclusion of an RACF, its contribution to the cumulative impact of need for assistance is significant at 83% (95 people in need of assistance), compared with the additional 19 people in need of assistance in the existing retirement village, approved development and current Site Compatibility Certificates due to the much higher rate of need for assistance among those residing in nursing homes. That said, the services required to meet the needs of people in nursing homes are delivered entirely on-site and do not add need to the general population.

The provision of public transport is limited in this part of Terrey Hills and would impact each of the new and approved seniors' developments in the area. The provision of on-site private transport in the adjacent development (83 Booralie Road) is unknown, while it is understood that private transport (minibus) will be provided at the development at 25 Laitoki Road. Again, there may be potential expansion of transport services to the proposal site which would mitigate the impact to transport services and unmet transport need among older residents, and this (together with on-demand individual transport) is recommended as the primary mitigation.

On the basis of the above it is considered that the cumulative impact of the proposal on surrounding infrastructure, services and public transport is considered to be acceptable.

In accordance with the requirements of Clause 25(5)(b) of the SEPP, the following assessment is provided.

The relevant panel must not issue a site compatibility certificate unless the relevant panel:

- (b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:*
 - (i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*

Comment

It is advised that Development Consent has previously been granted for the construction of 50 dwellings to be used as serviced self care housing upon No. 83 Booralie Road. That consent has since been constructed.

An assessment of the existing trees located upon and adjoining the site has been undertaken by Arterra Consulting Arboriculture and their report forms part of the information accompanying this application. That report identified the following relative to the site and the proposal:

In summary 220 trees were assessed for this report and their origin and whether they are removed or retained is shown below:

The broad species breakdown is as follows:

- **68 (31%)** are *Ceratopetalum gummiferum* (New South Wales Christmas Bush).
- **45 (21%)** are *Allocasuarina littoralis* (Black She-oak)
- **34 (16%)** are *Pittosporum undulatum* (Sweet Pittosporum)
- **28 (13%)** are *Eucalyptus sieberi* (Black Ash)
- the remaining **45 (19%)** are a mix of primarily endemic species (**32**), together with a few Australian natives (**6**), exotic and invasive (**7**) species.

A total of 119 trees are proposed for removal, 56 of which are exempt species, or have been rated with Low or Very Low/Remove retention values. The remaining 63 trees to be removed are either within the footprint of the proposed works or are so close to the works as to require removal to facilitate the works.

101 Trees are proposed to be retained and protected, all of which are situated around the perimeter of the site with the majority situated along the Cooyong Road frontage. 32 trees along this frontage are currently noted as 'Conditionally Retained'. The most significant tree impacts are likely to occur along the Cooyong Road frontage due to the potentially significant re-grading of the roadside verge currently proposed to accommodate Council required road widening and the installation of kerb and guttering. The trees impacted in this area are currently shown as 'Conditionally Retained' based on the proposed verge area re-grading being minimised to enable retention of these trees, albeit with some experiencing major TPZ incursions. However, should the re-grading proceed as currently proposed, all 32 trees currently shown as 'Conditionally Retained' will likely require removal.

It should be noted that although a significant number of trees are currently proposed for removal, 40 are exempt species under the Northern Beaches (Warringah) Council LEP. The proposed landscape treatment also incorporates extensive replanting of locally endemic species to offset the tree removals and assist in restoring the endangered Duffys Forest Ecological Community.

As identified within the Arboricultural Report the site supports tree species representative of the Duffys Forest EEC. A Flora and Fauna Assessment has therefore been prepared by Narla Environmental. This report summarised the existing vegetation as follows:

A large area, occupying the majority of the centre of the Subject Site, was historically cleared of native vegetation and consisted primarily exotic groundcover species. The area represents a highly-disturbed landscape which is exposed to regular disturbance by domestic horses (Equus caballus). This area is mapped as 'Historically Cleared Exotic Grassland' (Figure 4) as it is dominated by perennial exotic grasses (Pennisetum clandestinum and Paspalum dialatum) and contains less than 5% native groundcover.

Adjacent to the historically cleared areas, along the northern, southern and western boundaries of the Subject Site, dense stands of tall, woody weeds have established. These areas include a multitude of significant environmental and priority weeds which pose a severe threat to the vegetation and floristic biodiversity of the Subject Site if left unmanaged.

The native vegetation present primarily within the eastern extent, south-eastern boundary and localised pockets within the centre of the Site and along the western boundary have been identified as conforming to the 'Duffys Forest Ecological Community in the Sydney Basin Bioregion' (TSSC 2002). This community is listed as an Endangered Ecological Community (EEC) within New South Wales under the BC Act and is of high retention value.

The proposal has been assessed against the Biodiversity Offset Scheme and the Flora & Fauna Report found that the proposed development does not trigger the BOS since:

- the proposed development will not involve clearing of vegetation in excess of 0.5 ha, and
- the proposed development will not impact upon an area mapped on the Biodiversity Value Map.

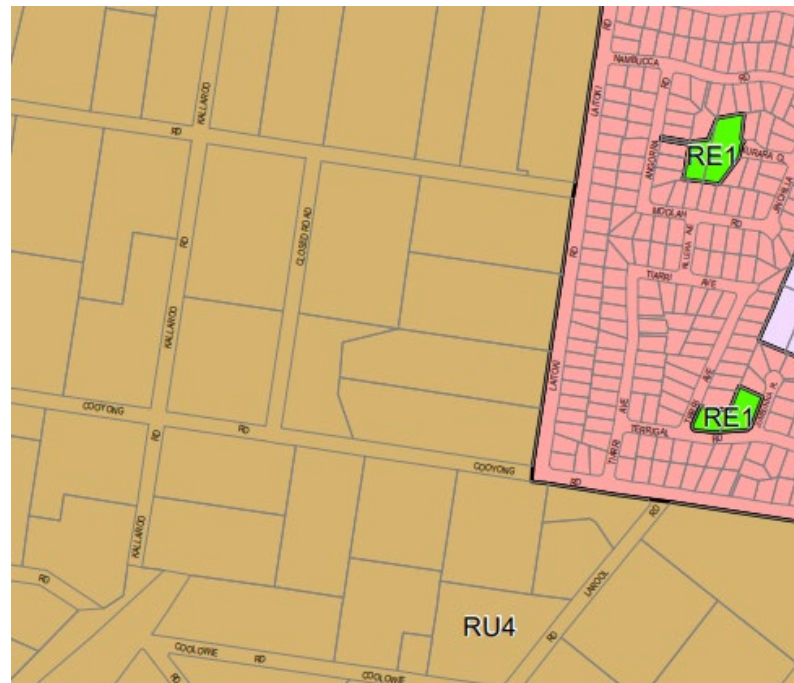
In such circumstances a test of significance (5-part test) is applicable. In response to this requirement the Flora & Fauna Report found that:

Assessments of Significance pursuant to s. 7.3 of the BC Act (5-Part Tests) of threatened species, populations and communities known or predicted to occur on the Subject Site revealed no significant impact would occur as a result of the proposed development, subject to intense, on-going management of the Subject Site for

the objective of maintaining and enhancing local and regional biodiversity.

It is also considered that the topography of the site and which is gently sloping does not present any impediment to the development of the site.

The subject property as evidenced from the following extract from the Warringah LEP Zoning Map is located on the zone boundary between RU4 - Primary Production Small Lot zoned land which comprises land on the western side of Laitoki Road and which includes the subject site and the land on the eastern side of Laitoki Road and which is zoned R2 - Low Density Residential.



Extract from Warringah LEP Zoning Map

As a consequence, there is a clear distinction between the historical character of the lands located on either side of Laitoki Road. In this respect the western side which is zoned RU4 and which includes the site is characterised by properties of similar size and characteristics to the subject site whilst the R2 zoned land located on the eastern side is characterised by conventional 600-700m² low density residential allotments supporting a mix of one and two storey detached dwelling houses.

It is considered that the development proposed by this application as a result of features such as the provision of landscaped setbacks and a one and two storey built form will provide for an appropriate transition between both the RU4 and R2 zoned lands and a compatible land use and built form outcome.

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

Comment

The subject land is currently zoned RU4 - Primary Production Small Lots.

It is not considered that the site is currently used for any significant agricultural use. Further it is not considered that the site is suitable for any significant agricultural use without the undertaking of significant land clearing and landform modification.

- (iii) *the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,*

Comment

The site is located approximately 500-550m from bus stops which are serviced by regular bus services and which provide access to the Terrey Hills Shops, the Forest Way Shopping Centre at Frenchs Forest and the Chatswood regional shopping and business precinct.

At each of these locations residents are able to access a wide range of commercial and retail services and facilities.

Importantly, the Terrey Hills Shopping Centre which is located approximately 750m to the south east of the site on Booralie Road contains a range of retail and commercial services likely to be required on a daily basis.

In addition to the above and consistent with the requirements of Clause 43 of the SEPP the proposal will be provided with a minimum 10 seat mini-bus which will be available to take residents to shops and services as well as on day trips.

It is also advised that pursuant to Clause 44 of the SEPP that the proposal will be required to have in place prior the occupation of the development a service agreement for the provision of services such as meals, cleaning services, personal care and nursing care should they be required by residents.

On this basis it is my opinion that residents of the proposed development will be provided with appropriate access to the required shops and services.

- (iv) *in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development,*

Comment

The subject site is not zoned open space or special uses.

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

Comment

It is my opinion that the proposal is of a height, bulk and scale commensurate with a transitional site situated on the interface between rural zoned lands and a low-density environment. This has primarily been achieved through the provision of appropriate setbacks to the site boundaries and which are proposed to be extensively landscaped together with the provision of a compatible built form.

- (vi) *if the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the Native Vegetation Act 2003—the impact that the proposed development is likely to have on the conservation and management of native vegetation.*

Comment

The Native Vegetation Act 2003 was repealed by sec 3 of the *Local Land Services Amendment Act 2016 No 64* with effect from 25/8/17.

It is therefore my opinion based upon this assessment that the subject site is suitable for the development as proposed.

Part 2 - Site Related Requirements

Clause 26 - Location and Access to Facilities

Clause 26(1) ordinarily provides that Council must be satisfied by written evidence that residents of the proposed development will have access (in accordance with subclause 2) to:

- "a. shops, banks and other retail and commercial services that residents may reasonably require, and*
- b. community services and recreation facilities, and*
- c. the practice of a general medical practitioner."*

In this regard the SEPP defines "access" at Clause 26(2).

In the case of a development on land adjoining land zoned primarily for urban purposes it is submitted that Clause 43 of the SEPP overrides the requirements of Clause 26 (refer to discussion regarding Clause 43 below) in relation to the serviced self-care housing component of the development.

In relation to the Residential Care Facility component of the development a Clause 4.6 submission is proposed and which seeks an exemption for the need for residents to have access to bus stops located within 400m of the site on the basis of the nature of those residents and their limited mobility and ability to physically access the bus stop and bus services.

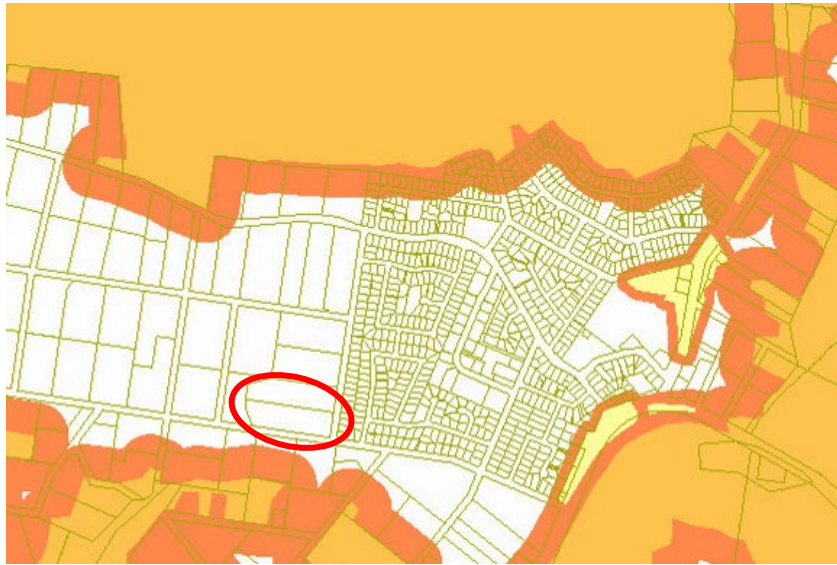
Clause 27 - Bushfire Prone Land

The subject site is not classified as being located upon Bushfire Prone Land.

The site is however located in the vicinity of Bushfire Prone Land and such the provisions of Clause 27(2) applies to the proposal.

Pursuant to this Clause the consent authority is required to consult with the RFS.

A bushfire assessment pursuant to the requirements of Clause 27 has been prepared and accompanies this application.



Extract from Council Bushfire Prone Land Map

Clause 28 - Water & Sewer

It is advised that the sewer is currently available to the subject site.

Reference is made to the accompanying Water and Sewer Servicing Assessment Report prepared for the site by Martens Consulting Engineers.

That report indicates that following preliminary discussions with Sydney Water that connection of the proposal to the existing sewer main in Laitoki Road is acceptable. Connection will be via a combination of a gravity and pumped system.

Their report also indicates that the existing water supply to the site will need to be upgraded as part of the proposal and that sufficient capacity exists for that upgrade.

On this basis it is considered that water and sewer services are capable of being provided to the proposed development.

Part 3 - Design Requirements

Clause 30 - Site Analysis

Clause 30 provides as follows;

- (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.*
- (2) A site analysis must;*
 - (a) contain information, where appropriate, about the site and its surrounds as described in subclauses (3) and (4), and*
 - (b) be accompanied by a written statement (supported by plans including drawings of section and elevations, and in the case of the proposed development on land adjoining land zoned primarily for urban purposes, and aerial photograph of the site):*
 - (i) explaining how the design of the proposed development has regard to the site analysis, and*
 - (ii) explaining how the design of the proposed development has regard to the design principles set out in Division 2.*

A detailed site analysis plan has been prepared by Calder Flower Architects and forms part of the plans accompanying this application. The site analysis plan should be read in conjunction with the site survey and supporting reports. It is considered that these documents when read in conjunction with this Planning Report satisfy the requirements of Clause 30 of the SEPP.

In addition to the site analysis an Architectural Design Statement has been prepared by the architect and is included as part of the information accompanying this application.

It is considered that the design statement successfully demonstrates how the proposal relates to the site analysis.

Division 2 - Design Principles

Clause 32 of the SEPP requires that consent must not be granted unless Council is satisfied that adequate regard has been given to a number of identified design principles.

The following is an assessment of the proposal against these principles.

Clause 33 - Neighbourhood Amenity & Streetscape

The proposal has been designed so as to provide an amenity and streetscape which is responsive to both the rural character of the subject site and adjoining lands to the north and west together with the adjoining low-density residential lands located to the east of the site.

In this regard the proposal seeks to provide for a minimum 10m setback for development from Laitoki Road and a minimum 20m setback from the frontage to Cooyong Road.

A 'single storey rear setback of 25% of the site' area is allocated across the two rear boundaries as a 14.5m deep setback zone that will be left as a deep soil landscaped area for the establishment of gardens and screen planting between the two neighbouring properties and the development.

In all instances the proposed setbacks are to comprise extensive vegetative screening comprising of both existing retained vegetation and new replenishment vegetation.

The proposed materials for the buildings comprise of face brick, timber look cladding panels, timber battens and metal sheet cladding. Battens and screens provide relief shadows and reference the rural character of the area.

Access to the site is proposed to be via two separate points from Cooyong Road and which will be located consistent with the location of the existing driveways.

It is considered that the proposed buildings will be provided with appropriate separation from surrounding dwellings which will allow for appropriate levels of amenity to be retained by those dwellings as well as providing appropriate amenity for the future residents of the development.

As previously detailed the proposal as detailed on the accompanying Landscape Plan provides for additional plantings, including screen planting and canopy trees, which will enhance the landscape character of this development and the locality.

In my view the proposal will result in a development that will be of a form and scale compatible with the existing character of this location.

Clause 34 - Visual and Acoustic Privacy

The development has been designed having regard to the visual and acoustic privacy of both the future residents of the development together with the adjoining property owners. In this regard it is considered that the development will provide future residents with a private and quiet living environment.

This has primarily been achieved through the provision of generous setbacks particularly from the front, side and rear boundaries and which will be provided with extensive landscaping.

In terms of internal visual privacy for future occupants of this development, measures such as window placement, separation distances and the provision of landscaping and courtyard fencing have all been incorporated into the design so as to ensure that there will be appropriate amenity provided to future residents.

Clause 35 - Solar Access and Design for Climate

In relation to the provision of adequate daylight to neighbours in the vicinity of the site it is considered that the shadow diagrams included as part of this application demonstrate that the proposal will not result in any impacts upon adjoining properties. It is also considered having regard to the orientation of the site and the design of the proposal that future residents of the proposal will be provided with ample opportunity to receive appropriate solar access.

Clause 36 - Stormwater

Stormwater management associated with the proposal is detailed in the accompanying Stormwater Management Report and Plans and provides for all collected surface water to be discharged to the existing watercourse via a headwall and energy dissipater and includes separate on-site detention and retention systems together with a water quality control device. Retained water is to be used for garden watering in accordance with the accompanying BASIX certificate.

Clause 37 - Crime Prevention

The occupants of the development will be provided with a secure living environment. The proposal is to be provided with both passive and active security measures and which will be incorporated into the proposal.

The proposed RACF will be provided with an electronically controlled secure entry.

Each of the independent living units are also provided with a secure courtyard/terrace area as well as a controlled entry to each building.

The proposal is considered to be consistent with current CPTED requirements.

Clause 38 - Accessibility

The proposed development has been designed so as to be fully compliant with respect to the requirements of the SEPP, the Building Code of Australia and the applicable Australian Standards. Council's attention is directed to the accompanying Statement of Compliance - Access for People with a Disability prepared by Accessible Building Solutions and which accompanies this application.

An assessment has also been undertaken with regards to on-site traffic and parking, that assessment which was prepared by Transport and Traffic Planning Associates is included as part of the information accompanying this application. Their report concludes that a complying number of car parking spaces are provided by the proposal in accordance with the SEPP and that there will be no detrimental traffic impacts arising from the proposal.

Further in relation to accessibility, it is also noted that in addition to existing public bus services that a 12-seat mini bus is provided as part of the proposal. This bus will be available 'on-demand' to residents and staff of the proposal and will provide access to shops and services and the like as well as providing access to regular excursions.

Clause 39 - Waste Management

An appropriately sized garbage and recycling area is provided as part of the proposed RACF and is located adjacent to the proposed loading dock. These bins will be serviced from the loading dock by a private waste contractor on a twice weekly basis.

There are three separate waste enclosures located in the basement levels for use by the Independent Living Units. The management staff will move the bins to two separate holding areas facing Cooyong Road and Laitoki Road for collection by Council's designated waste contractor using ride on tugs.

The proposal is therefore considered to satisfy the requirements of Clause 32 of the SEPP.

Part 4 - Development Standards

Clause 40 - Development Standards - minimum sizes and building height

Clause 40 (1) provides that 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.

Clause	Standard	Proposal	Compliance
Clause 40(2) - Lot Size	Minimum 1,000m ²	Site Area: 19,536m ²	Yes
Clause 40(3) - Site Frontage	Minimum 20m measured at the building line.	76.435m to Laitoki Road and 237.635m to Cooyong Road.	Yes
Clause 40(4) - Height in zones where residential flat buildings are not permitted	(a) 8 metres or less	Refer to plans.	(a) - Yes
	(b) No more than 2 storeys adjacent to a boundary		(b) - Yes
	(c) Max. 1 storey in rear 25% of site		(c) - Yes

Division 2 - Residential Care Facilities - standards concerning access and useability

The SEPP states the following in relation to this division.

Note.

Development Standards concerning access and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth Aged Care Accreditation Standards and the Building Code of Australia.

The proposal has been designed so as to achieve compliance with the above requirements. Reference is made to the Statement of Compliance - Access for People with a Disability prepared by Accessible Building Solutions and which accompanies this application.

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

Clause 41 - Self-contained dwellings - standards concerning access and useability

Clause 41 of the SEPP states:

- 41. 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.*

Reference is made to the accompanying Access Report prepared by Accessible Building Solutions and which demonstrates that the proposal is capable of satisfying the requirements of Schedule 3 of the SEPP.

Part 5 - Development on land adjoining land zoned primarily for urban purposes

Clause 42 - Serviced self-care housing

Clause 42 of the SEPP states that:

- (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have reasonable access to:*
- (a) home delivered meals, and*
 - (b) personal care and home nursing, and*
 - (c) assistance with housework.*
- (2) For the purposes of sub clause (1), residents of a proposed development do not have reasonable access to the services referred to in sub clause (1) if those services will be limited to services provided to residents under Government provided or funded community based care programs (such as the Home and Community Care Program administered by the Commonwealth and the State and the Community Aged Care and Extended Aged Care at Home programs administered by the Commonwealth).*

In response to the requirement to provide serviced self-care housing the services provided on site, including meals, nursing and housework, it is advised that all residents of the independent living units will have access to those access via the RACF on a user pays basis.

Clause 43 - Transport services to local centres

In accordance with the requirements of this clause a bus capable of carrying at least 12 passengers will be provided to the residents of the proposed development and which will be available 'on demand' to provide residents with access in accordance with the following:

- (a) that will drop off and pick up passengers at a local centre that provides residents with access to the following:*
 - (i) shops, bank service providers and other retail and commercial services that residents may reasonably require,*
 - (ii) community services and recreation facilities,*
 - (iii) the practice of a general medical practitioner, and*
- (b) that is available both to and from the proposed development to any such local centre at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.*

The proposed bus will be administered by the owner's corporation of the development and will be available for use by both residents of the RACF and the ILU's.

Clause 44 - Availability of facilities and services

It is advised that all services associated with the development will be available when the development is ready for occupation including if the development was to be constructed in stages.

Part 7 - Development Standards That Cannot Be Used As Grounds to Refuse Consent

Division 2 - Residential Care Facilities

Clause 48 - Standards that cannot be used to refuse development consent for a residential care facility

The following is an assessment of the proposal against the requirements of Clause 48 of the SEPP. The consent authority must not refuse consent of an application on the grounds of the following if compliance is achieved.

Clause	Requirement	Proposal	Compliance
Clause (a) - Building Height	Height to be less than 8.0 metres.	Refer to plans	Yes

Clause	Requirement	Proposal	Compliance
Clause (b) - Density & Scale	1:1	Refer to Plans.	Yes
Clause (c) - Landscaped Area	Minimum of 25m ² per residential care facility bed	Refer to Plans.	Yes
Clause (d) - Parking for Residents & Visitors	1 space/10 beds in residential care facility (72 beds - 7 spaces), or 1 space/15 beds used for dementia care (22 beds - 2 spaces), and 1 space/2 staff employed (15 spaces), and 1 ambulance space.	31 spaces (including 1 space for the 12-seater bus) 1 ambulance bay	Yes

Division 4 - Self-contained Dwellings

Clause 50 - Standards that cannot be used to refuse development consent for self-contained dwellings

This clause provides additional standards for self-contained dwellings which is summarised below:

Clause	Standard	Proposal	Compliance
Clause 50(a) - Building Height	Buildings not to exceed 8.0m in height	Refer to plans	Yes
Clause 50(b) - Density and Scale	Floor Space Ratio not to exceed 0.5:1	Refer to Plans	Yes
Clause 50(c)(i) - Landscaped Area	Minimum 30% of the site area	Refer to Plans	Yes
Clause 50(d) - Deep Soil Zones	15% of the site area (1,806m ²) With two thirds (1204m ²) preferably at the rear	Refer to Plans	Yes

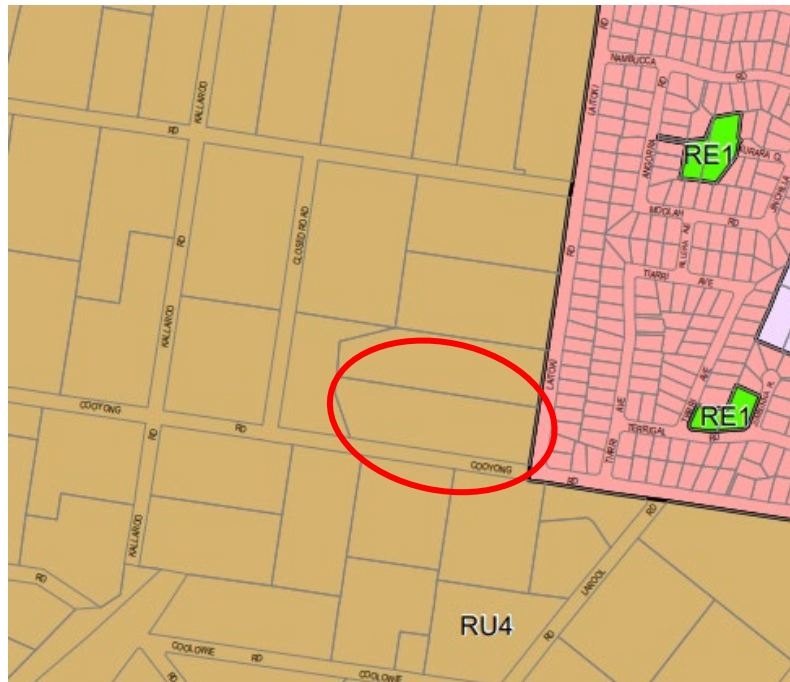
Clause	Standard	Proposal	Compliance
Clause 50(e) - Solar Access	70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	Refer to Plans	Yes
Clause 50(f) - Private Open Space	15m ² of private open space per dwelling at ground floor 10m ² in case of any other dwelling	Refer to plans	Yes
Clause 50(h)(ii) - Parking	0.5 space per dwelling	60 spaces provided within the basement parking areas	Yes

Summary

Based upon the responses above it is my opinion that the proposed development of the subject site for the erection of 48 independent living units in addition to a 90-bed residential care facility, subject to Council's support of the accompanying Clause 4.6 submission, is compliant with the requirements of this SEPP.

5.2 Warringah Local Environmental Plan 2011

The subject land is zoned RU4 - Primary Production Small Lots under the provisions of the Warringah Local Environmental Plan 2011.



Extract of Council Zoning Map

Under the RU4 zone the use of land for the purpose of Housing for Seniors or People with a Disability is prohibited.

The proposal therefore relies upon SEPP (Housing for Seniors or People with a Disability) 2004 for its permissibility, subject to the accompanying site compatibility certificate.

As detailed in the following extract of the zoning table for the RU4 zone dwelling houses are permissible upon the site.

Zone RU4 Primary Production Small Lots

1 Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To minimise the impact of development on long distance views of the area and on views to and from adjacent national parks and bushland.
- To maintain and enhance the natural landscape including landform and vegetation.

- To ensure low intensity of land use other than land uses that are primary industry enterprises.
- To maintain the rural and scenic character of the land.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Environmental protection works; Extensive agriculture; Farm buildings; Home businesses; Home industries; Intensive plant agriculture; Landscaping material supplies; Plant nurseries; Recreation areas; Respite day care centres; Roads; Roadside stalls; Rural supplies; Veterinary hospitals

4 Prohibited

Any development not specified in item 2 or 3

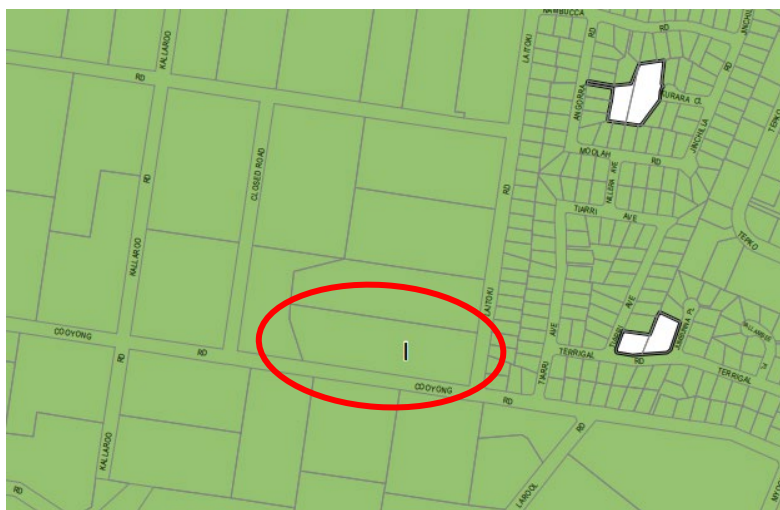
Notwithstanding the proposed development being prohibited under the LEP the following is an assessment of the proposal against the relevant provisions which would otherwise apply to the site.

Clause 4.3 - Height of Buildings

Under Clause 4.3 of the LEP the subject site is located within the “I” Height Zone and as such is subject to a maximum building height of 8.5m.

The requirement to comply with this control is overridden by the requirements of the SEPP and which provide for an 8.0m ceiling height control and which prevails in this instance.

Based upon Architectural Drawing No. A900 it is advised that the proposal complies with the 8.0m ceiling height control.



Extract from Council Height Map

Clause 4.4 - Floor Space Ratio

There is no FSR control applicable to the subject site under this clause of the Warringah LEP.

Clause 4.6 - Exceptions to Development Standards - Clause 26

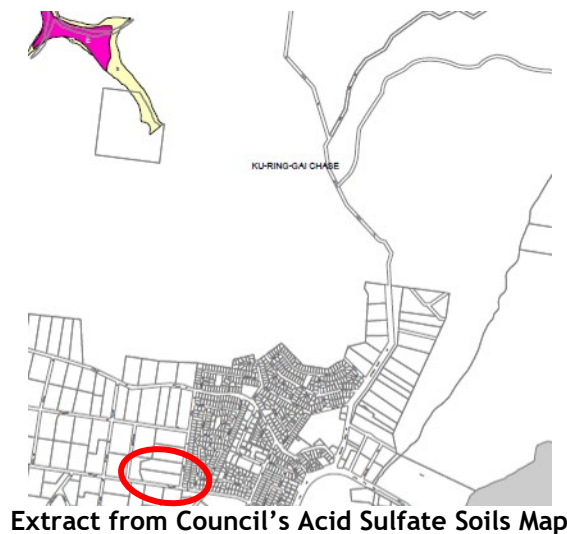
Refer to accompanying document.

Clause 5.10 - Heritage Conservation

The subject site is not heritage listed and is not located adjacent to a heritage item or within a heritage conservation area. A search of the AHIMS Web Services (Aboriginal Heritage Information Management Systems) did not identify any aboriginal sites or places recorded in or near the subject site.

Clause 6.1 - Acid Sulfate Soils

The subject site is not identified on Council's Acid Sulfate Soils Map as containing acid sulphate soils and as such is not subject to the requirements of this provision.



Clause 6.3 - Flood Planning

The subject site is in part traversed adjacent to its western boundary by an existing watercourse and which forms part of Neverfail Gully.

A Flood Study has been prepared in support of the proposal by Martens Consulting Engineers and found that the subject site is classified as a 'low flood risk precinct' by Northern Beaches Council.

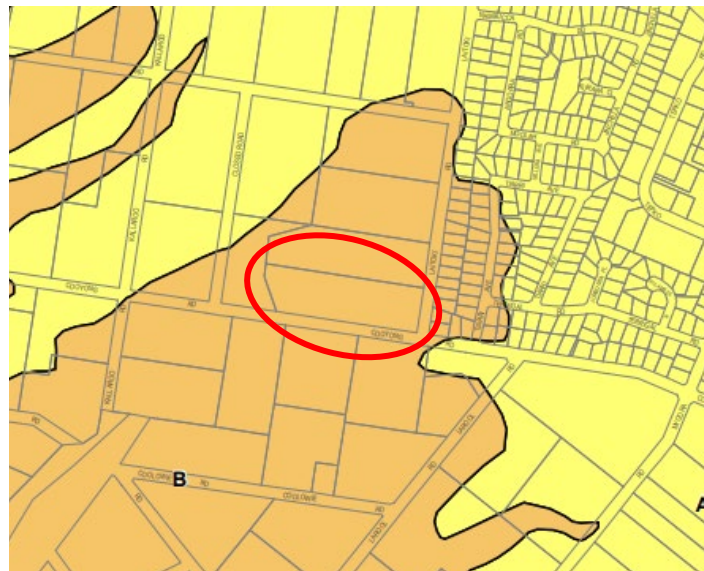
It is understood that the proposed development has been sited so as to be located outside and above the nominated flood zone.

On this basis it is not considered that there will be any detrimental flooding impacts associated with the proposal.

Clause 6.4 - Development on Sloping Land

The subject site is identified as Area B zoned land on Council's Landslip Risk Map and as such the provisions of Clause 6.4 of the LEP apply to the proposal.

In response to this clause a Preliminary Geotechnical Assessment has been undertaken by Martens Consulting Engineers and forms part of the information accompanying this Development Application. That report identified that subject to compliance with a number of recommendations that the site was suitable for the development proposed.



Extract from Council's Landslip Risk Map

Summary

There are no other provisions of the Warringah Local Environmental Plan which it is considered are relevant to the proposal.

The proposal is therefore considered to be capable of satisfying the requirements of the applicable Warringah Local Environmental Plan 2011.

5.3 Warringah Development Control Plan

The Warringah DCP would ordinarily apply to development permitted under the LEP.

Notwithstanding that the proposal is permitted under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 the following is an assessment of the proposal against the applicable provisions of the DCP.

The following is an assessment of the applicable prescriptive requirements of the DCP as they apply to the proposal.

Control	Requirement	Proposal	Compliance
B1 - Wall Height	<ul style="list-style-type: none">Maximum of 7.2m measured to the underside of the ceiling	<ul style="list-style-type: none">Refer to Plans	The provisions of the SEPP override the provisions of the DCP in relation to height.
B3 - Side Boundary Envelope	<ul style="list-style-type: none">Not Applicable	<ul style="list-style-type: none">Not Applicable	Not Applicable
B5 - Side Boundary Setbacks	<ul style="list-style-type: none">Minimum of 10m	<ul style="list-style-type: none">Minimum of 13.849m to northern boundary	Yes
B7 - Front Boundary Setbacks	<ul style="list-style-type: none">20m main frontage10m to secondary frontage	<ul style="list-style-type: none">Minimum of 20m (Cooyong Road)Minimum 10m to Laitoki Road	Yes
B9 - Rear Boundary Setbacks	<ul style="list-style-type: none">10m	<ul style="list-style-type: none">Minimum of 10m	Yes
D1 - Landscaped Open Space	<ul style="list-style-type: none">Minimum of 30% of site area	<ul style="list-style-type: none">58.2%	Yes
D2 - Private Open Space	<ul style="list-style-type: none">A minimum of 60m²Minimum dimension of 5m	<ul style="list-style-type: none">Refer to Plans	Yes

In addition to the prescriptive requirements of the DCP there are also a number of performance-based controls which apply to the proposal. The following is an assessment of the proposal against those provisions.

C3 - Parking Facilities

The proposal provides for parking to be contained within the basement levels of the development and as such is not visible from the public domain.

The proposal provides for 92 spaces in total and which satisfies the minimum requirements of the SEPP.

The proposal is therefore considered to satisfy this element of the DCP.

C4 - Stormwater

Stormwater management associated with the proposal is detailed in the accompanying Stormwater Management Report and Plans and provides for all collected surface water to be discharged to the existing watercourse via a headwall and energy dissipater and includes separate on-site detention and retention systems together with a water quality control device. Retained water is to be used for garden watering in accordance with the accompanying BASIX certificate.

The proposal is therefore considered to satisfy this element of the DCP.

C5 - Erosion and Sedimentation

A sediment and erosion control plan has been prepared for the site and forms part of the Development Application documentation.

It is considered that subject to compliance with the requirements of this plan that the proposal will satisfy this element of the DCP.

C7 - Excavation and Landfill

The proposal provides for the partial excavation of the site so as to create appropriate basement parking. A Preliminary Geotechnical Assessment has been prepared by Martens Consulting Engineers to support the application.

Based upon the findings of that report it is therefore my opinion that the proposed excavation of land associated with the proposal is acceptable in the circumstances of this case.

C8 - Waste Management Plan

An appropriately sized garbage and recycling area is provided as part of the proposed RACF and is located adjacent to the proposed loading dock. These bins will be serviced from the loading dock by a private waste contractor on a twice weekly basis.

There are three separate waste enclosures located in the basement levels for use by the Independent Living Units. The management staff will move the bins to two separate holding areas facing Cooyong Road and Laitoki Road for collection by Council's designated waste contractor using ride on tugs.

The proposal is therefore considered to satisfy this element of the DCP.

D6 - Access to Sunlight

In relation to the provision of adequate daylight to neighbours in the vicinity of the site it is considered that the shadow diagrams included as part of this application demonstrate that the proposal will not result in any unreasonable impacts upon adjoining properties. It is also considered having regard to the orientation of the site and the design of the proposal that future residents of the proposal will be provided with ample opportunity to receive appropriate solar access.

D7 - Views

It is not considered that the proposal will unreasonably impact upon the views of adjoining properties.

D8 - Privacy

The objectives of this section of the DCP relate to ensuring the siting and design of buildings provide reasonable visual and acoustic privacy for residents and their neighbours and to ensure the rights of owners to privacy are balanced with the public benefit of maintaining streetscape character.

The development has been designed having regard to the visual and acoustic privacy of both the future residents of the development together with the adjoining property owners. In this regard it is considered that the development will provide future residents with a private and quiet living environment.

This has primarily been achieved through the provision of generous setbacks particularly from the front, side and rear boundaries and which will be provided with extensive landscaping.

In terms of internal visual privacy for future occupants of this development, measures such as window placement and the provision of landscaping and courtyard fencing have all been incorporated into the design so as to ensure that there will be appropriate amenity provided to future residents.

D9 - Building Bulk

It is submitted that the proposal provides for a high-quality design outcome for the site and in a manner which will make a positive contribution to the character of the surrounding locality.

The development is well articulated on all facades and the external materials comprise face brick, timber look cladding panels, timber battens and metal sheeting which reference the surrounding rural character. The proposal provides ample setbacks to all boundaries of the site which with the setback areas being well landscaped.

On this basis it is submitted that the proposal provides for an appropriate building bulk.

D10 - Building Colours & Materials

The proposal is considered to provide for materials and colours which are in keeping with the character of the surrounding area and which will ensure that the proposal makes a positive contribution to the streetscape of the locality.

E10 - Landslip Risk

The subject site is located on Area B zoned land on Council's Landslip Risk Map and as such the provisions of Clause 6.4 of the LEP apply to the proposal.

In response to this clause a Preliminary Geotechnical Assessment has been undertaken by Martens Consulting Engineers and forms part of the information accompanying this Development Application. That report identified that subject to compliance with a number of recommendations that the site was suitable for the development proposed.

Summary

There are no other provisions of the Warringah DCP applicable to the proposal.

The proposal is therefore considered to comply with the applicable prescriptive requirements of the DCP together with the applicable performance based controls.

5.4 State Environmental Planning Policy No. 55 - Remediation of Land

In accordance with Clause 7 of the SEPP an assessment of the site to determine the presence of contamination was undertaken by Martens & Associates and their report forms part of the information accompanying this application.

That assessment involved both a Preliminary and Detailed Site Investigation and which identified that some remediation was required in order to render the site suitable for residential development.

It is considered that subject to compliance with the recommendations of those reports and which include the accompanying Remedial Action Plan that the site is capable of being appropriately remediated.

5.5 State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development

SEPP No.65 is a State Government policy which applies to residential flat buildings having a height of 3 or more storeys and containing 4 or more units and as such does apply to part of the proposal.

The primary aim of the policy is to ensure that there is an improvement in the design quality of residential flat development. This is proposed to be primarily achieved by ensuring that in cases where the policy applies that buildings are designed by registered architects and that any design has regard to 10 design quality principles.

An architectural statement addressing each of the 10 design principles has been prepared by the architect and is included as part of the information accompanying this application together with a design verification statement in accordance with the requirements of the SEPP.

In order to achieve compliance with the design quality principles as contained within the SEPP the Government has produced an Apartment Design Guide. This document provides useful information (including design guidance/suggestions) as to ways of satisfying the design principles of the SEPP.

An assessment of the proposal against the requirements of the Apartment Design Guide and is also included in the Architectural Report. It is my opinion that the proposal achieves appropriate compliance with its requirements.

It is therefore my opinion that the proposal satisfies the requirements of SEPP No.65 and the Apartment Design Guide.

6. SECTION 4.15 ASSESSMENT

Environmental Planning Instruments - Section 4.15(1)(a)(i)

The subject site is zoned RU4 - Primary Production Small Lots under the provisions of the Warringah Local Environmental Plan 2011. The subject site is located adjacent to land zoned for urban purposes and as such is only permitted to be used for housing for seniors or people with a disability upon issue by the Director General of the Department of Planning of a Site Compatibility Certificate pursuant to Clauses 24 & 25 of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004.

The proposal has been assessed against the objectives and all of the provisions of SEPP (Housing for Seniors and People with a Disability) 2004 and the Warringah LEP 2011. The proposal is considered to satisfy the requirements of these documents and in my opinion is worthy of support.

There are no other environmental planning instruments or draft environmental planning instruments, which are applicable to the proposal and which have not been addressed within this report.

Any Development Control Plan - Section 4.15(1)(a)(iii)

The provisions of the Warringah Development Control Plan have been dealt with at Section 4.5 of this report.

Based upon that assessment the proposal is considered to provide for appropriate compliance with requirements of the Warringah DCP.

Impacts of the Development - Section 4.15(1)(b)

It is not considered that the proposal will result in any unreasonable detrimental impacts upon the amenity of the adjoining properties or upon the character of the surrounding area. The proposal will provide for a 90 bed residential care facility and 48 Independent Living Units designed specifically for seniors or people with a disability in a location considered suitable for this form of development.

It is my opinion based upon this report that the proposal will not result in any unreasonable impacts upon adjoining properties or the streetscape.

This is particularly the case in relation to existing vegetation, threatened species and the existing watercourse located upon the site as detailed below.

Tree Removal

In summary 220 trees were assessed for this report and their origin and whether they are removed or retained is shown below:

The broad species breakdown is as follows:

- **68** (31%) are *Ceratopetalum gummiferum* (New South Wales Christmas Bush).
- **45** (21%) are *Allocasuarina littoralis* (Black She-oak)
- **34** (16%) are *Pittosporum undulatum* (Sweet Pittosporum)
- **28** (13%) are *Eucalyptus sieberi* (Black Ash)
- the remaining **45** (19%) are a mix of primarily endemic species (**32**), together with a few Australian natives (**6**), exotic and invasive (**7**) species.

A total of 119 trees are proposed for removal, 56 of which are exempt species, or have been rated with Low or Very Low/Remove retention values. The remaining 63 trees to be removed are either within the footprint of the proposed works or are so close to the works as to require removal to facilitate the works.

101 Trees are proposed to be retained and protected, all of which are situated around the perimeter of the site with the majority situated along the Cooyong Road frontage. 32 trees along this frontage are currently noted as 'Conditionally Retained'. The most significant tree impacts are likely to occur along the Cooyong Road frontage due to the potentially significant re-grading of the roadside verge currently proposed to accommodate Council required road widening and the installation of kerb and guttering. The trees impacted in this area are currently shown as 'Conditionally Retained' based on the proposed verge area re-grading being minimised to enable retention of these trees, albeit with some experiencing major TPZ incursions. However, should the re-grading proceed as currently proposed, all 32 trees currently shown as 'Conditionally Retained' will likely require removal.

It should be noted that although a significant number of trees are currently proposed for removal, 40 are exempt species under the Northern Beaches (Warringah) Council LEP. The proposed landscape treatment also incorporates extensive replanting of locally endemic species to offset the tree removals and assist in restoring the endangered Duffys Forest Ecological Community.

Flora & Fauna Impacts

As identified within the Arboricultural Report the site supports tree species representative of the Duffys Forest EEC. A Flora and Fauna Assessment has therefore been prepared by Narla Environmental. This report summarised the existing vegetation as follows:

A large area, occupying the majority of the centre of the Subject Site, was historically cleared of native vegetation and consisted primarily exotic groundcover species. The area represents a highly-disturbed landscape which is exposed to regular disturbance by domestic horses (Equus caballus). This area is mapped as 'Historically Cleared Exotic Grassland' (Figure 4) as it is dominated by perennial exotic grasses (Pennisetum clandestinum and Paspalum dilatatum) and contains less than 5% native groundcover.

Adjacent to the historically cleared areas, along the northern, southern and western boundaries of the Subject Site, dense stands of tall, woody weeds have established. These areas include a multitude of significant environmental and priority weeds which pose a severe threat to the vegetation and floristic biodiversity of the Subject Site if left unmanaged.

The native vegetation present primarily within the eastern extent, south-eastern boundary and localised pockets within the centre of the Site and along the western boundary have been identified as conforming to the 'Duffys Forest Ecological Community in the Sydney Basin Bioregion' (TSSC 2002). This community is listed as an Endangered Ecological Community (EEC) within New South Wales under the BC Act and is of high retention value.

The proposal has been assessed against the Biodiversity Offset Scheme and the Flora & Fauna Report found that the proposed development does not trigger the BOS since:

- the proposed development will not involve clearing of vegetation in excess of 0.5 ha, and
- the proposed development will not impact upon an area mapped on the Biodiversity Value Map.

In such circumstances a test of significance (5-part test) is applicable. In response to this requirement the Flora & Fauna Report found that:

Assessments of Significance pursuant to s. 7.3 of the BC Act (5-Part Tests) of threatened species, populations and communities known or predicted to occur on the Subject Site revealed no significant impact would occur as a result of the proposed development, subject to

intense, on-going management of the Subject Site for the objective of maintaining and enhancing local and regional biodiversity.

Riparian Impacts

The site adjoins and is in part traversed adjacent to its western boundary by Neverfail Gully and which is a tributary of Cowan Creek.

A Waterway Impact Statement and Riparian Management Plan has been prepared for the site by Martens Consulting Engineers. Their report provides for the following outcomes for the site:

Future Rehabilitation Scheme

The main objective of a future rehabilitation scheme shall be to remove the environmental weeds and establish indigenous vegetation in riparian areas. A Biodiversity Management Plan (Narla Environmental, 2018) has been prepared to manage the riparian rehabilitation process.

Impact Assessment and Riparian Management Measures

Proposed development shall be designed to have negligible or positive impacts on riparian lands, which shall be achieved by:

- o Removal of exotic vegetation currently infesting the riparian zone.
- o Revegetation scheme involving revegetation and rehabilitation of the riparian zone to enhance naturally occurring vegetation, including potential EECs.
- o Removal of existing exotic vegetation and revegetation with appropriate indigenous species shall mitigate potential creek channel form and bank erosion/degradation.
- o Design of appropriate stormwater measures to mitigate localised erosion and scour.
- o Water quality and quantity controls to maintain nature of runoff discharging the site via the creek.

Conclusions

Provided riparian management measures recommended are incorporated, the proposed development is not expected to have a detrimental impact on the surrounding waterway environment.

Similarly, it is considered that the proposal will not result in any unreasonable impacts upon the adjoining properties or upon the character of the surrounding locality.

Suitability of the Site - Section 4.15(1)(c)

It is considered that the suitability of the site for this form of development has been demonstrated by the previous granting of a Compatibility Certificate for the site by the Department of Planning.

In this respect it is considered that in the absence of any detrimental impacts associated with this proposal that the subject land is suitable for the proposed development.

Public Interest - Section 4.15(1)(e)

The proposed development is considered to be in the public interest as it seeks to provide a much needed form of housing specifically designed for the areas older and disabled population in a built form which does not result in any unreasonable detrimental impacts.

7. CONCLUSION

The proposed development is Integrated development permissible with the consent of the Council under the terms of the Environmental Planning and Assessment Act 1979 and has been assessed against the requirements of Section 79C(1) of the Act, SEPP (Housing for Seniors and People with a Disability), the Warringah LEP 2011 and Council's Policies. In this regard it is considered that this Planning Report has demonstrated that the proposal is capable of satisfying the aims and objectives as well as the applicable prescriptive requirements of the above controls.

It is considered that the proposal will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area.

It is therefore considered that the proposed construction of a 90-bed residential care facility in addition to 48 independent living units under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 and the Community & Strata title subdivision of the resultant development upon land at 58 Laitoki Road, Terrey Hills is worthy of the support of Council.

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