

18 June 2021

General Manager  
Randwick City Council  
30 Frances Street  
RANDWICK NSW 2031

*Attn: Mr Sohail Faridy, Executive Town Planner*

Dear Sir/Madam,

**Re: DEVELOPMENT APPLICATION NO. DA/642/2020 – 11-19 FRENCHMANS ROAD, RANDWICK**  
**APPLICANT'S RESPONSES TO COUNCIL REQUEST FOR INFORMATION AND DESIGN**  
**EXCELLENCE PANEL COMMENTS**  
**AMENDED DEVELOPMENT APPLICATION AND ADDENDUM STATEMENT OF ENVIRONMENTAL**  
**EFFECTS**

## **1.0 INTRODUCTION**

This letter has been prepared as the applicant's responses to the matters raised in email dated 19 March 2021 issued by Council which includes the Randwick Design Excellence Panel's comments and the matters listed in the email issued by Council dated 24 April 2021 concerning DA No. DA/642/2020 for the proposed demolition of existing site structures, construction and operation of a building for seniors housing under Clause 45 of *State Environmental Planning Policy (Housing for Seniors of People with a Disability) 2004*, at 11-19 Frenchmans Road, Randwick.

This letter has been prepared to respond to each of the matters raised in the meeting notes issued by the Randwick Design Excellence Panel (Randwick DEP) following the meeting held on 8 February 2021, referred to in this letter as the "DEP comments". As a result of the feedback from the Randwick DEP, this has necessitated design amendments to the Development Application (DA), including changes to the architectural drawings and landscape architectural drawings. A list of amended drawings and information are detailed in **Table 1** below. The amended Architectural drawings are included in **Appendix C**. A list of changes is outlined under Section 1.2 below and a summary of comparative changes has been prepared in **Table 5**.

We also wish to advise the applicant's responses to the Council's Request for Information email dated 26 April 2021, referred to in this letter as the "Council RFI" have required the DA as originally submitted to be amended, now referred to as the applicant's Amended Development Application (Amended DA).

We now request that Council accept this Amended DA under Clause 51 of the *Environmental Planning and Assessment Regulation 2000*. Please refer to **Table 3** below summary of the applicant's responses to the DEP comments. This letter addresses each of the matters raised by the Council RFI in **Table 4** below with the applicant's responses.

This letter should also be read as the applicant's "Addendum SEE" to the original Statement of Environmental Effects (original SEE) report, which is to be read in conjunction with and seeks to amend the originally submitted SEE report.

### 1.1. APPLICANT'S AMENDED DOCUMENTATION

During the preparation of the information to respond to the matters raised by the Randwick DEP and Council's RFI, including the preparation of additional shadow diagrams, additional survey information was obtained concerning the nearby existing buildings. This process involved the surveyors from Higgins Surveyors obtaining information about Frenchmans Road and additional RLs. This additional survey information is included in **Appendix B**. While this additional survey information was prepared it became apparent that the existing detailed survey prepared by Veris, while using the same datum reference has been used in both surveys, a typographical error had occurred in labelling the RLs in the Veris Survey. The error involves 2m. Please refer to the Updated Veris Detail Survey and letter explanation in **Appendix A**.

As a result, an updated detail survey has been issued by Veris, so too all of the RLs in the amended architectural drawings, landscape architectural drawings and engineering drawings have been adjusted. To assist with the responses to the matters raised by the Randwick DEP and in the Council RFI, the applicant has co-ordinated with their design team and technical consultants amended information to respond.

**Table 1** below lists the Amended DA drawings, reports and documentation:

**Table 1:** List of Amended Documents and Appendices References

Appendix Reference	Document	Responsible Author
<b>Appendix A</b>	Updated Veris Detail Site Survey and Letter explanation	Veris
<b>Appendix B</b>	Additional Detailed Survey Information on Frenchmans Road and letter explanation	Higgins Surveyors
<b>Appendix C</b>	Amended Architectural Drawings	Boffa Robertson Group
<b>Appendix D</b>	Architectural 3D Perspectives	Boffa Robertson Group
<b>Appendix E</b>	Amended Landscape Architectural Plans	Arcadia
<b>Appendix F</b>	Amended Engineering Drawings, Amended Sedimentation & Erosion Control Plan and Bulk Earthworks Plan	Henry & Hymas
<b>Appendix G</b>	Urban Design Review	Matthew Pullinger
<b>Appendix H</b>	Amended Acoustic Report	ADP
<b>Appendix I</b>	Arborist Statement	Naturally Trees
<b>Appendix J</b>	Remedial Action Plan	Consulting Earth Sciences
<b>Appendix K</b>	Site Auditor Advice	Enviroview
<b>Appendix L</b>	Updated BASIX Certificate and Updated Section J Report	Efficient Living & ADP
<b>Appendix M</b>	Updated Clause 4.6 Variation Request - Height	Higgins Planning
<b>Appendix N</b>	Updated Clause 4.6 Variation Request - FSR	Higgins Planning

Appendix Reference	Document	Responsible Author
<b>Appendix O</b>	Clause 4.6 Variation Request – Landscaped Area	Higgins Planning
<b>Appendix P</b>	Clause 4.6 Variation Request – Clause 26 Pram Crossing Gradient Fixes	Higgins Planning
<b>Appendix R</b>	Table 5 Comparison Summary of Design Changes	Higgins Planning

The design changes are demonstrated in the Amended Architectural Drawings included in **Appendix C**. To assist with understanding the differences between the originally submitted architectural drawings and the amended architectural drawings Table 5 has been prepared as included in **Appendix R**, this table provides a specific comparison between the original drawings and the amended drawings with information about the change.

Council's Community Participation Plan adopted on 19 December 2019, advises in relation to Amended Development Applications:

***Amended applications (Re-notification)***

*A DA may be amended or varied by the applicant (with the agreement of council officers) before the application is determined. For amendments prior to determination of an application, Council may renotify:*

- 1. Those persons who made submissions on the original application. Note: If the amendments will have a lesser or the same effect as the original application (e.g. internal changes or external changes which cannot be seen from the correspondent's property) then re-notification is not required and submissions on the original application will be considered in the assessment.*
- 2. Any other persons who own adjoining or neighbouring land (including those who were previously notified of the application) who may, in the opinion of Council, be further detrimentally affected by the amendments if carried out.*

Table 5 includes graphic extracts from each set of drawings. The graphics in Table 5 compares the original DA drawings setbacks, internal planning, external façade design, the Gross Floor Area (GFA), Floor Space Ratio (FSR) and height with the Amended Architectural drawings. The design changes provide for increases in setbacks side setbacks and from the McLennan Avenue frontage, a decrease in GFA and associated FSR and a decrease in building height, all of which contribute to a reduction in building bulk and scale and will not result in any greater impact compared to the original architectural drawings. As the design changes reduce the impacts of the proposed building, and have a lesser impact compared to the original design from adjoining properties, it is considered that the amended DA does not require renotification. However, to assist Council please find attached "notification plans" associated with the Amended DA Amended Architectural drawings in **Appendix C**.

## **1.2 AMENDED DEVELOPMENT APPLICATION DESCRIPTION**

The following information replaces Section 3.2 of the original SEE.

The Amended DA design seeks approval for a seniors housing building which includes demolition of existing site structures, construction and operation of a building for seniors housing under Clause 45 of *State Environmental Planning Policy (Housing for Seniors of People with a Disability)* 2004 (Seniors Housing SEPP) at 11-19 Frenchmans Road, Randwick.

The seniors housing building seeks approval to include both a “residential care facility” for 77 rooms to accommodate 86 beds and two units on level 4 as “self-contained dwellings” as a “vertical village” via Clause 45 of the Seniors Housing SEPP.

The description of the DA as detailed in the original Statement of Environmental Effects report is detailed below, with strike throughs for deletions and bold for additions, to demonstrate the changes in the Amended DA design for the proposed seniors housing under Clause 45 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*:

- Site preparation and bulk earthworks;
- Construction of 1 electrical substation;
- Construction and operation of a ~~residential aged care facility~~ building **for the purposes of seniors housing over 2 basement levels**, under **Clause 45 of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004** and which will contain:
  - Lower basement level:
    - Bulk storage and storage rooms, workshop and plant room;
    - Fire Hydrant and sprinkler pump room;
  - Basement level:
    - **Left-in and left-out combined entry and exit access driveway at the Frenchmans Road frontage;**
    - Parking for a total of 18 car spaces inclusive of disabled parking, with access from Frenchmans Road;
    - Ambulance bay, loading dock, kitchen, staff room, hairdresser / spa, theatre / multipurpose meeting room, gym, laundry, water closets, storage, plant rooms, garbage collection and waste holding area;
  - 4 levels **above ground with:**
    - ~~778-room residential care facility building~~ for high care and dementia care residents, to accommodate 86 beds. The Residential Aged-Care Facility (RACF) has been designed to include:
      - Ground level in-house café with indoor and outdoor seating for residents and their visitors (this in-house café will be owned and operated by SummitCare as an ancillary activity to support the seniors housing development)
      - **Ground floor level 16 x 1 bed residential care facility rooms with en-suites but no kitchen / kitchenette or any cooking facilities in any room;**
      - **First floor level 24 x 1 bed and 4 x 2 bed residential care facility rooms with en-suites but no kitchen / kitchenette or any cooking facilities in any room;**

- **Second floor level 21 x 1 bed and 3 x 2 bed residential care facility rooms with en-suites but no kitchen / kitchenette or any cooking facilities in any room;**
- **Third level 11 x 1 bed residential care facility rooms with en-suites but no kitchen / kitchenette or any cooking facilities in any room;**
- In-house nursing stations for care amenities and facilities on each level;
- Communal dining and living areas on each level;
- Multi-function meeting space;
- Administration rooms;
- Physiotherapy room;
- Consulting rooms;
- Hairdressing salon;
- Reception and lobby area;
- Administration, manager and staff rooms;
- Strategically located lounge and dining areas for residents to enjoy outlooks to the landscaped gardens and terraces;
- Nurse stations at each level;
- On-site facilities for provision of catering with full commercial kitchen and refrigeration/storerooms;
- On-site linen services;
- Plant areas;
- Storage areas;
- Staff amenities;
- 2 x Lift access to each level of the building for all occupants and users;
- 
- On **third floor** level 4:
  - 2 independent living units to accommodate 2 x 1-bedroom units with individual private open space;
- Roof terrace open space with pergola and planter boxes for landscaping, accessible to all residents **of the seniors housing building;**
- Separate roof plant area with screening **of the seniors housing building**, distanced away from proposed rooms and the units to protect both visual and acoustic amenity;

- Perimeter landscaped gardens set at ground level and private communal courtyards on ground floor level to accommodate formal settings, outdoor seating, gardens extending towards the site boundaries while at the same time fencing and retaining walls within the boundaries of the site to provide a secure and safe environment for occupants **of the seniors housing building**; and
- The proposal will also involve consolidating 3 allotments into 1 allotment of land.

Details of the amended design for the proposed seniors housing “Clause 45 vertical village” development are demonstrated in the amended architectural drawings found in **Appendix C**. In addition, amended landscape concept plans have been prepared and can be found at **Appendix E**.

**Table 2** information below replaces Table 2 of the original SEE:

**Table 2:** Comparison Table of existing, original SEE and Addendum SEE seniors housing.

	Existing Seniors Housing 11-17 Frenchmans Road, Randwick	Original SEE Proposed Seniors Housing 11-19 Frenchmans Road, Randwick	Addendum SEE Proposed Seniors Housing
<b>Site Area</b>	2,056 sqm	2,709.7 sqm	2,709.7sqm
<b>Floor Space Ratio</b>	0.9:1 (refer to delegated assessment report dated 27 September 2010 for DA838/2010 for existing building FSR)	1.397:1	1.276:1
<b>Gross Floor Area</b>		GFA – 3,785.2 sqm	GFA – 3,458.4 sqm
<b>Building Height</b>	9.3m	14.84m (ridge line RL92.50-RL77.66) 14.31m (lift overrun RL91.97-RL77.66)	13.94m (parapet line RL93.60-RL79.66) 14.29m (lift overrun RL93.95-RL79.66)  Note: Veris survey error 2m in relation to SSM benchmark – refer to <b>Appendix A</b>
<b>Number of storeys</b>	3	4	4
<b>Number of beds / number of rooms</b>	98 beds (refer to delegated assessment report dated 9 November 2006 for DA182/2007 for existing RAF building beds – it should be noted this DA was not acted upon which sought to reduced beds to 81 but not alter existing FSR/GFA)	86 beds / 78 rooms	86 beds / 77 rooms
<b>Number of lots</b>	3	1	1

	Existing Seniors Housing 11-17 Frenchmans Road, Randwick	Original SEE Proposed Seniors Housing 11-19 Frenchmans Road, Randwick	Addendum SEE Proposed Seniors Housing
<b>Number of dwelling</b>	0	2	2
<b>Affordable housing dwellings</b>	0	1	1
<b>Number of driveways at Frenchmans Road frontage</b>	5	1	1
<b>Number of driveways at McLennan Avenue frontage</b>	1	0	0
<b>Ground floor level setback of RACF building (11-15) from Frenchmans Road</b>	Between 6m and 11m	Between 2.01m and 7.405m (Level 4 recessed by 2m)	Refer to Table 5
<b>Setback of admin building (17) from Frenchmans Road</b>	Between 3m and 5m	Between 2.01m and 7.405m (level 4 recessed by 2m)	Refer to Table 5
<b>Setback of RACF from McLennan Avenue</b>	Between 0.8m and 4.8m	Between 2.65m and 2.75m (level 3 recess by 4.865m and 8.235m)	Refer to Table 5
<b>Car parking location</b>	At-grade with access from Frenchmans Road	Basement level with access driveway from Frenchmans Road	Basement level with access driveway from Frenchmans Road
<b>Loading dock location</b>	At-grade with access from McLennan Avenue	Basement level with access driveway from Frenchmans Road	Basement level with access driveway from Frenchmans Road

The following information replaces Section 3.12 of the original SEE.

Section 3.12 “Multiple Construction Certificates and Occupation Certificates” of the original SEE indicated the applicant sought the ability to obtain multiple construction certificates and stage the construction works.



Please be advised the Amended DA no longer seeks approval to enable the issue of multiple construction certificates / occupation certificate or stage the construction phase of the project.

## **2.0 ENVIRONMENTAL ASSESSMENT OF AMENDED DA**

This Addendum SEE has considered the relevant changes resulting from the Amended Architectural design provisions of the planning legislation Amended DA as follows.

### **2.1.1 Section 3.28 of the EP&A Act – Inconsistency between instruments**

The Amended DA is submitted to Randwick City Council (Council) seeking approval for a form of “seniors housing” in the form of a “vertical village” as described in the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP). Pursuant to Section 3.28 of the EP&A Act, the provisions of the Seniors Housing SEPP prevail over any requirement in any local environmental plan.

In addition, it should be noted that the Amended DA proposal does not trigger the provisions of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* (SEPP 65) given the original and Amended proposal does not involve a residential flat building and does not involve 4 or more dwellings.

### **2.1.2 Randwick Local Environmental Plan 2012**

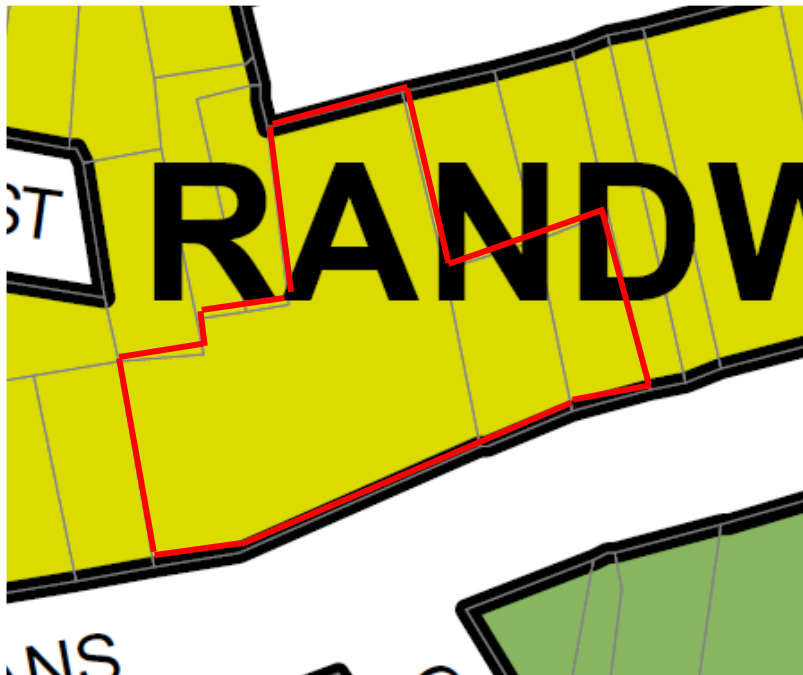
As detailed in the original SEE report, the original DA and this subsequent Amended DA are submitted to Council under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. In addition, the following clauses under the Randwick Local Environmental Plan 2012 (RLEP) have been considered with respect to the Amended DA design:

The information at Sections 4.2.13.1 Land Use Zoning and 4.2.13.2 Land Use Table of the original SEE are unaltered by the Amended DA. In particular, the amended DA remains consistent with the objectives of the R3 Medium Density Residential zone of the RLEP.

#### Clause 4.3 Height of buildings

The subject site is granted a maximum permissible building height of 12m under the RLEP Height of Buildings mapping where the designation M = 12m, as shown in extract from the Height of Building Mapping in **Figure 1**.





**Figure 1:** RLEP 2012 HOB Map Extract (site outlined in red)  
Source: NSW Legislation

## Height of Build Sheet HOB\_0

### Maximum Building

A	1
B	4
I	8
J1	9
J2	9.5
L	11
M	12

**Clause 4.3** states as follows:

#### **4.3 Height of buildings**

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

- (a) *to ensure that the size and scale of development is compatible with the desired future character of the locality,*
- (b) *to ensure that development is compatible with the scale and character of contributory buildings in a conservation area or near a heritage item,*
- (c) *to ensure that development does not adversely impact on the amenity of adjoining and neighbouring land in terms of visual bulk, loss of privacy, overshadowing and views.*

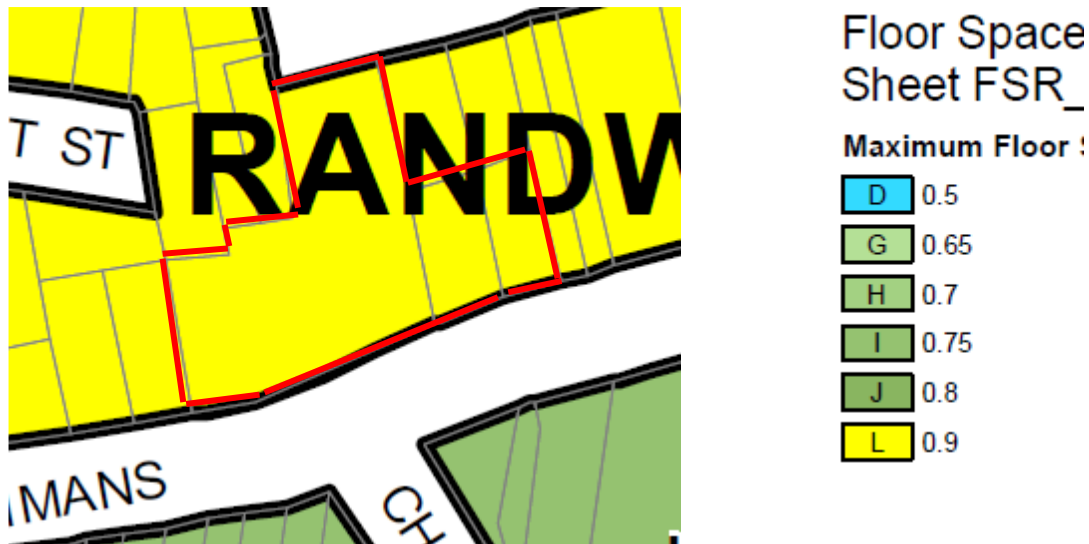
(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

(2A) *Despite subclause (2), the maximum height of a dwelling house or semi-detached dwelling on land in Zone R3 Medium Density Residential is 9.5 metres.*

The design of the proposed development involves a building with a height at its highest roof point, being RL93.95 at the top of the lift overrun to natural ground level RL79.66, which is 14.29m. This is a reduction in height by 0.55m. The overall height of the lift overrun may be capable of being lowered so as to lower the maximum height of the building as this accounts for some 1.5m. The applicant has not at this stage engaged a lift consultant to review the available options, but alternate lift designs may be considered. The degree of the variation concerning the lift overrun may be reduced, and this would lower the building to potentially RL92.45 which would be a height of 12.79m and represent a variation of 6.5% or 0.79m. A variation to the RLEP Height of Buildings control in Clause 4.3 for the current design at 14.29m has been prepared under the provisions of Clause 4.6 of the RLEP, to request a variation to the height control. Refer to **Appendix M**. The proposed height and the variation of Clause 4.3 of the RLEP have also been discussed in detail with respect to the controls associated with the Seniors Housing SEPP in the Updated Clause 4.6 variation request included in **Appendix M**.

#### Clause 4.4 Floor Space Ratio

The land is designated L = 0.9:1 Floor Space Ratio (FSR) control under the RLEP, as shown in the extract from the RLEP FSR Map as follows:



**Figure 2:** RLEP 2012 FSR Map Extract (site outlined in red)  
**Source:** NSW Legislation

The design of the proposed development has had consideration of this control, and the proposal exceeds the 0.9:1 provision under the RLEP 2012. The proposed seniors housing development involves a “vertical village” as described in Clause 45 under the provisions of the Seniors Housing SEPP, and the provisions of Clause 45 provide for a bonus 0.5:1 FSR upon satisfaction of the criteria outlined in Clause 45 (see below in this Addendum SEE report).

The FSR of the Amended DA has been reduced and calculated using the definition for the gross floor area to be included in the Seniors Housing SEPP at 1.276:1. This represents a GFA of 3,458.4 sqm compared to the site area. A variation to the RLEP FSR control in Clause 4.4 of the RLEP has been prepared under the provisions of Clause 4.6 of the RLEP 2008, to request a variation of the RLEP FSR control. The proposed FSR and the variation of Clause 4.4 of the RLEP have been discussed in detail in the Updated Clause 4.6 variation request included in **Appendix N**.

#### Clause 4.6 Exceptions to Development Standards

The Amended DA includes a request to vary the provisions of Clause 4.3 and 4.4 of the RLEP as included at **Appendices M and N**. The Clause 4.6 variation requests are well founded and demonstrate:

- a) Compliance with the development standard would be unreasonable and unnecessary in the circumstances of this amended development;
- b) There are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this case;
- c) The amended development remains consistent with the objectives of the development standard and the objectives of the R3 zone, notwithstanding the variations;

- d) The Amended DA is in the public interest and there is no public benefit in maintaining the standard;
- e) The amended proposal results in a better planning outcome in that, a design which complies with the RLEP FSR, and HOB would not deliver the affordable housing benefits if made to be a compliant FSR and HOB scheme, particularly as the portion of the seniors housing building which breaches the controls does not result in unreasonable adverse impacts on adjoining properties and does not result in an unacceptable loss of amenity to adjoining properties;
- f) The non-compliances with the HOB and the FSR controls under the RLEP do not result in any unreasonable environmental impacts;
- g) It is considered the proposed amended height and FSR are appropriate for the orderly and economic use of the land and is consistent with character of this location; and
- h) The contravention does not raise any matter of State or Regional significance.

Therefore, a variation of the control in this instance can be supported.

#### Clause 5.6 Architectural roof features

The amended Frenchmans Road streetscape presentation includes pitched roofing to level 2 and a flat roof over level 3 with parapet surround. The design includes a secure access roof terrace with uninterrupted solar access for the benefit of all residents with an alfresco seating area and pergola over and glass balustrade surround.

This roof terrace area is recessed with a landscaped planter bed so as not to be visible from McLennan Avenue. While this portion of the building exceeds the height control it provides access to secure accessible private open space for all residents and has been designed to be consistent with the provisions of Clause 5.6 of the RLEP.

The amended McLennan Avenue frontage includes hipped pitched roof over level 2.

The Amended Architectural design included in **Appendix C** is consistent with the requirements of Clause 5.6 of the RLEP.

#### Clause 5.10 Heritage conservation

The subject site is not identified as a heritage item under the RLEP and is not identified as falling within a Heritage Conservation Area.

The site is in the vicinity of two heritage items at 23 McLennan Avenue (Local item - I408 – California Bungalow) and 25 McLennan Avenue (Local item - I409 – California Bungalow) on the RLEP Heritage Map and Schedule 5 Environmental Heritage.

The land to the south of the site along Frenchmans Road (except for 14, 16, 18 and 20 Frenchmans Road) are located within the St Mark's Heritage Conservation Area and the Caerleon Crescent Heritage Conservation Area.

The Heritage Impact Statement is included in Appendix X of the original SEE and includes feedback to respond to the pre-Da meeting feedback from Council:

**Council comment:**

*The streetscape on the southern side of Frenchmans Road includes a single storey early twentieth cottage to the west, two storey Victorian dwellings to the east and several post war residential flat buildings comprising three storeys and three stories over ground level carparking. The existing nursing home and the separate building to the east of it have 2 storey front facades to Frenchmans Road. The proposed 3 storey elevation to Frenchmans Road attempts to articulate and make sense of a hugely complex building footprint, however its scale, bulk and stylistic treatment have more in common with the post war residential flat buildings than the nineteenth and twentieth century buildings adjacent.*

**Weir Phillips Heritage and Planning advises:**

*The proposal has achieved a more sympathetic relationship to the Conservation Area by taking its cues with respect to massing, height and scale from the adjacent two to four-storey buildings along the northern side of Frenchmans Road which do not have any impact on the streetscape to the south.*

*The fall of the land to the east allows the proposal to remain consistent with or below the roof ridge line of these buildings thus ensuring views from the Conservation Area are not reduced.*

*The proposal would be for a well-articulated building with a simple hipped roof form and façade composition that includes vertically proportioned openings separated into bays. This enables the proposal to break up the massing while remaining recessive to the more complexly form and detailed contributory items on the opposite side of the road. It would be an improvement on the existing streetscape when compared with the bulk and massing presented by Nos. 1-5 Frenchmans Road nearby to the site.*

**Council comment:**

*The streetscape at the western end of McLennan Avenue, which includes three heritage items, comprises predominantly single storey early twentieth century cottages. The existing nursing home building has a 3-storey rear elevation to McLennan Avenue. The proposed 3 storey elevation to McLennan Avenue perpetuates the poor bulk and scale relationship between development on the site and surrounding single storey development.*

**Weir Phillips Heritage and Planning advises:**

*The proposal would be for a T-shaped building with the bulk of the building located to the south. This would reduce the massing of the northern elevation with respect to the contributory items. This would be further improved by the increased setbacks of the upper storeys, allowing the proposal to be recessive. Where viewed from McLennan Avenue, the proposal would present as two storeys with a low hipped roof and would be constructed from timber look cladding with a fenestration pattern defined by vertically proportioned windows. This would improve significantly on the existing arrangement and allow an appropriate relationship with the streetscape.*

**And the Heritage Impact Statement concludes:**

*This Heritage Impact Statement has been prepared to accompany a Development Application for the removal of all structures at Nos. 11-19 Frenchmans Road and the construction of a new residential aged care facility. The subject site is not listed as a heritage item; however, it lies within the vicinity of local heritage items under Schedule 5, Part 1 of the Randwick LEP 2012 and Conservation Areas under Schedule 5, Part 2 of the Randwick LEP 2012.*

*The removal of the buildings at No. 11 and No. 19 Frenchmans Road will have an acceptable impact as they are simple Inter-War Californian Bungalows and are otherwise not a rare example of the style. The removal of No. 15 and No. 17 Frenchmans Road will have an acceptable impact as there is little original fabric remaining in either building which have both been significantly obscured by later modifications.*

*The proposed works will have an acceptable impact on nearby heritage items. The new building is consistent in massing and scale to the existing building, although the footprint as a single building is greater. It is contemporary but sympathetic to surrounding dwellings and has well-articulated elements that will break up the massing and reduce its visual impact. The building will not reduce or block significant view corridors towards any of the items. They will continue to retain their heritage significance.*

*The proposed works will have an acceptable impact on Conservation Areas within the vicinity as the new building is sympathetic in form and design to the predominantly turn of-the-century dwellings that characterise the Conservation Areas. The new building is separated from these areas by Frenchmans Road which will help reduce its visual impact. The heritage significance of the Conservation Areas will be retained.*

*The proposed works fulfil the aims and objectives of the Randwick LEP 2012 and Randwick DCP 2013. The residential aged care facility will provide a high quality of service and purpose-built accommodation for the ageing population of Randwick.*

The Amended DA design has reduced its height and FSR, along with increased its side setbacks and shifted the upper level away from the heritage items at 23 and 25 McLennan Avenue. As such, the proposal will not adversely impact on any heritage item or HCA.

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

The original DA was referred to Transport for NSW (TfNSW) by Council under State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) as Frenchmans Road is a classified road under Clause 101 of the Infrastructure SEPP, and as an integrated DA under Section 138 of the Roads Act. On 28 January 2021 TfNSW advised Council it did not support the proposed use of Frenchmans Road frontage for an access driveway.

The applicant subsequently met with TfNSW in April 2021 and supplied information which was already part of the original DA to justify the use of the Frenchmans Road frontage for access driveway. The applicant advised TfNSW we are prepared to accept left-in and left-out associated with the proposed Frenchmans Road access driveway.

On 30 April 2021 TfNSW wrote to Council to advise

*Reference is made to the abovementioned application which was referred to Transport for NSW (TfNSW) with updated information from the applicant for comment in accordance with Clause 101 of the State Environmental Planning Policy (Infrastructure) 2007 and concurrence under Section 138 of the Roads Act 1993.*

*TfNSW has reviewed the submitted application and would provide concurrence to the proposed works on the Frenchmans Road frontage under Section 138 of the Roads Act 1993, subject to Council's approval and the following requirements being included in the development consent:*

The applicant is prepared to accept the requirements of TfNSW as conditions imposed on a development consent.



The Amended DA design does not alter the location, gradient or width of the driveway access in anyway, nor does the amended DA seek to alter the design of the basement level layout, there is no change proposed to the number of car parking spaces, their locations or the loading dock areas. No change is proposed to the design of the basement levels. As such, there is no new trigger associated with the provisions of State Environmental Planning Policy (Infrastructure) 2007 associated with the amended DA.

#### **2.1.4 State Environmental Planning Policy No. 55 – Remediation of Land**

The original SEE addressed State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55). The applicant's contamination consultants from Consulting Earth Sciences have undertaken additional site investigations and borehole testing since they prepared their "Preliminary Site Investigation" Report dated 12 November 2020 as submitted with the original SEE at Appendix J. Council advised in its email dated 24 April 2021:

*State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to the remediation of contaminated land. Clause 7 of SEPP 55 requires a consent authority to be satisfied that the land is not contaminated and suitable for its intended use. In this regard subclauses 2 and 3 of Clause 7 states as under:*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*The SEE, under SEPP 55 discussions, refers to a site contamination report and states that:*

*To address the provision of Clause 7 of SEPP 55 a site contamination report is included in Appendix J which indicates the site is suitable for the project under SEPP 55.*

*It is unclear which site contamination report the above statement is referring to as the preliminary site investigation report, prepared by Consulting Earth Science, dated 12 November 2020 provides contradictory information. The report in the opening pages as well as under Site's suitability states as under:*

#### **11.5 SITE SUITABILITY**

*Based on the Preliminary Site Investigation, there is insufficient information to determine that the site is suitable for the proposed development, or if remediation/management of contamination is required.*

*In view of the above there is insufficient information for the consent authority to be satisfied that the site is suitable for its intended use. If detailed investigation is required and if such investigation is only possible after demolition, then the option of a separate DA for demolition must be considered. Please find further information later in this RFI under 'Environmental Health Comments'.*

Based on this feedback, the team at Consulting Earth Sciences have prepared a detailed site investigation report as part of a Remedial Action Plan (RAP) to respond to the matters raised by Council, which included in **Appendix J**. The RAP advises in its Executive Summary:

*The further investigation was undertaken on 03 May 2021, targeting the gaps identified in the PSI report.*

*The key sources of contaminants identified at the site were filling of unknown origin, small scale plant, operational equipment and chemical storage. The contaminants of concern (identified in the revised conceptual model) include heavy metals, TPH, BTEX, PAHs, and OCPs. The main contaminants were identified in shallow fill from boreholes BH4, BH6, BH8, and BH9 to BH11. The laboratory detected contaminant concentrations in excess of the Site's adopted HIL/HSLs (B and C) and/or EIL/ESLs (Public Open Space (coarse soils) in the soil samples collected from these locations. Statistical analysis of contaminant concentrations confirmed remediation and/or management of contaminants on Site is necessary.*

*The objective of remediation is to provide sufficient engineering and management controls to*

*make the site suitable (with respect to soil contamination) for the proposed development, to ensure protection of human health and the environment during and post remediation works, and to manage soils in a cost-effective manner. In absence of a site-specific assessment, remediation criteria include the HIL B/HSL D, HIL C/HSL D, and EIL/ESL (public open space (coarse soils)).*

*With reference to [State Environmental Planning Policy No 55—Remediation of Land](#), the Client, via its appointed certified contaminated land consultant, should notify the Council 30 days prior to commencement of the remediation works that the works are considered to be Category 2*

*remediation works.*

*Based on the remedial options assessment, the applicable and preferred remedial option for the*

*COPCs is: Excavation, transport and disposal of impacted soils at the site to a suitably licensed facility due mainly to the excess cut/fill volumes of the proposed development and to avoid the site requiring an EMP following completion of the remediation works. It is noted that all remediation works at the site must be undertaken in accordance with a Construction Environment Management Plan to mitigate risks to workers and the public during earthworks at the site.*

*The procedure for excavation and offsite disposal is as follows:*

- *The remediation areas are set out onsite;*
- *The area is excavated to the identified depth, with soils either excavated directly to trucks for offsite disposal at a suitably licenced waste facility capable of accepting the waste, or stockpiled onsite for offsite disposal at a later date;*
- *Waste classification of the material for offsite disposal is required prior to offsite disposal. Preliminary Waste classification is presented in Table 6;*
- *Following excavation of the impacted soils, validation of the excavation should be carried out in accordance with Section 14.*

*Remediation works should be carried out in accordance with Sections 12 to 14. Upon completion of the identified remediation works, the site will be suitable for the proposed residential aged care development. Contingency measures for remediation, site management, and unexpected finds are detailed within this RAP.*

The RAP has been reviewed by Mr James Davis from Enviroview, who is an EPA accredited Site Auditor. Mr Davis has prepared a Site Audit Interim Advice which is included in **Appendix K**, which advises:



*In general, the RAP referenced above meets the requirements of the guidelines, is practicable and it is my opinion that the site can be made suitable for the proposed use with its implementation.*

*The site assessments conducted that inform the remediation are sufficiently comprehensive to identify the contamination of soil and the findings of the investigations are consistent with the past land use. Groundwater was not encountered during assessment of the site and evidence of any soil contamination or site history with the potential to impact groundwater conditions at the site have not been identified. The remediation does not include any further assessment or remediation of groundwater, which is appropriate.*

*It is recommended that the requirement for a Site Audit to be undertaken by an NSW EPA Accredited Site Auditor in relation to the suitability of the site for the proposed land use is made a condition of consent for the development. This will ensure that a Site Audit is completed as a statutory Site Audit under the Contaminated Land Management Act 1997, providing independent confirmation that the remediation works are completed as required and that the subsequent validation report is finalised in accordance with the relevant NSW EPA Guidelines, and ensuring that a Site Audit Statement is issued to Council for notation on the planning certificate as a record of the works.*

As such, with the implementation of the RAP the site will be suitable for the proposed seniors housing and consistent with the requirements of SEPP 55, therefore Council can support the proposal.

#### **2.1.5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

As a result of the amended architectural drawings design for the “self-contained dwellings” on level 3, an updated BASIX Certificate is included in **Appendix L** and an updated Section J Report.

#### **2.1.6 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

As detailed in Section 4.2.8 of the original SEE the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP), each of the applicable clauses were addressed. In addition, as discussed within the original SEE report, the proposal is submitted to Council to seek approval under the Seniors Housing SEPP, and the proposal seeks approval for a “seniors housing” development.

The proposal involves 77 rooms to accommodate 86 beds as part of a “residential care facility” component of the building. None of the proposed rooms in the residential care facility have any cooking facilities. In addition, the proposal involves two x 1 bedroom “self-contained dwellings” which have been designed to include full kitchens.

This Addendum SEE does not alter the assessment of the proposal as detailed in the original SEE except as detailed below in relation to the proposed seniors housing development under the Seniors Housing SEPP.

#### Clause 24

The information supplied with the Original SEE remains valid.

The design has been amended to respond to the Randwick DEP matters raised and the Council RFI matters.

The information in this Addendum letter and the supporting appendices of this Addendum have amended the information included in the original SEE to respond to Clause 24 of the Seniors Housing SEPP.

The overall FSR of the amended DA has reduced the proposed FSR and adjusted the location of the Height of Building control variation. The amended DA design has been guided by the advice provided by the Urban Design Peer Reviewer Matthew Pullinger who has considered the compatibility of the amended DA design in the site's locational context.

#### Clause 25

The information supplied with the Original SEE remains valid.

The design has been amended to respond to the Randwick DEP matters raised and the Council RFI matters.

The information in this Addendum letter and the supporting appendices of this Addendum have amended the information included in the original SEE to respond to Clause 24 of the Seniors Housing SEPP.

An application for a Site Compatibility Certificate (SCC) is currently being considered by the Department of Planning, Industry and Environment.

Additional Detailed Site Investigations and a Remedial Action Plan have been prepared with this Amended DA – see **Appendix J**. A site auditor has reviewed the RAP and advised the site will be made suitable for the proposed development – see **Appendix K**.

#### Clause 26

The information submitted with the original SEE including the Clause 26 Report and survey information of the distance and gradients are not altered by this Amended DA and Addendum SEE.

The applicant is prepared to adjust the existing gradients of the tram ramps at the intersections identified in the Clause 26 Report, so as to comply with Clause 26 of the Seniors Housing SEPP and the required gradients under the Australian Standard for persons who are disabled to navigate. This will have a wider benefit to the community, and as such to assist Council in the assessment of this matter a Clause 4.6 variation request has been provided at **Appendix P**.

#### Clauses 30, 31 and 33

With respect to Clause 30 of the Seniors Housing SEPP, the architectural design report at Appendix B of the original SEE, explains how the design has had regard to the site analysis, established design principles and how the design had regard to the design principles established. In addition, Section 2 of the original SEE provides an analysis of the existing nearby properties as part of a Site Analysis. The provisions of Clauses 31 and 33 of the Seniors Housing SEPP, including the relevant provisions of the "Seniors Living Policy: Urban Design Guideline for Infill Development" have been considered in the Urban Design peer review at Appendix Y of the original SEE.

To supplement the information already included in the site analysis submitted with the original SEE report, the site analysis drawings in the Amended architectural drawing in Appendix C of this Addendum SEE, the Urban Design Peer Review included with the original SEE and the further urban design peer review included in Appendix G of this Addendum, we have prepared the following information for before and after streetscapes view to address Clause 33.

The following information has been prepared in addition to the information submitted with the original SEE report and the Urban Design Review included in **Appendix G** of this Addendum SEE, to respond to Clause 33 and demonstrate the existing streetscape and proposed streetscape based on the amended design facades



View 1 – Existing



View 1 – Proposed





View 2 – Existing



View 2 – Proposed





View 3 - Existing



View 3 - Proposed





View 4 – Existing



View 4 – Proposed





View 5 – Existing



View 5 - Proposed





View 6 – Existing



View 6 - Proposed

As demonstrated in the existing and proposed views above, the proposed seniors housing development is consistent with the existing streetscape, provides a transition to its adjoining property boundaries and ensures that the prominent streetscape elements being the significant trees at the Frenchmans Road and McLennan Avenue frontages are retained and preserved.

#### Clause 45

This Amended DA is submitted under the Seniors Housing SEPP for a proposed “senior housing” building which utilises Clause 45 “Vertical villages”. Clause 45 of the Seniors Housing SEPP states:

#### **45 Vertical villages**

*(1) **Application of clause** This clause applies to land to which this Policy applies (other than the land referred to in clause 4 (9)) on which development for the purposes of residential flat buildings is permitted.*

The R3 Medium Density Residential zone under the *Randwick Local Environmental Plan 2012* enables the site to be developed for “residential flat buildings” as a specifically listed permitted form of development. Therefore, Clause 45(1) of the Seniors Housing SEPP applies to the land.

*(2) **Granting of consent with bonus floor space** Subject to subclause (6), a consent authority may consent to a development application made pursuant to this Chapter to carry out development on land to which this clause applies for the purpose of seniors housing involving buildings having a density and scale (when expressed as a floor space ratio) that exceeds the floor space ratio (however expressed) permitted under another environmental planning instrument (other than [State Environmental Planning Policy No 1—Development Standards](#)) by a bonus of 0.5 added to the gross floor area component of that floor space ratio.*

#### **Note.**

*For example, if the floor space ratio permitted under another environmental planning instrument is 1:1, a consent authority may consent to a development application for the purposes of a building having a density and scale of 1.5:1.*

The provisions of Clause 45 apply to the Amended DA as a seniors housing building is proposed and seeks to rely on a bonus 0.5 added to the gross floor area component of the 0.9:1 floor space ratio which applies to the land under the *Randwick Local Environmental plan 2012*.

The Amended DA has reduced the Floor Space Ratio from 1.397:1 to 1.276:1. This represents 0.376:1 of the bonus 0.5:1 FSR under Clause 45(2) of the Seniors Housing SEPP and complies with the requirements of Clause 45(2) of the Seniors Housing SEPP.

Please see below information about the gross floor area calculation and consideration of subclause 45(6).

*(3) Subsection (2) applies even if the floor space ratio permitted under another environmental planning instrument is expressed in a development control plan.*

To assist Council in the consideration of this Amended DA and its assessment of the proposed FSR, an updated Clause 4.6 variation request is included at **Appendix N**. As detailed previously, the provisions of Seniors Housing SEPP prevail over the *Randwick Local Environmental Plan 2012*.

*(4) In calculating the gross floor area for the purposes of subclause (2), the floor space used to deliver on-site support services (other than any floor space used to deliver communal or residents' living areas) is to be excluded.*

To assist Council in the assessment of the Amended DA in the calculation of the Gross Floor Area (GFA) under Clause 45(4), we have sought advice from Mr Pickles. Mr Pickles has advised:

"3. Clause 45 provides, relevantly:

*{2} Subject to subclause (6), a consent authority may consent to a development application made pursuant to this Chapter to carry out development on land to which this clause applies for the purpose of seniors housing involving buildings having a density and scale (when expressed as a floor space ratio) that exceeds the floor space ratio (however expressed) permitted under another environmental planning instrument (other than State Environmental Planning Policy No 1-Development Standards) by a bonus of 0.5 added to the gross floor area component of that floor space ratio.*

*(4) In calculating the gross floor area for the purposes of subclause {2}, the floor space used to deliver on-site support services (other than any floor space used to deliver communal or residents' living areas) is to be excluded.*

4. On-site support services is defined to mean:

- (a) 3 meals a day provided on a communal basis or to a resident's dwelling, and*
- (b) personal care, and*
- (c) home nursing visits, and*
- {d} assistance with housework.*

5. Project managers for SummitCare, Centurion Project Management, have already identified the following areas for exclusion from the GFA:

- (a) Kitchen and servery areas and communal dining areas;*
- (b) Clean and dirty utility rooms used by staff for linen service;*
- (c) Linen rooms accessed by staff members to service residents;*
- (d) Garbage and cleaner's rooms accessed only by staff to service residents;*
- (e) Back of house service corridors used exclusively by staff members;*
- (f) Nurse's stations and staff rooms including offices associated with managing the facility.*

6. Other areas considered for exclusion include:

- (a) Cafe service areas;*
- (b) Cafe dining areas;*
- (c) Activity rooms used under staff supervision (salon, spa, theatre, exercise, therapy areas and kitchen associated with such areas)*



7. It is well established that the principles of statutory construction apply equally to planning instruments as to statutes (see *Cranbrook School v Woollahra Council* (2006) 66 NSWLR 379). The starting point for statutory construction is to begin with the consideration of the words of the text itself (see *Alcan {NT} Alumina Pty Limited v Commissioner of Territory Revenue* (2009) 239 CLR 27 at [41]). Further, I can find no decisions in the Land and Environment Court where cl 45 has been considered. Accordingly, without guidance from any case law, I can only rely on the ordinary meaning of the expressions used in the provision. It should be observed in this regard that unlike the provision considered in *Cranbrook School*, the definition here is not an inclusive one. Accordingly, the things regarded as support services are a closed class as specified in the definition.

8. First, in respect of the areas already assessed as excluded, in my opinion those areas can legitimately be excluded because they fall within the definition of areas used to deliver on-site services.

9. In particular, kitchen and dining areas used to provide three meals per day can clearly be excluded. The express parenthesised inclusion of "communal living spaces" in sub-clause (4) means that living areas such as the "lounge" area must be included, but the dining areas, in contrast, are integral to the delivery of meals on a communal basis.

10. Similarly, linen and utility rooms that are accessed by staff can be reasonably said to be used for providing assistance with housework. The same can be said of nurse and staff rooms and office areas associated with administering the facility. In my opinion, these are areas that are relevantly directly used to deliver on-site support services.

11. Secondly, in respect of the areas in paragraph [7] above:

- (a) In my opinion, the cafe areas, including the dining areas, can relevantly be excluded if they are areas used to deliver "3 meals a day provided on a communal basis". The cafe and its dining areas may qualify if it fulfils the relevant criteria of facilitating communal provision of meals.
- (b) Further, in my opinion, the areas used for activities under staff supervision may legitimately be excluded where they can be said to be associated with the provision of "personal care". Accordingly, areas such as spa and treatment rooms fall within this category, but I do not think that movie theatres do because they are more akin to communal living areas not areas used to provide personal care to residents.

## Conclusion

12. In conclusion, there are some areas that have been included by Centurion Project Management that in my view need not be included as gross floor area under clause 45 of SEPP Seniors. In respect of the other areas suggested, focus is required on the words of the provision to determine whether the definition is fulfilled."

Based on this interpretation the gross floor area (GFA) and the exclusions listed above, calculations have been prepared and shown in the amended architectural drawings included in **Appendix C** in DA20, DA21, DA22, DA23 and DA23a. The total GFA proposed is 3,458.4m<sup>2</sup> which is an FSR of 1.276:1.

*(5) However, if the area of the floor space referred to in subclause (4) is greater than 50% of the gross floor area, then the area that may be excluded under subclause (4) is limited to an area that does not exceed 50% of the gross floor area.*

The GFA excluded in subclause (4) above is not greater than 50% of the overall GFA and complies with this subclause.

*(6) **Requirements relating to affordable places and on-site support services** A consent authority may only grant consent to a development application as referred to in subclause (2) if—*

*(a) the consent authority is satisfied, on written evidence, that—*

*(i) the proposed development will deliver on-site support services for its residents, and*

The proposed development includes a commercial kitchen and on-site support services as defined in Clause 45 below, for residents of the entire site including: 3 meals a day provided on a communal basis (please note the roof terrace of building has been designed to accommodate communal eating and gathering for the entire site development) or to a resident's dwelling; in addition a number of the floor spaces have been designed on the ground floor level and lower basement level of the building for personal care related services including physiotherapy room, consultation rooms and hairdresser; the Plan of Management details SummitCare's commitment to the provision of home nursing visits for those who request this service; and the Plan of Management details SummitCare's commitment to provide assistance with housework for those residents of the units who request this service. As such, the proposal includes the provision of on-site support services consistent with Clause 45(6)(a)(i) above.

*(ii) at least 10% of the dwellings for the accommodation of residents in the proposed development will be affordable places, and*

To assist Council in the assessment of the Amended DA in the interpretation of Clause 45(6)(a)(ii), we have sought advice from Mr Pickles. Mr Pickles has advised:

"Advice

10. In respect of the requirements of cl 45(6), it is beyond doubt that the residents of the development will be provided with on-site support services to meet the requirements of sub-clause (a)(i). It is also undoubtedly possible, once the number of affordable places is identified, for them to be set aside or required by condition to be set aside to satisfy sub-clause (b). The question raised by the Council goes to sub-clause (a)(ii) and how many places need to be set aside to achieve 10%.

11. The premise of the Council's assumption is, no doubt, that 10% should reflect 10% of the total rooms in the development, not only the self-contained dwellings.

12. However, sub-clause (a)(ii) specifically refers to "dwellings" as affordable places. Similarly, the definition of "affordable place" also refers to "dwellings".

13. Environmental planning instruments are a species of delegated legislation, and their construction must be approached according to conventional principles of statutory construction: *Collector of Customs v Agfo-Goevert Limited* (1996) 186 CLR 389 at 398; *Cranbrook School v Woollahra Council* [2006] NSWCA 155; (2006) 66 NSWLR 379; 146 LGERA 313 at [36].

14. The first principle is that the process of statutory construction must always begin with consideration of the text itself: *Alcon (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* [2009] HCA 41; 239 CLR 27 at [47]; *Valuer-General (NSW) v Fivex* (2015) 206 LGERA 450 at [26].

15. The second principle is that a construction should be preferred that is consistent with the language and purpose of all of the provisions of the instrument as a whole: *Project Blue Sky Inc. v Australian Broadcasting Authority* (1998) 194 CLR 355 at [69], [78].

16. Relevant to these two principles is the role of definitions in a statutory instrument. In *Cronbrook School* (supra) at [38], McColl JA cited *Gibb v Federal Commissioner of Taxation* (1966) HCA 74; (1966) 118 CLR 628 at 635, per Barwick CJ, McTiernan and Taylor JJ:

*"The function of a definition clause in a statute is merely to indicate that when particular words or expressions the subject of definition, are found in the substantive part of the statute under consideration, they are to be understood in the defined sense - or are to be taken to include certain things which, but for the definition, they would not include. Such clauses are, therefore, no more than an aid to the construction of the statute and do not operate in any other way ... the effect of the Act and its operation in relation to dividends as defined by the Act must ... be found in the substantive provisions of the Act which deal with 'dividends'."*

17. Similarly, at [39], McColl JA cited *Kelly v The Queen* (2004) HCA 12; [2004] 218 CLR 216 at [103]:

*"[T]he function of a definition is not to enact substantive law. It is to provide aid in construing the statute. Nothing is more likely to defeat the intention of the legislature than to give a definition a narrow, literal meaning and then use that meaning to negate the evident policy or purpose of a substantive enactment. ...*

*[O]nce ... the definition applies, ... the only proper ... course is to read the words of the definition into the substantive enactment and then construe the substantive enactment - in its extended or confined sense - in its context and bearing in mind its purpose and the mischief that it was designed to overcome. To construe the definition before its text has been inserted into the fabric of the substantive enactment invites error as to the meaning of the substantive enactment. [T]he true purpose of an interpretation or definition clause [is that it] shortens, but is part of the text of the substantive enactment to which it applies"*

18. Accordingly, where the word "dwelling" appears in cl 45 of SEPP Seniors, the definition of "dwelling" as it appears in the instrument must be read into the enactment.

19. The notion of a "separate domicile" in the definition of dwelling has been held to be critical to the definition. Domicile connotes "a place of residence or home in a separate and more or less self-contained domestic establishment".

20. In the context of a comparison of a boarding house and a residential flat building, Biscoe J concluded in *War/am Pty Limited v Marrickville Council* (2009) 165 LGERA 184, at [36], that rooms with ensuite bathrooms and toilets, but without kitchens do not constitute a separate domicile.

21. Similarly in *Wollongong City Council v Vic Vellar Nominees Pty Ltd* (2010) 178 LGERA 445 at [31] it was held that the essential components of a separate domicile (and hence a dwelling) include accommodation for sleeping and living, bathroom facilities (including a lavatory) and kitchen facilities.

22. It follows that according to the definitions used in SEPP Seniors, the word "dwelling" where it appears in the operative clauses must be given its meaning according to the definition in the instrument. The definition in the SEPP Seniors is relevantly the same as in the cases identified above. This means in the case of a vertical village that only 10% of that accommodation which can be regarded as a separate domicile needs to be set aside as affordable.

23. Fortifying this conclusion is the definition of "residential care facility" in clause 11, which is as follows:

*In this Policy, a residential care facility is 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.*

24. In addition, the distinct definition of "self-contained dwelling" in clause 13, which is:

*(1) General term: "self-contained dwelling" In this Policy, a 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.*

*(2) Example: "in-fill self-care housing" In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.*

*(3) Example: "serviced self-care housing" In this Policy, 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.*

25. It follows from the above that where a vertical village is constructed comprising partly self-contained dwellings and partly a residential care facility, the latter part cannot be regarded as containing dwellings for the purposes of calculating the affordable places in cl 45(6). In this case, given that the vertical village in this case will comprise only 2 self-contained dwellings, only 10% of those are required to be set aside as affordable places. I am instructed that it is proposed that one of the two will be set aside, which exceeds the 10% requirement."



The proposal includes two “self-contained dwellings”, referred to in this Addendum and shown on the Amended Architectural drawing DA08 as “ILU-1 and ILU-2”. For the purposes of Clause 45(6)(a)(ii) the applicant will allocate ILU-2 for accommodation of residents allocated for affordable housing places, which equates to 1 unit or 50% of the proposed dwellings, which complies with the minimum requirement in Clause 45(6)(a)(ii) of the Seniors Housing SEPP.

*(b) the applicant identifies, to the satisfaction of the consent authority, which of the dwellings for the accommodation of residents in the proposed development will be set aside as affordable places.*

For the purposes of Clause 45(6)(b) the applicant will allocate ILU-2 for accommodation of residents allocated for affordable housing places.

*(7) **Grounds on which consent cannot be refused** A consent authority must not refuse consent as referred to in subclause (2) only because the proposed development does not comply with a standard referred to in clause 40 (4) (a), 48 (a), 49 (a) or 50 (a).*

This Addendum SEE report includes information to assess the proposal against the provisions of Clauses 40(4)(a), 48(a), 49(a) and 50(a) in the following sections.

It should be noted that the provisions of Clause 49(a) are not relevant as the proposal does not involve a “hostel”.

*(8) **Conditions on grants of development consent** A development consent may be granted as referred to in subclause (2) subject to a condition that requires the creation of a restrictive or positive covenant on land to which a development application relates concerning the continued provision of the affordable places identified in the application.*

The applicant has noted the provisions of Clause 45(8) of the Seniors Housing SEPP. It should be noted this application does seek any form of subdivision.

*(9) A development consent may be granted as referred to in subclause (2) subject to a condition that requires the affordable places identified in a development application to be owned and managed by an organisation providing community housing that is registered for the time being with the Office of Community Housing.*

Please refer to the in-principal preliminary offer issued by Home Ground Real Estate Sydney (Home Ground) as the Social Housing provider nominated by SummitCare for this project contained in **Appendix R** of the original SEE, which advises they are a “not for profit real estate agency providing property management services to landlords and tenants.” Home Ground are a “social enterprise of Bridge Housing Limited, a registered Tier 1 community housing provider”. This will support “ILU-2”.

*(10) Subclauses (8) and (9) do not limit the kinds of conditions that may be imposed on a development consent, or allow conditions to be imposed on a development consent otherwise than in accordance with the Act.*

The applicant has noted the provisions of Clause 45(10) of the Seniors Housing SEPP.

*(11) **Clause does not apply to certain heritage affected land** Nothing in this clause applies in relation to the granting of consent to a development application made pursuant to this Chapter for the carrying out of development on land to which an interim heritage order or listing on the State Heritage Register under the [Heritage Act 1977](#) applies.*

The land is not identified as being affected by any local or State heritage item and is not located within a heritage conservation area. Please refer to the Statement of Heritage Impact included in Appendix X of the Original SEE.

(12) **Definitions** In this clause—

**affordable place**, in relation to seniors housing, means a dwelling for the accommodation of a resident—

(a) whose gross household income falls within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) according to the Australian Bureau of Statistics—

Very low income household	less than 50%
Low income household	50% or more but less than 80%
Moderate income household	80–120%

(b) who is to pay rent that does not exceed a benchmark of 30% of the resident's actual household income.

**on-site support services**, in relation to residents of seniors housing, means—

- (a) 3 meals a day provided on a communal basis or to a resident's dwelling, and
- (b) personal care, and
- (c) home nursing visits, and
- (d) assistance with housework.

The occupants of the affordable housing dwelling ILU-2 will be made available as an affordable housing place by the social housing providers at HomeGround Real Estate Sydney as detailed in Appendix R of the Original SEE.

The proposal includes a residential care facility, so too the self-contained dwellings have access to 3 meals a day on a communal basis or to a resident's dwelling, and personal care, and home nursing visits and assistance with housework as required by the above definitions in Clause 45(12), as noted by the applicant.

#### Clause 40

##### **Part 4 Development standards to be complied with**

##### **Division 1 General**

##### **40 Development standards—minimum sizes and building height**

Based on the provisions of Clause 40(1), it is important to have regard to:

*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.*  
[our emphasis]

The relevant Chapter is Chapter 3 of the Seniors Housing SEPP, which relevantly allows certain development 'despite the provisions of any other environmental planning instrument if the development is carried out in accordance with' the SEPP.

**(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.*

**(2) Site size**

*The size of the site must be at least 1,000 square metres.*

The site area is 2,709.7m<sup>2</sup> which is consistent with Clause 40(2) of the Seniors Housing SEPP.

**(3) Site frontage**

*The site frontage must be at least 20 metres wide measured at the building line.*

The subject site has a frontage of more than 62.495 metres to Frenchmans Road and approximately 21.03 metres to McLennan Avenue, and therefore complies with Clause 40(3) above.

**(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).*

The height of the proposed development exceeds 8m and 2-storeys, however the R3 High Density Residential zoning under the Randwick Local Environmental Plan 2012 permits residential flat buildings, therefore Clauses 40(4)(a), (b) and (c) are not applicable.

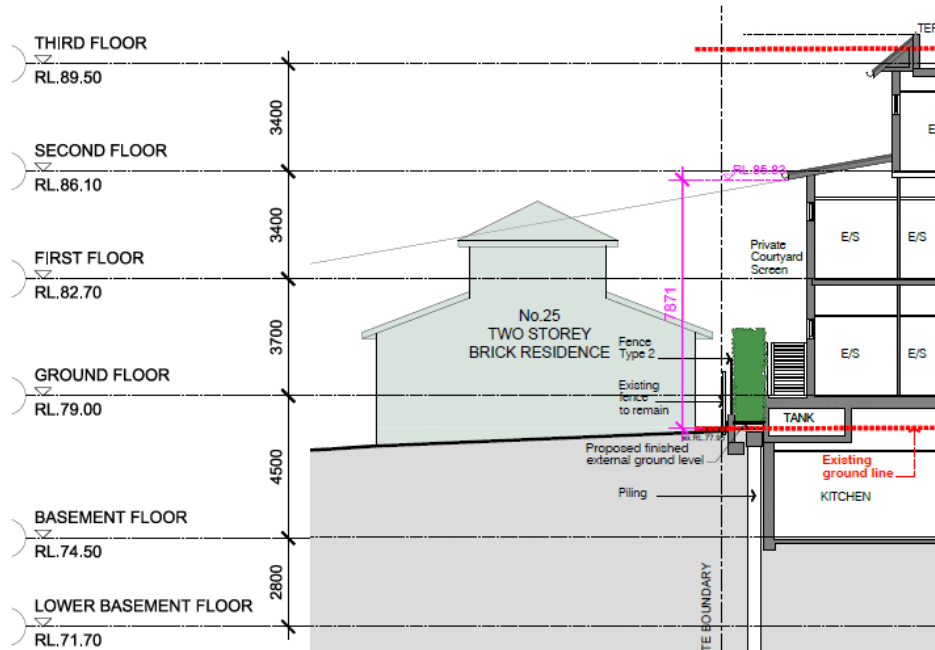
Further, this DA is submitted under the provisions of Clause 45 of the Seniors Housing SEPP and based on the provisions of Clause 45(7), the proposal does not have to strictly comply with provisions of Clause 40(4)(a).

*(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.*

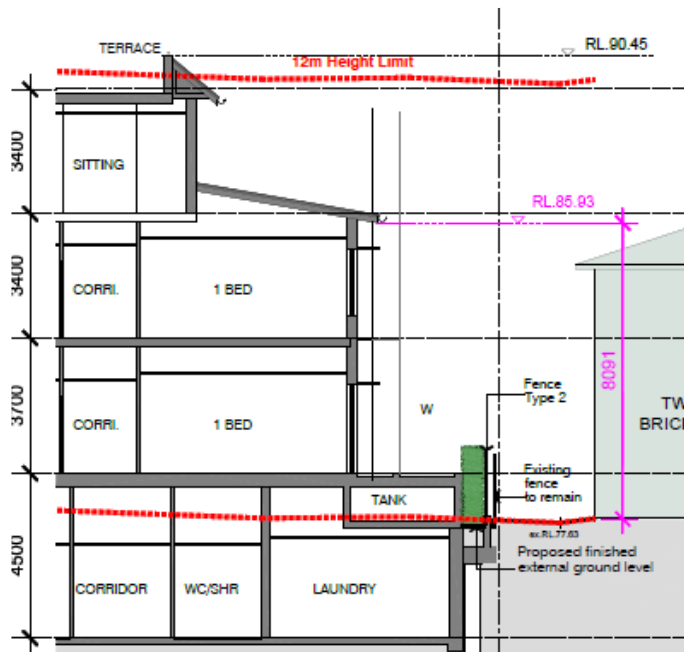
The land surrounding the site is zoned R3 Medium Density Residential under the RLEP which permits residential flat buildings with a height of 12m.

As demonstrated in Amended Architectural Drawing No. DA13a (extracts in Figures 4 and 5 below), the proposed seniors housing development has been designed as two storeys immediately adjacent to the properties at 25 and 27 McLennan Avenue so as to provide for a transition to the “lower scale” development in McLennan Avenue, the adjoining heritage properties and between the development and adjoining properties, consistent with Clause 40(4)(b) of the Seniors Housing SEPP.



**Figure 4:** Section G to eastern boundary with 25 McLennan Ave – wall height 7.871m setback 2.55m, upper-level setback 3.95m

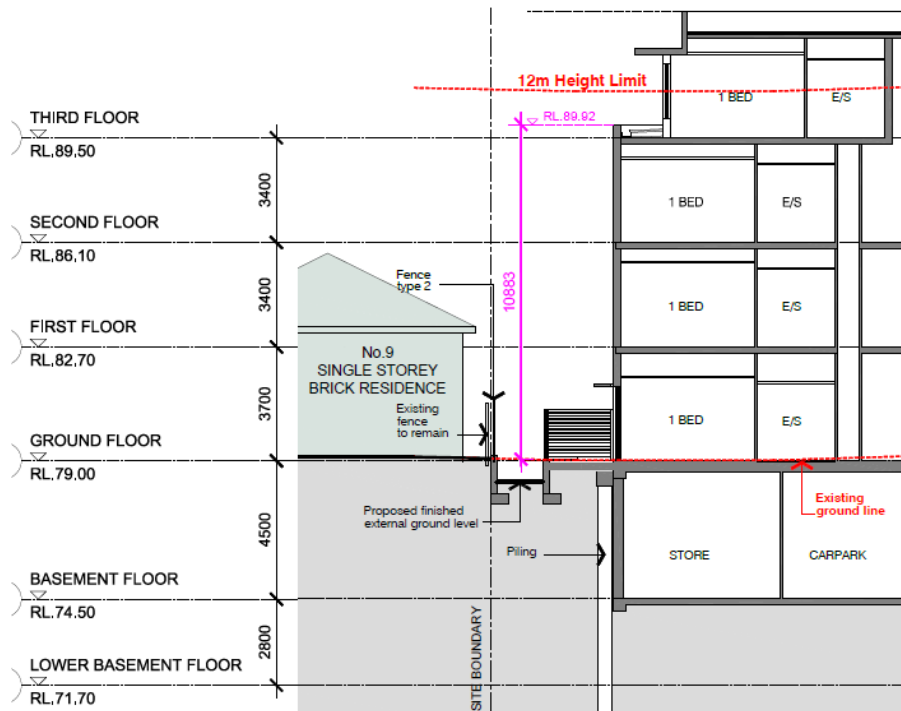
Source: BRG



**Figure 5:** Section J to western boundary with 27 McLennan Ave – wall height 8.091m setback 2.51m, upper-level setback 3.96m

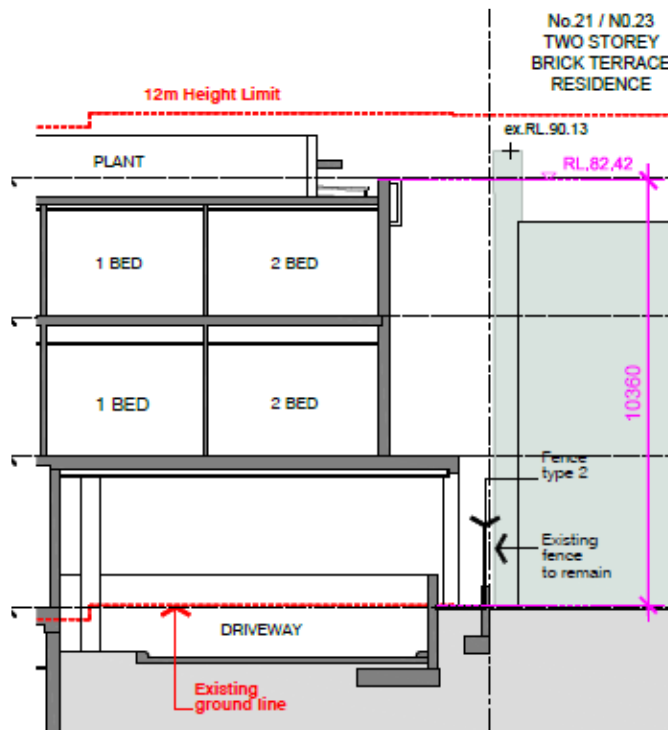
Source: BRG

In addition, Drawing No. DA13a includes sections taken between the adjoining properties which front Frenchmans Road, being 9 Frenchmans Road and 21 Frenchmans Road as shown below:



**Figure 6:** Section J to western boundary with 9 Frenchmans Road – wall height 10.88m setback 4m, upper-level setback 5.5m

Source: BRG



**Figure 7:** Section K to eastern boundary with 21 Frenchmans Road – wall height 10.36m setback 2.35m, upper-level setback 3.85m to plant enclosure

Source: BRG

The height at the boundaries to 9 and 21 Frenchmans Road while presenting as 3 storeys is consistent with the wall height requirements envisaged as the future character in the RDCP.

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

As the site has two frontages there is no “rear area”, and therefore the provisions of Clause 40(4)(c) are not applicable.

*(5) Development applications to which clause does not apply  
Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following:*

*(a) the Department of Housing,*

*(b) any other social housing provider.*

The development is not proposed by the NSW Department of Housing.

SummitCare is not a registered not-for-profit organisation that provides beds to tenants or housing for tenant but does provide “concessional places” within its “residential care facilities” as is intended here up to 40%. It should be noted that SummitCare has partnered with Home Ground as detailed in the letter contained at **Appendix R** to support the affordable housing ILU-2. As such, Clause 40(2), (3) and 4(c) have been considered and assessed as detailed above.

## Clause 48

### ***Division 2 Residential care facilities***

#### ***48 Standards that cannot be used to refuse development consent for residential care facilities***

*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 residential care facility on any of the following grounds:*

*(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*

The proposed building, which includes a “residential care facility” component as part of a “seniors housing” development involves a building with a height greater than 8m and more than 2 storeys. A request to vary these height controls has been included in the Clause 4.6 variation request to vary the height in Clause 4.3 of the RLEP included in **Appendix M**.

While the building includes a “residential care facility” component, the applicant asks Council to consider the Clause 4.6 variation request while also considering the provisions detailed in Clause 45(7) as detailed previously in this Addendum SEE.



*(b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,*

The proposed building, which includes a “residential care facility” component as part of the seniors housing development, has a floor space ratio of 1.276:1 which exceed the provisions of Clause 48(b) above. As detailed previously in the consideration of Clause 45(2), the proposal seeks a bonus FSR of 0.5:1. A request to vary the FSR control in Clause 48(b) has been included in the Clause 4.6 variation request to vary the FSR in Clause 4.4 of the RLEP included in **Appendix N**.

*(c) **landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,*

The proposed residential care facility includes 86 beds. Therefore, based on the provisions of Clause 48(c) of the Seniors Housing SEPP a minimum landscaped area of 2,150m<sup>2</sup> is required. The proposal includes a landscaped area of 1,247.5m<sup>2</sup>, which is 14.5m<sup>2</sup> per bed.

The amended architectural drawing no. DA24a includes information to demonstrate the quantum of landscaped area as per the Seniors Housing SEPP definition. In addition, this drawing includes details to demonstrate the quantum of “deep soil” at the ground floor level where the basement level below has been excluded being 450.7m<sup>2</sup> being an increase compared to the existing deep soil areas currently available; and a calculation of the external terraces and balcony areas being 332.1m<sup>2</sup> being an increase compared to the existing balconies currently available.

Due to the average age of residents for which the proposed residential care facility component will provide a home being between 83 and 85 years of age, most persons on-site will not have the capacity to independently enter the gardens without supervision of assistance. The criteria are more suited where the whole development is a self-care style of Seniors Housing, however this proposed development includes 2 x 1-bedroom ILUs (which will be discussed with respect to Clause 50 below).

It is considered that the criteria in clause 48(c) of the Seniors Housing SEPP does not necessarily cater for those who would reside in the majority in the applicant’s proposed “residential care facility” component, i.e., frail persons not capable of independent living.

The proposed development, while not strictly complying with the 25 square metres landscaped area per bed, seeks to off-set this non-compliance by providing for increased resident amenity within the development itself by inclusion of several generously sized “lounge areas” internally and a number of external balcony / terrace areas. Each of the internal lounge areas and external balcony / terrace areas has an attractive aspect overlooking the private landscaped areas of the proposed development while also achieving solar access and seek to mitigate overlooking into adjoining properties by inclusion of solid balustrades as residents will use these external areas in a seated capacity under supervision to avoid falling over.



The proposal seeks the inclusion of a roof terrace as a private outdoor space which will allow for carer surveillance and a “level” surface for ease of access using wheelchairs and mitigates trip hazards. In addition, the roof terrace provides for solar access and includes a shade structure to avoid sunstroke and burning of users. A request to vary the landscaped area control in Clause 48(c) has been included in a Clause 4.6 variation request included in **Appendix O**.

(d) **parking for residents and visitors:** if at least the following is provided:

- (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), 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.

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

Car parking is detailed below:

Use	Seniors Housing SEPP rates	Proposal	Required
<b>RACF</b>	1 space per 10 beds for visitors	86 beds	8.6 spaces
	1 space per 2 staff	16 staff	8 spaces
<b>ILUs</b>	0.5 space per bedroom	2 x 1-bedroom units	1 space
	1 space per 5 dwellings		0.4 space
<b>Total</b>			18 spaces

The basement has been designed to accommodate 18 car parking spaces (inclusive of 1 disabled parking spaces) and 1 ambulance bay. In addition, the design includes a separate “minibus / loading bay / waste management service dock” suitable in size to accommodate SummitCare’s appointed contractors’ trucks and largest minibus at 8.8m long. 2 bicycle parking spaces and 1 motorcycle parking space are also allocated. As such, the proposal complies with the requirements of Clause 48(d) of the Seniors Housing SEPP.

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

*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 self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds—*

- (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),

The proposed building, which includes 2 x 1 bedroom “self-contained dwellings” component as part of a “seniors housing” development involves a building with a height greater than 8m and more than 2 storeys. A request to vary these height controls has been included in the Clause 4.6 variation request to vary the height in Clause 4.3 of the RLEP included in **Appendix M**.

The proposed building includes “self-contained dwellings”, the applicant asks Council to consider the Clause 4.6 variation request while also considering the provisions detailed in Clause 45(7) as detailed previously in this Addendum SEE.

*(b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,*

The proposed building, which includes two “self-contained dwellings” component as part of the seniors housing development, has a floor space ratio of 1.276:1 which exceed the provisions of Clause 50(b) above. As detailed previously in the consideration of Clause 45(2), the proposal seeks a bonus FSR of 0.5:1. A request to vary the FSR control in Clause 50(b) has been included in the Clause 4.6 variation request to vary the FSR in Clause 4.4 of the RLEP included in **Appendix N**.

*(c) **landscaped area:** if—*

*(i) in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided, or*

*(ii) in any other case—a minimum of 30% of the area of the site is to be landscaped,*

The proposal includes two self-contained dwellings. Therefore, based on the provisions of Clause 50(c)(ii) of the Seniors Housing SEPP a minimum landscaped area of 30% or 812.91m<sup>2</sup> is required. The proposal includes a landscaped area of 1,247.5m<sup>2</sup>.

The proposed development, while not strictly complying with the 30% landscaped area, seeks to offset this non-compliance by providing for increased resident amenity within the development itself by inclusion of several generously sized “lounge areas” internally and balcony / terrace areas. Each of the lounge and balcony / terrace areas has an attractive aspect overlooking the private landscaped areas of the proposed development. The proposal seeks the inclusion of a securely accessible roof terrace which is directly accessible from each of the dwellings. The roof terrace as a communal private outdoor space for the seniors housing development will allow for surveillance and a level surface for ease of access and mitigates trip hazards. In addition, the roof terrace provides for solar access.

A request to vary the landscaped area control in Clause 50(c) has been included in a Clause 4.6 variation request included in **Appendix O**.

*(d) **Deep soil zones:** if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the **deep soil zone**). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*

Of the available landscaped area, a total of 16.6% is deep soil as shown in drawing no. DA13a and complies. As noted previously the site does not have a “rear”.

(e) **solar access:** if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,

Both “self-contained dwellings” receive a minimum of 3 hours sunlight between 9am and 3pm.

(f) **private open space for in-fill self-care housing:** if—

(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and

(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,

**Note.**

The open space needs to be accessible only by a continuous accessible path of travel (within the meaning of AS 1428.1) if the dwelling itself is an accessible one. See Division 4 of Part 4.

ILU-1 self-contained dwelling will have an area allocated as a balcony to the east of its lounge area as per the requirement in Clause 50(f)(ii). The lounge area adjacent to ILU-2 dining area will be adjusted to include a balcony with dimensions to comply with Clause 50(f)(ii).

(g) *(Repealed)*

(h) **parking:** if at least the following is provided—

(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or

(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.

**Note.**

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

Car parking for the proposed 2 x 1-bedroom dwellings and visitor car parking has been provided within the basement as required by Clause 50(h) above, as detailed in the table included in response to Clause 48(d) above.

### 3.0 APPLICANT'S RESPONSES TO RANDWICK DESIGN EXCELLENCE PANEL COMMENTS

**Table 3** below includes the Randwick DEP comments and the applicants' responses in this Amended DA.

**Table 3:** Applicant's responses to Randwick DEP

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
<p><b>PANEL COMMENTS</b></p> <p><i>This development application proposes the demolition of an existing seniors housing development which completely encompasses 'Willillah' an original Italianate villa, and the demolition of associated dwelling included in 11-19 Frenchman's road and the erection of a three storey seniors housing development, with two basement levels with stores and workshops, plant rooms on the lower basement level and car parking (including an ambulance bay), laundry kitchen and resident services on the upper basement floor plan.</i></p>	<p>Please refer to Section 2.5 of the submitted Statement of Heritage Impact prepared by Weir Phillips Heritage Planning included in Appendix X of the Original SEE which provides details of the history of ownership of 15-19 Frenchmans Road and the building which was once known as 'Wirrillah'.</p>
<p><i>The proposal has been altered from 71 residents in a mixture of one and two bedroom rooms and four dwelling suites to a building for an 86 bed residential aged care facility and two independent units. This seems to be an increase of 15 beds (note Section 3.1 of your SEE says 78 rooms).</i></p>	<p>As detailed in Section 2.1 Site Analysis of the Original SEE, the existing nursing home provides for a maximum of 98 beds and currently licenced to accommodate 94 beds.</p>
<p><i>There is a total floorspace of 3785 m<sup>2</sup> giving a floorspace ratio of 1.379 to 1. (The total floor space is not mentioned in the SEE and must be referenced on the drawings).</i></p>	<p>The originally submitted architectural drawing DA01 Site Plan includes a table which indicates the total Gross Floor Area (GFA) and Floor Space Ratio (FSR).</p> <p>The Amended DA architectural drawings indicate on DA01 Site Plan Rev B dated 1 June 2021 a total gross floor area of 3,458.4m<sup>2</sup> and FSR 1.276:1. Please refer to Table 2 above which provides a summary and comparison between the existing site, the original DA and the Amended DA development statistics.</p>
<p><b>Principle 1: Context and Neighbourhood Context</b></p> <p><i>The site is located on Frenchmans Road on the axis of the intersection with Chapel Street and has a 21 metre frontage to the McLennan Avenue cul-de-sac. Frenchmans Road is a busy arterial road with a mixture of three and four storey residential flat buildings and single cottages. Number 9 Frenchmans Road is a single storey cottage to the west, and</i></p>	<p>The Urban Design peer review completed by Matthew Pullinger as part of the original SEE provided information about the context of the site and advises in part:</p> <p><i>In the case of the subject site and corresponding design proposal, the architect Boffa Robertson Group has prepared a site analysis addressing the features required by the Seniors Housing SEPP and as called for within the Guidelines.</i></p>

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
<p><i>number 21 and 23 Frenchmans Road are existing attached terrace houses to the east of the site.</i></p>	<p><i>Review of this site analysis identifies the following attributes, which are critical to establishing and understanding the positive attributes of the site's neighbourhood character.</i></p> <p><i>Street pattern, geometry and local topography</i>  <i>Frenchmans Road is an important local 'high street' and can be characterised as having a gently undulating topography, with the subject site situated at a locally identifiable high point. This natural elevation affords the site some prominence within the local area.</i></p> <p><i>The view along Chapel Street, terminating on the subject site at its northern end, gives further prominence to the subject site.</i></p> <p><i>On McLennan Avenue, the narrower width of the street and its 'dead end' configuration result in a more intimate and local character distinctly different to that of Frenchmans Road.</i></p> <p><i>Diversity of building type and scale in the vicinity of the subject site, Frenchmans Road is characterised by considerable diversity evident within the existing built form.</i></p> <p><i>Clearly an area undergoing transition and underscored by its current R3 Medium Density Residential zoning, the northern side of Frenchmans Road comprises a mix of lower-scale detached single- and two-storey bungalows, a pair of two-storey attached Victorian-era terrace houses, and a larger detached two-storey Victorian-era manor house. These traditional low-scale residential forms sit alongside a number of more recent two-, three- and four-storey residential apartment buildings more reflective of the current development standards for building height and floor space ratio.</i></p> <p><i>Further to the east, at the intersection of Frenchmans Road with Clovelly Road, lies an existing service station, which in turn signals the nearby presence of a local retail centre including local shops and services.</i></p> <p><i>In contrast to the primary street frontage of Frenchmans Road, McLennan Avenue is characterised as a residential street with greater</i></p>



RANDWICK DEP COMMENTS	APPLICANT RESPONSE
	<p><i>consistency evident within its buildings' form and scale. This street is lined with houses of primarily one- and two-storeys, and typically in the Californian bungalow style. There are some exceptions to this prevailing pattern, but these exceptions are discretely sited and not particularly prominent or contributory to the overall character of McLennan Avenue.</i></p> <p><i>Within this diverse neighbourhood context, the existing aged care facility is notable for its larger site area and longer street frontage to Frenchmans Road, but in other regards it forms an element reasonably consistent with the character evident in the neighbourhood.</i></p> <p>The information assessed in the original peer review report remains valid.</p> <p>The further peer review included at <b>Appendix G</b>, advises:</p> <p><b><i>Principle 1: Context and Neighbourhood Context</i></b></p> <p><i>The Panel feedback notes the fundamentally distinct and different urban environments evident along the primary Frenchmans Road frontage and along McLennan Avenue.</i></p> <p><i>The primary differences are evident in the nature of the characteristic building forms and in the levels of traffic on these two different streets.</i></p> <p><i>Although the Panel doesn't make a specific recommendation under this principle, the inference appears to be that the proposal should adopt a more nuanced and varied response to each of its street two frontages.</i></p>
<p><i>McLennan Avenue, although in an R3 zone, is predominantly one and two storey cottages. Numbers 23 and 25 neighbouring the subject site are heritage items. Number 27 Frenchmans Road is a four-storey apartment building that has frontages to Frenchmans Road and McLennan Avenue.</i></p>	<p>As detailed in the further Urban Design Peer Review included in <b>Appendix G</b>:</p> <p><b><i>03 Design Responses and Discussion</i></b></p> <p><b><i>Built Form Modifications</i></b></p> <p><i>In line with the specific recommendations of the Panel, the proposed built form has been modified in a number of areas.</i></p> <p><i>A key design move has been to more strongly imply a physical separation between the primary building form on Frenchmans Road and the lower-scale secondary form on McLennan Avenue.</i></p>

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
	<p><i>This has been achieved by incorporating the advice of the Panel to re-plan the junction between these two forms as a more lightly glazed 'breezeway' comprising a common lounge and balcony on each of the upper levels.</i></p> <p><i>At the ground level this area opens on to landscaped open space in both directions - east and west. At the upper-most level a communal roof terrace has been introduced in favour of what was previously proposed to be residential units.</i></p> <p>Please refer to Section 2.1 of the original SEE report for details of the nearby properties.</p> <p>The original survey prepared by Veris has been adjusted to correct an error as detailed in the letter and updated survey by Veris included in <b>Appendix A</b>.</p> <p>Additional, site survey information has been prepared by Higgins Surveyors which is included in <b>Appendix B</b> and demonstrates the overall height and RLs of nearby properties.</p>
<p><b>Principle 2: Scale and Built Form</b></p> <p><i>The site is zoned R3 with an allowable floorspace ratio of 0.9:1 and a height limit of 12 metres, as well as a DCP wall height of 10.5 metres. The proposal is being submitted under the Seniors Housing SEPP (housing for seniors or people with a disability). This SEPP references the seniors living policy urban design guidelines for infill development.</i></p>	<p>The amended architectural design includes new Drawing No. DA13a which includes an assessment of the height of the walls of the proposed building adjacent to its boundaries have been demonstrated. Row 18 in Table 5 included in <b>Appendix R</b> of this Addendum SEE summaries the wall height and boundary relationships as follows:</p> <ul style="list-style-type: none"> <li>• Section G to eastern boundary with 25 McLennan Ave – wall height 7.871m setback 2.55m, upper-level setback 3.95m</li> <li>• Section J to western boundary with 27 McLennan Ave – wall height 8.091m setback 2.51m, upper-level setback 3.96m</li> <li>• Section K to western boundary with 9 Frenchmans Road – wall height 10.88m setback 4m, upper-level setback 5.5m</li> <li>• Section K to eastern boundary with 21 Frenchmans Road – wall height 10.36m setback 2.35m, upper-level setback 3.85m to plant enclosure</li> </ul> <p>There are no requirements under the Randwick Development Control Plan which apply to a “seniors housing” development. However, to respond to the Randwick DEP feedback this new drawing was prepared to</p>

## RANDWICK DEP COMMENTS

## APPLICANT RESPONSE

understand the wall height at the boundaries of the site. Based on this drawing and the summary above, the proposal has been amended so as the wall height complies with the exception of Section K at the western boundary to 9 Frenchmans Road which involves a 33cm variation or 3% variation of this DCP control. The applicant requests Council support the minor variation on this occasion as the proposal remains consistent with the intent of the wall height and does not result in excessive bulk in that location, unacceptable overshadowing and the elevation has been designed so as to avoid loss of privacy or overlooking into 9 Frenchmans Road.

The Urban Design peer review completed by Matthew Pullinger included in **Appendix G**, advises in part:

***“Frenchmans Road Building Articulation and Elevational Composition***

*In response to the Panel’s concerns for the architectural composition and expression along Frenchmans Road, a number of amendments have been made.*

*The building form has been more strongly articulated into three related elements. This is evident in the various 3D streetscape views created at the pedestrian’s eye level looking east or west along Frenchmans Road. This strong articulation has the effect of foregrounding three elements within the streetscape.*

*Each of these elements is of a more modest scale, and familiar to the buildings elsewhere in the immediate vicinity. The indented elements that separate these three elements are recessive and calmly detailed.*

*The foregrounded elements now adopt a more contemporary architectural expression that combines more composed proportions and introduces greater depth into the facade.*

*These design amendments have the effect of tying the amended proposal more closely to positive cues elsewhere in the streetscape.*

*The proposed roof forms have been amended to revert to a simpler language of parapets - coinciding with the foregrounded elements - and*

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
	<p><i>recessive flat roofs - associated with recessive elements and the setback upper level.</i></p> <p><i>The proposed materials palette now includes greater proportions of integral and self- finishing masonry materials, a reduced reliance on painted render and the introduction of a complementary ‘timber-look’ material that enriches the overall character and composition of the Frenchmans Road elevation.”</i></p>
<p><i>The building as submitted has been amended to be more in scale with the existing context and desired future character of McLennan Avenue, but the improvements have been token. The set back of the second floor from McLennan Avenue should extend as far as the northern wall of stair 5. The lack of acknowledgement of the 10.5 metre wall height control is partially ameliorated if this setback happens.</i></p>	<p>The Urban Design peer review completed by Matthew Pullinger included in <b>Appendix G</b>, advises in part:</p> <p><b>Built Form Modifications</b></p> <p>...</p> <p><i>Additionally, the McLennan Avenue presentation has been modified to further set back the upper-most floor as far as the northern wall of stair 5. This is consistent with the Panel’s recommendations.</i></p> <p><i>The result of these amendments is to strike a more appropriate built form response - particularly to McLennan Avenue - and a greater level of articulation between the two primary building forms. The provision of communal spaces and rooftop open space generally increases the amenity available to residents.</i></p> <p>There are no setback requirements under the Randwick Development Control Plan which apply to a “seniors housing” development. However, to respond to the Randwick DEP feedback the amended design of the seniors housing building has included increased setbacks for the building to its McLennan Avenue frontage and common boundaries with 25 and 27 McLennan Avenue. Table 5 at rows 8 and 9 included in <b>Appendix R</b> of this Addendum SEE provides a comparison between the original design and the amended design.</p> <p>As discussed above, the wall heights comply at the 25 and 27 McLennan Avenue boundaries. The wall height at the boundary with 9 Frenchmans Road seeks a minor variation of 33cm or 3% of the 10.5 wall height of the DCP.</p>
<p><i>Complying setbacks should be provided from the eastern and western boundaries, (setbacks include balconies). The purpose of these changes is to</i></p>	<p>To respond to the Randwick DEP feedback the amended design of the seniors housing building has included</p>

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
<p><i>acknowledge the lower scale dwellings in McLennan Avenue.</i></p>	<p>increased setbacks for the building and the wall height have been adjusted as detailed above.</p>
<p><i>Overall height and wall height diagrams should be included and marked on every elevation and section. The presentation to Frenchmans Road should be influenced by the now submitted urban design study of all the buildings from Clovelly Road to Botany Street. The Panel feels that this building remains too dominant in the street and needs to be articulated and modified more. The articulation of the building to Frenchmans Road as submitted is intended to break up the mass of the building. The Panel still feels this has not been successful. The language and direction of the urban design peer review states that this elevation is predominantly of prefinished materials however the elevations show rendered and painted elevations and large-scale architectural elements. The Frenchmans Road elevation needs to relate in scale texture and materiality to the fine-grained buildings to the east, not the 50's apartment building to the west. The elevation needs significant work.</i></p>	<p>The overall height and height plane information has been included on all elevations and sections. Please refer to the amended architectural drawings included in <b>Appendix C</b>.</p> <p>The maximum RLs of the building at the top of the lift overrun and at the upper-level parapet are shown in the amended elevations and sections.</p> <p>A new drawing has been prepared DA13a Section @ Boundary Rev A dated 1 June 2021. This demonstrates the wall height and boundary conditions as summarised in row 18 of Table 5.</p> <p>The Urban Design peer review completed by Matthew Pullinger included in <b>Appendix G</b>, advises in part:</p> <p>...</p> <p><b><i>Frenchmans Road Building Articulation and Elevational Composition</i></b></p> <p><i>In response to the Panel's concerns for the architectural composition and expression along Frenchmans Road, a number of amendments have been made.</i></p> <p><i>The building form has been more strongly articulated into three related elements. This is evident in the various 3D streetscape views created at the pedestrian's eye level looking east or west along Frenchmans Road. This strong articulation has the effect of foregrounding three elements within the streetscape.</i></p> <p><i>Each of these elements is of a more modest scale, and familiar to the buildings elsewhere in the immediate vicinity. The indented elements that separate these three elements are recessive and calmly detailed.</i></p> <p><i>The foregrounded elements now adopt a more contemporary architectural expression that combines more composed proportions and introduces greater depth into the facade.</i></p> <p><i>These design amendments have the effect of tying the amended proposal more closely to positive cues elsewhere in the streetscape.</i></p>



RANDWICK DEP COMMENTS	APPLICANT RESPONSE
	<p><i>The proposed roof forms have been amended to revert to a simpler language of parapets - coinciding with the foregrounded elements - and recessive flat roofs - associated with recessive elements and the setback upper level.</i></p> <p><i>The proposed materials palette now includes greater proportions of integral and self-finish masonry materials, a reduced reliance on painted render and the introduction of a complementary 'timber-look' material that enriches the overall character and composition of the Frenchmans Road elevation.</i></p>
<p><i>Willillah's documentation, history and heritage evaluation has been submitted and this should be interpreted and made visible on the site. This should include a comprehensive record of interpretive drawings and photographs of the building. This should include an original district drawing showing the villa, and a drawing of the existing site with the villa before any modern alterations and extensions.</i></p>	<p>The applicant can provide a record of the existing site development, and this can be implemented via a condition of consent.</p>
<p><b>Principle 3: Density</b></p> <p><i>The site is zoned R3 with a floorspace ratio of 0.9:1. This pre-DA lodgement proposal under the Seniors Housing SEPP can be 0.9:1+0.5. The proposal is for 1.379:1.</i></p> <p><i>The additional beds and ILUs shown on the third-floor plan together with the reduction in the roof landscaped area is not supported without increases in landscaped area elsewhere on the site and a reduction in the area of the built form on the third-floor plan.</i></p> <p><i>Any enclosed area on the third-floor plan should not be built forward of the exit door to the roof terrace near the staff station (keeping this form over the building bulk of the Frenchmans Road building only). The two ILUs should be removed from the position shown on the plans. This area should revert to rooftop landscaped area.</i></p>	<p>The overall proposed FSR has been reduced.</p> <p>Please refer to Table 2 above in this Addendum SEE which provides a comparison table between the existing site development, the original DA design and this Amended Da design statistics including FSR and height.</p> <p>The proposed ILUs have been deleted from the portions of the building as recommended by the DEP and repositioned.</p> <p>The amended design has increased the overall landscaped area from 1,130.3m<sup>2</sup> to 1,247.5m<sup>2</sup>.</p> <p>The amended design includes an enlarged roof terrace with the inclusion of a large planter bed at the northern edge closest to McLennan Avenue on the upper-level, and this has been achieved by repositioning the rooms and the proposed dwellings (ILUs) with the associated reduction in building bulk, as requested.</p> <p>The building bulk on the upper level has been repositioned to the Frenchmans Road frontage as requested.</p>
<p><b>Principle 4: Sustainability</b></p> <p><i>Key considerations:</i></p>	<p>The requested considerations can be accommodated in the amended design.</p>

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
<ul style="list-style-type: none"> <li>○ <i>All bathrooms on external walls should have operable external windows to reduce the need for artificial ventilation.</i></li> <li>○ <i>The method of window operation and their fire treatment on each elevation should be indicated on the drawings.</i></li> <li>○ <i>Sun-shading and or weather protection should be provided to suit orientation.</i></li> <li>○ <i>Consideration should be given to a solar hot water system.</i></li> <li>○ <i>Photovoltaics should be included on the roof to mitigate energy usage. A solar photovoltaic system could power common areas with any excess energy feeding into the grid. The array also shades the roof.</i></li> <li>○ <i>Corridors generally have access to light at each end and areas where there are lounges and dining rooms. A statement about the possibility of having some natural ventilation and fresh air in these corridors should be provided.</i></li> <li>○ <i>Window types and operation to accommodate different weather conditions and allow occupants a variety of ventilation options whilst maintaining security.</i></li> </ul> <p><i>Rainwater should be harvested, stored, treated, and re-used, for WC's, laundries, and garden irrigation.</i></p>	<p>The roof design has been amended to being flat with a slope from its Frenchmans Road frontage towards the McLennan Avenue frontage, so as to be capable of accommodating a solar photovoltaic system.</p> <p>The matters raised by the DEP have been accommodated with all external bathroom having external windows, please refer to updated BCA report on window treatments, sun shading has been added to windows, the applicant will include photovoltaic solar cells and to promote this the roof was redesigned to accommodate a roof form without a pitch so as to avoid a south facing roof.</p> <p>An updated Section J report is included in <b>Appendix J</b>.</p> <p>An updated BASIX Certificate is included in <b>Appendix L</b> which addresses the water and energy requirements for the proposed dwellings.</p> <p>The ventilation system is required to comply with the BCA for this class of building.</p>
<p><b>Principle 5: Landscape</b></p> <p><i>The protection and retention of tree T07, the significant eucalypt, on the south-western portion of the site and on axis with the footpath of Chapel Street is commended. This tree should be shown on all drawings including sections and elevations where relevant.</i></p> <p><i>We refer to the seniors living policy infill development guidelines requirement to maintain the pattern of midblock deep soil planting. There is a midblock corridor of trees in this neighbourhood and drawing 13 of the landscape drawings should incorporate a broader study showing the pattern of landscape development in the neighbourhood, and clearly incorporate this into the resolution on site. The</i></p>	<p>The landscape architects from Arcadia have responded to the landscape requests of the DEP, please refer to the Landscape Masterplan included in the amended landscape architectural report included in <b>Appendix E</b> and specifically points listed in the legend and the notations of the master plan.</p> <p>Please also refer to the amended landscape concept drawings and report included in <b>Appendix E</b>.</p> <p>The design of the building in the location nominated has been amended so as to provide for the connection between the garden areas. Please see Table 5 comparison between the originally submitted and now amended ground floor architectural drawings.</p>

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
<p><i>landscape architect should take note of the midblock planting to the gardens of 23, 25, 27 and 29 McLennan Avenue and number 9 Frenchmans Road.</i></p> <p><i>As discussed in the meeting, the Panel would like a clear and open connection between the garden above the driveway ramp (which should be accessible) and the northwestern garden. The Panel would like the architect to reimagine this area as a glazed link between the Frenchmans Road building and the McLennan Avenue building with landscape either side. This would mean a reduction in bedrooms and relocation of the clean utility and staff stations to create, ideally, an 1800 wide glazed link with landscape either side. Landscape zones, deep soil zones and setback planting should be shown on a compliance table and illustrated.</i></p>	
<p><b>Principle 6: Amenity</b></p> <p><i>The proximity of the driveway ramp to the terrace at number 21 Frenchmans Road and the rear garden of number 23 and number 25 McLennan Avenue should be considered both for structural and noise issues and an extension of the covered planting area considered to reduce the impact of lights and noise of cars.</i></p>	<p>The Urban Design peer review completed by Matthew Pullinger included in <b>Appendix G</b>, advises in part:</p> <p>...</p> <p><b>Basement Ramp Modifications</b></p> <p><i>Consistent with the Panel's recommendations, the basement ramp has been amended to introduce a sculptural pergola enclosure, conceived of as a series of portal blades.</i></p> <p><i>This pergola has the effect of screening the basement ramp structure from view and will mitigate against noise and light spill associated with vehicle movements.</i></p> <p><i>The basement ramp pergola also relates to the expanded landscaped communal open space created by the built form modifications discussed in the preceding point above.</i></p> <p>In addition, the amended DA design has been assessed with respect to its noise considerations and an Amended Acoustic Report has been prepared as include in <b>Appendix H</b>, which advises:</p> <p>6. Conclusion</p> <p><i>A site investigation of the proposed site and surrounds at 11, 15, 17 &amp; 19 Frenchmans Road, Randwick has been completed to determine existing noise levels for the environment and surrounds for a proposed development of the site.</i></p>

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
	<p><i>Mechanical plant used on the site will need to be designed to comply with the noise emission and noise intrusion criteria in the design development stage of the project. Controlling noise from plant and equipment would include a combination of enclosed plant rooms, silencers, lined ductwork, acoustic barriers, acoustic louvers and the selection of quiet plant where required.</i></p> <p><i>The preliminary road traffic noise intrusion assessment indicates upgraded glazing will be required for affected spaces, with a markup included in Appendix B, in order to meet the internal acoustic requirements presented in this report. The indicative glazing recommendations have been provided in Section 5.1 of this report which may be refined during the detailed design phase of the project.</i></p> <p><i>Current standards associated with the development have been reviewed and assessed in accordance with existing site constraints. Preliminary construction standards have been reviewed to ensure that Randwick City Council's and other guidelines are satisfied.</i></p> <p><i>ADP Consulting believes that there are no site conditions that would preclude this development from complying with the criteria defined in this report.</i></p> <p>The applicant is prepared to accept conditions to manage and mitigate noise as detailed in the Amended Acoustic Report.</p>
<p><b>Principle 7: Safety</b></p> <p><i>No safety concerns.</i></p>	<p>Noted</p>
<p><b>Principle 8: Housing Diversity and Social Interaction</b></p> <p><i>The Panel welcomes and encourages this type of development in the area and is very pleased to see substandard seniors housing being replaced.</i></p>	<p>Noted. The amended DA still includes ILU-2 as the nominated affordable housing dwelling.</p>
<p><b>Principle 9: Aesthetics</b></p> <p><i>The massing, articulation, and architectural treatment of the building to Frenchmans Road needs to be revisited to ensure a finer grain response that</i></p>	<p>The Urban Design peer review completed by Matthew Pullinger included in <b>Appendix G</b>, advises in part:</p> <p>...</p> <p><i>Each of these elements is of a more modest scale, and familiar to the buildings elsewhere in the</i></p>



RANDWICK DEP COMMENTS	APPLICANT RESPONSE
<p><i>reflects the scale, rhythm and spacing of those buildings to the east.</i></p>	<p><i>immediate vicinity. The indented elements that separate these three elements are recessive and calmly detailed.</i></p> <p><i>The foregrounded elements now adopt a more contemporary architectural expression that combines more composed proportions and introduces greater depth into the facade. These design amendments have the effect of tying the amended proposal more closely to positive cues elsewhere in the streetscape.</i></p> <p><i>The proposed roof forms have been amended to revert to a simpler language of parapets - coinciding with the foregrounded elements - and recessive flat roofs - associated with recessive elements and the setback upper level.</i></p> <p><i>The proposed materials palette now includes greater proportions of integral and self-finish masonry materials, a reduced reliance on painted render and the introduction of a complementary 'timber-look' material that enriches the overall character and composition of the Frenchmans Road elevation.</i></p>
<p><b>SUMMARY AND RECOMMENDATIONS</b></p> <p><i>The Panel encourages this development and supports the replacement of substandard seniors housing in the area and acknowledges the response to some of the previous comments. However, there are a number of issues listed above which still need to be addressed, predominantly the south elevation, the extent of landscaping and the further set back from the north of both the second-floor plan and the third-floor plan.</i></p>	<p>The Urban Design peer review completed by Matthew Pullinger included in <b>Appendix G</b>, advises in part:</p> <p><b>04 Conclusions</b></p> <p><i>It is the author's view the final amended proposal has been thoughtfully considered to address the various design recommendations raised by Randwick City Council's Design Excellence Panel.</i></p> <p><i>The final amended proposal seeks to justify an exceedance of the relevant maximum height of building control of 12m. This is addressed in a clause 4.6 written request provided with the DA documentation.</i></p> <p><i>The author notes that the proposed height exceedance is limited to a relatively small portion of the site, in a location where additional height is best able to be accommodated given the characteristics of the site and its context.</i></p> <p><i>In this location, the additional building height is generally recessive, set back from the site and configured as a flat roof. In this location, any additional overshadowing is likely to be contained</i></p>

RANDWICK DEP COMMENTS	APPLICANT RESPONSE
	<p><i>within the site or in the public road to the south of the site.</i></p> <p><i>In its final amended form, it is the author's view the design proposal meets an acceptable level of design quality and is capable of making a positive contribution to the neighbourhood character in the vicinity of the site.</i></p>

## 4.0 APPLICANT'S RESPONSES TO COUNCIL RFI

**Table 4** below includes the requirements of the Council RFI and the applicants' responses in this Amended DA.

**Table 4:** Applicant's responses to Council RFI

Council RFI matter	APPLICANT RESPONSE
<p><b>1. Staging of Proposed Works</b></p> <p><i>The statement of environmental effects (SEE) submitted with the development application indicates the works, once approved, will be carried out in stages and for Council not to impose any conditions on staged CC or issue of interim occupation certificates. In this regard you may consider lodging a concept masterplan development application with different work stages clearly identified. The masterplan DA can include for example Stage 1 works and other subsequent stages or the subsequent stages can be lodged as separate DAs.</i></p> <p><i>Council has inadequate information at the moment to fully appreciate how the works will be done in stages and therefore cannot confirm if restriction on issue of interim occupation certificates will not be imposed. As a duty of care, it is Council's responsibility that if the building is to be completed and occupied in different stages then each stage is fully functional, operational and safely accessible while works on other stages are underway.</i></p> <p><i>Council will not object to issue of staged construction certificate and it will be up to the principal certifying authority to contemplate.</i></p>	<p>As detailed previously in this Addendum SEE at 1.2, the proposal does not seek approval for staging or multiple construction certificates.</p>
<p><b>2. Affordable Accommodation and Vertical Villages</b></p> <p><i>The term 'vertical village' is not an identified building typology as it is not defined as such within State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Living SEPP) or</i></p>	<p>Please refer to the additional information as detailed previously in this Addendum SEE in response to "<a href="#">Clause 45</a>" of the Seniors Housing SEPP.</p>

## Council RFI matter

## APPLICANT RESPONSE

anywhere in the Standard Instrument. Clause 45 of Seniors Living SEPP refers to 'vertical villages' in the context of seniors housing where a bonus FSR is sought.

The proposal seeks the maximum permitted bonus FSR of 0.5:1 and therefore Clause 45(6)(a)(ii) is triggered that requires a 10% of the 'dwellings' in the proposed development is to be 'affordable places'. Clause 3 of the Seniors Living SEPP defines 'dwelling' as:

*dwelling means a room or suite of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.*

The proposal is for a 78 rooms residential care facility plus 2 independent living unit totalling 80 rooms. It is unclear why only 10% of the two independent living units (being 1 unit only) is offered as 'affordable place'. Council considers that the proposal must offer 10% of the total rooms being 8 rooms/units as 'affordable places'.

### 3. Residential Care Facility

The proposed development is lodged as senior housing development under the provisions of Seniors Living SEPP. Clause 10 of the Seniors Living SEPP defines 'senior housing' to accommodate:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

The proposal includes 'residential care facility' and 'self-contained dwellings' and as such it is a permissible land use under the provisions of Seniors Living SEPP.

Clause 48 of the Seniors Living SEPP provides development standards for 'residential care facilities' and the SEE in assessment under the provisions of Clause 48 states:

*This DA is not submitted pursuant to this chapter of the Seniors Housing SEPP, and based on the provisions of Clause 45(7) therefore, the proposal does not have to strictly comply with provisions of Clause 48 and cannot be used to refuse the application.*

The above statement is unclear on why provision of Clause 48 is not applicable when the development includes residential care facility. Also as indicated earlier 'vertical village' is not a defined building typology under 'seniors

Please refer to the additional information as detailed previously in this Addendum SEE in relation to "clauses 40, 45, 48 and 50" of the Seniors Housing SEPP.

Council RFI matter	APPLICANT RESPONSE
<p>housing'. Further Clause 45(7) only relates to maximum height of 8m which is not applicable in this instance.</p> <p>Council considers that the provisions of Clause 48 must be complied with and in this regard, it is noted that a minimum landscape area of <math>25 \times 86 = 2150\text{m}^2</math> is required pursuant to Clause 48(c).</p> <p>The SEE indicates a total landscaped area of <math>1130\text{m}^2</math> which is only 62% of required landscaped area. This shortfall is reflective on the ground floor plan which is largely occupied by building footprint, driveways, access ramps and other paved areas leave minimum opportunities for required landscaped areas which can offer outdoor activities for the 88-bed facility.</p> <p>Clause 48 is silent on the requirements for deep soil area. However, Clause 50 for self-contained dwellings requires a minimum 15% of the site area to be provided as deep soil area. This will equate to a deep soil area of <math>406\text{m}^2</math>. The SEE indicates that a 15% of the landscaped area is provided as deep soil area which will equate to 170% which is grossly inadequate. In this regard amended plans will be required demonstrating how this will be achieved and a plan showing how the deep soil area is calculated.</p> <p>By way of reference Section 2.2 of Part C2 of RDCP requires a minimum of 25% area as deep soil area.</p>	
<p><b>4. Seniors Living Policy: Urban Design Guideline for Infill Development</b></p> <p>Clause 31 of Seniors Living SEPP requires consideration, among other matters, the provisions of Seniors Living Policy: Urban Design Guideline for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004. In view of the issues identified in this RFI, the proposed development is not considered to be consistent with the provisions of Seniors Living Policy: Urban Design Guideline for Infill Development. In particular concern is raised with the impacts the proposed built form will have on existing and desired future character of the local area.</p>	<p>Clause 31 of the Seniors Housing SEPP has been addressed as detailed previously in this Addendum SEE, the original SEE report included a section of site analysis, the architectural drawings include site analysis plans and the Urban Design Peer review submitted with the original SEE which advises:</p> <p><i>03 Report Structure and Methodology</i></p> <p><i>This review has been structured to reflect the five key sections of the Seniors Living Policy: Urban Design Guideline for Infill Development (the Guidelines). In doing so, this review considers criteria relevant to the design and resulting amenity of an aged care facility and the suitability of its design for its site and context.</i></p> <p>This Urban Design Peer Review includes details under the heading "04 Assessment Against the Guidelines".</p> <p>In addition, the original Urban Design Peer review advises:</p>



## Council RFI matter

## APPLICANT RESPONSE

*In the vicinity of the subject site, Frenchmans Road is characterised by considerable diversity evident within the existing built form.*

*Clearly an area undergoing transition and underscored by its current R3 Medium Density Residential zoning, the northern side of Frenchmans Road comprises a mix of lower-scale detached single- and two-storey bungalows, a pair of two-storey attached Victorian-era terrace houses, and a larger detached two-storey Victorian-era manor house. These traditional low-scale residential forms sit alongside a number of more recent two-, three- and four-storey residential apartment buildings more reflective of the current development standards for building height and floor space ratio.*

*Further to the east, at the intersection of Frenchmans Road with Clovelly Road, lies an existing service station, which in turn signals the nearby presence of a local retail centre including local shops and services.*

*In contrast to the primary street frontage of Frenchmans Road, McLennan Avenue is characterised as a residential street with greater consistency evident within its buildings' form and scale. This street is lined with houses of primarily one- and two-storeys, and typically in the Californian bungalow style. There are some exceptions to this prevailing pattern, but these exceptions are discretely sited and not particularly prominent or contributory to the overall character of McLennan Avenue.*

*Within this diverse neighbourhood context, the existing aged care facility is notable for its larger site area and longer street frontage to Frenchmans Road, but in other regards it forms an element reasonably consistent with the character evident in the neighbourhood.*

...

Council RFI matter	APPLICANT RESPONSE
	<p><i>In summary, the positive features which serve to define the existing neighbourhood character can be described as the coincidence of the underlying topography, the street pattern and geometry, the significant diversity evident in-built form types, scales and architectural expression, and the presence of a series of significant marker trees.</i></p> <p><i>Further to this understanding of the immediate local context, reference has been made to Randwick City Council's Local Strategic Planning Statement (LSPS) and the relevant draft Local Character Statement (LCS) for this part of the wider local government area.</i></p> <p><i>The draft Randwick Local Character Statement highlights a number of attributes that contribute to define the existing urban character, and which are similar to those set out in the Guidelines. These include the relationship between street patterns and topography, the presence of sandstone as a familiar building material and the importance of mature existing street trees.</i></p> <p><i>A recurring theme of the LSPS and LCS is the need for future development to recognise, incorporate and build upon the positive attributes of local context. Appreciating and valuing these features has influenced the detailed design of the proposal in a number of ways which are discussed in the remainder of this report.</i></p> <p>The further Urban Design Peer Review submitted with this Addendum SEE at <b>Appendix G</b>, demonstrates the built form has been amended to respond more sympathetic to its context as requested by the Randwick DEP (see table 3 above), and in doing so remains consistent with the existing and future character of the area.</p>
<p><b>5. Land Contamination</b></p> <p><i>State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to the remediation of</i></p>	<p>Please refer to the Remedial Action Plan included in <b>Appendix J</b> and the Site Auditor Advice in <b>Appendix K</b>, and the assessment included under Section 2.1.4</p>

**Council RFI matter**
**APPLICANT RESPONSE**

*contaminated land. Clause 7 of SEPP 55 requires a consent authority to be satisfied that the land is not contaminated and suitable for its intended use. In this regard subclauses 2 and 3 of Clause 7 states as under:*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

*The SEE, under SEPP 55 discussions, refers to a site contamination report and states that:*

*To address the provision of Clause 7 of SEPP 55 a site contamination report is included in Appendix J which indicates the site is suitable for the project under SEPP 55.*

*It is unclear which site contamination report the above statement is referring to as the preliminary site investigation report, prepared by Consulting Earth Science, dated 12 November 2020 provides contradictory information. The report in the opening pages as well as under Site's suitability states as under:*

#### **11.5 SITE SUITABILITY**

*Based on the Preliminary Site Investigation, there is insufficient information to determine that the site is suitable for the proposed development, or if remediation/management of contamination is required.*

*In view of the above there is insufficient information for the consent authority to be satisfied that the site is suitable for its intended use. If detailed investigation is required and if such investigation is only possible after demolition, then the option of a separate DA for demolition must be*

SEPP 55 of this Addendum SEE, previously detailed above.

Council RFI matter	APPLICANT RESPONSE
<p>considered. Please find further information later in this RFI under 'Environmental Health Comments'.</p>	
<p><b>6. Maximum Height</b></p> <p><i>The proposed development exceeds the maximum height standards of 12m as prescribed under Randwick Local Environmental Plan 2012 (RLEP). In this regard the top floor is largely over the height standard. This is considered unacceptable as the excessive height together with the bonus FSR will result in a bulk which will be uncharacteristic of the area and cannot be supported. The Seniors Living SEPP while offering bonus FSR; does not offer bonus height and has a clear expectations for seniors living development to be consistent with the height standards as applicable to residential flat buildings if such use is permissible.</i></p> <p><i>The arguments provided within the SEE that proposal is consistent with a couple of existing residential flat building is not considered valid planning arguments as those buildings may not be great example of urban form and may also predate the current development standards for height.</i></p> <p><i>The proposal must be redesigned to comply with the height standards. In this regard the Cluse 4.6 statement for height variation, as submitted with the DA is not considered supportable.</i></p>	<p>Please refer to the information detailed previously in this Addendum SEE above and the Updated Clause 4.6 Variation Request to vary Clause 4.3 of the RLEP at <b>Appendix M</b>.</p>
<p><b>7. Floor Space Ratio (FSR)</b></p> <p><i>Council acknowledges provisions of Clause 45(2) for bonus FSR and Clause 45(4) for certain exclusions from FSR calculations. The Gross Floor Area (GFA) drawings submitted with the development application indicates two separate colours, but it is unclear what they are representing and what areas have been excluded from GFA calculations. In this regard any exclusions for GFA calculations for 'on-site support services' must be consistent with the provisions of Clause 45(12).</i></p> <p><i>Please note that there are several areas within the basement that would need to be included in the GFA calculations for example theatre, laundry, toilets, spa, motorcycle parking etc.</i></p> <p><i>It will be good if you could provide your interpretation of Clause 45)(12) for definition of 'on-site support services'.</i></p>	<p>Please refer to the information included in this Addendum Report under <u>Clause 45</u> which includes legal opinion advice on the interpretation of GFA under Clause 45.</p> <p>Please refer to the information detailed previously in this Addendum SEE above and the Updated Clause 4.6 Variation Request to vary Clause 4.4 of the RLEP at <b>Appendix N</b>.</p>
<p><b>8. Neighbourhood Amenity and Streetscape</b></p> <p><i>Clause 33 of Seniors Living SEPP requires proposal for seniors housing to be designed in such a way to reduce the</i></p>	<p>With respect to Clause 33 of the Seniors Housing SEPP considerations, please refer to the information</p>



## Council RFI matter

## APPLICANT RESPONSE

impacts on adjoining development. The clause *inter alia* states:

### 33 Neighbourhood amenity and streetscape

The proposed development should—

(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and

(c) maintain reasonable neighbourhood amenity and appropriate residential character by—

(i) providing building setbacks to reduce bulk and overshadowing, and

(ii) using building form and siting that relates to the site's land form, and

(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and

(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and

The subject site is zoned R3 medium density residential where the desired future built character will be residential flat buildings and multi dwelling housing type development.

Randwick Development Control Plan 2013 (RDCP) requires a minimum front setback consistent with the established front setback or a minimum of 3m and a minimum side setback of 4m for a site with 20m frontage. The proposed development offers inadequate setbacks along its both frontages and along side boundaries which is inconsistent with the requirements of Clause 33(a) and (c) of Seniors Living SEPP and Clause 3.4, Part C2 of RDCP.

The inadequate setbacks will result in a building bulk that will adversely impact on the adjoining neighbours, streetscape and future development potential of adjoining properties. The provision of windows and balconies along side elevations are considered to impact on the amenity of adjoining residents. The building must be redesigned to align with the required setback controls.

detailed previously in this Addendum SEE and information provided below:

- As required by the Randwick DEP, the presentation, bulk and scale of the proposed building has been amended to respond to its streetscape more appropriately.
- The desirable elements of the existing streetscape and current character have been included in the amended architectural design as confirmed by the Urban Design Peer Review included in **Appendix G** (and discussed in Table 3 above) as requested by the Randwick DEP. This urban design peer review advises in relation to the streetscape and presentation to Frenchmans Road:

### **Frenchmans Road Building Articulation and Elevational Composition**

*In response to the Panel's concerns for the architectural composition and expression along Frenchmans Road, a number of amendments have been made.*

*The building form has been more strongly articulated into three related elements. This is evident in the various 3D streetscape views created at the pedestrian's eye level looking east or west along Frenchmans Road. This strong articulation has the effect of foregrounding three elements within the streetscape*

*Each of these element is of a more modest scale, and familiar to the buildings elsewhere in the immediate vicinity. The indented elements that separate these three element are recessive and calmly detailed.*

*The foregrounded elements now adopt a more contemporary architectural expression that combines more composed proportions, and introduces greater depth into the facade.*

*These design amendments have the effect of tying the amended proposal more closely to positive cues elsewhere in the streetscape.*

## Council RFI matter

## APPLICANT RESPONSE

*The proposed roof forms have been amended to revert to a simpler language of parapets - coinciding with the foregrounded elements - and recessive flat roofs - associated with recessive elements and the setback upper level.*

*The proposed materials palette now includes greater proportions of integral and self-finishing masonry materials, a reduced reliance on painted render and the introduction of a complementary 'timber-look' material that enriches the overall character and composition of the Frenchmans Road elevation.*

The neighbourhood amenity will be reasonably maintained, given:

- The side setbacks at each level have been increased as detailed in Table 5. The front setback has been adjusted to be no less than 3m and includes an average which is greater than 6.5m with significant articulation.
- The amended architectural design has shifted the upper level to its Frenchmans Road frontage so as the scale of the building to its McLennan Avenue frontage is reduced.
- The location of the upper level will not result in unacceptable overshadowing of any residential property or impact on the amenity of any adjoining residential properties.
- The parapet height and the upper level height have been amended to be compatible with the scale of adjacent future development and existing nearby development.
- The wall heights to each boundary have been reduced and amended as detailed in new architectural drawing DA13a as included in **Appendix C** and discussed in detail previously in this Addendum SEE above and Table 5.

Council RFI matter	APPLICANT RESPONSE
<p><b>9. External Wall Height</b></p> <p><i>Section C4 of Part C2 of RDCP requires a maximum external wall height of 10.5m for development in R3 zone where a maximum height standard of 12m is applicable. The proposed external wall height is at points in excess of 12.0m and is not considered acceptable due to resulting excessive bulk.</i></p> <p><i>The external wall height control works with the applicable height standards to achieve a built form with interesting roof form and a reduced built form as the building goes higher.</i></p> <p><i>The building height must be reduced to comply with the RLEP height standards and RDCP external wall height controls.</i></p>	<p>The matters raised have been discussed previously in this Addendum SEE.</p> <p>Please refer to the information in amended architectural drawing no. DA13a included in <b>Appendix C</b> which includes information to demonstrate the wall heights and as discussed in Figures 3 to 7 of this Addendum SEE and Table 3 above.</p> <p>The external wall heights of the proposed amended building design to all boundaries complies, except to 9 Frenchmans Road which seeks a minor 0.33m variation. Please refer to the discussion previously in this Addendum SEE and the request to support the minor variation.</p> <p>The overall height of the development has been reduced (noting that there was a need to correct the error in the RLs due to the error caused by the surveyors at Veris – refer to Appendix A), however there is a minor non-compliance. Please see the information included in this addendum SEE to respond to the height controls under Clause 4.3 of the RLEP and clauses 40, 48 and 50 of the Seniors Housing SEPP and the associated Clause 4.6 variation request to vary height in <b>Appendix M</b>.</p>
<p><b>10. Environmental Health Comments</b></p> <p><i>The following information is required to be provided to Council.</i></p> <p><i>1. A Detailed Site Contamination Investigation must be undertaken and a report prepared by a suitably qualified environmental consultant must be submitted to Council prior to determination of the application. The report must include details of land and ground water contamination upon the site (and any off-site migration), having regard to the current and previous use of the land and activities undertaken.</i></p> <p><i>The report is to be carried out in accordance with Council's Contaminated Land Policy 1999 and relevant NSW EPA Guidelines for Contaminated Sites. Also, as detailed in the Planning Guidelines to SEPP 55 – Remediation of Land, the report is to assess the nature, extent and degree of contamination upon the land. The detailed site contamination report must be</i></p>	<p>Please refer to the Remedial Action Plan included in <b>Appendix J</b> and the Site Auditor Advice in <b>Appendix K</b>, and the assessment included under Section 2.1.4 SEPP 55 of this Addendum SEE previously detailed above.</p>

**Council RFI matter**
**APPLICANT RESPONSE**

*sufficiently detailed and be submitted to and approved by Council.*

*i) Should the Detailed Site Investigation Report not find any site contamination to both land and groundwater, the conclusion to the report must clearly state that 'the land is suitable for its intended land use' posing no immediate or long term risk to public health or the environment and is fit for occupation by persons, together with clear justification for the statement.*

*ii) Should the Detailed Site Investigation Report identify that the land is contaminated and the land requires remedial works to meet the relevant Health Based Investigation Level:-*

*a) A Remediation Action Plan (RAP) is required to be submitted to and approved by Council prior to commencing remediation works. The RAP is also required to be reviewed and be acceptable to the accredited site auditor.*

*The RAP is to be prepared in accordance with the NSW Environmental Protection Authority Guidelines for Consultants Reporting on Contaminated Sites.*

*This RAP is to include procedures for the following:*

- *Excavation of Hydrocarbon-contaminated soil*
- *On-site treatment by land farming*
- *Validation sampling and analysis*
- *Ground water monitoring*
- *Groundwater remediation, monitoring and validation*
- *Procedures for any unexpected finds*

*II. Any remediation works are to be carried out in accordance with the requirements of the Contaminated Land Management Act 1997, environmental planning instruments applying to the site, guidelines made by the NSW Environment Protection Authority (EPA) and NSW Planning & Infrastructure, Randwick City Council's Contaminated Land Policy 1999 and the Protection of the Environment Operations Act 1997.*



Council RFI matter	APPLICANT RESPONSE
<p>III. <i>In relation to any asbestos contamination, a comprehensive remediation strategy and remedial action plan must be developed, to the satisfaction of the Site Auditor and NSW Department of Health or other suitably qualified and experienced specialist to the satisfaction of the Site Auditor.</i></p> <p><i>The remediation strategy and remedial action plan must demonstrate that the land will be remediated in accordance with relevant guidelines (if any) and to a level or standard where no unacceptable health risk remains from asbestos exposure, which shall be verified upon completion of the remediation works to the satisfaction of the Site Auditor.</i></p> <p>IV. <i>Should the remediation strategy including the 'capping' or 'containment' of any contaminated land, details are to be included in the Site Audit Statement (SAS) and Environmental Management Plan (EMP) to the satisfaction of the Site Auditor.</i></p> <p><i>Details of the SAS and EMP (including capping and containment of contaminated land) are also required to be included on the Certificate of Title for the subject land under the provisions of section 88 of the Conveyancing Act 1919.</i></p>	
<p><b>11. Comments from Landscape Officer</b></p> <ul style="list-style-type: none"> <li><i>Council is concerned with the impact of the new footprint on the 22m x 20m Lemon Scented Gum (T7) near the southwest site corner, as while the setback from the front boundary has been increased from 4530mm – 7405mm &amp; 3350mm – 5855mm in this part of the site respectively (when compared to what was shown on the Pre Lodgement Plans), the tree is actually offset 2.5m from the front boundary, as well as at a corner/bend, which narrows this part of the site even further, so even at these new setbacks, it is considered that the works could still be within only 2-3m of the tree.</i></li> <li><i>This uncertainty arises from the fact that the location of its trunk and crown have not even been shown on the architectural plans at all, which means that an accurate assessment is not possible, and needs to be rectified. Distances in</i></li> </ul>	<p>The matters raised by Council have been considered by the applicant's landscape architect in consultation with the applicant's arborist.</p> <p>The applicant's Arborist has provided information included in <b>Appendix I</b> which advises:</p> <p><i>The tree in question is now shown on the revised Architectural Plans. The landscape structures (decking and stairs) are proposed to be lightweight timber structures on pier structures to be built in accordance with the arborist report recommendations. Refer (Section 3 and 4 &amp; Appendix 6) of the submitted Arborist Report for clarification.</i></p> <p>and</p> <p><i>The elements of works are dealt with in (Section 3 and 4 &amp; Appendix 6) of the submitted Arborist Report. We recommend that DA condition be included that arborist approval processes and structural</i></p>

Council RFI matter	APPLICANT RESPONSE
<p>millimetres between the tree and all new works also need to be provided as confirmation.</p> <ul style="list-style-type: none"> <li>The Arborist states that “proposed landscape structures will be suspended on small piers” in this area. If this is being relied upon to minimise impacts, and is critical for the survival of the tree, then Council would need construction/engineering details/notations of what this will look like and how it will be delivered on-site;</li> <li>Similarly, there’s a row of neighbouring trees on adjoining private sites, being T10-14 at 9 Frenchmans Road, T15-17 at 8 Astolat St &amp; T20 at 27 McLennan Ave, all against the common boundary. The survey shows only a timber paling fence adjacent T10-17; however, the Ground Floor Stormwater Plan, dwg 19826, rev 03, dated 28/08/20, shows excavations for a new retaining wall and drainage infrastructure will be performed right up onto these common boundaries, against their trunks, which does not seem to have been assessed at all? Council requires a description of how the applicant intends to proceed with these works without affecting these trees;</li> <li>There is already a brick wall and concrete surfacing and below ground services on the common boundary and within the subject site, adjacent T20, with the Arborist calculating that the new works will result in a 20% incursion of its TPZ, which is major, and normally not sustainable. While it is assumed that these existing structures may have inhibited root growth into this site to some degree, this cannot be quantified unless root mapping is undertaken. If major roots are in fact in the area of the new works they could not simply be severed and the tree expected to survive. As it’s located on another site, Council must ensure it will not be adversely affected in anyway, prior to granting consent.</li> </ul>	<p>methodology be approved by the arborist prior to CC.</p> <p>And</p> <p>The retaining wall on civil drawing C100 adjacent T20 has been amended to reflect the fact that the architectural DA documented boundary planter is at the same RL as the adjacent property (20 McClelland) (this is a typo and should be 27 McLennan). The architectural plan shows the landscape pathway to the south of the 20 McClelland boundary (adjacent to the boundary planter) as slightly elevated on an implied pier system to deal with the proposed ground floor RL being higher than the adjacent property rear RL (at the T20 trunk RL). Consequently, there will be no retaining wall protruding excessively into the root zone. Currently the existing condition at the rear to and adjacent of 20 McClelland is a concrete slab, brick wall and strip footings at the boundary to T20, suggesting that ingress of T20 roots to this part of the site is likely minimal if at all present. Refer to civil drawings 250 and 251 to confirm the hardstand areas (&amp; C100 to highlight the adjacent property RLs etc).</p> <p>and</p> <p>The T10-T14 &amp; T15-T19 fence lines may be erected as pier fences, be it timber paling or similar. The proposed boundary RLs at the fence lines generally follow the adjacent property RLs. The civil drawing documents show an on-ground swale for directing overland flows of water. It does not show an inground drainage lines along these tree locations.</p> <p>and</p> <p>Root mapping is not possible without extensive demolition works to what we understand is a critical service area of an existing operating residential aged care facility. This is not practicable. We would recommend extensive root mapping and</p>

Council RFI matter	APPLICANT RESPONSE
	<p><i>arborist supervision of works in this zone to ensure significant roots that may be present, are protected. Refer (Section 3 and 4 &amp; Appendix 6) of the submitted Arborist report for clarification.</i></p> <p>Please see attached at <b>Appendix E</b> amended landscape architectural report and drawings and <b>Appendix I</b> Arborist Statement.</p>
<p><b>12. Comments from Council's Design Excellence Panel</b></p> <p><i>The comments have been provided earlier via Council's email of 19 March 2021.</i></p>	<p>Please refer to detailed responses to each matter raised by the Randwick DEP in Table 3 above.</p>
<p><b>13. Comments from Council's Development Engineer</b></p> <p><i>Comments relating to stormwater design, waste management, gradients into the basement and parking arrangement are not ready yet and will be provided shortly under separate cover.</i></p>	<p>Council advised via email dated 21 May 2021:</p> <p><i>This email is to advise that our engineering section have no traffic or development engineering related issues with the proposed development. However, this position may change if you choose to submit amended plans in response to Council's RFI.</i></p> <p>The applicant understands that the Amended DA design drawings will be referred to Council's traffic engineering section and development engineering sections.</p> <p>Council would be aware that Transport for NSW have provided their concurrence to the use of the proposed access / egress driveway as designed in the originally submitted DA drawings.</p> <p>The Amended Architectural drawings do not alter the design of the access or its location at the Frenchmans Road frontage.</p> <p>Amended civil drawings are included in Appendix F, and have been prepared to include RLs which correspond to the updated Veris survey included in <b>Appendix A</b>.</p>

#### 4 CONCLUSION

Given the Amended DA has addressed each of the matters raised by the Randwick DEP and Council, the Amended DA design changes are not drastic but rather respond to the feedback received on various matters raised by Council and can be considered improvement when compared to the original DA.

Therefore, the Amended does not trigger a need for renotification under the provisions of the Randwick Development Control Plan or current Council's adopted Community Participation Plan 2019. Refer as detailed previously in this Addendum SEE at the end of Section 1.2.1.

We trust the above information will assist Council in assessing the Amended DA favourably when undertaking its assessment report.

Should Council still have a concern regarding the Amended DA, the applicant requests Council's feedback and co-operation to understand the concern in detail prior to an assessment report being completed.

For any queries or require clarification on any matters please do not hesitate to contact the undersigned on (02) 9929 4044.

Yours sincerely,



**Marian Higgins**  
**Planning Manager**  
**Higgins Planning Pty Ltd**



**APPENDIX A – UPDATED VERIS DETAILED SITE SURVEY AND LETTER EXPLANATION**

**APPENDIX B – ADDITIONAL SURVEY INFORMATION ON FRENCHMANS ROAD AND LETTER  
EXPLANATION**

## APPENDIX C – AMENDED ARCHITECTURAL DRAWINGS

## APPENDIX D – ARCHITECTURAL PERSPECTIVES



## APPENDIX E – AMENDED LANDSCAPE CONCEPT DRAWINGS

## APPENDIX F – AMENDED ENGINEERING DRAWINGS

## APPENDIX G – URBAN DESIGN REVIEW

**APPENDIX H – AMENDED ACOUSTING REPORT**

**APPENDIX I – ARBORIST STATEMENT**



## APPENDIX J – REMEDIAL ACTION PLAN

## APPENDIX K – SITE AUDITOR ADVICE

**APPENDIX L – UPDATED BASIX CERTIFICATE AND SECTION J REPORT**

**APPENDIX M – UPDATED CLAUSE 4.6 VARIATION REQUEST - HEIGHT**

**APPENDIX N – UPDATED CLAUSE 4.6 VARIATION REQUEST - FSR**



**APPENDIX O – CLAUSE 4.6 VARIATION REQUEST – LANDSCAPED AREA**

**APPENDIX P – CLAUSE 4.6 VARIATION REQUEST – CLAUSE 26 PRAM RAMP CROSSING FIXES**

**APPENDIX R – TABLE 5 COMPARISON SUMMARY OF DESIGN CHANGES**