



14 April 2026

Secretary
Department of Planning, Housing & Infrastructure
12 Darcy Street
PARRAMATTA NSW 2150

SSD 96505456
DA479/25
JD6 (P&E)

ATTENTION: Najeeb Kobeissi Planning Officer

**STATE SIGNIFICANT DEVELOPMENT APPLICATION 96505456
19-23 ROSALIND STREET CAMMERAY
SENIORS HOUSING
PERIFA ROSALIND DEVELOPMENT PTY LTD**

Dear Madame Secretary,

I refer to the recent public exhibition of the above application and thank the Department for the opportunity to provide feedback regarding the proposed development of the subject land. Following a review of the documents submitted, Council objects to the development proposal.

In summary, key grounds for objection are:

- The proposed development does not satisfy criteria to be State Significant Development, because the proposed "residential care facility" does not satisfy requirements for such a facility as described by the Seniors Housing Design Guide (2023) and thus should not be approved under provisions of SEPP (Housing) 2021.
- The "residential care facility" and other habitable spaces being proposed two levels below ground level with inadequate outlook, natural light and ventilation.
- The bulk and scale of the building, has adverse impacts on the streetscape, local amenity and character.
- The request to vary the building height development standard does not satisfy prerequisites for approval as stipulated by clause 4.6 North Sydney Local Environmental Plan 2013.
- The site isolates adjacent R4 zoned land at 27 and 29 Rosalind Street, thus precluding this land from residential flat development, as required by clause 6.12 North Sydney Local Environmental Plan 2013.
- Adverse impact on extant trees and inadequate landscaping.

DETAILED SUBMISSION

This submission has been prepared with input from across Council's departments, as follows:

- Development Assessment and Urban Design, not supported,
- Development and Infrastructure Engineering, conditions recommended,
- Landscape and Tree Protection, not supported without amendment,
- Transport and Traffic, design changes recommended,
- Access & Aged Care, Seniors Housing and Affordable Housing, not supported subject to amendments being made,
- Environmental Health, conditions recommended, and
- Waste Management, not supported without amendment.

Should the application proceed toward a positive recommendation being made, Council is able to provide feedback on any draft conditions prepared by the Department.

Evaluation: Section 4.15 EP&A Act

A 'high-level' assessment of the proposed development is presented below considering the key, applicable controls of:

- **SEPP (Planning Systems) 2021**
- **SEPP (Housing) 2021, Chapter 3 Part 5 - Housing for seniors and people with a disability**
- **North Sydney LEP 2013**

Planning Systems SEPP

Consent must not be granted as the proposed development is not State Significant Development as defined by Schedule 1, cl. 28 Seniors Housing SEPP (Planning Systems) 2021.

Seniors Housing as defined by Schedule 1 of the Planning Systems SEPP is declared to be State Significant Development for the purposes of the s. 2.6, EP&A Act.

The proposed development permitted by the Seniors Housing provisions of SEPP (Housing) 2021, seniors housing being prohibited in the R4 zone of North Sydney LEP 2013.

Despite permissibility the proposed development is not consistent with the SEPP's definition of Seniors Housing (emphasis added):

(1) Development for the purposes of seniors housing is permitted if—

(a) the seniors housing component has an estimated development cost of—

(i) for development on land in the Greater Sydney region—more than \$30 million,
or

(ii) otherwise—more than \$20 million, and

(b) the seniors housing component includes a residential care facility, and

(c) other components of the proposed development are not prohibited on the land under an environmental planning instrument.

(2)...

The proposed residential care facility as proposed is not considered to satisfy the requirements of the Seniors Housing Design Guide 2023 and is consequently deemed to be inconsistent with the above definition.

Section 97 of the Housing SEPP requires the consent authority to consider the design guide when determining a development application and be satisfied that the design of development demonstrates adequate consideration of the Seniors Housing Design Principles (Schedule 8 of the SEPP) before granting consent to an application for seniors housing.

Neither the EP&A Act nor the above environmental planning instruments specifically define a residential care facility. The Seniors Housing Design Guide describes them in considerable detail. The proposed residential care facility does not satisfy this description, as discussed later.

Recommendation

- 1. The proposed development does not qualify as State Significant Development and the application should be withdrawn or refused.***

Housing SEPP

Chapter 3 Part 5 - Housing for seniors and people with a disability

Zoning and permissibility

The site is zoned R4 High Density Residential, the SEPP applies and permits seniors housing with consent, despite being prohibited in the zone applied by the North Sydney LEP 2013.

Development standards

The proposal exceeds minimum site area and frontage standards, the EIS noting that design standards for the types of accommodation proposed are satisfied.

A height that exceeds the maximum of 12m is proposed using the 3.8m height bonus made available by the SEPP and via seeking additional height via a request for an exception to the resulting 15.8m maximum.

Site-related requirements

Limited services (including convenience retailing, a 'neighbourhood shop' being permitted in the R4 zone) are available on-site and the site is within walking distance of bus services to low and high order urban service centres.

Access to bus stops is acceptable, provide uneven sections of footpath are repaired, as identified by the application.

Recommendation

- 2. Should consent be granted, a condition be imposed to require footpath upgrade works to facilitate access to the development from public***

transport in accordance with Council's specifications and other applicable requirements.

Design requirements

Design of seniors housing must have regard to the guidelines published in 2023 and principles of the SEPP, the latter are discussed below.

Non-discretionary development standards – independent living units

Landscape area – the lesser of 35m² per dwelling or 30% site area is the minimum required – 37% site area is proposed. However, significant parts of the purported landscape area are directly above the basement and arguably do not satisfy the landscape area definition of the SEPP's Dictionary (i.e. the basement is part of the building and hence occupies the site area, per the definition).

Deep soil zone - The minimum amount is 15% of site area, and the minimum dimension is 3.0m. Proposed deep soil amounts to 14.25% of the site. The variation (a non-discretionary standard per s. 108), is sought to be justified by purporting to allow sufficient area for tree planting and increasing deep soil compared to the current development. There is no evidence submitted to support this claim.

All proposed communal open space is planned above structure, which does not qualify as deep soil and would not support planting and sustained health of shade-providing canopy trees. Section A in the architectural drawings indicates the top of the slab has a finished level of 84.2m. The architectural and landscape plans show the finished level – 84.1m. There appears to be no room available for any soil to enable plants (100mm), including the Flame Tree proposed at the main communal open space's southern end.

Recommendation

3. *The design be reviewed to increase the amount of landscape area and deep soil zones to comply with the SEPP's minima and enable judicious planting of shade-providing canopy trees and complementary vegetation in areas of communal open space and other spaces in the development.*

Seniors housing design guide

The consent authority must consider the design guide when determining an application for seniors housing. The guide is highly detailed, addressing matters from room layout to neighbourhood amenity and streetscape.

Two types of seniors accommodation are proposed:

- A two room residential care facility (commonly known as a nursing home, according to baptistcare.org.au), located on the lower ground floor, and
- 49 independent living units, in two buildings on ground level and all levels up to level 5.

Residential care facility

As mentioned, the proposed 'residential care facility' is deemed to not qualify as a residential care facility, because it fails to satisfy requirements of the design guide for these facilities.

In the absence of the term being defined by statute or environmental planning instrument, it is reasonable to consider whether the proposed facility satisfies the purposes for which they are intended.

Several objectives relate to the general planning of a facility, the first defines its purpose:

12.1.1 to accommodate older people who are no longer able to live independently and who need high levels of full-time assistance and care.

The proposed facility's location is in the basement, on the southern side of a sunken garden, approximately five metres below existing ground level. The two rooms in the facility face this space, which cannot be readily seen by residents of the two rooms, as it is screened by dense landscaping for privacy, paradoxically reducing already poor amenity.

Findings of the recent Commonwealth Royal Commission into aged care services in Australia stated:

"Respect care and dignity" and "aged care that puts older Australians front and centre."

Further the Commonwealth Department of Health Disability and Ageing describes residential aged care facilities as being:

"...for older people who can no longer live independently at home. It includes accommodation, personal care and access to nursing 24 hours a day, as well as general health care, social activities and everyday living services."

The EIS describes the proposed facility as transitory and temporary, not permanent, and consequently it does not seem to be suitable for "people who can no longer live independently at home". For instance, a resident of one of the independent living units in the complex may return to the complex and require temporary accommodation in the facility following discharge from a hospital following treatment. Following an undetermined period, if it was decided that the person could no longer live independently, they would have no choice but to find other accommodation for the resident. If it was decided the resident needed palliative care, then this could only be provided if one of the rooms was available, which would likely compromise the intended purpose of the facility. Such practices appear to be contrary to the purpose and intent of a residential care facility as described by the Seniors Housing Design Guide.

Being transitory in nature the proposed facility in all likelihood would create uncertainty and anxiety for elderly people and/or people with disability and their families and could be considered antipathetic to providing the standard of health care and support people need and promoted by the Commonwealth Government.

The proposed facility is clearly not designed to be and is unsuitable for permanent residential accommodation, even for a short period of time. It does not have the facilities that would typically be provided in a residential care facility or a palliative care facility, such as a kitchen and space for caring and treatment of residents, comfortable, pleasant and accessible spaces for socialising

(such indoor and outdoor spaces are proposed in a separate building on a level above the facility), a nurses station and space for storage of medical equipment, consulting rooms for visiting health professionals, temporary accommodation for residents' family, visitors and the like, as required by the design guidelines.

The design guide includes specific design principles for residential care; these do not appear adequately addressed in this proposal:

- Wellness, allied health, recreation, dining and social spaces,
- Cleaning and maintenance, storage of equipment, staff amenities
- Clearly defined visible and legible entries for residents and staff,
- Access to daylight for residents and staff.

Neither is the facility likely to satisfy requirements as a healthy, pleasant workplace. Even with artificial lighting and high-energy-using air conditioning and mechanical ventilation, the space will likely be damp and unhealthy for most of the year. In mid-winter the facility would receive no direct sunlight between 9.00am and 3.00pm, according to submitted shadow diagrams.

Recommendation

4. *Should the application be amended to provide a genuine residential care facility, its siting and location should be suitable for its intended use. Any habitable space below existing ground level should be removed from the proposal, or relocated above ground, with reasonable and suitable amenity for all habitable spaces, indoors and outdoors, for residents and staff.*

Independent living for high density

This section of the Seniors Housing Design Guide provides design guidance that supports the SEPP's design principles, considered below.

The **Apartment Design Guide** applies due to the site being zone R4 High Density Residential, which permits residential flat buildings. The two buildings proposed are residential flat buildings (as defined by North Sydney LEP 2013 Dictionary), which also triggers application of the Housing SEPP, by virtue of containing four or more dwellings in buildings of three or more storeys.

The **Seniors housing design guide** also notes:

Some flexibility with the Apartment Design Guide will be required for independent living unit developments for seniors housing.

Design Principles for Seniors Housing (Schedule 8, Housing SEPP)

1. Neighbourhood amenity and streetscape

a) Recognising operational functional and economic requirements for residential care facilities

These are apparently satisfied with reference to the facility's intended operator. Despite this, the siting and location of the facility raises serious concerns, as previously described.

b) New buildings contributing to the quality and identity of an area

Building A faces Rosalind Street. At 5 storeys above existing ground level it is generally two levels taller than nearby residential buildings. Building B, behind Building A, is six storeys. Elevations of Buildings A and B (DA200) outline buildings of similar height in the vicinity, that purport to give scale to the proposed buildings.

However these adjacent buildings are drawn without perspective to indicate they are a significant distance from the site's frontage to Rosalind Street and that they are screened by large trees when viewed from the street. These illustrations are somewhat misleading.

Further, the streetscape is a mix of single storey semis and free-standing cottages, punctuated by 2 or 3 storey blocks of flats, more so at each end of the street-block, closer to Miller Street to the east and West Street to the west.

The proposed buildings would be incompatible with lower scaled dwellings in the site's vicinity, and would constitute disruptive, jarring elements in the streetscape and the broader urban context of the locality.

The proposed three-storey street wall element aligns with the immediate context to the west, where a three-storey apartment building is located. However, the interface on the eastern side of the site is of concern, as it adjoins a single-storey duplex.

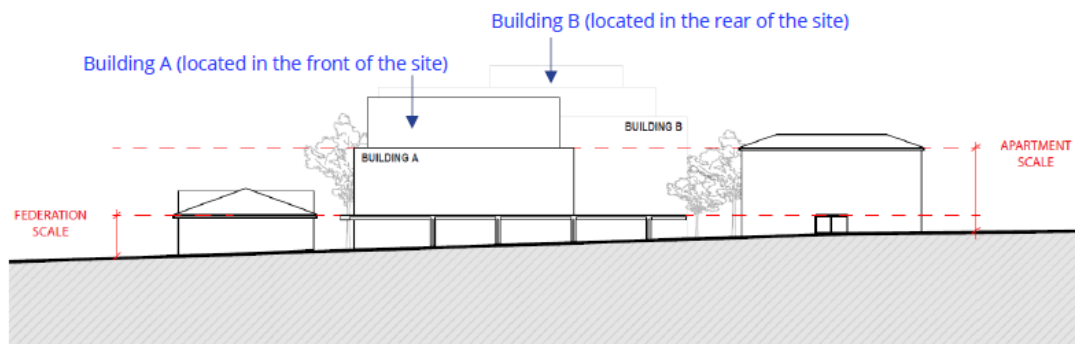


Figure 35 Proposed building form's relationship with adjoining residential development (viewed from Rosalind Street)

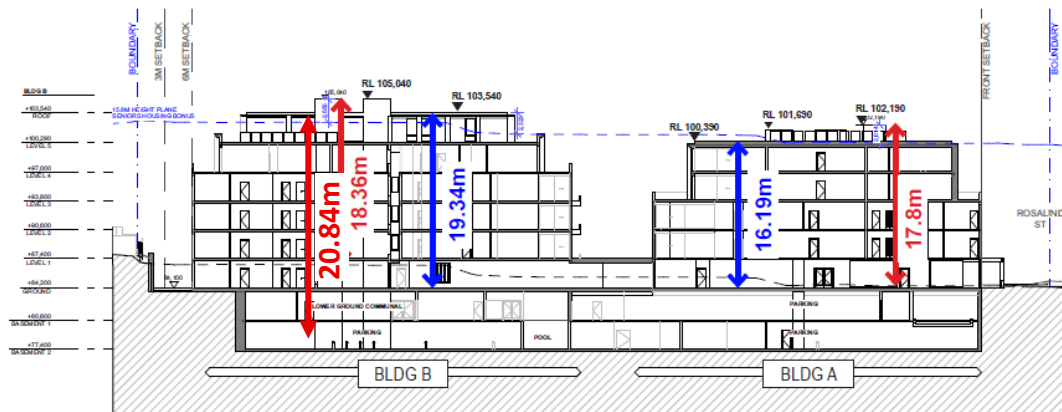
The existing separation between these buildings exceeds 12m, and the access lane to 23 Rosalind Street provides a buffer that helps soften the transition. In contrast, the proposed design includes a 3m setback to the eastern boundary with a five-storey building, resulting in a more imposing interface.



In addition, Building A proposes an upper-level setback of 2.58m but includes balcony projection within the setback. This is insufficient to adequately recess the upper levels and reduce the perceived bulk and scale when viewed from the public domain. As a result, it does not maintain a comfortable pedestrian experience or sufficiently protect the established streetscape character, which is consistent with the surrounding buildings.

The proposal states that the proposed building height for Building B is 18.36m, measured from existing ground level to the top of the rooftop plant. However, the proposed design significantly modifies the ground level, including the introduction of full-sized habitable uses almost two levels below the existing ground level.

When measured from finished ground level, the height of Building B is substantially greater than stated, appearing to be approximately 20.84 m. This is illustrated in Appendix B – Design Report (refer to the diagram below).



For these reasons, amongst others, the request to contravene the building height development standard, with bonus, should not be supported, an issue elaborated upon later.

Recommendation

5. *The impact of the proposal on the locality and streetscape is unacceptable. The design should be reviewed to have an acceptable impact, addressing issues raised in this submission.*

c) *Complementing heritage conservation areas and heritage items*

The site is about 25m east of a heritage item on the corner of Rosalind and West Streets and around 75m from the Holtermann B Conservation area, further to the west. The development is not expected to compromise the heritage conservation values of this item or area.

d) *Maintaining reasonable residential amenity, via:*

i. *Setbacks to reduce bulk and overshadowing*

The ADG recommends setbacks to side and rear boundaries of 9 metres for habitable rooms and balconies, and 4.5m for non-habitable rooms on levels 4 and 5, being 5 and 6 storeys above ground level. 6m and 3m setbacks are recommended for levels below, respectively for habitable rooms/balconies and non-habitable rooms. The setback recommended for balconies and habitable rooms on both side boundaries and the rear boundary is 6.0m. The upper level of building A and the two upper levels of building B are inconsistent with recommended setbacks.

The proposal includes non-compliant setbacks to both the west and east. Adequate building separation contributes to the urban form of an area by providing a transitional interface that helps mitigate the impacts of a development's scale. It also plays a key role in preserving amenity and quality within apartments and open spaces, ensuring that communal and private areas remain functional, with sufficient space for landscaping, sunlight, privacy, and deep soil.

Solar access and privacy performance would be improved if the buildings were compliant with the ADG guidelines and building height.

ii. *Built form and siting relate to the site's landform*

The proposed development has little regard to landform, with a significant majority of the site being excavated to around 5m below existing ground level and to within 2.3m of the eastern side boundary and within 3.0m of the western boundary. An opportunity is apparent, to reduce excavation depth and width, by removing (otherwise) habitable spaces from the basement as mentioned and rationalising space required for parking (noting there is an excess of parking 16 spaces proposed) and building services where possible.

iii. *Building height at the frontage is compatible in scale with other buildings*

A transition is the accepted approach to managing a change in height from lower to taller buildings, with neighbouring buildings and within a proposed development, by having lower building elements next to adjacent smaller buildings and building up toward the centre of the site, from side and rear boundaries, with a similar approach taken across the street frontage. The transition proposed is inadequate in these terms, the form and massing of the proposal does not appear to have been informed by a suitable site and context analysis.

iv. *The impact of a building wall when built on the boundary*

Not relevant.

e) The front setback being in line with the existing building line

Setbacks either side of the site are irregular, and the proposed building appears to be setback at a distance the average of setbacks either side, at 7.544m. With the upper levels of Building A setback a further metre to the balcony and 2.58m to the wall, the setbacks could be considered acceptable. However, the increased setback of the upper levels is insufficient, given the lack of transition as discussed above. Reducing the bulk of the building by increasing setbacks from all boundaries for upper levels of both buildings in accordance with the ADG is warranted.

Recommendation

- 6.** *The proposal's design be amended to provide improved and acceptable impacts on the streetscape, local character and amenity for occupants and neighbours.*

f) Using plants reasonably like others in the street

Council's landscape development officer recommends alterations and additions to proposed street tree planting/removal.

g) Maintaining significant trees when reasonable

Amendments to the development are recommended by Council's landscape development officer to protect a significant street tree.

h) Preventing building in a riparian zone

The site is not in or adjacent to a riparian zone.

2. Visual and acoustic privacy

a) Use site planning, location and design of windows and balconies

Proposed building separation via side and rear setbacks is insufficient, as outlined.

b) Locate bedrooms away from garages and driveways

This is largely achieved by proposing parking in the basement. Unit A105, located above the driveway entry will be exposed to additional noise and fumes from vehicles entering and leaving the site.

Recommendation

- 7.** *The area above the opening to the basement used for non-residential purposes or the dwelling in that location be adequately protected from vehicle noise and emissions.*

3. Solar access and design for climate

a) Provide daylight for residents without adversely affecting daylight in neighbouring buildings

The EIS notes the ADG minimum of 2 hours winter sunlight is exceeded for a proportion of units greater than the minimum percentage required.

b) Reduce energy use and optimise natural ventilation, solar heating and lighting, orient living spaces towards north

Ventilation and orientation of units appear to have been optimised. However, hallways and lift lobbies do not appear to have been provided adequate daylight and ventilation.

Recommendation

8. The design be altered to provide adequate daylight and natural ventilation in circulation spaces including halls and lobbies.

4. Stormwater

a) Minimise paved areas and use semi-pervious materials when practical

The proposal lacks deep soil and landscape area as discussed, with considerable areas of planting being over the building (basement). Paved areas have not been minimised.

b) Include stormwater detention and recycling when practical

Stormwater detention is provided.

5. Crime prevention

a) Design using 'crime prevention through environmental design' principles

Entries, paths and spaces are offered adequate informal surveillance.

6. Accessibility

a) Use "obvious and safe" links between the site and transport and local facilities

Addressed above.

b) Provide safe environments for pedestrians and vehicles

Adequate pedestrian and vehicle separation is achieved.

7. Waste management

a) Provide facilities to maximise recycling

Waste management facilities do not satisfy all of Council requirements, as detailed and recommended below.

North Sydney LEP 2013

As noted, the site is zoned R4 High Density Residential. Although seniors housing is prohibited in this zone, and because the zone permits residential flat buildings, the SEPP proclaims that seniors housing is permissible with consent.

The maximum building height is 12m and is the base for the bonus height of 3.8m permitted by the SEPP.

Request to contravene the building height standard

The applicant's request to breach the height standard made per clause 4.6, including the available bonus, is not supported for reason that:

1. An available bonus is already proposed to be exploited.
2. Building B appears to have a substantial part of its top habitable level above the maximum height control (with bonus), without good reason. This is unacceptable, as Council has been consistent in not supporting height breaches in these circumstances across the local government area, and because this aspect of the proposal is antithetical to the objectives of cl. 4.6 (1).

3. **Is compliance unnecessary or unreasonable?**

The claims made by the applicant's request fail to pass the tests of cl. 4.6 (3) (a), in that, in relation to the building height standard's objectives:

- a) ***Objective a) landform and topography*** - The claim that the height breach is a result of the site's landform is of no consequence, as the landform/slope of the land is to be obliterated by the extent of excavation proposed, in three dimensions. The design has had no regard to the site's landform at all and does not work with it through stepping etc.
- b) ***Objective b) View preservation and sharing*** - The section that is purported to address how views are preserved or shared discusses the visual impact of the proposal, no views from nearby residential buildings are identified and the impact of the proposal analysed, in relation to the height breach.
- c) ***Objectives c) & d) Solar access and privacy*** - A compliant built form would have more reasonable amenity impacts (solar access and privacy) compared with the proposed development. The request refers to diagrams and analysis in the submitted design report to support the claim the height breach has no additional impact compared with a compliant envelope.

Solar access

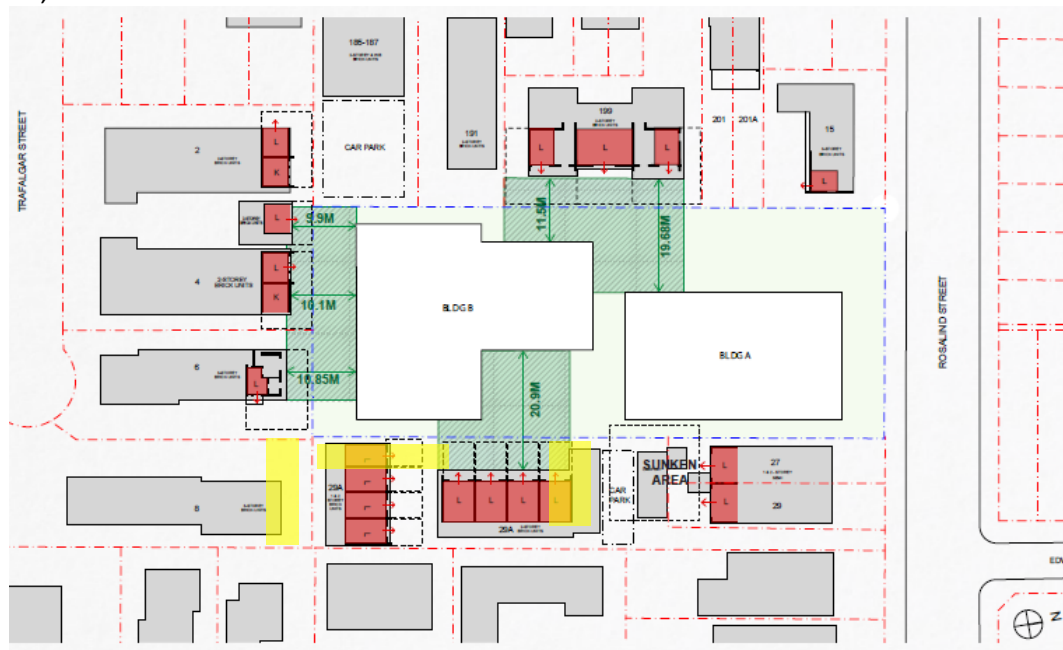
Notwithstanding, submitted shadow diagrams indicate a marginal gain in solar access for neighbours to the west, where the proposed Building A is appropriately setback from the western boundary some 14.4m. It is the setback that creates this condition, more so than being enabled by the proposed building height. Later analysis in the submitted design report suggests that to enable this setback, additional floor space that could have been accommodated on lower levels in this setback area is relocated to the top of Building B. In principle, this could represent an acceptable application of clause 4.6, however its deployment in this case is flawed, as explained below.

The design report includes diagrams that compare shadows cast by existing buildings, those in the proposed scheme, and a theoretically 'compliant scheme'. The diagrams are incorrect, due to the design of the 'compliant scheme' adopting a 6m setback at a zone boundary, whereas the ADG-recommended setback is 9m for lower levels and 12m for upper levels. As shown below in the zoning map extract, parts of the site adjoin land zoned R3 Medium Density Residential. Were these setbacks applied as recommended by the ADG, a correctly constructed envelope would have resulted, and would provide an accurate basis for comparison between a 'compliant' envelope and the proposal.

Overshadowing of neighbouring properties

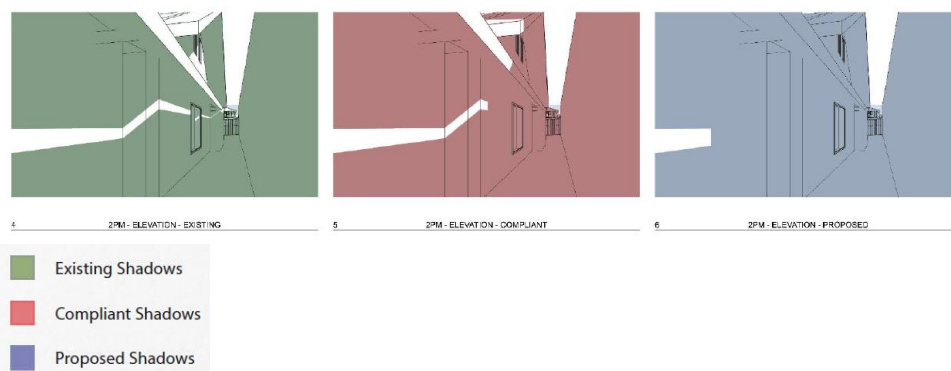
Elevation shadow diagrams allow comparison of overshadowing of buildings at, for example, 4 Trafalgar Street, south of the site. The diagrams show little difference between a 'compliant scheme' (which is non-complaint) and the proposed design. However, the shadow diagrams in plan-view (DA 400) indicate the extent of overshadowing by the proposal is significantly greater than existing shadows, and there is no diagram depicting shadows cast by a properly devised 'compliant' building envelope.

The proposed five-storey Building A would significantly reduce afternoon solar access to the private open spaces (highlighted in yellow on the image below) of 27, 29, and 29A Rosalind Street.



27 Rosalind Street

The submitted solar access diagrams primarily assess shadow impacts on the western façade of 27 Rosalind Street. However, the most significant impact is on the private open space, which has not been assessed.



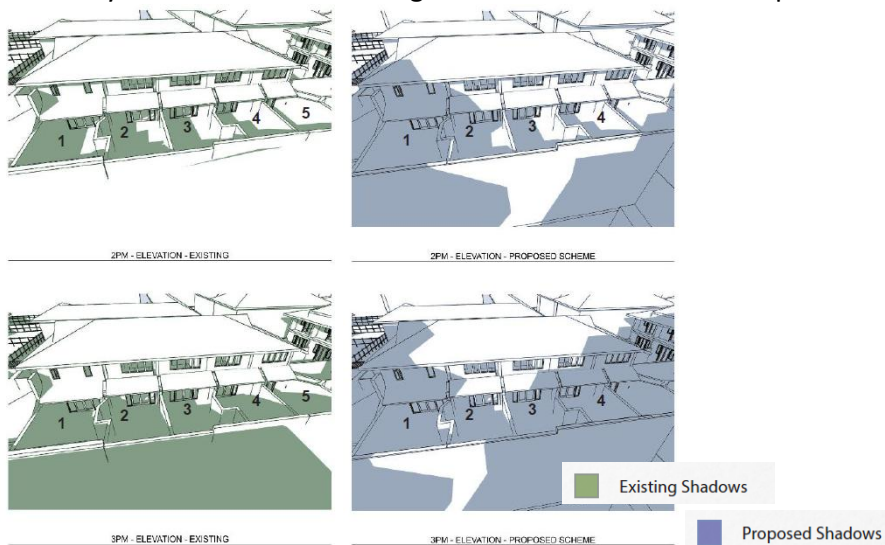
In addition, the shadow impacts shown for the 'compliant scheme' in the provided diagrams are misleading, as the 'compliant scheme' (referring to the image below) does not reflect an approach that considers the design and context of the

surrounding area. As described, it does not provide a meaningful basis for comparing the shadow impacts with the demonstrated compliant shadows.



29A Rosalind Street

The proposed Building A would result in additional shadowing to 29A Rosalind Street after 1.00 pm during mid-winter. Providing a compliant setback to the eastern boundary would assist in reducing these additional shadow impacts.



Privacy

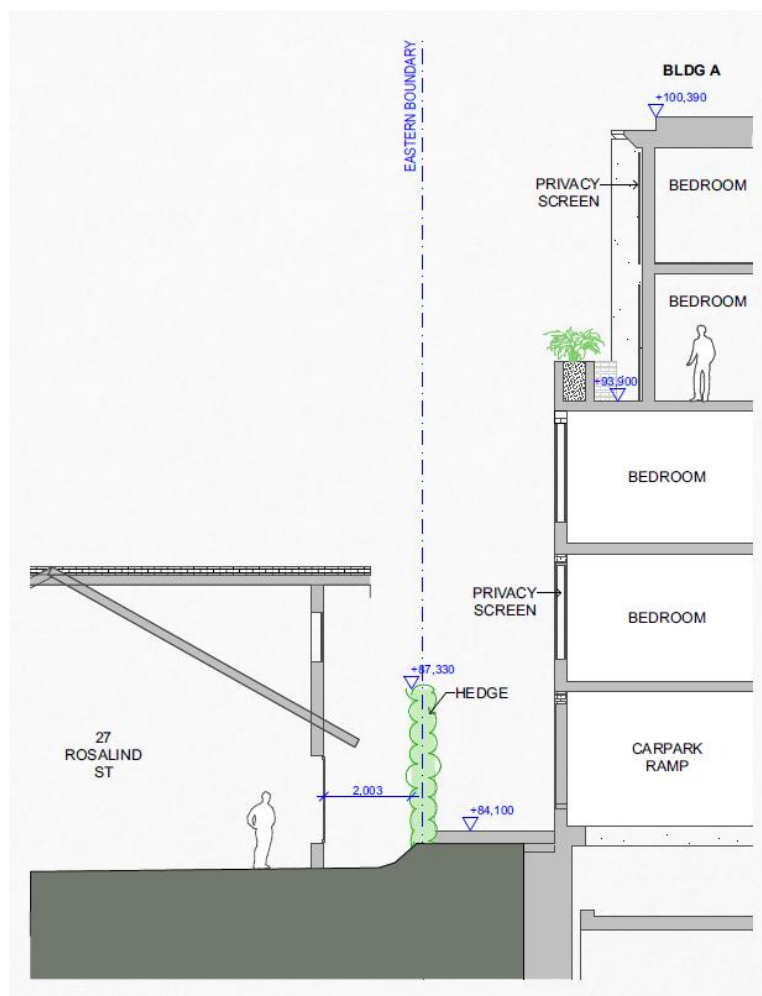
Regarding privacy, Building B and its balconies partly have adequate separation (boundary setbacks) at lower levels, at upper levels balconies protrude into the 9.0m/12.0m building separation setbacks, contrary to the ADG's guidance. Level 4 in Building A (5 levels above finished ground level) has only a 5m setback to the boundary with lower levels setback 3.0m. These should be at least 9.0m and 6.0m respectively, the adjoining land being zoned R4, like the site.

In addition to improving privacy and solar access, judiciously increasing setbacks would also create an improved transition with existing and future development of land to the site's east (assuming the land immediately adjacent the site's eastern boundary was not isolated by the proposal, as discussed later), which is zoned R4 and affected by a 12m building height maximum. To the east and west, Building B has 3.0m setbacks for lower levels (Ground to Level 3) and 6.0m setbacks for the two

levels above, although the balconies protrude into site setbacks at the upper levels, as do the rear balconies.

The design seeks to reduce privacy impacts resulting from inadequate building separation, by screening habitable room windows and via orientation. On a large site capable of accommodating setback-compliant built form, proposed solutions are unacceptable. On the eastern boundary, hedges are partly relied upon to maintain privacy and should not be.

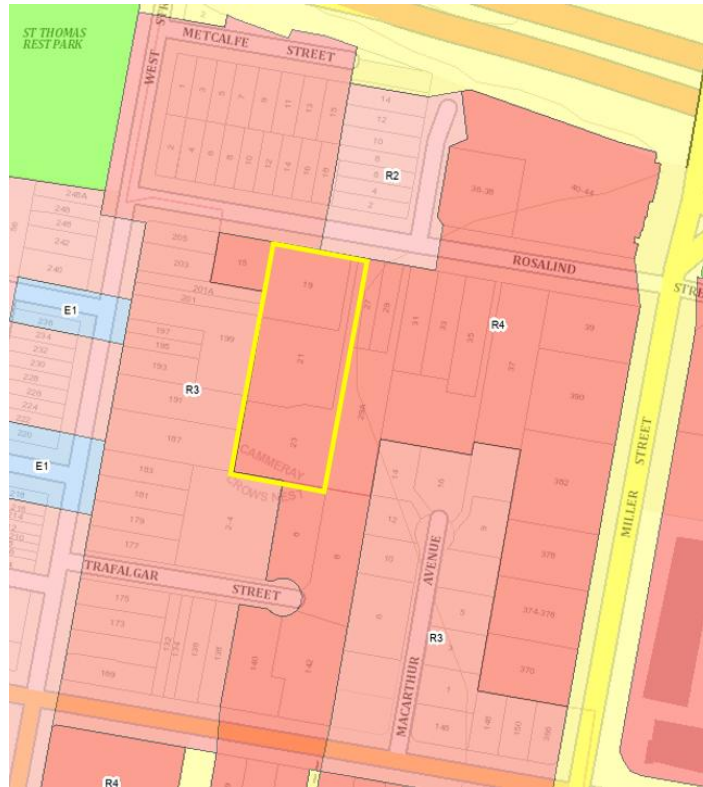
Below, the diagram shows the poor privacy relationship resulting from the building being incompatibly over-scaled when compared with the neighbouring dwelling at 27 Rosalind Street.



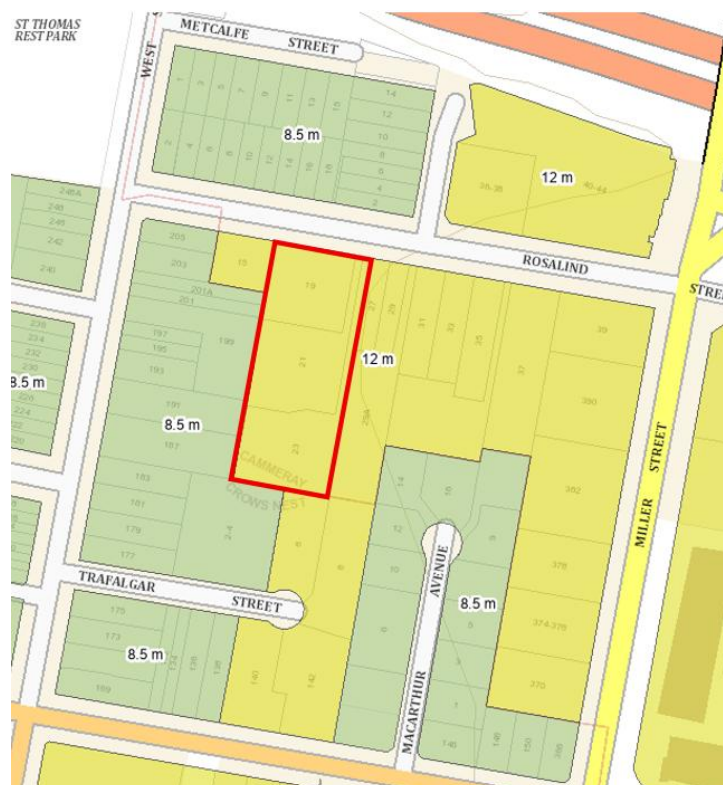
- d) **Objectives e) & f) Compatibility and character-** As examined and recommended earlier in item 1. (d) of this submission, the proposed buildings should be reconfigured to provide a transition in height and scale with neighbouring built form. This is partly reflected in and reinforced by the land use zoning and corresponding height controls applying to the site and adjacent land.

As the applicant's request notes, adjoining land is zoned R2 to the north, R3 to the west and R4 to the east and south. These zones are shown below, and another LEP map extract that follows shows corresponding height controls. When development of adjoining land is consistent with zoning and height controls, and complemented

by appropriate setbacks depending on development type, harmonious transitions can be created. With the height of the two buildings exceeding the bonus height and with inadequate setbacks to side boundaries proposed, except Building A's setback to the western boundary, the urban design and amenity impacts are by comparison with a compliant development, significant and unacceptable.



Zoning of site (yellow outline) and surrounds (eplanning spatial viewer)



Max. building height, site (red outline) and surrounds (eplanning spatial viewer)

- e) ***Other grounds used*** - The applicant's request to vary the height standard partly relies on the Principles of the Housing SEPP (s. 3), to demonstrate that compliance with the height control is unreasonable and unnecessary. In the words of the applicant's request to vary the height standard, these principles "...indicate the intention of the overall Housing SEPP policy...".

Consequently, these principles have nothing to do with any development standard and should not be used to satisfy the tests of cl. 4.6 (3) of the LEP. Any development that proposes additional housing would satisfy the SEPP's principles or aims, regardless of being either compliant or non-compliant with the height control.

The request states:

The proposed variations to the 15.8m building height development standard allows a reasonable quantum of upgraded 'ageing in place' dwellings to be provided with acceptable environmental impact, without the need to arbitrarily remove floors/apartments in order to ensure strict compliance with the development standards.

It is equally valid to state that additional habitable floor area should not be included above a development standard's limit, especially when it is not substantiated by accurate analysis. Further, compliance with a statutory development standard is not arbitrary, and valid reasons must be provided to satisfy cl. 4.6 (3) before consent may be granted.

The remainder of this passage in the request comprises statements which are non-specific or incorrect. An example is:

The building separation between Building A and B provides for greater provision of deep soil (approximately 15% of site area), landscape area (37% of site area) and communal open space for its residents (1,045m², 25% of site area).

The space between the buildings provides no deep soil as it is completely underlain by the basement. The finished ground level between the buildings at Ground Level (DA102) is not shown, however the communal space nearby has a finished level of 84.1m. On the Building A South Elevation and the Building B North Elevation the level of the "Ground Level" is 84.2m (DA202). How any planting can be carried out when it appears there is no room for it, is neither explained nor demonstrated. The part of the site above a basement is excluded from "landscape area", as the Housing SEPP's definition states (*emphasis added*):

Landscaped area *means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.*

The basement is inherent to the structure proposed and therefore occupies the site, so any part of the site with basement occupying the land directly underneath the surface cannot be "landscape area", unless supplemented by planter boxes or

similar, and in the same way any landscaped area cannot be defined as "deep soil zone".

4. Are there environmental planning grounds to justify breaching the standard?

The applicant's request provides the following as environmental planning grounds to justify departure from the maximum building height development standard, required by cl. 4.6 (3) (b).

In summary:

- a) A compliant scheme would have greater bulk and scale impacts than the proposal.
- b) The proposal results in improved visual impact, streetscape and transition of built form.
- c) Reduced over shadowing resulting from the siting and massing of the proposed buildings.
- d) Minimal environmental impacts are claimed, with regard to solar access for neighbours, providing "generous" upper level setbacks for building separation, view loss and visual impact.
- e) The development being consistent with the Aims of the EP&A Act.

Except for item 4. e) above, the environmental planning grounds submitted are based on the premise that the proposed envelope would have a lesser bulk and scale, and hence environmental impacts, when compared with a 'compliant envelope'.

While this is accepted as a valid method to support an exception to a development standard, the design of the 'compliant envelope' is incorrect, as demonstrated in item 3. c). Consequently, the premise on which the majority of the applicant's written request is based cannot be relied upon, and the request to contravene the standard fails for this reason.

Recommendation

- 9. *The application is unable to be approved as the applicant's written request for an exception to the building height development standard does not satisfy clause 4.6 (3) North Sydney LEP 2013.***

Earthworks

The LEP's provisions controlling earthworks (cl. 6.10) have not been wholly complied with as follows:

Likely disruption to drainage

The extent of excavation proposed is likely to impact local drainage patterns, although development of the nature proposed is likely capable of mitigating these impacts.

Impacts on vegetation, on the site and adjoining land

The proposal includes substantial vegetation removal (27 trees) and may impact a significant street tree. Council recommends retention of significant trees on site and in the street, as detailed below.

Effect on future development of the land and adjoining land

The scale and quantum of excavation would likely have effects on the likely future development of the land. It would influence the building envelope of a future proposal and possibly limit options for redevelopment.

Consideration of quality and removal of fill

This matter is typically addressed via a condition of consent.

Effect on Aboriginal objects

The submitted archaeological due diligence report concludes there is "...nil-low Aboriginal archaeological potential".

Impact on environmentally sensitive areas

Being in the Sydney Harbour catchment, site preparation, construction and operational phases of development would be expected to be suitably managed via conditions, were consent granted.

Mitigation measures proposed

As noted, mitigation measures proposed can be mandated by conditions should consent be granted.

Residential flat buildings

As the site is zoned R4 High Density Residential cl. 6.12 applies, stating that consent may not be granted unless adjoining land occupied by a dwelling house, dual occupancy or semi-detached dwelling is at least 900m² in area or can accommodate a residential flat building.

27 and 29 Rosalind Street, which immediately adjoin the site's eastern boundary, are occupied by two semi-detached dwellings. The size of the lots so-occupied combined is less than 900m². The lots' combined area is about 650m², and their combined width is about 16.6m. Each lot accordingly has an area of approximately 320m² and a width of some 8.3m. Either in isolation or combined, this land cannot accommodate a residential flat building.

Recommendation

- 10. Because the proposed development site adjoins land zoned R4 that is less than 900m² and cannot be developed for the purpose of a residential flat building, consent must not be granted.***

Urban Design

Council's urban designers have contributed to the foregoing planning assessment and recommendations.

Landscape Design & Tree Preservation

The application is not supported for the following reasons:

1. Trees T29 and T40 (both *Melaleuca quinquenervia*, Broad leaf paperbark) located within the property are to be retained, not removed as identified by the submitted Arboricultural Impact Assessment Report.
2. Regarding T29 the plans require reconfiguration, to relocate the substation and 'flip' the garden and pedestrian path, enabling retention of this large and stately tree.
3. The stormwater pit shown to be located between the substation and the proposed driveway is to be moved closer to the driveway and away from T29. The inground stormwater pipe is to be relocated closer to the building alignment and retrofitted around encountered roots greater than 3cm in diameter.
4. Tree T40 is to be preserved, as this large tree provides good screening and separation from adjoining property No 6 Trafalgar Street.
5. The proposed development will likely necessitate removal of significant canopy volume thereby negatively impacting native animals, witnessed during the site inspections. – An ecological study and management strategy is required.

Recommendation

- 11.** *The design of the development must be amended to protect trees and an ecological study and management plan must be prepared to protect habitat for avifauna and arboreal mammals/marsupials.*

Transport and Traffic

Based on their review of the proposed development, Council's engineers have recommended as follows, should the proposal be satisfactorily amended and able to proceed:

Recommendations

- 12.** *The applicant should demonstrate that an ambulance vehicle can be fully accommodated within the site boundary when parked on the driveway, ensuring no obstruction to the public footpath. Reliance on on-street parking is not supported, as parking restrictions may change over time.*
- 13.** *The applicant should confirm that the development's servicing requirements (deliveries, trades, removalists etc.) can be adequately accommodated on-site, including larger service vehicles (e.g. SRV or MRV). Reliance on on-street parking to support servicing operations is unacceptable.*

ACCESS & AGED CARE, SENIORS HOUSING & AFFORDABLE HOUSING

Below, key points of Council's social planner's assessment and recommendations follow.

Ambulance Parking

The proposal does not comply with having a space for the purpose of ambulance parking, and proposes on-street, driveway parking for an attending ambulance. In accordance with the above recommendation, this unacceptable.

Residential care

The applicant must demonstrate how the proposed RCF component meets the definition of an RCF under the Seniors Housing Design Guidelines. It is unclear how the RCF will be managed in a way that is consistent with the intent of residential care - to provide 24-hour support, safety, and personal care when living independently is no longer viable, so that people can live with dignity, promote their wellbeing, and quality of life through tailored care, social connection, and homely environment.

It would be very difficult to operate such a facility where it is designed to be located, and in a “stop-start” fashion and to ensure continuity of care with a Registered Nurse (RN) who would need to be available for 24-hour care of residents in the facility.

Should the development be amended as recommended by the preceding planning assessment, a satisfactory Operational Plan of Management for the residential care facility must be prepared that outlines the staffing and workforce planning arrangements, hours of operation, security arrangements, deliveries, fire safety and emergency procedures, cleaning and waste management for the development and include a plan for continuity of care from a Registered Nurse who must be available 24 hours a day, 7 days a week.

Seniors housing and aged care demand

In the North Sydney LGA between 2016 to 2021 there was an increase of 2,457 residents aged 50 years and over. In Cammeray between 2016 to 2021 there was an increase of 290 residents aged 50 years and over.

In 2021, 33% of households in Cammeray contained only one person, compared with 38.5% in the North Sydney Council area, with the most dominant household size being 2 persons per household.

Cammeray is expected to have a moderate growth in people aged over 60 years in the next 10 years between 2026-2036.

The greatest growth will be in the growth of those aged over 80 years of age. This is a group which typically has an increase in disability and needs more specialist care. In 2021, 147 people (or 2.1% of the population) in Cammeray reported needing help in their day-to-day lives due to disability. In 2021, 1,713 people (or 2.5% of the population) in North Sydney Council area reported needing help in their day-to-day lives due to disability.

Conclusion:

There is a great need for senior-specific rental housing, but also affordable independent living options. The Ageing Well in NSW: Action Plan 2025–2026 includes a recommendation to support more older social housing residents to age in place. Opportunities to harness an increase in stock of social housing are urgently needed.

AFFORDABLE HOUSING

It is estimated that 1,660 households have an unmet need for affordable housing in North Sydney. Over the next 10 years (to 2036), lone person households in the LGA along the housing continuum are projected to increase from 13,327 to 15,527. Currently, the household type most in need of affordable housing in the LGA is lone persons (543 households, per Housing Monitor data).

Housing mix and affordability are important considerations to incorporate into seniors housing. The comment on housing in the North Sydney Council Older Persons Strategy 2018-2022, is still pertinent in 2026:

“Population ageing will have an impact on housing issues. Housing is essential to health and wellbeing. Research has shown that housing must allow older people to age comfortably and safely as it influences their independence and their quality of life. Specifically, it is important housing is affordable, has an accessible design, is flexible to meet the cultural needs and can be easily maintained and modified as the person ages. Many older people will age in their family homes and will need strategies to help make their homes safer. Over the coming years it is expected that more people will reach 65 not owning their own home and more people will be long-term renters. Older people wanting to move house will be looking for a mix of retirement living and smaller housing in their own community that is located close to transport and services” (p. 19).

The Seniors Housing Design Guide (December 2023) published by the NSW Department of Planning and Environment highlights the importance of a housing mix of bedroom sizes in seniors housing for several key reasons:

1. Caters to diverse needs, offering flexibility for affordability, care arrangements, and lifestyle preferences.
2. Encourages social inclusion, supporting a varied resident population and reducing isolation.
3. Supports ageing in place, allowing space for carers or equipment as needs change.
4. Improves affordability, enabling tiered pricing for different financial situations.
5. Aligns with wellness-focused design, ensuring adaptability for physical and cognitive changes.

The proposal will remove some long term, lower cost rental housing from the private rental market. The potential negative social impacts of this loss are not adequately addressed in the applicant’s supporting documents, and the cumulative loss of lower cost housing is not meaningfully discussed.

While the proposal has merit because seniors housing is needed in the North Sydney LGA and Cammeray, there are significant issues with this development as outlined above.

Recommendations

14. *Recalibrate the size of the development and adjust the number of Residential Care Facility rooms to better allow for “ageing in place”.*
15. *Demonstrate how the proposed Residential Care Facility component meets the description of such a facility in the Seniors Housing Design Guide.*

16. *Provide a satisfactory Operational Plan of Management for the Residential Care Facility that outlines staffing and workforce planning arrangements, hours of operation, security arrangements, deliveries, fire safety and emergency procedures, cleaning and waste management for the development, including a plan for continuity of care from a Registered Nurse(s) attached to the Residential Care Facility and who is(are) available 24 hours a day 7 days a week, and is capable of support from other clinicians as necessary.*
17. *Redesign the area for Ambulance Parking, to provide a dedicated on-site ambulance space.*
18. *If the development proceeds, consideration of the affordable housing impacts should include imposing conditions to cover loss of affordable housing by requiring 5% of the seniors housing to be affordable housing in perpetuity and managed by a Tier 1 Community Housing Provider (CHP) operating in NSW. Further, assistance be provided for residents who would face displacement, with the applicant developing a relocation plan for those residents needing rehousing.*

WASTE MANAGEMENT

The operational waste management plan and facilities for the proposed development must be amended, as recommended.

Recommendations

19. *The design must be amended to comply with Council's waste management requirements, as follows:*
 - a) *1100 litre bins are permitted; however the property is to be supplied these bins by the developer or subsequent owner. 4 x 1100L general waste bins are required.*
 - b) *240 litre recycling bins on each level is satisfactory. 11 x 240L recycling bins would be required across both buildings.*
 - c) *A 12m² bulky waste room with 1.5m wide doors is required, separate from the waste storage room.*
 - d) *120 litre food waste bins are required on each level near the garbage chute. A total of 12 x 120 litre food waste bins are required for the property. Areas on each floor for the food waste bins must be designed for regular cleaning and effectively manage odour.*
 - e) *The bin holding bay must be able to accommodate all the bins for collection – i.e. general waste, recycling and food waste.*

CONCLUSION

Council appreciates the opportunity to make this submission and acknowledges the Department's indulgence in extending the time allowed for submission.

Further involvement in project planning and engagement is positively anticipated, with amendments recommended to be made to the proposal as detailed in this submission to resolve Council's grounds for objecting to the application.

Should you wish to discuss the contents of this submission, please contact Mr Jim Davies, Executive Planner, on 9336 8378, or at jim.davies@northsydney.nsw.gov.au.

Yours sincerely,



**Stephen J Beattie
SERVICE UNIT MANAGER DEVELOPMENT SERVICES**