



**MAJOR PROJECT ASSESSMENT:
*Redevelopment of the Scottish Hospital for Seniors Living
Development
2 Cooper Street, Paddington
(MP10_0016)***



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

March 2012

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning and Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning and Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ILU	Independent Living Unit
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PFM	Planning Focus Meeting
PPR	Preferred Project Report
Proponent	Presbyterian Church (NSW) Property Trust
RACF	Residential Aged Care Facility
RtS	Response to Submissions

Cover Photograph: Oblique aerial view of the existing Scottish Hospital.

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EXECUTIVE SUMMARY

This report represents the Director-General's assessment of a Project Application for a Seniors Living Development submitted by the Presbyterian Church (NSW) Property Trust ("the Proponent") on land known as The Scottish Hospital, at 2 Cooper Street Paddington ("the site"). The project includes:

- Demolition of some existing structures on site and removal of 88 trees;
- Construction of a new 100 bed Residential Aged Care Facility (RACF), incorporating 20 dedicated dementia care beds, on the Stephen Street frontage;
- Construction of 79 Independent Living Units (ILUs) comprising a mix of 1, 2 and 3 bedroom apartments;
- Conservation of the heritage listed former Scottish Hospital building and its adaptive reuse for ILU apartments;
- 132 on site car parking spaces for use by residents, visitors and staff;
- New landscaping incorporating the retention of all heritage listed trees (with the exception of 1 approved to be removed by Council) and the reinterpretation of the remnant landscaped terraces in the northern curtilage of the former Scottish hospital building; and
- Remediation of the site.

The Environmental Assessment was publicly exhibited from 17 November 2010 until 17 December 2010. A total of 93 submissions were received comprising 79 public submissions (including one petition of 180 signatures), 7 submissions from Local and State Government authorities, and 3 submissions from local politicians and interest groups. Issues raised in the submissions included height, bulk and scale, view loss, loss of outlook, streetscape aesthetics, heritage, landscape character, privacy, site contamination, traffic access and parking. These matters are considered in the report and further addressed via the Department's recommended terms of approval.

In response to the issues raised in the submissions and by the Department, the proponent submitted a Preferred Project Report (PPR). Key amendments made in the PPR were a reduction in the height of the Brown Street ILU building by 1 storey so that it would not exceed the height of the ridgeline of the heritage building and changes to the Stephen Street elevation of the RACF building to address concerns relating to privacy, bulk and scale.

The amendments made in the PPR did not fully address the Department's concerns regarding the bulk and massing of the Stephen Street RACF building. **Condition B1** requires the upper levels of the RACF building to be setback an additional 2 metres from Stephen Street. This additional setback will further articulate the building, open the streetscape and increase the separation from the buildings on the eastern side of Stephen Street.

The key issues considered in the Department's assessment include:

- Built Form;
- Heritage;
- Amenity Impacts to adjoining properties;
- Access, Car Parking and Traffic; and
- Residential Amenity.

The Department has assessed the proposal on its merits and is satisfied that its impacts have been addressed via the PPR, the Statement of Commitments and the Department's recommended terms of approval. The Department is of the view that the impacts of the proposal can be suitably mitigated and/or managed to ensure satisfactory environmental performance and a good planning outcome. The proposal will assist in meeting the growing demand for seniors housing and aged care accommodation in the East Sydney Region.

It is recommended that the application be **approved** subject to the conditions specified in the Instrument of Approval pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* ('the Act').

In accordance with the Minister's delegation of the 14 September 2011, the application is forwarded to the Planning Assessment Commission (PAC) for determination as Woollahra Council has objected and more than 25 public objections have been received. The Proponent has declared that no reportable political donations have been made.

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1. BACKGROUND

1.1 Site Description

The site is known as the Scottish Hospital and is legally described as Lot 2 in DP 607572. The street address of the site is 2 Cooper Street, Paddington. It is located within Woollahra Municipality, within the eastern suburbs of Sydney. The site has an area of 1.478 hectares and is roughly rectangular in shape. It has a western frontage to Brown Street of 129.1 metres, a southern frontage to Cooper Street of 121.4 metres, an eastern frontage to Stephen Street of 144 metres, and a northern frontage to Dillon Street Reserve of 90.32 metres.

The location of the site is shown in **Figure 1**.



Figure 1: Project Location (Source: Google Earth)

1.2 Site Features & Existing Development

The site is steeply sloping, with a fall of 14 metres from the southern Cooper Street frontage to its northern boundary. The site also falls away from its western boundary, forming a type of basin in the south-western corner of the site.

The topography of the site has been substantially altered through cut and fill largely as a consequence of extensive horticultural activities in the mid to late 1800s, the most noticeable of which are the landscaped terraces to the north of the Scottish Hospital building. While much of the sandstone retaining walls comprising the terraces have been buried over time, their location and alignment are capable of being discerned (refer to **Photo 1**, in Table below). The uppermost sandstone retaining wall of existing terraces is visible and is largely intact. Some of the fill on the site is known to be contaminated.

The site is characterised by extensive vegetation cover, including a number of significant and heritage listed trees that are associated with the original 1840s estate and its conversion into a hospital in the early 1900s.

Existing development on the site comprises the heritage listed Scottish Hospital building on the Cooper Street frontage. Unsympathetic modern additions to the Scottish Hospital Building, comprising the former operating theatre wing, are visible on the Cooper Street frontage and

extend along the southern section of the Stephen Street frontage of the site. A four storey nursing home (c1970s) is setback from the alignment and below the level of Brown Street.

The Scottish Hospital building and adjoining Stephen Street operating theatre wing are currently disused. The Brown Street nursing home is operational and accommodates 88 beds, including 20 dedicated dementia care places.

Existing vehicular and pedestrian access is provided at the north-western corner of the site, off Brown Street. This is the only vehicular access to the site. On site car parking is provided on a sealed bitumen surface, located towards the centre of the site.

1.3 Surrounding Development

The site is located within the Paddington Heritage Conservation area, and surrounding development is predominantly characterised by fine grained 2-3 storey Victorian terrace house development. The exceptions to this are the two substantial circa 1970s high-rise residential flat buildings located at 40 Stephen Street and 176 Glenmore Road (frontage to Cooper Street between 15 and 17 Copper Street) and the interwar 3-4 storey flat buildings fronting the southern side of Cooper Street.

Refer to **Figure 2** for the existing site layout.

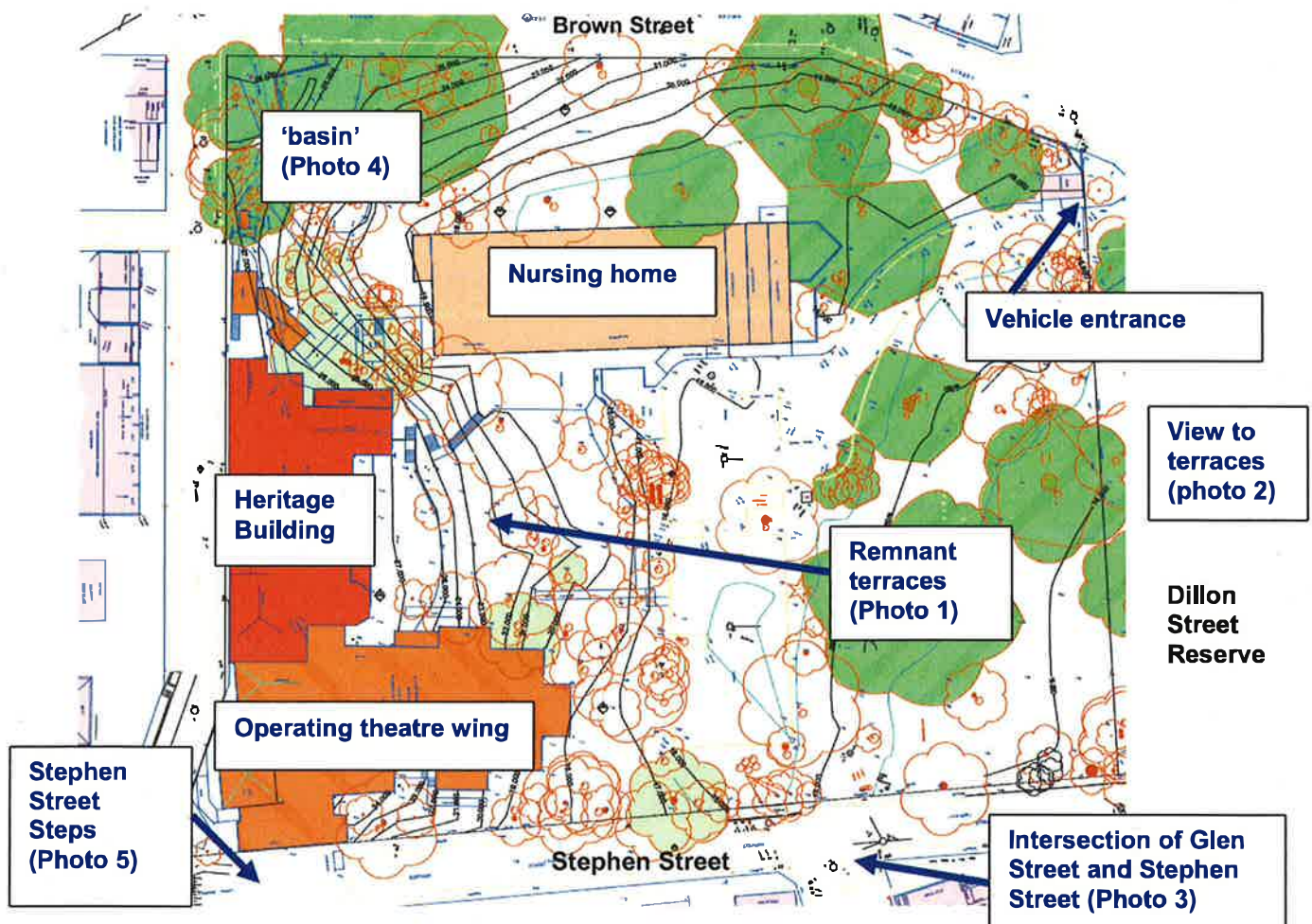


Figure 2: Existing Site Layout (Source: PPR)

Table 1: Site Inspection Photographs

Photo 1: Much of the remnant terracing is buried, but can be interpreted as a series of steps in the landscape of the site.



Photo 2: Looking north into the site from Dillon Reserve.



Photo 3: Looking south from the intersection of Stephen Street and Glen Street towards the stairs at the end of Stephen Street.



Photo 4: Looking East along Cooper Street, from the intersection of Brown Street and Cooper Street.

1.4 Site History

The site is a remnant of an original 1833 land grant of 3.814 hectares by Governor Bourke, to John Edye Manning, register of the Supreme Court. In c.1848 the construction of a large Georgian style house ("The Terraces"), and the layout of the grounds, was completed. A prominent solicitor and amateur horticulturalist, Henry Burton Bradley established an extensive terraced garden in the 1850s. It appears that the terracing was substantially remodelled in the 1920s, through the placement of additional fill, with only the uppermost sandstone retaining wall of the house being retained in its original form.

The Moreton Bay Figs, the Kauri Pine and the Holm Oak (all listed on Woollahra Council's Register of Significant Trees) were planted along the Brown Street frontage of the site in the 1870s. The house was converted in the early 1900s to a private hospital and architecturally remodelled in the Edwardian Arts and Crafts Style.

The Presbyterian Church has a long association with the site and has used it to provide aged care and hospital services.

2. PROPOSED PROJECT

2.1. Project Description

Presbyterian Aged Care NSW & ACT proposes to develop and operate the site for the purposes of aged and community care services and seniors housing. The project layout is shown in Figure 3. The key components as presented in the PPR are as follows:

- Demolition of the 88 bed Residential Aged Care Facility (RACF), and the redundant former hospital operating theatre wing;
- Construction of a new 100 bed RACF, incorporating 20 dedicated dementia care beds adjacent to Stephen Street;
- Construction of 79 independent living units (ILUs) comprising a mix of 1, 2 and 3 bedroom apartments, to be located within the heritage building and 4 proposed new buildings (i.e. the Residential Aged Care Facility (RACF), the Cooper Street Gatekeepers Lodge (GKL), The Brown Street ILU Building (B) and the Stephen Street ILU Building (S);
- Retention and conservation of the heritage listed Scottish Hospital building in accordance with the Conservation Management Plan and its adaptive re-use for ILU apartments;
- A publicly accessible pocket park on the corner of Cooper and Brown Streets, to function as a pedestrian drop-off and collection point. An accessible pedestrian entrance ramp and security gate will provide access to the site;
- Provision of 132 on site car parking spaces (124 basement spaces and eight surface spaces located adjacent to the Brown Street vehicular entrance) for use by residents, visitors and staff;
- Provision of a loading dock on the Stephen Street frontage of the site to service the RACF building;
- Retention of the driveway off Brown Street as the main vehicular entrance point to the site;
- Landscaping of the site including conservation and interpretation of the landscaped terracing in the northern curtilage of the Scottish Hospital building, retention of 51 trees including all heritage listed trees; and the replacement of approximately 80 trees proposed for removal with more site-appropriate vegetation; and
- Remediation of the site, including the removal of an incinerator and associated fuel storage tank and treatment of unclean fill.

The PPR includes a draft voluntary planning agreement (VPA) with Woollahra Council. The VPA provides for:

- The dedication to Council of a 1,366m² of the site, to be incorporated into the Dillon Street public reserve;
- The dedication of part of the site to enable footpath widening in Stephen Street; and
- The dedication of part of the site to Council to enable the construction of additional public parking in Stephen Street.

At the time of writing this report, no agreement had been reached between the proponent and Council on the VPA.

Operation and Maintenance

The PPR states that, "it is intended that the proposed facility be owned in perpetuity by the Presbyterian Church (NSW) Property Trust, and operated by Presbyterian Aged Care, the established aged care arm of the Presbyterian Church."

The proposed staffing numbers for the site would range from 70-100 employees, which is a net increase of 30 employees, compared to the current operation. It is anticipated that there would be a maximum of 20-30 staff on the site at any one time. Additional staff would be employed to maintain the buildings and landscaping on the site.

Community uses proposed to be accommodated within the Brown Street building include a community room, games room, reading library, a gym and a hydrotherapy pool. An Operational Management Plan has been included in the PPR and addresses factors such as access and security, staffing, maintenance, emergency services and waste management.

The proposed development will facilitate 'ageing in place', in that the occupants of the independent living units will not be forced to seek suitable alternative accommodation off-site, should their change of life circumstances necessitate assisted care and/or accommodation within a residential aged care facility.

Preferred Project Report (PPR)

The PPR included a number of amendments to address concerns relating to bulk and scale, landscaping and heritage. The amendments included:

- The deletion of a storey from the Brown Street ILU building (9 storeys to 8 storeys);
- The reconfiguration of the northern and eastern elevations of the Stephen Street RACF, to improve its articulation and reduce its bulk and scale;
- Lowering the RACF air conditioning condenser units near the Stephen Street boundary further into the ground and enclosing them with louvered screens, to improve their acoustic performance and reduce their visual impact;
- Specific measures to address the visual privacy concerns of 4 Cooper Street;
- Provision of an alternative design for the loading dock, with access from Brown Street. The proponent seeks approval to have their loading dock on Stephen Street. The alternate design has been provided to demonstrate another solution if the Department does not support the Stephen Street location;
- Three options for the landscape treatment within the boundary setback area on Stephen Street in order to address the concerns of residents in Stephen Street relating to streetscape privacy, bulk and scale; and
- The provision of additional information/ clarification in response to the Department's concerns regarding contamination, SEPP 65 assessment, internal solar access, traffic (loading and unloading activities, car parking numbers), water sensitive urban design measures, stormwater runoff, noise impacts, urban design, and view loss analysis.

The amendments result in a reduction in floor space of 561.4m² (from 19,509.6m² to 18,948.2m²), with the FSR changed from 1.32:1 to 1.28:1. The number of proposed ILUs has been reduced from 82 to 79.

The various component buildings of the PPR are illustrated in **Figure 3** below.

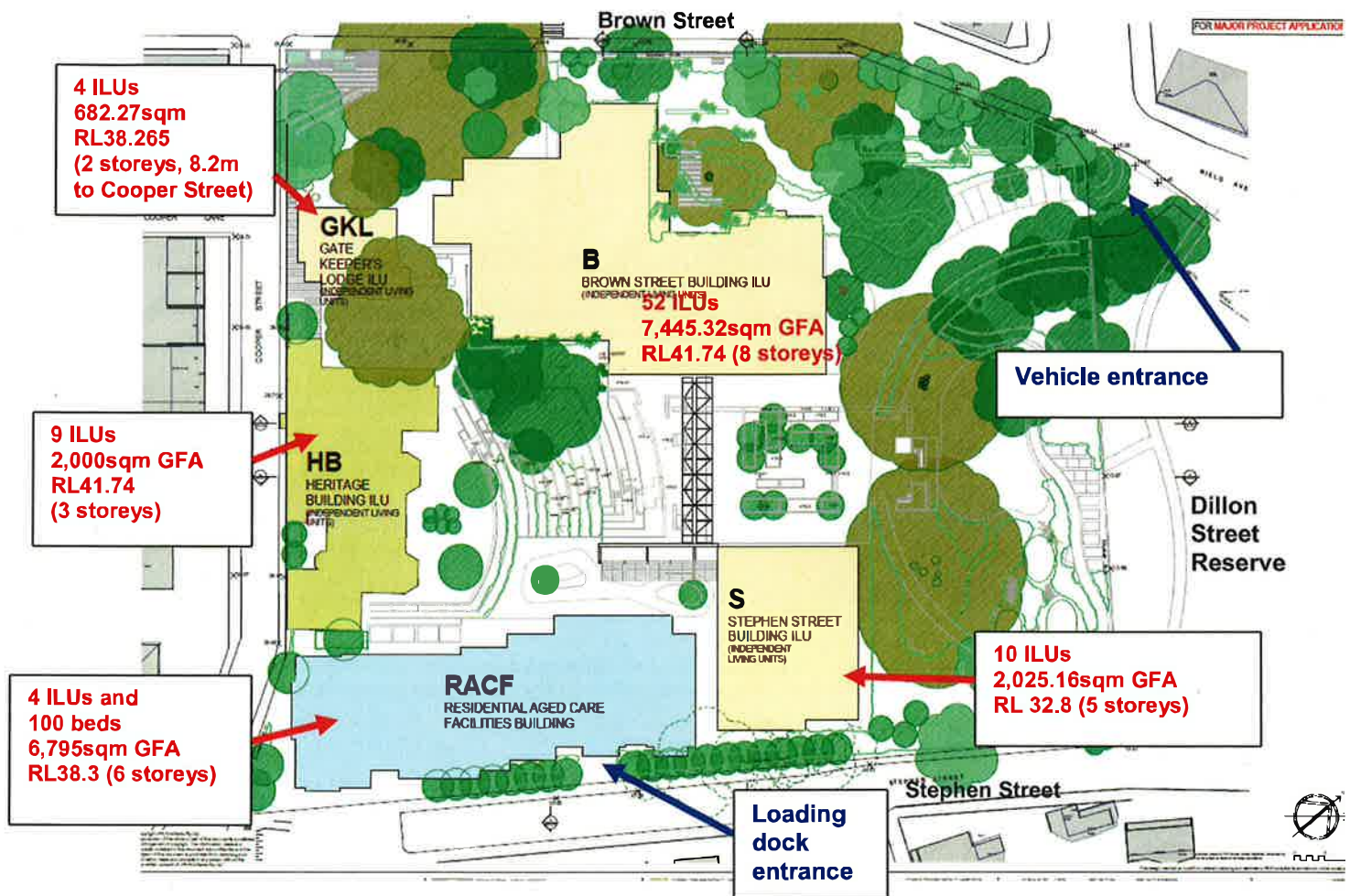


Figure 3: Project Layout showing the location of the various components of the proposal, distribution of floor space, servicing and vehicular access (Source: PPR).

2.2. Project Need and Justification

NSW State Plan - NSW 2021

The NSW State Plan, *NSW 2021* is a 10 year plan to rebuild the economy, provide quality services, renovate infrastructure, restore government accountability, and strengthen local environments and communities. The project is consistent with Goals 12, and 13 of the plan, as it will provide world class clinical aged care and dementia services, together with the provision of services and accommodation necessary for aged and disabled persons, being some of the most vulnerable members within the NSW community. The site is in close proximity to hospitals, other health care services and public transportation, and will serve to strengthen the community's ability to respond appropriately to the increasing demand for seniors housing and aged care services.

The Metropolitan Plan for Sydney 2036

The Metropolitan Plan for Sydney 2036 (the Plan) is a strategic document that guides the development of the Sydney Metropolitan area towards 2036. It sets out housing and employment targets for the Sydney region at 770,000 additional dwellings and 760,000 new jobs by 2036. The Plan aims to locate at least 70% of new dwellings within existing urban areas, with 80% of new dwellings to be located within walking distance of a centre.

The Plan also highlights the aging Sydney population, estimating that by 2036 one in six people in Sydney would be aged 65 or more, compared to one in eight in 2010.

The proposal is generally consistent with the aims of the Metropolitan Plan for Sydney 2036, as it will contribute toward meeting overall dwelling targets. It will locate dwellings suitable for older persons or persons with a disability within existing urban areas serviced by public transport. The proposal will generate employment during its construction and ongoing operation.

Draft East Subregional Strategy

The proposal is consistent with the Draft East Subregional Strategy which forecasts a significant increase in the ageing of the subregion's population. Approximately 13.5% of the subregions population is currently aged over 65 years. This is expected to increase to 18% by 2031. Accordingly, there is a need to provide additional seniors housing and aged care facilities. In this regard, the proposal will provide additional accommodation suitable for seniors, together with much needed aged care services. The combination of proposed aged care services, dementia care, and independent living units, will provide for "ageing in place" within the site.

The proposed 79 ILUs will assist Woollahra Council in achieving its new dwelling target of 2,900 new dwellings by 2031, identified under the Subregional Strategy. Further, the 100 proposed full-time jobs (a net increase of 30 jobs from the existing 70 jobs) will assist Council in meeting its employment target of 300 jobs by 2031.

The proposed adaptive reuse of the heritage listed former Scottish Hospital building for independent living units will create the financial viability necessary to ensure the long-term conservation and management of this important historic building. The adaptive reuse together with the implementation of the Conservation Management Plan will ensure that the significance of the site is preserved for the future enjoyment of the future occupants and the wider community.

3. STATUTORY CONTEXT

3.1. Major Project

The proposal was declared a Major Project on 9 March 2010, under Clause 13 Major Development SEPP (as it existed at the time) as it satisfied the mandatory criteria applicable at the time, being a residential development with the capital investment value in excess of \$100 million. The Director-General's Environmental Assessment Requirements (DGRs) were issued on 6 May 2010.

On 1 October 2011, the NSW Government repealed Part 3A of the EP&A Act and replaced it with an alternative system for the assessment of projects of State Significance. As this project is at an advanced stage, it continues to be assessed by the Department as a transitional Part 3A project under the savings and transitional provisions.

3.2. Permissibility

The site is zoned 5 *Special Uses (Hospital)*, under Woollahra LEP 1995 and only hospitals or land uses ancillary or incidental to hospitals are permissible. 'Housing for aged persons' is not a permissible use within the zone and the proposal is therefore only partially permissible under the provisions of the LEP.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, herein referred to as SEPP HSPD, is applicable as the site is zoned primarily for urban

purposes (Special Uses) and hospitals are permissible. Further, the proposed RACF and ILUs satisfy the relevant definitions within the plan.

Accordingly, while the proposal is only partially permissible under the provisions of Woollahra LEP 1995, all aspects of the proposal are permissible with consent under the provisions of the SEPP HSPD.

3.3. Environmental Planning Instruments

The Department's consideration of the relevant SEPPs and other EPIs is at **Appendix D**.

Under Sections 75I(2)(d) and 75I(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy (SEPP) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPI) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project. These comprise:

- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;*
- *State Environmental Planning Policy No. 65;*
- *Woollahra LEP 1995;*
- *Paddington Heritage Conservation Area DCP 2008; and*
- *Woollahra Planning Principles for the Scottish Hospital Site.*

3.4. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5 of the Act. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The project is generally consistent with the relevant objects of the Act. The proposal represents the proper management, development and economic use of the land in accordance with the zoning and applicable Environmental Planning Instruments. The project provides for the social and economic welfare of the community through the provision of accommodation and facilities for seniors.

3.5. Ecologically Sustainable Development

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

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

While the proposal involves an increase in floor space compared to the existing development, this largely occurs in the vicinity of the footprints of the existing buildings, which preserves significant vegetation and permits 56% of the site to be maintained as landscaped open space.

The project was accompanied by a report prepared by Cardno ITC which documents the various environmental initiatives to be incorporated into the project. These initiatives include the installation of photovoltaic solar energy system, domestic or water heat pumps, solar hot water heating, domestic and landscape initiatives to reduce water consumption, including stormwater treatment and reuse, together with best practice waste management. The proposal is considered to be consistent with the relevant ESD principles.

3.6. Statement of Compliance

In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

3.7. Environment Protection and Biodiversity Conservation Act

The Grey-headed Flying-Fox, a threatened fauna species was found to occur within the site. The fauna assessment indicates that the species is known to roost at the Royal Botanic Gardens approximately 1.5 km from the site, and states:

"Individuals from this camp forage extensively throughout Sydney. It is likely that the Grey-headed Flying-Foxes recorded foraging within the site are from this camp. Development of the subject site is not considered to have an impact on this species because it will result in the removal of a negligible area of foraging habitat for the species."

The fauna assessment's Seven Part Test on the species concluded that:

"Any proposed development of the subject site is not likely to have a significant impact on this species. No Species Impact Statement is required."

The Department believes that the Proponent has proposed suitable mitigation measures which include pre-demolition removal of roofs and manual fauna removal to minimise the impact of the proposal on other non-threatened nocturnal fauna species which inhabit the site. As such, no further consideration is required in this regard.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

Under section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment (EA) of an application publicly available for at least 30 days. After accepting the EA, the Department publicly exhibited it from 17 November 2010 until 17

December 2010 (31 days) on the Department's website, and at the Bridge Street office of the Department of Planning & Infrastructure, Woollahra Council administrative offices and Double Bay Central Library. The Department also advertised the public exhibition in the *Sydney Morning Herald*, the *Daily Telegraph* and the *Wentworth Courier* on 17 November 2010 and notified landholders, and relevant State and local government authorities in writing. The Department received 93 submissions during the exhibition of the EA - 8 submissions from public authorities and 85 submissions (including 2 pro formas) from the general public and special interest groups. A summary of the issues raised in submissions is provided below.

The PPR was placed on the Department's website and notified to Woollahra Council, the National Trust, the Paddington Society and the Scottish Hospital Action Group. Submissions were received from Woollahra Council, the National Trust, the Paddington Society and the Scottish Hospital Action Group, together with 11 submissions from the general public. All submissions received in response to the PPR were by way of objection.

4.2. Public Authority Submissions

Eight submissions were received from public authorities which include the Heritage Branch, Roads and Traffic Authority, NSW State Transit Authority, Transport NSW, Sydney Water and Woollahra Council. NSW Health and Department of Health and Ageing did not raise any objection to the proposed development.

Woollahra Council objects to the EA and the PPR. The issues raised are:

- Height, density and bulk of the new buildings resulting in impacts to the heritage listed buildings and trees. The Principles of Burra Charter have not influenced the final design;
- Paddington Heritage Conservation Area will be detrimentally affected by the density and bulk of proposal;
- Height and siting of the proposed Brown Street ILU building will affect the amenity of the landscaped terraces, passive recreation. The terraces and middle link garden will be overshadowed at all times of the year;
- Stephen Street ILU will have a detrimental impact on the streetscape and views from Stephen Street and Glen Street. The building should be setback further from Stephen Street to retain all existing trees;
- Alterations to the roof level of the Scottish Hospital will affect its heritage significance;
- Views from private properties and the streetscape in Cooper Street will be affected by the Brown Street building height;
- Proposed buildings will affect heritage listed trees;
- Excessive tree removal;
- Inadequate regard for neighbourhood amenity and streetscape;
- Stephen Street service delivery loading dock is unsatisfactory;
- Information submitted with proposal is misleading i.e. floor space, scale model and height of existing building at 40 Stephen Street and 3D images;
- Excessive car parking and excavation for this use;
- No proper heritage based justification for reinterpretation of terraces; and
- Inconsistency with the 'Planning Principles' for the site (formulated and adopted by Woollahra Council).

Department comment

Woollahra Council's submission uses the 16 planning principles contained in the Woollahra Council document, "Statement of Planning Principles for the Redevelopment of the Scottish Hospital Site" as a framework for the assessment of the proposal. The "Statement of Planning Principles..." was adopted by Woollahra Council on 11 October 2010 and is an expression of Council policy. While the Planning Principles do not have the status of a planning instrument or a Development Control Plan, it is the intention of Woollahra Council

that the 16 planning principles form the framework for any redevelopment of the Scottish hospital site. In this regard, consideration is given to the Planning Principles in **Appendix D** and throughout this report, where relevant.

Further, the key issues of concern identified in Council's submission, are addressed in Part 5 of this report.

Sydney Water did not object to the development and provided comments in relation to the design and construction of an extension water main, wastewater management, stormwater management, together with the design around the stormwater conduit which affects the proposed Stephen Street buildings. Comment was also provided in relation to the construction of building foundations, the requirement for a detailed dilapidation survey, trade waste, Sydney Water Servicing and Sydney Water e-planning.

Department comment

Sydney Water's comments are acknowledged. The Department supports these requests and they have been included as conditions in the Instrument of Approval.

NSW Transport did not object to the development and requested the provision of end of trip amenities for cyclists, in accordance with the Planning Guidelines for Walking and Cycling and travel demand management measures including completion of a location specific Workplace Travel Plan and Transport Access Guide.

Department comment

The Department supports the request for the provision of end of trip amenities for cyclists and this has been included as a condition in the Instrument of Approval.

NSW Transport (State Transit) did not object to the development and requested the Department take into account that the bus stop proximity is suitable for aged people and that there is spare capacity in the existing 389 service.

Department comment

State Transit's comments are acknowledged.

Roads and Traffic Authority (now Roads & Maritime Services) did not object to the development and provided comments in terms of layout of vehicle accessible areas, entrance and egress and public utility adjustments.

Department comment

The Authority's comments are acknowledged.

Heritage Branch, Office of Environment & Heritage did not object to the development and provided the following comments:

- Did not recommend the listing of the site on the State Heritage Register, but identified the site as having State heritage significance;
- Considers the landscaped terraces to have exceptionally high heritage significance.
- Supports the proposed conservation and interpretation of the existing terraces;
- Supports the adaptive reuse of the hospital and emphasis on separating the historic building from the new building;
- Supports the proposed intention to conserve and re-instate some of the garden terraces;
- Views to terraced gardens and original apartments should be opened up; and
- New heights will have unduly adverse visual impacts, reduced light and limit growth of vegetation and should be reduced by 1 storey;

Department comment

The Heritage Branch's comments are acknowledged. The proponent's PPR has responded to the concerns identified by the Heritage Branch. The Department supports conditions recommended by the Heritage Branch and these have been incorporated into the Instrument of Approval.

4.3. Public Submissions

Seventy-nine (79) submissions were received from the public. This included submissions from The Paddington Society and the National Trust. All of the 79 public submissions objected to the proposal. A small number supported the project but not in the proposed form. The key issues raised in public submissions are listed in Table 2.

Table 2: Summary of Issues Raised in Public Submissions

Issue	Proportion of submissions (%)
Impact on surrounding heritage Conservation Area	65 (69%)
Excessive height	59 (62%)
Increase in traffic and noise	41 (43%)
Parking and servicing, including the location of the loading dock	35 (37%)
Development does not relate to heritage significance of the site	29 (30%)
Other heritage issues	29 (30%)
Design quality	24 (25%)
Excessive density and bulk	23 (24%)
Privacy and overlooking	23 (24%)
Inadequate community consultation	23 (24%)
Loss of views/ outlook	19 (20%)
Concerns Regarding Laundry Use /Kitchen Ventilation/Garbage Pick Up /Air Conditioning	17 (18%)

The Department has fully considered the issues raised in the submissions in its assessment of the project.

4.4. Proponent's Response to Submissions

The Proponent has provided a response to the issues raised in submissions (**Appendix C**). The response included a Preferred Project Report as described in Section 2.1.

5. ASSESSMENT

The Department considers the key environmental issues for the project to be:

- Built form;
- Heritage;
- Amenity impacts to adjoining properties;
- Access, car parking and traffic; and
- Residential amenity.

5.1 Built Form

The Department considers that the proposed built form is most appropriately tested through an assessment of:

- the height and bulk of the built form;
- density; and
- streetscape context.

Height

The maximum overall heights of the new proposed buildings, from natural ground level, are as follows:

- Brown Street ILU – 26.29m above natural ground level (RL 41.74 to roof - RL 42.59 to the lift overrun) 3-8 storey;
- Gate Keepers Lodge – 14.6m above NGL (RL 38.26) 2-5 storey;
- Stephen Street RACF – 18.3m above NGL (RL 38.3) 2-6 storey; and
- Stephen Street ILU – 17.3m above NGL (RL32.8) 3-5 storey.

No changes are proposed to the existing 2-3 storey height of the Heritage Building (RL 41.7).

The Department has considered the height and bulk of the proposed buildings in the context of the existing built form on the site, together with the character and built form of the surrounding Heritage Conservation Area. The Department has given particular consideration to the proposal in the context of the streetscapes of:

- Cooper Street;
- Stephen Street;
- Brown Street; and
- The presentation to and visibility from the Dillon Street Reserve.

Cooper Street Frontage

The proposed Cooper Street elevation comprises the proposed Gate Keepers Lodge, the restored façade of the Scottish Hospital building, together with the two-storey elevation of the proposed RACF building. The Scottish Hospital building would be physically separated from the two new buildings and would present to Cooper Street as a three-storey form.

Woollahra Council's Planning Principle 6 for the site is as follows:

Planning Principle 6 - Maintain a visual connection to the restored 1848 heritage building from the surrounding public domain areas, in particular from Cooper Street and Dillon reserve.

There would be no net increase in the height of built forms on this frontage. The proposed Gate Keepers Lodge would present as a modest two-storey building form. The two-storey Cooper Street elevation of the RACF building would be approximately the same height as the former hospital operating theatre wing. The Scottish Hospital building is built to the alignment of Cooper Street and its streetscape dominance within the Cooper Street elevation would be

enhanced through restoration of the façade, the removal of unsympathetic elements, the introduction of a landscaped 3 metre setback for the new buildings, and the physical separation of new buildings from the heritage building. Accordingly, the proposal is considered to be satisfactory with regards to Planning Principle 6.

The maximum building heights of the proposed new buildings on the Stephen Street and Brown Street frontages are generally reached towards the south of the site, behind the buildings on the Cooper Street elevation. This consideration in combination with the topography of the site permits the more substantial buildings on the Stephen Street and Brown Street frontages to sit comfortably behind the heritage building.

The Department considers the presentation of the proposed elevation to be an appropriate contextual fit with the visual character of Cooper Street.



Figure 4: Photomontage looking north-west along Cooper Street, showing the presentation of the proposed RACF building, and the elevation of the heritage building.

Stephen Street Frontage

The dilapidated operating theatre wing of the former hospital is the only existing building on the Stephen Street elevation of the site. The former operating theatre wing adjoins the heritage listed building and is located on the corner of Stephen Street and Cooper Street. The remaining portion of the Stephen Street frontage of the site does not contain any built form and is dominated by tall and dense landscaping, overhanging the site boundary and the Stephen Street carriageway.

Proposed development on this frontage comprises the RACF building, together with the Stephen Street ILU building. The RACF building would occupy the corner of Stephen Street and Cooper Street, including the footprint of the former operating theatre. The building would progressively step down the eastern frontage of the site, roughly parallel to the alignment of Stephen Street, with a setback ranging from 2.5 metres to 6.2 metres.

The RACF building would have a maximum height of 18.3 metres, measured from natural ground level (RL 38.3) and this would be attained in the midsection of the building's presentation to Stephen Street. The ILU building would have a maximum height of 17.3 metres from natural ground level (RL 32.8). The RACF and the ILU buildings would be setback 3.75 metres from each other. The length of the proposed RACF building is 64.8 metres, while the length of the ILU building is 23.17 metres. Accordingly, the combined length of the Stephen Street elevations of both buildings, including the internal setback is approximately 92 metres.

The proposed length of the built form to Stephen Street has been designed with a high degree of articulation. Varied setbacks and the use of architectural elements such as projecting bays, portals, changes in fenestration and external materials, break up the facades and provide visual interest (refer to **Figure 5**).



Figure 5: Photomontage looking south along Stephen Street, towards the stairs to Cooper Street showing the presentation of the RACF and ILU buildings (Source: PPR).

The proposed RACF building presents as a 4 storey building form at its northern end. The stepped design of the building respects the topography and facilitates the transition from the maximum 6 storey built form which is attained in the midsection of the building. The stepping of the northern end of the RACF building is continued by the proposed 3-5 storey ILU building which has a three-storey northern elevation, presenting to the expanse of northern landscaped open space on the site, between the building and the Dillon Street Reserve.

The Department considers the proposed setbacks from the alignment of Stephen Street to be insufficient to safeguard the visual amenity of the street. The six-storey height of the proposed RACF building in combination with proposed setbacks would have the effect of enclosing Stephen Street to the detriment of the visual amenity of the streetscape. It is considered that increasing the setback of the building from the alignment of Stephen Street is warranted to ensure a good planning outcome. Increasing the setbacks of levels 3, 4, 5, 6 and 7 of the building by 2.0 metres as detailed by **Condition B1** would mitigate what would otherwise be an overbearing visual impact on Stephen Street. The portion of the building which is to be set back the additional 2.0 metres comprises the northern portion of the building, extending from the southern face of the central lift core. **Condition B1** would increase the minimum setback from the alignment of Stephen from 2.5m to 4.5m. The condition will facilitate greater solar access to the landscaped setback area and would also increase the separation distance between overlooking vantage points on the RACF building and neighbouring residential properties on the opposite side of Stephen Street, to more than 18 metres. Subject to the imposition of **Condition B1**, the height, bulk and scale of the proposed RACF building is considered to be acceptable.

The ILU building would be located to the north of the RACF, opposite the intersection of Stephen Street and Glen Street. The building would be setback 6-7 metres from the alignment of Stephen Street. The building would have a maximum height of 17.3 metres from

natural ground level, incorporating a total of five storeys. The building would step down to a three-storey form towards its northern end.

There is currently no built form on that part of the site proposed to be occupied by the ILU building. The presence of a 23.17 metres long, 3-5 storey building will present a distinctively different streetscape character when compared to the existing vegetated presentation of this portion of the site. However, having regard to the context of development on the eastern side of Stephen Street, the Department does not consider the change to be unacceptable.

Subject to the imposition of **Condition B1**, the Department considers the proposed built form on the Stephen Street elevation to be acceptable.

Brown Street Frontage

Woollahra Council objected to the proposal on the basis that the siting of the Brown Street ILU would have an adverse impact on the Brown Street streetscape, due to the intrusion into the existing landscaped buffer.

The proposed Brown Street ILU building would be located on the western frontage of the site, in approximately the same location as the existing nursing home. The building has a staggered street alignment that it is roughly parallel to Brown Street. The Brown Street ILU building is the tallest of the proposed new buildings, being 26.29 metres above natural ground level. However, while the building would achieve a maximum of 8 storeys, it would be part 5 and part 6 storeys above the level of Brown Street, due to the steep topographical fall from the alignment of Brown Street.

The steep fall from Brown Street to the location of the footprint of the proposed building, in combination with the building's variable setback of between 8.1 metres and 30 metres is an important mitigating factor in consideration of the height and form of the building. Further, the design of the building incorporates a high degree of articulation, being broken into a number of bays which have varied setbacks from the alignment of Brown Street. While the overall length of the elevation to Brown Street is 63.38 metres, the portion of the building which would be setback the minimum of 8.1 metres from the street alignment has a length of approximately 15 metres.



Figure 6: Photomontage looking east along Glenview Street, towards the Brown Street frontage. The Brown Street ILU building is concealed behind the existing vegetation (Source: PPR).

While elements of the proposed ILU building would encroach into the area of dense landscaping in the south-western portion of the site, this has been carefully considered by the design of the proposal. The configuration of the footprint of the proposed ILU building has avoided all of the significant trees located on this part of the site. The existing landscaped

screening afforded by the retained trees would be enhanced by the future planting in accordance with the Landscape Plan and Conservation Management Plan.

The Department considers the proposed height, siting and bulk of the Brown Street ILU building to be acceptable for the following reasons:

- The lower three storeys of the building are below street level;
- The building is generously setback from the alignment of Brown Street and there is existing and proposed mature landscaping within the area of setback;
- There would be no unreasonable impact on the amenity of neighbouring properties on the opposite side of the street in terms of overlooking, overshadowing, view loss or otherwise; and
- The special qualities of the streetscape would be preserved.

Dillon Street Reserve

The existing buildings are well removed from the boundary of the site to the Dillon Street Reserve. This characteristic of the site would be preserved by the proposal, with built form and massing concentrated towards the southern (Cooper Street) boundary, and the northern end of the site preserved as landscaped open space.

The Woollahra Council Planning Principles for the site relevant to the appearance of the proposal as viewed from Dillon Reserve, are as follows:

6. Maintain a visual connection to the restored 1848 heritage building from the surrounding public domain areas, in particular from Cooper Street and Dillon reserve.

16. Provide a visual connection between the area which formed the terraces of the original estate and the gardens to the North.

As discussed earlier, the visual connection between the heritage building and the Cooper Street frontage of the site would be maintained and enhanced by the proposal. The visual connection between the restored 1848 heritage building (i.e. the rear elevation of the Scottish Hospital), including the remnant landscaped terraces would also be maintained and enhanced. Accordingly, these two principles would be satisfied.



Figure 7: Photomontage looking south into the site from the Dillon Street Reserve, towards the heritage building and landscaped terraces. The rear elevation of the Hospital Building (incorporating the veranda and balcony of the 1840s mansion) can be seen (red circle), framed between the two proposed ILU Buildings. Note the open style palisade fencing, proposed for the boundaries of the site.

The built form of the new buildings on the Brown Street and Stephen Street frontages frame the public view towards the rear elevation of the Heritage Building, including the veranda/balcony and the landscaped terraces, as depicted in the photomontage above (**Figure 7**). It should be noted that an earlier scheme for redevelopment of the site approved by Woollahra Council (DA 931/2001) included new buildings on the northern part of the site. These buildings would have had a considerable impact on views towards the heritage building from the Dillon Street reserve.

The northern elevation of the Brown Street ILU building would be setback approximately 40 metres from the boundary of the site with the Reserve and the Stephen Street building setback approximately 44 metres. This separation distance, together with the presence of existing and proposed landscaping reasonably mitigates any impact arising from the height, bulk and scale of the new built forms. This is assisted by the design of new buildings on the Brown Street and Stephen Street frontages, which effectively step down their respective street frontages towards the north of the site.

The Department considers the presentation of the proposed built form to the Dillon Street Reserve to be acceptable.

Density, Bulk and Scale

Council objects to the proposal on the basis of excessive bulk and scale. Council's Planning Principle 12 deals with density bulk and scale and is as follows:

12. *New buildings are not to:*
- *Exceed the density and bulk of the previously approved buildings (refer to DA931/2001 as identified in councils records) (this does not prevent the redistribution of building mass from its location in the original DA)*

The consent for DA 931/2001 was not acted upon and has since lapsed. This report assesses the proposal on its individual merits and issues of height, bulk and density are addressed within it.

The urban design analysis which accompanied the PPR provides a logical and clearly outlined rationale for the proposed density, bulk and scale, and its distribution across the site. There is no reason to suggest that constraining the site to the floor space approved in the previous DA will result in a superior planning outcome for the site, compared to what is proposed. While it is not particularly useful to compare the merits of the proposed scheme to that which was approved by Council, it should be noted that DA 931/2001 provided for a built form component in the northern area of the site, adjacent to the Dillon Street Reserve. The subject proposal proposes that this area remain landscaped open space. While the current proposal represents an increase in floor space from what was approved (18,948.2m² currently proposed compared to 13,588m², as approved by Council), the current scheme concentrates built form towards the southern end of the site, and maintains the open space connectivity between the northern end of the site and the Dillon Street reserve.

The site is not subject to any FSR development standard or any other Development Standard appropriate for the control of density, either within the SEPP HSPD or within WLEP 1995. Accordingly, the proposed floor space and density of development is required to be assessed on merit.

The steeply sloping, north facing topography of the site presents an opportunity to contain a higher floor space than would be the case on a level site. The height of the proposed buildings vary in deference to the 14 metres south to north topographical fall of the site, along the alignments of both Stephen Street and Brown Street. The proposed built form will concentrate its greatest height and mass toward the Cooper Street frontage of the site, and away from the northern boundary with Dillon Reserve. The visual bulk of the new buildings to

the Stephen Street and Brown Street frontages will sit behind the Cooper Street elevation. The bulk and scale of new buildings addressing Stephen Street and Brown Street is effectively mitigated by landscaped setbacks, changes in levels, articulation and stepping of the building facades, together with the imposition of **Condition B1**.

5.2 Heritage

The impact of the proposal on the heritage significance of the site, and its landscape setting was identified in the objections received from Council, the Paddington society and many of the public submissions. Council is of the opinion that the density and bulk of the proposed new buildings will result in impacts to the heritage significance of the site, including the heritage listed Scottish Hospital building, grounds and individual trees, together with impacts on the significance of the surrounding Paddington Heritage Conservation Area. The Department considers the outcomes of the proposal in relation to heritage and landscaping to be acceptable. In forming this view, the Department has had regard to comment received from the NSW Heritage Branch, The Conservation Management Plan prepared for the site, together with Council's Planning Principles for the site (The Planning Principles are discussed in **Appendix D**, and referred to throughout this report).

Significance of the site, Heritage Branch comments and the Conservation Management Plan

The Scottish Hospital site is located within the Paddington Heritage Conservation Area and is identified as a heritage item within the Woollahra Local Environment Plan 1995. The NSW Heritage Branch has identified the site as having State heritage significance, but does not consider that it should be listed on the State Heritage Register. The Heritage Branch considers the remnant landscaped terraces to be of exceptionally high heritage significance.

The Heritage Branch is supportive of the conservation of the former Scottish Hospital building and its adaptive reuse for independent living units. The Heritage Branch is also supportive of the proposed conservation and interpretation of the remnant landscaped terraces.

The PPR was accompanied by a Conservation Management Plan (CMP) and a Landscape Heritage Impact Assessment (LHIA). The proposed conservation of the Scottish Hospital building is outlined in the CMP and sufficient justification is provided for the adaptive reuse of the building for independent living units. The CMP also provides justification for the proposed conservation and interpretation of the landscaped terraces. The landscape component of the CMP was informed by the LHIA.

The Scottish Hospital building

The heritage significance of the Scottish Hospital building would be preserved and enhanced by the proposal. The unsympathetic operating theatre wing adjoining the Scottish Hospital building and located on the corner of Stephen Street and Cooper streets would be demolished, thereby enhancing the setting of the heritage building within the Cooper Street elevation of the site.

The RACF building and Gate Keepers Lodge will be subservient in height and scale to the heritage building. The RACF building will be separated from the heritage building by a minimum of 4.0 metres, while the Gate Keepers Lodge would be separated by a distance of 6.7 metres. The dominance and legibility of the heritage building is further enhanced by the contemporary design of the new buildings and their 3.0 metre setback behind it.

Physical works to the exterior of the heritage building itself are minor and consist of the removal of unsympathetic elements within the Cooper Street façade, together with general repairs and maintenance. All necessary repair and maintenance work to the heritage building would be in accordance with the CMP. The form and configuration of the heritage building's roof would be maintained by the proposal.

The Department considers that the impacts to the significance of the heritage building would be negligible and acceptable.

Paddington Heritage Conservation Area streetscapes

The impacts to the streetscapes of the surrounding Paddington Heritage Conservation Area have been mitigated largely by minimising the footprint of proposed new buildings in order to preserve the landscape character of the site, and ensuring that new buildings are setback from their respective street alignments. Where the setback of proposed new buildings is not considered sufficient to safeguard the visual amenity of the streetscape, as is the case with the upper levels of the Stephen Street RACF, a condition has been imposed requiring the setbacks to be increased (refer to **Condition B1**).

The Cooper Street facade of the Scottish Hospital building together with the visibility (from the Dillon Street Reserve) of the remnant 1840s balcony and verandah on the rear elevation of the building would continue to contribute to the streetscape character and significance of the surrounding Heritage Conservation Area. The contemporary design of the streetscape appearance of the proposed new buildings (as amended by **Condition B1**) would contribute to the amenity of the surrounding streetscapes and would be readily discernable from the historic buildings which contribute to the significance of the streetscapes of the Conservation Area.

The contemporary design approach employed in the street elevations of the proposed new buildings is supported by Council's Paddington Heritage Conservation Area DCP 2008. One of the guiding principles contained in Part 1 of the DCP states that, "appropriate contemporary design is encouraged and is necessary if change is to occur which respects the significant characteristics of Paddington."

The contemporary design of the proposed new buildings is considered appropriate in the context as this provides a clear distinction between new works and significant or historic fabric on the site and the surrounding streets. The Department considers that the proposal by virtue of its height, bulk, scale design and streetscape appearance (as modified by **Condition B1**), is acceptable in the context of the surrounding streetscapes and will not detract from the significance of the Heritage Conservation Area.

The remnant Landscaped Terraces

The proposed conservation and interpretation of the landscaped terraces to the north of the Scottish Hospital Building involves their reinterpretation, together with the retention of heritage significant walls and stairs. The stone retaining wall of the uppermost terrace would be retained and conserved in its existing location, while the lower terraces would remain buried and re-landscaped. To avoid disturbance of the root zones of significant trees in the vicinity of the terraces, some of the lower terraces would be interpreted through the placement of timber boardwalks.

This approach is considered to be acceptable from a heritage perspective as the uppermost terrace is the retaining wall for the Scottish hospital building and was constructed during the 1840s. The CMP indicates that the lower terraces were not formed during the 1840s, and date from some time in the early 20th century, when the original shallow, steep terracing was substantially altered through the placement of stone fill extracted during the construction of the City Circle rail line.

The Landscape Heritage Impact Assessment concludes that:

"The proposed development will result in considerable changes to the landscape but these are considered to be within the limits of acceptable change... The proposal also provides for the retention and enhancement of the most significant soft landscape

elements and for the retention and interpretation of the terraces slope to the north of the historic building."

Accordingly, the proposed landscaping of the site is acceptable in terms of retaining the heritage significance of the site.

5.3 Landscaping

This is closely related to the issues of streetscape and heritage, and discussion will necessarily overlap into these areas. Many of the existing trees on the site have individual heritage significance and contribute to the setting of the Scottish Hospital Building. The PPR was accompanied by a Landscape Plan and Design Statement, a Landscape Heritage Impact Assessment, and an Aboricultural Impact Assessment.

The site contains 144 mature trees, which creates a tree canopy over the site (refer to the photograph on the front cover of this report). These well established significant trees include a Kauri Pine, a Holm Oak, and a grove of Port Jackson Figs in the grassed area adjacent to Dillon Reserve, together with Moreton Bay Figs planted in proximity to the alignment of Brown Street. Of the 144 trees on the site, 55 are proposed to be retained (including all but one of the heritage listed trees) and 89 are proposed to be removed. Eighty new trees are proposed for the site.

With regards to the 89 trees proposed for removal, 3 have been assessed as dead, dying or dangerous, 71 are within construction zones, 14 are weed species, and 1 has been approved for removal by Council. The 14 weed species are proposed to be removed and replaced with more appropriate species. Five mature palms located within the proposed construction zones are proposed to be transplanted to alternate locations within the site.

The proposal provides for a total landscaped area of 8,147.47m², equivalent to 56.12% of the site area. Of this landscaped area, the total deep soil zone area is 7,211.04m², equivalent to 88.5% of the total landscaped area. Suitable conditions are contained within the instrument of approval to ensure that proposed landscaping adjacent to the retained trees maintains existing soil levels, together with moisture nutrient levels within the tree protection zones. Further conditions have been imposed to ensure that there is no machine trenching within the root zones of trees identified for retention, in order to facilitate their ongoing health and survival.

Landscaping options for Stephen Street

Three landscape options have been provided for the Stephen Street frontage, in response to concerns from the residents in Stephen Street relating to potential overlooking and streetscape aesthetics. The potential for overlooking from the Stephen Street RACF has been largely addressed through design modifications, together with the increased upper level setback required by **Condition B1** of the Instrument of Approval.

All three options utilise a row of Weeping Lilly Pilly (*Waterhousia floribunda*), a fast-growing native screen tree species, to provide a vegetated screen to the street elevations of the RACF and ILU buildings. Option 1 involves the removal of all non-significant trees on the Stephen Street frontage and the planting of an advanced stand of *Waterhousia floribunda*.

Option 2 is the same as Option 1, with the exception that it would involve the retention of three mature existing non-native trees in order to achieve an increased initial level of screening. The existing non-native trees would be removed in 3-6 years and replaced by additional *waterhousia floribunda*. Both option 1 and option 2 would result in a homogenous screening row of *Waterhousia floribunda* to a height of approximately 15m in 5-10 years time.

Option 3 involves the retention of four selected non-native trees at the initial planting stage, together with the addition of 5 mature palm trees transplanted from other areas of the site,

and infill planting of advanced *waterhousia floribunda*. The non-native trees would be removed in 3 to 6 years time and replaced by an additional two *Waterhousia floribunda*.

Of the three options, Option 3 is the preferred option as it will facilitate a more natural transition and maintain greater foliage consistency over time. It will maintain the landscape diversity of the site as viewed from Stephen Street and incorporate mature palms transplanted from other parts of the site.

The Statement of Commitments states that the proponent will:

"Comply with any tree management requirements of Woollahra Council, particularly in regard to those trees listed on Council's Register of Significant Trees' and ensure that, any future landscape works to be carried out strictly in accordance with the conservation policies contained in the CMP."

It is considered that implementation of the proponent's Landscape Plan and Design Statement, the recommendations of the Landscape Heritage Impact Assessment, and the Aboricultural Impact Assessment, together with the recommended conditions relating to landscaping contained in the Instrument of Approval will result in satisfactory landscaping of the site.

5.4 Amenity Impacts to Adjoining Properties

Privacy

Many of the public submissions raised privacy and overlooking as concerns. The potential overlooking impacts occur principally from the units on the upper levels of the mid section of the proposed Stephen Street RACF and ILU building. The Stephen Street carriageway is 10.06 metres wide, and the RACF Building is setback a minimum of 4.2 metres at its closest point. Development on the opposite side of Stephen Street, south of the intersection with Glen Street has a setback of 3.0 metres at its closest point. Accordingly, there is a minimum separation distance of 17 metres from potential vantage points on the RACF to the windows of habitable space and areas of private open space available to the occupants of dwellings located on the eastern side of Stephen Street. This is 1 metre less than the minimum separation distance required by the Design Code for Residential Flat Buildings in order to maintain an acceptable privacy relationship.

Condition B1 provides for a 2.0 metres increase in the setback of the RACF building at levels 3 and above in order to safeguard the visual amenity of Stephen Street. The condition will also have the effect of increasing the separation distance between the upper levels of the RACF building and the neighbouring properties on the opposite side of Stephen Street, so that it is greater than 18 metres. Having regard to the context, mutual overlooking with a separation distance of greater than 18 metres is considered to be satisfactory.

The Stephen Street ILU building achieves separation distances from residences on the opposite side of Stephen Street in excess of 18 metres due to its minimum setback of 6.4 metres from the alignment of Stephen Street, in combination with the width of the street carriageway and setback of development opposite.

The residents of 4 Cooper Street object on the basis of overlooking from the proposed Stephen Street RACF building. This property is located on the corner of Cooper and Stephen Streets. The separation distance from potential overlooking vantage points and the dwelling at 4 Cooper Street is 22.5 metres, which is 4.5 metres in excess of the requirements of the Residential Flat Design Code. Notwithstanding this separation, a number of privacy measures are proposed, including obscuring glazing in windows and privacy screens to the balconies and terraces, which effectively prevents overlooking.

In addition to this, the Department notes that a number of general privacy mitigation measures are proposed including:

- Provision of a 3 metre wide planted buffer zone between the RACF and ILU on the western boundary (Stephen Street);
- The incorporation of louvred privacy screens on the Stephen Street elevation of the RACF building;
- Burying the proposed RACF air-conditioning condensers (located in the area of setback from Stephen Street) further into the ground to reduce their visibility and improve their acoustic performance;
- The RACF Building will be used for 'dementia care' (Level 3), 'high care' (Level 4), mixed care (Level 5), and 'extra care' (level 6). Many of these occupants would be confined to their beds for lengthy periods and as a consequence it is considered that any mutual overlooking between the occupants of these levels of the RACF building and the occupants of the multi-storey residential flat building at 40 Stephen Street, opposite, will be minimal;
- The ILUs located at the upper level (Level 7) of the Stephen Street RACF building have been designed so that their principal living areas are orientated away from Stephen Street, to the north and south. As a consequence there will be minimal mutual overlooking between the proposed ILUs and 38 Stephen Street; and
- ILUs within the proposed Gate Keepers Lodge building have their living areas and private balconies orientated towards the north of the site, and not onto Cooper Street. ILUs within the Scottish Hospital building are also orientated to the north, with windows on the Cooper Street elevation being to bedrooms, bathrooms or service areas. This design treatment together with the width of the 9.2m wide carriageway of Cooper Street determines that there will be minimal mutual overlooking between the occupants of these two buildings and the occupants of buildings on the southern side of Cooper Street.

Accordingly, the Department considers the privacy relationship between the proposal and nearby residential properties to be satisfactory subject to the imposition of **Condition B1** and other mitigating design features.

View Impacts

Submissions from Council and the public objected on the basis of the loss of views into and over the site. A number of properties on elevated land on the southern side of Cooper Street (including 19 Cooper Street and 176 Glenmore Road) and on the eastern side of Stephen Street (including 40 Stephen Street) enjoy distant views to the CBD skyline, which are obtained over the site.

The PPR included a visual impact analysis, which had regard to the four part Views Principle, established by the Land and Environment Court judgement "*Tenacity consulting v Warringah Council (2004)*".

Woollahra Council's planning principle 4 relates to the assessment of this issue and is as follows:

10. Retain existing views into and over the site.

In its assessment, the Department has had regard to the significant views over and into the site.

Having regard to the steeply sloping topography of the site and the location of the existing Scottish Hospital building on the highest street frontage of the site, the Department considers that the view loss impacts of the proposal will be acceptable if building heights are generally