

limited to the height of the ridgeline of the Scottish Hospital Building. This is illustrated below in **Figure 8**.

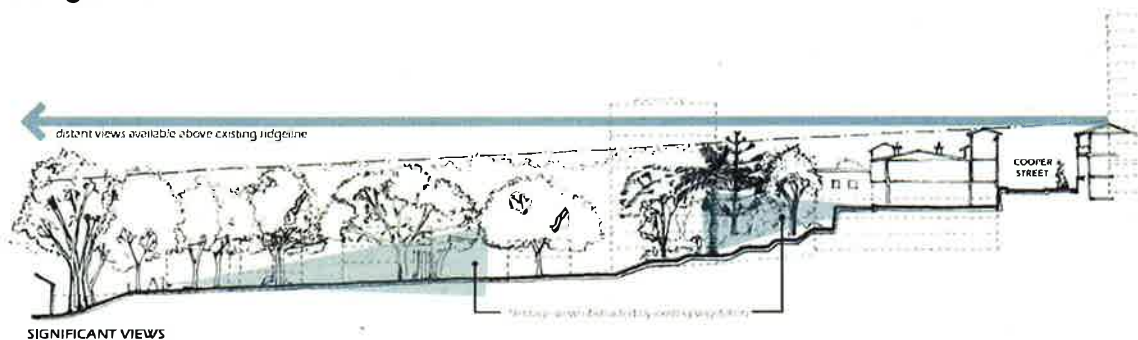


Figure 8: Existing significant views are obtained over the ridge line of the heritage building. Source: PPR

As a consequence of the reduction in height detailed in the PPR, the new buildings would sit below the height of the ridgeline of the Scottish Hospital building. The reduction in height proposed as part of the PPR determines that existing significant views are unaffected.

In relation to the issue of the maintenance of views into the site generally, it is considered that any redevelopment of the site, in accordance with its land-use zoning would entail some degree of view loss. It is further considered that having regard to the underdeveloped nature of the site, some degree of view loss into the site would not be unreasonable.

The Department considers the retention of existing views to be reasonable, and the altered outlook from private properties and the public domain into the site resulting from the proposal to be satisfactory.

5.5 Access, Car Parking and Traffic

The main vehicular access to the site is proposed to be retained at the existing Brown Street entry. This entrance will be used by all residents, visitors and staff. An at-grade drop-off plaza is proposed between the Stephen Street ILU and Brown Street ILU building, which will act as a shared zone. This will provide for the pick-up and drop-off of residents by friends/relatives, taxis or patient transport services.



Figure 8: Proposed publically accessible community bus pick up and drop off area ('pocket park') on the corner of Brown & Cooper Streets. (Note the side elevation of the heritage building to the right of the telegraph pole and the visibility of the main ILU building, framed between the two retained mature fig trees.)

A small publicly accessible pocket park is proposed on the corner of Brown Street and Cooper Street. An accessible ramp and security gate will provide pedestrian access to the site. This area will also function as a pickup and drop-off area.

On-Site parking

A total of 132 car parking spaces are proposed as detailed in **Table 3**, below.

Submissions received, including that from Woollahra Council, identified on-site parking in excess of the SEPP HSPD requirement as a concern.

Table 3 - On-site car parking compliance table.

	SEPP requirement	Required Number		Proposed	Complies
Residential Aged Care Facility (per bed) visitor	1 visitor space per 10 beds (100 beds)	10	24	23	Yes
RACF (per staff)	<ul style="list-style-type: none"> 1 space per 2 staff (26 staff per shift) 1 ambulance space 	13			Yes
		1			
Independent Living Units	0.5 spaces per bed (181 ILU bedrooms)	91	91	109	Yes
Total		115		132	Acceptable on merit

The SEPP HSPD requires a minimum of 115 spaces. While the proposal exceeds this requirement by 17 spaces, this will not result in any measurable impact on the efficiency of the surrounding local road network. The Department considers that the proposed car parking satisfies the parking requirements of the SEPP HSPD, and is adequate to service the needs of the site.

Traffic Generation

The Department has also given consideration to the potential amenity impacts to the locality as a result of the additional traffic generation.

An updated Transport Assessment accompanied the PPR. The report addresses site access, on-site parking, traffic generation and its impact on the surrounding road system and intersections. The analysis of the existing and anticipated levels of traffic generation concluded that the proposed use is benign in terms of traffic generation and its traffic impacts would be low.

The forecast additional traffic generation of the proposal contained in the report is 17 vehicles per hour during the morning peak hour and 31 vehicles per hour in the evening peak hour. The level of traffic generation is very low given the existing volume of 400 to 450 vehicles per hour passing the site on Brown Street.

The SIDRA Analysis of the operation of surrounding intersections indicates that the anticipated level of traffic generation would have a negligible impact on the operation of the intersections of MacDonald Street with Brown Street and Lawson Street with Nield Street, which will continue to operate well.

Having regard to the above, the Department is satisfied that the additional traffic generated by the proposal is acceptable.

RACF Loading Dock Option

The proposal includes a loading dock to service the proposed RACF accessed directly off Stephen Street (**Option A** on the architectural plans). The proposed loading dock is

designed to accommodate delivery vehicles up to and including 10 metre long rigid trucks. The updated Transport Assessment which accompanied the PPR indicates that the loading dock on Stephen Street would generate around seven or eight truck deliveries per day, adding two or three vehicle movements per hour to the existing traffic on Stephen Street.

Submissions received from Council and the residents of Stephen Street object to the proposed Stephen Street loading dock. In response to these concerns, the PPR was accompanied by an alternative design solution (**Option B** on the architectural plans), involving accessing the RACF loading dock from the existing Brown Street vehicular entrance.

The Department's assessment has considered the potential for the operation of the loading dock to impact on the amenity of the occupants of the two-storey residential flat building on the south-eastern corner of Glen Street, together with the occupants of the high-rise residential tower at 40 Stephen Street.

The Stephen Street loading dock is considered to be acceptable for the following reasons:

- The operation of the loading dock is unlikely to give rise to unacceptable amenity impacts given the form and design of the two residential buildings opposite.
- The potential for after-hours amenity impacts is capable of being effectively managed through the imposition of a suitable condition. In this regard, **Condition F2** has been included in the draft Instrument of Approval to limit the hours of operation of the loading dock in order to safeguard the amenity of nearby residents. It is recommended that the loading dock only be used between the hours of 9.00am and 5.00pm weekdays, and 9.00am and 12.00 midday on Saturdays, and that there be no deliveries on Sundays or at other times outside these hours.

While achievable in a physical sense, the alternative design solution is not supported by the Department's assessment. The alternative design would involve delivery vehicles entering the site from the existing Brown Street entrance, and travelling across the site to a new basement driveway ramp, to be constructed to the north of the Stephen Street ILU building. The new basement driveway ramp is necessary to allow delivery vehicles to access the upper basement level loading dock, located beneath the RACF building. The internal access arrangements involved in the alternative design increase the potential for seniors pedestrian and delivery vehicle conflict. It would also reduce the amenity and functionality of the communal ground floor area of the Stephen Street ILU building by significantly reducing its overall size and introducing a physical and visual barrier to the open space areas to the north. The Department considers that the proposal to access the ground level loading dock directly off Stephen Street has superior merit and provides for a better planning outcome.

5.6 Residential Amenity

In response to the Department's concerns in relation to the internal amenity of the site, additional shadow diagrams accompanied the PPR to clarify the impact of shadows cast by the proposed Brown Street ILU building on the western (internal) elevations of the proposed two new buildings on the Stephen Street elevation. To further satisfy the Department's concerns in relation to internal amenity, the PPR was also accompanied by an updated report in relation to the proposals consistency with State Environmental Planning Policy 65, including an assessment against the Residential Flat Design Code (RFDC) "Rules of Thumb".

The likely amenity of the ILUs has been reviewed with regard to the RFDC and the additional information provided in the PPR. The RFDC sets out a number of guidelines which detail standards for residential flat development that would ensure the development complies with the intent of the RFDC.

The Department's assessment of the RFDC guidelines is included within **Appendix D**. Variations to the guidelines are discussed below.

Building Depth and Separation

The RFDC recommends a minimum building separation of 18 metres. While the proposed new buildings do not face any structures to the north, they face residential buildings to the east, south and west. As discussed above in Section 5.1, the separation distances between the proposed new buildings on the Stephen Street and Brown Street frontages are sufficient to ensure a satisfactory privacy relationship. The separation distances on Stephen Street are a minimum of 17 metres and substantially comply with the provisions of the RFDC.

The separation distances between the proposed new buildings on the site do not fully comply with the minimum 18 metres specified in the RFDC. As a consequence, there will be some degree of mutual overlooking between the proposed Gate Keepers Lodge, the ILUs proposed within the existing heritage building, the Brown Street ILU building and the two new buildings on the Stephen Street frontage.

The level of mutual overlooking is not considered to result in a substandard internal residential amenity and is acceptable having regard to the incorporation of design provisions such as privacy screens. Having regard also to the fact that insufficient internal separation distances are partly a consequence of the proposal's attempt to maximise setbacks from the site's street frontages, the proposed separation of buildings on the site is considered acceptable.

Solar Access/overshadowing

The RFDC recommends that living areas and private open spaces are to receive three hours direct sunlight between 9.00am and 3.00pm on June 21. In high density areas, such as the context of the site, this can be reduced to a minimum of 2 hours direct sunlight. In this regard, the proposal achieves a 77% overall compliance with the guideline, with 63% of units complying with the 3 hour requirement and an additional 10% complying with the two-hour requirement. Having regard to the retention of heritage trees and the minimisation of new building footprints in order to preserve landscaped areas, the proposed level of solar access is considered to be sufficient to ensure a high level of internal amenity. The Department's assessment indicates that the proposal achieves substantial compliance with the guideline. Accordingly, the provision of solar access to the proposed ILUs is considered to be satisfactory.

The submission from Woollahra Council expressed concern that the height and siting of the Brown Street ILU building would result in unreasonable overshadowing of the garden terraces, and passive recreation areas "at all times of the year unduly affecting the desirability of these areas to be used by the future occupants of the development".

The reduction in height facilitated by the removal of the top floor of the Brown Street ILU building as contained in the PPR, will improve the shadow impact over the garden terraces and other internal areas within the site. To demonstrate this, the PPR was accompanied by revised shadow diagrams. The shadow diagrams indicate that on June 21 the terrace gardens will receive full sun from midday and will not begin to be overshadowed until 3.00 pm. The degree of sunlight to the terraces is considered satisfactory and will ensure that these areas have a high degree of amenity and utility. The Department is satisfied that the degree of additional overshadowing is not sufficient to result in an unsatisfactory internal amenity for the future occupants of the site.

With regards to overshadowing of neighbouring properties, the shadow diagrams which accompanied the PPR demonstrate that there would be no unreasonable impact.

Conclusion

The proposal will provide a high quality environment for future residents as the proposed ILUs largely comply with the RFDC guidelines as shown in **Appendix D**. The apartment design responds to the function and design necessary for a high quality accessible Seniors Living Development on the site which also affords the residents with communal areas and public open space for their enjoyment located within close proximity to public transport.

5.7 Contamination and remediation

The proponent is seeking approval for remediation of the site to address contamination issues. Since July 2000, a number of investigations have been undertaken regarding contamination within the site's fill and in the location surrounding the disused fuel storage tanks in the south-western corner of the site. The principal contaminants identified in the investigations included polycyclic aromatic hydrocarbons (PAHs), lead and asbestos.

The PPR was accompanied by a review of previous contamination investigations undertaken at the Scottish Hospital site prepared by Environmental Investigation Services (EIS), a division of Jeffery & Katauskas. The EIS review concludes that the previous investigations undertaken at the site will comply with SEPP 55 and that once the site has been remediated it will be "suitable for the purpose for which the development is proposed to be carried out".

Woollahra Council granted development consent (DA 427/2001) in 2002 for the excavation and removal of potentially contaminated soil. While this consent was never acted on and has subsequently lapsed, it is considered relevant to the current application as the proposed land use is the same as that previously approved. The investigations in support of the previous remediation proposal have been referenced in the current proposal.

The EIS review indicates the following outstanding matters and necessary works that would be necessary to complete the development:

- Preparation of a Remedial Action Plan that incorporates the development details;
- Removal of the above ground storage tank and incinerator followed by validation sampling;
- Waste classification sampling and preparation of waste classification letters;
- Installation of subsurface barriers and design of landscaping to minimise access to soil;
- Re-writing the Environmental Management Plan (EMP) to take account of the new development; and
- Establishing an appropriate public notification of the EMP under Section 149(2) of the Environmental Planning and Assessment Act 1979 or a covenant registered on the title to land under Section 88B of the Conveyancing Act.

These six points are included within the proponent's Statement of Commitments under the heading "Remediation" and form part of the Instrument of Approval.

While a remedial action plan did not accompany the PPR, the Department considers that the information which has been made available in relation to site contamination is extensive and creates certainty that the site can be remediated to a level commensurate with its proposed use. **Condition A1** requires a Remedial Action Plan (RAP) to be submitted to the Director-General of the Department of Planning and Infrastructure. The RAP shall clearly outline the objectives of the remediation strategy, and the recommended cleanup criteria, and in doing so the RAP shall clearly demonstrate that what is proposed will properly remediate the site commensurate with its proposed use. Further, Condition A1 requires an EPA accredited site auditor to be engaged to confirm the validity of the investigations and the proposed remediation strategy.

Subject to the imposition of **Condition A1** and inclusion of the proponent's remediation commitments within the Instrument of Approval, the proposal is considered to be satisfactory with regard to the relevant considerations of SEPP 55.

5.8 Voluntary Planning Agreement & Section 94 of the EP&A Act

Prior to lodgement of the application with the Department of Planning in November 2010, the proponent had commenced preliminary discussions with Woollahra Council staff regarding the possibility of entering into a Voluntary Planning Agreement (VPA).

The relevant components of the VPA are:

- Dedication to Council of 1,366.10m² of the site, immediately adjacent to Dillon Street Reserve, to form an extension to Dillon Street Reserve;
- Provide a strip of land in Stephen Street, along the eastern boundary of the site, for the purpose of construction of a public footpath; and
- Dedicate part of the site adjacent to Stephen Street and Dillon Street Reserve as public road for the purpose of construction of 8 public car parking spaces, at 90 degrees to the footpath.

At the time of writing this report, no agreement had been reached between the two parties in relation to the VPA.

There is no applicable Section 94 or Section 94A contribution as a Direction from the then Minister for Planning (dated 14 September 2007) prevents consent authorities from imposing such a condition on a development consent granted to a social housing provider. The proponent is registered as a community housing provider with the Office of Community Housing of the NSW Department of Housing.

The Direction refers to Part 4 of the Act and there is no strict legal application of the Direction to Part 3A transitional applications. Notwithstanding this, the intent of the Direction is to relieve social housing providers from the financial burden associated with the application of Section 94 of the Act. Accordingly, it is recommended that no Section 94 requirement be imposed in this instance.

6. CONCLUSION

The Department has assessed the merits of the proposal taking into consideration the issues raised in public submissions and is satisfied that the impacts have been addressed in the PPR, the revised Statement of Commitments and the recommended conditions. It is considered that the impacts can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance, pursuant to Section 75J of the Act, and good planning outcome. The Department considers that the form of the proposed development is appropriate as it represents an efficient use of the land, in accordance with the Special Uses Zone.

In response to the concerns of the Department, the PPR contained a number of amendments which reduced the height, bulk and scale of the Brown Street Independent Living Units (ILUs) and the Stephen Street Residential Aged Care Facility (RACF) building. However, the Department considered that the changes entailed in the PPR did not go far enough in addressing the concerns raised in relation to the height, bulk, massing and proximity of the proposed RACF building to the alignment of Stephen Street. In order to increase the setback of the upper levels of the RACF building from Stephen Street by an additional 2 metres, the recommended approval has been appropriately conditioned (refer to **Condition B1**).

The Department considers that the proposed development is an appropriate site specific response to the increased demand for aged care places in existing built up areas of inner

Sydney. This demand is recognized by the Seniors Living SEPP and the Draft East Sub regional Strategy which identifies a significant need within the area for additional accommodation and facilities for the increasing portion of the region's population aged 65 years and above.

The Department has considered the proposal within the context of the established need for this form of development with its associated public benefits. The proposal provides for various levels of aged care including Independent Living Units, assisted care and high level dementia care services in the proposed facility. It is considered that this combination will promote "ageing in place", in line with current industry best practice. The Department considers that this proposal provides a socially desirable outcome as it falls within matters arising from the broad public interest.

The proposal would conserve the existing heritage building on the site. The adaptive reuse of the former Scottish Hospital building will ensure that this important building is conserved into the future and managed in accordance with the NBR Conservation Management Plan. The proposal will result in the preservation of all but one of the trees on the site listed on Council's Register of Significant Trees (Consent to remove T18 granted by Woollahra Council, 26 September 2011) and would also result in the conservation and interpretation of the existing central landscaped terraces. The significance of the place would be conserved by the proposal, to be enjoyed by the future occupants of the site and the wider community.

The landscape character of the site would be retained by the proposal, thereby contributing to the amenity of the surrounding streetscapes. Any trees required to be removed in order to site the proposed new buildings would either be replaced or transplanted within the site. All future planting will be in accordance with the Conservation Management Plan.

There would be minimal view loss as a consequence of the proposal. Amenity impacts arising from the proposal which have not been addressed by the PPR are considered to be minor and do not reasonably form the basis for refusal or any further modification of the proposal.

In addition to the above, the Department has determined that the implications for traffic and parking in the surrounding area are reasonable and acceptable. The proposed 132 car spaces are considered to be sufficient to service the future car parking needs of the proposal. The simple and efficient servicing of the proposed RACF building via a loading dock directly accessed off Stephen Street is considered to be preferable to the proposed alternative servicing via the main Brown Street vehicular entrance.

The Department recommends that the Project Application be approved, subject to the conditions of approval.

7. RECOMMENDATION

Having considered the key issues in relation to the proposal, the Department notes the following key findings:

- the heritage significance of the site and the surrounding Heritage Conservation Area would be conserved by the proposal;
- the height, bulk and scale of the proposal is acceptable;
- the landscape character of the site would be maintained, and the special qualities of the surrounding streetscapes would be preserved;
- there would be no unreasonable impact on the residential amenity of the occupants of adjoining and nearby properties in terms of privacy, solar access, view loss or otherwise; and
- where appropriate, conditions have been recommended to further mitigate environmental impacts.

It is therefore recommended that the Planning Assessment Commission, as delegate of the Minister for Planning and Infrastructure:


- A) **consider** the recommendations of this report;
- B) **approve** the project application, subject to conditions, under Section 75J of the Environmental Planning and Assessment Act 1979; and
- C) **sign** the attached Instrument of Approval (**Appendix F**).

Prepared by: Robert Byrne
Senior Planner, Metropolitan and Regional Projects South

Endorsed by:



Alan Bright
A/Director
Metropolitan & Regional Projects South



7.3.12
Chris Wilson
Executive Director
Major Projects Assessment



19/3/12
Richard Pearson
Deputy Director-General
Development Assessment & Systems Performance

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

Environmental Planning and Assessment Act

The objects of the Environmental Planning and Assessment Act, 1979, 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.*

Comment

The Department considers the proposed development to be consistent with the relevant Objectives of the EP&A Act as:

The proposal provides for the proper management, development and conservation of an underutilised significant parcel of land within the eastern suburbs of Sydney. The proposal will promote the social and economic welfare of the community through the provision of much needed housing and services for older and disabled members of the community. The proposal will deliver a net community benefit and result in an improvement in the environmental characteristics of the site and surrounding locality.

The proposal is consistent with the principles of ecologically sustainable development and will provide for the long term conservation of the heritage significance of the site. The assessment of the proposal has provided for an increased opportunity for public involvement and participation in environmental planning and assessment. The Paddington community and Woollahra Council were widely consulted from the inception of the project. The PPR incorporates significant amendments to the original proposal, incorporated to address the concerns of the community and the Department.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

There are four accepted ESD principles:

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

The Department has considered the development in relation to the ESD principles and has made the following conclusions:

Precautionary Principle – It is considered that there is no threat of serious or irreversible environmental damage as a result of the proposal. The site has been developed for some time and does not contain any threatened or vulnerable species, populations, communities or significant habitats. The site therefore has a low level of environmental sensitivity.

The Issue of the Grey Headed Flying Fox (a threatened fauna species under the EPBC) utilising the site for foraging purposes is discussed in Section 3.7 of the Department's assessment report.

The Grey-headed Flying-Fox, a threatened fauna species was found to occur within the site. The fauna assessment indicates that the species 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.

Inter-Generational Principle – The proposal represents a sustainable use of the site as the redevelopment will utilise existing infrastructure and make more efficient use of the site. The redevelopment of this site will also have positive social, economic and environmental impacts.

Biodiversity Principle – Following an assessment of the Proponent's EA it is considered with appropriate certainty that there is no threat of serious or irreversible environmental damage as a result of the proposal. The site has been developed for some time and the site has a low level of environmental sensitivity. While the site contains a large number of significant trees, it does not contain any threatened or vulnerable species, populations, communities or significant habitats. Therefore the proposal will not impact upon the conservation of biological diversity or ecological integrity.

Valuation Principle – The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate measures to mitigate adverse environmental effects and maximise energy efficiency through design. The mitigation measures include the cost of implementing these measures in the total project cost.

The Proponent is committed to ESD principles and has reinforced this through maximising cross ventilation, solar access and natural light through apartments in the PPR. The above measures will be included in the total cost of the project and considering greenhouse gas emissions linked to environmental performance, accessibility and travel, the proposal is considered to be acceptable.

SECTION 75I(2) OF THE ACT & CLAUSE 8B OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

This report to the Minister for the proposed project satisfies the relevant criteria under Section 75I of the Act as follows:

Section 75I(2) criteria	Response
Copy of the Proponent's environmental assessment and any preferred project report.	The Proponent's EA and PPR are located on the Department's website www.planning.nsw.gov.au
Any advice provided by public authorities	A summary of the advice provided by public

on the project.	authorities on the project for the Minister's consideration is set out in Section 4 of this report.
Copy of any report of the Planning Assessment Commission.	The report is located on the Department's website www.planning.nsw.gov.au
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project.	Each relevant SEPP that substantially governs the carrying out of the project is identified in this Appendix below.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division.	An assessment of the development relative to the prevailing environmental planning instrument is provided later in this Appendix.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment of the project application is this report in its entirety.

This report to the Minister for the proposed project satisfied the relevant criteria under Clause 8B of the EP&A Regulation as follows:

Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 5 of this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The impact of the development on the public interest is discussed in Sections 2, 5 and 6 of this report.
The suitability of the site for the project	The site is zoned special uses and the proposal is permissible with consent. Following remediation, required by Condition A1 , the site will be suitable for the project.
Copies of submissions received by the Director-General in connection with public consultation under Section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in section 4 of this report.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (Major Development) 2005;
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Living SEPP);
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and the Residential Flat Design Code (Planning NSW, 2002); and

- Woollahra LEP 1995 and the Scottish Hospital Planning Principles.

Other controls to be considered in the assessment of the proposal are:

- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No. 55 - Remediation of Land; and
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

The provisions of development standards of local environmental plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R Part 3A of the Act. Notwithstanding, the objectives of the above EPIs, relevant development standards and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment in accordance with the DGRs.

COMPLIANCE WITH PRIMARY CONTROLS

State Environmental Planning Policy (Major Development) 2005

As discussed previously in Section 3.1, on 9 March 2010, the Deputy Director-General formed the opinion that the proposal for a Senior Living Development at the Scottish Hospital site, 2 Cooper Street, Paddington is a project to which Part 3A applies. The project is a Major Project under *State Environmental Planning Policy (Major Development) 2005*.

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

Key Principles of the Seniors Housing SEPP	Department Response
Part 1A Site Compatibility Certificates	
Clause 24 Site compatibility certificates A site compatibility certificate is required for any DA that involves a bonus under the Vertical Villages Provisions of the SEPP	In accordance with cl 24(1A)A, a site compatibility certificate was not required as the proposed development is permissible with consent on the land under the zoning of another environmental planning instrument (Woollahra LEP 1995).
Part 2 Site Related requirements	
Clause 26 Location and access to facilities 400m to community facilities or regular public transport.	Some facilities will be provided on site or within 400m of the site. Regular public transport is provided within 400m of the site.
Clause 28 Water and sewer Consent authority must be satisfied that the housing will be connected to a reticulated water system and have adequate sewage disposal.	Sydney Water has confirmed in writing that the development may be adequately provided with a reticulated water system and adequate sewage disposal.
Part 3 Design requirements	
Clause 33 Neighbourhood amenity and streetscape	The proposal is acceptable in this regard as discussed in detail in Section 5.1 of this report.
Clause 34 Visual and acoustic privacy	The proposal is acceptable in relation to visual and acoustic privacy as discussed in Section 5 of this report.
Clause 35 Solar access and design for climate	The proposal is acceptable in relation to the maintenance of solar access to neighbouring properties as discussed in detail in Section 5.2 of this report.
Clause 36 Stormwater	The proposed stormwater system will be consistent with Council's requirements.

Clause 37 Crime Prevention	<p>The design has been assessed against the principles of "<i>Crime Prevention Through Environmental Design</i>".</p> <p>The proposal provides opportunities for passive surveillance, views into and from the site, as well as controlled secure access to the site and buildings and self-care dwellings.</p> <p>The development incorporates measures including controlled pedestrian and vehicular entries, visually permeable palisade boundary fencing and gates controlling access throughout the site, and intercom entry systems. These measures will adequately address crime issues.</p>
Clause 38 Accessibility	<p>The proposal includes vehicular access from Brown Street, servicing via a loading dock on Stephen Street and pedestrian entries (Cooper Street entrance and drop off zone), separated to ensure pedestrian safety. The site is within 400m easy walking distance to a bus stop on McDonald Street (389 route). The proponent has committed to upgrading the footway between the site and bus stop. The access points will facilitate efficient ingress and egress from the site.</p>
Clause 39 Waste Management	<p>Suitable waste and recycling facilities are located within the basement and service areas.</p>
Part 4 Development Standards	
Clause 40 Development Standards Minimum lot size 1000m ² Minimum frontage of 20 metres	<p>Site area 14,780m². Frontages: 129m (Brown Street), 121 (Cooper Street), 144m (Stephen Street), and 90m (Dillion Reserve).</p>
Clauses 41 & 42 Standards for hostels and serviced self-care housing	<p>A condition has been recommended requiring compliance with all relevant sections of Schedule 3, Part 1.</p>

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and Residential Flat Design Code

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. A Design Verification Statement has been provided by Dennis Rabinowitz of JPR Architects, stating that the subject development has been designed having respect to the design quality principles. The Department has considered the architect's design verification statement regarding an assessment of the proposal against the SEPP 65 design principles and considers this to be acceptable.

The Department has reviewed the orientation and layout of the proposed Independent Living Units (ILUs) and considers that the proposed development generally complies with the recommendations of the Residential Flat Design Code (RFDC) and that the proposed ILUs meet the requirements of

SEPP 65. An assessment of the proposal against the Residential Flat Design Code is set out in the table below:

	RFDC requirement	Proposed	Complies?
Part 1 Local Context			
Building Separation (habitable rooms & balconies)	5 to 8 storeys/up to 25 m: 18m between habitable rooms/balconies - 13m between habitable rooms/balconies & non-habitable rooms - 9m between non-habitable rooms.	16-26 metres	Partial (see discussion in Section 5.0 for separating distances less than 18 metres)
Street Setbacks	Compatible with desired streetscape character	Satisfactory setbacks to both Stephen and Brown Street. No change to the setback of the Heritage Building ILUs. See Section 5.0 of this Report.	YES
Part 2 Site Design			
Deep Soil Landscaping	Min 25% of open space	89% (7,211of open space deep soil landscaping	YES
Fences	Provide privacy and security Contribute to public domain	Fences to be provided as existing with gated access	YES
Communal Open Space	Larger and brownfield sites potential for >30%	51% communal open space	YES
Part 3 Building Design			
Building Depth	No greater than 18 metres (glass line to glass line)	Maximum 22-25 metres	Partial – Brown Street ILU exceeds the 18m depth. However, this was necessary to achieve 100% fully accessible units. Unit design and layout overcomes light and ventilation issues.
Acoustic Privacy	Separate noisier spaces from quieter spaces	Internal layout achieves acoustic privacy requirements.	YES
Solar Access	70% achieve 2hrs of sunlight between 9am-3pm on 21 June	77%	Most of the ILUs are corner units. There are no south facing units – discussed in detail in Section 5 above
Single aspect units	Limit single aspect units with a southerly aspect to a maximum of 10% of proposed units.	No single aspect south facing ILUs	See Section 5 above
Single aspect apartment depths	Single aspect apartments limited in depth to 8 metres from a window and that a kitchen should be no more than 8 metres from a window.	>8 metres maximum depth for some units	Partial – Some units do not meet this requirement. However, the proponents Solar Access Report (Steve

			King) demonstrates that this does not result in substandard amenity, and that the relevant objectives would be satisfied.
Naturally cross ventilated	Min 60% of units	91% of units achieve natural cross ventilation	YES
Kitchens with natural ventilation	Min 25%	>25%	YES
Apartment Size (min)-	1 bedroom= 50m ² 2 bedroom= 89m ²	1 bed = 64m ² - 110m ² 2 bed=114m ²	YES YES
Balcony Depth	Min 2m	All ILU balconies achieve the min 2.0m depth	YES
Floor to ceiling heights	≥2.7m	All ILUs achieve min 2.7m compliance	YES

The Department considers that the proposed building configuration enables the proposed units to be provided with a good level of internal amenity.

Woollahra Local Environmental Plan 1995

The proposal has been considered against the Woollahra LEP 1995. The main areas of non-compliance relate to building height and floor space. These issues have been addressed in the report above. The issue of height is discussed in detail in the following Height Analysis. Below is compliance table in relation main planning controls in the Woollahra LEP 1995.

Woollahra LEP 1995 Standard	Requirement	Proposed	Compliance
CI 10B - Site area & frontage standards	Site area: 930m ² Frontage: 21m or more	Site area: 14,780m ² Frontage: 121m (Cooper Street)	Yes Yes
CI 11 - FSR	Zone 5 No FSR standard indicted on the Map.	1.25:1*	N/A Acceptable on merit (see Part 5)
CI 12- Building Heights	Zone 5 - 9.5 metres	26.29m (Brown St ILU) 15.99m (Stephen St ILU)	No (see Part 5)
Land adjoining Public Open Space	The Council shall not grant consent to an application for development on land which adjoins public open space unless it has made an assessment of the impact of the development on the amenity of the public open space and it has taken into consideration whether the development is in conflict with any plan of management for the public open space.	The Department considers that the proposal is not inconsistent with the WMC POM 1996 – Local Parks, which covers Dillon Street Reserve.	Yes
Landscaped Area	50% of site area minimum Landscaped area over podiums or excavated basements not to exceed 50% of landscaped area	14,964m ² (51%) 8,147.47m ² (56% of site) of provided. 7,211 m ² is deep soil landscaping.	Yes

Site Specific DCP	Required for sites in excess of 10,000m ²	The Woollahra Council Planning Principles for the redevelopment of the site, provide site-specific development controls.	Project is considered to be satisfactory with regard to the relevant planning principles.
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** The floor space proposed in the PPR scheme is calculated in accordance with the Seniors Living SEPP definition as it provides the prevailing floorspace control.*

Woollahra Council height control

In the absence of a maximum height control within the SEPP HSPD, the principle height control for the site is the 9.5metres maximum height control provided for by Clause 12 of WLEP 1995. All of the existing and proposed buildings exceed the control significantly.

The objectives underlying the Woollahra height standard provide effective performance measures to enable a merit assessment of height over and above the maximum 9.5 metres, and are as follows:

- (a) to minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline,*
- (b) to provide compatibility with the adjoining residential neighbourhood,*
- (c) to safeguard visual privacy of interior and exterior living areas of neighbouring dwellings,*
- (d) to minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing,*
- (e) to maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of streetscapes.*

In relation to (a), the view loss analysis which accompanied the PPR demonstrates that the revised height of the proposal will not impact on any existing views of Sydney Harbour, and views of the Sydney City skyline, currently obtained over the site from various neighbouring and adjoining properties.

In relation to (b), the height of the proposed built form is considered to be compatible with the adjoining residential neighbourhood, as discussed in **Part 5** of the Department's assessment report.

In relation to (c), it is considered by the Department that the height of the proposed built form would safeguard the visual privacy of interior and exterior living areas of neighbouring dwellings. This has been achieved through the design of the proposed built form in combination with the separating distances between potential vantage points within the proposed built form, and windows to habitable space and areas of private open space available to the occupants of adjoining and nearby properties. This aspect of the proposal is discussed in detail below in Section 5.3 of this report, under the heading of 'Amenity Impacts to Adjoining Properties'.

In relation to (d), it is considered by the Department that the design of the proposed built form minimises additional overshadowing and minimises any detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas. This aspect of the proposal is discussed in detail below, under the heading of Amenity Impacts to 'Adjoining Properties' and 'Residential Amenity'.

In relation to (e), it is considered that the amenity of the public domain, including the amenity of the Dillon Street Reserve and the streetscapes of Cooper, Brown and Stephen Streets, in the vicinity of the site, would be preserved and enhanced by the proposal. While the appearances of all four elevations of the site would be altered by the proposal, this change is not considered to be detrimental to the amenity of these public areas, in terms of solar access, heritage significance and

visual aesthetics. The consistency of the proposal with objectives (a) to (e) is expanded on in Part 5.

Paddington Development Control Plan

The Department considers that the proposal would maintain the significance of the Paddington Heritage Conservation Area (Refer to detailed discussion of Heritage Issues in 5.2 of the Departments Assessment Report).

Statement of Planning Principles for the Redevelopment of the Scottish Hospital Site, 2 Cooper Street, Paddington

The 16 Planning Principles were adopted by Council on 11 October 2010, in order to guide the future development of the site. Each of the planning principles are listed below, together with the Department's comment.

1. *The heritage significance of the site, as recognised by its status as a heritage item and its location within nationally significant Paddington Heritage Conservation Area, is to be conserved.*

The heritage significance of the site and the surrounding *Paddington Heritage Conservation Area* would be conserved by the proposal. This is discussed in detail in Part 5.2 of the Departments Assessment Report. The proposal is consistent with this principle.

2. *Subject to Planning Principle Four, the heritage significance of the existing buildings, vegetation and landscaping, as established by a properly researched and prepared conservation management plan, is to be preserved, enhanced and managed.*

The heritage significance of the existing Scottish hospital building, the landscaped terraces and other significant landscaping on the site would be preserved, enhanced and managed into the future, in accordance with the Conservation Management Plan (CMP) prepared by Noel Bell Ridley Smith. This is discussed in detail in Part 5.2 of the Departments Assessment Report. The proposal is consistent with this principle.

3. *The use of the property and buildings is to maintain a primary health care, including aged care, component to recognise its historically adaptive usage and land-use zoning.*

The proposed use of the property is permissible within the existing land-use zoning, under the provisions of the SEPP HSPD. The adaptive reuse of the Scottish Hospital Building for independent living units is supported by the NSW heritage branch and the CMP for the site. The proposal is consistent with this principle.

4. *Non-significant buildings being the operating theatre on the Stephen Street side of the property and the nursing home building on the Brown Street side of the property may be demolished or altered.*

The proposal involves the demolition of the former operating theatre on the Stephen Street side of the property and existing nursing home building on the Brown Street. The proposal is consistent with this principle.

5. *Restore and adaptively reused the Scottish Hospital site using the principles established by the Burra Charter.*

The conservation and adaptive reuse of the Scottish Hospital Building is consistent with the established principles of Burra charter, as outlined in the CMP. The proposal is consistent with this principle.

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

The proposal provides for re-establishment of the visual connection between the northern rear elevation of the Scottish Hospital Building, on the Cooper Street frontage, and the Dillon reserve. (The rear elevation contains intact elements of the original 1840s house, including the veranda and balustrading.) **Figure 5** in Part 5 of the Departments Assessment Report contains a photomontage of the reinstated visual connection. The proposal is consistent with this principle.

7. *The boundaries of the land, which represents remaining example of early land grants issued in the area, are not to be changed so that:*

- The proportions of the property, relative to the subdivision pattern of the area of maintained*
- The heritage significance of the place may be properly managed.*

[Note: this planning principle is not intended to prevent any change to the title of the land which may be necessary to facilitate the dedication of a portion of the land for public use.]

The boundaries of the site are not proposed to be altered under this application. The Voluntary Planning Agreement between the proponent and Woollahra Council would alter the boundaries of the site and this would be consistent with the note accompanying the planning principle. The proposal is consistent with this principle.

8. *Entry points to the site are to be based on independent evaluation of vehicular and pedestrian traffic impacts on the local Street network. Retention of the principle vehicle entry/exit at the existing location in Brown Street is favoured.*

The proposal would maintain the existing principle vehicular entry/exit at the existing location and Brown Street. The proposal also involves a loading dock on the Stephen Street frontage of the site, which is considered by the Department to be the most suitable and efficient means of servicing the proposed RACF building.

9. *Buildings and street fences are to be designed to make the site more visually and physically connected with the surrounding urban context. Street fencing should be of a palisade style.*

The proposal involves fencing the site with open style iron palisade style fencing. The proposal is consistent with this principle.

10. *Retain existing views into and over the site.*

The reduction in the height of the proposed Brown Street ILU building and the fact that none of the proposed new buildings would exceed the ridge height of the Scottish Hospital Building (RL 41.74) is considered to result in the preservation of all existing significant views over the site.

The proposal will alter a number of existing views or outlooks into the site. However, given the undeveloped nature of a large portion of the site, especially on the Stephen Street frontage, it is not considered reasonable to retain these existing outlooks/ views into the site in their entirety.

11. *Subject to section 94 of the Environmental Planning and Assessment Act 1979 (the Act) or to a voluntary planning agreement under section 93F of the Act, allow for dedication of land for publicly accessible open space areas to complement existing open space in the locality.*

Woollahra Council has resolved to enter into negotiations with the proponent with regards to a draft Voluntary Planning Agreement. The VPA will provide principally for the dedication of land to Council, to form part of the Dillon Reserve. However, at the time of writing, no agreement had been reached between the parties.

There is no applicable Section 94 or Section 94A contribution as a Direction from the then Minister for Planning, dated 14 September 2007 prevents consent authorities from imposing such a

condition on a development consent granted to a social housing provider. This issue is discussed in detail in Section 5 of the Department's assessment report.

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)*

DA 931/2001 was not acted upon. The density and bulk of the proposal have been assessed on planning merit in Part 5 of the Departments Assessment Report.

- *Encroach upon root zones or tree canopies of heritage listed and significant trees*

All trees listed on Woollahra Council's Register of Significant Trees would be retained by the proposal. Suitable conditions are contained within the instrument of approval to ensure that there is no unreasonable encroachment on the Rupert action zones or tree canopies of trees to be retained.

- *Encroach upon areas of significant landscaping and in particular the landscaped terraces so that heritage trees and heritage garden terraces on the site are focal points.*

The proposed new buildings on the Brown Street and Stephen Street frontages would frame the view to the landscaped terraces from the Dillon reserve. The landscaped terraces would be conserved and reinterpreted, to be are focal point of the open space within the site. The proposal is consistent with this principle.

- *Involve excavation which extends beyond the footprint of proposed buildings or which results in adverse hydrogeological impacts.*

The proposed excavation is generally confined to the footprints of the proposed new buildings and is unlikely to result in adverse hydrological impacts.

New buildings are to respect the scale of adjoining heritage properties.

The height of all the proposed new buildings would not exceed the RL 41.74 height of the ridgeline of the Scottish Hospital Building. Compatibility with the scale of buildings on the surrounding heritage conservation area streetscapes has been achieved through boundary setbacks landscaped screening the stepping of built form the articulation of the site is another design considerations.

13. *Respond to site's topography, and the dramatic change in level between the Cooper Street frontage and the Dillon Street Reserve, by designing new buildings that follow the existing topography and which enable the topography to be perceived.*

The proposal responds well to the topography of the site. The proposed new buildings on the Stephen Street and Brown Street frontages step down the site from south to north, with the footprints of new buildings and their massing, is concentrated towards the southern, higher portion of the site. The proposal is consistent with this principle.

14. *Retain the significant landscape character of the site particularly as viewed from surrounding public areas.*

The proposal would retain the landscape character of the site as viewed from surrounding public areas. This is particularly so from the Dillon Street Reserve. The proposal is consistent with this principle.

15. *Landscaping is not to be used as a planning solution to justify additional building bulk.*

The proposed new buildings have planning merit irrespective of proposed landscaping. However, the existing and proposed landscaping within the boundary setback areas of new buildings on their respective Street frontages serves to soften the proposed built form and is necessary to ensure retention of the landscape character of the site. The proposal is consistent with this principle.

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

The proposal provides for a visual connection within the site, between the remnant terraces and the gardens, and other landscaped open space in the northern part of the site, adjoining the Dillon Street reserve. The proposal is consistent with this principle.

The proposal is considered to substantially satisfy the Planning Principles.

COMPLIANCE WITH OTHER CONTROLS

State Environmental Planning Policy (Infrastructure) 2007

While the project does not require referral under Schedule 3 of the ISEPP (i.e. a RFB with 300 dwellings, a hospital with 300 beds or any other use with more than 200 vehicles), it was referred to Roads and Maritime Services (RMS). Referral comments were received from RMS which raised no objection to the proposal. Relevant conditions are recommended within the Instrument of Approval.

State Environmental Planning Policy 55 – Remediation of Land

The PPR acknowledges that the northern end and south western corner of the site is contaminated. Issues of contamination were considered by Woollahra Council as part of DA No. 427/2001 (Consent issued on 29 January 2002). The provisions of SEPP 55 were considered and the consent necessarily involved remediation work. However, this consent has lapsed.

In response to the Department's concerns, supplementary advice regarding site contamination was prepared by Environmental investigation Services(EIS) and submitted with the PPR, confirming the validity of previous reports, and concluding that the site could be remediated to the extent that it would be suitable for the proposed use. The supplementary advice states that, "EIS across the opinion that the investigations undertaken to date, together with the amendments to reports, and additional investigations will comply with SEPP 55." However, A Remedial Action Plan (RAP) was not submitted with the PPR.

The "Managing Land Contamination Planning Guidelines" state that if development consent is required, an RAP must be submitted with the development application for approval." However, the site has been the subject of a number of contamination investigations since 2000 and there is reasonable certainty in relation to the level of contamination and the ability of the site to be remediated so that it can accommodate the proposed use. Accordingly, the Department considers that incorporation of the requirement for a RAP a deferred commencement condition into the Instrument of Approval is appropriate, under the circumstances.

Condition A1 is recommended requiring a RAP based on the summary of previous investigations undertaken on the site and on the proposed land use to be submitted to the Director-General of the Department of Planning and Infrastructure. The RAP shall clearly outline the objectives of the remediation strategy, the recommended cleanup criteria, and shall clearly demonstrate that what is proposed will properly remediate the site to a degree commensurate with its proposed use. Further, an EPA accredited site auditor shall be engaged to confirm the validity of the investigations and the proposed remediation strategy.

Subject to the imposition of **Condition A1**, the proposal is satisfactory with regards to the relevant provisions of SEPP 55,

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

SEPP - BASIX aims to establish a scheme to encourage sustainable residential development across New South Wales. The current targets of BASIX for Residential Flat Buildings commenced on 1 July 2006 and require all new residential dwellings in NSW to meet targets of a 30% reduction in energy use and 40% reduction in potable water.

A condition is recommended requiring the submission of BASIX certificates.

APPENDIX E PLANNING ASSESSMENT COMMISSION REPORT

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

