

Project No.: 161

Client: JOHN PAUL VILLAGE (JPV)

Brief: Statement of Environmental Effects
Incorporating social impact comment

Address: 15 The Avenue, Heathcote

Date: 24 July 2014



John Paul Village
Heathcote Sydney, NSW

Providing more residential aged care facilities (RACF) to the Sutherland Shire

Sutherland Shire Draft Housing Strategy 2031 as detailed by report DAP025-13 dated 12/11/2012 and Council's publication "Ageing well: Housing" dated 24/05/2013 clearly identify a pressing need for more aged care facilities.



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1 Executive Summary

JOHN PAUL VILLAGE (JPV) is part of the Public Benevolent Institution being Catholic Age Care Sydney, a not for profit, public interest based, charity.

The proposal is alterations and additions to the existing residential aged care facility (RACF). As recognised by Sutherland Shire Council's own strategic plans and supporting social studies there is a pressing need to expand aged care within the Sutherland Shire. Demand for age care facilities exceeds supply with significant waiting lists for entry to most facilities.

Development Consent is sought for the whole of the development that will be undertaken under multiple Construction Certificates.

The following building stages are envisaged:

Stage 1: North Wing

Demolition of the existing single storey North Wing Nursing Home. Construct new basement car park accessible from Wilson Parade, with associated kitchen, laundry, services areas, amenities, workshop, storage area and garbage holding room. Three levels of residential care rooms are to be constructed above the basement with associated resident and staff areas.

Stage 2: Kingfisher

Internal alterations and refurbishment to the existing Kingfisher Hostel across both floors.

Stage 3: South Wing

Demolition of the existing single storey South Wing Nursing Home. Construct new basement car park with two levels of resident care rooms above including café on the ground floor and 'wellness area' on the first floor. A new chapel and roof terrace will be constructed on the third floor. Alterations and additions are to be carried out to the existing staffroom above the Village Hub.

Stage 4: Parkview

Internal alterations and refurbishment to the existing Parkview Hostel across both floors.

In addition to the building works extensive landscaping will be undertaken as detailed by the landscape plans.

JPV provides a range of retirement village options from self-care through to high care. JPV was opened in 1985 and steady improvements to the facilities have occurred since that date, meeting increased public demand for aged care.

Statement of Environmental Effects

JPV is a very important and integral part of the Shire's aged care system. There are 26 significant aged RACF in the Sutherland Shire. JPV is the largest. In addition to the 190 RACF beds, JPV provide 167 dwelling with access to "The Hub" common facilities, JPV's private buses and support services.

There are only five (5) substantive impacts for resolution with this application. In order of significance it is our opinion they are:

1. Bush Fire – This is addressed by the Bushfire Protection Assessment by Ecological Australia and JPV's Disaster & Emergency Management Plan.
2. Traffic – This is addressed by the Traffic & Parking Report
3. Height of Building and Urban Design – This is addressed by the Architectural design and Design Report and Landscape Plans.
4. Road and Rail Noise – This is addressed by the Acoustic Report
5. Fire Sprinkler Systems – This will be undertaken to comply with the NCC

The application addresses the relevant matters for Council's consideration under section 79C of the *Environmental Planning and Assessment Act 1979* (Act) through the plans, this SEE and detailed expert plans and reports.

It is our opinion that the net public benefit of the proposal is overwhelmingly positive and it is in the public interest (section 79C(1)(e) of the Act).

There are no apparent negative consequences. The proposal will improve traffic and parking, the only real external impact of the existing JPV current services. To the extent that traditional issues (traffic, privacy, solar access, parking etc) arise, the proposal seeks internalises these impacts whilst being respectful of residents within the site.

To this end, whilst Council appear to have no issue with the HOB (PAD14/0030 dated 30 May 2014), internal amenity considerations are limiting the HOB to heights as proposed such that internal overshadowing is acceptable.

The public benefits are:

- Increased high care and dementia care in a RACF building at a high standard.
- Increased onsite parking reducing on-street parking.
- Decrease in traffic upon local residential streets with improved access and egress from Wilson Parade.
- Improved NSW Fire & Rescue and Rural Fire Service perimeter access for bush fire and general fire and rescue.
- Increased pedestrian safety with loading dock removed from internal road to new northern perimeter road.
- Excellent urban design outcome with the built form, as viewed from Wilson Parade, as 2 storeys.
- Transitional density between new enterprise zone (west of the site) and low density residential zone (east of the site).

JPV have recently reviewed their comprehensive Disaster & Emergency Management Plan and will be further updated to address the proposed works.

This comprehensive plan was written in consultation with Sutherland Shire Council (Council), SESLHD Disaster Management Unit of the NSW Department of Health, NSW Police Service, State Emergency Service, Sutherland Rural Fire Services, Fire & Rescue NSW, NSW Ambulance Service, Australian Nuclear Science and Technology Organisation (ANSTO), National Parks & Wildlife Service (now DECC).

The site is zoned Special Use – Seniors Housing with a small portion being Zone 3 Environmental Housing. The site has no assigned Floor Space Ratio (FSR) under the *Sutherland Shire Local Environmental Plan 2006* (LEP) and the proposed FSR at 0.68:1 is considered conservative for the site. The proposed FSR is less than the maximum FSR allowed under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP) FSR being 1:1 for residential care.

The proposal is subject to, but does not rely upon the Seniors SEPP for permissibility or to achieve compliance with FSR. Those portions of the site upon which the proposed work will take place are all within the Special Use – Seniors Housing zone. Irrespective of this, whether by the Seniors SEPP or by way of existing uses right the proposal is permissible. Having regard to the Draft LEP would be permissible as an additional permissible use. Irrespective of the foregoing the site would benefit from existing use rights.

The project design report provides that:

"The project is being undertaken to improve the operation of the facility by the rationalisation of internal circulation and location of functional areas, to resolve existing conflict between pedestrian and vehicles, and the separation of the RACF and village administration entrances from services including food delivery and garbage collection vehicles.

The project also aims to update the village to current standards, and to meet market expectations, It provides additional onsite parking for staff, visitors and residents that will minimise traffic and parking on nearby residential street A new and enlarge wellness facility, chapel and café is provided.

There is also a modest increase in the capacity of the village."

The new buildings and the increase in capacity are required to address:

- operational functionality,
- traffic management and safety,
- parking,
- increased demand high care facilities.
- fire safety upgrading of RACF.

Operational impacts including parking are to be internalised within JPV and this development application is the result of strategic planning to increase on-site parking to ensure JPV's residential neighbours are not inconvenienced in any

material way by JPV's proposal to increase RACF to meet current and future aged care service demands.

1.1 Accommodation

There is a demand shift towards high-care which it proposed to increase. There is proposed to be a slight decrease in low care with the increase in high care. The following table summarises the accommodation as well as parking numbers.

16-Jul-14

Residential Care Accommodation Schedule								
Existing								
	North building	Kingfisher	South Building	West building	Parkview	Total Rooms	Residents	Comments South building comprise 1 Palliative care room, 3 single rooms, and 17 double rooms.
Residential rooms ground floor	26	16	21	23	24	110	127	
Residential rooms first floor	0	16	0	23	24	63	63	
Residential rooms second floor	0	0	0	0	0	0	0	
Total residential rooms	26	32	21	46	48	173	190	
Completed project by level								
	North building	Kingfisher	South Building	West building	Parkview	Total	Residents	Comments
Residential rooms ground floor	26	20	16	23	14	99	99	63 additional rooms, 46 additional residents (incl parkview).
Residential rooms first floor	33	20	12	23	16	104	104	
Residential rooms second floor	33	0	0	0		33	33	
Total residential rooms	92	40	28	46	30	236	236	
Completed project by room type								
	North building	Kingfisher	South Building	West building	Parkview	Total	Residents	Comments
High care dementia	33					33		63 additional rooms, 46 additional residents (incl parkview).
Low care dementia	26	20				46		
High care nursing	33	20	19	46		118		
Low care nursing					30	30		
Palliative care			6			6		
Respite rooms			3			3		
Total residential rooms	92	40	28	46	30	236	236	
ACCESSABLE ROOMS	7		2	2	2	13		
Car Parking								
	Existing	Proposed						Comments
ILU	102	133						
Staff	20	60						
Visitor	32	50						
Bus	1	1						
Ambulance	1	1						
Loading	2	2						
Total	158	247						

Figure 1 - RACF Accommodation Schedule

1.2 Parking

There are 158 existing parking spaces for JPV. The proposal is to increase parking by 89 space to 247 spaces, plus new loading facilities at the northern end of the site. The new loading dock removes heavy vehicles and vans from the self care loop road in the centre of the site providing a vast improvement in internal road safety outcomes.

1.3 JPV vision and mission

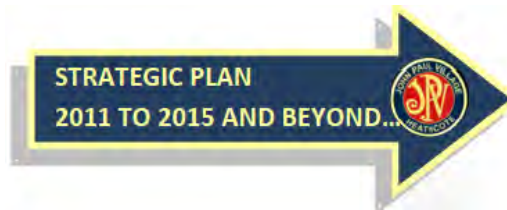
JPV aim is to provide a happy and secure environment where JPV can ensure high standards of individual assistance with daily living to each resident.

JPV vision and mission are:

- A home that welcomes
- A vibrant community that celebrates each stage of life to the full
- A place where friendships are discovered and shared
- A living expression of Christ's love for all

JPV values are:

- Trust in others and their trust in us
- Equal opportunity and justice for all
- Quality of life for the aged, and respect for their rights
- Open and effective communication, with management and staff working together as a team
- Excellence of care to continuous improvement
- Acknowledgement of team and individual contributions.



JPV have a Masterplan. The proposal is the culmination of the Masterplan strategy.

1.4 Summary of Impacts

JPV is cognizant that those most affected by this application are JPV's own residents.

As this proposal is located in the north-western corner of the site with no other neighbours potentially affected.

1.5 Reasonableness and Necessity

New laws¹ that took effect on 1 January 2013 require automatic fire sprinklers to be installed in residential aged care facilities in NSW. These new requirements have also triggered the need for significant building works that must be completed and fully operational by 1 March 2016.

Nevertheless, the primary triggers are the ever-increasing demands and growing waiting lists for entry into RAFC facilities, in particular dementia care and the need for modern facilities that allow for the efficient and effective operation of the RACF.

The proposal will supply the growing public demand, meet all Commonwealth aged care accreditation standards, the *National Construction Code* (previously the BCA) comply with clause 55 of the Seniors SEPP in the provision of a *fire sprinkler system* and consolidate key RAFC facilities to provide operational efficiency and effectiveness.

New vehicular access, that remove vehicles from the area of The Hub and allows access and egress from Wilson Parade reducing impacts upon neighbouring residential streets as well as more onsite parking to likewise reduce impacts upon neighbouring residential streets is a critical objectives of the proposal.

¹

<http://www.planning.nsw.gov.au/PolicyandLegislation/SafetyCampaigns/Firesafetyinagedcarefacilities/tabid/596/language/en-AU/Default.aspx>

1.6 This SEE

This Statement of Environmental Effect ("SEE") is submitted in support of proposed alterations and additions to the existing RACF triggered by the need to improve operational efficiency, meet increased demands, improved parking and the need for fire safety upgrades.

This SEE has been prepared for submission with the development application (DA) as required by Schedule 1, Part 1 Section 2 (1)(c)² of the *Environmental Planning & Assessment Regulation 2000* ("the Regulation").

This SEE does not purport to be an assessment under section 79C and limits itself to the requirements of the Regulation. This SEE relies in good faith upon detail provided by a range of consult experts and reference must be made to each expert report.

The proposal seeks to :

1. Provide an increase in JPV's residential care capacity as detailed above.
2. Provide left hand turn vehicular access and egress to the site at the northern end of Wilson Parade.
3. Improve the internal road buffer along the northern boundary of the site to the Royal National Park and the Asset Protection Zone (APZ) with improved access for NSW Fire & Rescue and NSW RFS fire trucks.
4. Increase the north-western precinct height to a maximum 3 storeys.
5. Increase car parking by 89 spaces.

The significant issues for consideration under section 79C of the EPA Act are:

- Bush Fire – Improved built form fire resistance in accordance with the Bushfire Protection Assessment by Ecological Australia and improved perimeter access for fire brigade truck with additional fire hydrants.
- Parking – Improved onsite parking by 89 spaces,
- Traffic - reduced traffic to residential streets.
- Fire Safety – Fire upgrade of facilities consistent with Fire Safety Strategy prepared by RAW Fire and BCA Report by Group DLA.
- Rail and Road Noise – Acoustic treatment.
- Character and Urban Form – Refer to Architectural design report
- Emergency Management – revised Disaster & Emergency Management Plan
- Social Benefits – achievement of Sutherland Shire Draft Housing Strategy 2031 as detailed by report DAP025-13 dated 12/11/2012 and Council's publication "Ageing well: Housing" dated 24/05/2013 that identified a pressing need for more aged care facilities.
- Economic Benefits – increase in staff to complying with Commonwealth aged care accreditation standards.

² <http://www.legislation.nsw.gov.au/fragview/inforce/subordleg+557+2000+sch.1+0+N>

1.7 Integrated Development

The proposal is considered to be integrated development under section 91 of the Act for the purposes of section 100B of the Rural Fires Act 1997.

1.8 Joint Regional Planning Panel

The CIV will exceed \$20 Million by a significant margin. Council must report the application to the JRPP for determination.

2 Consultants

The Application is supported by the advice, plans and detailed reports of the following experts.

The primary contact for any issues arising during the assessment process is Mr Danny Kataieh, Design Manager, Hansen Yuncken.

Mr Kataieh will be supported by the other experts as deemed necessary.

Consultancy Services	Company	Contact	Title	Mobile	Phone	Email
Managing Contractor	Hansen Yuncken	John Wilson	NSW Operations Manager	0411 752 389	9770 7600	jwilson@hansenyuncken.com.au
		Danny Kataieh	Design Manager	0434 367 611	9770 7600	dkataieh@hansenyuncken.com.au
Architect	DEM	Morris Rosenberg	Partner	0411 689 937	8966 6148	mrosenberg@nrparchitecture.com.au
		Daniel Phillips	Architectural Technician	0432 628 221	8966 6138	daniel.phillips@dem.com.au
Planner	Daintry Associates Pty Ltd	Brett Daintry	Director	0408 463 714		brett@daintry.com.au
Landscape Architect	DEM	Alex Beeston	Senior Landscape Architect			Alex.Beeston@dem.com.au
Civil	Northrop	Morgan Walter	Civil & Environmental Eng.		9241 4188	morganw@sydney.northrop.com.au
Surveyor	Frankham Engineering	Larry Frankham	Director	0418 659 796	9636 3248	office@fespl.com.au
BCA	Group DLA	Brett Clabburn	Director	0409 043 136	8934 0327	bclabburn@groupdla.com.au
Accessibility	MGAC	David Goding	Director	0407 246 115	9692 9322	david@mgac.com.au
		Anthony Leuzzi	Associate Director	0414 737 618	9692 9322	anthony@mgac.com.au
Traffic Engineer	McLaren Traffic Engineering	Craig McLaren	Director	0412 949 578	8355 2440	mclarenc@ozemail.com.au
Acoustic	Acoustic Logic	Benjamin White	Director	0428 356 188	8339 8009	bwhite@acousticlogic.com.au
Arborist	Tree & Landscape Consultants (TALC)	Peter Richards	Director	0418 277 379	9785 2678	talc2@optusnet.com.au
Bushfire	EcoLogical Australia	David Peterson	Principal Bushfire Consultant, Manager	0422 802 448	4302 1220	davidp@ecoaus.com.au
Structural	Northrop	Todd Halliday	Principal/ Structural Engineer	0404 879 157	9241 4188	todd@sydney.northrop.com.au
		Jonathon Low	Structural Engineer	0421 395 373	9241 4188	jonathanl@sydney.northrop.com.au
Kitchen & Laundry	Sangster Design Group	John Thomas	Director	0400 323 748	9630 0148	john@sangsterdesign.com.au
Fire Engineer	RawFire	Sandro Razzi	Director	0412 389 484	9299 6605	srazzi@rawfire.com
Mechanical	Grosvenor	Peter Souflias	Director	0411 473 518	9758 9555	PETER@gegrou.com.au
Electrical	JDG Consulting	Cheralee Heynes	Associate	0422 244 316	8861 1888	cheralee@jdgconsulting.com.au
Hydraulic	Aurecon	Charbel Aoun	Project Leader	0405 343 723	9465 5437	charbel.aoun@aurecongroup.com
Geotechnical	Douglas Partners	Sally Peacock	Associate / Geotechnical Engineer	0422 860 568	8878 0764	Sally.Peacock@douglaspartners.com.au

3 The Site

3.1 Locality and Address

The site subject to this development application is 15 The Avenue, Heathcote, Figure 2 - Site Aerial & Survey Close 4.284ha.



Figure 2 - Site Aerial & Survey Close 4.284ha

The site has a total area of 4.284ha by survey close.

3.2 Real Property Description & Core Development Standards

Real Property Description Lot, Section, DP	Zone	HOB	FSR
Lot 10 in DP 1110571	12 Seniors Housing	Default Heights of 7.2m to the uppermost ceiling and 9m to the roof.	The LEP does not provide a max FSR for Zone 12

It is notable that the 2006 LEP does not set a maximum FSR in Zone 12.

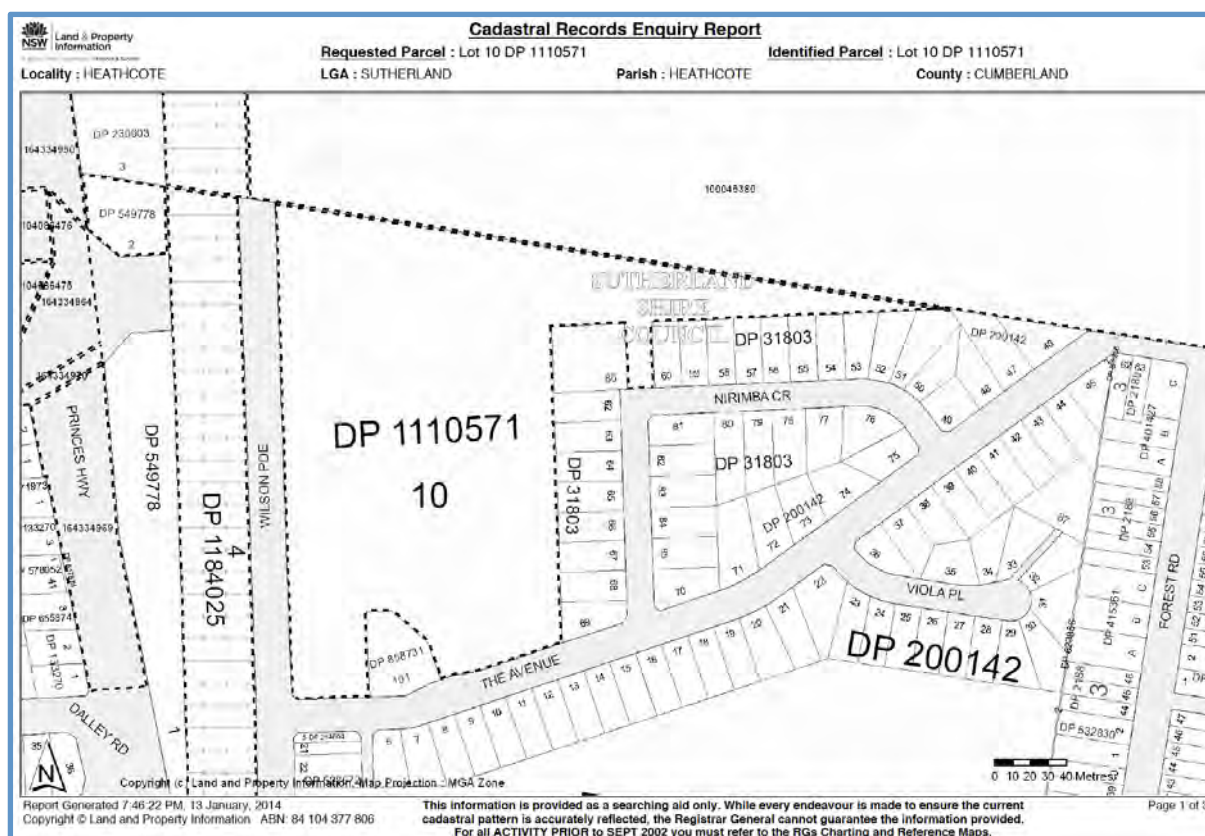


Figure 3 - Cadastral Map Lot 10 in DP 1110571

The core objectives are:

Clause 34 (1) Building Height (note Zone 12 is not mentioned)

The objectives of this clause, in relation to seniors housing on land in Zone 4—Local Housing, Zone 5—Multiple Dwelling A or Zone 6—Multiple Dwelling B, are as follows:

- a) to ensure that seniors housing is of a height that is compatible with:
 - i. the scale of other residential buildings in the zone in which it is located, and
 - ii. the desired scale and character of the street and locality in which the seniors housing is located, and
 - iii. complements any natural landscape setting of the seniors housing,
- b) to allow reasonable daylight access to all buildings and the public domain,
- c) to minimise the impacts of new seniors housing on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,
- d) to ensure that the visual impact of seniors housing is minimised when viewed from adjoining properties, the street, waterways and public reserves.

Clause 35 (2) Building Density

The objectives of this clause are as follows:

- a) to ensure that development is in keeping with the characteristics of the site and the local area,

- b) to provide a degree of consistency in the bulk and scale of new buildings that relates to the context and environmental qualities of the locality,
- c) to minimise the impact of buildings on the amenity of adjoining residential properties,
- d) to ensure, where possible, that non-residential buildings in residential zones are compatible with the scale and character of residential buildings on land in those zones.

3.3 Ownership

The site is owned by the Trustees of Catholic Aged Care Sydney.

3.4 Site History

JPV was conceived in 1980 by Parish Priest of St John Bosco Parish Engadine, Father John Briffa sdb and then Minister of the Engadine-Helensburgh Uniting Church, Rev Keith Biddle.

The Catholic Church owned the site and the Uniting Church had been granted the licences to build a nursing home but had no land. The two decided to get together, as an ecumenical joint venture, and build a Retirement Village.

The Uniting Church were unable to proceed with the venture in 1984 and the Catholic Church commenced work in December 1984.

The first residents took occupancy in August 1985 in the first Self Care Units (ILU). The nursing home (RACF) opened 19 October 1985 with forty seven (47) residents. The RACF was extended in 1993 to seventy six (76) beds to meet the needs of the community.

Further upgrades to the RACF took place in 2006 which now accommodated 156 single and 17 double rooms all with ensuite.

JPV has expanded progressively to service the community demand for ILU and RACF.

JPV is supported primarily by the Catholic Parish of St John Bosco Engadine, whose parishioners supported the venture in 1984.

3.5 Existing Character

The site is currently occupied by 1 and 2 storey residential aged care facilities (RACF) and independent living (ILU) units as shown in Figure 4 - Existing Site Character.

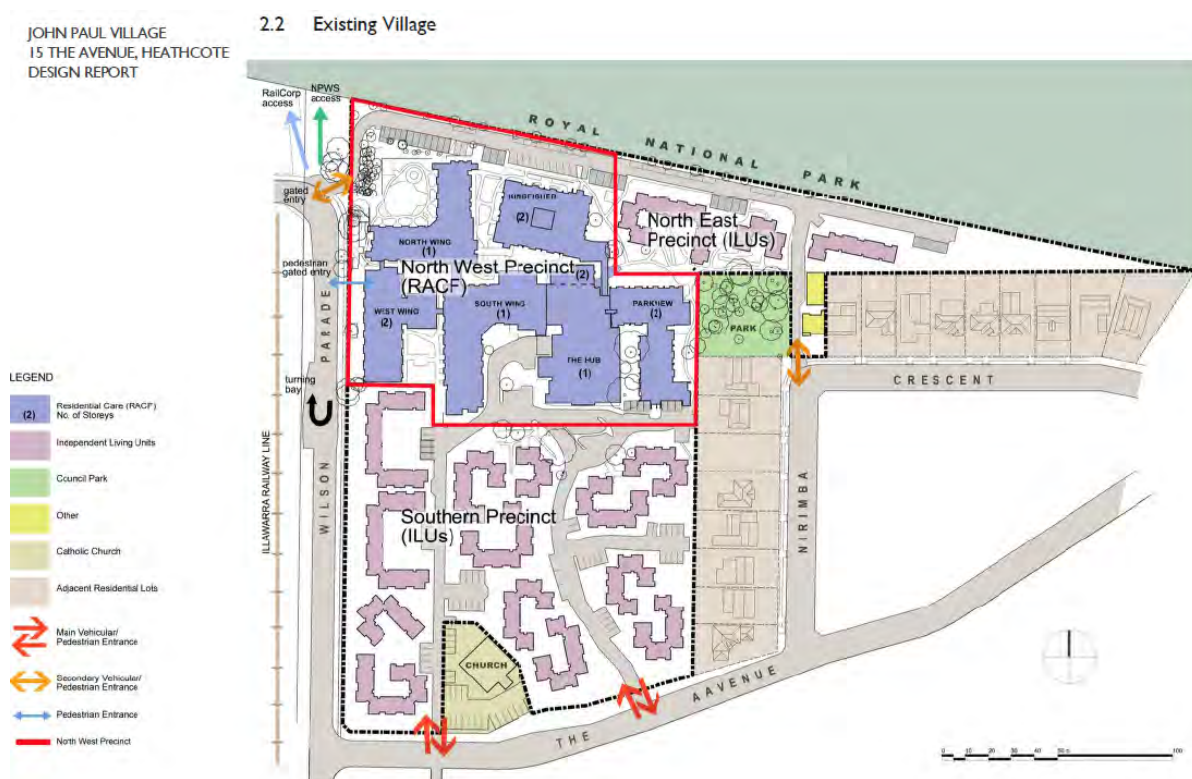


Figure 4 - Existing Site Character

The site's current use is for residential care facilities (190 beds) and self care units (166) in a medium density facility.

The site has three prominent precincts:

1. The Southern Self Care (ILU) Precinct – Maple Court, Hibiscus Court, Azalea Court, Palm Court, Church Court Fern Court and Garden Court.
2. The North West High Care Precinct (RACF) – North, West and South Wings with Low Care Hostel, Kingfisher, The Hub– Administration and Ancillary facilities with the Low Care Parkview facility on its east.
3. The North East Self Care Precinct (ILU) – Tree Tops Court, Currawong Court and Bushland Court.

The topography is predominantly at RL 194m AHD with the exception being the north western corner of the site where the high point rises to meet the raised section of Wilson Parade at above RL 197m AHD. This portion of the site is a full storey (not less than 3m) higher than the remainder of the site.

3.6 Context

JPV is bound to its west by Wilson Parade and the Illawarra Railway Line (Proposed Zone SP2) which then adjoins land fronting the Princes Highway being the proposed Enterprise Zone.

- Zone (B6) Enterprise Corridor
- HOB (O) 16m
- FSR (N) 1:1

In this context higher density and higher heights within the north-western corner of JPV will deliver an appropriate transition to the low density residential zone further east.



Figure 6 - Context Map

There are 8 residential properties with a common boundary to existing village within the south-eastern portion of JPV. No work is proposed in this area of the site.

The existing independent living will remain and retains an appropriate transition and buffer to the increased HOB and FSR that JPV seek in the north-western corner of the site abutting the Royal National Park, Wilson Parade and Illawarra Railway Line - Enterprise Corridor zone.

No.25 Nirimba Crescent is RE1 Open Space being parkland, a public park known as Nirimba Reserve.

To the south with frontage to The Avenue is the Catholic Church;

- 29-31 The Avenue (Lot 101 in DP858731)

To the north is the Royal National Park (RNP), containing a cleared and maintained asset protection zone (APZ). Access to the Illawarra Rail Corridor and the RNP is maintained through gates at the northern end of Wilson Parade and a gate from the northern driveway. This access will be improved through the construction of the new driveway entry to JPV.

To the east, JPV own the following sites with frontages to Nirimba Crescent (these sites are not subject to this application):

- 23 Nirimba Crescent (Lot 60 in DP31803) – House
- 27 Nirimba Crescent (Lot 62 in DP31803) - House
- 29 Nirimba Crescent (Lot 63 in DP31803) – House
- 31 Nirimba Crescent (Lot 64 in DP31803) – House

3.7 Desired Future Character

The desired future character is set by the current LEP with the final provisions of the standard instrument LEP currently under consideration following the public hearings in early 2014 being a relevant consideration.

The making of the Draft LEP is not considered certain or imminent with respect to this site.

JPV do not support the proposed Zone E4. JPV however, do support the additional permissible use of "Seniors Housing" being included in Schedule 1 Additional Permitted Uses of the Draft LEP for the total site.

The existing Special Use Zone and the Draft LEP both support the continued use of the site as seniors living. Irrespective of the Draft LEP the site would benefit from existing use rights if rezoned to prohibit seniors living.

In summary, the proposal will achieve the desired future character objectives of the existing special use zone and the draft LEP subject to the additional permissible use clause proposed by the Draft LEP and the standard instrument residential zone objective *"To enable other land uses that provide facilities or services to meet the day to day needs of residents."*

If the site is Zoned E4, the provisions of the Senior SEPP would not apply to the site. The proposed E4 zone is by virtue of clause 4(6)(a) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and [Schedule 1 Environmentally sensitive land](#) to which the Policy does not apply.

JPV have made detailed submissions on the Draft LEP which is neither certain or imminent and reply upon the current LEP zone and principal development standards subject to the SEPP 1 objection to height of building within this SEE.

3.8 Accessibility

The site has excellent accessibility to public and private transport consistent with the Subregional Strategy. Engadine one of the best-served retail and commercial centres in the Sutherland Shire. Engadine is located within a 5 minute drive of the site by private vehicle or JPV's own bus services.

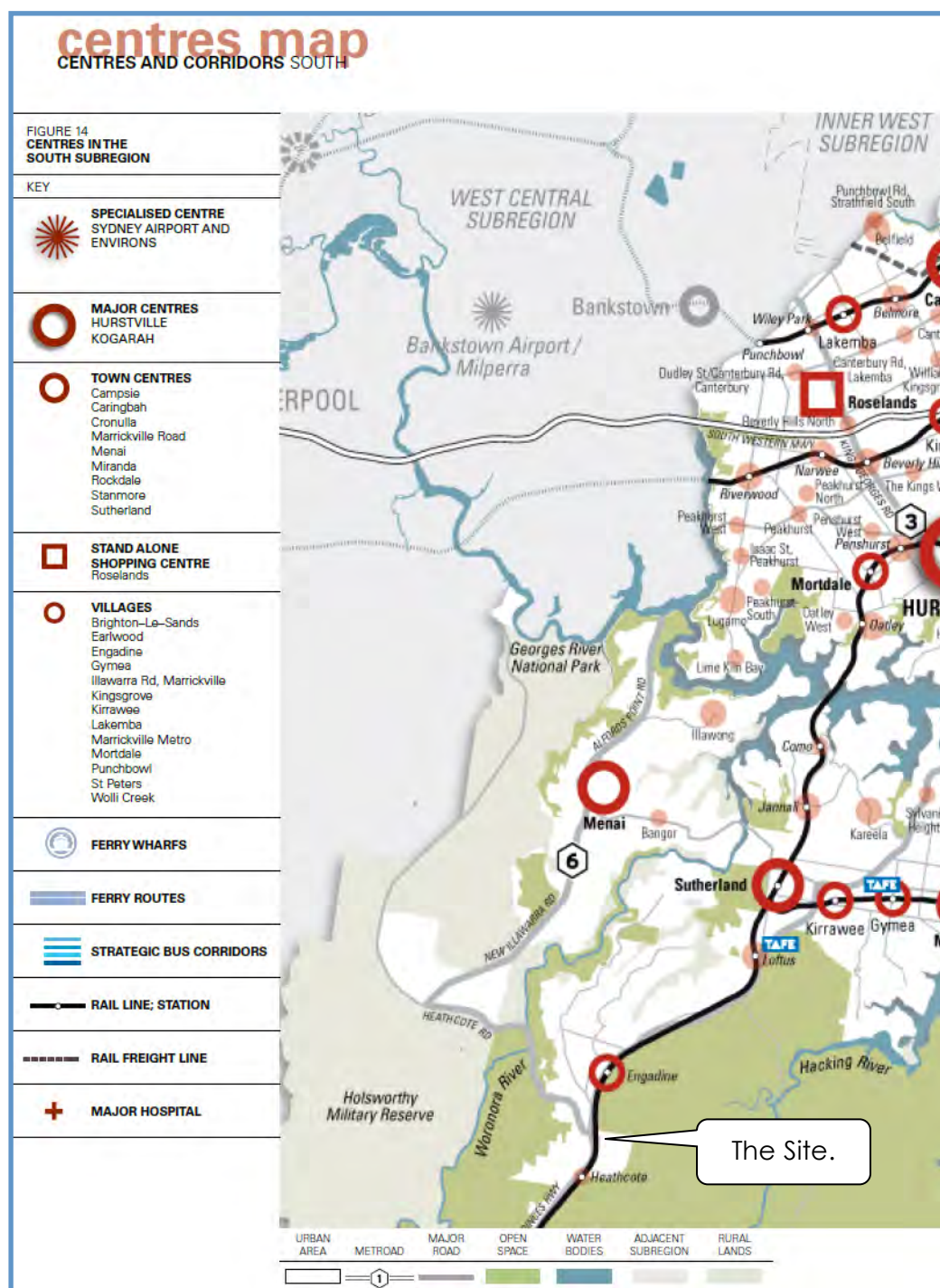


Figure 7 - Locality (Source: NSW Metropolitan South Subregional Strategy)

Whilst accessibility to public and private transport is highly important, the majority of JPV RACF residents do not require daily access to public transport. JPV provides sufficient facilities to meet the day to day needs of its residents.

3.8.1 Bus

JPV operates its own bus services in addition to the East Heathcote - JPV 996 public bus service, with bus stops outside JPV on The Avenue.

Both JPV and the public bus service operate to provide direct access to Engadine Station, 4 major supermarkets, the 4 major banks and hundreds of retail and commercial services, churches and other social and cultural activities within Engadine. Timetables are coordinated with city train services.

This accessibility meet the Seniors SEPP requirements.

Route 996		Engadine to Heathcote East via John Paul Village					
Monday to Friday							
map ref	Route Number	996 am	996 am	996 am	996 am		
	Train from City arrives Engadine	....	....	10.17	11.18		
A	Engadine Station	....	....	10.30	11.30		
B	Engadine Woolworths	....	....	10.32	11.32		
C	John Paul Village	8.27	9.02	10.37	11.37		
D	Dillwynnia Grove	8.31	9.06	10.41	11.41		
A	Engadine Station	8.47	9.13	10.48	11.48		
	Train to City departs Engadine	8.56	9.27	10.57	11.57		
B	Engadine Woolworths	8.52	9.15	10.52	11.52		
Monday to Friday continued							
map ref	Route Number	996 pm	996 pm	996 pm	996 pm	996 pm	996 pm
	Train from City arrives Engadine	12.18	1.18	2.18	....	4.18	5.29
A	Engadine Station	12.30	1.30	2.30	3.40P	4.35	5.40
B	Engadine Woolworths	12.32	1.32	2.32	3.37E	4.37	5.42
C	John Paul Village	12.37	1.37	2.37	3.56	4.42	5.47
D	Dillwynnia Grove	12.41	1.41	2.41	4.00	4.46	5.51
A	Engadine Station	12.48	1.48	2.48	4.07	4.53	5.58
	Train to City departs Engadine	12.57	1.57	3.12	4.16	5.12	6.11
B	Engadine Woolworths	12.57	1.57	2.50	....	....	6.07
Saturdays							
map ref	Route Number	996 am	996 am	996 am	996 pm	996 pm	996 pm
	Train from City arrives Engadine	9.05	10.05	11.05	12.05	1.05	2.05
A	Engadine Station	9.30	10.30	11.30	12.30	1.30	2.30
B	Engadine Woolworths	9.32	10.32	11.32	12.32	1.32	2.32
C	John Paul Village	9.37	10.37	11.37	12.37	1.37	2.37
D	Dillwynnia Grove	9.41	10.41	11.41	12.41	1.41	2.41
A	Engadine Station	9.48	10.48	11.48	12.48	1.48	2.48
	Train to City departs Engadine	10.01	11.01	12.01	1.01	2.01	3.01
B	Engadine Woolworths	9.52	10.52	11.52	12.52	1.52	2.52

Figure 8 - 996 Bus Service Time Table

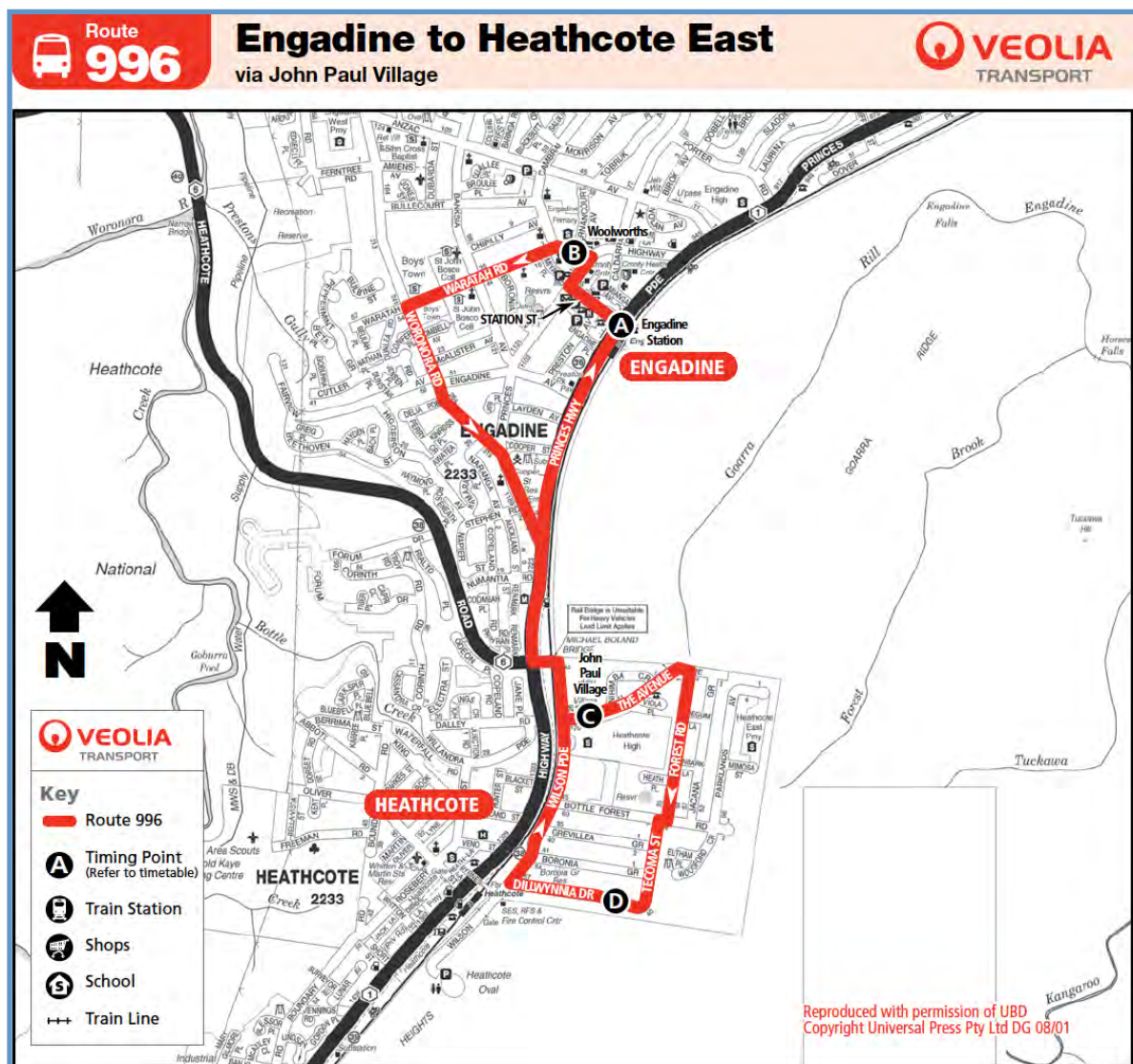


Figure 9 - 996 Bus Route

[Veolia Transport](#) runs four routes via Engadine station, in addition to the 996 above, they include:

- **991** - between Sutherland and Heathcote
- **992** - to Miranda
- **993** - to Woronora Heights

3.8.2 Rail

Engadine Railway Station is 1.5km from JPV, a 22 minute walk, 11 minutes by public bus or a 2 minutes by JPV's bus or private vehicle. Engadine Station is a fully DDA compliant railway station with 3 lifts servicing access.

Heathcote Railway Station is 1.0km south of JPV, a 12 minute walk or 3 minutes by JPV's bus or private vehicle. It has DDA complaint ramp access which is considered impractical for RACF and many ILU residents.

Engadine & Heathcote railway stations are located on the Sydney Trains Eastern Suburbs & Illawarra Line. It consists of two side platforms with overhead footbridges, accessible by lifts in the case of Engadine. The station buildings and ticket office is located on the *up* (city-bound) platform.

Engadine and Heathcote stations are served by two trains per hour in each direction for most of the day, with additional trains provided during peak hours; and on weekends the station is served by two trains per hour in each direction for most of the day.

3.8.3 Private vehicles & taxi

The signalised intersection of the Princes Highway at Heathcote Road provided safe and convenient vehicular access from JPV to the Princes Highway. The proposal includes a new driveway with a left only entry and left only exit to Wilson Parade.

The site is well serviced by local taxi services if required.

3.8.4 Parking

The proposal is to increase onsite parking from 158 to 247 parking spaces, a net increase of 89 spaces.

3.9 Utility Services

The site is serviced by electricity, water, sewer, gas and telecommunication facilities.

A detailed hydraulics and wet and dry fire services report accompanies the DA.

3.9.1 Water and Sewer

A Section 73 Compliance *Certificate* will be lodged by a Water Servicing Coordinator through Sydney Water's *e-Developer* system as is required, prior to the submission of any Construction Certificate.

See: http://www.sydneywater.com.au/Publications/Policies/Development_Types.pdf

3.9.2 Electricity

There will be minor upgrading to the existing system in accordance with Ausgrid's Standard requirements.

See: <http://www2.ausgrid.com.au/internet/pdfs/ES10+CIA.pdf>

3.9.3 Natural Gas

Natural gas is connected and will be maintained.

3.9.4 Telecommunications and Communication

The existing system will be upgraded to continue telephone and internet connections.

See: http://www.dbcde.gov.au/broadband/national_broadband_network/fibre_in_new_developments

4 The Proposal

The proposal is detailed by the plans and supporting reports submitted with the development application.

It is proposed to:

- Provide environmental controls and tree protection zones.
- Demolish the building by the demolition plans in accordance Australian Standard AS 2601—1991: *The Demolition of Structures*, published by Standards Australia, and as in force at 1 July 1993.
- Remove and dispose of all demolition material consistent with the DCP.
- Carry out site works including all geotechnical work and precautions as recommended by Douglas Partners.
- Construct new *residential care facilities* with basement laundry, kitchen, storage and parking, meeting the objectives of all relevant EPI and DCP, in accordance with development consent.
- Carry out landscaping works in accordance with development consent.
- Carry out required public domain works to the frontages of Wilson Parade in accordance with relevant approvals under the Roads Act 1993.
- Occupy and use the building in accordance with development consent and relevant Occupation Certificate(s).

The following building stages are envisaged:

Stage 1: North Wing

Demolition of the existing single storey North Wing Nursing Home. Construct new basement car park with associated kitchen, laundry, services areas, amenities, workshop, storage area and garbage holding room. Three levels of residential care rooms are to be constructed above the basement with associated resident and staff areas.

Stage 2: Kingfisher

Internal alterations and refurbishment to the existing Kingfisher Hostel across both floors to cater for high care nursing.

Stage 3: South Wing

Demolition of the existing single storey South Wing Nursing Home. Construct new basement car park with two levels of resident care rooms above including café on the ground floor and 'wellness area' on the first floor. A new chapel will be constructed on the third floor. Alterations and additions are to be carried out to the existing staffroom above the Village Hub.

Stage 4: Parkview

Internal alterations and refurbishment to the existing Parkview Hostel across both floors to cater for low care nursing.

4.1 Demolition

Demolition will be staged as per the staging and demolition plans.

Demolition will occur in compliance with AS2601-1991 and may form a relevant condition of the development consent.

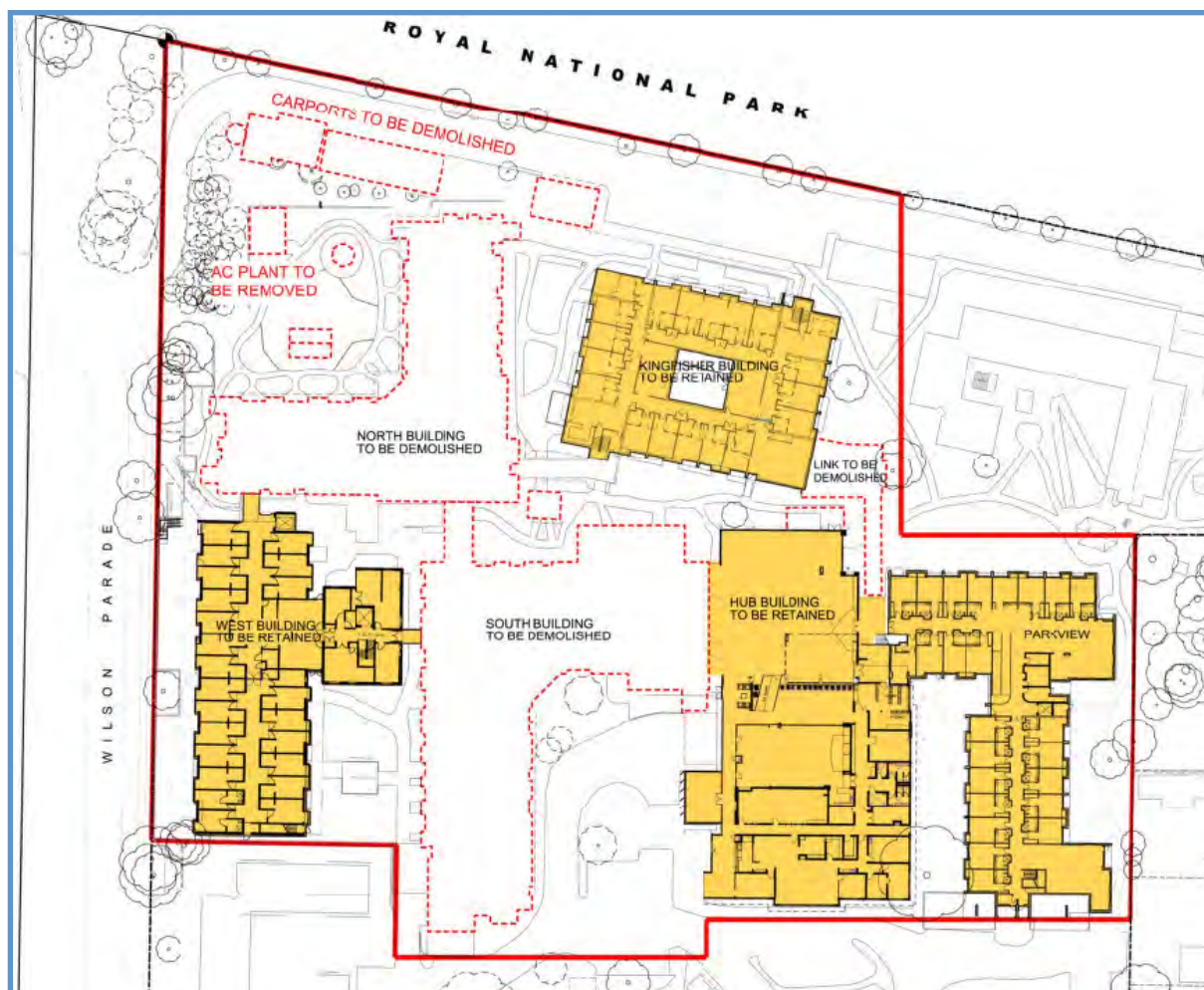


Figure 10 - Building to be demolished & retained

4.2 Removal and Disposal of Demolition Waste

The recovery, removal and disposal of demolition waste by a relevantly licenced demolition contractor will be executed in accordance with the relevant conditions of development consent and requirements of NSW laws as in force at the relevant date.

At this date the relevant contractor has not been contracted and the exact methods of demolition, resource recovery and where unavoidable disposal have not been determined.

The managing contractor has prepared a waste management plan for submission with the Development Application.

There are no apparent impediments to demolition, the recovery of recyclable materials or disposal to licence waste facilities.

4.3 Site Works

It is proposed to undertake environmental control and site works ordinarily ancillary to demolition and construction. These include, but may not be necessarily limited to the following activities.

4.3.1 Tree protection zone (TPZ)

A detailed Arboricultural Assessment Report by Tree and Landscape Consultants (TALC) supports the application. The report assesses 31 individual trees and a stand of trees comprising 65 trees to determine their health and suitability for retention.

The recommendations of the Arboricultural Assessment Report are proposed to implemented during demolition and construction in compliance with AS4970-2009 "Protection of trees on development sites".

4.3.2 Environmental Controls

The principal contractor will ensure that the following works, monitoring, measures and controls are installed and maintained as required by any consent and other statute:

- Erosion and sediment controls,
- Dust controls,
- Filtering of dewatering discharges,
- Hours of work and Noise controls;
- Ablutions;
- Site crane;
- Site fences and hoardings.

4.3.3 Erosion and Sedimentation Controls

Erosion and sedimentation controls will be implemented under a soil and water management plan, provided at the Construction Certificate stage, complying with:

- "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing 4th Edition" (*The Blue Book*), and consistent with,
- "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001.

A detailed soil and water management plan is attached to the development application. The final erosion and sedimentation control work will be assessed and approved pursuant to clause 161(1)(a)(v) of the Regulation.

4.3.4 Geotechnical Works

Geotechnical recommendations will be implemented by the principal contractor to comply with Section 177 of the *Conveyancing Act 1919* which creates a statutory duty of care in relation to support of land.

Further, the Regulation contains a prescribed condition under clause 98E.

All excavated areas will be retained in compliance with Part B of the BCA, with professional engineering designs provided as part of the CC process and with professional engineering supervision during excavation and construction.

4.4 Building Work

The building process will be staged given site constraints. Building work will be approved under one or more Construction Certificates. It is likely that a construction certificates may be obtained for geotechnical works, bulk excavation and basement works. Further Construction Certificate(s) will be obtained for the remainder of the building works in appropriate stages determined by the construction project team.

The building stages are detailed above.



Figure 11 - Extract Architectural Design Report

4.5 Subdivision

There will be no strata or stratum subdivision.

4.6 Occupation and Use

The occupation and use of the building will be in accordance with section 109H of the Act, any relevant development consent conditions and relevant Occupation Certificate(s).

5 Development Standards & Controls

The relevant EPI development standards and DCP controls have been disclosed through a review of Council and Parliamentary Council's on-line documentation and Council PAD14/0030 dated 30 May 2014.

5.1 State Environmental Planning Policies

The following SEPPs as in force at 17 March 2014 are (or are not) relevant to the proposal (as distinct from relevant to the land):

Current State Environmental Planning Policies	Relevant
State Environmental Planning Policy No 1—Development Standards	✓
State Environmental Planning Policy No 14—Coastal Wetlands	X
State Environmental Planning Policy No 15—Rural Landsharing Communities	X
State Environmental Planning Policy No 19—Bushland in Urban Areas	X
State Environmental Planning Policy No 21—Caravan Parks	X
State Environmental Planning Policy No 26—Littoral Rainforests	X
State Environmental Planning Policy No 29—Western Sydney Recreation Area	X
State Environmental Planning Policy No 30—Intensive Agriculture	X
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	X
State Environmental Planning Policy No 33—Hazardous and Offensive Development	X
State Environmental Planning Policy No 36—Manufactured Home Estates	X
State Environmental Planning Policy No 39—Spit Island Bird Habitat	X
State Environmental Planning Policy No 44—Koala Habitat Protection	X
State Environmental Planning Policy No 47—Moore Park Showground	X
State Environmental Planning Policy No 50—Canal Estate Development	X
State Environmental Planning Policy No 52—Farm Dams and Other Works	X
State Environmental Planning Policy No 55—Remediation of Land	✓
State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential	X
State Environmental Planning Policy No 62—Sustainable Aquaculture	X
State Environmental Planning Policy No 64—Advertising and Signage	X
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	X
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	X
State Environmental Planning Policy No 71—Coastal Protection	X
State Environmental Planning Policy (Affordable Rental Housing) 2009	X
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	X
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	X
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	✓
State Environmental Planning Policy (Infrastructure) 2007	✓
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	X
State Environmental Planning Policy (Kurnell Peninsula) 1989	X
State Environmental Planning Policy (Major Development) 2005	X
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	X
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 (Temporary Structures)	X
State Environmental Planning Policy (Penrith Lakes Scheme) 1989	X
State Environmental Planning Policy (Port Botany and Port Kembla) 2013	X

Statement of Environmental Effects

Current State Environmental Planning Policies	Relevant
State Environmental Planning Policy (Rural Lands) 2008	X
State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011	X
State Environmental Planning Policy (State and Regional Development) 2011	X
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	X
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	X
State Environmental Planning Policy (Urban Renewal) 2010	X
State Environmental Planning Policy (Western Sydney Employment Area) 2009	X
State Environmental Planning Policy (Western Sydney Parklands) 2009	X
Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment	✓

5.1.1 State Environmental Planning Policy No 1—Development Standards

It has been established by a series of decisions in the Land and Environment Court that generally in order to maintain an objection that compliance with a standard is unreasonable or unnecessary, it is first necessary to discern the underlying object or purpose of the standard.

To found an objection it is then necessary to be satisfied that compliance with the standard is unnecessary or unreasonable in the circumstances of the case.

Although the court has urged a generous application of SEPP No. 1 and has repeatedly declined to attempt exhaustively to define the limits of the dispensing power and, in particular, what is embraced by the expression "*circumstances of the case*", it is now established that it is not sufficient merely to point to what is described as an absence of environmental harm to found an objection (cf *Wehbe v Pittwater*, *Memel Holdings* etc.).

Furthermore, the objection is not advanced by an opinion that the development standard is inappropriate in respect of a particular zoning.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827 Preston CJ is very clear where he says:

"An objection would not be well founded by an opinion that the development standard is inappropriate in respect of a particular zoning (the consent authority must assume that standard has a purpose)."

Therefore, it is now established that although the discretion conferred by SEPP No. 1 is not to be given a restricted meaning and its application is not to be confined to those limits set by other tribunals in respect of other legislation, it is not to be used as a means to effect general planning changes throughout a local government area such as is contemplated by the plan making procedures set out in Part 3 of the *Environmental Planning and Assessment Act 1979*.

Again Preston CJ confirms this when he states in *Wehbe* that:

"The dispensing power under SEPP 1 also is not a general planning power to be used as an alternative to the plan making power under Part 3 of the Act."

See also *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported).

Objections must therefore justify the departure from a development standard having regard to the above principles. In *Winton Property Group Limited v North Sydney Council* (2001) NSW LEC 46 (6 April 2001) it was established that in order to apply the principles of the Hooker case five (5) questions should be asked. These questions form the basis of this process.

This objection under clause 4.6 of the LEP applies the "[Varying development standards: a guide](#)", published by the NSW Department of Planning and Infrastructure (DoPI) dated August 2011.

The DoPI guidelines require that the following questions be answered:

1. What is the name of the environmental planning instrument that applies to the land?

[Sutherland Shire Local Environmental Plan 2006](#)

2. What is the zoning of the land?

Zone 12 Special Uses (Predominantly and area subject to this proposal).

Note: Whilst a small portion of the site is Zone 3 no development is proposed within this portion of the site. Existing use rights also apply to the existing use as seniors housing within that portion of the site Zone 3.

3. What are the objectives of the zone?

1 Objectives of zone

The objectives of this zone are as follows:

- (a) to provide for a range of community facilities and services to meet the needs of the community,
- (b) to allow for development by public authorities,
- (c) to provide for a variety of development in accordance with local educational, religious or similar community demand,
- (d) to ensure the scale and nature of new development is compatible with the surrounding urban form and natural setting of the zone,
- (e) to recognise critical requirements, as identified by the Commonwealth, relating to the use of Commonwealth land for defence purposes.

4. What is the development standard being varied?

Number of Storeys and Height of Building

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 33(4) - Height of building generally—default position

A building must comply with each of the following:

- (a) the building must not comprise more than 2 storeys,
- (b) the building must not exceed the following:
 - (i) a height of 7.2 metres, as measured vertically from ground level to any point on the uppermost ceiling in the building,
 - (ii) a height of 9 metres, as measured vertically from ground level to the highest point of the roof of the building.

6. What are the objectives of the development standard?

The objectives of this clause are as follows:

- (a) to ensure the scale of buildings:
 - (i) is consistent with the desired scale and character of the street and locality in which the buildings are located, and
 - (ii) complements any natural landscape setting of the buildings,
- (b) to allow reasonable daylight access to all buildings and the public domain,
- (c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,
- (d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,
- (e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings on land in those zones..

7. What is the numeric value of the development standard in the environmental planning instrument?

7.2m to the uppermost ceiling height and 9m to the highest point of the roof.

8. What is proposed numeric value of the development standard in your development application?

The absolute maximum ceiling and roof heights are achieved by the Chapel element whilst the building is predominantly at lower RLs identified by the architectural plans.

The maximum roof height of the "Chapel Lantern apex" being a roof feature is RL 210.97m located in the centre of the site RACF precinct.

The maximum ceiling height of the Chapel measured at the spring point of the ceiling at the external wall of the Chapel is RL 204.52m

The lowest existing ground level beneath the highest ceiling and roof is RL 194.00m AHD.

Therefore the maximum proposed building heights are:

- The Lantern Roof Feature above the Chapel 16.97m (7.97m above 9.0m)
- The Chapel Ceiling 10.52m (3.32m above 7.2m)

Note: the ceiling height exceeds 8m under the Seniors SEPP and the SEPP 1 is required despite those provisions.

9. What is the percentage variation (between the proposal and the environmental planning instrument)?

- 50% variation to number of storeys
- 46.1% - Ceiling Height at the at the spring point of the ceiling at the external wall of the Chapel otherwise predominantly lower.
- 88.56% - Roof Height at the top of the roof feature otherwise predominantly lower.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The development has been the subject of detailed architectural design to achieve the aims and objectives of the Act and relevant EPI (in particular the LEP). The skilful design (pitched roof form maintaining an architectural consistency with the existing buildings within JPV), the topography, juxtaposition to the Illawarra Railway Line and to the adjoining proposed enterprise corridor (west of the area subject to the proposal), and large buffer to the east, all combine to make compliance with the development standard unreasonable or unnecessary.

Strict compliance would result in a 2 storey built form thwarting the objective of providing additional high care – aged care facilities with a significantly greater foot print. The proposed 3 storey built form will transition to a 2 storey built form within the site before reaching the boundaries of the low density zone abutting the eastern boundary of the site. The raised topography associated with the bridge over the Illawarra Railway Line to Wilson Parade will result in the built form reading substantially as a two-storey building when viewed from the Railway Bridge or Wilson Parade. In addition the proposal will be well shielded by existing and proposed landscaping.

The building will be articulated in form and materials making the upper level recessive and not easily discernable from Wilson Parade.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act?

The objects of this Act 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,

Strict compliance would result in the refusal of a development that through the extensive design process, already undertaken, demonstrates that the Act and LEP objectives will be achieved despite the additional storey. The Special Use nature of the site recognises the strategic planning importance of the site in the provision of seniors living.

A failure by Council to support this SEPP 1 objection would thwart the object contained within Section 5(a)(i) and (ii) of the Act and the objectives of [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#).

12. Is the development standard a performance-based control?

The development standard in contention is not performance based.

13. Would strict compliance with the standard, in this particular case, be unreasonable or unnecessary? Why?

Applying [Wehbe v Pittwater Council \[2007\] NSWLEC 827](#): any one or more of the following tests adequately justify why it is unreasonable and unnecessary to strictly comply with FSR development standards:

1. the objectives of the standard are achieved notwithstanding noncompliance with the standard;

Submission: The objectives seek to limit height of building to two storeys consistent with the low density single dwelling house subdivision to the east of the site. The site is large and the area proposed to be redeveloped at 3 storeys within the north-west corner of the site is separated from and buffered from the low density residential zone to the east by existing two storey buildings to be retained. The topography and juxtaposition of the proposal to the Illawarra Railway Line to the sites west and the proposed enterprise corridor further west (which has a proposed HOB of 16m and an FSR 1:1) will mean that a 3 storey element as proposed will be an appropriate transition to 5-6 storeys on the western site of the Illawarra Railway line. In short giving proper consideration to the existing LEP objectives and the proposed LEP objectives the proposal achieves the

relevant objectives. He proposed density is also well below the maximum 1:1 permissible with consent under [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#).

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Submission: the height objectives are relevant consideration and have been addressed above and below.

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Submission: The objective of ensuring the scale of buildings is consistent with the desired scale and character of the street and locality in which the buildings are located would be defeated and thwarted and therefore compliance is unreasonable. The making of the draft LEP with respect to the likelihood of HOB 1.6m and FSR 1:1 immediately west of the site within the enterprise corridor is reasonably certain. The proposed enterprise corridor was among the least controversial aspects of the Draft LEP when considered through the public hearing process. Giving appropriate weight to the desired future character that will result, the proposal at 3 storeys will be an appropriate transition between 4-5 storeys west of the site and 2 storeys (low density) east of the site.

4. the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;

Submission: There has been no detailed analysis of compliance or otherwise with the development standard as it applies to adjoining sites. It is noted however, that the height, shape bulk and external configuration of the proposal has been established through a detailed site analysis process to be compatible with neighbouring developments and the desired future character. We also note that the Moran Age Care facility at Engadine was cited in Council's strategic planning Council's Housing Strategy report noted council's own residential aged care facility at Engadine community centre was increased in height from 4 to 6 storeys primarily because the future commercial operator found that it would not be financially feasible at 4 storeys. We ask Council to note that JPV are at registered charity and JPV only seek a HOB increase to permit 3 storeys above ground on the north-western portion of the site. JPV are not a commercial entity and the economics are a minor driver. The major driver is the need for increased dementia care facilities within the boundaries of the existing site.

5. compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

Submission: The site benefits from a special use. The site is subject to detailed submissions under the Draft LEP seeking increase HOB to permit 3 storeys and Council's statutory planning staff should consult with Council's

strategic planning staff in this regard. It is submitted that the Draft LEP submissions have robustly challenged the current onerously low HOB. Given that the site currently has no FSR development standard, the [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#) allows an FSR of up to 1:1 and the proposed FSR is well below that the character of the low density housing zone east of the site will remain unaffected.

SEPP 1 Objection Summary

It is our opinion that the SEPP 1 represents a very robust justification for the variation to the height of the building and number of storeys development standard, in the context of the provision of increase high care – aged care facilities required in the broad public interest.

The urban form achieves design excellence and will meet the desired future character of the immediate locality including transitioning from the 4-5 storey FSR 1:1 buildings that will adjoin the site to its west within the enterprise corridor. Two storey buildings as existing are to be retained along the eastern boundary of the site. These will retain a low density with a consistent height with the single dwelling houses neighbouring and further east.

The Court has established on numerous occasions that it is insufficient merely to point to an absence of environmental harm in order to sustain an Objection under SEPP No.1 *Gergely & Pinter v Woollahra Municipal Council* (1984); *Hooker Corporation Pty Ltd v Hornsby Shire Council* (1986) *Winten Property Group Ltd v North Sydney Council* (2001) and *Memel Holdings Pty Ltd v Pittwater Council* (2001) and *Wehbe v Pittwater Council* [2007].

Rather it is necessary to demonstrate that the strict application of the development standard in question would actually hinder the attainments of the objects of the Act.

In other words, would the application of the standard result in a less optimal environmental or ecologically sustainable outcome than would occur in circumstances where the departure from the standard were permitted using the dispensing power of SEPP No. 1?

The submissions under question 13 above establishes that the application will attain the objects of the Act, relevant SEPP and the LEP and beyond this test will have no adverse environmental impacts.

It must be demonstrated, that there is a positive environmental or community outcome that arises directly out of the non-compliance. This SEPP 1 objection to the development standard and the highly competent architectural design of DEM demonstrates a better outcome in the achievement of addition and critically highly desirable aged housing with additional high care facilities meeting well documented demand for high care.

Once it has been established that there is a positive outcome associated with the area of non-compliance, and that compliance with the standard would hinder the

attainment of that outcome then it is necessary to establish the impact of the non-compliance.

There are no adverse environmental impacts.
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There are no significantly different adverse impacts from the proposed height beyond those that would exist at 2 storeys. This SEPP 1 is not a merit assessment of the entire development and impacts that may arise from the purported non-compliance (cf Winton Properties/Memel Holdings).

Turning one's mind to the merits of the applicant's case for objecting to the development standard (not the absence of any environmental harm) and at this application stage, without the benefit of assessing any submissions that may be made, it is submitted that the impacts of the proposed 3 storey deliver a better environmental outcome, that the Council and the JRPP should accept this SEPP 1 objection and apply their mind to the pure merits of the proposal.

This SEPP 1 objection should prevail to the extent that it allows a merit assessment.

The rigour of the objection rests primarily upon the design excellence exhibited by the proposal, including the better environmental and operational outcomes within, to and from the development.

Assumed Concurrence From The Director General of the Department of Planning

Clause 7 of SEPP 1 states that:

Where the consent authority is satisfied that the objection is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims of this Policy as set out in Clause 3, it may, with the concurrence of the Director, grant consent to that development application notwithstanding the development standard the subject of the objection referred to in clause 6.

In March 1989, Circular B1 advised councils that they may assume the Director-General of Planning & Infrastructure's concurrence under SEPP 1 in relation to all development applications, with the following exceptions:

- a. To erect a dwelling on an allotment of land zoned rural or non-urban or within the zones listed in Schedule A to Circular B1 (the WLEP does not contain any of the zones specified);
- b. To subdivide land which is zoned rural or non-urban or within the zones listed in Schedule A to this Circular B1 (again, the WLEP does not contain any of the zones specified).

Councils may assume the Director-General's concurrence under SEPP 1 in relation to these applications but only if;

- i. Only one allotment does not comply with the minimum area; and
- ii. That allotment has an area equal to or greater than 90 percent of the minimum area specified in the development standard.

Circular PS 08-003 Variations to development standards, dated May 2008, confirm those arrangements, which stated;

"To avoid any doubt, this notification does not vary existing notifications to councils for assumed concurrence of the Director-General in respect of applications under SEPP 1. "

There is tension between Circular PS 08-0033, and PS08-014 - Reporting Variations to Development Standards dated 14 November 2008.

PS08-014 states under 'further requirements' that provided that any development application which involve a SEPP 1 related to a departure greater than 10% from a development standard should be determined by Council.

On the face of the planning circular (PS-08-014), it is my opinion that the requirement for any application seeking a variation greater than 10% in standards under SEPP 1 is a suggestion for 'good practice'. It is our view that this is not a fetter on Council's or JRPP's assumed concurrence under clause 64 of the *Environment Planning and Assessment Regulation 2000* ("the Regulation") because PS 08-03 explicitly confers assumed concurrence.

The applicant would request that Council and the JRPP take a conservative approach in addressing the above-confused circumstance, but nevertheless find that the concurrence exists.

The Department's intention that substantive departures (i.e. those which exceed 10%) from a development standard are determined in an open and transparent forum are supported by the Applicant and the JRPP is capable of delivering this outcome.

Conclusion

Development consent may be granted for development even though the development, would contravene the maximum number of storeys and the maximum heights under clause 33 of the LEP.

5.1.2 [State Environmental Planning Policy No 55—Remediation of Land](#)

SEPP 55 applies to the land and pursuant to section 79C is a relevant consideration for the Council.

Clause 7 of the SEPP 55 provides:

- " (1) A consent authority must not consent to the carrying out of any development on land unless:
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is

satisfied that the land will be remediated before the land is used for that purpose.

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

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

(4) The land concerned is:

- (a) land that is within an investigation area,
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:

- (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

- (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge)."

Contaminated land is land in, on or under which any substance is present at a concentration above that naturally present in, on or under the land and that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.

Appendix A of the *Managing Land Contamination, Planning Guidelines, SEPP 55—Remediation of Land*, provides a list of land use activities, that through an investigation of "site history", if disclosed, would found reasonable ground to trigger the "site investigation process" entailing investigations beyond "preliminary investigation" of "site history".

There are no pre-existing uses evident that would trigger a need for further investigations.

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

Whilst the Seniors SEPP does not apply to land within Schedule 1 (environmentally sensitive land) *ibid* clause 4, the area of the site subject to this application is not within an environmental zone, noting the anomaly that is the small area of the site Zone 3 Environmental Housing (bushland).

The proposal is by definition a *residential care facility* (clause 11). JPV also contains a wide mix of other dwelling types under Chapter 2 of this SEPP but they are not subject to the application.

This SEPP applies and is a relevant consideration for the Council, but the application does not need rely upon the Seniors SEPP for permissibility, the proposed use being both existing and permissible in the Special Use zone.

Clause 14 states that the Seniors SEPP objective is:

“to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.”

The proposal will expressly deliver upon this high-level public interest objective.

Whilst Chapter 3 exists primarily to overcome permissibility issues, the site benefits from the Special Use Zone under the current LEP and will likely benefit from an additional permissible use clause under the Draft LEP when it is made.

Those portions of the site upon which works will occur are wholly within the existing special use zone. Irrespective of this the Zone 3 portion benefits from existing use rights in any case.

The site is not bound by any FSR development standards. FSR is not in contention and the Draft LEP is not certain or imminent in this respect.

On this basis this application does not seek to rely upon the Seniors SEPP despite substantial compliance with the SEPP.

With respect to Chapter 3, Parts 2 and 3 of the SEPP, the site and proposal:

- has near level access to a local shop within 400m for daily needs and JPV provide, in addition to public bus services 996 JPV's own bus services to local centres for all banking and other essential commercial, retail, medical and similar needs. The extent of bus service is discussed above. (clause 26).
- will comply with the requirements of the document titled *Planning for Bush Fire Protection*, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006 (see Bushfire Protection Assessment by Ecological Australia and JPV's Disaster & Emergency Management Plan). (clause 27).
- has access to all necessary facilities (clause 28).

- is wholly compatible *ibid* clause 25 (5) (b) (i), (iii) and (v) with the existing RACF as the proposal is alterations and additions to the existing RACF (clause 29).
- is supported by a detailed site analysis within the Architect's Design Report (clause 30).
- is supported by a statement with respect to the provisions of the *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004, albeit clause 31 does not apply as this is not a self care infill proposal (clause 31).
- is designed to address Part 3 Division 2 requirement (clause 32).
- is oriented predominantly to the northern around court yards seeking to maximise solar access to individual rooms.
- has no adverse impacts upon neighbourhood amenity or streetscape, the proposal presents to Wilson Parade as a 2 storey built form utilising the topography of the site, maintains the existing building line (front setback), with additional street trees and landscaping to offset the loss of some trees not able to be reasonably retained and it not within a riparian zone (clause 33)
- has no adverse impacts upon the visual or acoustic privacy of its neighbours and the buildings have been designed to address rail and road noise. (clause 34)
- has been designed to ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space (clause 35).
- has predominantly mechanical ventilation to RACF in compliance with the National Construction Code (BCA) to achieve comfort levels required for dementia care within the RACF.
- has a detailed stormwater concept plan to control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters (clause 36).
- has high levels of natural surveillance in a locality with very low crime rates (clause 37)
- has fully monitored 24 x 7 onsite staffing to maintain security and protection of those in residential care (clause 37).
- has obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and provides attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors. The elimination of van and heavy vehicles entering the site from the south through the self care precinct with the provision of improvements to access off Wilson Parade are considered a major improvement. (clause 38)
- attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.
- waste facilities that maximise recycling are contained within the new basement level (clause 39)
- Fire upgrading to comply with the Commonwealth aged care accreditation standards and the *National Construction Code* (previously the BCA) as well as

clause 55 of the Seniors SEPP a *fire sprinkler system* is to be implemented (clause 55).

Council and its architectural design review panel when determining the weight to be given to expert opinion on architectural design should have regard to *Architects Marshall v Lake Macquarie City Council* [2005] NSWLEC 78 at 38-42.

With respect to life safety issues, in addition to compliance with the Commonwealth aged care accreditation standards and the *National Construction Code* (previously the BCA) as well as clause 55 of the Seniors SEPP a *fire sprinkler system* is to be installed to comply with clause 55 of the Seniors SEPP, NCC (BCA) and relevant Australian Standards.

Bushfire requirements and evacuation are a central consideration under section 79C of the Act. The Bushfire Protection Assessment by Ecological Australia and JPV's Disaster & Emergency Management Plan.

The application is in substantial compliance with the SEPP but for height that is subject to a detailed SEPP 1 submission under the LEP.

5.1.4 Greater Metropolitan Regional Environmental Plan No 2— Georges River Catchment

The aims and objectives of this plan require that stormwater runoff from the subject site is not increased and that the quality of the water released will not impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries.

This REP also promotes ESD through the reuse of stormwater harvested from the site.

Council are required to address the planning principles contained with Part 2 of this REP.

It is submitted that the proposal demonstrates through the storm water concept plans that it will achieved the relevant planning principles noting that the major issue is sedimentation and erosion controls during construction and the requirement for on-site-detention (OSD) and WSUD provisions.

The proposal achieves the REP objectives.

5.2 Sutherland Shire LEP 2006 (2006 LEP)

The site is predominantly zoned Special Use Seniors Housing Zone 12, but for a small portion of the site zoned Environmental Housing (Bushland) Zone 3.

This development application does not seek consent to undertake any development other than upon the land Zoned 12.

For clarity, the proposal does not include any works within that portion of the site that is Zone 3.

The Draft LEP will address the strategic planning anomaly that is the split zone 3 in the western portion of the site.

It must also be noted that the effect of Zone 3 (Environmental) is that the Seniors SEPP does not apply to that Zone pursuant to clause . That is the applicant cannot seek to benefit from the Seniors SEPP, the development standards and considerations of the Seniors SEPP do not apply to that portion of the site. Simple the benefits and burdens of the SEPP are not relevant to that portion of the site. We are advised that existing use rights have been previously argued and accepted for that portion of the site.

The relevant clause of the LEP are addressed below.

5.2.1 Clause 11, Zone 12—Special Uses

Seniors Housing is defined by the 2006 LEP as:

seniors housing has the same meaning as in [*State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004*](#).

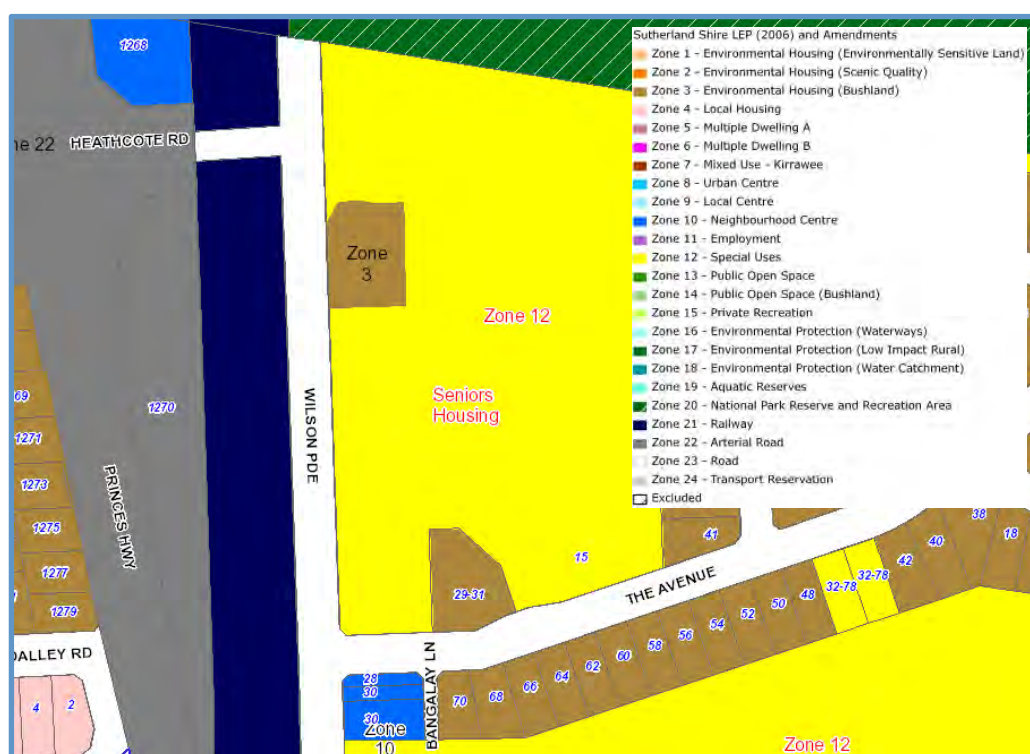


Figure 12 - Extract 2006 LEP Zoning Map

1 Objectives of zone

The objectives of this zone are as follows:

- (a) to provide for a range of community facilities and services to meet the needs of the community,
- (b) to allow for development by public authorities,
- (c) to provide for a variety of development in accordance with local educational, religious or similar community demand,
- (d) to ensure the scale and nature of new development is compatible with the surrounding urban form and natural setting of the zone,
- (e) to recognise critical requirements, as identified by the Commonwealth, relating to the use of Commonwealth land for defence purposes.

2 Development allowed without consent

Development for the purpose of: bush fire hazard reduction work, drainage.
Exempt development.

3 Development allowed only with consent

Development (other than development included in item 2) for the purpose of: the particular use indicated in respect of land by lettering on the map, advertisements, car parks, childcare centres, community facilities, educational establishments, public hospitals, recreation areas, roads, utility installations (except for gas holders or generating works), waste recycling and management centres.
Demolition not included in item 2.

4 Prohibited development

Any development not included in item 2 or 3.

5.2.2 Clause 20 Flood Planning

There is no evidence that the site is flood affected. See Stormwater Plans by Northrop Consulting Engineers Pty Ltd.

5.2.3 Clause 21 Environmental risk - bush fire

The site use is a "special fire protection purpose" as defined in s100B of the *Rural Fires Act 1997*:

"special fire protection purpose means the purpose of the following:

- (f) **seniors housing within the meaning of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004,**
and
- (h) **a retirement village,"**

It is accepted that the proposed development is a "special fire protection purpose" and therefore integrated development under section 91 of the Act.

Council's exhibition fact sheet states that:

"What is permissible in areas subject to bushfire risk?"

Areas subject to bushfire risk are generally low-density residential areas characterised by single dwellings. Developments that increase the number of people who may need additional time or assistance to evacuate in the event of a fire, such as childcare centres, residential care facilities and seniors housing are not permissible. Medium and high-density residential developments are also prohibited.

To understand the exact planning meanings of these terms, refer to the dictionary in the draft plan."

The site is partly located with the 100m buffer zone relating to Vegetation Category 1.

The proposal is supported by the Bushfire Protection Assessment by Ecological Australia and JPV's Disaster & Emergency Management Plan relating to the bush fire risk and a "layered defence" strategy consisting of a combination of bush fire protection measures and evacuation plan.

The application is also supported by Hydraulics and Wet and Dry Fire and Services DA Report by Aurecon Ref: 241919 which confirms that the fire services design will comply with the relevant codes and regulations including:

- Building Code of Australia
- National Construction Code
- AS 1221 –1997 - Fire Hose Reels
- AS 2441 – 1988 - Fire Hose Reels
- AS 2419.1 – 1994 - Fire Hydrants
- AS 3500.1 – 2003 - Water Supply
- AS 2118.1 – 1999 Automatic Sprinkler Systems
- AS 1670.1 – 2004 - Point Type Detection
- AS 1668 – 2005 – Fire and smoke control in multi compartment buildings
- AS 1670.4 – 2004 - Emergency Warning System
- AS 2444 – 2001 - Portable Fire Extinguishers

The Bushfire Protection Assessment by Ecological Australia is submitted for Council and NSW RFS consideration.

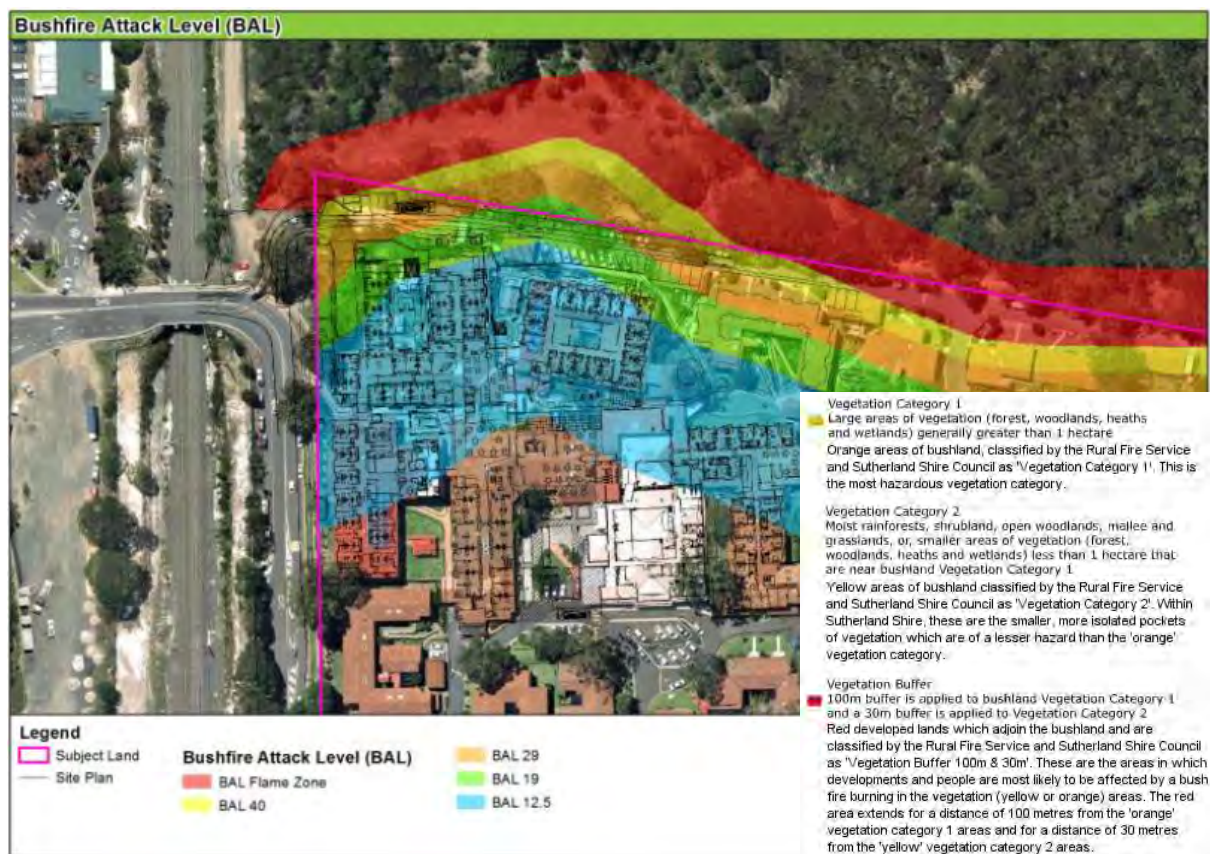


Figure 13 – BAL Levels

5.2.4 Clause 22 – Contaminated Land Management

This has already been addressed above under clause 7 of SEPP 55.

5.2.5 Clause 33 –

The proposed building exceeds the numerical development standards for height but it submitted that the proposal achieves the relevant objectives as supported by the SEPP 1 objection above such that Council may assess the proposal upon its merits.

The maximum HOB and the two storey element facing Wilson Parade is best demonstrated by the Northern Elevation.

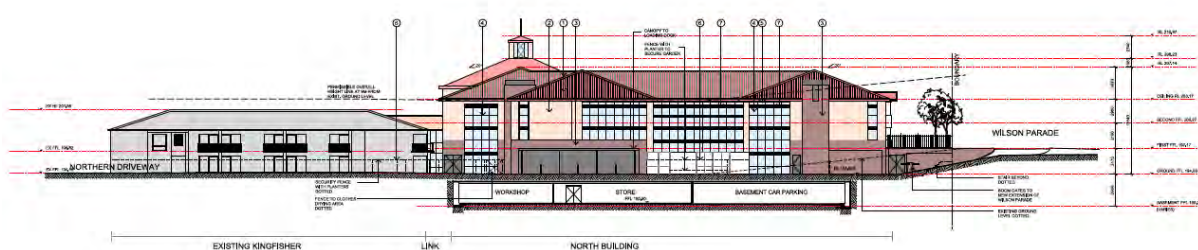


Figure 14 - Northern Elevation (extract from Drawing No.ar-2500 – A06)

The site is subject to building height under clause 33(4) being the default position:

“(4) Height of building generally—default position

A building must comply with each of the following:

- a) the building must not comprise more than 2 storeys,
- b) the building must not exceed the following:
 - (i) a height of 7.2 metres, as measured vertically from ground level to any point on the uppermost ceiling in the building,
 - (ii) a height of 9 metres, as measured vertically from ground level to the highest point of the roof of the building.”

The proposed building will contain 3 storeys. The absolute maximum ceiling and roof heights are achieved by the Chapel element whilst the building is predominantly at lower RLs identified by the architectural plans.

The maximum roof height of the “Chapel Lantern apex” being a roof feature is RL 210.97m located in the centre of the site RACF precinct.

The maximum ceiling height of the Chapel measured at the spring point of the ceiling at the external wall of the Chapel is RL 204.52m

The lowest existing ground level beneath the highest ceiling and roof is RL 194.00m AHD.

Therefore the maximum proposed building heights are:

- The Lantern Roof Feature above the Chapel 16.97m (7.97m above 9.0m)
- The Chapel Ceiling 10.52m (3.32m above 7.2m)

Note: the ceiling height exceeds 8m under the Seniors SEPP and the SEPP 1 is required despite those provisions.

The proposal is supported by the SEPP 1 objection and on the basis that the proposal achieves the relevant LEP objectives and will deliver a better outcome in terms of the aims under section 5 of the Act it is submitted accepting the SEPP 1 that the variation to the development standard is acceptable on its merits.

Clause 34 permits up to 3 storeys in Zone 4, 5 or 6 for seniors housing where the following objectives are achieved:

Objectives

The objectives of this clause, in relation to seniors housing on land in Zone 4—Local Housing, Zone 5—Multiple Dwelling A or Zone 6—Multiple Dwelling B, are as follows:

- (a) to ensure that seniors housing is of a height that is compatible with:

- (i) the scale of other residential buildings in the zone in which it is located, and
- (ii) the desired scale and character of the street and locality in which the seniors housing is located, and
- (iii) complements any natural landscape setting of the seniors housing,
- (b) to allow reasonable daylight access to all buildings and the public domain,
- (c) to minimise the impacts of new seniors housing on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,
- (d) to ensure that the visual impact of seniors housing is minimised when viewed from adjoining properties, the street, waterways and public reserves.

Whilst clause 34 is not directly relevant it is submitted in addition that similar HOB provisions should have in all reasonableness been applied to this Special Use Zone.

Whilst we are uncertain whether or not Council and the Public Hearing outcomes will accept submissions seeking to increase the maximum HOB in the north-western RACF precinct of the site those submission have been made under the Draft LEP and to the public hearing into the Draft LEP.

5.2.6 Clause 36 Landscape Area

There are no minimum landscape area requirements specified by this clause for Zone 12.

Nevertheless the proposed landscape area of 14,833m² achieves the following objectives:

- (a) to ensure adequate opportunities for the retention or provision of vegetation that contributes to biodiversity,
- (b) to ensure adequate opportunities for tree retention and tree planting so as to preserve and enhance the tree canopy of Sutherland Shire,
- (c) to minimise urban run-off by maximising pervious areas on the sites of development,
- (d) to ensure that the visual impact of development is minimised by appropriate landscaping and that the landscaping is maintained,

5.2.7 Clause 42 Minimum Lot Size Seniors Housing

The proposal is well in excess of both the minimum area of 1,200 square metres and the minimum width of lot dimension 25 metres.

5.2.8 Clause 48 Urban Design – General

The consent authority must not consent to development unless it has considered the following matters that are of relevance to the development:

- (a) the extent to which high quality design and development outcomes for the urban environment of Sutherland Shire have been attained, or will be attained by the proposed development,

- (b) the extent to which any proposed buildings are designed and will be constructed to:
 - (i) strengthen, enhance or integrate into the existing character of distinctive locations, neighbourhoods and streetscapes, and
 - (ii) contribute to the desired future character of the locality concerned,
- (c) the extent to which recognition has been given to the public domain in the design of the proposed development and the extent to which that design will facilitate improvements to the public domain,
- (d) the extent to which the natural environment will be retained or enhanced by the proposed development,
- (e) the extent to which the proposed development will respond to the natural landform of the site of the development,
- (f) the extent to which the proposed development will preserve, enhance or reinforce specific areas of high visual quality, ridgelines and landmark locations, including gateways, nodes, views and vistas,
- (g) the principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines and the extent to which the design of the proposed development applies those principles.

The proposal is a RACF. The primary functioning of efficient RACF is to care for, support and supervise frail aged and often infirmed residents. The design must respond to the building's use and drives the design outcomes.

All elements of development visible from the street and public domain make a positive contribution to the streetscape.

The proposal is compatible with the scale, character and landscape setting of its immediate vicinity and the desired future character of a locality. The bespoke architectural design achieves quality architecture through appropriate composition and articulation of building elements, textures, materials and colours that respond to the building's use.

Building elements are integrated into the overall building form. Entrances provide a desirable and safe identity for the development and will assist in visitor orientation. Way finding induction for new residents and their families and on-line mapping will enhance visitor accessibility, both during the staged construction process and upon full occupation an use of the RACF.

The proposed building line has built forms that align with existing buildings on JPV's site to create a spatially cohesive streetscape. The façades are responsive to the orientation of the site.

The proposed vehicle access from Wilson Parade and basement parking areas do not dominate the streetscape.

The two-storey form presented to Wilson Parade is unobtrusive in terms of size, bulk, height with its visual impact mitigated by topography, new street and site trees as well as understorey and ground cover landscaping.

5.2.9 Clause 51 ESD

The consent authority must not consent to development unless it has considered the following matters that are of relevance to the development:

- (a) the principles of ecologically sustainable development,
- (b) the extent to which the proposed development will meet the needs of the present without compromising the ability of future generations to meet their needs,
- (c) the extent to which the proposed development will improve the quality of life, both now and into the future, in a way that maintains the ecological processes on which life depends,
- (d) the extent to which the proposed development will contribute to the achievement of high quality ecologically sustainable development outcomes for the urban environment of Sutherland Shire,
- (e) to extent to which the proposed development will retain and enhance the natural environment.

Class 9c buildings are 'aged care buildings', which are defined by the BCA as being a 'building for residential accommodation of aged persons', who generally require personalised care. For a more complete definition refer to Clause A3.2 of the Building Code of Australia.

The aim of improving energy efficiency in a building is to maximise thermal comfort of occupants whilst minimising the building's running costs and thereby reducing greenhouse gas emissions. It is for this reason that the requirements of the BCA with respect to energy relates to areas likely to be occupied as defined by the BCA as:

- Habitable room which is defined by the BCA as meaning a room used for normal domestic activities, other than bathrooms laundries and the like.
- Conditioned Space which defined by the BCA as meaning a space within a building which is provided with air-conditioning or likely to be provided with air conditioning.

Building requirements

To achieve these objectives the building envelope must be constructed so as to satisfy the requirements of:

-
- Section J of the Building Code of Australia (BCA)
- AS/NZS 4859.1 – Materials for the thermal insulation of buildings

ESD requirements will be achieved by:

- DTS or Performance Compliance with the BCA
- Providing evidence that the form of construction satisfies the BCA;
- Using a Verification Method as set out in the BCA such as JV3 for a Class 9c building;
- Comparison with the Deemed-to-Satisfy provisions
- Expert judgment.

Additional ESD provisions above and beyond the NCC (BCA) include:

- The existing solar panels (12kW to the West Wing and 11.5kW to Kingfisher) will be increased by the addition of approximately 12kW on the new North Wing and 12kW on the South Wing. This will bring on-line a total of approximately 48kW of electrical energy through solar panels.
- WSUD provision through the retention and reuse of roof water for irrigation purposes.
- Energy efficient lighting utilising the latest LED technology
- Water efficient fixtures and fitting for all water supply
- External Louvers to large north facing glassing areas

The objectives of clause 50 have been achieved by the proposal.

5.2.10 Clause 52 Energy efficiency and sustainable building techniques

The consent authority must not consent to development for the purpose of buildings unless it has considered the following matters that are of relevance to the development:

- (a) the extent to which potential energy consumption may be reduced during the construction, occupation, utilisation and lifecycle of proposed buildings,
- (b) the extent to which sustainable natural resources, such as the sun and wind, will be used in proposed buildings to create naturally comfortable living and working environments,
- (c) extent to which proposed building materials and construction techniques are ecologically sustainable and will:
 - (i) minimise the expenditure of energy (including, in the case of building materials, any expenditure of energy involved in their manufacture), and
 - (ii) maximise the useful lifecycle of proposed buildings.

To meet commonwealth accreditation standards and to comply with the BCA new material will be utilised.

5.2.11 Clause 53 Transport accessibility, traffic impacts and car parking

The consent authority must not consent to development unless it has considered the following matters that are of relevance to the development:

- (a) the extent to which the proposed development maximises opportunities, through design integration, to provide:
 - (i) efficient links to identified transport nodes and corridors, such as railway stations, bus routes, pedestrian and cycle paths, and
 - (ii) facilities to cater for bicycle users,
- (b) the extent to which the demand for car parking, where there is good access to public transport nodes, will be managed,

- (c) the extent to which appropriate levels of car parking will be provided in connection with the development,
- (d) the extent to which walking, cycling and the use of public transport have been or will be encouraged,
- (e) the design of proposed car parking areas and access to them.

The improved access and basement parking provide the best outcome for JPV and its neighbours in a manner that has been determined by the Traffic Engineering advice of McLaren Traffic Engineers to be both safe and convenient.

Access to transport is detailed above and the site is highly accessible. The objectives of this clause have been achieved.

5.2.12 Clause 55 & 56 Significant Tree Preservation or Natural Landform

The consent authority must not consent to development on land to which this clause applies unless it is satisfied that:

- (a) the development will be carried out in a manner that ensures the continued good health of the tree or the continued structural integrity and visual quality of the landforms, and
- (b) in the case of development involving the erection of a building:
 - i. the building will be set back from the drip-line of any significant tree, and
 - ii. the building will not encroach on, or adversely affect, any significant landform, and
 - iii.
- (c) development carried out in the immediate vicinity of significant trees will not result in the alteration of any significant landform or of any contour lines or drainage patterns.

The proposal is supported by a detailed arborist report setting out the SULE of relevant trees that may be affected by the proposal. The demolition plan shows the trees proposed to be removed. The landscape plan shows new trees to be planted.

With respect to land form, excavation for the new basement level will be retained and backfilled such that the finished ground levels will not alter the existing landform in any significant respect.

5.3 Draft Local Environmental Plans

The weight to be given to the draft LEP, its zone and development standards affecting the site is significantly diminished by the lack of certainty and lack of imminence of the making of the Draft LEP. Daintry Associates Pty Ltd have made detailed submissions to Council and to the Public Hearings (Dr Roseth and Ms Sussex) in this regard objecting to the E4 Zone, seeking that the additional use be retained and seeking no HOB and FSR standards or if so, increased HOB and FSR.

The submissions were supported by the public hearing report:

"John Paul Village, Heathcote: one oral and one written submission raised the issue that at present the zoning of the Village in LEP2006 does not include any controls on density, whereas under LEP2 the proposed zoning of E4 would produce an FSR control that would not allow the Village to pursue its future plans for expansion. Given the scarcity of aged accommodation in the Shire, the request for additional development potential should be given serious consideration. If the issue is too complex, deferring the site of the Village from the new draft LEP may allow the LEP to be finalised while the appropriate controls for the Village is being considered."

Council statutory planning officer should confer with Council's strategic planning officers in regard to the certainty and imminence of the making of the Draft LEP and its provisions to which we do not at this date have any access or knowledge of.

5.3.1 Draft Zone

The site is proposed to be rezoned E4 Environmental Living.

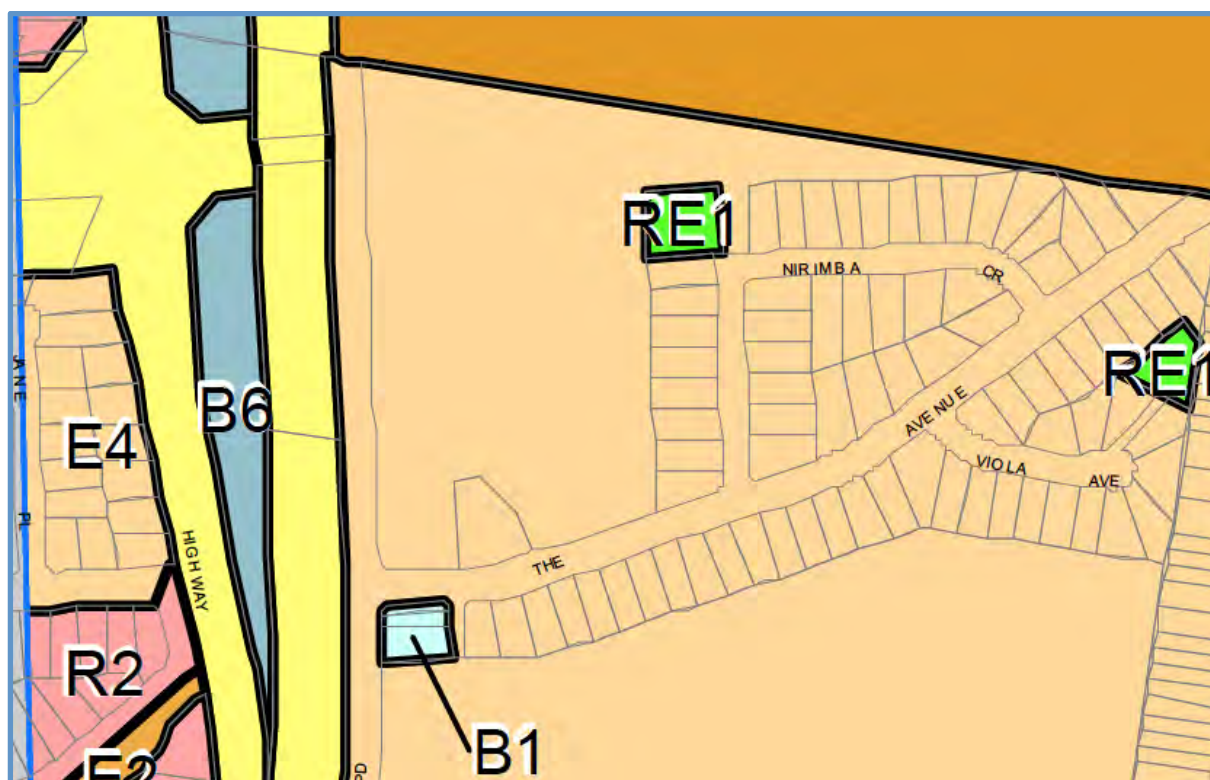


Figure 15 - Extract Draft LEP Zone Map

Zone E4 Environmental Living

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To allow for development which preserves and enhances the natural landscape setting of the locality.
- To protect and restore trees, bushland and scenic values particularly along ridgelines and in other areas of high visual significance.
- To ensure the character of the locality is not diminished by the cumulative impacts of development.
- To minimise the risk to life, property and the environment by restricting the type, or level and intensity of development on land that is subject to natural or man-made hazards.
- To allow the subdivision of land only where the size of the resulting lots makes them capable of development that retains or restores natural features while allowing a sufficient area for development.
- To share views between new and existing development and also from public space.

2 Permitted without consent

Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat sheds; Dwelling houses; Environmental protection works; Flood mitigation works; Health consulting rooms; Home businesses; Home industries; Neighbourhood shops; Recreation areas; Roads; Secondary dwellings

4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

The site would benefit from an additional permissible use under the Draft LEP as follows (Schedule 1 Additional permitted uses):

12 Use of certain land at The Avenue, Heathcote

(1) This clause applies to the land at 15 The Avenue, Heathcote, being Lot 10 DP 1110571.

(2) Development for the purpose of **Seniors housing** is permitted with consent.

The Standard Instrument LEP defines seniors housing as:

seniors housing means a building or place that is:

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#), or

- (c) a group of self-contained dwellings, or
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),
and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.

Note. Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

The proposed new buildings are therefore permissible with development consent under the Draft LEP.

5.3.2 Draft HOB

The Draft HOB is (J1) a maximum 9m.



Figure 16 - Extract Draft LEP HOB Map

5.3.3 Draft FSR

The Draft FSR is (E) a maximum 0.55:1

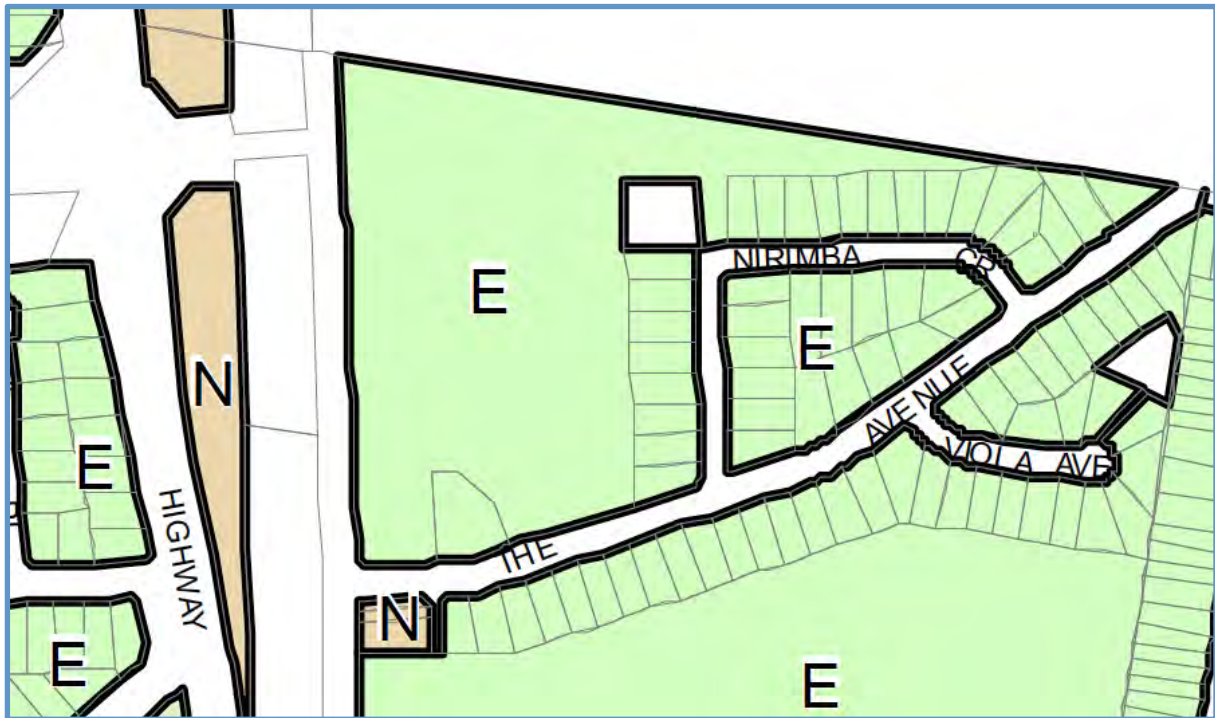


Figure 17 - Extract Draft LEP FSR Map

6 Development Control Plan 2006 (SSDCP2006)

This DCP is known as Sutherland Shire Development Control Plan 2006 (SSDCP2006) applies to all land to which Sutherland Shire Local Environmental Plan 2006 (SSLEP2006) applies. Note: SSDCP2006 does not apply to land 'deferred' or 'excluded' from SSLEP2006.

SSDCP2006 contains detailed objectives and controls that will be used by council when determining applications under Section 79C. Essentially the DCP sets benchmarks guiding land use, development and environmental management decisions.

The weight to be given to a DCP has been recently affected by amendments to section 79C that added section 79C(3A) in the following terms:

“(3A) **Development control plans**

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and
- (c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, **standards** include performance criteria.”

Section 74C(5) of the Act in the following terms:

- (5) A provision of a development control plan (whenever made) has no effect to the extent that:
 - (a) it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or
 - (b) it is inconsistent or incompatible with a provision of any such instrument.

Statement of Environmental Effects

The relevant DCP provisions are:

Key: Key: ✓ Complies, ✗ Fails to Comply, □ Not Applicable.

Clause	Status	Comment
Chapter 1 - Design Principles	✓	<p>The proposal must be accompanied by a detailed site analysis including:</p> <ul style="list-style-type: none"> a. Site dimensions, site area, north point. b. Location of site in relation to shops, community facilities and transport. c. Form and character of adjacent and opposite buildings in the streetscape, including both sides of the street that the development fronts. d. Location and use of any existing buildings or built features on the site. e. Location and important characteristics of adjacent public, communal and private open space(s). f. Location, use, overall height (storeys/metres) and important parapet/datum lines of adjacent buildings. g. Location and height of existing windows and balconies on adjacent properties that face the site. h. Location, height and characteristics of adjacent walls and fences. i. Location of all trees on site covered by the Tree Protection Order, labelled by a sequential numbering system. j. Topography, showing water courses, riparian vegetation, rock outcrops, spot levels and contours (0.5 metre intervals) for the site, adjoining streets and land adjoining the site. k. Views to and from the site. l. Prevailing winds. m. Orientation and overshadowing of the site and adjoining properties by neighbouring structures and trees. n. Geotechnical characteristics of the site and suitability for development. o. Pedestrian and vehicular access points. p. Location of utility services, including electricity poles and cables, stormwater and sewerage drainage lines/pipes, kerb crossings and easements. q. Location of any infrastructure easements, rights of way or restrictions on title. r. Significant noise sources on and in the vicinity of the site, particularly vehicular traffic, train, aircraft and industrial operations noise. s. Assessment of site contamination, proposed remediation strategies and a statement from a recognised expert that the site can be remediated and made suitable for the proposed use(s). t. Assessment of site constraints resulting from heritage items, flooding, acid sulphate soils, bush fire or other environmental constraint. <p>The proposal is supported by a detailed design report by DEM Architects that includes the required detailed site analysis.</p>
Chapter 2 - Locality Strategies	✓	The site is not located in an area subject to a Local Strategy under Chapter 2 of the DCP.
Chapter 3 – Urban Design	✓	
Chapter 3, 2 Street Setbacks	✓	The predominant 7.5m building line (front setback) has been observed to Wilson Parade consistent with existing setbacks. Clause 2.b.5 provides that The minimum setback from the street of Seniors Housing developments must be consistent with the building setback of other residential development in the zone where the housing is proposed. The site is a special use zone so 2.b.5 does not strictly apply. Nevertheless, the setback is considered satisfactory.
Chapter 3, 3 Side and Rear	✓	The proposal should demonstrate the objectives will be achieved

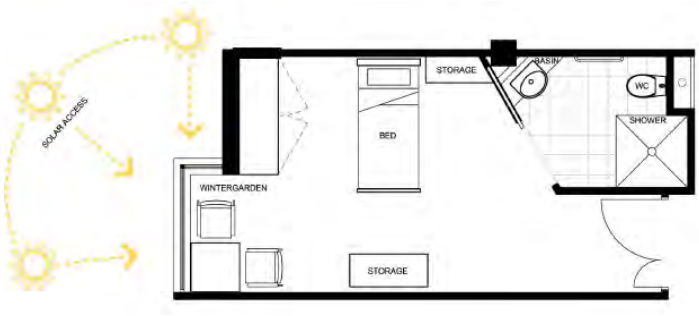
Statement of Environmental Effects

Clause	Status	Comment
Setbacks		which should be easy as setbacks should be well in excess of the minimums for residential developments. The minim side setbacks at 7.2m & 9m HOB are 1.5m side and 6m rear.
Chapter 3, 4 Site Coverage	✓	There are no DCP site coverage provision relevant to seniors housing.
Chapter 3, 5 Building Envelopes	✓	Not Applicable - These provisions relate to centres and the site is outside of any centre.
Chapter 3, 6 Landform	✓	The finished ground levels of the site will not be significantly different from the existing ground levels at the perimeter of the new buildings.
Chapter 3, 7 Building and Site Layout	✓	The objectives is to ensure new buildings achieve high standards of design. This is generally the same as SEPP 65 which does not apply to the site. To every extent natural light and natural ventilation has been given priority. Nevertheless, the facility is to be secured and mechanically ventilated to ensure the comfort of often infirmed dementia residents is paramount.
Chapter 3, 8 Active Frontage	<input type="checkbox"/>	Not Applicable
Chapter 3, 9 Floor Space Mix	<input type="checkbox"/>	Not Applicable
Chapter 3, 10 Ancillary Facilities	<input type="checkbox"/>	Not Applicable – JPV provides centralised facilities within the HUB and the proposal seek to expand kitchen, laundry and other ancillary facilities with the proposed basement areas.
Chapter 3, 11 Streetscape and Building Form	✓	All elements of development visible from the street and public domain make a positive contribution to the streetscape. The proposal is compatible with the scale, character and landscape setting of its immediate vicinity or the desired character of a locality. The bespoke architectural design achieves quality architecture through appropriate composition and articulation of building elements, textures, materials and colours that respond to the building's use. Building elements are integrated into the overall building form. Entrances provide a desirable and safe identity for the development and which assist in visitor orientation. Way find induction and mapping will enhance visitor accessibility. The proposed building line has built forms that align with existing buildings on JPV to create a spatially cohesive streetscape. The façades are responsive to the orientation of the site. The proposed vehicle access from Wilson Parade and basement parking areas do not dominate the streetscape. The two-storey form presented to Wilson is unobtrusive in terms of size, bulk, height with their visual impact mitigated by landscaping.
Chapter 3, 12 Landscape	✓	<p>The proposal is supported by two key expert reports and plans:</p> <ol style="list-style-type: none"> 1. Arboricultural Assessment 2. Landscape Plans <p>The Architectural design report provide and on this basis it is considered that the objectives of these provisions are achived:</p> <p>"Landscape and Public Realm</p> <p><i>The landscape design aims to reinforce the bushland character of the area though planting of indigenous tree canopy species along the boundaries adjacent the National Park and Wilson Parade, and to replace indigenous trees removed. Canopy trees are proposed to be planted in small clumps with low shrubs and groundcovers below to minimise bushfire risk. Plants to the boundaries of John Paul Village affected by the proposed development would be 100% native species. The landscape courtyards to the internal areas will have an equal mix of native and exotic plants. This will provide a landscape character that residents are more familiar and comfortable with. An existing stand of indigenous trees adjacent to Wilson Parade in front of the new North building are proposed to be retained and protected. This will be undertaken by retaining an existing brick retaining wall that runs to the east edge of the trees root zone. The</i></p>

Statement of Environmental Effects

Clause	Status	Comment
		<p>trees will soften and screen the building from the street from day one post construction.</p> <p>Some of the new landscape courtyards are over basements or partly over basement. In these areas the slab has been lowered to allow for shrub and groundcover planting without the use of raised planters. Mounding and or low raised planters are proposed for the courtyard trees. This will improve the longevity and growth of the planted landscape areas.</p> <p>The main entry courtyard planting consist of a mix of native and exotic plant species. Native species would be in the form of flowering bird attracting species with some hedging species. A mix of Decorative flowering exotic trees and small native trees would be used. Paved areas provide accessible access through the space. Rectangular lawn areas are central within the space and provide opportunities to socialise, read and or undertake activities.</p> <p>Three dementia courtyards are proposed. They are designed to be enclosed, safe and secure courtyards which are accessible with wide paths and level paved surfaces. The landscape design proposed, aims to create socialisation, ease of orientation provide activities that are sensory and reminiscence. The planting will be bird attracting, provide a sense of seasonal change, smell and provide opportunities for horticultural therapy activities. These courtyards will have an equal mix of native and exotic planting. Shaded seating areas under timber shade structures have been proposed."</p>
Chapter 3, 13 Privacy	✓	<p>The objectives of Privacy are:</p> <p>1. The objectives of this section are to:</p> <p>a. ensure a high level of amenity by protecting the acoustic and visual privacy of occupants within all built development and in private open spaces.</p> <p>b. ensure buildings are sited and designed so that acoustic and visual privacy and vibration from outside sources is controlled to acceptable levels.</p> <p>c. minimise noise transmission between nearby buildings and adjoining development.</p> <p>d. ensure that new development incorporates architectural and building elements that contribute to protecting the acoustic and visual privacy of any adjoining residents.</p> <p>13.a.4 Additional Objectives for All Residential Noise and Sensitive Development Subject to Road and/or Railway Noise and Vibration</p> <p>1. The objective of this section is to ensure buildings are sited and designed so that traffic and rail noise, vibration and potentially harmful air quality effects are controlled to acceptable levels.</p> <p>Noise levels in residential development subject to this clause must not exceed:</p> <ul style="list-style-type: none"> - LA eq of 35dB (A) measured within any bedroom in the building at any time between 10pm-7am and - LA eq of 40dB(A) measured within any bedrooms between 7am-10pm and anywhere else in the building (other than a garage, kitchen, bathroom or hallway) at any time. <p>Calculation of the LA eq is to be carried out in accordance with the methodology prescribed for airborne noise and/or ground</p>

Statement of Environmental Effects

Clause	Status	Comment
		<p>borne noise in the NSW Department of Planning's publication</p> <p>Development near Rail Corridors and Busy Roads – Interim Guidelines</p> <p>If internal noise levels with windows and doors open exceed the criteria by more than 10dB(A), the design of the ventilation for these rooms should be such that the occupants can leave the windows closed, if they desire and also meet the ventilation requirements of the Building Code of Australia.</p> <p>The proposal is supported by a detailed Acoustic Assessment containing detailed recommendations. On the basis of compliance with the recommendations it is considered that the objectives of the DCP will be achieved.</p> <p>This is in addition to the rW provisions that automatically apply under the NCC(BCA) for class 9c buildings.</p>
Chapter 3, 14 Daylight Access	✓	<p>The design and location of the buildings is such that its reliance on artificial light sources is minimised.</p> <p>Shading device are provided to provide occupants with the ability to adjust the quantity of daylight to suit their needs</p> <p>The Hob has been limited to 3 storeys to ensure overshadowing of adjoining dwellings, particularly windows of living areas, solar collectors and outdoor recreation areas is minimised.</p> <p>Reasonable sunlight is provided to common outdoor recreation areas with two north facing dementia courtyards and one south facing court yard that will provide high levels of shade in summer AM and PM periods.</p> <p>The design of landscaped areas contributes to amenity through the sensible management of sunlight. There is no significant overshadowing of adjoining public open spaces or common open space</p> <p>14.b.4 Additional Controls for Seniors Housing</p> <p>The primary living areas of the RACF are orientated between north-west and north-east to every reasonable extent to ensure that solar access is attained.</p> 
Chapter 3, 15 Views	✓	<p>The proposal will not have any adverse impacts upon any views from within or outside of JPV. There is no necessity to undertake a detailed Tenancy Assessment in the circumstance of this case.</p>
Chapter 3, 16 Access	✓	<p>The development must comply with the requirements of the Access Code under the National Construction Code (previously BCA) in order that it achieved protection from a claim under the DDA. These requirements are complex and must be subject to a report</p>

Statement of Environmental Effects

Clause	Status	Comment
		<p>by an access consultant under AS1428 Parts 1 to 4 inclusive, AS1735 Part 12 and AS3661 Slip Resistance of Pedestrian Surfaces.</p> <p>The application is supported by an accessibility report prepared by Morris Godding Access Consultants.</p>
Chapter 3, 17 Adaptable Housing		This is not relevant to the proposed residential care facility a purpose built facility for low and high care.
Chapter 3, 18 Safety and Security	✓	<p>The proposal minimises opportunities for future crime through passive surveillance, access control, territorial reinforcement and space management.</p> <p>The main parking entry and loading facilities relocated to the northern access road off Wilson Parade removes existing pedestrian and vehicle safety conflicts in and around the hub and ILU in the southern precinct. The safety outcomes from this proposal are a significant improvement to not only the RACF but also the whole of JPV.</p> <p>The improved northern access and egress from Wilson Parade provides access for emergency services and a far superior perimeter access road for bush and building fire-fighting purposes.</p> <p>In summary the safety and security outcome are far superior and a significant improvement to the operation of JPV.</p>
Chapter 3, 19 Fencing	✓	<p>The nature of the RACF use and the need to ensure that the northern access road does not become a "rat run" for vehicles wishing to avoid existing traffic congestion caused by the AM and PM peaks associated with Heathcote High School mean that fences and gates will be installed to control access to the site and to the basement car parking.</p> <p>This fencing as designed will not adversely impact the streetscape with the existing landscape character enhanced with new landscaping.</p> <p>The location and transparent form of fences will ensure safe movement of vehicles and pedestrians at gateways and at Wilson Parade</p> <p>Fence will not restrict overland flows. There are no view affectations caused by any proposed fences.</p>
Chapter 4 Natural Resource Management	✓	<p>The TALC Arboricultural assessment has identified the impacts of the proposal upon significant trees. This has been discussed above and will not be repeated. Please refer to that assessment and to the Landscape Plans which accommodate significant new and additional landscaping.</p>
Chapter 5 –Environmental Risk	✓	<p>The primary relevant provision of this section are bush fire risk and flood risk management.</p> <p>The Bushfire Protection Assessment, Aged Care Redevelopment – John Paul Village, Heathcote by Eco Logical Australia Pty Ltd, specifically addresses Bush Fire risks and BAL construction requirements in detail, among other relevant service requirements.</p> <p>Central to the operation of JPV is the implementation and continuing review of JPV's Disaster & Emergency Management Plan. This will be undertaken as a matter of JPV's own duty of care to residents in consultation with all relevant authorities as detailed by the existing plan.</p>

Statement of Environmental Effects

Clause	Status	Comment
		<p>The Council's flood mapping as procured from the study of Bewsher Consulting Pty Ltd dated 4 February 2004 demonstrates the site is not a flood risk but is within the 25A sub-catchment which has a 1:100 flooding problem on the western side of the Princes Highway.</p> <p>The proposal includes On-site Detention and WSUD principles.</p> <p>Other risks such as provision of all required utility services, acid sulphate soils, contaminated land management are not in contention.</p>
Chapter 6 - Repealed		Not Applicable
Chapter 7 – Vehicular Access, Traffic, Parking and Bicycles	✓	<p>Having regard to Schedule 3 of the Infrastructure SEPP the proposal is not considered traffic generating development requiring referrals to the RMS under clause 104 of the Infrastructure SEPP.</p> <p>Nevertheless the extent of changes to access and egress with improvements to the entry driveway off Wilson Parade have warranted a detailed traffic impact and parking assessment.</p> <p>The application is supported by a detailed traffic impact and parking assessment by McLaren Traffic Engineering who are RMS Accredited Safety Auditors.</p> <p>This assessment, beyond a supply and demand assessment by McLaren Traffic Engineering for additional parking (which has determined that the provision for parking will meet the demands required) and the impacts of additional traffic upon the immediate area, focuses upon the efficacy of the improved access off Wilson Parade.</p> <p>In summary the Traffic and Parking Assessment concludes that the subject proposal is fully supportable in terms of its traffic and parking impacts.</p> <p>We add that additional onsite parking in the basements directly accessible off Wilson Parade has a net public benefit with no adverse impacts created by a left in and left out arrangement for cars. We note that commercial vehicles will enter the site left in but will not exit directly to Wilson Parade. Commercial vehicles will traverse the northern internal road returning to Wilson Parade at the southern end of JPV.</p>
Chapter 8 - Ecologically Sustainable Development	✓	<p>The proposed ESD provisions have been discussed above under clauses 51 and 52 of the LEP and will not be repeated.</p> <p>The proposal will achieve the following DC objectives</p> <ol style="list-style-type: none"> 1. To every reasonable extent recycled and renewable materials will be utilised, subject to compliance with Commonwealth and NCC (BCA) standards. 2. Environmental controls will be implemented as detailed by section 4.3 of this SEE above. 3. Building noise and vibration will be controlled within permitted hours of work applying AS2436-2010 Guide to noise and vibration control on construction, demolition and maintenance sites. 4. All demolition and building work will be contained wholly within the site other than the road works required to construct the altered driveway access from the northern end of Wilson Parade which will be carried out in accordance with Council's approval under section 138 of the Roads Act 1993. 5. There are no ground water impacts envisaged. The local soil profile is dense clay over sandstone. Little if any ground water is expected to be encountered.

Statement of Environmental Effects

Clause	Status	Comment
		<p>6. Site Management and Waste Management Plans for demolition, building and ongoing use are submitted for Council's consideration.</p> <p>7. All significant plant and equipment is to be located within the basement and isolated in accordance with the rW requirements under the NCC (BCA) with details to be provided at the CC stage.</p>
Chapter 9 - Specific Landuses	✓	<p>Clause 4 of this Chapter makes it clear that this Chapter does not apply to the subject site being Zone 12 Special Use under the LEP.</p> <p>The provision essentially duplicates the Seniors SEPP provisions that have been addressed above.</p> <p>The DCP objectives are achieved.</p>
Chapter 10 - Advertising	□	Not Applicable.
Chapter 11 – Social Impact	✓	<p>The primary aim is to ensure that the potential negative impacts of new development on existing development and local communities is minimised. In this regard the DCP requirements are achieved.</p> <p>Clause 1.b.1.2 of this Chapter of the DCP requires a social impact comment for the proposed development.</p> <p>This comment is provided in Clause 7 of this SEE.</p>

7 Environmental Effects

7.1 Visual Character

In most simplistic terms, whilst the proposal exceeds HOB and would create a 3 storey building in a location where the remaining buildings on the site are 2 storeys, the juxtaposition of the proposal to its neighbours, topography and screening vegetation (existing and proposed), will result in a development that is visually consistent with the character of neighbouring development.

All other impacts of the 3 storey building are internalised within JPV without any significant compromise to existing internal amenity. The development is proposed within the north western high dependence precinct of JPV.

The planning principles expressed in *Veloshin v Randwick Council* [2007] NSWLEC 428 in relation to assessment of height and bulk, and in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 in relation to compatibility in an urban environment are relevant.

Applying *Veloshin*, whether the impacts of a proposal's height and bulk are consistent with impacts that could reasonably be expected under the planning controls, and whether the proposal fits into the existing character of the area are relevant. In *Project Venture Developments*, whether the appearance of the proposal is in harmony with the buildings around it and the character of the street, considering (in an urban context) height, setbacks and landscaping is relevant.

The provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* published by the Department of Infrastructure, Planning and Natural

Resources in March 2004, do not apply but we have adopted the considerations for the purpose of demonstrating that the proposal respond appropriately to its context:

Street layout and hierarchy – The proposal is a three (3) storey RACF with a 2 storey frontage to Wilson Parade. Wilson Parade is a local road serving East Heathcote. As one enters East Heathcote over the bridge crossing the Illawarra Railway Line, the Road is elevated a full storey above JPV. This results in the three (3) storey built form within JPV being viewed a 2 storey elevation from Wilson Parade. The entry to East Heathcote is through the proposed Enterprise Corridor along the Princes Highway. This corridor is proposed to attain a HOB of 16m with and FSR of 1:1.

Block and lots – there is no change proposed to the lot size of shape or its orientation.

Built environment – the existing urban typology of JPV is a medium density site with existing RACF and town house dwelling within a self contained village. Existing town house style dwellings of two storeys will remain between the proposed works and the low density single dwelling house and dual occupancy developments to the east of JPV.

Trees – the proposal will require the removal of some significant trees as detailed by the Arborist Report. This has been offset by new tree planting and landscaping as detailed by the Landscape Plan. The reasonable necessity for new RACF being properly considered in the context of the Special Use Zone for Seniors Housing the net public benefit remains overwhelmingly positive.

Policy environment – the applicant has taken into proper consideration the objectives, development standards and controls to the extent they may be reasonably and lawfully applied to the extent they do not thwart the objectives of the Seniors SEPP. Council's Housing Strategy is a central consideration, the objectives of which are also achieved in the provision of more aged housing especially dementia care.

Site Analysis – the applicant has undertaken a detailed site analysis, vehicular access to the site will be improved, setbacks provide excellent separation reducing the impacts of shadows, and there are no natural features worthy of retention. All other constraints have been identified and addressed by the design and expert reports.

Built form – the pitched roof form is consistent with roofs in the locality. The massing of the development addresses the character of the locality taking advantage of the topography at the northern end of Wilson Parade and the buffer provided by existing 2 storey building to be retained along the eastern boundary of the site. We will not repeat, but direct Council to, the detailed Architect's comprehensive Design Report.

Landscaping – the landscape outcome will make a significant improvement to the amenity of the locality and JPV. We will not repeat, but direct Council to, the detailed Landscape Architect's comprehensive plans and specifications.

POS – There is no Private Open Space (POS) within the RACF. The RACF provides 3 new secured landscaped dementia courtyards as Common Open Space (COS), two (2) with direct north facing solar access and the other well shaded in the AM and PM periods mid summer providing options in seeking full sun or shade. High levels of natural surveillance observe the COS and perimeter of the site.

Internal amenity – Whilst the depth of the building design provides natural cross ventilation, given the nature of the RACF and the need to ensure that occupants are comfortable at all times, many often infirmed, immobile and constrained by various stages in cognitive ability, the RACF will also be a conditioned space complying with the provisions of the National Construction Code (BCA) and relevant Australian Standards. The requirements of Part J of the BCA will be addressed at the Construction Certificate stage. We note that pursuant to the note to clause 54(4) of the EPA Regulation that it is not appropriate to require these building details at the DA stage.

The room layouts allow light and natural ventilation as detailed by the Architect's Design Report.

Access – The existing approved access at the northern end of Wilson Parade will be upgrade to provide safe access and egress to onsite parking (predominantly within the new basement) and access to the loading dock. In terms of disabled access the proposal complies with the BCA and Access Code with new lifts to service all levels of the building. Way finding will be improved by publication of induction of new residents and their families. Access maps on JPV's website, updated at the various stages of demolition and construction, will be published and email to resident's contact, to ensure that visitors access JPV at appropriate locations depending upon their mode of transport.

Carparking – The new basement parking will result in a significant improvement to onsite parking and a reduction in overflow parking upon residential streets as detailed by the Traffic and Parking report.

Residential Amenity – In *GPC No 5 (Wombarra) Pty Ltd v Wollongong City Council* [2003] NSWLEC 268 the Court established four principles for the specific case of medium density housing for older people fitting into the streetscape in a low-density housing area.

Therefore, applying the same principles:

1. The medium density development does not have to be two-storey to be compatible with the streetscape even where most existing buildings are single or two-storey;
2. The scale of the medium density should be visually broken up;
3. Existing site characteristics that reduce visual dominance should be retained; and
4. Where new materials and forms are introduced, this should be done with sensitivity to the existing forms and materials.

The proposal achieves each of these principles. We will not repeat, but direct Council to, the detailed Architect's comprehensive Design Report.

In *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 the Land and Environment Court specifically set out a relevant planning principle:

"There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve."

JPV is fundamentally a medium density development site as it exists today and the proposal in terms of its visual character will not be discernably different. There are no adverse residential amenity impacts internally or upon neighbours.

7.2 Traffic

The increase in traffic volume is considered low. The nature of RACF, in particular high dependence care, is that visitors are infrequent and irregular. Those within the RACF, if not infirmed are reliant upon JPV for their transport and families on occasions. In summary, the increase in traffic and parking demand is considered minor.

A detailed Traffic & Parking Report by McLaren Traffic Engineering demonstrates that the proposed changes to access and egress are safe and the impacts upon the existing service levels of adjoining intersections are acceptable support the application.

In summary, the subject proposal is fully supportable in terms of its traffic impacts.

7.3 Parking

The site currently contains 158 parking spaces. At peak demand periods such as when special events are being held there is some limited overflow parking into predominantly Wilson Parade and The Avenue.

The proposal includes 89 new parking spaces, predominantly within new basement car-parks and new loading dock facilities abutting the northern boundary with direct access from Wilson Parade.

The application is supported by a detailed Traffic & Parking Report by McLaren Traffic Engineering that demonstrates that the provision being made for new onsite parking, predominantly within the new basement level areas, will improve parking outcomes for staff, residents and visitors, as well as reduce demand upon on-street parking.

In summary, the subject proposal is fully supportable in terms of its parking impacts.

7.4 Economics

Council's Housing Strategy report noted that council's own residential aged care facility at Engadine community centre was increased in height from 4 to 6 storeys primarily because the future commercial operator found that it would not be financially feasible at 4 storeys.

JPV are not a commercial entity and the economics are a minor driver. The major driver is the need for increased dementia care facilities within the boundaries of the existing site by alterations and additions to the existing RACF that also improve the efficiency and effectiveness of the RACF's operations.

In addition to the social benefits addressed below, it is recognised that there is a general economic benefit in the provision of efficient and effective RACF operations as there is limited aged care funding and limited resources available.

The design seeks to consolidate core operational services within the new basement level with direct access to loading facilities relocated from the centre of the site to the north access road.

It is considered that the design responds to the economic imperatives. It is an efficient and effective design. It is considered that the proposal responds to the economic imperatives and in addition will provide a modest increase in staff levels required to comply with .

7.5 Social Impact Comment

A **social impact comment** is required for seniors housing by clause 3.1 of Council's [2007 Social Impact Specification - Sutherland Shire Council](#).

Social impacts must be addressed under section 79C and Council must assess:

"The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality." (Sec 79C(1)(b)).

Sutherland Shire Draft Housing Strategy 2031 as detailed by DAP025-13 dated 12/11/2012 and Council's publication "Ageing well: Housing" dated 24/05/2013 clearly support the need for more housing for smaller house holds and in particular identify **a pressing need for more aged care facilities**.

To quote Council's strategic planning report:

"The percentage of population aged 65 and over was 13.3% in 2006 and it has risen to 14.9% in 2011, an increase of 1.6%."

The Council's Ageing Strategy was well received by the community and well regarded across local government. Specific commitments made by council through the adoption of its Ageing Strategy in relation to housing include:

- Increase housing choice by increasing permissible building heights and densities in centres with proximity to transport, shopping and facilities;

- Increase aged housing by increasing permissible building heights and densities for aged persons housing in centres with proximity to transport, shopping and facilities;
- Provide incentives for villa developments; and
- Promote dual occupancy as a viable and cost effective form of aged housing.

Council's strategy supports JPV's current application seeking to increase seniors living, in particular high care facilities.

JPV is close to public transport as detailed above. In addition JPV also provides its own bus service, which transports residents to local centres and on other excursions.

Over the next decade JPV is planning to meet demand for increased dementia care through the new RACF. Whilst JPV acknowledges the LEP process is ongoing it cannot wait for the LEP process to be completed or for any new planning proposals and seeks development consent to build new facilities to meet the increasing dementia care needs of our community. JPV will consult with its neighbours and Council staff through DA process as to that proposal and respond to any submissions.

In the interim, JPV have also sought, with respect to the current Draft LEP, amendments to the Draft LEP 2013, reasonably required to better meet the objectives of the Sydney regional and sub-regional plans and the draft LEP 2013, as well as meet Council's published "Ageing well: Housing" 24/05/2013 aims and objectives, in particular to the increasing dementia care needs of our community. Council's Sutherland Shire Draft Housing Strategy 2031, as reported DAP025-13 on 12 November 2012, supports this submission.

There are over 321,600 Australians living with dementia. This number is expected to increase by one third to 400,000 in less than ten years. Without a medical breakthrough, the number of people with dementia is expected to be almost 900,000 by 2050³.

Those areas with increasing aging populations will therefore struggle to meet low and high dependency age care demands. The Sutherland Shire is one of these areas.

The social impact comment must also consider accessibility and Crime Prevention Through Environmental Design (CPTED) principles.

The RACF additions have been design with lift access from basement levels and all access and facilities comply with the Commonwealth aged care accreditation standards and the *Building Code of Australia*. All these details have been addressed through the design process and detailed building plan required for each construction certificate will provide even further more refined details.

³ <http://www.fightdementia.org.au/content/statistics>

The RACF is an access controlled secured building. JPV's experience is that its mix of self care and low and high care facilities ensure that the whole of JPV is subject to very high levels of natural surveillance. JPV has not experienced any events of vandalism or anti-social behaviour. Its location in East Heathcote experience very low level crime rates. This combined with 24 hour by 7day staff at levels required by the Commonwealth aged care accreditation standards ensure the safety and security of residents and property respectively.

7.6 Bush Fire

There has been extensive and early consultation with the Rural Fire Service NSW, both the local brigades and the NSW office. The Bushfire Protection Assessment, Aged Care Redevelopment – John Paul Village, Heathcote by Eco Logical Australia Pty Ltd, details this.

JPV has existed as both a self-care and RACF since 1985 within a well-documented bush fire prone location. Central to the operation of JPV is the implementation and continuing review of JPV's Disaster & Emergency Management Plan.

It is acknowledged that prior to occupation and use of each stage of the proposed development that the Disaster & Emergency Management Plan will need to be updated to reflect physical changes to access, egress, sheltering in place opportunities, and evacuation requirements.

The most significant improvements in life safety for the RACF and ILU will be improve perimeter access and egress for emergency services vehicles via the northern end of Wilson Parade.

In a built form sense the Fire Resistance Levels of the new RACF will comply with AS 3959-2009 under the NCC (BCA).

The Bushfire Protection Assessment recommendations will be implemented as follows:

Recommendation 1: The proposed RACF buildings containing beds and treatment areas are not to be located any further north towards the hazard than the existing buildings as shown in Figure 4;

Recommendation 2: Landscaping to comply with the objectives of an IPA as described by PBP;

Recommendation 3: Construction works shall comply with the relevant BAL as per AS 3959-2009 as mapped in Figure 4;

Recommendation 4: The evacuation plan be updated to include the development prior to occupation;

Recommendation 5: A reticulated hydrant water supply should be installed throughout the proposed development in accordance with Australian Standard AS 2419.1;

Recommendation 6: No part of a tree is to be closer than 0.5 m of any powerline conductors in accordance with Energy Australia (2002) guidelines;

Recommendation 7: Gas services are to be installed and maintained in accordance with AS/NZS 1596:2008 (Standards Australia 2008);

On this basis it is submitted that Council may grant consent of a relevant condition binding the Accredited Certifier under clause 146 of the Regulation to ensure that the CC reflects these requirements prior to its issue.

7.7 Rail and Road Noise

The site is subject to Division 17, Subdivision 2 of [State Environmental Planning Policy \(Infrastructure\) 2007](#).

The requirements to address potential road and rail noise are addressed by the Rail and Traffic Noise and Vibration Assessment by Acoustic Logic Ref: 20140359.1/0204A/R1/BW, Revision 1 dated 6 June 2014.

This report concludes that:

"Provided that the recommendations set out in Section 6 of this report are adopted, the impact of traffic and rail noise will be reduced and comply with the requirements of the Interim Guidelines, the SEPP (Infrastructure) 2007 and Australian Standard AS2107:2000. Railway vibration was found to be within acceptable limits and does not require treatment."

The recommendations in Section 6 of the Report are proposed to be implemented and detailed compliance required to be demonstrated prior to the issue of Construction Certificates at each relevant stage.

If Council seek to impose compliance through a condition, the condition needs to be framed to allow for staged Construction Certificates that do not require the acoustic compliance detail for demolition, bulk excavation and/or foundation retaining (early works).

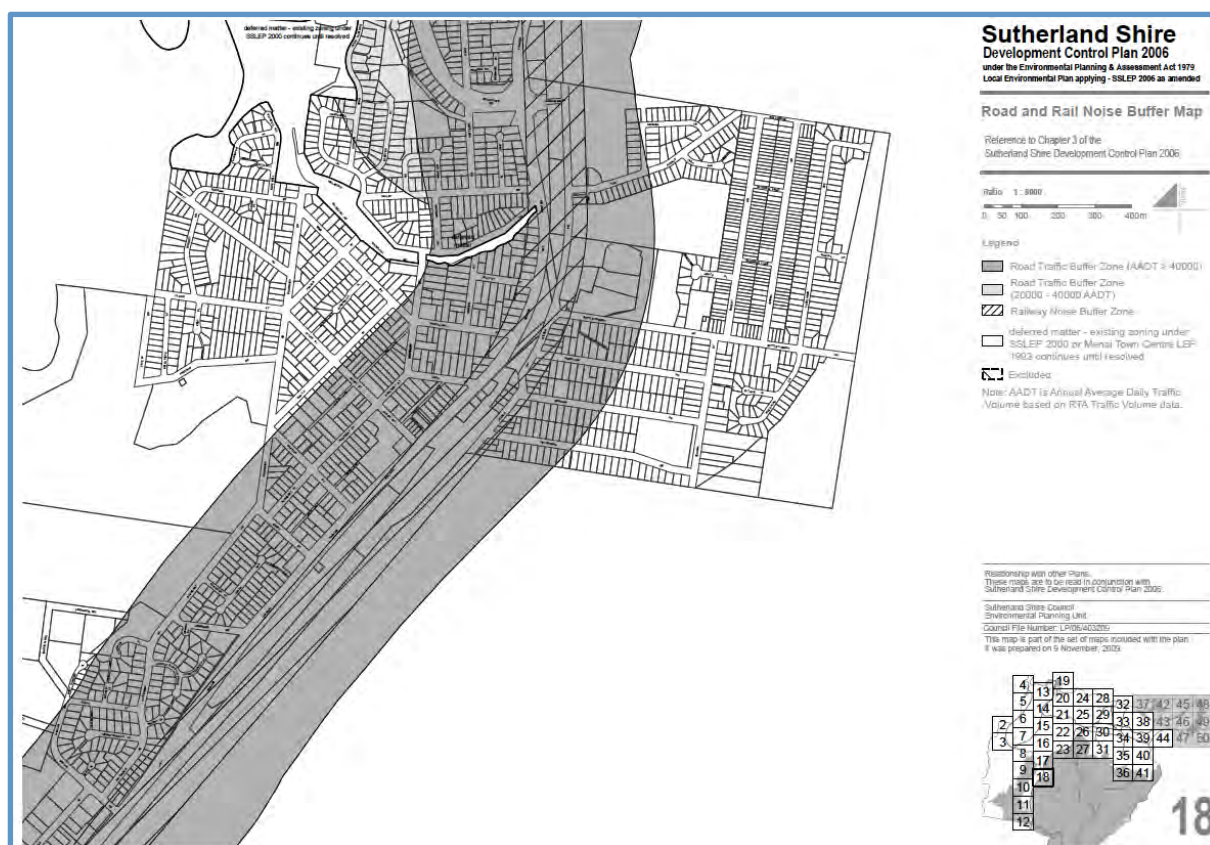


Figure 18 - SSDCP2006 Road & Rail Noise Buffer Map

7.8 Stormwater Drainage

The Council's flood mapping as procured from the study of Bewsher Consulting Pty Ltd dated 4 February 2004 demonstrates the site is not a flood risk but is within the 25A sub-catchment which has a 1:100 flooding problem on the western side of the Princes Highway.

The proposal includes On-site Detention and Water Sensitive Urban Design principles to address ESD requirements.

The proposal is supported by detailed stormwater plans prepared by Northrop Engineers incorporating OSD and WSUD principles consistent with cause 51 and 52 of the LEP and Chapter 8 of the DCP.

7.9 Access and impacts to Royal National Park (RNP) & Illawarra Railway Line Corridor

Despite several emails to the relevant senior officers of Railcorp and DECC to engage with both authorities with respect to changes at the northern end of JPV and in particular access to and through the two existing gates that services these authorities have failed to engage with JPV's project team.

Irrespective of this JPV's design have been cognisant of the needs of both Railcorp and DECC with respect to their needs for access from the public road to their gates.

The proposal will incorporate roll top kerb and guttering allowing unfettered vehicular access to their respective gates.

With respect to the heritage listed RNP the proposal is considered in the context of the immediate locality and in the context of the scale of the RNP to have no heritage impacts that warrant a more detailed Heritage Impact Statement.

In short the SEE submits that in terms of Heritage Impacts there are no heritage impacts upon the RNP.

7.10 National Construction Code (Previously BCA)

The proposal is supported by a preliminary BCA assessment based upon the DA plans, which is lodged for Council's consideration. Please note the note to clause 54(4) that "The aim of this provision is to ensure that the consent authority does not oblige the applicant to provide these construction details up-front where the applicant may prefer to test the waters first and delay applying for a construction certificate until, or if, development consent is granted."

The applicant will not be submitting detailed building plans at the DA stage being satisfied that through DTS or performance based solutions it is reasonably able to achieve compliance with the BCA at the CC stage.

Any other requirements including those noted in Council's PAD14/0030 advice may be subject to relevant consent conditions. It is submitted that it would be inappropriate to fetter BCA performance based solution with respect to the alterations to the existing buildings under clause 93 or 94 of the Regulations.

8 Conclusion

The pressing need⁴ for more residential aged care facilities is a matter of *public interest*⁵ that must be given significant weight under section 79C of the Act.

In discerning the public interest under section 79C(1)(e), the net public benefit of the proposal is overwhelming positive.

Whilst balancing the public interest against private interests is sometimes a difficult task, there is no doubt that the pressing need to meet demand for additional residential care facilities is in the public interest and supports this application.

The new access from Wilson Parade is a key positive design element removing significant traffic and parking impacts from not only The Hub area of JPV, but also from local streets. There are no adverse safety impacts from a left in left out arrangement at the northern end of Wilson Parade for cars.

The Traffic and Parking report properly considered and balanced against the public benefits of reduced vehicle and pedestrian conflicts within JPV, improved perimeter access for emergency vehicles and removing cars from other local roads, the LEP

⁴ **Sutherland Shire Draft Housing Strategy 2031** as detailed by report DAP025-13 dated 12/11/2012 and Council's publication "Ageing well: Housing" dated 24/05/2013 clearly support the need for more housing for smaller house holds and in particular identify **a pressing need for more aged care facilities**.

⁵ *Double Bay Marina v Woollahra Council* [2009] NSWLEC 1001 - planning principle: discerning the public interest

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and DCP objectives are achieved. The net public benefit of this solution to traffic and parking is overwhelmingly positive and in the public interest.

All significant issues have been resolved through the design process based on a very thorough site analysis as supported by the numerous expert reports.

There are no discernable adverse environmental impacts that prevent Council's favourable consideration and determination of the application.

As this is a large complex project JPV wish to ensure that an open and transparent public consultation process occurs and will be holding its own information sessions for residents and neighbours.

JPV wish to ensure that any issues arising during the assessment process that may be resolved through amendments and/or conditions are discussed to ensure that they will not adversely impact project staging.