

Department of Planning, Housing and Infrastructure

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Maronite Sisters of the Holy Family Marrickville Seniors Housing

State Significant Development Assessment Report (SSD 69377980)

March 2026





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of the State significant development (SSD) application for the Maronite Sisters of the Holy Family Marrickville Seniors Housing located at 28 Marrickville Avenue, Marrickville, lodged by the Maronite Sisters of the Holy Family Village. The report includes:

- an explanation of why the project is considered SSD and who the consent authority is
- an assessment of the project against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the project during the assessment process
- an assessment of the likely environmental, social and economic impacts of the project
- an evaluation which weighs up the likely impacts and benefits of the project, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- an opinion on whether the project is approvable or not, along with the reasons, to assist the Independent Planning Commission (IPC) in making an informed decision about whether development consent for the project can be granted and any conditions that should be imposed.

Executive Summary

This report details the Department's assessment of the SSD application for the Maronite Sisters of the Holy Family Marrickville Seniors Housing development (SSD-69377980).

The Maronite Sisters of the Holy Family Village (the Applicant) proposes to construct and operate a 4 storey residential care facility (RCF) comprising 100 beds. The project is located at 28 Marrickville Avenue, Marrickville in the Inner West local government area (LGA).

The project has an estimated development cost (EDC) of \$38,416,466 and is expected to generate 110 construction jobs and 50 operational jobs.

The project is classified as SSD under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it satisfies the criteria under Schedule 1 section 28 of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP), as the development has an EDC that exceeds \$30 million, incorporates a RCF and the proposal is wholly permissible with consent.

The Department exhibited the environment impact statement (EIS) from 24 April 2025 to 21 May 2025. During the exhibition period, the Department received:

- 88 public submissions (85 objections, 2 comments and 1 support)
- a submission from Inner West Council (Council) commenting on the proposal
- advice from 8 government agencies.

The Minister for Planning and Public Spaces is the consent authority under section 4.5(a) of the EP&A Act. However, the application is referred to the IPC for determination as the Minister's delegate, as there were more than 50 public submissions objecting to the proposal before amendments to section 2.7 of the Planning Systems SEPP.

Key concerns raised by the public and Council related to the structural stability of the heritage boundary wall, traffic and parking implications, and the bulk and scale of the development and associated privacy and amenity impacts.

The Applicant submitted a Response to Submissions (RtS) report on 9 October 2025 and additional information and refinements to the proposal to address the issues raised by the Department, Council, government agencies and public submissions (see **Appendix A**). Key refinements include minor design amendments to improve accessibility compliance and vehicle safety.

The Department has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) of the EP&A Act, the issues raised in the submissions, the applicant's response and additional information.

The Department's assessment concludes that the proposal is acceptable as it:

- supports State government priorities to deliver well-located housing by delivering a 100 bed RCF to meet the changing needs of an aging population in an accessible location within the Inner West LGA
- is permissible with consent and is consistent with the objectives of the SP2 Infrastructure zone under *Inner West Local Environmental Plan 2022 (IWLEP)*.
- achieves design excellence in its architectural expression, use of high-quality materials and good residential amenity
- provides a bulk and scale that is well resolved and presents an appropriate built-form relationship to adjoining development
- would not result in unreasonable overshadowing, view or privacy impacts on adjoining residential receivers or the public domain
- would deliver public benefits including the provision of seniors housing and generate up to 110 construction jobs and 50 operational jobs.

The Department has recommended a suite of conditions to appropriately address any residual issues.

Following its detailed assessment, the Department considers the project to be in the public interest and concludes the project is approvable, subject to conditions.

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1 Introduction

1.1 The proposal

1. The Applicant proposes the demolition of an existing 54 bed residential care facility (RCF), known as 'Village 1', potential remediation and construction of a 4-storey, 100-bed RCF located at 28 Marrickville Avenue, Marrickville.
2. The project description and mitigation measures provided in Section 4 and Appendix AN of the EIS (as amended by the RtS) are the subject of this report and will form part of the development consent if the project is approved.
3. An overview of the proposed development is provided in Section 2.

1.2 Project location

4. The site is located in Marrickville in the Inner West LGA, approximately 7.3 km south-west of the Sydney central business district and 3 km north-west of Sydney Airport.
5. The development area is located at the south-eastern end of the site at its Marrickville Avenue frontage as shown in Figure 1 and Figure 2. Further project location details are described in Table 1.



Figure 1 | Regional context map (Source: EIS)



Figure 2 | Site Details (Source: EIS)

Table 1 | Key aspects of the project site

Aspect	Description
Address	28 Marrickville Avenue, Marrickville
Local Government Area (LGA)	Inner West Council
Legal description	Lot 101 in Deposited Plan 1091233
Site area	2.69 ha
Development area	4,821.6 m ²
Existing development across the site	- Two RCF buildings; Village 1 (54 beds) and Village 2 (47 beds). - Educational establishments: St Maroun's Preschool, St Maroun's College and convent. St Maroun's primary school.

Aspect	Description
Surrounding roads/access	- The site has frontages to Wardell Road to the north-west and Marrickville Avenue to the south-east. - Vehicular and pedestrian access to Village 1 is provided via Marrickville Avenue entrance.
Topography	The site slopes south towards Marrickville Avenue, with a fall of approximately 14 m.
Public transport	- Livingstone Road bus stops located approximately 300 m walking distance to the south of the site - Marrickville train station located approximately 800 m walking distance to the south of the site - Dulwich Hill train station and light rail stop approximately 700 m walking distance to the north-west of the site.
Heritage	- The site is identified as an item of local heritage significance under IWLEP, known as 'Maronite Sisters Convent and High School (former Carmelite Convent), including interiors' (Item I1287). The item includes the entirety of the 3 m brick boundary wall surrounding the site ('heritage wall'). - The site's western boundary adjoins a local heritage conservation area known as 'South Dulwich Hill Conservation Area' (C107).

1.3 Related projects and works

1.3.1 St Maroun's College

- On 29 March 2023, the Sydney Eastern City Planning Panel approved alterations and additions to St Maroun's College (secondary school), which is adjacent to the proposed development on the site (DA/2022/0318) (see **Figure 2**).
- This approval granted consent for partial demolition of the existing heritage boundary wall surrounding the property to widen the existing Marrickville Avenue vehicular and pedestrian access (refer to **Figure 4**).
- Construction has not yet started. The approved site plan is shown in **Figure 3** and existing vehicle entry at Marrickville Avenue is depicted in **Figure 4**.

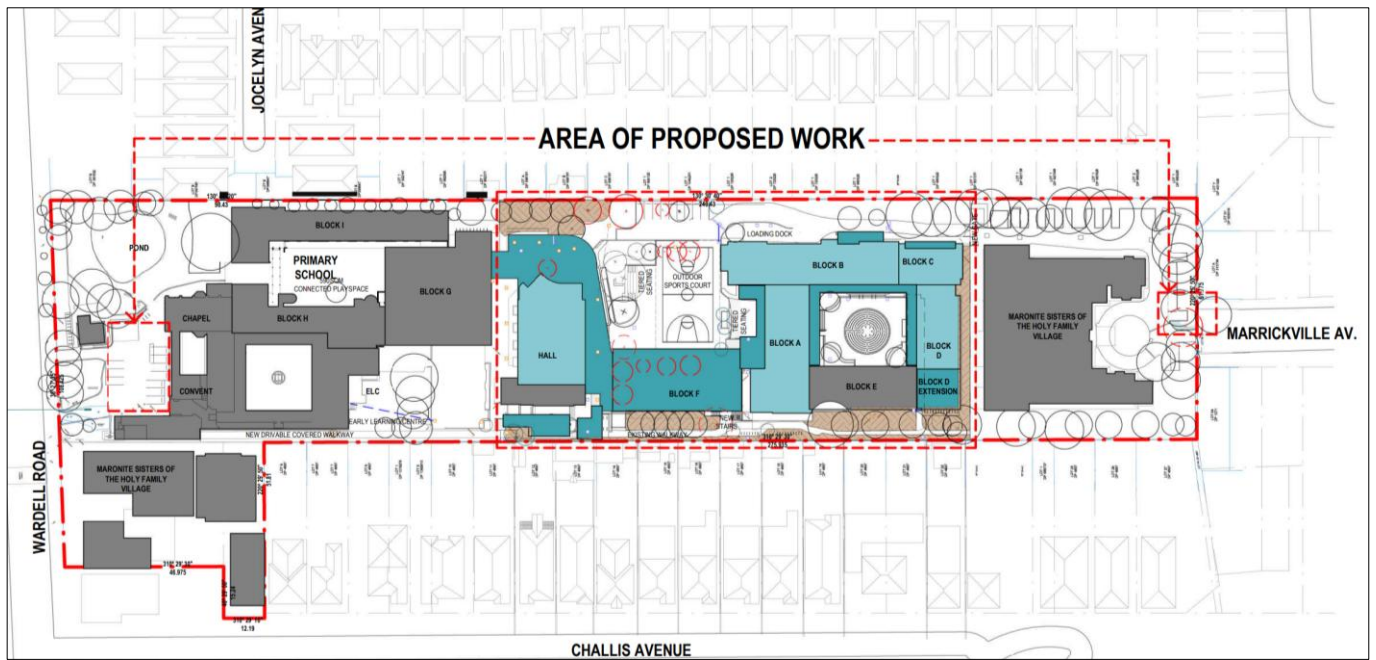


Figure 3 | Approved Site Plan for St Maroun's College (DA2022/0318) (Source: Leaf Architecture)

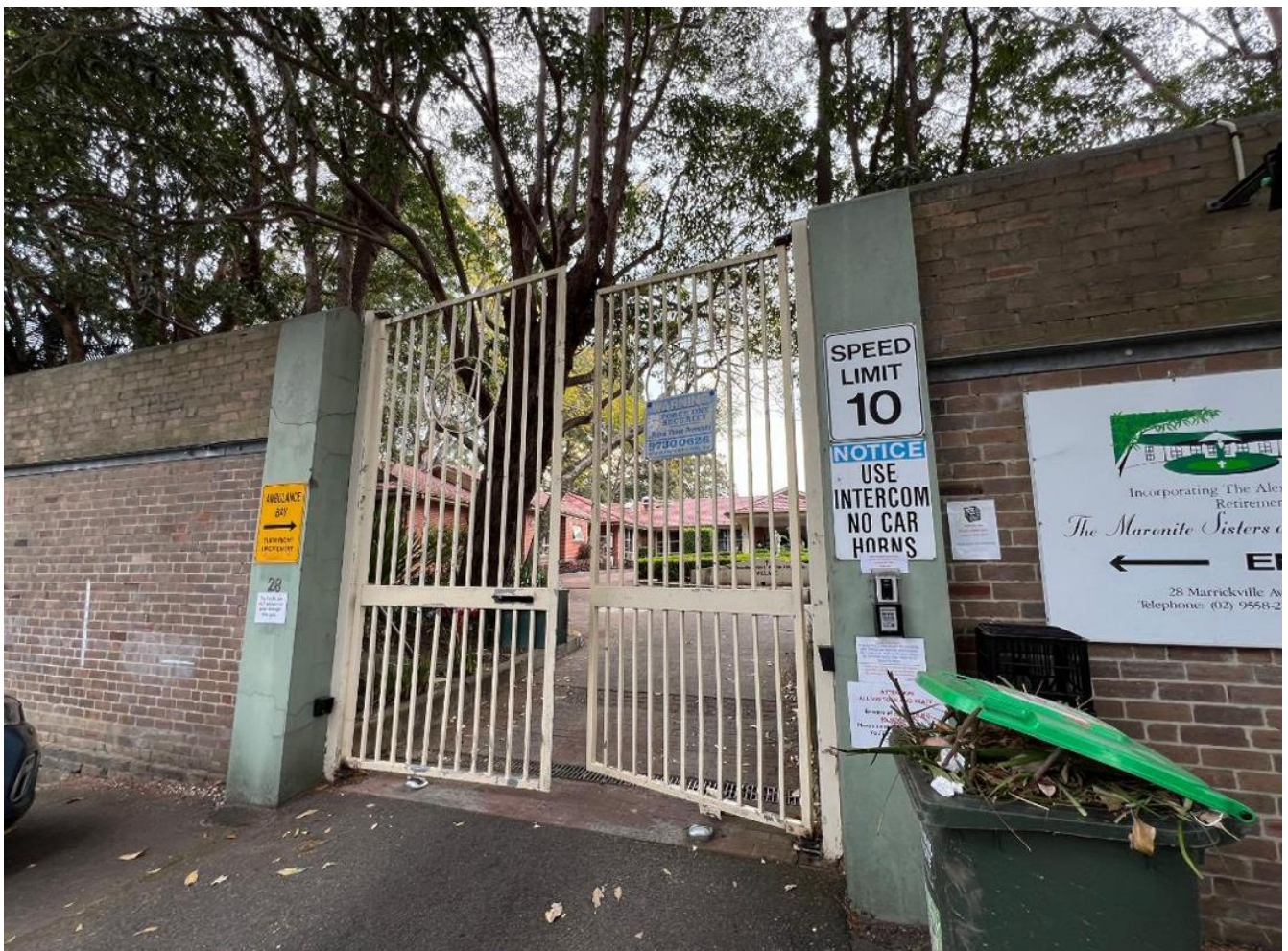


Figure 4 | Existing vehicle access gate at Marrickville Avenue (Source: EIS)

2 Project

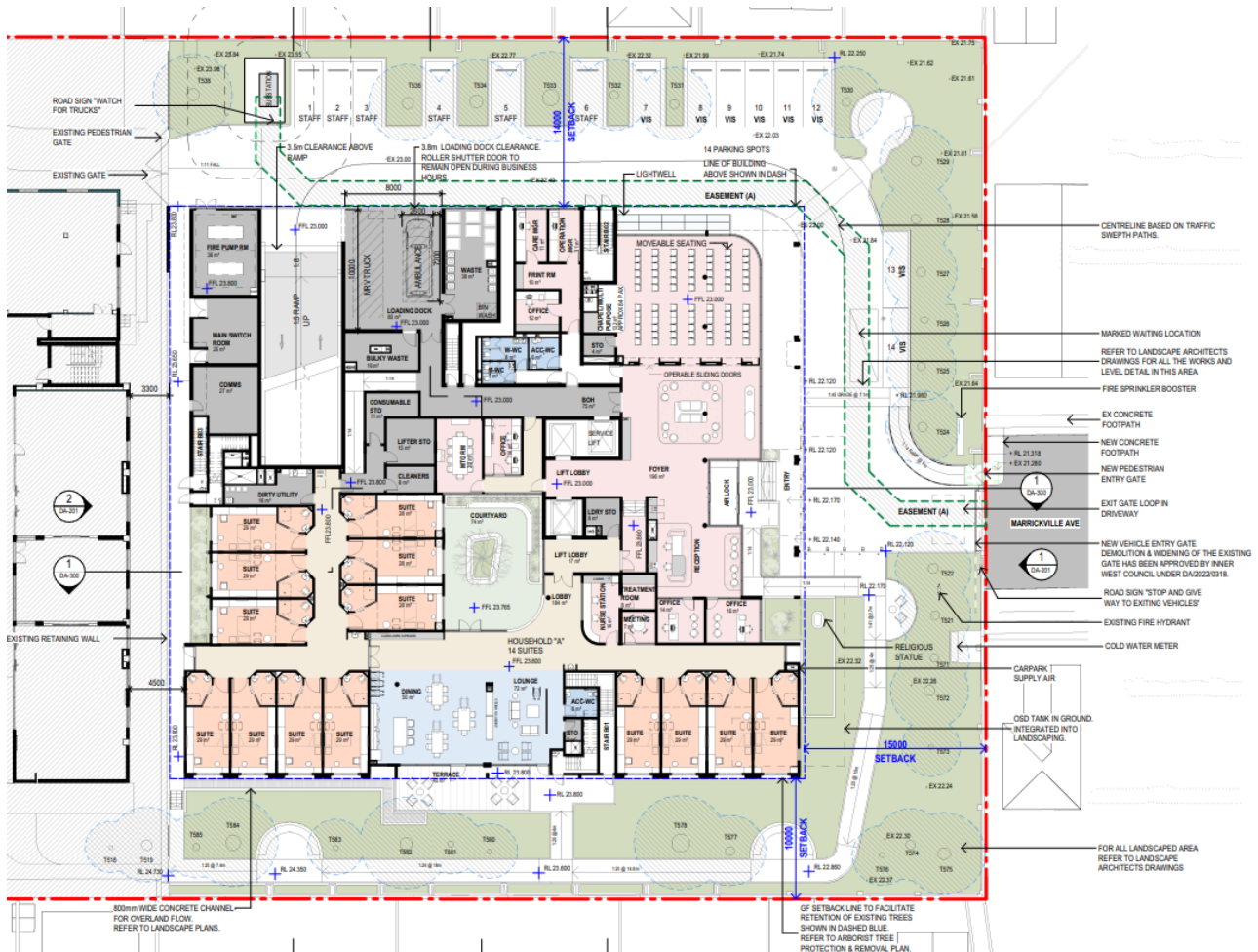
2.1 Project overview

9. This SSD application seeks approval for demolition of the existing Village 1 RCF and a 1.2 m portion of the heritage wall and construction of a new 100-bed RCF, including basement car park.
10. The key aspects of the project are provided in detail in the Project Description chapter of the EIS (see **Appendix A**) and are outlined in **Table 2** and shown in **Figure 5** to **8**.

Table 2 | Key aspects of the project

Aspect	Description
Uses	• 99-bedroom (100 bed) RCF. • Ancillary ground floor amenities including a chapel/multi-purpose space, internal courtyard, dining facilities and staff administration facilities.
Gross Floor Area (GFA)	6,856 m ² .
Building height	15.52 m (4 storeys).
Parking and Servicing	• 35 car spaces (14 at-grade and 21 basement) • 5 motorbike spaces and 9 bicycle spaces (basement) • 1 delivery bay (basement) • 1 ambulance bay/loading dock (ground level)
Pedestrian Access	• Partial demolition of the heritage wall (1.2m) to create a new dedicated pedestrian entry gate adjacent to the vehicle access at Marrickville Avenue.
Communal Open Space	A total of 1,857 m ² of communal open space is provided, comprising: • ground level: 1,502 m² • level 1: 88 m² • level 3: 267 m².
Landscaping	• Landscaped area: 1,539 m² • Deep soil: 757 m² • Removal of 4 existing trees

Aspect	Description
	Additional planting of 2 trees (internal courtyard and communal terrace)
EDC	\$38,416,466.83.
Easements	2 m wide easement for access to a new electricity substation along the vehicular access driveway.



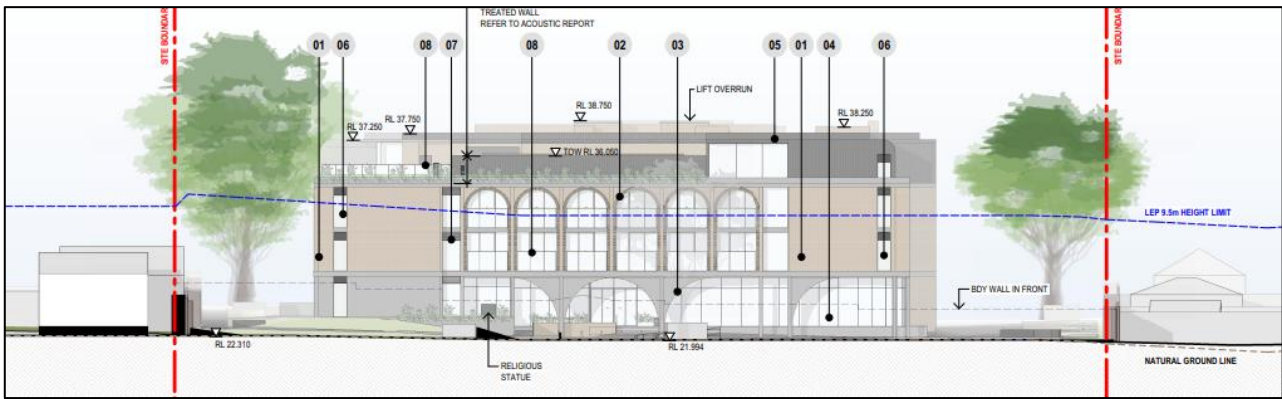


Figure 7 | Eastern Elevation – Marrickville Avenue (Source: RtS)



Figure 8 | Photomontage – axonometric view (Source: EIS)

3 Policy and statutory context

3.1 Housing supply

11. The NSW Government has a target of 377,000 well-located homes by 2029. This policy is in support of the National Housing Accord that provides a national target of delivering 1.2 million new, well-located homes over 5 years.

12. To support the delivery of seniors housing across NSW, in November 2021 an SSD pathway was introduced for large scale seniors housing developments that include RCFs. This SSD application has been submitted pursuant to these initiatives that aim to support the delivery of well-located and accessible seniors housing.
13. The proposal involves the renewal of an existing seniors housing facility through the delivery of a modern, purpose-built RCF. The redevelopment seeks to improve access to contemporary seniors housing and support aging in place. The proposal aligns with broader strategic objectives to alleviate housing pressure and respond to both community needs and the evolving requirements of an aging population.

3.2 Permissibility and assessment pathway

14. Details of the legal pathway under which consent is sought, and the permissibility of the project are provided in Table 3 below.

Table 3 | Permissibility and assessment pathway

Consideration	Description
Assessment pathway	The project is declared SSD under section 4.36 of the EP&A Act in accordance with section 2.6(1) and section 28 of Schedule 1 of the Planning Systems SEPP, as: • it proposes seniors housing with an EDC of more than \$30 million • the proposal includes an RCF • there are no other prohibited components of the development under an EPI.
Consent authority	The Minister is the declared consent authority under section 4.5(a) of the EP&A Act. However, the application is referred to IPC for determination as the Minister's delegate (under delegation dated 14 September 2011), as there are at least 50 public submissions objecting to the proposal prior to amendments to section 2.7 of the Planning Systems SEPP.
Permissibility	• The site is zoned SP2 Infrastructure (Educational Establishments) under the IWLEP. • Seniors housing is permissible with consent under Part 5, Division 1, section 81 of the Housing SEPP. • While not specified as a permitted use, the chapel/multi-purpose space is considered to be ancillary to the predominant use for seniors housing as it is minor and sufficiently integrated with the development, and therefore can be approved.

3.3 Other approvals and authorisations

15. Under section 4.41 of the EP&A Act, several other authorisations required under other Acts are not required for SSD. This is because all relevant issues are considered during the assessment of the SSD application.
16. Under section 4.42 of the EP&A Act, certain approvals cannot be refused if they are necessary to carry out the SSD. These authorisations must be substantially consistent with any SSD development consent for the project.
17. The Department has consulted with and considered the advice of the relevant government agencies responsible for these other authorisations in its assessment of the project (see **Section 4** and **Section 5**). Suitable conditions have been included in the recommended conditions of consent (see **Appendix E**).

3.4 Planning Secretary's environmental assessment requirements

18. The Department's review determined that the EIS addresses each matter set out in the Planning Secretary's environmental assessment requirements (SEARs) issued on 25 October 2024 and is sufficient to enable an adequate consideration and assessment of the project for determination purposes.

3.5 Mandatory matters for consideration

19. Mandatory matters for consideration include:
 - matters of consideration required by the EP&A Act
 - objects of the EP&A Act and ecologically sustainable development (ESD)
 - biodiversity development assessment report
 - matters of consideration required by the EP&A Regulation
 - matters of consideration required by environmental planning instruments.
20. The Department's consideration of these matters is summarised in **Appendix C** and the Department is satisfied that the development meets statutory requirements.

4 Engagement

4.1 Exhibition of the EIS

4.1.1 Public exhibition of the EIS

21. After accepting the SSD application and EIS, the Department:
 - publicly exhibited the project from 24 April 2025 until 21 May 2025 on the NSW Planning Portal
 - notified occupiers and landowners in the vicinity of the site about the public exhibition
 - notified and invited comment from relevant government agencies and Council.
22. The Department received 88 public submissions (85 objections, 2 comments and 1 support), advice from eight government agencies and comments from Council.
23. On 3 June 2025, Department officers visited the site and surrounding areas to understand the site context and the issues raised in submissions.
24. The Department requested the Applicant to respond to the issues raised in submissions and the comments received from government agencies and Council. The Applicant provided a RtS report to the Department on 9 October 2025 (**Appendix A**).
25. The Department made the Response to Submissions (RtS) and additional information publicly available on the NSW Planning Portal and notified the relevant government agencies and Council.
26. A summary of the key issues raised is provided below.

4.1.2 Summary of advice received from government agencies

27. A summary of agency advice is provided in **Table 4**. A link to the full copy of the advice is provided in **Appendix C**.

Table 4 | Summary of agency advice

Agency	Advice summary
NSW Department of Climate Change, Energy, the Environment and Water - Conservation Programs, Heritage and Regulation (DCCEEW CPHR)	CPHR requested that the Flood Emergency Response Plan (FERP), provided as part of the RtS, be amended to address the Inner West Council Flood Emergency Sub Plan (NSW SES, 18 October 2023). No conditions of consent were recommended.
DCCEEW Water Group (DCCEEW – Water)	DCCEEW Water recommended that additional information and calculations be provided to address groundwater inflow volumes, and a water access licence (WAL) be obtained post approval. The RtS package provided details of the estimated groundwater take and was considered to satisfy the requested information.
Sydney Water	Sydney Water provided comments and recommended conditions to assist in planning the servicing needs of the proposed development.
Transport for New South Wales (TfNSW)	TfNSW raised no concern with the proposal and did not recommend any conditions as the development is unlikely to have a significant impact on the state classified road network.
Sydney Trains	Sydney Trains raised no concern with the proposal and provided recommended conditions.
Heritage NSW	Heritage NSW concluded that the site did not contain any items listed on the State Heritage Register, the site has low to moderate potential for historical archaeology and recommended the Applicant apply for a permit under s.140 of the <i>Heritage Act 1977</i>. Heritage NSW recommended conditions related to the provision of a methodology for excavation works and potential archaeological finds.
Heritage NSW – Aboriginal Cultural Heritage (HNSW ACH)	HNSW ACH raised no concern and commented that the RtS responses relating to Aboriginal Cultural and Environmental Heritage address all relevant cultural heritage matters and provided recommended conditions.

Agency	Advice summary
NSW State Emergency Service (NSW SES)	NSW SES recommended that flood-free vehicular access to the site and basement be provided, that climate change impacts be considered in flood modelling and that the flood impact and risk assessment (FIRA) be updated to include more details regarding probable maximum flood (PMF) levels, hazard and duration.
Ausgrid	Ausgrid raised no objection to the proposal and recommended continued direct discussions regarding the supply requirements related to the development.

4.1.3 Summary of council submissions

28. Council made a submission on the EIS and RtS and provided in-principle support for the proposed development and included comments to assist with minimising impacts of the development on the locality. Recommended conditions of consent were also provided for consideration. Comments provided by the council are summarised below and a link to all submissions in full is provided in **Appendix A**.

- Consider increasing side setbacks to the upper fourth floor to reduce visual bulk impacts from surrounding residences.
- Selected materials and finishes should reflect the materiality of the surrounds, noting the heritage character on site and the context of the tree lined streets.
- The structural integrity of the boundary heritage wall should be certified prior to works commencing.
- Tree management and protections measures and planting requirements.

4.1.4 Summary of public submissions

29. The Department received 88 submissions during the public exhibition period of the EIS. 85 submissions objected, 2 provided comments and 1 supported the proposal.

30. The key issues raised in the public submissions is provided in **Table 5** and a link to all submissions in full is provided in **Appendix A**.

Table 5 | Key issues raised in public submissions on the EIS

Issue	Number and % of Submissions
Structural stability of the heritage wall	68 (76%)

Issue	Number and % of Submissions
Excessive traffic generation produced from the development	52 (58%)
Inadequate parking provided onsite	47 (53%)
Inappropriate height and scale of development	45 (51%)
Insufficient community consultation prior to lodgement of the EIS	45 (51%)
Tree removal and protection of trees during construction works	42 (47%)
Operational acoustic impacts	28 (31%)
Overlooking and privacy concerns	27 (30%)
Proposal is incompatible with the surrounding locality and would adversely impact the 'community feel'	17 (19%)
Existing stormwater drainage issues and the proposal exacerbating these drainage issues	16 (18%)
Concerns regarding emergency evacuation of seniors, being a sensitive land use	15 (17%)
Impacts of the development and insufficient consideration of heritage conservation	15 (17%)
Waste management and commercial vehicle access	12 (13%)
Insufficient assessment of biodiversity impacts	11 (12)
Visual impact	10 (11%)
Construction impacts	10 (11%)
Resident safety	10 (11%)

5 Assessment

31. The Department has assessed the proposal, considering all documentation submitted by the applicant, all issues raised in submissions and all advice provided by government agencies.
32. The issues below are considered by the Department to be key assessment issues and are discussed in the following sections.
 - built form
 - residential amenity (overshadowing, visual privacy)
33. The Department's consideration of other issues is described in **Section 5.3** and the appendices of this report.

5.1 Built form

34. The Department considers the following aspects are key in determining the suitability of the built form for the proposal:
 - building height
 - density
 - building scale and visual impact

5.1.1 Building height

35. Concerns were raised in the public submissions with the excessive building height, non-compliance with the planning controls and the undesirable precedent it would establish in the existing low-density residential context.
36. The site has a maximum permissible building height of 9.5 m under the IWLEP. The development proposes a maximum building height of 15.52 m which exceeds the height control by 6.02 m (63% variation) (refer to **Appendix D**).
37. The Applicant has submitted a clause 4.6 written request to vary the height development standard under the IWLEP.
38. The Department has carefully considered the Applicant's clause 4.6 variation request in **Appendix D** and is satisfied that compliance with the height of buildings development standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify the proposed variation.

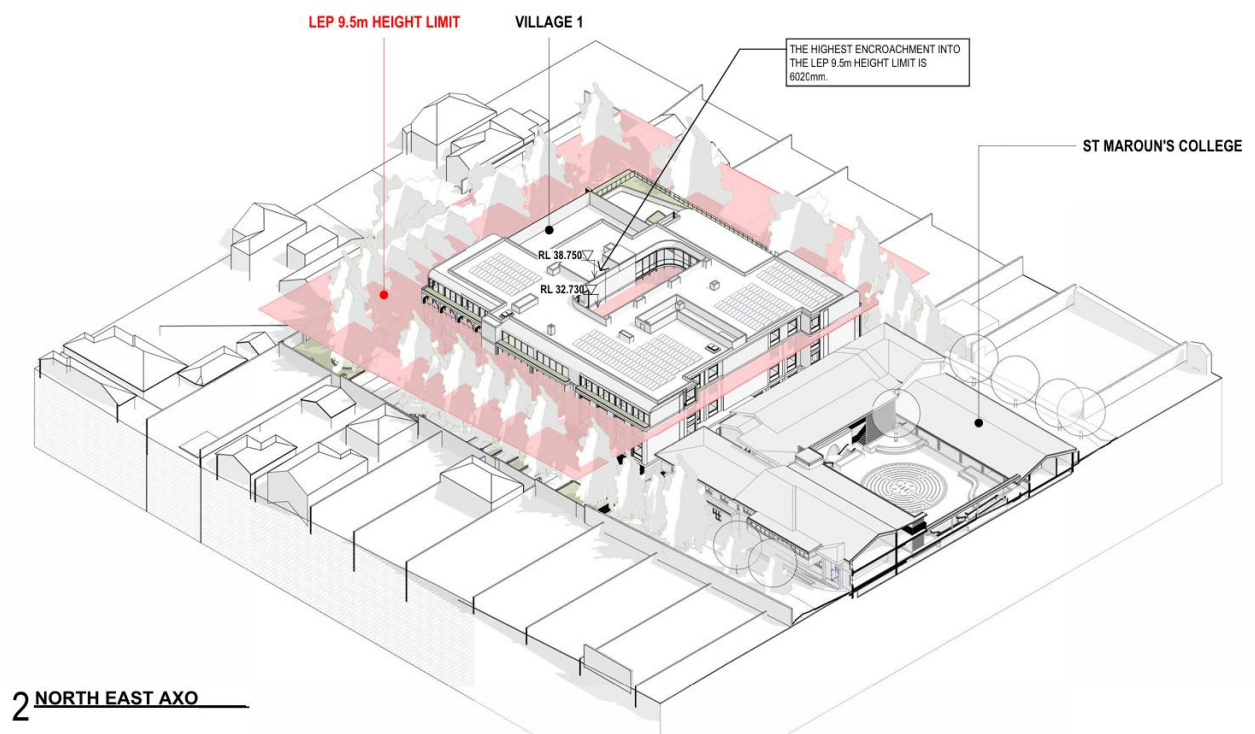


Figure 9 | IWLEP 9.5m Height Plane Variation (Source: EIS)

39. The Department is satisfied that the proposed building height is acceptable as:
- the additional height is a design response that concentrates the building form in the centre of the site, allowing for generous building setbacks to the site boundaries of 10 m to 15m and the retention of existing mature trees to protect the amenity of the neighbours. A development fully compliant with the height limit (and within the floor space ratio) would result in a design approach with significantly smaller setbacks that would adversely impact several of these existing trees and compromise the site's landscape character and the visual buffer they currently provide along the residential interface of the site (refer to Figure 10)
 - it is consistent with the built form outcomes anticipated for the site under the SP2 Educational Establishment zone, which typically anticipates buildings of a larger scale relative to the surrounding low-density residential development. However, the proposed height remains compatible with the surrounding context through appropriate setbacks, landscaping, and built form articulation to minimise visual bulk and amenity impacts.
 - the site already accommodates school buildings exceeding standard height controls, demonstrating that additional height is consistent with the established character. Its current use and scale support higher-intensity development, unlike the surrounding low-density residential areas with different zoning

- it maintains acceptable amenity to the neighbouring properties in terms of visual impact, overshadowing, privacy and private view loss (refer to Section 5.2).

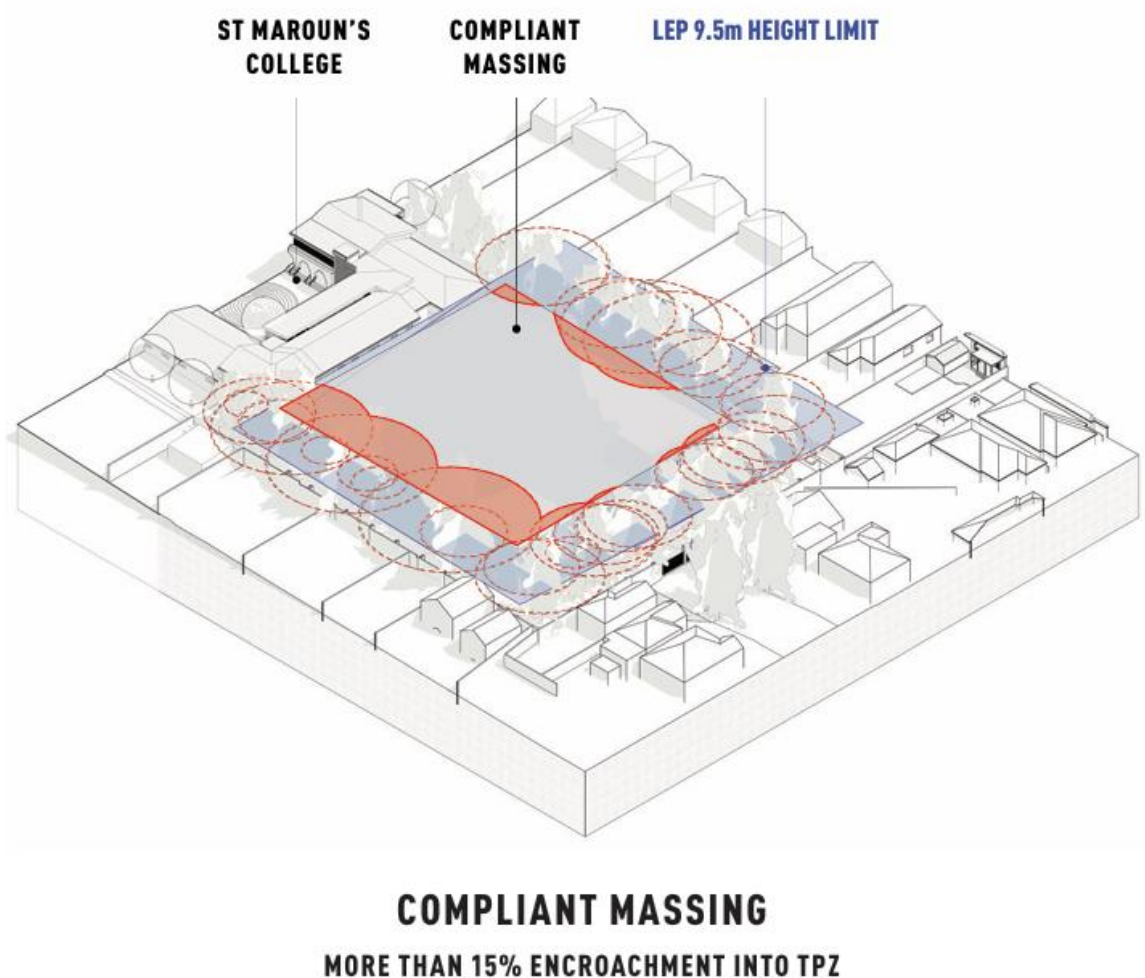


Figure 10 | Impact on existing trees – compliant envelope (Source: EIS)

5.1.2 Density

40. Public submissions raised concerns that the proposal is an overdevelopment of the site.
41. For residential care facilities, section 107(2)(c) of the Housing SEPP provides a non-discretionary development standard (NDDS) for floor space ratio (FSR) of 1:1 or less.
42. The proposed development will have an FSR of 0.695:1, calculated on a total site area inclusive of all the existing buildings (school, Village 2 RCF and convent/church), and is compliant with the NDDS under the Housing SEPP.
43. The Department is of the view that the consent authority must not require a more onerous standard or refuse the proposal on density grounds as it meets the NDDS.

44. For the abundance of caution, the Applicant submitted a clause 4.6 variation request in respect of the maximum permissible FSR of 0.6:1 under clause 4.4 of the IWLEP as the site comprises a mix of RCF and educational uses.
45. The Department's view is that the clause 4.6 variation request is not necessary as the proposal complies with the FSR NDDS under the Housing SEPP. Notwithstanding, the Department has assessed the Applicant's clause 4.6 variation request in **Appendix D** and is satisfied that compliance with the FSR development standard in IWLEP is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify the proposed variation.
46. The Department is satisfied the density of the development is appropriate for the site as it:
- provides adequate spatial separation between properties, reducing the perceived bulk and scale of the development to an acceptable level (refer to **Section 5.1.3**)
 - allows for generous boundary setbacks to ensure the retention of existing mature trees that contribute to neighbourhood character, canopy cover, and high-quality environmental outcomes for the site
 - maintains acceptable amenity to the neighbouring properties in terms of visual impact, overshadowing and privacy and private view loss (refer to **Sections 5.2.1 and 5.2.2**)
 - will not result in adverse traffic impacts on the surrounding road network and provides adequate on-site parking (refer to **Section 5.3**).

5.1.3 Building scale and visual impact

47. Concerns were raised in the public submissions that the development presents unacceptable bulk and scale, is incompatible with the surrounding low-density detached residential context and would have adverse visual impacts.
48. Council is of the view that the building's form is generally appropriate for the site and its constraints. However, recommended further increasing the side setbacks at the upper most fourth floor to reduce the visual bulk and scale impacts from surrounding residences. No concerns were raised by Council in relation to the visual impact of the development from the public domain.
49. The Applicant prepared a Visual Impact Assessment (VIA) that evaluates the visual impacts of the proposal from key viewpoints within surrounding streets and adjoining residential properties (refer to extracts of the comparative photo analysis at **Figure 11**).
50. The Applicant's VIA concludes the:

- the visual catchment generally exhibits low to moderate sensitivity due to the highly urbanised residential environment
- the visibility of the development is limited due to existing vegetation and buildings and a boundary wall surrounding the site
- the magnitude of visual change would result in no more than a low to moderate impact from public and private properties surrounding the site.

51. The Department has considered the Applicant's assessment of visual impacts of the proposal, the concerns raised by the community and Council's comments.

52. The Department acknowledges that the proposal would result in a larger building on the site than the existing single level development. However, the Department is satisfied that the proposal would not result in adverse visual bulk and scale impacts on the surrounding properties as:

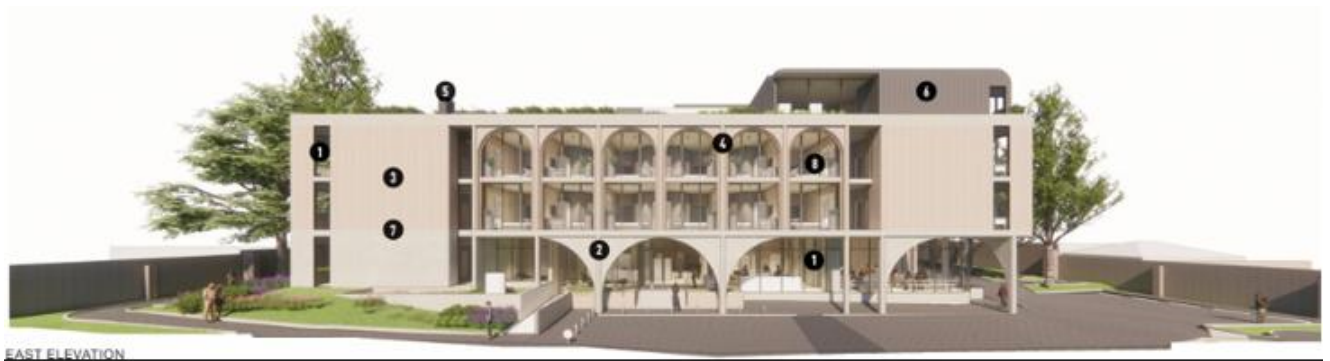
- the 10 m to 15 m building setbacks to the boundaries provide adequate spatial separation between properties, reducing the perceived bulk and massing of the development. It is also noted that the rear elevation of the dwellings on the adjoining properties to the northeast (Pine Street) and southwest (Challis Avenue) are generally setback 15 m to 30 m to the common boundary, providing a spatial separation of 25 m to 45 m between the buildings further reducing the perceived bulk and massing of the development
- views of the proposed building from the rear of adjoining residential properties on Challis Street and Pine Street would be largely obscured by existing mature trees retained on the site, with the building mass sitting below the tree canopy and not projecting into the skyline. Additionally, the lower portions of the building would be screened by the 3 m height of the existing retained boundary wall and structures along the site boundary (refer to Figure 11)
- there would be limited visibility from surrounding streets due to existing vegetation and intervening residential development. Street trees and the boundary wall would assist to obscure sightlines to the proposed building, and the 15 m setback ensures the building appears visually recessive from the main public viewpoint at Marrickville Avenue (refer to Figure 11)
- the effect of its different scale is minimised by incorporating design measures including breaking up the wall planes with balconies, windows, planters, articulated elements and grid patterns that reinforce a residential scale. In particular, portions of the upper level (fourth storey) are setback between 5 - 10 m from the main building

line and a dark metal cladding finish to reduce its apparent height and emphasise a lower scale three-storey building form (refer to Figure 12).

53. As demonstrated in the VIA, the visual impact is considered low to moderate, and the current design achieves an appropriate balance between site optimisation and minimising impacts on neighbouring properties (refer to Section 5.2).



Figure 11 | Existing view (left) and proposed view (right) – pink shading represents a silhouette of the building behind the existing trees to be retained and in front of those to be removed (Source: VIA)



Eastern Elevation (Marrickville Avenue)



Southern Elevation (facing rear of properties along Challis Avenue)



North Elevation (facing rear of properties along Pine Street)

Figure 12 | Proposed Elevations (source: EIS)

54. While the Department acknowledges that the proposed development will be more visually prominent than the existing single level building, it considers that the extent of change is compatible with the established character of the site and the objectives of the zone, as it facilitates the delivery of additional social infrastructure in the form of a high-quality RCF for seniors housing.
55. The Department also acknowledges Council's comments, including consideration of increased side setbacks at the fourth floor. However, the Department is of the view that the development incorporates sufficient design measures and setbacks to ensure it does not appear overbearing or visually dominant when viewed from adjoining residential properties. These design and siting measures allow the development to sit comfortably within its surrounding context and demonstrate a considerate response to the adjoining residential uses and the site's constraints, including its narrow-landlocked configuration.

56. Accordingly, the Department concludes that the proposed building form and scale is acceptable and represents a measured and appropriate response to the site's context.

5.2 Amenity

5.2.1 Overshadowing

57. Public submissions raised concerns with overshadowing to the adjoining residential properties.
58. Council raised no concerns regarding overshadowing, noting the proposal complies with the solar access controls set out in the Council DCP, which require a minimum 2 hours of solar access at mid-winter. While DCPs do not apply to SSD, the Department acknowledges in this circumstance that it provides a useful benchmark for assessing solar access impacts for this proposal.
59. The Applicant submitted shadow diagrams detailing the shadows cast between 9:00 am and 3:00 pm at midwinter to illustrate the overshadowing generated by the proposal to the adjoining residential properties. The impacts are considered below.
60. At 9:00 am, the proposed development will overshadow the rear yards of the properties to the west at 33a, 35-37 and 39 Challis Avenue. However, as the shadow tracks further east, these properties are free from shadow after midday and not impacted by the proposal (refer to Figure 13).
61. The proposed development will overshadow the adjoining residential properties to the southeast at 26 and 15 Marrickville Avenue later in the day, between 2:00 pm to 3:00 pm (refer to Figure 14). The properties at 22, 15 and 13 Marrickville Avenue will also be overshadowed by the proposed development at 3:00 pm.
62. The Department has carefully considered public submissions and overshadowing impacts to adjoining properties and considers that the development would result in acceptable solar impacts because additional overshadowing from the proposal would be limited in extent and duration, with all affected residential properties continuing to receive a minimum of 3 hours of direct solar access between 9:00 am to 3:00 pm at midwinter which exceeds Council's solar access controls.



Figure 13 | Shadow Diagram – 9:00am winter solstice (Source: EIS)



Figure 9 | Shadow Diagram – 2:00pm winter solstice (Source: EIS)

5.2.2 Visual Privacy

63. Public submissions raised concerns regarding overlooking from the south western terrace on upper level (fourth floor) and Juliet balconies to rooms on second and third storeys (levels 1 and 2) orientated to surrounding residences on Pine Street and Marrickville Avenue and the loss of privacy.
64. The Department has carefully considered public submissions and potential overlooking to adjoining properties and considers that the development would not result in unacceptable privacy impacts because:
- the building setbacks of 10 m to 15 m to the boundary provide adequate spatial separation between properties to preserve privacy. Although not applicable to this application, the proposal exceeds the Apartment Design Guide criteria, which recommend a minimum 9 m setback for apartment buildings adjacent to a lower-density residential zones to mitigate potential amenity impacts
 - the rear elevation of the dwellings on the adjoining properties to the northeast (Pine Street) and southwest (Challis Avenue) are generally setback a further 15 m to 30 m to the common boundary, providing a spatial separation of 25 m to 45 m between the buildings to offset potential privacy impacts (refer to Figure 15)
 - the façade at Levels 1 and 2 incorporates design mitigation measures, including building edge planters, fin walls and inset window line, to reduce privacy impacts
 - the narrow 'Juliet' style balconies (600 mm depth) primarily function as spaces for light and ventilation rather than useable outdoor space
 - the fourth floor communal terrace includes a staggered setback ranging from 1.5 m to 4.4 m further back from the lower level and incorporates a planter to provide additional privacy and minimise overlooking to the southwest
 - the retention of existing mature trees along the perimeter of the site assist in providing a visual screen and reducing privacy impacts to the rear of the adjoining residential properties.
65. The Department has carefully considered public submissions and potential overlooking to adjoining properties and considers that the development would not result in any unacceptable privacy impacts due to generous spatial separation to neighbouring dwellings, design mitigation measures and retention of existing mature trees on the site.

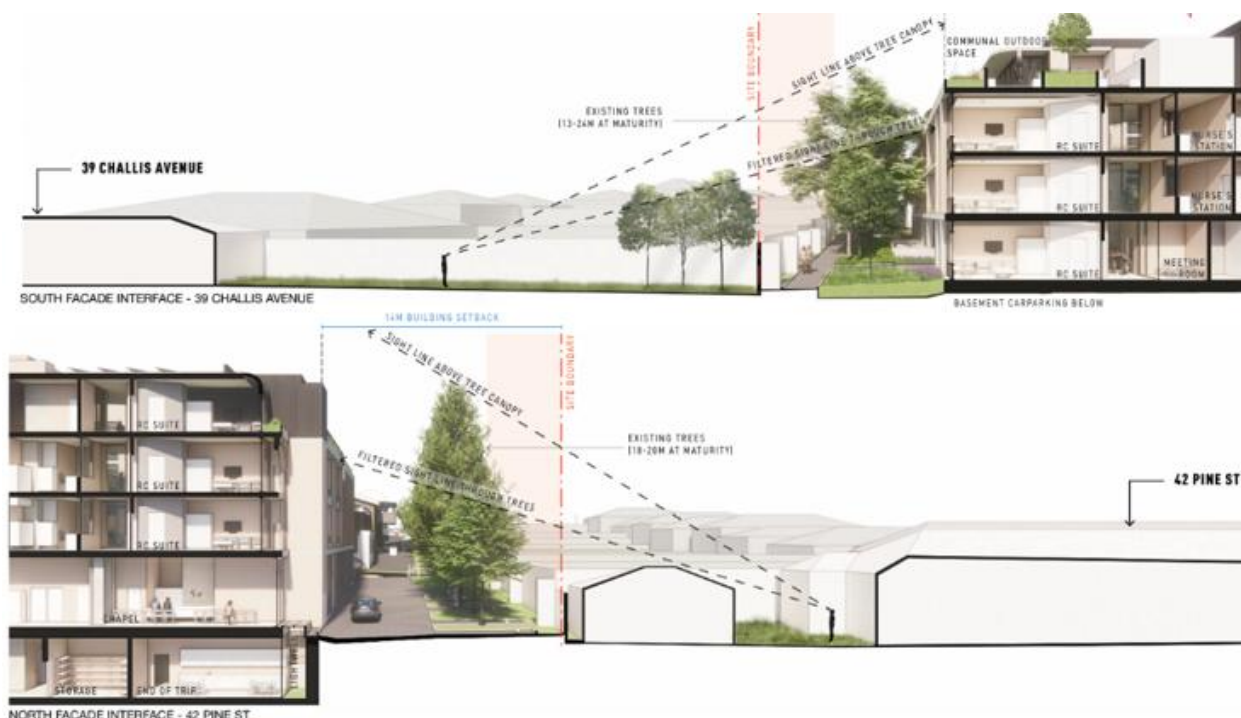


Figure 15 | View line from rear of 39 Challis Avenue (top) and 42 Pine Street (bottom) (source: EIS)

5.3 Other issues

66. The Department's consideration of other issues is summarised in Table 6 below.

Table 6 | Assessment of other issues

Issue	Findings and conclusions	Recommended conditions
Boundary Wall – Structural Stability	Public submissions raised concerns regarding the proposal's impact on the structural stability of the existing boundary wall. The SSD application proposes works only to the boundary heritage wall at the Marrickville Avenue entry, adding a dedicated pedestrian gate to improve safety and accessibility for RCF staff and visitors. As noted in Section 1.3.1, upgrade works approved for St Maroun's College include the widening the existing vehicle entry gate on Marrickville Avenue (DA2022/0318). Conditions of consent were imposed under that approval to ensure the ongoing structural integrity of the boundary wall along the Challis Avenue and Pine Street boundaries of the site.	The Department recommends the following conditions: • protection of boundary wall structural integrity during construction • evidence of structural stability and certification from a structural engineer.

Issue	Findings and conclusions	Recommended conditions
	The Applicant has provided structural certification confirming that repair and stabilisation work to the boundary wall adjacent to the proposed RCF has been completed. The remaining structural works to the heritage wall are currently in progress and will be completed within the same timeframe as the works to St Maroun's College. To ensure the ongoing structural integrity of the boundary wall, the Department recommends conditions of consent be imposed requiring protection of the wall during construction and that a suitably qualified structural engineer confirm the structural integrity of the boundary wall prior to occupation. Subject to the recommended conditions of consent, the Department considers the proposal acceptable and unlikely to result in any adverse impacts on the existing boundary wall.	
Traffic Generation	Public submissions raised concerns with traffic impacts, particularly the cumulative impact during peak times such as school pick and drop of times at nearby intersections. Council and TfNSW reviewed the proposal and raised no concerns with traffic impacts. The Applicant's Traffic and Transport Impact Assessment (TTIA) details the proposal will generate a total of 30 peak hour vehicle trips (approximately one vehicle every 2 minutes). This is considered negligible in the context of existing traffic volumes on the wider road network, and the assessment concludes that the proposal will have minimal impact. Traffic survey results show that the nearest intersection of Marrickville Avenue and Livingstone Road will continue to operate at a satisfactory Level of Service A. The application also includes a green travel plan (GTP) to promote sustainable travel and reducing reliance on private cars. Based on the findings in the TTIA, the Department is satisfied that the predicted vehicle traffic generation would not result in adverse impact on the local road network or on intersection	The Department recommends the following condition: • implementation of a GTP.

Issue	Findings and conclusions	Recommended conditions
	performance and the implementation of the GTP is likely to further reduce impacts.	
Car parking	Public submissions raised concern with the lack of onsite parking to cater for the demand generated by the development and the resultant offsite parking congestion impacts. The Housing SEPP provides a NDDS for car parking which requires at least 1 space for every 15 RCF beds, at least 1 space for every 2 employees on duty at the same time and 1 ambulance bay. The proposed 100 bed RCF and 50 staff (at peak) generate the requirement for 32 spaces, including a minimum 7 resident and 25 employee spaces, and 1 ambulance bay. The proposal includes a total of 35 car parking spaces, including 21 basement staff car parking spaces, and 14 car parking spaces for residents/staff and ambulance bay at ground level, which complies with the NDDS parking rate under the Housing SEPP. The TTIA includes a parking and travel survey of existing staff, which indicates that 58% of staff travel to the site by public transport. The Department further notes that Marrickville Railway Station is located approximately 800 m walking distance from the site and that local bus services are available along Livingstone Road, providing good access to public transport. In addition, the TTIA includes a GTP aimed at reducing reliance on private vehicles by promoting alternative and sustainable modes of transport for staff and visitors. Having regard to the low parking demand typically associated with RCFs, the availability of public transport, and the proposed travel demand management measures, the Department is satisfied that the proposed on-site parking provisions would accommodate the demand generated by the proposal.	The Department recommends the following conditions: • allocation of minimum parking spaces • compliance with relevant Australian Standards.
Access and Waste Servicing	Public submissions raised concerns regarding waste management and commercial vehicle access. The site currently has single lane vehicular access from Marrickville Avenue. The vehicle access will be widened with a sliding gate to permit easier access for heavy vehicles under the	The Department recommends the following conditions: • Carparking, Loading and

Issue	Findings and conclusions	Recommended conditions
	approved Council DA for renovation works of St Maroun's College (DA2022/0318). The approved works under the Council DA do not widen the vehicle access enough for two-way car access. However, further improvements proposed under this application will introduce a separated pedestrian access gate which does not exist currently. The proposed pedestrian gate would improve safety and accessibility for staff and visitors accessing the RCF. It is noted that the Marrickville Avenue vehicle access will primarily serve the RCF, with limited access for 8 staff parking spaces for the school. There will be no student access, kiss and drop, or regular school traffic at this location. The proposed pedestrian entry is also intended for RCF use only with no student access. Access will be controlled through a security door and swipe card system. The largest vehicle expected on site is an 8.8 m Medium Rigid Vehicle (MRV) used for private waste collection. A Small Rigid Vehicle (SRV) will access the basement to deliver food supplies. The Department is satisfied that the proposed vehicular and pedestrian access arrangements adequately address safety considerations.	Servicing Management Plan • traffic and parking requirements
Tree Impacts	Public submissions raised concerns regarding the loss of existing trees on the site and the potential impact of the development on trees proposed to be retained. The application is supported by an Arboricultural Development Impact Assessment (ADIA) report, which evaluates the proposal's effects on existing vegetation. The site contains 37 mature trees along its boundaries that contribute to the landscape character, amenity, and visual screening. Four trees are proposed for removal, while two replacement trees are proposed to be planted in the internal courtyard and communal terrace at Level 3. The Department notes that an additional existing tree along the Marrickville Avenue frontage has already been approved for	The Department recommends the following conditions: • implementation of tree protection measures • supervision by a project arborist • Landscape Plan • certification of tree planting.

Issue	Findings and conclusions	Recommended conditions
	removal under the St Maroun's College DA and does not form part of this assessment. The ADIA has determined that all 4 trees proposed for removal have a high retention value. Two (2) trees are proposed to be removed to facilitate the substation and parking within the northern setback. The remaining 2 trees, located along the eastern and southern setbacks, are proposed for removal due to substantial encroachment of their Tree Protection Zones (TPZs) by the proposed building. Council has requested 4 additional large trees be planted on the site to compensate for the removal of the 4 existing trees in accordance with their urban forest tree canopy targets. However, the Applicant considers additional planting beyond the two proposed trees is not achievable due to limited deep soil areas and site constraints. The Department has reviewed the Landscape Plan and notes that opportunities for additional tree planting are limited due to the proposed building footprint, vehicle and pedestrian access, parking areas, the presence of existing mature trees and the required clearances from the basement structure and heritage wall. Given these constraints, the Department considers that providing two additional trees is acceptable. The Department also notes that 86% of the existing trees will be retained on the site, with many mature trees continuing to provide shade, screening, and canopy cover. The proposed stormwater infrastructure, internal roadway, and at-grade parking areas will encroach on the TPZs of trees to be retained. The ADIA considers these encroachments in the context of existing site constraints, including the presence of the existing internal road and carpark areas, which already limit root growth. The ADIA concludes that the affected trees are considered viable for retention subject to: • the use of specialist construction methods • excavation limited to the location and depth of the existing road base • supervision by a Project Arborist	

Issue	Findings and conclusions	Recommended conditions
	avoidance of damage to structural roots. Subject to implementation of appropriate tree protection measures, the Department is satisfied that the existing trees will remain viable, contributing to a high-quality landscape outcome and providing an effective visual buffer for neighbouring properties.	
Construction Impacts	Public submissions raised concerns relating to noise and vibration, parking and access, and cumulative impacts associated with surrounding development projects. The Applicant's Acoustic Report (AR) indicates that unmitigated construction noise levels are likely to exceed predicted noise-affected levels, as well as the highly noise affected level (i.e., $LA_{eq, 15 \text{ mins}}$ 75 dB(A)), at certain stages of the works. The AR states these exceedances are not expected to be sustained as construction progresses and would be managed through appropriate scheduling, community consultation, and the implementation of best-practice noise mitigation measures. The AR recommends using low-vibration excavation methods near adjacent buildings where safe working distances cannot be met, with vibration monitoring required if rock breakers are used and alternative methods implemented if vibration limits are exceeded. The Department is satisfied that, subject to appropriate conditions, the development can be constructed to appropriate standards without causing structural damage to nearby buildings or boundary walls or resulting in unreasonable amenity impacts in relation to noise and vibration. Accordingly, the Department has recommended conditions of consent to ensure that construction activities do not unreasonably impact the amenity of adjoining residents or cause damage to adjoining development or the public domain.	The Department recommends the following conditions: - Construction Environmental Management Plan - Construction Management sub-plans in relation to: - Traffic and Pedestrians - Noise and Vibration - Air Quality - Waste - Soil and Water - standard construction conditions, including Interim Construction Noise Guideline hours of construction.

Issue	Findings and conclusions	Recommended conditions
Heritage	Aboriginal Cultural Heritage The Applicant submitted an Aboriginal Cultural Heritage Assessment Report (ACHAR) as part of this application. The Applicant's ACHAR found there is a moderate to high potential for Aboriginal archaeological resources to be present within the site and includes recommendations in relation to further testing and unexpected finds protocol. Heritage NSW raised no concerns with the findings and the management recommendations as provided in the Applicant's ACHAR. The Department has considered the findings of the Applicant's ACHAR as well as Heritage NSW advice. The Department recommends the development be undertaken in accordance with the ACHAR management and mitigation measures, including an unexpected finds protocol. Built Heritage The site is identified as a heritage item under the IWLEP and is located within the South Dulwich Hill Heritage Conservation Area (HCA). The site is also situated in the vicinity of several local and State heritage items, including items listed on the State Heritage Register. The application is supported by a Heritage Impact Statement (HIS) which assesses potential impacts on the site itself, nearby heritage items and the wider HCA. The HIS concludes that the proposed development is physically and visually separated from significant heritage buildings by the intervening school, resulting in no impacts on significant views, shared view corridors, or heritage fabric. The proposed works will have no physical impact on nearby heritage items, and their historical and aesthetic significance will continue to be appreciated within principal view corridors. As discussed in Section 5.1.3, the Department considers development to be compatible with the established character of the site and would sit comfortably within its surrounding context. The Department acknowledges Council's concerns regarding the	The Department recommends the following conditions: • unexpected finds protocol • updated Aboriginal Cultural Heritage Management Plan • Archaeological Research Design and Excavation Methodology • Conservation Management Plan • updated materials and finishes schedule to complement the heritage context.

Issue	Findings and conclusions	Recommended conditions
	visual impact of the development from the adjacent HCAs located to the east and south and has recommended a condition of consent to address Council's request that the proposal utilise complementary heritage colours and materials to mitigate any adverse impact on the HCAs. The Department is satisfied that the proposed development is acceptable in terms of potential heritage impacts. Appropriate conditions are recommended in relation to unexpected heritage finds.	
Acoustic Impacts - Operational	The AR provided an assessment of operational noise from mechanical plant, vehicle movements, and roller door operations, with minimal indoor noise and low daytime noise expected from outdoor terraces. With proposed acoustic screening and traffic levels of up to 20 vehicle movements per hour, modelling confirms compliance with NSW Noise Policy for Industry criteria at nearby sensitive receivers. The Department is satisfied potential noise impacts would not adversely impact the amenity of neighbouring properties, subject to implementation of the recommendations of the Acoustic Report.	The Department recommends the following conditions: • implementation of design measures outlined in the Acoustic Report • noise control conditions • certification noise mitigation measures
Flooding	The application is supported by a Flood Impact Risk Assessment (FIRA), which concludes that the site is not affected by flooding for events up to and including the Probable Maximum Flood (PMF), and inclusive of climate change. Although the site itself is not flood affected, Marrickville Avenue experiences H1-H2 flood hazards during most flood events, including the 1% Annual Exceedance Probability (AEP) event, with flood depths of approximately 0.1-0.4 m. Isolated areas of higher hazard (H4-H5) may occur where flood velocities increase. These impacts can temporarily restrict vehicle access, but typically last for a short duration of approximately 1-1.5 hours. Public submissions raised concerns regarding potential increases in flood risk to surrounding properties and the ability to safely	The Department recommends the following condition: • Flood Emergency Response Plan

Issue	Findings and conclusions	Recommended conditions
	evacuate during flood events. SES NSW recommended relocation of the Marrickville Avenue driveway access to maintain flood-free access to the site, while CPHR expressed concerns about the continued operation of the facility during a flood event. Council raised no objections in relation to flood impacts. The Applicant submitted a Flood Emergency Response Plan (FERP) with its RtS that adopts a shelter-in-place (SIP) strategy for emergency management and outlines general procedures to manage flood risk. The Department has carefully considered the issues raised by agencies and public submissions and is satisfied that a SIP strategy represents the most appropriate emergency management approach for the site, noting that off-site flooding will only affect road access for a short duration 1-1.5 hours, and the proposed development would provide a safe, elevated shelter area above the PMF level. Furthermore, the FERP includes measures to ensure the facility maintains operation during a flood including backup communication systems and medicine supplies, annual emergency exercises and review protocols. The Applicant has advised that the NSW SES recommendation to relocate the driveway to achieve flood-free access is not feasible, as the site is enclosed by surrounding residential properties and the school occupies the full frontage to Wardell Road. The Department accepts that relocation of the vehicle access is impractical given the landlocked nature of the site. Furthermore, moving the driveway would result in significant adverse impacts on the proposed design and is not warranted, noting that the period when most flooding occurs lasts about 1-1.5 hours. Following consideration of the FIRA, the FERP, and matters raised in submissions, the Department is satisfied that the proposal is acceptable, as: • it would not increase flood risk to surrounding properties • any off-site flooding would result in only short-term restrictions on road access	

Issue	Findings and conclusions	Recommended conditions
	it incorporates appropriate mitigation measures to address risks associated with site access during a flood event, including the preparation and implementation of a FERP.	
Stormwater	Public submissions raised concerns that the proposal would exacerbate existing stormwater drainage issues. Council and DCCEEW have reviewed the proposal and raised no concerns. The application includes an Integrated Water Management Plan (IWMP) that incorporates On-site Stormwater Detention (OSD) to reduce site discharge. The OSD system has been designed to limit stormwater discharge to a maximum of 25 litres per second to each kerb in Marrickville Avenue during a 1 in 100-year storm event, in accordance with Council requirements. The Department has imposed conditions of consent relating to stormwater management and is satisfied that these conditions adequately address stormwater impacts.	The Department recommends the following conditions: - stormwater drainage design and strategy - Stormwater Operation Management Plan
Design Excellence	Clause 6.9 of the IWLEP requires the consent authority to be satisfied the development exhibits design excellence. The Department considers the proposal exhibits design excellence as: - it achieves a high standard of architectural design through a well-considered built form, articulated facades and a sensitive response to the local context - the building massing and setbacks and façade treatments minimise visual impacts, overshadowing, privacy, and acoustics to the neighbouring properties - it aligns with the design principles in Section 12 of the Seniors Housing Guide and Section 8 of the Housing SEPP, and incorporates ESD measures (refer to Appendix C) - it retains existing mature trees and landscape character of the site. The Department is satisfied the proposal achieves a high-quality design outcome and represents a measured and appropriate	No conditions are required.

Issue	Findings and conclusions	Recommended conditions
	response to the site's context, while delivering high amenity for future residents and employees.	
Crime Prevention Through Environmental Design	The EIS was accompanied by a CPTED Report, which considered how the proposal meets the CPTED principles of territorial reinforcement, surveillance, access control and space/ activity management. The CPTED assessment undertook a review of the proposal and confirmed that the design has sought to minimise opportunities for crime and includes recommendations in relation to lighting, security access and surveillance. The Department is satisfied that the development will not result in unacceptable safety or security impacts, subject to the imposition of a condition requiring the measures recommended in the CPTED assessment are implemented in the development	The Department recommends the following condition: • implementation of design measures outlined in the CPTED report.
Public Consultation	Public submissions raised concerns regarding community engagement. The Applicant submitted an engagement report with the EIS, stating that community engagement was carried out in accordance with the Department's 'Undertaking Engagement Guidelines for State Significant Projects'. The engagement report outlined that the Applicant undertook community engagement through telephone interviews and letterbox drops to surrounding residents, provision of a toll-free contact number, resident door knocking and an online engagement portal. The Department considers the community engagement undertaken by the Applicant and the Department through the formal exhibition has been reasonable and proportionate and meets the requirements of the EP&A Regulation and the relevant guidelines.	No conditions are required.

6 Evaluation

67. The Department's assessment has considered the relevant matters and objects of the EP&A Act, including the principles of ESD, advice from government agencies, local councils and public submissions, and government policies and plans.
68. The Department's assessment concludes that the proposal is acceptable as it:
- supports State government priorities to deliver well-located housing by delivering a 100-bed RCF to meet the changing needs of an aging population in an accessible location in Marrickville
 - is permissible with consent and is consistent with the objectives of the SP2 Infrastructure zone under IWLEP.
 - it achieves design excellence in its architectural expression, use of high-quality materials and good residential amenity
 - it provides a bulk and scale that is well resolved and presents an appropriate built-form relationship to adjoining development
 - it would not result in unreasonable overshadowing, view or privacy impacts on adjoining residential receivers or the public domain
 - it would deliver public benefits through generating up to 110 construction jobs and 50 operational jobs.
69. The Department has recommended a range of conditions to manage any residual environmental impacts. See the recommended conditions of consent at 0.
70. Overall, the Department considers the impacts of the development are acceptable and can be appropriately managed or mitigated through the implementation of recommended conditions of consent. Consequently, the Department considers the proposal is in the public interest and is approvable, subject to conditions.

7 Appendices

Appendix A – List of referenced documents, submissions and advice

The following documents can be accessed at <https://www.planningportal.nsw.gov.au/major-projects/projects/maronite-sisters-holy-family-marrickville-seniors-housing>.

- Environmental Impact Statement
- Response to submission report
- Applicant's additional information
- Biodiversity Development Assessment Report
- Submissions (public and Council)
- Government agency advice.

Appendix B – Department’s consideration of submissions

Table 7 | Key issues and how they have been considered

Issue	Consideration
Built Form - Inappropriate height and scale of development - Incompatible with local character - Visual Impacts	<i>Assessment</i> The Department considers that the proposal presents a high standard of architectural design and appropriately responds to the site and surrounds. The additional building height is concentrated at the centre of the site to allow generous setbacks and retain mature trees, protecting neighbouring amenity and the site’s landscape character. The building’s scale is moderated through articulated design elements, setbacks to upper levels, and darker finishes, ensuring it appears visually recessive. Views of the proposed building would be largely screened by existing mature trees, boundary walls, and surrounding development, resulting in limited visibility from neighbouring properties and public streets. The Department is satisfied that the proposed building form and scale is acceptable and represents a measured and appropriate response to the site’s context. <i>Recommended conditions</i> Updated materials and finishes to reflect heritage context.
Traffic, Access and Parking - Increased traffic and noise - Parking congestion in surrounding streets - Cumulative impacts with school - Pedestrian safety	<i>Assessment</i> The Applicant’s TTIA concludes the development will generate only a small increase in vehicle trips, which is negligible relative to existing traffic volumes, and nearby intersections will continue to operate efficiently. The proposal complies with the Housing SEPP minimum parking NDDS by providing 35 on-site spaces, including staff and resident parking, and an ambulance bay. Given the low car ownership of RCF residents, modest visitor demand, public transport access, and measures to encourage sustainable travel, the Department is satisfied that parking provision is adequate and will not result in adverse traffic or parking impacts. <i>Recommended conditions</i>

Issue	Consideration
	• provision of car parking and bicycle parking spaces in accordance with the Australian Standards • car parking, loading and servicing management plan • Green Travel Plan.
Amenity Impacts • Overshadowing • Privacy	<i>Assessment</i> Overshadowing impacts are acceptable, as any additional shadowing would be limited and all neighbouring residential properties would continue to receive at least 3 hours of direct sunlight at midwinter, consistent with Council requirements. Privacy impacts acceptable, as generous setbacks, design measures, and retained mature trees provide sufficient separation from neighbouring properties. <i>Recommended conditions</i> No conditions recommended.
Tree Impacts • Tree loss • Protection of trees during construction works	<i>Assessment</i> The site contains 37 mature boundary trees, of which 4 are proposed for removal due to building encroachment, The remaining trees will be retained, with encroachments mitigated through specialist construction methods and arborist supervision. The proposal includes planting 2 new trees ensuring 86% of trees remain, maintaining canopy cover, shading, and visual screening. The Department is satisfied with proper tree protection measures, the landscape quality and buffer for neighbouring properties will be preserved. <i>Recommended conditions</i> • provision of a detailed landscape plan • requirements for tree protection and supervision by a project arborist.
Construction impacts • Boundary wall	<i>Assessment</i>

Issue	Consideration
	The Department has recommended several conditions to ensure the proposal does not adversely impact or damage the adjoining development including the heritage boundary wall. The Department is satisfied that subject to the imposition of appropriate conditions, impacts on the adjoining development can be appropriately mitigated. <i>Recommended conditions</i> • protection of the boundary wall structural integrity during construction • certification from a suitably qualified structural engineer prior to occupation of the development that confirms the boundary wall has been rendered structurally sound.

Appendix C – Statutory considerations

Matters of consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is shown in Table 8 below.

Table 8 | Matters for consideration

Matter for consideration	Department's assessment
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Appendix C – Statutory Considerations
EP&A Regulation	Appendix C – Statutory Considerations
Likely impacts	Section 5 – Assessment
Suitability of the site	Section 1.2 – Project location, Section 3 – Policy and statutory context and Section 5 – Assessment
Public submissions	Section 4 – Engagement and Section 5 – Assessment
Public interest	Section 4 – Engagement, Section 5 – Assessment and Section 6 – Evaluation

Objects of the EP&A Act

In determining the application, the consent authority should consider whether the project is consistent with the relevant objects of the EP&A Act (s 1.3) including the principles of ESD. Consideration of those factors is described in Table 9 below.

As a result of its analysis, the Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ESD.

Table 9 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	• The proposal promotes the social and economic welfare of the community by providing seniors housing in an area with good access to transport and urban services contributing to the achievement of State, regional and local planning objectives. • The proposal does not have any impact on the State's natural or other resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	• The proposal includes ESD initiatives and sustainability measures including energy efficient fittings and fixtures, rainwater tanking, solar PV installation and targeting Nabers 4-star rating.
(c) to promote the orderly and economic use and development of land,	• The proposal represents the orderly and economic use of the land as it will increase seniors housing near services and public transport. • The proposed land use is permissible, and the form of the development has had regard to the planning controls that apply to the site, the character of the locality and the context of surrounding sites.
(d) to promote the delivery and maintenance of affordable housing,	• The project does not directly provide affordable housing as the project would provide housing for seniors.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	• The proposal will not adversely affect the protection of the environment. Also see the consideration of biodiversity below.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	• The proposal will not have any unreasonable heritage impacts.

Object	Consideration
(g) to promote good design and amenity of the built environment,	• The proposal demonstrates a good design approach to the relevant planning controls and local character. The building has been designed to minimise amenity impacts to neighbours and the surrounding environment and to provide good levels of internal amenity. • Other amenity impacts would be managed by either the form of the development or by the recommended conditions of consent for mitigation measures during the construction and operational phase of the development.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	• The proposal demonstrates that construction work will be undertaken in accordance with national construction standards, relevant regulation and the site-specific construction management plan. Any impacts during this phase will be monitored and managed in keeping with the conditions of consent set out to mitigate any impacts. Ongoing management and maintenance of the development shall be managed by the building management.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	• The Department publicly exhibited the proposal as outlined in Section 4. This included consultation with Council and other Government agencies, and consideration of their responses.

Object	Consideration
(j) to provide increased opportunity for community participation in environmental planning and assessment.	• The Department publicly exhibited the application, which included notifying adjoining landowners and displaying the application on the Department's website. • The Department placed the Applicant's RtS and additional information on its website, in addition to providing a copy to Council and other relevant Government agencies. • The engagement activities carried out by the Department are detailed in Section 4.

Ecologically Sustainable Development

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

- the precautionary principle.
- inter-generational equity.
- conservation of biological diversity and ecological integrity.
- improved valuation, pricing and incentive mechanisms.

The proposal includes ESD initiatives and sustainability measures. A copy of the Applicant's ESD report can be viewed at **Appendix A**.

The Department has considered the proposal in relation to the ESD principles. The Precautionary and Inter-Generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the proposal. Overall, the proposal is consistent with ESD principles, and the Department is satisfied the proposed sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act.

Biodiversity development assessment report

Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD applications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the project is not likely to have any

significant impact on biodiversity values (as identified in the BC Act and in the *Biodiversity Conservation Regulation 2017*).

The Department received a BDAR waiver request dated 3 March 2025. The Team leader Social and Diverse Housing Assessments, as delegate of the Planning Secretary, determined that the development is not likely to have any significant impact on biodiversity values. A BDAR waiver was granted on 25 March 2025.

EP&A Regulation

The EP&A Regulation requires the applicant to have regard to the *State Significant Development Guidelines* when preparing their application. In addition, the SEARs require the applicant to have regard to the following:

- *Social Impact Assessment Guideline for State Significant Projects*
- *Undertaking Engagement Guidelines for State Significant Projects*

The Department considers the requirements of the EP&A Regulations have been complied with.

Environmental Planning Instruments (EPIs)

SEPP (Transport and Infrastructure) 2021 (TI SEPP)

The SEPP (Transport and Infrastructure) 2021 aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

The Department referred the development to TfNSW and Ausgrid, who raised no objection to the proposal subject to the imposition of conditions. The Department considers the proposed development to be consistent with the SEPP given the consultation and consideration of infrastructure, transport, traffic and parking and noise and vibration issues in **Section 5.3** and recommended conditions of consent in **Appendix E**.

SEPP (Resilience and Hazards) 2021

Section 3.12 outlines mandatory matters for a consent authority to consider when determining an application for potentially hazardous or offensive development. Chapter 3 applies to any proposals which fall under the policy's definition of 'potentially hazardous industry' or 'potentially offensive industry'. The works proposed as part of this SSDA do not fall within these definitions, and as such a Preliminary Hazard Analysis is not required.

Section 4.6 requires that a consent authority must not consent to the carrying out of development unless it has considered whether the land is contaminated, and if the land is contaminated that it is satisfied that it is suitable in its contaminated state or that it will be suitable after remediation, for the purpose for which the development is proposed to be carried out. Further, the consent authority must consider 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.

The proposal was accompanied by a Preliminary Site Investigation (PSI), Data Gap Investigation (DGI) and a Remedial Action Plan (RAP) which sets the likely contaminants, recommendations on further investigation, remediation and management and the suitability of the site for its intended use. The RAP concludes that the site is suitable for the proposed development subject to the:

- implementation of the RAP
- contingencies for addressing additional contamination should it be identified as an unexpected find or during the additional investigation work
- a Site Validation Report after remediation to confirm the site is suitable for the proposed development
- where required, preparation of a Long-Term Environmental Management Plan for residual impacted materials retained beneath building footprint.

The Department is satisfied the site can be made suitable for the proposed development, subject to the implementation of the RAP. The proposal is consistent with the requirements under the SEPP.

Planning Systems SEPP

The proposal is State significant development under section 28 of Schedule 1 of the Planning Systems SEPP as it comprises development of seniors housing and includes a residential care facility within the greater Sydney region and has an EDC more than \$30 million.

SEPP (Housing) 2021

A summary of the Department’s consideration of the relevant standards contained in the Housing SEPP provided in Table 10 below.

Table 10 | SEPP (Housing) 2021 compliance table

SEPP (Housing) 2021		Consideration
Chapter 3 – Part 5 Housing for seniors and people with a disability		
79 Land to which Part applies		The site is zoned SP2 Infrastructure and therefore, the Housing SEPP applies.

SEPP (Housing) 2021	Consideration
This Part applies to land in the following zones- ... (o) Zone SP2 Infrastructure ...	
80 Land to which Part does not apply-general	N/A - The site is not identified as comprising environmentally sensitive land as specified in the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> .
81 Seniors housing permitted with consent	The Housing SEPP applies to the site and the proposed development is permissible in the R2 zone.

Division 3 Development Standards

84 Development standards-general (1) This section applies to development for the purposes of seniors housing involving the erection of a building. (2) Development consent must not be granted for development to which this section applies unless— (a) the site area of the development is at least 1,000m², and (b) the frontage of the site area of the development is at least 20m measured at the building line, and (c) for development on land in a residential zone where residential flat buildings are not permitted— (i) the development will not result in a building with a height of more than 9.5m, excluding servicing equipment on the roof of the building, and (ii) if the roof of the building contains servicing equipment resulting in the building having a height of more than 9.5m—the servicing equipment complies with subsection (3), and	84(1) The proposed development is for the purposes of seniors housing involving the erection of a building. (2)(a) The total site area is 26,494 m². The development site area is 4,821.6 m². (2)(b) Marrickville Avenue is the site's front entry with a street frontage of 70 m. The site is not situated in a residential zone and (c)(i)-(iii) do not apply to the development.
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SEPP (Housing) 2021	Consideration
(iii) if the development results in a building with more than 2 storeys — the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site. (3) The servicing equipment must — (a) be fully integrated into the design of the roof or contained and suitably screened from view from public places, and (b) be limited to an area of no more than 20% of the surface area of the roof, and (c) not result in the building having a height of more than 11.5m. (4) Subsection (2)(a) and (b) do not apply to development if the development application is made by a social housing provider or Landcom.	(3) The mechanical plant room is centrally located towards the rear of the building and is suitably screened when viewed from public places (Marrickville Avenue), is less than 20% of the surface area of the roof and does not result in the building having a height of more than 11.5 m, noting it is below the highest point of the building (lift overrun).
86 Development standards for seniors housing — Zones RE2, SP1, SP2 and RU5 (1) Development consent must not be granted for development for the purposes of seniors housing unless the consent authority is satisfied as follows — (a) for development on land in Zone RE2 Private Recreation — (i) the development is carried out on land used for the purposes of an existing registered club, and (ii) the land adjoins land in a prescribed zone, (b) for development on land in Zone SP1 Special Purpose or Zone SP2 Infrastructure — (i) development for the purposes of a place of public worship, an educational establishment, a hospital or seniors housing is permitted on the land, and (ii) the land adjoins land in a prescribed zone,	The site is zoned SP2 Infrastructure and educational establishment is permitted on the land and adjoins a prescribed zone (R2 Low Density Residential).

SEPP (Housing) 2021	Consideration
(c) for development on land in Zone RU5 Village— (i) the development is carried out on land within 50km of a 24-hour health services facility, and (ii) the land is serviced by reticulated water and sewerage.	
88 Restrictions on occupation of seniors housing	The development will provide accommodation for seniors. Standard conditions are recommended to be imposed to ensure occupation is restricted to only persons specified in this clause.
91 Fire sprinkler systems in residential care facilities	The Applicant has advised the final design will comply with all relevant fire safety codes, including fire sprinkler requirements in accordance with AS 2118.1. Standard conditions are recommended to be imposed to ensure the appropriate fire sprinkler system is installed.
Division 4 – Site-related Requirements	
94 Location and access to facilities and services—residential care facilities (1) Development consent must not be granted for development for the purposes of a residential care facility unless the consent authority is satisfied that residents of the facility will have access to facilities and services— (a) on-site, or (b) by a transport service other than a passenger service. (2) In this section— facilities and services— see section 93. passenger service has the same meaning as in the Point to Point Transport (Taxis and Hire Vehicles) Act 2016. Note—	The residents will have access to a salon and a chapel/multi-purpose room on the site.

SEPP (Housing) 2021	Consideration
A passenger service is defined as the transport, by a motor vehicle other than a bus, of passengers within, or partly within, this State for a fare.	
95 Water and Sewer	The proposal has access to existing water and sewer services and will be augmented as necessary to service the development.
96 Bushfire prone land	N/A The site is not identified as bushfire prone land.
Division 5 – Design Requirements	
97 Design of seniors housing (1) In determining a development application for development for the purposes of seniors housing, a consent authority must consider the Seniors Housing Design Guide, published by the Department in December 2023. (2) Development consent must not be granted to development for the purposes of seniors housing unless the consent authority is satisfied the design of the seniors housing demonstrates that adequate consideration has been given to the design principles for seniors housing set out in Schedule 8.	An assessment of the Seniors Housing Design Guide 2023 is provided below.
Division 7 – Non-discretionary Development Standards	
107 Non-discretionary development standards for hostels and residential care facilities–the Act, s.4.15 (2)(a) No building has a height of more than 9.5m, excluding servicing equipment on the roof of a building.	(2)(a) & (b) The maximum proposed height exceeds 9.5 m and the discretion of the consent authority is not limited for the purposes of this provision under Section 4.15(2) of the EPA Act.

SEPP (Housing) 2021	Consideration
(b) Servicing Equipment on the Roof of a Building which results in the building having a height of more than 9.5m— (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and (ii) is limited to an area of no more than 20% of the surface area of the roof, and (iii) does not result in the building having a height of more than 11.5m. (c) the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less. (d) Internal and external communal open spaces with a total area of at least— (ii) for a residential care facility— 10m² for every bed. (e) At least 15m² of landscaped area for every bed. (f) A deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 6m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site. (h) For a residential care facility— at least 1 parking space for every 15 beds in the facility, (i) At least 1 parking space for every 2 employees who are on duty at the same time, (j) At least 1 parking space for the purpose of ambulance parking.	(c) The proposed floor space ratio is 0.695:1. However, for an abundance of caution (given the site is used for both residential care facilities and education establishments), the applicant submitted a clause 4.6 variation for the proposed floor space ratio under the IWLEP. (d) The proposed communal open space (both internal and external) is 1,000 m² of communal area which equates to 10 m² for every bed. (e) The proposed landscaped area is 1,539 m² which equates to 15.4 m² for every bed. (f) The proposed deep-soil area is 757 m² which exceeds the minimum 723 m² requirement. (h)/(i) The proposal includes 35 parking spaces which meet the minimum required resident and staff car parking spaces requirement of 32 spaces. (j) A dedicated ambulance bay will be provided at ground level
Schedule 8 – Design Principals for Seniors Housing	
1. Neighbourhood amenity and streetscape Seniors housing should be designed as follows— (a) to recognise the operational, functional and economic requirements of residential care	The proposal is generally compliant with the applicable planning controls for the site. The RCF has been designed to suit the operational and functional needs of the seniors service offering and

SEPP (Housing) 2021	Consideration
facilities, which typically require a different building shape from other residential accommodation, (b) to recognise the desirable elements of — (i) the location's current character, or (ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area, (c) to complement heritage conservation areas and heritage items in the area, (d) to maintain reasonable neighbourhood amenity and appropriate residential character by — (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, (e) to set back the front building on the site generally in line with the existing building line, (f) to include plants reasonably similar to other plants in the street, (g) to retain, wherever reasonable, significant trees, (h) to prevent the construction of a building in a riparian zone.	relevant standards for RCFs and as such, it presents a greater scale to the immediate streetscape and context. Notwithstanding, the proposed development respects the residential character of the area by incorporating generous setbacks of 10m-15 m to the boundaries and building articulation. The proposed development also maintains reasonable neighbourhood amenity including solar access, overshadowing and visual and acoustic privacy to surrounding dwellings. The proposed landscape scheme seeks to retain existing mature trees within the site and seeks to include additional landscaped and communal open space areas throughout the development. The landscape plan shows a majority of trees located on the perimeter of the site which visually buffers the proposal when viewed from neighbouring dwellings.
2. Visual and Acoustic privacy	The proposal protects visual and acoustic privacy of neighbouring dwellings by the setback from

SEPP (Housing) 2021	Consideration
Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and all residents of the seniors housing by — (a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	neighbouring properties and retention of existing mature trees along the site boundaries. The proposal locates parking and delivery bay within the basement and internal loading dock at ground level, ensuring acceptable acoustic amenity is provided. Appropriate mitigation measures have been included in the conditions of consent to ensure the acoustic amenity of residents and neighbouring properties is adequately achieved.
3. Solar access and design for climate The design of seniors housing should — (a) for development involving the erection of a new building — provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.	The proposal provides adequate daylight access to the units to the site through the articulations and design of bedroom layouts and incorporation of the internal lightwell/courtyard. The setbacks also assist in reducing the level of overshadowing to the adjoining residential properties to an acceptable level. Energy efficiency and sustainability initiatives have been incorporated into the development including natural ventilation, solar heating and lighting.
4. Stormwater The design of seniors housing should aim to — (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	The Applicant has provided an Integrated Water Management Plan and has designed the stormwater system in line with Council's Requirements. The Department recommends conditions to ensure the minimisation of disturbance and impacts of stormwater runoff to adjoining properties.

SEPP (Housing) 2021	Consideration
5. Crime Prevention Seniors housing should — (a) be designed in accordance with environmental design principles relating to crime prevention, and (b) provide personal property security for residents and visitors, and (c) encourage crime prevention by — (i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and (ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and (iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The Applicant has provided a Crime Prevention through Environmental Design Report which addressed crime prevention through: • proposed landscaping incorporating opportunities of passive supervision of public and community areas and pathways • design measures to distinguish private areas from the public domain • controlled access points to and from the development for residents and staff
6. Accessibility Seniors housing should — (a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and (b) provide safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.	New pedestrian links are provided throughout the site, as well as upgrading of existing pedestrian paths to ensure safe travel across the site. Distinct pedestrian and vehicular access points are also provided. Vehicular access and parking is retained via Marrickville Avenue.
7. Waste Management Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	The Applicant has provided an Operational Waste Management Plan which outlines that operational waste will be separated in to waste streams to reduce landfill and encourage recycling.

Inner West Local Environmental Plan 2022

A summary of the Department's consideration of the relevant standards contained in the IWLEP is provided in Table 11 below.

Table 11 | IWLEP compliance table

Inner West Environmental Plan 2022	Consideration
Clause 2.3 Zone Objectives (SP2 Infrastructure (Educational Establishments))	The proposed seniors housing land use is prohibited in the SP2 zone but permissible in under the Housing SEPP and is consistent with the zone objectives of the SP2 zone as it provides social infrastructure in the form of an RCF.
Clause 4.3 Height of Buildings	The maximum height for the site under IWLEP is 9.5 m. The proposed development is 6.02 m above the 9.5 m height limit. The application is accompanied by a written request seeking an exception to the building height development standard.
Clause 4.4 Floor Space Ratio	The site is afforded a maximum FSR of 0.6:1 under IWLEP. The proposed development has an FSR of 0.695:1. The applicant submitted a written request seeking an exception to the FSR development standard.
Clause 5.10 – Heritage Conservation	The site is identified as a heritage item under Schedule 5, Part 1 of the IWLEP and is located within the South Dulwich Hill Heritage Conservation Area (HCA). The site is also situated in the vicinity of several local and State heritage items, including items listed on the State Heritage Register. A Heritage Impact Statement (HIS) was submitted with the application. The HIS concludes that the existing contemporary building proposed for demolition is of no heritage significance and that the proposal will not result in adverse heritage impacts to significant heritage items within the wider site (convent and school). The proposed works will not result in any physical impacts on significant heritage items in the vicinity of the site.

Inner West Environmental Plan 2022	Consideration
Clause 5.21 – Flood Planning	The site is marginally located within the Marrickville Valley Floodplain from a catchment located to the north of the site. A Flood Impact and Risk Assessment is submitted with this application. The assessment concludes that the site is not affected by flood at the PMF, and the development is suitable from a flood-risk perspective.
Clause 5.22 Special Flood Considerations	The FIRA submitted with the application concludes that the site is not affected by flooding for events up to and including the PMF. Although the site itself is not flood affected, Marrickville Avenue experiences H1–H2 flood hazards during most flood events, including the 1% Annual Exceedance Probability (AEP) event, with flood depths of approximately 0.1–0.4 m. Isolated areas of higher hazard (H4–H5) may occur where flood velocities increase. These impacts can temporarily restrict vehicle access, but typically last for a short duration of approximately 1–1.5 hours during significant flood events. The application includes a FERP which outlines a shelter in place evacuation strategy which is appropriate given that flooding of less than one hour is expected in most scenarios. As such, it is considered that the proposed development is suitable from a flood-risk perspective.
Clause 6.1 Acid sulfate soils	The site is not located within an acid sulfate soil (ASS) risk area. The proposed works are unlikely to impact ASS.
Clause 6.2 Earthworks	The proposal involves a cut depth of approximately 4.7m (northwestern end). A Geotechnical Assessment Report was submitted as part of the application. Standard conditions of consent have been imposed to ensure appropriate measures are in place to avoid, minimise and mitigate the impacts of the proposed earthworks.
Clause 6.3 Stormwater Management	The application was accompanied with an Integrated Water Management Plan which was reviewed by the Department, Council and DCCEEW. Conditions of consent have been imposed to avoid or minimise the adverse impacts of urban stormwater on the site, adjoining properties and waterways.

Inner West Environmental Plan 2022	Consideration
Clause 6.4 Terrestrial biodiversity	The site is identified on the Terrestrial Biodiversity Map. A BDAR Waiver was granted, confirming that the proposed development is not likely to have any significant impacts on biodiversity values. The application was referred to DCCEEW who raised no objections to the proposal subject to conditions of consent.
Clause 6.8 Development in Areas subject to aircraft noise	The application is supported by an Acoustic Report which includes design measures to mitigate internal aircraft noise. Conditions to this effect are included in the recommended development consent.
Clause 6.9 Design Excellence	The proposal achieves design excellence because: • it achieves a high standard of architectural design through a well-considered built form, articulated facades and a sensitive response to the local context • the building massing and setbacks and façade treatments minimise visual impacts, overshadowing, privacy, and acoustics to the neighbouring properties • it aligns with the Housing SEPP principles and incorporates ESD measures • it retains existing mature trees and landscape character of the site • it would not adversely impact views corridors from heritage items or HCA.

Seniors Housing Design Guide

The Seniors Housing Design Guide seeks to inform the design and assessment of seniors housing and ensure high quality design of seniors housing developments are achieved. An assessment of the proposal against the Seniors Housing Design Guide has been provided in **Table 12** below:

Table 12 | Seniors Housing Design Guide compliance table

Seniors Housing Design Guide 2023	Consideration
Design for Country	• The proposal includes retention of existing mature trees.

	The applicant's ACHAR found there is a moderate to high potential for Aboriginal archaeological resources to be present within the site.
Care for the planet	- The proposed RCF incorporates the principles of ESD, thoughtful design to maximise solar access and thermal comfort. - The ESD Report (Appendix A), sets out the various ESD initiatives that are being incorporated into the development and confirms that the proposed development meets the relevant energy and water reduction targets.
Site analysis Environmental response	The development is sensitive to the natural physical characteristics of the land and seeks to preserve its natural features such as significant mature trees.
Urban response	- The building fabric is responsive to its context and local environment and would positively contribute to the neighbourhood. - Reasonable setbacks have been provided to enhance a landscaped setting and maintain privacy for neighbouring residential properties. - The development would enable older people to age in place.
Heritage	- The site is a heritage-listed item within the South Dulwich Hill Heritage Conservation Area and is near other local and State heritage items. - A Heritage Impact Statement found that the existing building to be demolished has no heritage significance and that the proposal will not affect nearby heritage items or significant views.
Care, wellbeing and community	- The development has been designed to cater for residents requiring varying levels of care, including dementia. - Generous spaces are provided in RCF rooms and communal areas. - The development encourages mobility of residents outside of their immediate private space.
Design for physical ageing and dementia	- The development consists of easy to navigate spaces and would be internally designed for safety. - The development has been designed for environmental comfort through the provision of thermal insulation, high performance glazing and weather seals.

Seniors Housing Design Guide 2023	Consideration
	• The building has been designed with familiar domestic character and promotes a home-like environment. • The development is to cater to physical ageing and people with dementia and has been designed to aid visual perception, wayfinding and promote sensory interaction with the environment.
Design principles for residential care facilities	• The building suitably connects with the natural environment and positively contributes to the streetscape and locality. • The general arrangement of the RCF enables efficient workflows, presents as non-institutional and would create an environment where staff can work efficiently to care for groups of people in a communal living setting. • Entry to the development is clearly identifiable • All rooms within the RCF contain a good outlook. • The façade design is broken down into smaller elements to respond to the scale of surrounding low-density context.

Appendix D – Consideration of Clause 4.6 variation request

The application seeks a variation to the following development standards under the IWLEP:

- *Clause 4.3 (2) (2) - The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.* This annotates that the site is subject to a maximum building height of 9.5m
- *Clause 4.4 - The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.* This annotates that the site is subject to a maximum FSR of 0.6:1.

Clause 4.6(2) of the IWLEP permits the consent authority to consider a variation to a development standard imposed by an environmental planning instrument. The aim of clause 4.6 is to provide an appropriate degree of flexibility in applying development standards to achieve better development outcomes. In consideration of the proposed variation, clause 4.6(3) requires the following:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that-*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances; and*
 - (b) there are sufficient environmental planning grounds to justify contravention of the development standard.*

In accordance with section 35b of the EP&A Regulation, the Applicants has prepared written requests to vary the development standards.

The following provides an assessment of the proposed exception to the key development standards under clause 4.6, applying the tests summarised by Chief Justice Preston of the NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Wehbe v Pittwater Council* (2007) 156 LGERA 446; [2007] NSWLEC 827 as reaffirmed in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34].

Building Height

A maximum Building height of 9.5 m applies to the site under IWLEP.

The proposed development will have a maximum height of 15.52 m to the top of the lift overrun in the centre of the building, or 6.02 m above the 9.5 m height control. This equates to 63.37% variation to the development standard. The extent of the variation is illustrated in **Figure 14**.

The Applicant has submitted a written request (see **Appendix A**), seeking a variation to the height development standard that applies to the site.

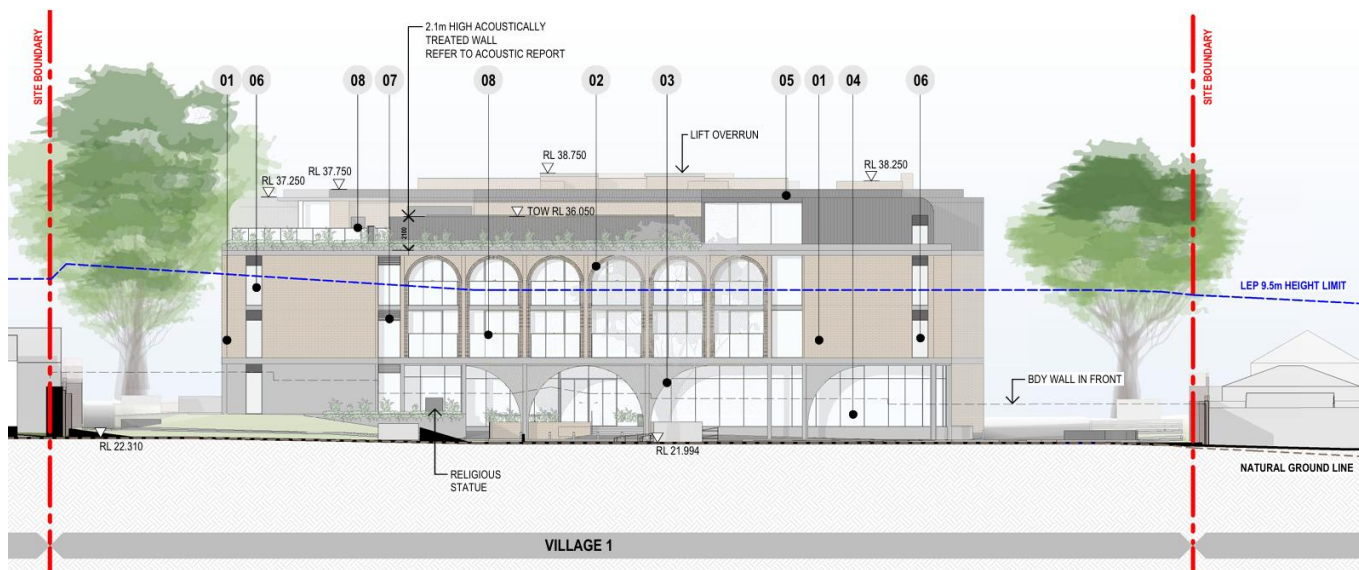


Figure 10 | 9.5m height control line – Eastern elevation

1. Has the applicant demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances

The Applicant's clause 4.6 written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the development is consistent with the objectives of the height development control in keeping with the first test outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

The Applicant's written request provided reasons to demonstrate that the development is consistent with the objectives of the height standard. These reasons are summarised as follows:

- *The site is a standalone institutional area serving the local community, where taller buildings are appropriate to support its specialised uses. As a result, the proposed building height is contextually justified even though it does not align with the low-scale residential surroundings or the LEP's uniform height expectations for this part of Marrickville. Existing buildings on the site already exceed the maximum height control by 2.55m, showing that additional building height is consistent with the site's character and location.*
- *The additional building height is compatible with the site and local character because it allows retention of mature trees that screen the development and preserve the site's treed character, limits visual impacts, and supports the site's established institutional use.*
- *Complying with the LEP height limit would either require tree removal or result in a development similar in bulk to the existing building, making the project redundant with no increase in aged care capacity.*

- *The proposed building's height and bulk are further mitigated through generous setbacks and upper-level modulation, reducing its visual impact and apparent scale from surrounding sites and the public domain.*
- *The proposal results in a low-moderate impacts from public and private viewpoints as demonstrated in the VIA submitted with the application and minimal additional overshadowing to the neighbouring properties.*

The Department has reviewed the Applicant's request and accepts that compliance with the building height development standard is unreasonable or unnecessary given the circumstances of the case.

2. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard?

The Applicant's environmental planning grounds are summarised as follows:

- *The proposal is consistent with the compatibility principles established in Project Venture Developments v Pittwater Council 920050 NSWLEC 191 as it is consistent with established character of the site, provides generous setbacks to residential interface, retain existing mature trees and heritage wall along the boundaries and includes suitable materials and finishes and does not result in any adverse physical impacts to surrounding properties in terms of overshadowing or visual impacts*
- *The proposed non-compliance would ensure the bulk and scale of development is compatible with the existing streetscape character, thereby promoting the good design and amenity of the built environment,*
- *The proposal provides high-quality architectural design that complements heritage character of the area,*
- *The non-compliance facilitates the retention of the majority of the existing mature vegetation situated along the northeast, southeast, and southwest boundaries of the site.*
- *The proposed non-compliance will facilitate the orderly and economic development of the site for the purposes of a 'seniors housing'.*

The Department considers the Applicant's arguments above to be well founded. The Department also considers the proposed height is acceptable because:

- a compliant development with the height limit (and within the FSR) would adversely impact several of the existing trees and compromise the site's landscape character and the visual buffer they currently provide along the residential interface of the site
- it is consistent with the built form outcomes anticipated for the site under the SP2 Educational Establishment zone, which typically permits increased building heights relative to the surrounding low-density residential development

- the site already accommodates institutional uses (school building) exceeding standard height controls, demonstrating that additional height is consistent with the established character.
- the current use and scale support higher-intensity development, unlike the surrounding low-density residential areas with different zoning
- it maintains acceptable amenity to the neighbouring properties in terms of visual impact, overshadowing, privacy and private view loss.

Conclusion

Having considered the Applicant's written request, the Department considers the Applicant has demonstrated that compliance with the building height development standard is unreasonable and unnecessary, and sufficient environmental planning grounds have been provided to justify the contravention of the height development standard and the matters required to be demonstrated have been adequately addressed.

The Department concludes the Applicant's written request adequately addresses the matters required to be demonstrated under clause 4.6 of the IWLEP and the proposed development is in the public interest because it is consistent with the height objectives in the IWLEP and the objectives for development within the zone.

Further, the proposal would not result in any unreasonable impacts on the surrounding area and aligns with the established character of the site.

Floor Space Ratio

A maximum FSR of 0.6:1 m applies to the site under IWLEP.

The total site area is equal to 26,494m².

The proposed GFA is 6,846m² (Housing SEPP definition). Based on a total site GFA of 18,402m² (including 11,556m² for the school and convent buildings), the proposed development has an FSR of 0.695:1. This equates to 15.7% variation to the development standard.

The Applicant has submitted a written request (see **Appendix A**), seeking a variation to the FSR development standard that applies to the site.

3. Has the applicant demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances

The Applicant's clause 4.6 written request demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the development is consistent with the objectives of the FSR development control in keeping with the first test outlined in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

The Applicant's written request provided reasons to demonstrate that the development is consistent with the objectives of the FSR standard. These reasons are summarised as follows:

- Although the proposal exceeds the FSR standard, the development achieves appropriate density for the locality due to the site's established institutional uses, large site area, and sensitive design response. The density is distributed to retain mature vegetation, provide generous setbacks, protect privacy and amenity, and limit visibility from surrounding streets. The development respects local character through compatible materials, articulation, and heritage retention, while the FSR exceedance is visually mitigated at upper levels. Importantly, the additional density enables the delivery of much-needed aged care services and facilities that would not be feasible if the development strictly complied with the FSR, without compromising the character or amenity of the area.
- The site's large size, sloping topography, mature vegetation, and heritage wall provide effective buffers that allow increased density to be integrated without adverse impacts on the surrounding area. The development is visually screened from nearby streets and remains compatible with the established residential character. It supports and renews the site's long-standing aged care and educational uses by providing additional floor space to meet contemporary care standards. The added density is centrally located, away from residential edges, and is sensitively designed using compatible materials, setbacks, and landscaping to respect heritage character and maintain visual and spatial separation.
- The site's existing density is effectively screened by the heritage wall, mature vegetation, and sloping topography, reducing its visual impact and providing buffers to adjoining properties. High-quality, heritage-compatible materials and architectural detailing further ensure the development integrates with the surrounding built form and maintains local character and amenity.
- Although the proposal exceeds the FSR standard, it minimises amenity impacts through generous setbacks, retention of mature vegetation, and careful building design. Visual impacts, bulk, scale, privacy, and overshadowing are reduced by concentrating height toward the centre of the site, stepping down toward Marrickville Avenue, using upper-level setbacks and darker materials to reduce perceived bulk, and employing articulated, masonry façades that reflect the local residential character. Screening is further enhanced by retained trees, the heritage wall, and solid front gates. The Visual Impact Assessment confirms that visibility from surrounding streets and properties is limited, with only low to moderate impacts from certain viewpoints, and the effects of the FSR non-compliance are effectively mitigated.
- The non-compliant gross floor area is set well back from site boundaries, enabling retention of mature trees and reducing impacts on neighbouring properties. Additional upper-level setbacks minimise overshadowing, with affected properties experiencing only temporary morning or afternoon shadow and retaining adequate solar access for most of the day. Overshadowing reduces significantly after early morning hours and ceases by early afternoon. A fully FSR-compliant alternative with reduced setbacks would likely cause equal or greater overshadowing and require tree removal. Accordingly, the overshadowing impacts of the proposed non-compliance are considered acceptable and compatible with the local area.

- The development preserves privacy and resident amenity through large setbacks, retention of mature trees, and landscaped buffers on the façade, rooftop, and ground level. Sightlines are managed to ensure visual privacy for Village 1 residents and neighbouring properties. A fully FSR-compliant alternative with smaller setbacks would likely create similar or greater privacy and overshadowing issues. Overall, the non-compliance's impact on privacy is effectively mitigated through thoughtful design.
- The additional FSR does not cause loss of significant tree canopy because the building footprint has been reduced and setbacks increased. This design improves privacy, reduces visual impact, and enhances enjoyment of private properties. The development also integrates with the surrounding context without negatively affecting public amenity. Therefore, strict compliance with the FSR standard is considered unreasonable or unnecessary in this case.

The Department has reviewed the Applicant's request and accepts that compliance with the FSR development standard is unreasonable or unnecessary given the circumstances of the case.

4. Has the consent authority considered a written request that demonstrates there are sufficient environmental planning grounds to justify contravening the development standard?

The Applicant's environmental planning grounds are summarised as follows:

- The development is compatible with its surroundings and maintains visual harmony by using materials and architectural elements that reflect the local federation-style double-brick character. It reinforces the site's long-standing institutional uses for aged care and education, while retaining mature vegetation and the heritage wall. The modest 15% increase in floor space is appropriate given the site's size and unique uses, allowing these established functions to continue. Overall, the sensitive design and landscaping ensure the development fits harmoniously within its context, supporting the proposed FSR variation.
- The development's FSR non-compliance has no significant adverse impacts on neighbouring properties due to generous setbacks, retention of mature trees, minimal overshadowing, and centralised floor space distribution. Privacy, solar access, and visual amenity are largely preserved, and additional floor space avoids encroachment on adjacent properties. Combined with the proposed building height variation, the design remains compatible with the streetscape, complements the area's heritage character, and retains most significant trees. Importantly, the non-compliance enables the site to provide additional aged care beds and facilities, supporting community needs and delivering broader social benefits, while maintaining good design and amenity.
- The proposed non-compliance would ensure the bulk and scale of development is compatible with the existing streetscape character, thereby promoting the good design and amenity of the built environment, •

- *The proposal provides high-quality architectural design that complements heritage character of the area, •*
- *The non-compliance facilitates the retention of the majority of the existing mature vegetation situated along the northeast, southeast, and southwest boundaries of the site.*
- *The proposed non-compliance will facilitate the orderly and economic development of the site for the purposes of a ‘seniors housing’.*

The Department considers the Applicant’s arguments above to be well founded. The Department also considers the proposed FSR is acceptable because it:

- provides adequate spatial separation between properties, reducing the perceived bulk and scale of the development to an acceptable level
- allows for generous boundary setbacks to ensure the retention of existing mature trees that contribute to neighbourhood character, canopy cover, and high-quality environmental outcomes for the site
- maintains acceptable amenity to the neighbouring properties in terms of visual impact, overshadowing, privacy and private view loss
- it does not result in adverse traffic impacts on the surrounding road network and provides adequate on-site parking.

Conclusion

Having considered the Applicant’s written request, the Department considers the Applicant has demonstrated that compliance with the FSR development standard is unreasonable and unnecessary, and sufficient environmental planning grounds have been provided to justify the contravention of the FSR development standard and the matters required to be demonstrated have been adequately addressed.

The Department concludes the Applicant’s written request adequately addresses the matters required to be demonstrated under clause 4.6 of the IWLEP and the proposed development is in the public interest because it is consistent with the FSR objectives in the IWLEP and the objectives for development within the zone.

Further, the proposal would not result in any unreasonable impacts on the surrounding area and aligns with the established character of the site.

Appendix E – Instrument of Consent

<https://www.planningportal.nsw.gov.au/major-projects/projects/maronite-sisters-holy-family-marrickville-seniors-housing>