

## 5. ASSESSMENT

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

- Strategic context
- Location and access to services
- Impact on the character of the area and built form
- Environmental constraints

### 5.1 Strategic Context

The suitability of the site for the proposal has been assessed in the context of:

- the Planning Assessment Commission's Review;
- Sustainability Criteria (Metropolitan Development Program); and
- Seniors Housing SEPP.

#### 5.1.1 Planning Assessment Commission (PAC) Review

In early 2009, the PAC prepared a report on the suitability of 4 sites in the Oxford Falls Valley for urban development. Although not included as one of these 4 sites, the subject site is located within the same valley addressed within the review. This report was prepared at the request of the former Minister for Planning and included a consideration of the Sustainability Criteria outlined in the former Metropolitan Strategy, in addition to relationships to existing urban development, and the current and potential servicing and transport services. The subject site was excluded from the review as a Part 3A application was already under consideration by the Department.

##### *Planning Assessment Commission Comments*

Key points made by the PAC in relation to the Oxford Falls Valley are as follows:

- Oxford Falls Valley is not currently listed in the Metropolitan Development Program, however sites may be listed if sustainability criteria listed in the Metropolitan Strategy can be substantially met;
- Oxford Falls Valley is not identified for future urban releases in the Metropolitan Strategy;
- The draft Northeast Subregional Strategy states that the Ingleside release area will provide sufficient land for housing until 2031 and there is no necessity to develop "non-urban" lands to meet the 2031 dwelling targets;
- The draft Warringah LEP is proposing to rezone land within the valley to "E3 Environmental Management" and limit density to 1 dwelling per 20 ha;
- Existing Strategic Centres are located outside walking distance from the valley;
- Cumulative impacts of incremental development in the valley are of concern. The PAC referred to the phenomenon of "nibbling", which relates to the cumulative impacts arising from incremental development over a period of time. This could threaten to urbanise remaining bushland in the valley; and
- Further studies are warranted relating to transport and accessibility, bushfire, water quality, flora and fauna, visual analysis and satellite communication buffer zones.

The PAC provided the following 4 recommendations

- To determine the development potential of the valley, major studies should be undertaken including Transport and Accessibility, Bushfire Management, Water Quality, Flora and Fauna Protection, Visual Analysis and Satellite Communication Buffer Zones;
- Warringah Council should undertake these studies (in conjunction with Pittwater Council where required);
- Following completion of these studies, land for conservation and land for urban development should be zoned accordingly; and
- The Minister advise landowners that land releases are not required in the short term and will not be considered until after the relevant studies have been completed.

The Department requested that the Proponent address the major issues and sustainability criteria considered by the PAC in its findings and the relevance of these findings to the subject site.

#### *Proponent's Response*

The Proponent, in its PPR, responded to PAC's review with the following:

- A consideration of the proposal against stated sustainability criteria, which concluded that the proposal does not conflict with the sustainability criteria. The Proponent submits that the site is not isolated from existing urban development (as it abuts existing residential areas), and has access to physical infrastructure and services. Specifically, the provision of a private shuttle bus to provide the link for future residents to external service and facilities (including public transport) satisfies the access criteria;
- The subject site is better located than the 4 sites assessed by the PAC in terms of its proximity to services;
- The proposal will contribute to the demand for seniors housing in the subregion on a site which is constraint free (compared to the sites reviewed by the PAC), and in a location that is ideally suited to urban infill development; and
- The proposal will not result in the failure of the local road network, has existing access to bus routes, is able to manage bushfire risk, will result in an improvement of water quality entering Narrabeen Lagoon, provide flora and fauna protection, and will not result in an unacceptable visual impact.

The Proponent also provided a response to the first recommendation made by the PAC, stating that each of the required major studies (with the exception of the Satellite communication buffer zones) had been prepared (at a smaller scale) for the subject site. These reports concluded that there would be no adverse impact on transport and accessibility, bushfire, water quality, flora and fauna and no adverse visual impact. It was noted that the site would be remote from satellite communication buffer zones.

#### *Department's Comments*

The Department acknowledges the Proponent's assessment of the PAC report but considers that the subject site is not suitable for this form and intensity of development, and will contribute to the incremental loss of the existing dominant and remaining semi-rural/residential character of the valley as identified by the PAC.

The Department is not satisfied that the sustainability criteria can be substantially met, primarily due to the isolation of the site and distance to public transport and services. To rely solely on services provided in the development for the day-to-day needs of residents, and to rely on a privately owned and operated shuttle bus for access to other services (including access to the nearest bus stop located approximately 700 metres away in Iris Street to the south east), would be setting an undesirable precedent for other, similarly located sites. It is noted that pedestrian access to this bus stop features steep grades, poor street lighting and unmade footpaths. This situation may also result in not only physical, but also social isolation for those residents who are unable to drive.

Further, the Proponent's statement in relation to the subject site being better located than the other sites reviewed by the PAC relies heavily on the operation of small scale services on site (such as medical/health, retail and entertainment) which will provide the majority of the day to day needs of residents, and the operation of a shuttle bus.

The Proponent is placing a heavy reliance on the provision of services and facilities to be used exclusively by future residents to overcome the isolated nature of the site and therefore meet the Sustainability Criteria of the Metropolitan Strategy. This reliance highlights the Department's concerns relating the suitability of the site for the proposed Seniors Living development.

### 5.1.2 Sustainability Criteria (Metropolitan Development Program)

The site is classified as "non-urban" land. "Non-urban" land has been excluded from the Metropolitan Development Program (MDP) and therefore has not been identified as land being required for development (for at least 10 years) to meet the dwelling targets of the North East Subregion to 2031. Further, the draft Northeast Subregional Strategy states that the Ingleside Release Area will provide sufficient green field land for new housing until 2031.

The Department notes that 86% of the total number of proposed bedrooms on the site are for Serviced Self Care Housing. The remaining 14% comprises Serviced Apartments (9%) and an 80 bed/60 room Nursing Home (5%). Although not strictly a residential development as referred to in the MDP, the proportion of bedrooms (86%) are comparable to residential development in terms of future needs of residents. This issue was identified early in the Part 3A process, where the DGRs required a detailed analysis of density and sustainability criteria.

Sites that have not been identified in the MDP can only be considered as land suitable for urban development if strict sustainability criteria can be substantially met.

A full assessment of the proposal against the sustainability criteria is provided in **Appendix A**. The Department considers that of the 8 criteria listed, the proposal fails in respect to the following:

#### *Infrastructure Provision*

- The proposal is not located in close proximity to transport and services;
- The site is situated outside a designated growth centre identified for investigation in the MDP;
- The proposal is inconsistent with the Draft Northeast Subregional Strategy; and
- Public transport services do not exist in this part of the valley, and due to topography and lack of critical mass, extensions to existing services are unlikely.

#### *Access*

- There is no suitable access from the site to facilities, services, activity centres or public transport;
- The site is not located within close proximity to any services (including a bus stop; the nearest being approximately 700m away outside the valley with poor pedestrian access);
- While the proposal includes the use of a shuttle bus to link future residents to external services/facilities, the development is dependent on private motor vehicles, does not improve local accessibility and limits choice (particularly for residents who do not drive or are unable to drive and would rely on pedestrian access to public transport);
- Due to topographical constraints and lack of critical population mass, the valley does not presently have the potential to be serviced by economically efficient public transport services;
- The area is not able to link to the larger urban area containing adequate public transport services due to environmental constraints and current and proposed future zoning controls;
- Due to the distance of the site from public transport, the proposal is not considered to make a positive contribution to the achievement of travel and vehicle use goals; and
- Reliance on a private shuttle bus to provide access to services and facilities outside the valley places future residents that are unable to drive at risk of social isolation should it cease operation, operate infrequently or charge a high fee for the service.

#### *Avoidance of Risk,*

- The provision of an emergency shelter to be used either as an alternative, or in conjunction with, the emergency evacuation routes in the event of a bushfire is an unsatisfactory outcome for a Seniors Living development;

- The substantial amount of cut and fill proposed will detrimentally alter the character of the naturally undulating valley floor

#### *Quality and Equity of Services.*

- The site is poorly located for a Seniors Living Development, being more than 400m from external services and facilities including the nearest bus stop. Residents who are unable to drive will need to rely on a private shuttle bus for transport outside the valley; and
- The nearest external services and facilities ("Skyline Shops", Frenchs Forest and Brookvale), whilst not conveniently located for residents (approximately 1.5km – 3.8km from the site), are considered to have adequate capacity to service the proposal, subject to adequate access.

Concerns relating to the relatively remote and isolated location and poor infrastructure provision/public transport are considered to be significant deficiencies in the proposal, particularly given the proposed aged population which are generally more reliant on public transport and the site's relatively remote location from local centres.

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors) applies to the subject site under the current zoning of the Warringah LEP 2000 (B2 Locality – "Oxford Falls Valley"). As such, an assessment against Part 2 – Site Related Requirements would normally be required for applications under Part 4 (see assessment below).

However, under the draft LEP 2010, the site is zoned "E3 Environmental Management" which is not considered an urban zone, but would adjoin land zoned for urban purposes. Under these circumstances, a Site Compatibility Certificate would be required to overcome any prohibition on the use of the land for Seniors Living (and allow the submission of a Development Application).

The Department has undertaken an assessment against cl 25(5)(b) of the Seniors SEPP relating to Site Compatibility Certificate criteria (**Appendix B**) and concludes that it is unlikely the Department would issue a Site Compatibility Certificate. This is due to the impact the proposal would have on the existing and approved uses of land in the valley; infrastructure/access provision (non-compliance with cl 26); height bulk and scale not in keeping with the existing, approved and future uses in the valley (cl 25(5)(b)(v)); and watercourses/riparian impacts.

The aim of SEPP Seniors is to *"encourage the provision of housing (including residential care facilities) that will:*

- *increase the supply and diversity of residences that meet the needs of seniors or people with a disability,*
- *make efficient use of existing infrastructure and services and*
- *be of good design."*

Further, the objective of Chapter 1 is to *"create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age."*

The Department acknowledges that the proposal will result in additional seniors housing which will assist in meeting the demands of an aging population. However, the Department does not consider the location of the site to be conducive to this form and intensity of development and is therefore not *"located and designed in a manner particularly suited"* to housing for seniors or the disabled. Whilst the site is capable of being serviced by utilities, the site is located in an area containing insufficient infrastructure and services. Further, site constraints include flood and bushfire, both of which may have a social impact on future residents of the proposed Seniors Living development should they experience an extreme weather event.

An assessment of the proposal has been undertaken against the site-related requirements (Part 2), design requirements (Part 3) and development standards (Part 4) of the SEPP. This has identified that there are a number of key non-compliances which are summarised as follows:

- *Facilities and services located more than 400m from the site;*
- *The closest bus stop is located 700m from the site which exceeds the 400m minimum distance requirement (clause 26(2)(b));*
- *There is no suitable access pathway (sealed footpath) from the site to public transport (clause 26(2)(b)(i));*
- *Approximately 180 metres of Oxford Falls Road is at a gradient of 1:9 which exceeds the maximum requirement for construction of an access pathway (clause 26(3));*
- *All proposed buildings exceed the maximum 8m height limit (clause 40(4));*
- *The scale and bulk of the dwellings are inconsistent with the low density form of the development that characterises the locality (Clause 33(a)); and,*
- *The medium density form of development does not respond to the quality and identity of the location's character (clause 33(a)).*

The Department is not satisfied that the proposal adequately complies with the Seniors Housing SEPP.

## **5.2 Location and access to services**

### *Context*

"Skyline Shops", on Frenchs Forest Road is the closest neighbourhood centre and is located approximately 1.5 km from the site. Forestway Shopping Centre, Frenchs Forest is the closest small village and is located approximately 3.4km from the site. Brookvale is the nearest major centre and is located approximately 3.8 km from the site.

### *Public Transport*

The nearest public transport service is the Bus Route 136 which runs from Chatswood to Manly. The closest bus stop is located in Iris Street and is 700 metres from the site (**Figure 6**). This exceeds the minimum distance requirement (400 metres) for the provision of public transport under clause 26(2)(b) of the Seniors Housing SEPP. Pedestrian access to this bus stop is poor, with steep grades, poor street lighting and unmade footpaths along the route.

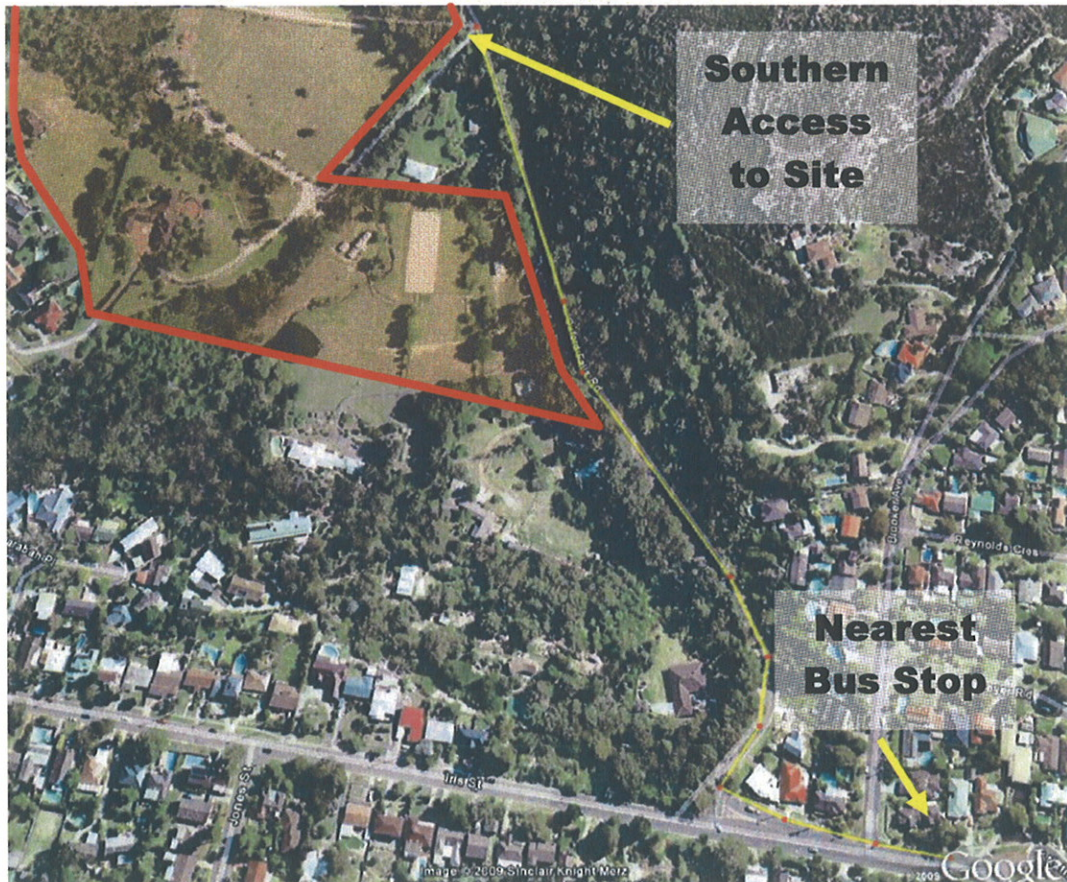
### *Access to services*

As demonstrated, these facilities and services are located at a distance more than 400 metres from the site, therefore residents will have to rely on either private vehicles, the private shuttle bus, or a public transport service being available.

The proposal's inability to meet this requirement is compounded further by a lack of a suitable access pathway (as required by SEPP Seniors) between the site and the bus stop. Although it is acknowledged that such a footpath could be provided, the gradients of approximately 180 metres of Oxford Falls Road would significantly exceed the maximum gradients permitted by clause 26(2) of the Seniors Housing SEPP. It is also noted that street lighting is poor, and adds a concern for the safety and security of future residents.

These non-compliances are contrary to the conclusions reached in the Proponent's Access Report which states that the proposed development would be consistent with the accessibility provisions of the SEPP. Having considered the proposal against these provisions, the Department finds difficulty in supporting this view. Public submissions and Warringah Council have also raised concern about the distance of the site from services and facilities.



**Figure 6. Proximity of nearest bus stop to site (Base Photo Source: Google Maps 2010)**

#### *Social Isolation*

The Department considers the proposed development unable to satisfactorily meet key access requirements of the Seniors Housing SEPP. Should the privately run shuttle bus cease to run, be prohibitively expensive, or reduces its services, residents will be isolated from access to these external services which would represent a detrimental social and amenity impact to future seniors residents.

Further, the accessibility of the site by primarily private motor vehicle:

- Reduces travel choices;
- Reduces flexibility in timing of access;
- Reduces opportunities to exercise while accessing off-site facilities/services; and
- Reduces social interaction whilst walking to off-site facilities/services.

The distance of the subject site from other centres and inadequacies highlighted with regard to the proposed privately operated shuttle bus will exacerbate the sense of isolation from the wider community and range of services likely to be required by an aging population.

The Department therefore considers the proposed seniors living development is located in an area which is currently largely unsuitable for seniors housing, particularly considering its large scale and potential number of likely future residents.

### *On-Site Services/Facilities*

To overcome the location deficiencies of the site, the Proponent is proposing some on-site services and facilities (Convenience Store, Medical Centre, Restaurants, ATM, Clubhouse, etc) and the provision of a private shuttle bus providing access to other services and facilities (including the nearest bus stop) outside of the valley. Future residents that are unable to drive due to their age and/or health would be the most reliant upon these on-site services, facilities and shuttle bus.

The Proponent has stated that the Plan of Management and Statement of Commitments provide for a shuttle bus to be provided for residents of the complex. This service would operate "at least 7 days per week" and would provide services to nearby bus stops, Warringah Mall and Dee Why Town Centre.

Where a private bus service is being relied upon to provide access for residents, it would need to operate along an appropriate route, at an appropriate frequency and at a minimal cost to residents to ensure its ongoing operation for the life of the development. Limited details have been provided which demonstrate this private service would satisfactorily service the future needs of the development.

## **5.3 Impact on the character of the area and built form**

### **5.3.1 Desired future character of the area**

The existing character of the site is semi-rural/residential and is characterised by low scale detached housing on large allotments, with the exception of the Tennis Academy on the northern portion of the site (**Figures 7, 12 - 13**).

The land use controls in the Warringah LEP 2000 for the site seek to encourage low density, low impact forms of development to ensure the present character of the Oxford Falls Valley is protected. It also describes the desired future character of the area as being the natural landscape, valley setting and low density development comprising single and two storey homes on large acreages.

The Desired Future Character Statement for Oxford Falls Valley "*B2 Locality - Oxford Falls Valley*" in the WLEP 2000 states that the present character will remain unchanged, however "*Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses*". The PAC acknowledged this statement in its April 2009 Review.

The Proponent considers that the proposal responds to the desired future character of the area in terms of its built form and states that the proposal has been sited to minimise the impacts on the surrounding area, complementing the character of the area.

The Department believes that a medium density development proposal comprising 20 new buildings (many with large floor plates), all of which are 3 storeys or higher, and all of which exceed the height limits for the site (as prescribed by the Warringah LEP 2000), cannot maintain the semi-rural/residential character of the Oxford Falls Valley.

The proposal is also considered to be inconsistent with the zone objectives of the proposed "Environmental Management" zone of the draft LEP 2010. It is of a bulk and scale far in excess of that which is anticipated given both site suitability constraints, particularly its significant landscape values, and existing and draft planning controls.

The Department considers that the proposal will have a detrimental impact on the scenic quality of the Oxford Falls Valley. It is not considered that the proposal has responded adequately to the context and elements that make up the existing and desired future character of the site and its locality and will result in the site becoming urban in character. (**Figure 7 & 8**).



**Figure 7.** Looking north-east over the site**Figure 8.** Perspective 2 (Source: Proponent's PPR)

The Department has consistently raised concerns about the impacts of the proposed development on the character of the area. It is considered that the Proponent has not demonstrated the proposal has overcome or ameliorated the constraints of the site to achieve a form of development compatible with the surrounding area and the desirable contextual elements in the locality. For these reasons, it is considered the proposal is not an appropriate development for the site insofar as it is unable to satisfactorily reconcile its impacts on the semi-rural/residential character of the Oxford Falls Valley and the resultant change in its character if the proposed development were to proceed.



### 5.3.2 Built Form

The proposed development is characterised by a medium density buildings comprising 20 x 3-4 storey buildings (8.5 metres to 15 metres).

A cluster of 4 x 4-storey buildings is proposed in the south-east portion of the site. The main 4 storey building, containing serviced apartments, nursing home and amenities is located in the central portion of the site and has a building footprint of 4,953m<sup>2</sup> (**Figure 9**). The remaining 15 buildings are located in the central portion of the development site extending to the north western parts of the site. They are clustered towards the centre of the site to maximise the separation distance from surrounding residential dwellings.

While this proposed built form aims to minimise and shield the dominance of the proposal on the surrounding area, it is apparent that the scheme has not been able to satisfactorily achieve consistency with the low density scale of development that characterises this section of the Oxford Falls Valley. In short, the buildings in aggregate represent an unacceptable form of development and thus will appear as an uncharacteristic, unappealing element in the locality.

The proposed building heights on site exceed the 8.5 metre height controls in the WLEP 2000. These controls allow for development to be a maximum height of 2 storeys, which reflects the existing, as well as the desired future character of the area. The proposal does not comply with the WLEP 2000. This level of non-compliance is considered excessive in this case, particularly given the surrounding low scale semi-rural/residential uses as illustrated by the fact that the majority of the buildings range between 50-70 metres in length x 20 metres in width.

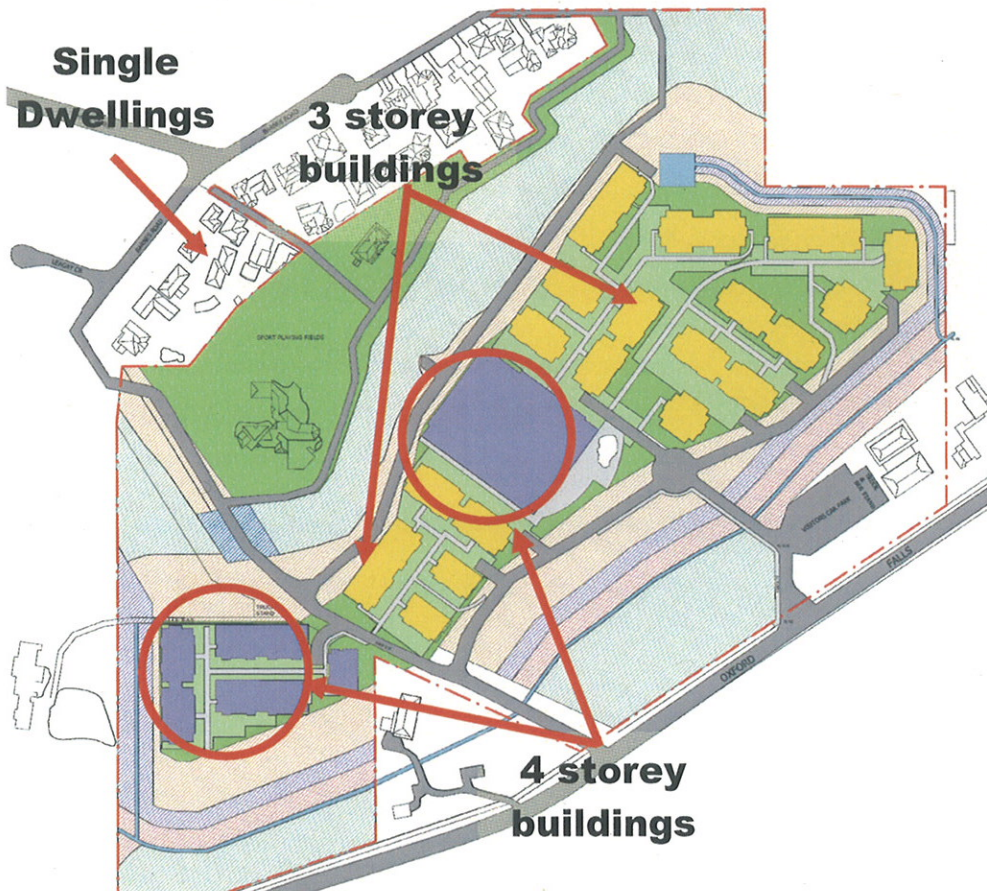
Further, the Desired Future Character Statement "B2 Locality - Oxford Falls Valley" in the WLEP 2000 states that *"Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services"*. The relevant objectives for the proposed "E3 Environmental Management" zone under the draft LEP 2010 require proposals to protect, manage and restore areas with special aesthetic values, to provide for a limited range of development that does not have an adverse effect on those values and to ensure that development is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.

The Department does not consider the proposal to adequately address either the WLEP 2000 or draft WLEP 2010 in relation to built form.

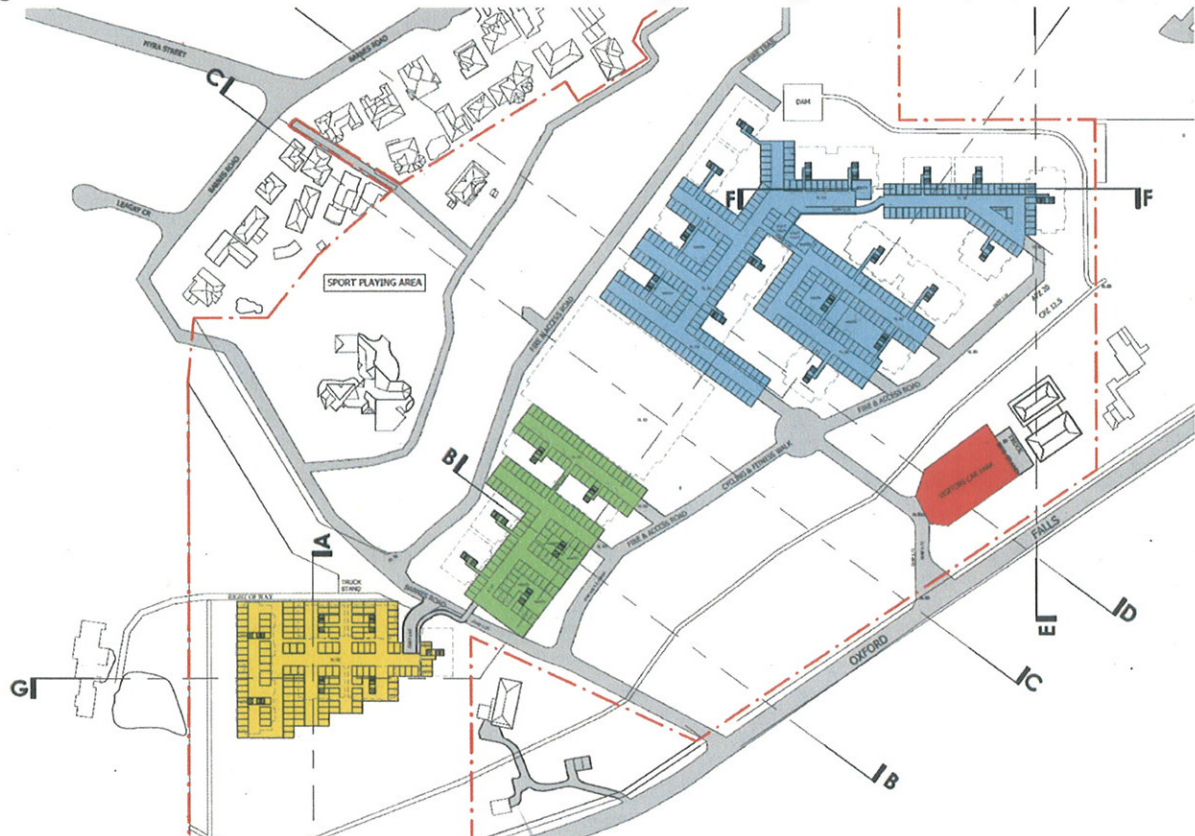
#### *Excavation*

The proposal includes the excavation of 3 substantial basement parking areas (and subsequent contouring of the landform to obtain the desired gradients to achieve the appropriate amenity for a seniors type development), requiring both cut and fill by up to 6 metres. Whilst the amount of cut and fill has been reduced from that proposed in the exhibited EA, the volume of earthworks proposed is not considered to integrate well into the site and natural surroundings and has the potential to substantially and detrimentally altering the naturally sloping topography of the valley floor (**Figure 10**).

**Figure 9.** Location of 3 & 4 storey buildings within the site (Base Image Source: Proponent's PPR)



**Figure 10.** Location and extent of basement carparking (Base Image Source: Proponent's PPR)





### Visual Impact

The proposal comprises large scale residential buildings which are closely spaced and centrally located within the site. The Proponent's visual impact assessment concludes that the development will have a low visual impact on the immediate, medium and distant surroundings. The Department does not agree with this assessment for the following reasons.

- Views of the proposed development from Barnes Road (west) will be available due to the topography of the road which is elevated above the site on the escarpment (**Figure 11 and 12**). These dwellings will look across a dense clustering of 3-4 storey buildings, inconsistent with the open semi-rural/residential setting encouraged by the Desired Future Character Statement of the WLEP 2000.
- Views from Oxford Falls Road will vary depending on the location from which these views are obtained, however the proposed development would still be visible from various sections of road along the site's frontage.
- Being at the lowest level of the site, the maximum building heights are most prominent from Oxford Falls Road.

The proposal will be visible from various observation points around the valley, and dwellings on the escarpment to the south and west will experience a change in outlook, from a semi-rural/residential valley, to one encompassing a medium density development at its southern end (**Figure 13**). These view impacts will be exacerbated by the large unbroken building envelopes being proposed measuring up to approximately 70 metres in length. The proposal is therefore considered to be unacceptable in relation to its visual impact, particularly given the strategic objectives of the Oxford Falls Valley.

**Figure 11.** Looking south-east from 8 Barnes Road





**Figure 12. Looking south-east over the site from 2 Barnes Rd****Figure 13. Perspective 4 (Source: proponent's PPR)**

## 5.4 Environmental Constraints

### 5.4.1 Bushfire Impact

The site is bushfire prone and contains Category 1 vegetation, the highest of the three Categories. Following submission of the revised scheme, the Rural Fire Service (RFS) provided additional comments to the Department. The RFS recommended a number of conditions to be imposed on any approval granted and raised concerns that the Asset Protection Zones (APZ) may overlap some biodiversity areas. This overlap would cause conflict, and the relevant Government Agency should be consulted to identify any management requirements.

The RFS also requested an Emergency/Evacuation Management Plan be prepared in accordance with Section 4.2.7 of *Planning for Bushfire Protection 2006*. This has not been undertaken, however the Proponent has confirmed the use of the western section of Barnes

Road for emergency access/egress and the use of the large centrally located building, as an emergency shelter in the event of a bushfire.

The Department does not support the provision of 493 Seniors dwellings and an 80 bed nursing home facility in an area prone to bushfire, particularly given the difficulties faced with evacuating future residents that may require more time, special care and may be more susceptible to smoke inhalation. Without a completed Emergency/Evacuation Management Plan and inadequate road infrastructure for such a Seniors Living development, the Department does not consider the proposal to satisfactorily respond to bushfire issues.

#### **5.4.2 Flooding**

The site was included in Warringah Council's *Warringah Creek Management Study 2004* which identifies one main tributary (Middle Creek Tributary) running parallel to Oxford Falls Road and two minor tributaries which branch from Middle Creek, known as drainage 1 and 2.

The Department of Environment, Climate Change and Water (DECCW) provided comments in relation to the amended scheme and are satisfied that floodplain management issues have been adequately addressed. However, Council has maintained an objection due to a lack of information relating to the pre and post development extent of the Probable Maximum Flood (PMF), as well as the 1 in 100 year event. The Department does not believe that potential flooding impacts have been fully resolved, as it is unclear how potential impacts to present and future occupiers would be adequately addressed.

#### **5.4.3 Watercourses**

The proposal includes the relocation of drainage line T1 and reshaping of Drainage Line T2 and Middle Creek. The establishment of a Core Riparian Zone (CRZ), Vegetated Buffer, Biodiversity Zone and APZ is also proposed along these watercourses. Following discussions between the Proponent and NOW, a "Managed Vegetated Buffer" is being proposed. This buffer is to be managed as an Inner Protection Area and lies adjacent to the APZ.

DECCW has raised concerns in relation to the use and management of the Vegetated Buffer as an Inner Protection Area and state that there should be no overlap of these zones to maintain the intent of a Biodiversity Zone.

Whilst NOW has accepted the merging of the two zones in this instance, concerns have been raised regarding the overall width of the CRZ, incorporation of roads into these areas and the stability of drainage lines T1 and T2.

Building footprints are located approximately 20 – 45 metres from the Middle Creek CRZ (most of frontage to middle creek is setback 38 - 54 metres) and are separated by an APZ.

Building setbacks from Middle Creek, Drainage Line T1 and T2, and also the widths of the CRZ, Biodiversity Zones and APZs are considered to be better resolved than previously exhibited. While the Department considers that not all concerns raised by Government Agencies have been fully resolved, the issues by themselves are not determinative.

#### **5.4.4 Site Access**

The main vehicular access to the site will be provided off Oxford Falls Road. A second access point, off Oxford Falls Road will be provided at the southern end of the site, which is currently unsealed and forms part of Barnes Road Reserve. The western section of this road will be used for emergency access only and will link with Barnes Road in the south-western corner of the site.

The two entrance roads will traverse Middle Creek by small bridges. Within the site there will be a series of two way perimeter access roads leading to the 3 separate basement parking

The Department maintains concern over the suitability and standard/grade of Barnes Road for emergency access, and does not consider that its use, in the event of an emergency, would safely and expeditiously evacuate the potential number of residents from the valley due to the large number of dwellings/beds proposed and likely population living on site.

#### **5.4.5 The Public Interest**

The public interest is a mandatory consideration for the Department in its Environmental Assessment. Generally, the 'public interest' relates to the overall welfare of the community as a result of a proposal.

In considering the issue of public interest in relation to the proposal, the Department has read and assessed all submissions from the community, both in opposition and support of the project. Departmental officers have conducted multiple inspections of the site and the areas surrounding the site, including various vantage points outside the Oxford Falls Valley.

The Department considers there are two levels of public interest to assess in relation to this project. First, the interest of the broader community in relation to housing provision/housing choice, and second, the impact on the immediate community surrounding the site.

##### *Interest of the Broader Community*

The application involves the use of the site for Seniors Living. The Department acknowledges that the proposal will provide additional housing for seniors and will assist in meeting the demands of Sydney's aging population.

However, as previously discussed, the proposal has been assessed against the former Metropolitan Strategy's Sustainability Criteria (**Appendix A**) as the site is identified as "non-urban" land, and is not considered to substantially meet these requirements.

Due to the site's relatively isolated location, poor connectivity and proximity to external services/public transport and facilities, the proposal is not considered to be suitable for the subject site. Without having satisfactorily addressed outstanding issues highlighted in this report, any approval would set an undesirable precedent by allowing future residents to live in an area not suitable for Seniors Living and therefore not in the public interest.

##### *Impact on the Surrounding Community*

The bulk, scale and visual impact of the proposal is out of character with the Oxford Falls Valley, inconsistent with the Desired Future Character Statement under the Warringah LEP 2000, and inconsistent with the proposed zone pursuant to the draft Warringah LEP 2010 (Seniors Living will be prohibited). As discussed in **Section 5.2**, this is a negative outcome of the proposal that the community would have to endure in perpetuity.

Consequently, the Department does not consider the proposal, at this scale, serves the broader public interest as the use is fundamentally not suited to the site in terms of the proposed built form and access to services.

On balance, the Department does not consider the public benefit of providing Seniors Living accommodation on this site outweighs the isolatory nature of the proposal and the impacts that the proposal would have on the receiving community. As a consequence, the Department does not consider the proposal to be in the public interest.



## 6. CONCLUSION

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The site is classified as "non-urban" land and has been excluded from the Metropolitan Development Program (MDP). Sites that have not been identified in the MDP can be considered as land suitable for urban development only if strict sustainability criteria contained within the Metropolitan Strategy can be substantially met. The Department does not consider that the proposal substantially meets the sustainability criteria.

The proposal is considered to be contrary to *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, particularly with regards to access and proximity to services and public transport.

The proposed 20 x 3-4 storey buildings are considered to be inconsistent and out of keeping with the planning directions for the area, including the Desired Future Character Statement for Oxford Falls Valley ("*B2 Locality- Oxford Falls Valley*" pursuant to the Warringah LEP 2000) which seeks to encourage low density, low impact forms of development to ensure the present character of the Oxford Falls Valley is protected. Further, the proposal would be prohibited development under the provisions of the Warringah draft LEP 2010.

The height, bulk, scale and density of the proposal will have an unacceptable visual impact on the semi-rural/residential character of the Oxford Falls Valley.


On balance, the Department does not consider the project to be in the public interest for the reasons outlined above. Accordingly, it is recommended that the Concept Plan be refused.

## 7. RECOMMENDATION

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It is recommended that the Minister:

- a) **Consider** all relevant matters prescribed under Section 75J(2) of the *Environmental Planning and Assessment Act, 1979*, including those relevant matters prescribed by 75I(2) as contained in the findings and recommendations of the Director General's report (**TAG B**) and appended documentation;
- b) **Determine** the project referred to in Schedule 1, by refusing to approve the proposal pursuant to Section 75O of the *Environmental Planning and Assessment Act 1979* for the reasons outlined in Schedule 2 having considered all relevant matters in accordance with (a) above; and
- c) **Sign** the attached Instrument of Refusal (**TAG A**).



Michael Woodland  
A/Executive Director  
Major Projects Assessment

28/10/2010



Chris Wilson  
A/Deputy Director-General  
Development Assessment & Systems Performance

29.10.10

## APPENDIX A SUSTAINABILITY CRITERIA

Sustainability Criteria	Compliance	Department Response
Infrastructure Provision	No	<p>The proposal is inconsistent with the Metropolitan Strategy as the proposed Seniors Living development is not located in close proximity to transport and services. Further, the site is situated outside a designated growth centres indentified for investigation in the (MDP).</p> <p>The proposal is inconsistent with the Draft Northeast Subregional Strategy as the site is identified as "non-urban land" and as such, is not considered to be a new release area. The Draft Strategy states there is no necessity for the development of "non-urban" lands for residential purposes to meet the 2031 dwelling targets.</p> <p>The site has access to communications, electricity, sewerage and water however augmentation and upgrades will be required to service the development. The Proponent has not provided adequate information as to how this Infrastructure would be provided, however this could be provided at a later stage.</p> <p>There are no existing public transport services near the site. The location of the site within the valley, topographical constraints and lack of critical population mass means any extensions to existing public transport services into the valley is unlikely.</p>
Access	No	<p>There is no suitable access from the site to facilities, services, activity centres or public transport. The site is not located within close proximity to any services and is approximately 700m from the nearest bus stop (outside the valley). The development is dependent on motor vehicles which limits choice and does not improve local accessibility.</p> <p>The area does not presently have the potential to be serviced by economically efficient public transport services, due to topographical constraints and lack of critical mass.</p> <p>The area is not able to contain, or form part of the larger urban area containing adequate public transport services due to environmental constraints and current and proposed future zoning controls. Due to the proximity of the site to public transport, the proposal is not considered to make a positive contribution to the achievement of travel and vehicle use goals.</p> <p>Whilst a private shuttle bus is proposed to provide access for residents to services and facilities outside the valley, should it cease operation, operate infrequently or charge too high a fee for the service, residents would be isolated from access to services. The</p>

		Proponent's heavy dependence on the private shuttle bus service is therefore not a desirable outcome and as a result, access is considered to be inadequate.
<b>Housing Diversity</b>	Yes	The proposed seniors living development will contribute to the region's housing supply for an ageing population.
<b>Employment Lands</b>	N/A	The site is not nominated for release as employment land.
<b>Avoidance of Risk</b>	No	<p>The site is liable to flood and bushfire.</p> <p>Whilst the RFS have not objected to the proposal as modified, the Department is not satisfied that the provision of an emergency shelter to be used either as an alternative, or in conjunction with, the emergency evacuation routes in the event of a bushfire is a satisfactory outcome for a Seniors Living development.</p> <p>NOW have not raised any objection to the proposal in terms of flooding, however Council believe more information is required with regards to floodplain management.</p> <p>The Department is not satisfied that the proposal has adequately addressed both flooding and bushfire risks.</p> <p>While the site is located at the base of the Oxford Falls Valley where the topography is gently undulating, the proposal involves a significant amount of cut and fill across the site. This will have a detrimental impact on the character of the naturally undulating valley floor.</p> <p>The proposal will be contrary to the future desired character statement of the Warringah LEP 2000 which states that the present character (rural residential) will remain unchanged, however <i>"Future development will be limited to detached dwellings, low intensity and low impact uses. The Draft LEP 2010 proposes to zone the site "E3 Environmental Management" which prohibits Seniors Living and limits density to 1 dwelling per 20 ha.</i></p> <p>The proposal is therefore considered to be in conflict with adjacent existing and future land uses.</p>
<b>Natural Resources</b>	Yes/No	Whilst water quality has been adequately addressed by the Proponent, biodiversity is still raised as an issue by DECCW, particularly the relationship/overlap between APZs and biodiversity areas and the ongoing management of these buffer areas. Further, Council do not consider that aboriginal heritage has been adequately considered by the Proponent.
<b>Environmental Protection</b>	Yes/No	The development proposes to revegetate environmental corridors and bushland and rehabilitate watercourses. However, the proposal includes excessive cut and fill, which will detrimentally alter the topography of the naturally undulating valley floor.



<b>Quality and Equity of Services</b>	Yes/No	<p>The site is not located in close proximity to external retail, commercial and medical facilities, services and public transport opportunities, all of which are located a distance of more than 400 metres from the site. It is however acknowledged that limited services will be provided on site to compensate in addition to a private shuttle bus service. Future residents who are unable to drive will need to rely on the privately operated shuttle bus for services and facilities outside the valley. While this is not a desirable outcome (refer to Access above), it is assumed that adequate capacity exists in other centres such as Dee Why, Beacon Hill, Frenchs Forest, Warringah Mall, Manly and Chatswood to accommodate future residents.</p> <p>It is unknown whether developer funding for potential services upgrades/access is available.</p>
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## **APPENDIX B     STATUTORY ASSESSMENT AND SUMMARY**

### **Ecological Sustainable Development Principles**

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the proposed development in relation to the ESD principles and had made the following conclusions.

#### **Integration**

The Concept Plan proposal has been unable to demonstrate that the development will be a social benefit for the region. While the development may provide some economic benefit through employment opportunities at construction and operational stages, at a social level, despite there being a need for Seniors Housing in the area, there is no justification for locating a seniors living development in an inaccessible location, removed from facilities, services and public transport, with insufficient levels of existing infrastructure, and which would likely result in the long term physical and social isolation of its residents.

While the Concept Plan (as amended by the PPR) is able to mitigate some environmental impacts (water, native vegetation, threatened species, etc), the proposal would have an unacceptable impact landscape character of the Oxford Falls Valley. This is discussed further in **Section 5**.

#### **Precautionary Principle**

The Proponent concludes that the development can adequately mitigate environmental impacts. The site is subject to flooding and bushfires, however the proposal has demonstrated these effects can be mitigated. While the Department believes the development does not pose a threat to threatened species, populations, communities or significant habitats, it cannot maintain the intrinsic natural and landscape environmental qualities of the valley floor. The significant amounts of cut and fill required to facilitate the medium density development, would result in irreparable damage to the physical features of the landscape and its character which is inconsistent with the precautionary principle.

#### **Intergenerational Equity**

The proposal provides the region with additional forms of housing which would service the needs of the community and would ensure the development is able to be utilised for future generations. This notwithstanding, the site and its wider area would no longer be able to be enjoyed and appreciated for its unique qualities and valley setting. The ability for the site to maintain its natural attributes would be compromised by the scale and bulk of development proposed, and the ability of future generations to be able to interpret the geographic features

and character of the land, would be lost. For these reasons, the development fails the principle of intergenerational equity.

### Protecting Biodiversity

The proposed development has been able to demonstrate that biodiversity impacts can be satisfactorily mitigated through the maintenance and enhancement of riparian corridors, remnant bushland, stream improvement works and improvements to water quality. The potential impacts on biodiversity can be appropriately managed through design and the proposed works would not impact upon biological diversity or ecological integrity.

### Improved Valuation

The Department has assessed the proposal against the valuation principle and does not consider it to be relevant in this case.

The Department is not entirely satisfied that the proposal is fully consistent with the principles of ESD.

### Section 75I(2) of the Act

Section 75I(2) of the *Environmental Planning and Assessment Act 1979* and clause 8B of the *Environmental Planning and Assessment Regulation 2000* provides that the Director General's Report is to address a number of requirements. These matters and the Departments response are set out as follow:

<b>Section 75I(2) criteria</b>	<b>Department Response</b>
Copy of the Proponent's environmental assessment and any preferred project report	The Proponent's EA is located at <b>Appendix C</b> .
Any advice provided by public authorities on the project	All advice provided by public authorities on the project application for the Minister's consideration is set out in <b>Section 4</b> of this report.
Copy of any report of the Planning Assessment Commission in respect of the project	To date, no report of the Planning Assessment Commission has been prepared in respect of the project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project	Each relevant SEPP that substantially governs the carrying out of the concept plan application is identified immediately below.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development relative to the prevailing environmental planning instrument is provided in <b>Appendix A</b> of this report.
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate.	The environmental assessment of the Concept Plan application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The environmental assessment of the Concept Plan application is this report in its entirety. The proposal adequately complies with the DGRs.
<b>Clause 8B criteria</b>	<b>Department Response</b>
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in this report.
Any aspect of the public interest that the Director-General considers relevant to the project	The public interest is discussed in this report.
The suitability of the site for the project	An assessment of the suitability of the site for



	the project is discussed in <b>Section 5</b> .
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in <b>Section 4</b> of this report and <b>Appendix D</b> .

## Environmental Planning Instruments (EPIs)

### Application of EPIs to Part 3A Projects

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project application. An assessment of compliance with the relevant EPIs is provided immediately below which concludes that the proposal complies with these documents.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy (Major Project) 2005 (MP SEPP)
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors) - previously known as State Environmental Planning Policy (Seniors Living) 2004
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

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

- Warringah Local Environmental Plan 2000
- Draft Warringah Local Environmental Plan 2010

The provisions, including development standards of local environmental plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R(1) in Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations for this application as Section 75I(2)(e) of the Environmental Planning and Assessment Act, 1979 require the Proponent to address such standards and provisions and the Department to duly consider them.

Accordingly the objectives of a number of EPIs and the development standards therein and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment as follows.

## COMPLIANCE WITH PRIMARY CONTROLS

### State Environmental Planning Policy (Major Development) 2005

Refer to **Section 3.1.**

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

Refer to **Section 5.1.4.**

#### Draft Warringah LEP 2010

Given the imminent status of the draft Warringah LEP 2010 and the proposed "E3 Environmental Management" zone, the Department has undertaken an assessment of the proposal against the criteria to be considered in respect to an application for a Site Compatibility Certificate, which would be required to allow a Seniors Living development to proceed to a DA under the E3 zoning (**see below**).

Clause 25(5) states that;

*"The Director-General must not issue a site compatibility certificate unless the Director-General:*

*(a) has taken into account the written comments (if any) concerning the consistency of the proposed development with the criteria referred to in paragraph (b) that are received from the relevant General Manager within 21 days after the application for the certificate was made, and*

*(b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:"*

#### **Site Compatibility Certificate Requirements (Clause 25(5)(b)(i) – (vi))**

	<b>Compliance</b>	<b>Comment</b>
(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,	<b>Yes/No</b>	The Department considers Flora, Fauna and Water Quality to have been adequately addressed by the Proponent, however raises concerns in relation to flooding, bushfire and watercourses/riparian impacts and management.
(ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,	<b>No</b>	The land use controls in the draft Warringah LEP 2010 seek to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values, to provide for a limited range of development that does not have an adverse effect on those values; and, to ensure that development by way of its character, design, location and materials of construction is integrated into the site and natural surroundings, complements and enhances the natural environment and has minimal visual impact.

		The proposal's medium density form of development will result in the site becoming urban in character. Further, the range and scale of development proposed is beyond that anticipated for the area, exacerbating the inconsistency with the zone objectives.
(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,	No	As noted in <b>Section 5.1.4</b> , the proposal is not considered to be located in a convenient location for future residents (who are unable to drive) to access external services and facilities without relying on the proposed private shuttle bus. The Proponent has not adequately addressed financial arrangements for this infrastructure provision, in terms of affordability of on-site services for future residents.
(iv) in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development,	N/A	
(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,	No	The height bulk and scale of the proposal is not considered to be representative of, or compatible with, existing buildings in the valley. The proposal is considered to be inconsistent with the existing low scale forms as they are uncharacteristically large and inappropriate in the semi-rural/residential context, compromising the objectives of the draft Warringah LEP 2010, resulting in an inappropriate development out of keeping with the present and future character of the Oxford Falls Valley.
(vi) if the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the <a href="#">Native Vegetation Act 2003</a> —the impact that the proposed development is likely to have on the conservation and management of native vegetation.	N/A	



## State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. Whilst it is likely the proposal can be designed to comply with the numerical “rules of thumb” contained within the Residential Flat Design Code, it is not considered that the proposal fully complies with the 10 design principles. A full assessment against these principles is provided below.

A Design Verification Statement stating that the subject development has been designed having respect to the design quality principles has not been provided.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The site is located within the “ <i>Locality B2 Oxford Falls Valley</i> ” Desired Future Character Statement of the Warringah LEP 2000 which encourages low density, low impact forms of development. The site has poor access to public transport services, employment, services and facilities, and, recreation opportunities and is not considered appropriate for a medium density Seniors Living development.
Principle 2: Scale	The bulk and scale of the proposed development is not considered appropriate in the context of the Locality. The construction of a medium density Seniors Living development comprising 20 x 3-4 storey buildings is considered to be out of scale with the low scale detached semi-rural/residential dwellings on large parcels of land immediately surrounding the site.
Principle 3: Built Form	It is considered the proposed development fails to relate to the semi-rural/residential nature of the Oxford Falls Valley. 20 x 3-4 storey buildings are not considered to be in keeping with the low density, small scale nature of existing surrounding development. Further, the proposal requires a substantial amount of excavation, cut and fill to accommodate the proposal, which will detrimentally alter the natural topography of the site.
Principle 4: Density	The site is located within “ <i>Locality B2 Oxford Falls Valley</i> ” Desired Future Character Statement of the Warringah LEP 2000 which encourages low density, low impact forms of development. The proposed medium density development comprising 3-4 storeys is considered to be inconsistent with the Desired Future Character Statement, resulting in detrimental impacts on the character of the area.
Principle 5: Resource, Energy and Water Efficiency	The proposal incorporates solar access, natural ventilation and thermal massing, together with rainwater harvesting and re-use. The Proponent has indicated that a BASIX Certificate will be obtained at Project Application stage. The proposal is considered acceptable in this regard.
Principle 6: Landscape	The proposal includes modification and some realignment of existing watercourses. The watercourses will form part of the Riparian/biodiversity and Asset Protection Zones surrounding the site. In addition, the proposal includes an adequate level of

	hard and soft landscaping, incorporating vehicle links to basements and pedestrian links throughout the site. The proposal will not impact on any threatened species.
Principle 7: Amenity	<p>The proposed development has been well designed to minimise potential overshadowing impacts within the site and is considered acceptable by the Department in this regard.</p> <p>The proposed development is not considered to give rise to any substantial acoustic impacts or substantial visual impacts given the sites location within the Oxford Falls Valley.</p>
Principle 8: Safety and Security	The proposal incorporates on site security for buildings and carparks. Buildings have been designed to offer passive surveillance to the spaces between buildings. Concern is raised in relation to the access to the nearest bus stop, which is located approximately 700 metres outside the valley to the south east, which is poorly lit, has unformed pathways and has steep gradients.
Principle 9: Social Dimensions and Housing Affordability	The development includes a mix of 2 and 3 bedroom seniors apartments to provide a variety of housing options to meet the needs of the community.
Principle 10: Aesthetics	The bulk, massing and articulation of the building have not been appropriately designed to be complementary to the local area.

#### **State Environmental Planning Policy (BASIX) 2004**

SEPP - BASIX aims to establish a scheme to encourage sustainable residential development across New South Wales. The current targets of BASIX for Residential Flat Buildings commenced on 1 July 2006.

SEPP BASIX requires all new residential dwellings in NSW to meet the specified sustainability targets of a 20% reduction in energy use and 40% reduction in potable water

The Proponent has indicated that a BASIX Certificate will be submitted at project Application Stage.

#### **State Environmental Planning Policy 55 – Contaminated Land**

A Geotechnical Investigation was undertaken by GeoEnviro Consulting Pty Ltd on 13 September 2006 for a previous scheme. A review of the current proposal has been undertaken by GeoEnviro Consulting Pty Ltd and recommendations for contamination issues remain unaltered. While the report does indicate there is potential for contamination, no chemical analysis was carried out. Detailed soil contamination assessment would be required to be undertaken as part of any subsequent project application and prior to the commencement of any works. Based on these recommendations it is considered that the site can be made suitable for the proposed development.

#### **Warringah Local Environmental Plan (LEP) 2005**

The provisions of WLEP apply to the site. Unlike typical LEPs which control development through zoning, WLEP applies 'Desired Future Locality Statements'. The site is identified as being within B2 – Oxford Falls Valley. The Oxford Falls Valley locality statement states:

*The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows:*

*Future development will be limited to new detached style housing conforming to the housing standards set out below and low intensity, low impact uses. There will be no new development on ridge tops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.*

*The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in area that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.*

*A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.*

*Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.*

The current Concept Plan is inconsistent with the WLEP in respect of the locality statement and development controls. The Department considers the desirable elements of the location's character are its rural residential nature and natural valley landform. The development does not propose low intensity, low impact uses and will result in significant disturbance to the valley's naturally undulating landscape. The proposed development cannot achieve a form of development consistent with its desired future character and is unable to achieve a satisfactory outcome in respect of preserving and enhancing the natural landscape.

This is demonstrated by the scale and bulk of the buildings, the majority of which, exceed the LEPs maximum building height of 8.5 metres. The built form controls of the WLEP for the locality clearly envisage low scale forms of development.

The Department considers the proposal to be inconsistent with the provisions of the Warringah LEP.

#### **Draft Warringah Local Environmental Plan (LEP) 2010**

Refer **Section 3.2.**



## **APPENDIX C    ENVIRONMENTAL ASSESSMENT**

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See the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=1011](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1011)

## **APPENDIX D SUBMISSIONS**

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Refer to attached CD.

### **NSW Rural Fire Service (RFS)**

The RFS has advised that they were unable to properly assess the EA based on the information provided. The RFS requested the Proponent demonstrate how all the buildings within the development comply with the requirements of SEPP Seniors and Planning for Bushfire Protection 2006.

The RFS provided a second response in relation to additional information submitted by the Proponent. The RFS reiterated that they were still not in a position to properly assess the application based on the information provided. They noted that Asset Protection Zones (APZ) were located in the environmental/open space corridor, and required confirmation that the maintenance of these areas as an Inner Protection Area (IPA) would not conflict with the environmental and riparian requirements of these areas. The RFS also stated that the north-eastern building used for short term accommodation is considered a tourist facility. Accordingly, the RFS directed the Proponent to demonstrate how APZs for special fire protection purpose developments could be provided for this building from the forest hazard to the east, as well as complying APZs for all other SFPP buildings as part of the proposal.

### *Response to Preferred Project Report*

Following submission of the PPR, the RFS reviewed the revised scheme and raised no further objection to the proposal subject to the imposition of a number of conditions relating to Asset Protection Zones, Water and Utilities, Access, Evacuation and Emergency Management, Design and Construction and Landscaping.

The RFS noted that the Asset Protection Zones could potentially overlap riparian corridors, and as such, liaison with the relevant Government Agency should occur.

### **NSW Fire Brigade**

The NSW Fire Brigade advised that they have no particular issues with the proposed development. The Fire Brigade recommended that the proposed structures comply with the requirements of the Building Code of Australia and Planning for Bushfire Protection guidelines. They also recommended that vehicle access to the site comply with their guidelines.

### **NSW Office of Water (NOW)**

NOW reiterated that the issues raised previously had not been adequately addressed in the EA. NOW advised that drainage lines 1 and 2 (T1 and T2) are classified "rivers" under the Water Management Act 2000, despite the Proponent's claims they are not rivers. NOW stated that they would require a 20 metre Core Riparian Zone (CRZ) and a 10 metre Vegetated Buffer (VB) for the Middle Creek tributary, and a 10 metre CRZ and 10 metre VB for drainage lines 1 and 2, in which no development or built structures can be located.

NOW indicated that APZs are a requirement of the RFS, and must not compromise the extent, form and function of riparian zones. NOW advised that all APZs must be located outside the riparian zones, and raised concern in relation to vegetation removal within the drainage line 1 riparian zone. Additional information and amendments were requested including, plans of watercourses, riparian zones, cross sections of water bodies, concept designs of stabilisation works and stormwater management works. NOW stated that the Proponent would also be required to address the NSW Farms Dam Policy as a result of the proposed pond and wetlands. General comments were made in respect of contacting the Department of Primary Industries (DPI) about the potential impact of the development on Narrabeen Lagoon, and addressing other relevant state legislation and policies.

*Response to Preferred Project Report*

NOW do not oppose the development, however provided the following comments on the revised scheme

- The CRZ width is 5 metres less than the required minimum. Further, inconsistencies are evident in the PPR documentation with regards to this minimum width.
- Concern was raised by NOW regarding the incorporation of roadways into the CRZ and VB.
- Concern was also raised regarding the stability of drainage lines T1 and T2, should they be moved towards the northern and southern boundaries of the site respectively.
- Due to site constraints, the VBs could be used as a 'Managed Landscapes' for the purposes of Asset Protection. (The Department notes that this approach is at odds with DECCW, which raises concern over combining these two areas).
- It was also reiterated that a 30 metre CRZ be provided to Middle Creek. This is based on the (former) Department of Water and Energy Guidelines dated February 2008 and the classification of the Middle Creek tributary.

**Department of Environment, Climate Change and Water (DECCW)**

DECCW raised concerns in regard to the lack of Aboriginal cultural heritage assessment, insufficient biodiversity assessment, conflict between vegetation corridors and APZs, and flooding. DECCW supported the retention of the main vegetation corridor running north-west to south-east as well as revegetation of remanent riparian vegetation along the tributary of Middle Creek. However, DECCW raised concern that the connectivity of these corridors would be compromised by access roads and APZs. DECCW disputed the claim that APZs were able to retain a full range of natural vegetation, particularly as the functions of a dispersal corridor and bushfire protection are at odds with one another. That is, APZs require vegetation clearing and are therefore incompatible with the protection of biodiversity values of environmental corridors.

DECCW did not support the use of the main vegetation corridor (north-east to south-west through the centre of the site) and riparian corridor along the Middle Creek tributary for bushfire management. DECCW recommended the Concept Plan be modified to ensure all APZs are located outside of these corridors, and requested that the development layout be amended to incorporate a perimeter road. The proposed wetlands, which aim to enhance water quality, were not accompanied by appropriate documentation. Subsequently, it recommended any flood or water quality structures should be located outside of riparian and environmental corridors.

DECCW further advised that any development should be in accordance with State Government's Flood Prone Land Policy. As the site is dissected by a number of watercourses, it advised that consideration be given to evacuation measures given the lack of mobility of residents, and accordingly the State Emergency Service be consulted. DECCW also stated that floodplain risk management is the responsibility of the local council and recommended Warringah Council is consulted in regard to impacts of flooding on the development.

*Response to Preferred Project Report*

DECCW do not oppose the development, however provided the following comments on the revised scheme

- Continued concern in relation to maintaining biodiversity zones as Inner Protection Areas (IPA) and reiterated previous comments about Asset Protection Zones (APZ) being located outside riparian corridors (See NOW comments above).
- Concern was also raised in relation to the Ecological Assessment not addressing how the restoration/protection work of environmental corridors will be managed in perpetuity following construction of the development.



- DECCW is satisfied that floodplain management issues have been adequately addressed by the Proponent.
- A number of suggested modifications were also recommended to the draft Statement of Commitments prepared by the Proponent.

#### **Roads and Traffic Authority (RTA)**

The RTA stated they had reviewed the proposed development and subdivision and requested that a number of issues be addressed in the transport and traffic impact assessment. The RTA indicated that it supported the seagull island and bus shelter.

The RTA recommended that a number of conditions be imposed relating to street lighting, pedestrian refuge, appropriate bus services, off street parking, traffic calming and preparation of a Construction Traffic Management Plan. The RTA did not raise any concerns in respect of the proposed development, nor requested that amendments be made to the proposal in order to mitigate traffic impacts.

#### **NSW Transport and Infrastructure (NSWTI)**

NSWTI raised concern that the number of visitor car parking spaces exceeded the RTA's Guide to Traffic Generating Developments and advised that the number of spaces proposed is not supported as it would facilitate car dependency. NSWTI recommended a minimalist approach to carparking be adopted to minimise private car use and encourage a greater mode shift to non-car transport modes.

NSWTI recommended that the proposal include a pedestrian and cycling network within the site with connections and access to surrounding areas, and appropriate bicycle storage and amenities. NSWTI advised that the southern entrance to the site is too far from the nearest bus route in Iris Street, and would be a disincentive to public transport patronage. Travel demand strategies to facilitate mode shift to non car transport modes on site were also suggested.

#### **Sydney Water**

Sydney Water advised that the proposed development could potentially drain into Sewerage Pumping Station (SPS) 615, however the sewer system would require augmentations including, upgrade of SPS 615 (plus extra emergency storage), and new sewer lines. The Belrose Water Supply Zone could potentially supply the proposed development, however to service the development the water system would also require augmentations including, upsizing several water mains, new booster pump (to maintain existing pressure in high elevated areas), and new reticulation water mains.

Sydney Water indicated they would assess the impact of the proposed development when the Proponent applies for a section 73 certificate. Any adjustments needed to Sydney Water infrastructure as a result of the development would be funded by the Proponent.

## **APPENDIX E    PROPONENT'S RESPONSE TO SUBMISSIONS**

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See the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=1011](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1011)

## **APPENDIX F    RECOMMENDED INSTRUMENT OF REFUSAL**

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