

## CAP Meeting Agenda

*Presiding Member: Mr Brenton Burman*

I write to advise of the Council Assessment Panel Meeting to be held on Tuesday 13 May 2025 at 6:00pm in the Unley Council Chambers, 181 Unley Road Unley.



**Tim Bournier**  
Assessment Manager

Dated: 30/04/2025

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**Members:** Mr Brenton Burman, Ms Colleen Dunn, Mr David Brown, Mr Terry Sutcliffe, Ms Yvonne Svensson

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### KAURNA ACKNOWLEDGEMENT

*Ngadlurlu tampinhi, ngadlu Kurna yartangka inparrinhi. Ngadlurlu parnuku tuwila yartangka tampinhi.*

*Ngadlurlu Kurna Miyurna yaitya yarta-mathanya Wama Tarntanyaku tampinhi. Parnuku yaitya, parnuku tapa purruna yalarra puru purruna.\**

We would like to acknowledge this land that we meet on today is the Traditional Lands for the Kurna people and that we respect their spiritual relationship with their Country.

We also acknowledge the Kurna people as the Traditional Custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kurna people today.

\*Kurna Translation provided by Kurna Warra Karrpanthi

# A G E N D A

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5.	<b>Appeals Against Decision of Assessment Manager</b>	
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6.	<b>Applications Before the ERD Court</b>	
6.1	Nil	-
7.	<b>ERD Court Compromise Reports - CONFIDENTIAL</b>	
7.1	<b>Motion to move into confidence</b>	-
	Nil	-
	<b>Motion to move out of confidence</b>	-
	Nil	
8.	<b>Council Reports</b>	
8.1	Nil	-
9.	<b>Other Business</b>	
9.1	Nil	-

**ITEM 4.1****DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

<b>DEVELOPMENT NO:</b>	24031252
<b>APPLICANT:</b>	Living Choice Australia c/o URPS
<b>ADDRESS:</b>	123 FISHER ST FULLARTON SA 5063 103 FISHER ST FULLARTON SA 5063
<b>NATURE OF DEVELOPMENT:</b>	Change of use of existing 10-level supported accommodation building to supported accommodation and residential flat building, comprising of 56 apartments, with associated building alterations and additions, decking and swimming pool and associated safety features; The construction of a 5-level building for the purpose of a retirement facility, the removal of 42 Regulated and 8 Significant trees; the construction of 16 two storey dwellings including retaining walls, fencing and landscaping.
<b>ZONING INFORMATION:</b>	<b>Zones:</b> <ul style="list-style-type: none"> <li>• Urban Renewal Neighbourhood</li> </ul> <b>Overlays:</b> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Affordable Housing</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Urban Tree Canopy</li> </ul> <b>Technical Numeric Variations (TNVs):</b> <ul style="list-style-type: none"> <li>• Maximum Building Height (Metres) (Maximum building height is 18.5m)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 5 levels)</li> </ul>
<b>LODGEMENT DATE:</b>	30 Sept 2024
<b>RELEVANT AUTHORITY:</b>	Assessment Panel
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2024.17 12/9/2024
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed – Performance Assessed <ul style="list-style-type: none"> <li>• <b>PER ELEMENT:</b> Retirement facility: Code Assessed - Performance Assessed Fences and walls New housing Retaining wall: Code Assessed - Performance Assessed Fence: Code Assessed - Performance Assessed Detached dwelling: Code Assessed - Performance Assessed Residential flat building: Code Assessed - Performance Assessed Supported accommodation: Code Assessed - </li> </ul>

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	Performance Assessed Shade sail: Code Assessed - Performance Assessed Building Alterations: Accepted Demolition Change of use: Code Assessed - Performance Assessed Demolition: Exempt Partial demolition of a building or structure: Code Assessed - Performance Assessed Tree-damaging activity: Code Assessed - Performance Assessed Swimming pool or spa pool and associated swimming pool safety features: Code Assessed - Accepted <ul style="list-style-type: none"> <li>• <b>OVERALL APPLICATION CATEGORY:</b> Code Assessed - Performance Assessed</li> <li>• <b>REASON</b> P&amp;D Code</li> </ul>
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Amelia De Ruvo Senior Planning Officer
<b>REFERRALS STATUTORY:</b>	Environment Protection Authority
<b>REFERRALS NON-STATUTORY:</b>	Traffic Engineer Manager Climate & Sustainability Project Lead Civil Manager Assets and Operations City Arborist Urban Design Lead
<b>RECOMMENDATION</b>	Support subject to Reserve Matters and Conditions

**ITEM 4.1****DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON****ATTACHMENTS PAGE:**

Document Title	File Size
<a href="#">Appendix A – Condition 1 Master Plan list</a>	132.52 KB
Attachment 1 – Master Plans	
1.1 – <a href="#">Master Plan</a>	3.36 MB
1.2 – <a href="#">Streetscape Elevation</a>	1.43 MB
1.3 – <a href="#">Overshadowing Diagrams</a>	640.64 KB
Attachment 2 – Architectural Plans	
2.1 – <a href="#">Existing 10L building</a>	23.84 MB
2.2 – <a href="#">Retirement Facility</a>	9.27 MB
2.3 – <a href="#">Dwellings</a>	44.85 MB
2.4 – <a href="#">Fencing and Retaining</a>	688.56 KB
Attachment 3 – Civil Plans	
3.1 – <a href="#">BCA Infrastructure and building services concept design report</a>	1.18 MB
3.2 – <a href="#">FMG Bore Hole plan and data</a>	5.81 MB
3.3 – <a href="#">FMG Dwelling civil and drainage plans</a>	3.56 MB
3.4 – <a href="#">FMG 10 Level ramp design</a>	1.12 MB
3.5 – <a href="#">FMG Master Plan stormwater layout plan and supporting assessment</a>	18.24 MB
3.6 – <a href="#">Benching &amp; Retaining Plan</a>	492.33 KB
3.7 – <a href="#">Overall Civil and Drainage Plans</a>	8.67 MB
Attachment 4 – Traffic Reports	
4.1 – <a href="#">MFY - Initial Traffic Management report</a>	3.46 MB
Attachment 5 – Waste Management	
5.1 – <a href="#">Colby Phillips – Highgate waste management plan (excluding Opal)</a>	3.76 MB
5.2 – <a href="#">Colby Phillips – Opal RAC Highgate waste management plan</a>	1.68 MB
Attachment 6 – Regulated and Significant Tree	
6.1 – <a href="#">Adelaide Tree Surgery – Arboricultural Tree Survey Audit report</a>	862.29 KB
6.2 – <a href="#">Arborman – Arboricultural Impact Assessment Report</a>	14.32 MB
6.3 – <a href="#">Succession Ecology – Regulated and Significant Tree Habitat Assessment</a>	42.17 MB
6.4 – <a href="#">Oxygen Report 2023 (Council prepared)</a>	4.54 MB
Attachment 7 – Landscaping	
7.1 – <a href="#">Clover – Landscape Concept Design Report</a>	48.9 MB

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Attachment 8 – Environmental Protection Agency documentation	
8.1 – <a href="#">Preliminary Site Investigation</a>	74.44 MB
8.2 – <a href="#">Construction and Environmental Management Plan</a>	4.23 MB
Attachment 9 – URPS report	
9.1 – <a href="#">Planning Report</a>	4.02 MB
9.2 – <a href="#">URPS Response to Request for Information</a>	1.39 MB
Attachment 10 – Public Notification	
10.1 – <a href="#">Combined representations lodged</a>	15.99 MB
10.2 – <a href="#">Response to representations</a>	346.25 KB

## **ITEM 4.1**

### **DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

#### **DETAILED DESCRIPTION OF PROPOSAL:**

This proposal is for the redevelopment of 103 Fisher Street, Fullarton and a small portion of 123 Fisher Street, Fullarton. For the purposes of this application, both properties are considered the '*relevant land*', however the development will predominantly occurring within 103 Fisher Street, Fullarton.

The application proposes the following:

- The change of use of the existing 10-level building from supported accommodation to supported accommodation and a residential flat building;
- The construction of a 5-level building for the purpose of a retirement facility;
- The construction of 16 two storey dwellings;
- The construction of retaining walls and fencing and associated landscaping; and
- The removal of 42 Regulated and eight (8) Significant trees.

The proposal indicates the provision of a new public road and an area of public open space, this will be assessed separately within a future land division application. Both of these matters do not form part of the assessment.

The three fundamental elements of the proposal are individually described below with other elements subsequently discussed.

#### **10 Level Building**

The 10-level building on the subject land will be retained and repurposed into supported accommodation (Opal Healthcare) and a residential flat building (apartments). The existing building will undergo substantial internal and external modifications. The internals of the building will be stripped back to its structural elements and then re-clad and finished in varying materials, including metal cladding in differing finishes, aluminium vertical battens, masonry brick, glass balustrades and feature mesh screening.

The supported accommodation (Opal Healthcare) will have exclusive use of a portion of the basement, half of the ground floor and Levels 1 – 4. The basement will provide staff amenities and break rooms, as well as unidentified rooms. The ground level will be comprised of an entrance with an ancillary shop (café) and an outdoor child play area, administrative offices and meeting rooms, associated services (such as a wellness centre), staff workspaces, utilities areas, common areas including a hair salon, lounge and dining room and an outdoor area / functions space. There will also be 15 single bedrooms with en-suite bathrooms for residents.

Level 1 to 4 will be comprised of 36 single bedrooms with ensuite bathrooms and resident balconies each with common areas including lounge and dining areas, common terraces, sitting rooms, learning spaces, staff workspaces and utilities areas.

Car parking for Opal will be provided at both ground level (open air), between the building and Highgate Street, as well as within the loading / dock area. Visitors will have access to 45 car parks at ground level and a drop-off zone directly in front of the eastern entrance to the building. An additional four car parking spaces and a separate bus park will be provided within the loading / dock area.

The residential apartments are sited on Levels 5 to 9, with the entrance / foyer at ground level and basement car parking and utilities. The main entrance at ground level will provide residents with access to a gym with amenities, lounge area, meeting room, wine room, board room and a swimming pool and a deck area. Levels 5 – 8 will each be comprised of six (6) two-bedroom apartments and six (6) three-bedroom apartments, with their own private balcony. Level 9 will be comprised of eight (8) three-bedroom apartments, each with their own private balcony. Within the basement there are 53 car parking spaces, with the remainder of the car parks located within the basement of the 5 Level Retirement Facility. To facilitate

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### **DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

vehicular access into the car park and waste collection area, new crossovers and driveways from Highgate Street will be installed with a ramp down into the basement of the 10-level building. All pedestrian access to the site will be obtained from the northern and western sides on the ground floor.

#### **Retirement Facility**

The proposal seeks to construct a 5-level building for the purpose of a retirement facility. retirement facility as per the *Planning and Design Code* is defined as:

*‘... a facility operating under the regulatory framework of the Retirement Villages Act 2016’*

Under the *Retirement Villages Act 2016* meaning:

*‘... a complex of residences or a number of separate complexes of residences (including appurtenant land) occupied or intended for occupation under a retirement village scheme but does not include a complex excluded from the ambit of this definition by the regulations;’*

The retirement facility will accommodate 72 retirement living apartments, comprised of six (6) one bedroom apartments, 27 two bedroom apartments, 31 three bedroom apartments and eight (8) four bedroom apartments across Levels 1 to 4. The ground floor of the northern tower includes residential amenities including a residential lounge, games area, gym, function room, tasting room, residential multi-purpose room, art room as well as staff workspaces and utilities areas. Directly accessible from the games and art room there will be a deck overlooking the central garden. The residents will also have access to two (2) pickleball courts on Level 4.

The proposed Retirement Facility will be finished in a variety of materials, including metal cladding in differing finishes, aluminium feature panels, rendered finishes, masonry, and metal screening.

Vehicular access to the retirement facility is via the proposed new public road via two access points. The primary access is via a two way driveway leading to the basement and undercroft car parking providing 172 car parks shared by this facility and the 10-level building. A secondary access is provided directly from the proposed public road and services the small northern tower car park of 10 car parks.

#### **Dwellings**

The proposal seeks to construct 16 two-storey dwellings in a terrace arrangement, 13 fronting to Fisher Street and three (3) fronting to Highgate Street. There are seven distinct dwelling designs, with some dwellings being mirrored dependent on the access arrangements. All of the dwellings fronting to Fisher Street will have rear vehicular access from the proposed public road with the three (3) Highgate Street Dwellings being accessed via Highgate Street or Fisher Street.

The proposed dwellings are arranged as follows:

- Lot 1 will have a 632m<sup>2</sup> site area and a dwelling comprised of four bedrooms, four bathrooms (two being ensuites), two living areas, a media room, kitchen and dining, laundry, two car garage and three balconies under the main roof.
- Lots 2 and 9 are to have Type C dwellings each with a site area of 260m<sup>2</sup>. These dwellings are comprised of three bedrooms, three bathrooms (one being an ensuite), a living area, open plan kitchen, living and dining area, pantry, laundry, balcony and a two car garage under the main roof.
- Lots 3, 7, 10 and 11 are to have Type E & Type E (mirrored) dwellings each with a site area of 195m<sup>2</sup>. Lot 13 will have a Type E dwelling with a larger site area of 283m<sup>2</sup>. The dwellings are comprised of two bedrooms, three bathrooms (one being an ensuite), living, study, laundry, open plan Kitchen, dining and living and a two car garage under the main roof.



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- Lots 4, 8 and 12 are to have Type A dwellings each with a site area of 260m<sup>2</sup>. These dwellings are comprised of four bedrooms, three bathrooms (two being ensuites), a bathroom / laundry, family room, open plan kitchen, living and dining area with walk in pantry, balconies and a two car garage under the main roof.
- Lots 5, and 6 are to have Type B & Type B (mirrored) dwellings each with a site area of 283m<sup>2</sup>. The dwellings are comprised of four bedrooms, four bathrooms (two being ensuites), family, media, study, laundry, open plan kitchen, family and dining area, balconies and a two car garage under the main roof.
- Lot 14 will have a 463m<sup>2</sup> site area and a dwelling comprised of four bedrooms, four bathrooms (two being ensuites), two living areas, family area, study, open plan kitchen with walk in pantry, dining and a two car garage under the main roof. There is also a swimming pool within the private open space.
- Lots 15 and 16 are to have Type D and Type D (mirrored) dwellings each with a site area of 337.5m<sup>2</sup>. These dwellings are comprised of four bedrooms, four bathrooms (two being nsuites), a family area, study, media room, open plan kitchen, living and dining area, pantry, laundry, balcony and a two car garage under the main roof.

All of the proposed dwellings will be finished in a variety of materials including painted rendered finishes, stone cladding, face brick, aluminium vertical battens, timber look, vertical grooved cladding, glass balustrades and colorbond roof sheeting.

#### **Regulated and Significant Trees**

The site currently contains 69 Regulated Trees and 30 Significant Trees as well as numerous non-regulated vegetation. The proposal seeks to remove 42 of the Regulated Trees and eight (8) of the Significant Trees from within the site and relocate and transplant one (1) tree, an exempt Port Jackson Fig.

#### **Fencing and Retaining**

The proposal seeks to construct multiple retaining walls and fencing across the subject land. Along the boundaries of the dwellings, results in a 1.8m Colorbond fence on top of retaining wall varying in height between 0.2m and 0.55m. Along the rear boundaries of Lots 14 – 16 a 1.5m retaining wall with a 1.1m masonry fence on top. Lastly along the common boundary of 103 and 123 Fisher Street is a rendered retaining wall to a maximum height of 2m and a 1m steel tubular fence on top.

#### **Internal Road and Open Space**

As noted earlier, the proposed internal public road and public open space does not form part of the assessment of the current application. Notwithstanding this and as noted on the masterplan, refer to **Attachment 1.1**, the development of the land ultimately seeks to provide approximately 2600m<sup>2</sup> of Public Open Space fronting to Fisher Street and the construction of a Public Road. The Public Road seeks to provide vehicular access to both the Retirement Facility and access to Lots 1 – 13 of the dwellings fronting to Fisher Street.

The vesting of land will be considered as part of the of a future land diviosn application and assessment.

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### **DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

#### **PRELIMINARY INFORMATION:**

##### **Amendments to Plans**

During the assessment of the application no major alterations to the proposal were made, with the land use and building footprints remaining relatively consistent. There have been alterations to the proposal in terms of dwelling yield within both the 10L residential flat buildings and the retirement facility and design changes to several of the detached dwellings.

##### **Dwelling Yield**

The dwelling yield on Levels 5 – 9 of the 10L building has been reduced from 64 dwellings to 56 dwellings. The Retirement Facility has been amended to increase the number of residences from 63 to 72. This resulted in some internal modification to address the interface of the building with the open space.

##### **Waste Collection**

The waste collection was amended for both the retirement facility and the 10-level supported accommodation to ensure all waste can be managed entirely within the boundaries of each site. This has resulted in dedicated waste / loading dock with associated turning bays so all waste vehicles are able to enter and exit the site in a forward motion, without interfering with or disturbing the functionality of the land uses. This will be discussed in detail later in this report.

##### **Arborist Advice**

The applicant provided a supporting report from Arborman, this was peer reviewed by Council's consultant arborist. As a result of the concerns raised by Council's arborist, amendments to the development were undertaken that differ from the plans made available during public notification.

- The dwelling on Lot 1 has been reduced in building footprint, increased the front setback and vehicular access has been moved from Fisher Street to the proposed public road at the rear to minimise the encroachment within the Tree Protection Zones (TPZ) of the regulated and significant trees on site and within the verge of Fisher Street.
- Lot 13 has been altered from a Type B dwelling to a Type E dwelling, reducing the dwelling width from 10m to 7.5m to increase the offset from the significant Lemon Scented Gum within the proposed Public Open Space reducing the encroachment of the dwelling within the TPZ.
- The number of regulated trees proposed to be removed increased from 34 to 42 regulated trees. This was due to 11 trees being initially mis-identified as non-regulated or significant trees. The applicant's arborist re-reviewed all the trees on site and has identified trees 39, 43, 45, 46, 63, 242 and 243 are regulated trees and will require to be removed to allow for the construction of the development. The mis-identified trees were always noted to be removed, however their legislative status was incorrect.
- Tree 23 is a *Schinus areira* (Peppercorn) tree identified as an exempt tree species under Regulation 3F of Planning Development and Infrastructure (General) Regulations 2017 (*The Regs*). It was found late in the assessment that tree 23 had been mis-identified as a significant tree for removal. As the tree is an exempt species the number of significant trees to be removed reduced to eight (8). The URPS report has been updated to reflect this, however the remaining technical reports have not been updated.

##### **Plan Discrepancies**

Council administration have made several requests for additional information or clarification/correction of plans during the assessment of the proposal, including:

- Inconsistencies across the architectural plan set;

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### **DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

- Incomplete floor plans;
- Recommendations from applicant technical response not being shown on the plans;
- Driveway locations not shown;

It is acknowledged there remains several drafting discrepancies within the provided plan set. These include incomplete floor plans to the ground level common areas of the 5-level retirement facility and the apartments within the 10-level building, and discrepancies with fencing details on Lot 1, 13, 15, and 16. These drafting issues do not relate to planning matters directly, do not alter the fundamental land uses associated with the development on site, nor impact on whether the proposed development is appropriate. It is anticipated the applicant will provide a finalised plan set addressing the drafting discrepancies prior to Development Approval.

#### **Land Management Agreement**

It was identified during the assessment that due to the proposed shared access and car parking arrangements, a Land Management Agreement (LMA) was required to ensure ongoing shared arrangements are secured and reflected in tenure agreements with residents.

An executed LMA is expected to be presented to the Panel, prior to or at the meeting to enable the application to be fully considered. If not presented, the recommendation of administration would be to defer a decision until such time as the LMA is fully executed by all parties. This has been made clear to the applicant.

#### **Land Division**

A land division application has been submitted, however at the time of writing this report, this application has not been verified and is awaiting mandatory information. The land division application proposes to create the master allotments, public open space and the public road with all associated easements and rights of way.

All matters relating to the public road and public open space will be assessed during the future land division assessment.

### **SUBJECT LAND & LOCALITY:**

#### **Certificates of Titles of Subject Land**

**Location reference:** 123 FISHER ST FULLARTON SA 5063

**Title ref.:** CT 6166/138 **Plan Parcel:** D67722 AL70 **Council:** CITY OF UNLEY

**Location reference:** 103 FISHER ST FULLARTON SA 5063

**Title ref.:** CT 6303/149 **Plan Parcel:** D74086 AL73 **Council:** CITY OF UNLEY

**Location reference:** 103 FISHER ST FULLARTON SA 5063

**Title ref.:** CT 6303/150 **Plan Parcel:** D74086 AL73 **Council:** CITY OF UNLEY

#### **Zoning of the Subject Land**

The subject land encompasses 103 and 123 Fisher Street, both are located within the **Urban Renewal Zone** and subject to the **Affordable Housing Overlay**, **Airport Building Heights (Regulated) Overlay**, **Prescribed Wells Area Overlay**, **Regulated and Significant Tree Overlay**, **Stormwater Management Overlay** and the **Urban Tree Canopy Overlay**.

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#### **Site Description**

The subject land is sited on the southern side of Fisher Street and the western side of Highgate Street and is an irregular shaped allotment. The subject land has an approximate primary road frontage of 272 meters (m) to Fisher Street, an approximate secondary street frontage of 182m to Highgate Street and an approximate site area of 28,000m<sup>2</sup>. There are currently no known encumbrances on the land.

The site has a general fall from the corner of Fisher and Highgate Streets to the south-western corner of 103 Fisher Street. This fall is approximately 2m.

103 Fisher Street currently contains a 10L building sited adjacent the eastern boundary and running parallel with Highgate Street. The facility was formally known as the Highgate House and operated as the Julia Farr Centre, a supported accommodation facility.

The red brick two storey building (formally known as the Gosse Building) is sited to the north-eastern corner of the land, with the building fronting to both Fisher Street and Highgate Street. This building was previously used for residential accommodation.

The Round House, a single storey building sited towards the northern boundary in the middle of the subject land, was previously used as an administrative building for the Julia Farr Centre.

In the centre of the subject land is the single level chapel associated with the Julia Farr Centre. With the exception of the chapel, currently being used by the applicant as temporary administrative offices for Living Choice (applicant), each of these buildings are now vacant.

The site also contains a covered walkway, hard stand car parking areas and spacious gardens all formerly associated with the Julia Farr Centre.

The subject land is currently accessed by four (4) crossovers from Fisher Street and four (4) crossovers from Highgate Street.

123 Fisher Street encompasses the existing Retirement Facility, run and operated by the applicant - Living Choice Australia. This comprises multiple buildings to a maximum height of six levels. At ground level fronting to Fisher Street is a shop.

**Figures 1 & 2 – Existing 10L building and chapel – Source: URPS report**





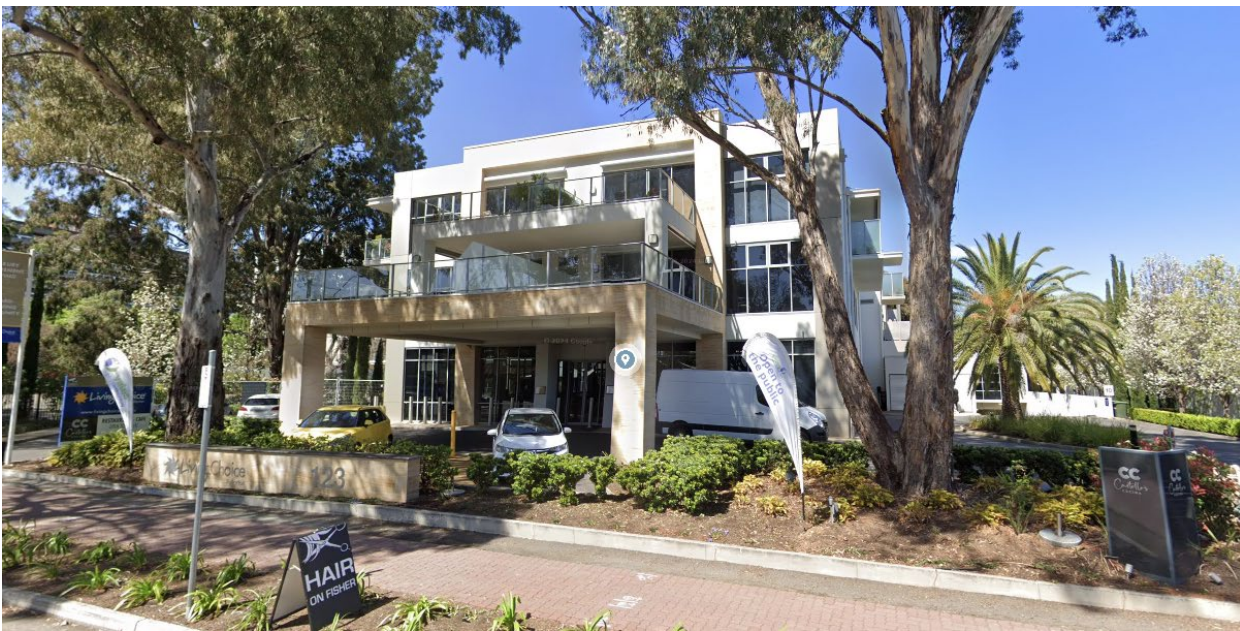
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Figures 3 & 4 – Round House and Gosse Building – Source: URPS report



Figures 5 – Existing Living Choice Australia retirement facility



## **Locality**

When determining the locality of the subject land the general pattern of development and the extent the proposed development is likely to impact surrounding occupiers and landowners was considered. The locality falls within three zones, being the **Urban Renewal Zone**, **Established Neighbourhood Zone** and the **Community Facilities Zone**, as shown in Figures 6 and 7.

The locality is predominantly residential in nature, with the non-residential land uses being the existing Living Choice Australia Retirement Facility, west of the subject land, and Concordia College - St Johns Campus and Concordia College – Concordia Campus (Education Facility) south of the subject land.

The residential built form in the locality is mixed with a wide range of dwelling styles constructed over a wide span of eras. The dwellings range from character dwellings constructed in the early part of the 20<sup>th</sup> century to post WWII dwellings of the 1960's and 70's (including residential flat buildings and group dwellings) and more modern dwellings constructed in the last 10-15 years dispersed throughout the locality.

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The locality is predominantly comprised of single storey dwellings, with a scattering of two storey dwellings throughout.

The existing Living Choice retirement facility are recent constructions and are modern contemporary 6 level buildings. The Concordia College buildings range in era from recent contemporary buildings to a local heritage place.

The residential allotment pattern in the locality is relatively consistent comprising of rectangular allotments with wide street frontages and deep allotment boundaries, together with a good number of sporadic land divisions occurring during the 1960s and 70s accommodating residential flat buildings and group dwellings of that era.

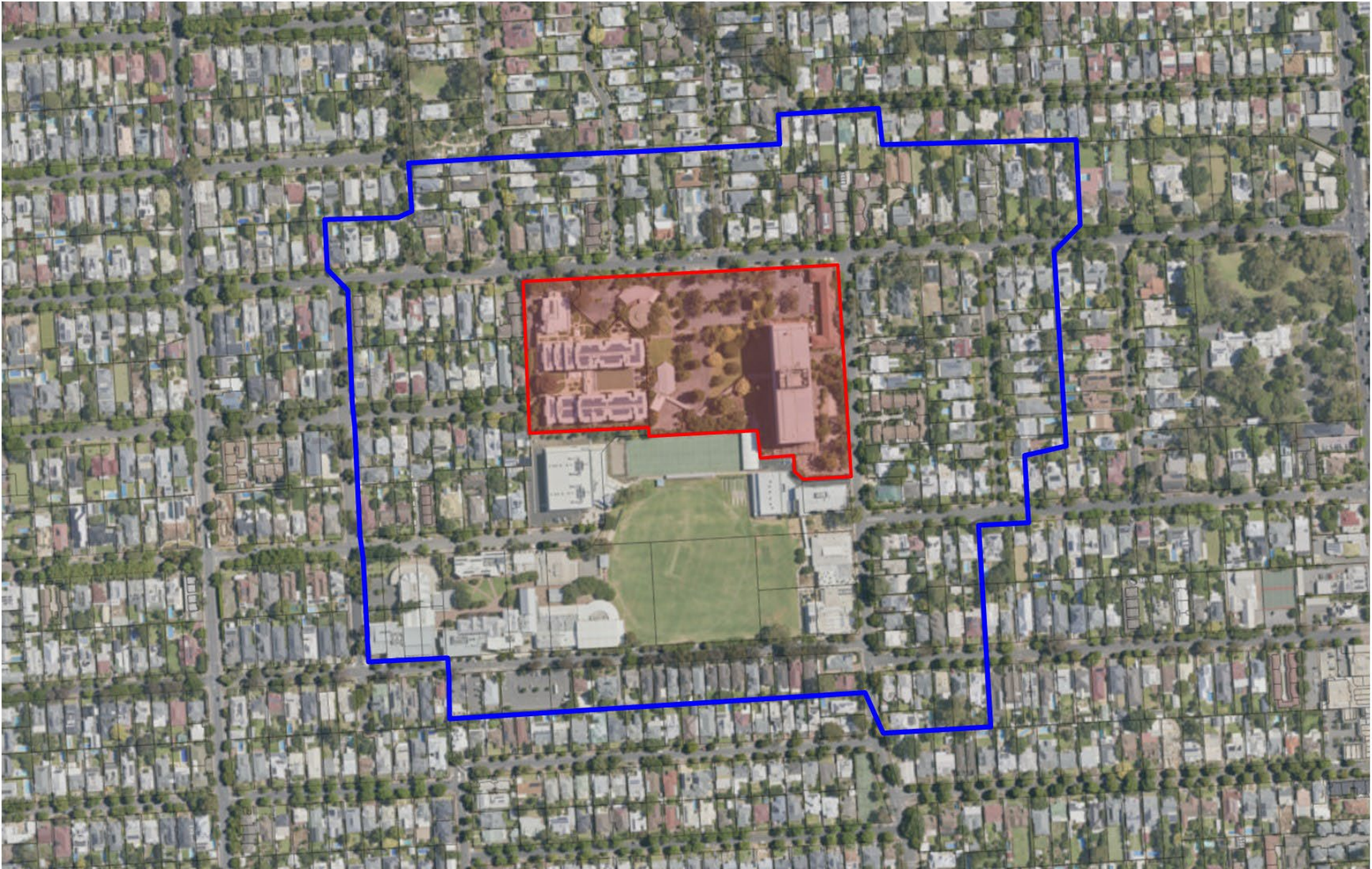
The locality is well vegetated with regulated trees and mature vegetation seen both on private land as well as within the verge of Fisher Street, Highgate Street, Winchester Street and Marlborough Street.



**ITEM 4.1**

**DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

Figure 6 - Locality Plan





**ITEM 4.1**

**DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

Figure 7 - Zoning Map





## **ITEM 4.1**

### **DEVELOPMENT APPLICATION – 24031252 – 103 & 123 FISHER STREET, FULLARTON**

#### **SERIOUSLY AT VARIANCE ASSESSMENT**

The PDI Act 2016, Section 107 (2)(c) states that *the development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code (disregarding minor variations).*

The **Urban Renewal Neighbourhood Zone Desired Outcome** states:

**DO 1** – *Housing and other land uses which no longer meet community preferences are replaced with new diverse housing options. Housing density increases, taking advantage of well-located urban land. Employment and community services will improve access to jobs, goods and services without compromising residential amenity.*

The **Urban Renewal Neighbourhood Zone Performance Outcome** states:

**PO 1.1** – *Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable urban neighbourhood.*

The proposal provides a variety of housing options, from individual dwellings to a retirement facility and supported accommodation, giving residents greater housing diversity and access to community services as they mature. The supported accommodation and retirement facilities are complementary land uses to the predominantly residential locality to support an active, convenient and walkable urban neighbourhood.

As seen in the following planning assessment, the proposal is considered to satisfy the intent of the **Desired Outcomes** and **Performance Outcomes** with only minor variations noted against the respective **Designated Performance Features**. Therefore, this proposal is not considered to be seriously at variance with the Planning and Design Code.

#### **PUBLIC NOTIFICATION**

- **REASON**

Urban Renewal Zone – Table 5 – Procedural Matter (PM) – Notification – Clause 3(d) & (g) any development comprising a residential flat building or supported accommodation that exceeds the maximum building height of DPF 2.1 (18.5m) is not an excluded form of development and therefore requires to be publicly notified.

As part of the public notification process 78 owners of adjacent land were directly notified by direct mail. The properties were identified as adjacent land within 60m of the relevant land. To clarify *Practice Direction 3 – Notification of Performance Assessment Development*, adjacent land is defined as

*‘... means land that is no more than 60 metres from the other land...’.*

A copy of the adjacent land can be seen in **Figure 8** below.

In addition to the direct notice, notice(s) were placed on the land in the form of five (5) A3 signs with two signs sited on Fisher Street, two signs sited on Highgate Street and one sign sited on Marlborough Street frontage. The signs detailing the proposal were maintained for the duration of the notification period.

During the notification period, Council received 32 representations on the development, two (2) who support the development, 21 who support the development with concerns and 9 who oppose the development. It is noted one representor submitted two representations. Of the 32 representations received, 14 representors wish to address the Council Assessment Panel (CAP) in support of their representation.

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A copy of the representations can be found in **Attachments 10.1.**




**Representations:**

Representor Name / Address	Support / Support with Concerns / Oppose	Request to be heard	Represented by
[REDACTED]	I support the development	No	-
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I oppose the development	No	-
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I support the development	No	-
[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I support the development with some concerns	Yes	Self

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[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I oppose the development	No	-
[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I support the development with some concerns	No	-
[REDACTED]	I oppose the development	No	-
[REDACTED]	I oppose the development	Yes	Self
[REDACTED]	I oppose the development	Yes	Self
[REDACTED]	I oppose the development	Yes	Self
[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I support the development with some concerns	Yes	Self
[REDACTED]	I oppose the development	Yes	Self
[REDACTED]	I support the development with some concerns	No	-

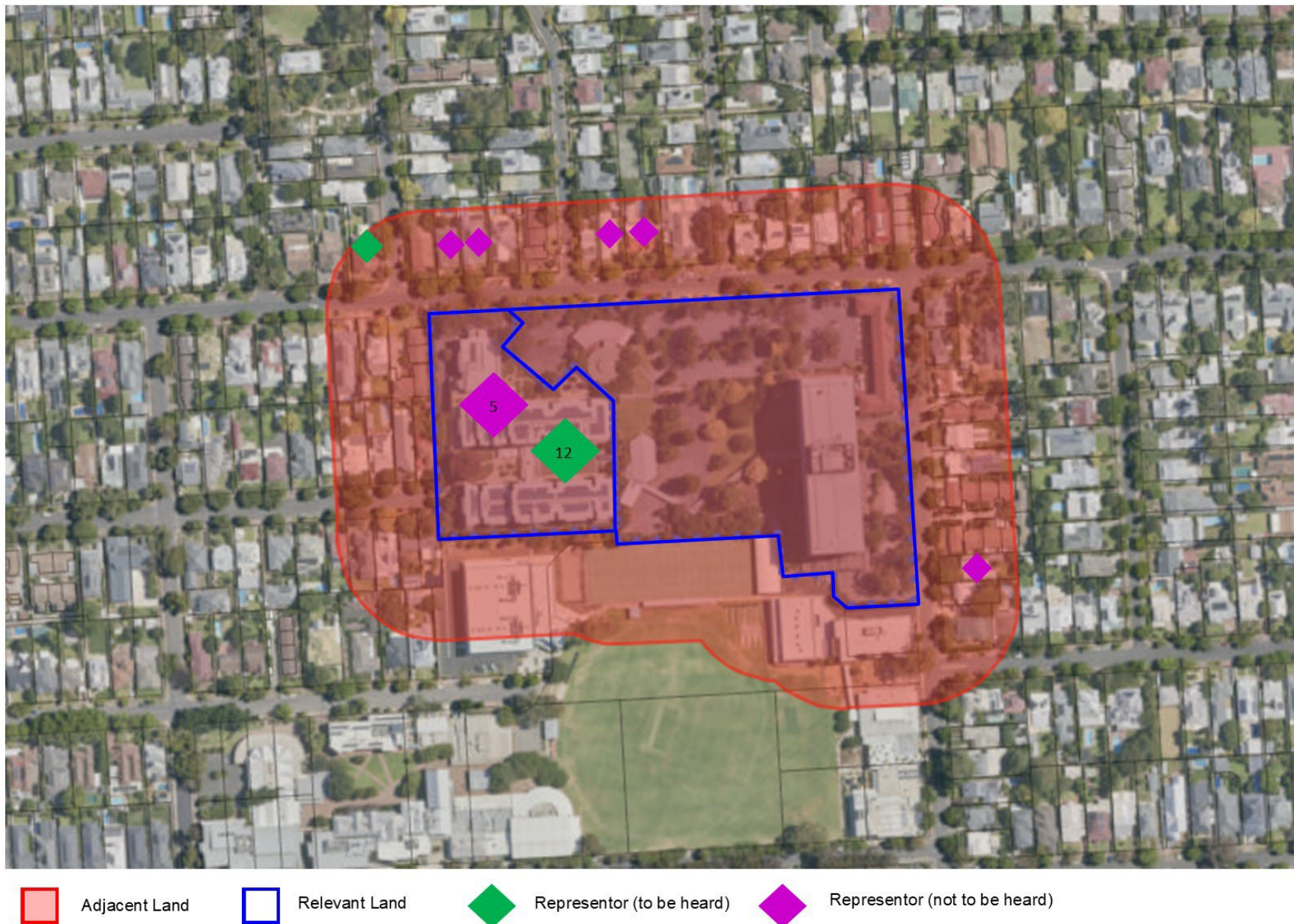
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	I support the development with some concerns	Yes	Self
	I oppose the development	No	-
	I oppose the development	Yes	Self

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**Figure 8 - Public Notification Map and representors - (9 representors are located outside of the map below)**



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#### **Summary:**

The matters raised by the representors are as follows:

- Change in use of the 10L building is a positive outcome as it provides the community with a greater level of access to the community services;
- Lack of transparency due to the Land Division not being considered concurrently with the built form application;
- Inaccurate Plans;
- Overshadowing to the existing retirement facility;
- Internal Overshadowing within the retirement facility;
- Overshadowing to the existing retirement facility;
- Overlooking from the development;
- Loss of privacy due to overlooking;
- Loss of amenity and greenspace;
- The commitment to provide 15% public open space has not been provided;
- Lack of private open space;
- Removal of regulated and significant trees;
- Loss of substantial tree canopy;
- Encroachment into the Tree Protection Zones of the trees to be retained;
- Landscaping plan is inaccurate and misleading;
- Traffic congestion;
- Lack on on-site vehicle parking with visitors using on-street parking when visiting;
- Visitors using on-street parking;
- Loss of on-street parking during the duration of construction;
- Accessibility concerns for residents and visitor;
- Excessive noise emissions from the internal road to the existing apartments within the Retirement Facility on 123 Fisher Street, Fullarton;
- During construction a negative impact to the amenity to residents due to dust and debris, traffic and the like;
- Waste collection for the 5L building being a confined area that is dangerous and noisy for residents;
- Safety concerns;
- Siting and location of the driveway to the proposed Retirement Facility and its lack of connectivity with the existing Retirement Facility on 123 Fisher Street, Fullarton;
- Concerns with the scale, siting and location and orientation of the proposed retirement facility;
- Building height;
- Building setbacks;
- Visual impact to the streetscape;
- Residents currently use the sporting fields of Concordia College for recreation use (e.g. dog walking, exercise and thoroughfares), and is a safety and liability concern for Concordia College;
- Devaluing property prices;

In accordance with Regulation 51 of *The Regs*, the applicant provided a response to the representations, refer to **Attachment 10.2**.

In response to the concerns raised by representations the following amendments were made to the proposal:

- A revised Arboricultural Impact Assessment confirming details of tree sensitive construction measures, where required.

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- Provision of a Tree Protection Management Plan for the construction phase of the development to ensure Regulated/Significant Tree protection and retention.
- Amended landscape plans. This includes an updated tree replacement plan to confirm location and number of tree replacement plantings. This includes street trees.
- Inclusion of privacy screening to the rear balcony of Townhouse 1 to mitigate views into the communal open space of the existing LCA retirement facility.
- Increased separation of Townhouses 2-5 from the communal open space of the existing LCA retirement facility and provision of a landscaped buffer.
- An elevation and section of the proposed fence treatment at the shared boundary of the existing LCA retirement facility and the proposed access driveway for the proposed retirement facility.
- Revision of waste refuse collection for 10-level building apartments. No shared waste arrangements between the 10 and 5-level building are proposed. All waste associated with the 10-level building is to be managed/collected within the site of the 10-level building.
- Detail of the pedestrian link between the 10-level and 5-level buildings added for car parking purposes. Including access door to the 5-level building on architectural plans.
- Amendments to the dwellings including providing private open space, soft landscaping, driveway crossovers and bin enclosures. Townhouses 5 and 6 have also been flipped to satisfy crossover setbacks from new intersection.
- Additional balconies added to 5-level retirement facility - all residences are provided with individual balconies.
- Inclusion of Water Sensitive Urban Design (WSUD) where appropriate.
- Plan inconsistencies (at the time) where resolved.

The response to representations was not individually sent to the representors with notice of the applicant's response and meeting agenda distributed through the mandatory notification letter to representors of the scheduled CAP Meeting.

## **AGENCY REFERRALS**

- Environment Protection Authority (EPA)  
When a development proposes a change in land use to a use which is considered to be a more sensitive, a Preliminary Site Investigations report, and the associated documents outlined in *Schedule 4 (2A)(2) of The Regs*, are required to be provided as part of the assessment. Within *Part 2 – Land Use Sensitivity in Practice Direction 14 - Site Contamination Assessment 2021 - Table 1* outlines the land use sensitivity hierarchy – with the most sensitive land use identified as Item 1.

The proposal seeks both a change in land use and the construction of development identified as Item 1 - Domestic Residential – therefore a Preliminary Site Investigations report prepared by LWC was provided by the applicant, refer to **Attachment 8.1**.

A mandatory referral to the EPA referral body was undertaken in accordance with *Schedule 9 (3)(9A) Site Contamination of the Planning, Development and Infrastructure (General) Regulations 2017 (The Regs)* and Part 9.1 of the Planning and Design Code.

The EPA referral response raised no objection to the development or concerns with the proposal. Two conditions of consent and an advisory note have been directed to be attached to a decision should the application be supported.

## **INTERNAL REFERRALS**

- Traffic Engineer
- Manager Climate & Sustainability



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- Project Lead Civil
- Manager Assets and Operations
- City Arborist
- Urban Design Lead

#### **RULES OF INTERPRETATION:**

The application has been assessed against the relevant provisions of the Planning & Design Code (*the Code*). *The Code* outlines zones, subzones, overlay and general provisions policy in turn providing Performance Outcomes (POs) and Desired Outcome (DOs).

In order to interpret Performance Outcomes, the policy includes a standard outcome generally meeting the corresponding performance outcome (Designated Performance Feature or DPF). A DPF provides a guide as to what will satisfy the corresponding performance outcome. Given the assessment is made on the merits of the standard outcome, the DPF does not need to be satisfied to meet the Performance Outcome and does not derogate from the discretion to determine the outcome is met in another way, or from discretion to determine that a Performance Outcome is not met despite a DPF being achieved.

Part 1 of *the Code* outlines that if there is an inconsistency between provisions in the relevant policies for a particular development, the following rules will apply to the extent of any inconsistency between policies:

- the provisions of an overlay will prevail over all other policies applying in the particular case;
- a subzone policy will prevail over a zone policy or a general development policy; and
- a zone policy will prevail over a general development policy.

#### **PLANNING ASSESSMENT**

The application has been assessed against the relevant policies of the **Planning & Design Code (*the Code*)**, which are found at the following link:

[Planning and Design Code Extract](#)

#### **Removal of 42 Regulated and 8 Significant Trees**

Regulation 3F of *the Regs* defines what constitutes a Regulated or Significant tree and is subject to the relevant Overlay of *the Code*. The remaining vegetation on site is not regulated and will be managed by the landowners.

Within the boundaries of the subject land there are a total of 69 Regulated and 29 Significant trees, with a further two Significant trees sited within the verge of Fisher Street and Highgate Street. As described previously, the proposal seeks to remove 42 regulated trees and eight (8) significant trees from within the site, to allow for the construction of the retirement facility and the dwellings fronting Fisher Street and Highgate Street.

The relevant **Desired Outcomes (DO's)** and **Performance Outcomes (PO's)** of **Regulated and Significant Tree Overlay** state:

***PO 1.1** – Regulated trees are retained where they:*

- a) make an important visual contribution to local character and amenity*
- b) are indigenous to the local area and listed under the National Parks and Wildlife Act 1972 as a rare or endangered native species*
- c) provide an important habitat for native fauna.*



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#### ***PO 1.2 – Significant trees are retained where they:***

- a) make an important contribution to the character or amenity of the local area;*
- b) are indigenous to the local area and are listed under the National Parks and Wildlife Act 1972 as a rare or endangered native species;*
- c) represent an important habitat for native fauna;*
- d) are part of a wildlife corridor of a remnant area of native vegetation;*
- e) are important to the maintenance of biodiversity in the local environment;  
and / or*
- f) form a notable visual element to the landscape of the local area.*

A number of representors raised concerns regarding the loss of the trees on site and the loss of tree canopy. *the Code* does not make an assessment against the loss of tree canopy, a tree is assessed against **PO 1.1** on the basis a tree must meet one of the above criteria to qualify as a tree worthy of preservation. As outlined within the Adelaide Tree Surgery – Arboricultural Tree Survey / Audit, the Aborman Arboricultural Impact Assessment and the Succession Ecology – Significant and Regulated Tree Habitat Assessment, the regulated trees proposed for removal are neither indigenous and rare or endangered native species, nor were they found to provide important habitat for native fauna. As such it must be determined if the trees make an **important** visual contribution to the local character and amenity for them to meet PO 1.1.

The assessment of a Significant Tree against **PO 1.2** involves broader considerations in determining if, in first instance, *the Code* seeks its retention. As outlined within the Adelaide Tree Surgery – Arboricultural Tree Survey / Audit, the Aborman Arboricultural Impact Assessment and the Succession Ecology – Significant and Regulated Tree Habitat Assessment, the significant trees proposed for removal are not indigenous and rare or endangered native species, they do not represent an important habitat for native fauna, they do not form part of a wildlife corridor or remnant area of native vegetation and are not important to the maintenance of biodiversity in the local environment. As such it remains to be determined whether the significant trees make an **important** contribution to the character or amenity of the local area and / or form a notable visual element to the landscape of the local area.

The applicant engaged Landscape Architect firm Clover to undertake an assessment to determine whether the Regulated and Significant trees on site satisfy the relevant requirements outlined above. To assist with the assessment, Clover was provided with a copy of the Oxigen Report, prepared on behalf of Council in 2023, refer to **Attachment 6.5**, as well as undertaking their own visual assessment of the trees viewed both on site and from the public realm. Within Clover's Landscape Concept Design Report the individual tree tables from the Oxigen report were included.

Clover undertook a streetscape character analysis of both Fisher and Highgate Street, refer to pg. 7 of **Attachment 7.1**. In their assessment they noted the street tree species vary along Fisher Street including Jacarandas, Queensland Brush Box and Ironbark. The report noted the street trees together with the bushes along the northern boundary, filter views internally within the site, noting the trees within the internal gardens and car park do not contribute greatly to the character and amenity of the locality. Further, they stated Highgate Street is influenced by the 10 storey building and two storey building both with limited setbacks from the public realm. Highgate Street's mixed street tree species include Argyle Apple, Manchurian Pear and isolated specimens of Eucalypts and Melaleuca. Clover further broke down the subject land into five areas, where an assessment was undertaken on the visual contribution of the Regulated and Significant trees as an area or group rather than individually assessing each tree.

Of the Regulated Trees proposed to be removed, Oxigen and Clover agree that Trees 2, 3, 12, 21, 22, 24, 26, 28, 29, 30, 31, 35, 39, 43, 45, 46, 59, 60, 61, 63, 74, 76, 86, 88, 89, 90, 91, 92, 93, 94, 95, 96, 98, 99, 100, 101, 102, 105, 106, 119, 242 and 243 do not make an important visual contribution to the local character and amenity. Although their opinions differ in terms of the visual contribution of Trees 12 and 29,

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Clover concluded that given the trees are located at the rear of the site, are significantly setback from road frontages, these two trees are screened from view when standing in the public realm and therefore do not satisfy PO 1.1(a).

Of the significant trees, both Clover and Oxigen are of the opinion that Trees 32, 33, 87 and 97 do not make an important contribution to the character or amenity of the local area nor are they a notable visual element in the landscape. However, their opinions differ regarding Trees 10, 13, 14 and 15 as Oxigen indicated that these trees make an important contribution to the character or visual amenity of the local area. Clover concluded that as the trees are located at the rear of the site, significantly setback from road frontages, these trees are screened from view when standing in the public realm and therefore do not satisfy PO 1.2(a) or (f).

To understand whether a regulated or significant tree makes an **important** visual contribution, guidance can be taken from Savoy Developments Pty Ltd v Town of Gawler [2013] SAERDC 32 (25 June 2013), when the Court found that:

*...for habitat to be raised to the level of 'important' (as sought by Objective 2(d)), it must be beyond that likely to be expected in any mature tree of indigenous origins – that is, it is beyond the normal level that might be expected or that it is so unique or special that it may be considered important...*

Council administration undertook its own assessment of each tree proposed for removal. When viewing the site from the public realm, it was observed the regulated and significant trees whilst broadly contribute to the character and amenity of the locality, due to the limited external views, they do not make an important visual contribution to the character and amenity of the local area nor are they a notable visual element to the landscape of the locality. The trees to be removed are mostly only visible from within the site due to the large established street trees and built form both on the site and on the adjacent sites.

The tallest trees on the site are the three Norfolk Island Pines found in a line through the centre of the site. In the Clover report they are identified as Trees 13, 14 and 15. From Highgate Street these three (3) trees are not visible due to the existing built form and street trees. From Fisher Street occasional glimpses are available from a limited number of vantage points primarily of tree 15. The trees are not at all visible from Marlborough Street to the west with very limited visibility from Cheltenham Street. From Winchester Street to the south, only the upper section of southernmost tree (tree 13) is visible with the other two (2) trees being obscured by tree 13. Tree 13 is some 220m from Winchester Street with tree 14 and 15 a further 25m and 50m away respectively. Due to this distance and limited visibility, these trees are not considered a notable visual element. It should be noted the trees partially obscuring the visibility from Winchester Street are to be retained.

Based on information provided by the applicant's technical experts and administration's onsite observations and assessment, it is agreed the regulated and significant trees proposed to be removed do not make an **important** contribution to the local character and amenity nor form a notable visual element to the landscape of the local area.

As such the trees do not satisfy **PO 1.1** or **PO 1.2** of **Regulated and Significant Tree Overlay** and therefore on this basis can be supported for removal.

Notwithstanding the above assessment and conclusions, it is considered the retention of the trees would prevent reasonable development of the land.

**Regulated and Significant Tree Overlay PO 1.4** states:

**PO 1.4 – A tree-damaging activity in connection with other development satisfies all the following:**

- a) *it accommodates the reasonable development of land in accordance with the relevant zone or subzone where such development might not otherwise be possible*
- b) *in the case of a significant tree, all reasonable development options and design solutions have been considered to prevent substantial tree-damaging activity occurring.*

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The desired outcome of the Urban Renewal Neighbourhood Zone is to replace housing and other land uses which no longer meet community preferences with new diverse housing options.

As will be discussed later in this report, the proposal broadly accords with the desired and performance outcomes of the zone, overlays and general policies applicable to the site. The built form does not exceed these policies to any notable degree. The proposal will provide a diverse range of housing at a higher density, without compromising on the residential amenity of the locality. Further, the regulated and significant trees to be removed on site are predominantly sited to the centre of the subject land, limiting the area of land able to be developed. To support this position, the applicant provided a range of development concepts in the Clover report, pages 50-54, demonstrating various concepts with differing levels of tree removal. Based on these plans, the proposal before CAP demonstrates the lesser number of regulated and significant trees to be removed.

Given the above, the removal of the 42 regulated trees and eight (8) significant trees is supported in accordance with PO 1.1, 1.2 and 1.4 of the Regulated and Significant Tree Overlay.

To satisfy the requirement of Section 127(4) of *Planning, Development and Infrastructure Act 2016*, when a Regulated or Significant Tree is to be removed, the applicant is required to plant the prescribed number of trees stipulated in *Reg 59(1) of The Regs*. *The Regs* requires a development authorisation to plant, two (2) replacement trees for every regulated tree removed and three (3) replacement trees for every significant tree removed. As such the development will be required to plant a total of 108 replacement trees, if approved. On page 55 of Clovers Landscape Concept Design Report in **Attachment 7.1** are the marked-up locations of the proposed replacement trees.

#### **Demolition**

As part of the proposal and to allow for the construction of the development, the existing buildings, excluding the 10-level tower, are to be demolished. In accordance with *Schedule 4 (10)(1) of the Development and Infrastructure (General) Regulations 2017* the demolition of a whole building is excluded from the definition of development and therefore does not require development approval.

#### **Site Contamination**

The relevant **DO's** and **PO's** of the **General Development Policies – Site Contamination** states:

**DO 1** - *Ensure land is suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.*

**PO 1.1** – *Ensure land is suitable for use when land use changes to a more sensitive use.*

As outlined above within the *Referrals* section, a mandatory referral to the EPA was undertaken during the assessment of the application. The Site Contamination Declaration Form submitted with the application, identified that site contamination exists or may exist as a result of potentially contaminating activities. As such the *Construction Environmental Management Plan*, refer to **Attachment 8.1**, was requested.

The conclusion of EPA's referral noted the following:

- The CEMP report outlines the requirements for the validation of underground storage tanks ('USTs') in accordance with the relevant guidelines.
- The CEMP report has been prepared in general accordance with SA EPA guidelines Construction Environmental Management Plan, updated April 2024.
- The EPA considers, following the appropriate implementation of the CEMP report, the site can be made suitable for the proposed use.

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The EPA were of the opinion that sufficient information has been provided to reasonably demonstrate that the site can be made suitable for the proposed land use. The EPA directed the Relevant Authority to attach 2 Conditions and 1 Advisory Note to any approval.

As such the subject land is considered to be suitable for the proposed land use and satisfies **DO 1** and **PO 1.1** of **General Development Policies – Site Contamination**.

#### **Land Use**

The subject site is located within the **Urban Renewal Neighbourhood Zone** where the **Desired Outcome (DO)** and **Performance Outcome (PO)** are as follows:

##### ***DO 1 – Urban Renewal Neighbourhood Zone***

*Housing and other land uses which no longer meet community preferences are replaced with new diverse housing options. Housing density increases, taking advantage of well-located urban land. Employment and community services will improve access to jobs, goods and services without compromising residential amenity.*

##### ***PO 1.1 – Urban Renewal Neighbourhood Zone***

*Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable urban neighbourhood.*

The corresponding **Designated Performance Feature (DPF) 1.1** states:

***DPF 1.1 - Development comprises one or more of the following:***

- a) Ancillary accommodation*
- b) Childcare facility*
- c) Community facility*
- d) Consulting room*
- e) Dwelling*
- f) Educational facility*
- g) Office*
- h) Place of Worship*
- i) Recreation area*
- j) Residential flat building*
- k) Retirement facility*
- l) Shop*
- m) Student accommodation*
- n) Supported accommodation.*

##### ***PO 1.2 – Urban Renewal Neighbourhood Zone***

*Commercial activities improve community access to services are of a scale and type to maintain residential amenity.*

##### ***PO 1.3 – Urban Renewal Neighbourhood Zone***

*Non-residential development located and designed to improve community accessibility to services, primarily in the form of:*

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- a) *small-scale commercial uses such as offices, shops and consulting rooms;*
- b) *community services such as educational facilities, community centres, places of worship, childcare facilities and other health and welfare services*
- c) *services and facilities ancillary to the function or operation of supported accommodation or retirement facilities*
- d) *open space and recreation facilities.*

The proposal seeks a change in land use to supported accommodation and residential flat building of the existing 10-level building, the construction of a retirement facility and the construction of 16 dwellings.

Supported accommodation, retirement facilities and dwellings are all forms of developments envisaged within the **Urban Renewal Neighbourhood Zone**. By adapting and reutilising the existing 10-level building into supported accommodation and apartments, it will provide the community with access to much needed services and housing choice, without materially impacting on the pattern of development within the locality. Additionally, the retirement facility and dwellings support the zone's intention to provide diverse housing options at higher densities.

Further, the addition of the three land uses support's the Zone's intent to provide an active, convenient and walkable urban neighbourhood. As such the proposal is considered to satisfy **DO 1, PO 1.1, PO 1.2 and PO 1.3 and PO 1.4** of the **Urban Renewable Neighbourhood Zone**.

It should be noted, in principle the representors did not raise concerns regarding the proposed land uses - supported accommodation, residential flat buildings, retirement facility and dwellings. Instead, they sought to raise broader issues regarding the connectivity between the existing (123 Fisher St) and proposed retirement facilities, the functionality of the land uses, and the density of the development.

### **Affordable Housing Overlay**

The relevant **DO's** and **PO's** of the **Affordable Housing Overlay PO 3.2** state:

**DO 1** - The Affordable housing is integrated with residential and mixed-use development.

**PO 1.1** - Development comprising 20 or more dwellings / allotments incorporates affordable housing.

No affordable housing has been provided in the proposal. The applicant's position is that the **Affordable Housing Overlay** is not a mandatory requirement but instead can be applied at the discretion of the applicant / land owner. The applicant supports this position on the basis that:

- *The Affordable Housing Overlay does not prescribe mandatory requirements. It exists to incentivise the delivery of "affordable housing". It does this by offering increased building height and yields to offset the costs of providing affordable housing.*
- *A statutory referral to the South Australian Housing Trust is only triggered by the Overlay when "affordable housing" is proposed. No referral trigger exists for development generally i.e. when affordable housing is not proposed.*

The applicant has put forward that the proposal is not at variance with *the Code* by not providing affordable housing. This position is supported by administration and as such the assessment of the proposal is not at odds with *the Code* by not providing affordable housing.

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#### **Existing 10 Level Building**

##### **Design and Appearance**

The relevant **PO's** of the **General Development Policies – Design in Urban Areas** state:

***PO 12.1 – General Development Policies – Design in Urban Areas***

*Buildings positively contribute to the character of the local area by responding to local context.*

***PO 12.2 – General Development Policies – Design in Urban Areas***

*Architectural detail at street level and a mixture of materials at lower building levels near the public interface are provided to reinforce a human scale.*

***PO 12.3 – General Development Policies – Design in Urban Areas***

*Buildings are designed to reduce visual mass by breaking up building elevations into distinct elements.*

***PO 12.5 – General Development Policies – Design in Urban Areas***

*External materials and finishes are durable and age well to minimise ongoing maintenance requirements.*

***PO 12.7 – General Development Policies – Design in Urban Areas***

*Entrances to multi-storey buildings are safe, attractive, welcoming, functional and contribute to streetscape character.*

The proposal seeks to re-clad the external façade of the building using metal cladding in a range of finishes including aluminium vertical battens, masonry brick, glass balustrades and feature mesh screening. The existing 10-level building is a form of brutalist architecture characterised by its use of raw materials (such as concrete and brick), minimalism and geometric forms. The re-cladding of the external façade will be more in keeping, and complementary, to the built form of the proposed 5-level retirement facility and the existing 6 storey retirement facility buildings to the west.

As such the proposal is considered to satisfy **PO 12.1, 12.5 and PO 12.7** of **General Development Policies – Design in Urban Areas**.

***PO 12.8 – General Development Policies – Design in Urban Areas***

*Building services, plant and mechanical equipment are screened from the public realm.*

The existing 10 Level building proposes to utilise the existing plant room located on the roof for the majority of the plant and mechanical equipment. Any further equipment sited on the roof of the building will not be readily viewed from the public realm due to the height of the building. As such the proposal satisfies the intent of **PO 12.8** of **General Development Policies – Design in Urban Areas**.

##### **Supported Accommodation**

###### **Land Use**

As discussed earlier in the report, the existing 10-level building is proposed to be repurposed into supported accommodation for a portion of the basement, half of the ground floor and Levels 1 – 4. The supported accommodation is to be operated by Opal Health Care and will provide 159 single bedrooms. As part of the facility additional services including administration offices, consulting rooms, wellness facilities, board rooms and a shop (café) are proposed. Such services and activities are considered ancillary and subordinate to the supported accommodation on site, ensuring residents have direct access to health and well-being services.

The shop (café) sited on the ground floor of the supported accommodation is ancillary and subordinate to the operation of the supported accommodation, similar to a café or cafeteria in a hospital. The café provides residents, and their visitors, an area to visit where they can then utilise the *outdoor area – child's play* and the internal garden on the ground level away from their living quarters.

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The **General Development Provisions – Design in Urban Areas** relevant PO's state:

**PO 37.1 – General Development Policies – Design in Urban Areas**

*Supported accommodation and housing for aged persons and people with disabilities is located where on-site movement of residents is not unduly restricted by the slope of the land.*

**PO 38.1 – General Development Policies – Design in Urban Areas**

*Development is designed to support safe and convenient access and movement for residents by providing:*

- a) ground-level access or lifted access to all units*
- b) level entry porches, ramps, paths, driveways, passenger loading areas and areas adjacent to footpaths that allow for the passing of wheelchairs and resting places*
- c) car parks with gradients no steeper than 1-in-40, and of sufficient area to provide for wheelchair manoeuvrability*
- d) kerb ramps at pedestrian crossing points.*

The 10-level building was previously used as supported accommodation until its closure in 2020. The building was designed to ensure residents were able to be moved throughout the building through providing access lifts to each floor, car parking sited within close proximity to the building and access ramps. The re-development of the site does not reduce the residents' accessibility of the site. As discussed later in the report, all visitor parking and resident drop off areas will be at grade with the ground floor directly accessible from the main entrance of the Opal precinct. Additionally, each level has access to three internal lifts to provide free movement from the residential rooms to common areas or the ground level café and internal garden.

As such, the proposal satisfies the intent of **PO 37.1** and **38.1** of **General Development Provisions – Design in Urban Areas**.

#### Amenity

The **General Development Provisions – Interface between Land Uses** relevant DO and PO state:

**DO 1 – General Development Policies – Interface between Land Uses**

*Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.*

**PO 2.1 — General Development Policies – Interface between Land Uses**

*Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:*

- a) the nature of the development*
- b) measures to mitigate off-site impacts*
- c) the extent to which the development is desired in the zone*
- d) measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.*

**PO 6.1 — General Development Policies – Interface between Land Uses**

*External lighting is positioned and designed to not cause unreasonable light spill impact on adjacent sensitive receivers (or lawfully approved sensitive receivers).*

The supported accommodation will provide 24-hour long-term residential aged care, respite care, and rehabilitation services. These services are not anticipated to cause any notable noise emissions detrimentally impacting on the amenity of adjacent sensitive receivers both within the overall complex and to the east of the subject land.

The proposal will generate commercial deliveries to the site and the engagement of a private waste collector, to be discussed later in the report. To ensure these services do not negatively impact on adjacent

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sensitive receivers, nor to the existing education facility to the south, all commercial deliveries and waste collection is to occur outside of peak period. A condition enforcing this is recommended to be applied to any approval.

A number of representors raised concerns regarding light spill from the building's balconies to the dwellings within the existing Retirement Facility on 123 Fisher Street and residents in the wider locality. Although supported accommodation is in essence a commercial facility, the facilities' main purpose is to provide a residence for person(s) requiring regular medical and/or personal care assistance. Given the nature of the land use, it is not anticipated the light spill from the development will be greater than what is incurred of a typical residential land nor of the current building when it was in use and fully occupied.

Lastly, traffic movements generated by the supported accommodation along Highgate Street and Fisher Street are not considered to have additional adverse impacts on the locality. The existing 10-level building was previously used for supported accommodation providing approximately 200 beds until it closed in 2020. Traffic consultants MFY indicated in their report, refer to **Attachment 4.1**, the site would have generated approximately 20 trips during the peak hour periods. Given the proposed supported accommodation results in 159 single bedrooms (less than the previous use), it is anticipated the land use will result in similar peak hour traffic movements and as a result, will have minimal impact to the locality beyond what was and is currently experienced.

The proposal is considered to satisfy the intent of **DO 1**, **PO 2.1** and **PO 4.1** of **General Development Policies – Interface between Land Uses**.

#### **Traffic, Access and Parking**

The relevant **DO's** and **PO's** of the **General Development Policies – Transport, Access and Parking** state:

***DO 1** – A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.*

***PO 1.4** – Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.*

***PO 3.1** – Safe and convenient access minimises impact or interruption on the operation of public roads.*

***PO 3.3** – Access points are sited and designed to accommodate the type and volume of traffic likely to be generated by the development or land use.*

***PO 3.5** – Access points are located so as not to interfere with street trees, existing street furniture (including directional signs, lighting, seating and weather shelters) or infrastructure services to maintain the appearance of the streetscape, preserve local amenity and minimise disruption to utility infrastructure assets.*

***PO 3.8** – Driveways, access points, access tracks and parking areas are designed and constructed to allow adequate movement and manoeuvrability having regard to the types of vehicles that are reasonably anticipated.*

***PO 4.1** – Development is sited and designed to provide safe, dignified and convenient access for people with a disability.*

***PO 5.1** – Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:*



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- (a) availability of on-street car parking*
- (b) shared use of other parking areas*
- © in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- (d) the adaptive reuse of a State or Local Heritage Place.*

**PO 6.1** – *Vehicle parking areas are sited and designed to minimise impact on the operation of public roads by avoiding the use of public roads when moving from one part of a parking area to another.*

**PO 6.2** – *Vehicle parking areas are appropriately located, designed and constructed to minimise impacts on adjacent sensitive receivers through measures such as ensuring they are attractively developed and landscaped, screen fenced, and the like.*

**PO 6.6** – *Loading areas and designated parking spaces for service vehicles are provided within the boundary of the site.*

**PO 10.1** – *Development is located and designed to ensure drivers can safely turn into and out of public road junctions.*

The applicant provided a Traffic and Parking Assessment prepared by MFY, refer to **Attachment 4.1**.

The supported accommodation will utilise one existing crossover and seek to construct / alter two new crossovers on Highgate Street. The existing southernmost crossover will be used for staff parking and service and delivery vehicles, as used previously for the Julia Farr building. The two remaining crossovers providing access to the ground level car park, with one crossover providing two-way access, the other being exit only. The MFY report provides vehicular turn paths showing simultaneous movements at the Highgate Street access point are able to be obtained.

A total of 49 car parks are provided for the supported accommodation; 45 car parks with two dedicated accessible parks and a drop off zone directly in front of the eastern entrance, and an additional four spaces in the loading dock. The ground level car park for the supported accommodation is sited between Highgate Street and the existing building, this is typically discouraged by *the Code*. Notwithstanding this, pg. 65 of Clover's Landscape Concept Design Report, **Attachment 7.1**, outlines a landscape concept utilising existing trees and the planting of new species to improve the level of amenity and appearance of the land when viewed from the public realm.

**Table 1** within **Transport, Access and Parking** states that supported accommodation should provide 0.3 spaces per bed, thereby requiring a minimum of 47.7 car parks. The total number of 49 car parks allocated to the supported accommodation exceeds the minimum and is therefore acceptable.

Council's Transport Engineer has assessed this provided Traffic and Parking Assessment Report, including the revised plans, and has provided support for the parking and traffic arrangements of the supported accommodation. As such the proposal is considered to satisfy all the above noted **PO's of General Development Policies – Transport, Access and Parking**.

Further discussion regarding parking allocation to the residential component of the existing 10-level building will be discussed below in the dwelling discussion.

## **Waste**

The relevant **Pos of General Development Policies – Design in Urban Areas** state:

### **PO 11.1- General Development Policies – Design in Urban Areas**

*Development provides a dedicated area for on-site collection and sorting of recyclable materials and*

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*refuse, green organic waste and wash bay facilities for the ongoing maintenance of bins that is adequate in size considering the number and nature of the activities they will serve and the frequency of collection.*

#### **PO 11.2- General Development Policies – Design in Urban Areas**

*Communal waste storage and collection areas are located, enclosed and designed to be screened from view from the public domain, open space and dwellings.*

#### **PO 11.3- General Development Policies – Design in Urban Areas**

*Communal waste storage and collection areas are designed to be well ventilated and located away from habitable rooms.*

#### **PO 11.4- General Development Policies – Design in Urban Areas**

*Communal waste storage and collection areas are designed to allow waste and recycling collection vehicles to enter and leave the site without reversing.*

The supported accommodation has been provided with an individualised waste management report prepared by Colby Phillips Advisory, refer to **Attachment 5.2**. All waste generated by the land use will be managed and stored within the waste storage area sited on the Ground Level of the 10-level building, with direct access to the loading dock sited to the south of the building.

As outlined in the relevant Colby Phillips Advisory report, supported accommodation will result in General Waste, Mixed Recycling, Organics (Food Waste), Cardboard and Clinical / Cytotoxic waste. Each of the anticipated waste streams will be collected by a private contractor who is able to service the site from the loading dock, directly accessible from Highgate Street. Collections of onsite waste will be undertaken in accordance with the following:

- Three times per week for General Waste,
- Twice per week for Recycling,
- Twice per week for Cardboard/Paper,
- Twice per week for Organics (Food Waste)
- Once per week or less for other wastes

As shown in Figure 12 of the MFY report, refer to **Attachment 4.1**, a 10m rear lift waste truck is able to access the site, and perform a three-point turn to ensure all vehicles are able to enter and exit the site in a forward motion. As discussed previously, to ensure these services do not negatively impact on adjacent sensitive receivers, nor the existing education facility to the south, all waste collections are to occur outside of peak period. A condition enforcing this is recommended to be applied to any approval.

The proposed waste management arrangements are supported by Council's Manager Climate & Sustainability.

As such the proposal satisfies the intent of **PO 11.1, 11.2, 11.3 and 11.4 of General Development Policies – Design in Urban Areas**.

## **Residential Apartments**

### **Residential Amenity**

As discussed earlier in the report, the existing 10-level building will be repurposed into a residential flat building (apartments) for half of the ground floor and the entirety of Levels 5 to 9. The northern side of the ground floor will serve as an entry foyer and residents' common area, providing residents with access to a private swimming pool and outdoor deck, a gym, lounge area, meeting rooms and wine cellars.

The relevant **Pos of General Development Policies – Design in Urban Areas** state:

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#### **PO 28.1 – General Development Policies – Design in Urban Areas**

*Residential accommodation within multi-level buildings have habitable rooms, windows and balconies designed and positioned to be separated from those of other dwellings and accommodation to provide visual and acoustic privacy and allow for natural ventilation and the infiltration of daylight into interior and outdoor spaces.*

#### **PO 28.2 – General Development Policies – Design in Urban Areas**

*Balconies are designed, positioned and integrated into the overall architectural form and detail of the development to:*

- a) respond to daylight, wind, and acoustic conditions to maximise comfort and provide visual privacy*
- b) allow views and casual surveillance of the street while providing for safety and visual privacy of nearby living spaces and private outdoor areas.*

#### **PO 28.3 – General Development Policies – Design in Urban Areas**

*Balconies are of sufficient size and depth to accommodate outdoor seating and promote indoor / outdoor living.*

#### **PO 28.4 – General Development Policies – Design in Urban Areas**

*Dwellings are provided with sufficient space for storage to meet likely occupant needs.*

#### **PO 28.6 – General Development Policies – Design in Urban Areas**

*Attached or abutting dwellings are designed to minimise the transmission of sound between dwellings and, in particular, to protect bedrooms from possible noise intrusions.*

#### **PO 31.2 – General Development Policies – Design in Urban Areas**

*The orientation and siting of buildings minimises impacts on the amenity, outlook and privacy of occupants and neighbours.*

#### **PO 29.1- General Development Policies – Design in Urban Areas**

*Buildings containing in excess of 10 dwellings provide a variety of dwelling sizes and a range in the number of bedrooms per dwelling to contribute to housing diversity.*

#### **PO 31.3 – General Development Policies – Design in Urban Areas**

*Development maximises the number of dwellings that face public open space and public streets and limits dwellings oriented towards adjoining properties.*

Levels 5 to 8 have relatively similar floor plans with minor alterations to the dwelling layouts. Each floor will comprise six (6) two-bed apartments and six (6) three-bedroom apartments with Level 9 comprised of eight (8) three-bedroom apartments. The proposed retrofit of the existing building footprint and structural form has placed limitations on the layout and internal design of the 56 dwellings. Notwithstanding this limitation, the habitable rooms, being bedrooms, kitchens and living areas to the dwellings all have a direct outlook to either the public realm or to the internal *Central Heart Gardens* between the proposed retirement facility and the 10-level building.

The dwellings have each been provided with sufficient storage, whether in the form of a storage room or cupboards in hallways to ensure the residents have access to adequate storage areas.

To increase the resident's amenity and to provide a greater level of access to indoor and outdoor living, each dwelling has been provided with a balcony with a minimum width of 3m. Each dwelling's balcony is directly accessible from the living areas and for some dwellings the bedrooms as well. Additionally, to provide further privacy to the residents within the building, each dwelling's balcony is separated by a habitable room.

Although the proposal is only for two and three bedroom dwellings, the development still provides a variety of dwelling sizes and provides a degree of housing diversity.

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On balance the proposal is considered to satisfy the intent of **PO 28.1, 28.2, 28.4, 28.6, 29.1 31.2 and 31.3** of **General Development Policies – Design in Urban Areas**.

#### Private Open Space (POS)

The relevant **Pos** of **General Development Policies – Design in Urban Areas** state:

***PO 27.1 – General Development Policies – Design in Urban Areas***

*Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.*

***PO 28.3 – General Development Policies – Design in Urban Areas***

*Balconies are of sufficient size and depth to accommodate outdoor seating and promote indoor / outdoor living.*

The corresponding **DFP 27.1** of **General Development Policies – Design in Urban Areas** seeks to provide a minimum of 11m<sup>2</sup> of POS for two bedroom dwellings and 15m<sup>2</sup> for a three bedroom dwelling.

Each dwelling has been provided with an excess of POS with all exceeding 30m<sup>2</sup>, to accommodate the needs of the occupants. As discussed earlier, each dwelling is provided with a balcony directly accessible from either a living room or a bedroom. All balconies have a minimum width of 3m and a length of between 5.8m to 18m.

As such, the proposed development is considered to satisfy **PO 27.1** and **28.3** of **General Development Policies – Design in Urban Areas**.

#### Overlooking – direct overlooking

Numerous representors in their submissions raised concerns regarding overlooking from the proposed development to adjoining properties. Within *the Code* the existing 10-level building is referred to as a Medium to High-rise development, referring to development exceeding three stories. The relevant provisions relating to Medium and High Rise Development of **General Development Policies – Design in Urban Areas** state:

***PO 16.1 – General Development Policies – Design in Urban Areas***

*Development mitigates direct overlooking of habitable rooms and private open spaces of adjacent residential uses in neighbourhood-type zones through measures such as:*

- a) appropriate site layout and building orientation*
- b) off-setting the location of balconies and windows of habitable rooms or areas with those of other buildings so that views are oblique rather than direct to avoid direct line of sight;*
- c) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- d) screening devices that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

Direct Overlooking is defined as:

*'In relation to direct overlooking from a window, is limited to an area that falls within a horizontal distance of 15 metres measured from the centre line of the overlooking window and not less than 45 degree angle from the plane of that wall containing the overlooking window.*

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*In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace.'*

The existing 10 Level building is sited in excess of 15m in a horizontal distance from the boundaries of the subject land or a boundary with a sensitive receiver (being a residential dwelling). Given its siting and location, the proposal does not result in direct overlooking as defined by *the Code*. The distance of the building from boundaries and the views from the residential dwellings are seen at a substantial distance, the proposal does not result in direct overlooking to adjacent residential uses and is considered to satisfy **PO 16.1 of General Development Policies – Design in Urban Areas**.

#### Carparking and Access

**PO 5.1 of General Development Policies – Transport, Access and Parking** seeks:

**PO 5.1** – *Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:*

- a) *availability of on-street car parking*
- b) *shared use of other parking areas*
- c) *in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- d) *the adaptive reuse of a State or Local Heritage Place.*

With the corresponding **DPF 5.1** seeking for a Residential Flat Building:

*Dwelling with 1 or 2 bedrooms (including rooms capable of being used as a bedroom) – 1 space per dwelling.*

*Dwelling with 3 or more bedrooms (including rooms capable of being used as a bedroom) – 2 spaces per dwelling, 1 of which is to be covered.*

*0.33 spaces per dwelling for visitor parking where development involves 3 or more dwellings.*

To satisfy the car parking requirements specified in *the Code*, the proposal is required to provide a total of 107 car parks (rounded up) with 88 car parks dedicated for residents and an additional 19 car parks (rounded up) for visitors.

The relevant **Pos of General Development Policies – Design in Urban Areas** and **General Development Policies – Transport, Access and Parking** state:

**PO 33.1 – General Development Policies – Design in Urban Areas**

*Driveways and access points are designed and distributed to optimise the provision of on-street visitor parking.*

**PO 33.4 – General Development Policies – Design in Urban Areas**

*Residential driveways that service more than one dwelling or a dwelling on a battle-axe site are designed to allow passenger vehicles to enter and exit and manoeuvre within the site in a safe and convenient manner.*

**PO 3.2 – General Development Policies – Transport, Access and Planning**

*Development incorporating vehicular access ramps ensures vehicles can enter and exit a site safely and without creating a hazard to pedestrians and other vehicular traffic.*

**PO 3.3 – General Development Policies – Transport, Access and Planning**

*Access points are sited and designed to accommodate the type and volume of traffic likely to be generated by the development or land use.*

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#### ***PO 3.8 – General Development Policies – Transport, Access and Planning***

*Driveways, access points, access tracks and parking areas are designed and constructed to allow adequate movement and manoeuvrability having regard to the types of vehicles that are reasonably anticipated.*

#### ***PO 6.4 – General Development Policies – Transport, Access and Planning***

*Pedestrian linkages between parking areas and the development are provided and are safe and convenient.*

#### ***PO 6.7 – General Development Policies – Transport, Access and Planning***

*On-site visitor parking spaces are sited and designed to be accessible to all visitors at all times*

#### ***PO 7.1 – General Development Policies – Transport, Access and Planning***

*Undercroft and below ground garaging of vehicles is designed to enable safe entry and exit from the site without compromising pedestrian or cyclist safety or causing conflict with other vehicles.*

Within the basement level of the 10-level building are 53 car parks, allocated entirely to the apartments, all obscured from view from the public realm. When considering the car parking requirements for both the apartments and supported accommodation, the land uses would require a total of 155 car parking spaces, to satisfy the provisions of *the Code*. Due to site constraints, the site of the 10 Level building will physically not be able to accommodate the required number of car parks to support the two land uses. Due to this, the applicant has proposed a shared parking arrangement for the apartments, with 53 car parks sited under the 10 Level building and the remaining car parks sited within the semi-basement level of the proposed retirement facility.

The basement level of the 10-level building is proposed to be retrofitted into a car park with a new access ramp provided from Highgate Street. As outlined discussed within in the MFY report, **Attachment 4.1**, the access ramp from Highgate Street will be of a suitable width to provide two-way movements. The ramp into the basement will have a maximum grade of 1:5, with the appropriate transitions to ensure sufficient vertical clearance is provided beneath vehicles. MFY do acknowledge the basement will be constrained by existing infrastructure and the lift core, resulting in a narrowed aisle between the northern and southern portions of the basement. They summarised that even though AS/NZS 2890.1:2004 does not relate to basement parking, the intent of the clause identifies a driveway can be narrowed to a single lane width where vehicular trips are less than 30 trips during the peak hour. Together with appropriate sight lines, as illustrated in Figure 8 of the MFY report, it was concluded the narrowed section of driveway in the basement will operate safely and efficiently and is able to accommodate the volume of traffic anticipated within the basement.

Councils Traffic Officer raised no concerns with access arrangements and vehicle manoeuvrability within the basement as outlined by MFY report.

The remaining 54 car parks are sited in the semi-basement of the proposed retirement facility, with a walkway link to the 10-level building provided in the south-eastern portion of the building. MFY have provided a broad overarching Car Park Management Plan, pg. 22 refer to **Attachment 4.1**, allocating car parks within the retirement facility to both the apartments and visitor car parks associated with the residential flat buildings in the 10-level building. Overall, the apartments have been provided with a total of 107 car parks, ensuring sufficient on-site car parks for residents and visitors are provided in accordance with the relevant provision of *the Code*

The applicant has indicated the two buildings are to be sited on two separate allotments in a future land division application. Therefore, due to the unique arrangement sought by the development, Council requested the landowners to enter into a Land Management Agreement (LMA), pursuant to section 193 of *the Act*, to formalise the parking arrangement. The LMA seeks to secure the parking rights for any future individual community lot owners of the apartments within the 10-level building. At the time of writing an agreement to execute an LMA has been made, however the LMA has not yet been fully executed.

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Given the above, the proposal is considered to satisfy **PO 33.1** and **33.4** of **General Development Policies – Design in Urban Areas** and **PO 3.2, 3.3, 3.8, 6.4, 6.7** and **7.1** of **General Development Policies – Transport, Access and Planning**.

The relevant **Pos** of **General Development Policies – Transport, Access and Parking** state:

***PO 1.2 – General Development Policies – Transport, Access and Planning***

*Development is designed to discourage commercial and industrial vehicle movements through residential streets and adjacent other sensitive receivers.*

***PO 1.4 – General Development Policies – Transport, Access and Planning***

*Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.*

***PO 3.1 – General Development Policies – Transport, Access and Planning***

*Safe and convenient access minimises impact or interruption on the operation of public roads.*

***PO 3.4 – General Development Policies – Transport, Access and Planning***

*Access points are sited and designed to minimise any adverse impacts on neighbouring properties.*

***PO 3.5 – General Development Policies – Transport, Access and Planning***

*Access points are located so as not to interfere with street trees, existing street furniture (including directional signs, lighting, seating and weather shelters) or infrastructure services to maintain the appearance of the streetscape, preserve local amenity and minimise disruption to utility infrastructure assets.*

***PO 3.6 – General Development Policies – Transport, Access and Planning***

*Driveways and access points are separated and minimised in number to optimise the provision of on-street visitor parking (where on-street parking is appropriate).*

Vehicular access to the apartments in the 10-level building will be provided via the proposed public road from Fisher Street and from Highgate Street. As discussed above, access to the site for a portion of the resident parking and waste delivery vehicles will be provided via two separate crossovers directly from Highgate Street. The two crossovers have been proposed to ensure the commercial vehicles and residential vehicle movements can occur simultaneously and in a forward motion without impacting on the operation of Highgate Street and the surrounding street network.

Although this arrangement results in an additional crossover from Highgate Street, reducing the number of on-street parking by two (2), it ensures the loading and unloading of goods can be undertaken without queuing on Highgate Street.

As such, the proposal is considered to satisfy the intent of **PO 1.2, 1.4, 3.1, 3.4, 3.5** and **3.6** of **General Development Policies – Transport, Access and Planning**.

***PO 6.7 – General Development Policies – Transport, Access and Planning***

*On-site visitor parking spaces are sited and designed to be accessible to all visitors at all times.*

The applicant has confirmed access to the basement level car park under the retirement facility will be restricted by a boom gate. The boom gate will be managed via an intercom system linked to each apartment within the 10-level building and residences within the retirement facility. This will allow for visitors to call the resident who can then provide them access to the visitor parking area.

The proposal is considered to satisfy **PO 6.7** of **General Development Policies – Transport, Access and Planning**.

## **Waste management**

The relevant **Pos** of **General Development Policies – Design in Urban Areas** state:

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#### ***PO 11.1- General Development Policies – Design in Urban Areas***

*Development provides a dedicated area for on-site collection and sorting of recyclable materials and refuse, green organic waste and wash bay facilities for the ongoing maintenance of bins that is adequate in size considering the number and nature of the activities they will serve and the frequency of collection.*

#### ***PO 11.2- General Development Policies – Design in Urban Areas***

*Communal waste storage and collection areas are located, enclosed and designed to be screened from view from the public domain, open space and dwellings.*

#### ***PO 11.3- General Development Policies – Design in Urban Areas***

*Communal waste storage and collection areas are designed to be well ventilated and located away from habitable rooms.*

#### ***PO 11.4- General Development Policies – Design in Urban Areas***

*Communal waste storage and collection areas are designed to allow waste and recycling collection*

The waste management arrangements for the apartments are covered in a broader waste management report for the development site, prepared by Colby Phillips Advisory, refer to **Attachment 5.1**. Through negotiations with Council's technical officers, waste management for the apartments has gone through numerous iterations with the current proposal supported by Council's administration.

Each dwelling on Levels 5 – 9 will all have access to a general waste bin, co-mingled recycling waste bin and a food organics bin as well as a bulky waste bin area on each level. All waste will be disposed of via a central waste chute system and managed in the bin storage areas located within the basement of the 10-level building by the building caretaker. The building caretaker will be required to move the bins from the dedicated waste collection area in the basement, to the presentation area at ground level. The caretaker will require a battery-powered tow (or similar) to move the multiple bins from the storage area to the bin hoist to present the bin in the dedicated waste collection area at ground level. Similar to the supported accommodation, all waste is to be collected by a private contractor who will access the dedicated waste collection area directly from Highgate Street.

Collections for the onsite waste will be undertaken in accordance with the following:

- Once per week for general waste,
- Once per week for recycling,
- Once per week for organics (food waste)

As shown in Figure 9 of the MFY report, refer to **Attachment 4.1**, a 10.3m rear lift waste truck is able to access the site, and perform a three-point turn within the waste truck turning bay, to ensure these vehicles are able to enter and exit the site in a forward motion. As discussed previously, to ensure these services do not negatively impact on adjacent dwellings or the existing school to the south, all waste collections are to occur outside of peak period. A condition enforcing this is recommended to be applied to any approval.

As such the proposal satisfies the intent of **PO 11.1, 11.2, 11.3 and 11.4 of General Development Policies – Design in Urban Areas**.

It is noted in Section 5.2.4 of the *Colby Phillips Report – Highgate Residential Development*, the first dot point refers to Council not providing suitable collection service for residential apartments, notwithstanding this, the development has been designed to support such a service if it is provided in the future. It should be noted, Council will not be altering its service requirements and the development will be required to rely on a private contractor to collect waste.



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#### **Landscaping**

The applicant provided a Landscape Concept Design Report prepared by Clover, **refer to Attachment 7.1**. This landscaping plan relates to the entirety of the subject land a more detailed discussion will be provided later in the report.

#### **Retirement Facility**

##### **Land Use**

As discussed earlier in the report, the proposal seeks to construct a 5-level retirement facility containing 72 residences ranging in size from one bedroom to four bedrooms. The facility will be operated under the *Retirement Villages Act 2016*. The north portion of the ground floor will provide residents with access to amenities including a residential lounge, games area, gym, function room, tasting room, art room, multi-purpose room, art room as well as staff workspaces and utilities areas.

The **General Development Provisions – Design in Urban Areas** relevant **PO's** state:

***PO 37.1 - General Development Policies – Design in Urban Areas***

*Supported accommodation and housing for aged persons and people with disabilities is located where on-site movement of residents is not unduly restricted by the slope of the land.*

***PO 38.1 - General Development Policies – Design in Urban Areas***

*Development is designed to support safe and convenient access and movement for residents by providing:*

- a) ground-level access or lifted access to all units*
- b) level entry porches, ramps, paths, driveways, passenger loading areas and areas adjacent to footpaths that allow for the passing of wheelchairs and resting places*
- c) car parks with gradients no steeper than 1-in-40, and of sufficient area to provide for wheelchair manoeuvrability*
- d) kerb ramps at pedestrian crossing points.*

The proposed retirement facility has been designed with two lifts, one each in the northern and southern portions of the building. The lifts provide free movement for all residents and their visitors to move from the basement level carpark to the residences on Levels 1 to 4. It has been outlined by one representor, the retirement facility provides only one access ramp sited to its north-western corner at the main entrance, limiting how the site will be accessible to person(s) requiring a wheelchair and / or a mobility scooter. It was also noted there was no access ramp directly from the main common areas to the Central Heart Gardens and no accessible parking has been indicated within the basement level car park.

Whilst additional access ramps and access parking would result in a better outcome for residents, the proposal on-balance satisfies the above noted **PO's**.

##### **Built Form**

The following **Urban Renewal Neighbourhood Zone PO's** and corresponding **DPF's** provide guidance regarding setbacks and interaction with the locality:

***PO 2.1 – Buildings generally 2-3 levels with taller buildings located on sites that are a suitable size and dimension to manage massing and impacts on adjoining residential development.***

***DPF 2.1 – Building height (excluding garages, carports and outbuildings) is no greater than:***

*maximum building height 18.5m and 5 levels*

***PO 6.1 - Buildings are set back from side boundaries to provide:***

- a) separation between buildings to minimise visual impact*

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- b) access to natural light and ventilation for neighbours.*

**DPF 6.1** - *Building walls not sited on side boundaries are set back from side boundaries in accordance with the following:*

- a) where the wall height does not exceed 3m - at least 900mm*
- b) where the wall height exceeds 3m - at least 900mm from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings.*

**PO 7.1** – *Buildings are set back from rear boundaries to provide:*

- a) separation between buildings to minimise visual impact*
- b) access to natural light and ventilation for neighbours.*
- c) open space recreational opportunities*
- d) space for landscaping and vegetation.*

**DPF 7.1** - *Building walls are set back from the rear boundary at least:*

- a) 3m for the first building level or 0m where the rear boundary abuts a laneway*
- b) 5m for any second building level*
- c) 5m plus any increase in wall height over 7m for buildings of 3 building levels and above.*

The proposed building has been designed with a maximum building height of 5 levels (basements are not defined as a building level as per *the Code*) and 18.3m high as measured from natural ground. The building is to have an 18.2m western boundary side setback and a 12.2m southern boundary rear setback.

The proposed development satisfies the quantitative provisions of **DPF 3.1** and **6.1** of **Urban Renewal Neighbourhood Zone**, however, falls 4m short in upper-level rear setback as sought by **DPF 7.1**. While the rear setback can be considered a significant shortfall from the provision, it is considered acceptable as the southern boundary abuts an education facility and the building will be sited adjacent a series of tennis courts. Notwithstanding this, the proposed development is considered to satisfy the intent of the **POs** by providing a building setback from boundaries of adjacent sensitive receivers beyond the relevant land. The building setbacks provide areas for landscaping to buffer the built form from adjacent properties and enhance the appearance of the land when viewed from adjoining properties. In addition to this, the facility has been provided with an excess of communal open space for residents to use for recreational and amenity purposes.

The setbacks from the western and southern boundary also allow for natural light and ventilation to adjacent properties. As such, the development satisfies the above **PO's**.

The following **PO's** from the **Design in Urban Areas** state:

**PO 4.1 - General Development Policies – Design in Urban Areas**

*Buildings are sited, oriented and designed to maximise natural sunlight access and ventilation to main activity areas, habitable rooms, common areas and open spaces.*

**PO 4.2 - General Development Policies – Design in Urban Areas**

*Buildings are sited and designed to maximise passive environmental performance and minimise energy consumption and reliance on mechanical systems, such as heating and cooling.*

**PO 4.3 - General Development Policies – Design in Urban Areas**

*Buildings incorporate climate responsive techniques and features such as building and window orientation, use of eaves, verandahs and shading structures, water harvesting, at ground landscaping, green walls, green roofs and photovoltaic cells.*

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#### **PO 12.1 - General Development Policies – Design in Urban Areas**

*Buildings positively contribute to the character of the local area by responding to local context.*

#### **PO 12.2 - General Development Policies – Design in Urban Areas**

*Architectural detail at street level and a mixture of materials at lower building levels near the public interface are provided to reinforce a human scale.*

#### **PO 12.3 - General Development Policies – Design in Urban Areas**

*Buildings are designed to reduce visual mass by breaking up building elevations into distinct elements.*

#### **PO 12.5 - General Development Policies – Design in Urban Areas**

*External materials and finishes are durable and age well to minimise ongoing maintenance requirements.*

#### **PO 12.7 - General Development Policies – Design in Urban Areas**

*Entrances to multi-storey buildings are safe, attractive, welcoming, functional and contribute to streetscape character.*

#### **PO 14.2 - General Development Policies – Design in Urban Areas**

*Development incorporates sustainable design techniques and features such as window orientation, eaves and shading structures, water harvesting and use, green walls and roof designs that enable the provision of rainwater tanks (where they are not provided elsewhere on site), green roofs and photovoltaic cells.*

Both Council administration and representors have raised concerns regarding the orientation of the proposed building, specifically in terms of internal overshadowing to the communal open space. The applicant chose not to alter the built form. It is noted that the central area of the building, including the communal open space, will be overshadowed by itself due to its design and orientation impacting its environmental performance. While the orientation is not ideal, it is noted that to all elevations, balconies are provided essentially acting as eaves to provide shading to all northern and western elevation windows regardless of orientation. Whilst a re-orientation of the building would be a better design outcome, if the building was altered internal overshadowing would still occur due to the u-shaped built form. Given this, the current design on balance, sufficiently addresses the relevant objectives relating to environmental performance.

The Clover Landscape Concept Design Report indicates green walls and roof plantings have been considered to incorporate sustainable designed techniques, however as a finalised landscape design is yet to be provided, to be discussed further in the report, it is recommended a reserve matter seeking a comprehensive landscaping plan be included in any approval.

The external façade of the proposed Retirement Facility will be finished using metal cladding in a range of finishes including timber look, masonry brick, glass balustrades and metal screening. The finish of the external façade will be complementary to the local area insofar as it will continue the more modern built form of the existing 6 storey retirement facility building to the west.

#### **PO 12.8 - General Development Policies – Design in Urban Areas**

*Building services, plant and mechanical equipment are screened from the public realm.*

The building provides a plant room on Level 3 of the Retirement Facility, all plant and equipment for the building is expected to be sited in this location and completely screened from view of the public realm.

As such the proposal satisfies the intent of **PO 12.8 of General Development Policies – Design in Urban Areas**.

On balance the proposed is considered to satisfy the above noted **PO's**.

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#### **Amenity**

As discussed earlier in the report, the northern portion of the retirement facility provides communal areas for residents to gather and enjoy common facilities.

The relevant **POs of General Development Policies – Design in Urban Areas** state:

***PO 18.1 - General Development Policies – Design in Urban Areas***

*Living rooms have an external outlook to provide a high standard of amenity for occupants.*

***PO 18.2 - General Development Policies – Design in Urban Areas***

*Bedrooms are separated or shielded from active communal recreation areas, common access areas and vehicle parking areas and access ways to mitigate noise and artificial light intrusion.*

***PO 28.1 - General Development Policies – Design in Urban Areas***

*Residential accommodation within multi-level buildings have habitable rooms, windows and balconies designed and positioned to be separated from those of other dwellings and accommodation to provide visual and acoustic privacy and allow for natural ventilation and the infiltration of daylight into interior and outdoor spaces.*

***PO 28.2 - General Development Policies – Design in Urban Areas***

*Balconies are designed, positioned and integrated into the overall architectural form and detail of the development to:*

- a) respond to daylight, wind, and acoustic conditions to maximise comfort and provide visual privacy*
- b) allow views and casual surveillance of the street while providing for safety and visual privacy of nearby living spaces and private outdoor areas.*

***PO 28.4- General Development Policies – Design in Urban Areas***

*Dwellings are provided with sufficient space for storage to meet likely occupant needs.*

To increase the resident's amenity and to provide a greater level of access to indoor and outdoor living, each dwelling has been provided with a balcony with a minimum dimension of 1.5m. Each dwelling's balcony is directly accessible from the living areas or bedrooms and has views to the communal areas and / the surrounding garden and future Public Open Space. All residences within the building are provided with an external outlook to either the communal courtyard or the surrounding built form. The residences have been designed to provide visual and acoustic privacy with solid walling separating the balconies.

On balance the proposed is considered to satisfy the above noted **PO 18.1, 18.2, 28.1 and 28.4 of General Development Policies – Design in Urban Areas**.

#### **Private Open Space and Communal Open Space**

The residents of the proposed Retirement Facility will each be provided with access to a private balcony and also to a communal area sited in the middle of the building.

The following **PO's** from the **Design in Urban Areas** state:

***PO 32.1 & 39.1 – General Development Policies – Design in Urban Areas***

*Development is designed to provide attractive, convenient and comfortable indoor and outdoor communal areas to be used by residents and visitors.*

***PO 39.2 – General Development Policies – Design in Urban Areas***

*Private open space provision may be substituted for communal open space which is designed and sited to meet the recreation and amenity needs of residents.*

***PO 39.3 – General Development Policies – Design in Urban Areas***

*Communal open space is of sufficient size and dimensions to cater for group recreation.*

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#### **PO 39.4 – General Development Policies – Design in Urban Areas**

*Communal open space is designed and sited to:*

- a) *be conveniently accessed by the dwellings which it services*
- b) *have regard to acoustic, safety, security and wind effects.*

#### **PO 39.5 – General Development Policies – Design in Urban Areas**

*Communal open space contains landscaping and facilities that are functional, attractive and encourage recreational use.*

#### **PO 39.6 – General Development Policies – Design in Urban Areas**

*Communal open space is designed and sited to:*

- a) *in relation to rooftop or elevated gardens, minimise overlooking into habitable room windows or onto the useable private open space of other dwellings;*
- b) *in relation to ground floor communal space, be overlooked by habitable rooms to facilitate passive surveillance.*

All residences within the retirement facility are sited within levels 1 – 4 and are provided with private balconies fully accessible from their main living areas and / or bedrooms. It is noted not all balconies meet the minimum widths anticipated by *the Code*, however, they will have access to approximately 2500m<sup>2</sup> of communal open space (COS) within the ground level Central Heart Garden and the pickleball courts sited on Level 4. All communal spaces have been designed to be directly accessible and overlooked by residences. In addition to this, the residents will have future access to a large area of public open space fronting Fisher Street. The shortfalls with private open space will be more than satisfactorily offset by the provision of communal space and future public open space.

As such the provision of both private and communal open space is considered to satisfy the noted **PO's**.

## **Overshadowing**

Overshadowing to the adjacent Retirement Facility on 123 Fisher Street, was raised as a concern by numerous representors. The relevant **PO's** of **General Development Policies – Interface between Land Uses** state:

#### **PO 3.1 - General Development Policies – Interface between Land Uses**

*Overshadowing of habitable room windows of adjacent residential land uses in:*

- a) *neighbourhood-type zone is minimised to maintain access to direct winter sunlight*
- b) *other zones is managed to enable access to direct winter sunlight.*

#### **PO 3.2 - General Development Policies – Interface between Land Uses**

*Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:*

- a) *a neighbourhood type zone is minimised to maintain access to direct winter sunlight*
- b) *other zones is managed to enable access to direct winter sunlight.*

The corresponding DPFs seek to provide adjacent residential land uses between 9am and 3pm on 21<sup>st</sup> June with a minimum of 3 hours of direct winter sunlight to adjacent habitable rooms and 2 hours of direct winter sunlight to the primary areas of POS and / or COS. The applicant provided an overshadowing diagram, refer to **Attachment 1.3**, detailing the extent of shadows cast by the proposed building to adjoining areas. It is acknowledged the proposed retirement facility will cast shadows over the adjacent existing retirement facility during the morning on June 21<sup>st</sup>, however as shown from 11am onwards, the proposed building will not be shadowed by the proposed building.

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Pursuant to the interpretation section of *the Code*, when there is a conflict between provisions, the hierarchy is to be used. This is where Overlays take precedence over Zone provisions, in turn taking precedence over the General Provisions section.

The proposed development satisfies the setback, height and density outcomes sought by the zone. Whilst the proposal does not satisfy the interface provisions, the hierarchy states that due to the zone **POs** being satisfied these are to be given more weight than the **General Development Policies**. As such, despite the anticipated overshadowing, the proposal is considered to be an appropriate form of development.

#### **Overlooking**

As discussed earlier in the report, several representatives raised concerns regarding overlooking from the proposed development to adjoining properties, specifically within the existing retirement facility on 123 Fisher Street. For assessment purposes, the proposed retirement facility is referred to as a medium to high-rise development. The relevant provision relating to overlooking for the development is **PO 16.1 of General Development Policies – Design in Urban Areas** which seeks:

##### ***PO 16.1 - General Development Policies – Design in Urban Areas***

*Development mitigates direct overlooking of habitable rooms and private open spaces of adjacent residential uses in neighbourhood-type zones through measures such as:*

- a) appropriate site layout and building orientation*
- b) off-setting the location of balconies and windows of habitable rooms or areas with those of other buildings so that views are oblique rather than direct to avoid direct line of sight;*
- c) building setbacks from boundaries (including building boundary to boundary where appropriate) that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- d) screening devices that are integrated into the building design and have minimal negative effect on residents' or neighbours' amenity.*

As noted previously Direct Overlooking is defined as:

*'In relation to direct overlooking from a window, is limited to an area that falls within a horizontal distance of 15 metres measured from the centre line of the overlooking window and not less than 45-degree angle from the plane of that wall containing the overlooking window.*

*In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace.'*

The proposed retirement facility is sited over 18.2m from the common (western) boundary between the existing retirement facility on 123 Fisher Street and the Education Facility to the south. The distance of the proposed retirement facility to the existing retirement facility on 123 Fisher Street, is sited beyond the horizontal line to be considered direct overlooking to a sensitive receiver. As such the proposal is not considered to cause overlooking to adjoining properties. Notwithstanding this, and to be discussed later in the report, the proposal provides a 4m landscaping buffer between the two retirement facilities. Although landscaping is not generally supported to be used as an overlooking mitigation technique, the screening trees, once established, within the landscape buffer will assist in mitigating overlooking to the adjoining properties.

It is also noted the representative for Concordia College has also raised concerns regarding overlooking to the College. The Planning and Design Code does not consider overlooking to non-residential land uses.

While the concerns from the representatives are acknowledged, *the Code* has been written seeking to mitigate (not eliminate) the potential for overlooking *the Code* has not been written to prevent overlooking

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completely, it instead seeks to mitigate the potential of overlooking through privacy techniques and setbacks from adjoining properties.

Given the above, the proposal does not result in direct overlooking to adjacent residential uses and is considered to satisfy **PO 16.1** of **General Development Policies – Design in Urban Areas**.

#### **Waste Collection**

The relevant **POs** of **General Development Policies – Design in Urban Areas** state:

***PO 1.5 – General Development Policies – Design in Urban Areas***

*The negative visual impact of outdoor storage, waste management, loading and service areas is minimised by integrating them into the building design and screening them from public view (such as fencing, landscaping and built form), taking into account the form of development contemplated in the relevant zone.*

***PO 11.1- General Development Policies – Design in Urban Areas***

*Development provides a dedicated area for on-site collection and sorting of recyclable materials and refuse, green organic waste and wash bay facilities for the ongoing maintenance of bins that is adequate in size considering the number and nature of the activities they will serve and the frequency of collection.*

***PO 11.2- General Development Policies – Design in Urban Areas***

*Communal waste storage and collection areas are located, enclosed and designed to be screened from view from the public domain, open space and dwellings.*

***PO 11.3- General Development Policies – Design in Urban Areas***

*Communal waste storage and collection areas are designed to be well ventilated and located away from habitable rooms.*

***PO 11.4- General Development Policies – Design in Urban Areas***

*Communal waste storage and collection areas are designed to allow waste and recycling collection*

***PO 40.4 – General Development Policies – Design in Urban Areas***

*Provision is made for suitable household waste and recyclable material storage facilities conveniently located away, or screened, from view.*

***PO 40.5 – General Development Policies – Design in Urban Areas***

*Waste and recyclable material storage areas are located away from dwellings.*

***PO 40.6 – General Development Policies – Design in Urban Areas***

*Provision is made for on-site waste collection where 10 or more bins are to be collected at any one time.*

The waste management for the retirement facility forms part of a broader waste management report, prepared by Colby Phillips Advisory, refer to **Attachment 5.1**. Through negotiations with Council's technical officers, an exclusive waste collection area has been provided at the rear of the retirement facility. This collection area was introduced to address Council's raised by Council's technical officers.

The retirement facility comprises 72 residences, each provided with a general waste bin, co-mingled recycling waste bin and a food organics bin. As referred to in the Colby Phillips report, each 'tower' of the retirement facility will be provided with a dedicated chute room, each with three waste chutes (a general waste chute, co-mingled recycling waste chute and a food organics chute). Residents will be responsible to transfer the waste from their dwellings to the chutes, where it will be stored temporarily in bins under the chutes. As the bins are filled, facility management will be required to move the bins from the northern tower waste room to the southern waste room using a battery-powered tow (or similar). On the day of collection, the bins will then be moved using the tow to the waste collection area in the southern corner of the subject land, waste will then be collected by a private waste collector.

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Collections for the onsite waste will be undertaken in accordance with the following:

- Once per week for general waste,
- Once per week for recycling,
- Once per week for organics (food waste)

As shown in Figure 6 of the MFY report, refer to **Attachment 4.1**, a 10.3m rear lift waste truck is able to access the site, and perform a three-point turn within the waste truck turning bay. This ensures the waste vehicle is able to enter and exit the site in a forward motion. As discussed previously, to ensure these services do not negatively impact on adjacent sensitive receivers, all waste collections are to occur outside of peak period. A condition enforcing waste collection hours is recommended to be applied to any approval.

As such the proposal satisfies the intent of **PO 11.1, 11.2, 11.3 and 11.4 of General Development Policies – Design in Urban Areas**.

#### **Traffic, parking and access**

**PO 5.1 of General Development Policies – Transport, Access and Parking** seeks:

***PO 5.1** - Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:*

- a) availability of on-street car parking*
- b) shared use of other parking areas*
- c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- d) the adaptive reuse of a State or Local Heritage Place.*

With the corresponding **DPF 5.1** seeking for a retirement facility:

*Dwelling with 1 or 2 bedrooms (including rooms capable of being used as a bedroom) - 1 space per dwelling.*

*Dwelling with 3 or more bedrooms (including rooms capable of being used as a bedroom) - 2 spaces per dwelling, 1 of which is to be covered.*

*0.2 spaces per dwelling for visitor parking where development involves 3 or more dwellings.*

To satisfy the car parking requirements specified in *the Code*, the proposal is required to provide a total of 125 car parks (rounded down) with 111 car parks dedicated for residences and an additional 14 car parks (rounded down) for visitors. The basement level car park is provided with 172 car parks with an additional 10 car parks sited in the ground floor car park from the public road. The retirement facility is provided with a total of 182 car parks, 54 are allocated to the apartments within the 10-level building, and the remaining 128 allocated to the retirement facility. This calculates to an oversupply of three car parks for the retirement facility. MFY have provided a broad, overarching Car Park Management Plan, pg. 22 refer to **Attachment 4.1**, allocating car parks within the retirement facility to the apartments in the 10-level building and residences in the retirement facility.

As shown in Figures 4 and 5 of the MFY report, vehicle manoeuvrability within the basement, including the ramp between the basement and semi-basement car park has been designed to provide simultaneous vehicle movements and sight lines for drivers to support safe and efficient movement within the site.

Councils Traffic Engineer raised no concerns with access arrangements and vehicle manoeuvrability within the basement as outlined by the MFY report.



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Further relevant **PO's** of the **General Development Policies** state:

**PO 7.2 - General Development Policies – Design in Urban Areas PO's state:**

*Vehicle parking areas appropriately located, designed and constructed to minimise impacts on adjacent sensitive receivers through measures such as ensuring they are attractively developed and landscaped, screen fenced and the like.*

**PO 7.3 - General Development Policies – Design in Urban Areas PO's state:**

*Safe, legible, direct and accessible pedestrian connections are provided between parking areas and the development.*

**PO 8.1 – General Development Policies – Design in Urban Areas**

*Development, including any associated driveways and access tracks, minimises the need for earthworks to limit disturbance to natural topography.*

**PO 8.2 – General Development Policies – Design in Urban Areas**

*Driveways and access tracks designed and constructed to allow safe and convenient access on sloping land.*

**PO 8.3 – General Development Policies – Design in Urban Areas**

*Driveways and access tracks on sloping land (with a gradient exceeding 1 in 8):*

- a) do not contribute to the instability of embankments and cuttings*
- b) provide level transition areas for the safe movement of people and goods to and from the development*
- c) are designed to integrate with the natural topography of the land.*

**PO 23.3 – General Development Policies – Design in Urban Areas**

*Driveways and access points are located and designed to facilitate safe access and egress while maximising land available for street tree planting, domestic waste collection, landscaped, street frontages and on-street parking.*

**PO 23.4 – General Development Policies – Design in Urban Areas**

*Vehicle access is safe, convenient, minimises interruption to the operation of public roads and does not interfere with street infrastructure or street trees.*

**PO 23.5 – General Development Policies – Design in Urban Areas**

*Driveways are designed to enable safe and convenient vehicle movements from the public road to on-site parking spaces.*

**PO 34.2 - General Development Policies – Design in Urban Areas**

*Battle-axe or common driveways incorporate landscaping and permeability to improve appearance and assist in stormwater management.*

**PO 1.4 - General Development Policies – Transport, Access and Parking**

*Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.*

**PO 3.1 - General Development Policies – Transport, Access and Parking**

*Safe and convenient access minimises impact or interruption on the operation of public roads.*

**PO 3.3 - General Development Policies – Transport, Access and Parking**

*Access points are sited and designed to accommodate the type and volume of traffic likely to be generated by the development or land use.*

**PO 3.5 - General Development Policies – Transport, Access and Parking**

*Access points are located so as not to interfere with street trees, existing street furniture (including directional signs, lighting, seating and weather shelters) or infrastructure services to maintain the*

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*appearance of the streetscape, preserve local amenity and minimise disruption to utility infrastructure assets.*

#### **PO 3.8 - General Development Policies – Transport, Access and Parking**

*Driveways, access points, access tracks and parking areas are designed and constructed to allow adequate movement and manoeuvrability having regard to the types of vehicles that are reasonably anticipated.*

#### **PO 4.1 - General Development Policies – Transport, Access and Parking**

*Development is sited and designed to provide safe, dignified and convenient access for people with a disability.*

#### **PO 5.1 - General Development Policies – Transport, Access and Parking**

*Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:*

- a) availability of on-street car parking*
- b) shared use of other parking areas*
- c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- d) the adaptive reuse of a State or Local Heritage Place.*

#### **PO 6.2 - General Development Policies – Transport, Access and Parking**

*Vehicle parking areas are appropriately located, designed and constructed to minimise impacts on adjacent sensitive receivers through measures such as ensuring they are attractively developed and landscaped, screen fenced, and the like.*

#### **PO 6.6 - General Development Policies – Transport, Access and Parking**

*Loading areas and designated parking spaces for service vehicles are provided within the boundary of the site.*

#### **PO 10.1 - General Development Policies – Transport, Access and Parking**

*Development is located and designed to ensure drivers can safely turn into and out of public road junctions.*

The retirement facility will be provided with vehicular access from the proposed public road accessed from Fisher Street with an access ramp adjacent the western boundary leading to the basement level car park. A small 10 car parking area will be accessed from the northern elevation and proposed public road. All access ramps and vehicular car parks are designed to ensure safe and convenient access for the anticipated vehicle types.

The majority of vehicular access to the retirement facility, including its resident's carpark, deliveries and waste collection will be obtained via the internal access ramp. As discussed within the MFY report, **Attachment 4.1**, the access ramp from the proposed public road will be of a suitable width to provide simultaneous movements with the grade of the internal ramp having been designed with a grade no greater than 1:16. The ramp includes appropriate transitions to ensure all vehicles proposed to access to the site have sufficient vertical clearance beneath the vehicles.

Since the lodgement of the application Council requested amendments have been made to provide a dedicated waste collection area servicing the retirement facility. This ensures commercial vehicles are separated from all residential vehicle movements, with a dedicated turn around bay provided to enable all vehicles to enter and exit the site in a forward direction to provide safe and convenient access. The dedicated waste area and turn around bay are located to ensure queueing to public road is unlikely. It is noted MFY have indicated signage and give way line marking should be provided for the land use. A

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Reserve Matter seeking this detail should be included in the recommendation for updated plans reflecting the MFY comments.

Numerous representors have raised concerns with the siting and location of the internal driveway due to the noise emission, disruption, and lack of connectivity between the existing and proposed retirement facilities will make it unsafe for existing residents.

The proposal has included a 4m landscaping buffer that once established will provide a degree of both visual and acoustic relief. The waste collection hours are recommended to be controlled by a condition of approval restricting them to the hours of 9am to 5pm on weekdays only. These elements and control methods are considered appropriate to minimise external impacts of the waste collection.

Council's Traffic Officer broadly supports the access arrangements and vehicle manoeuvrability for the retirement facility.

As such, the proposal is considered to satisfy the above **PO's**.

#### **Deck**

The following **PO's** from the **Design in Urban Areas** state:

##### ***PO 45.1 – General Development Policies – Design in Urban Areas***

*Decks are designed and sited to:*

- a) complement the associated building form*
- b) minimise impacts on the streetscape through siting behind the building line of the principal building (unless on a significant allotment or open space)*
- c) minimise cut and fill and overall massing when viewed from adjacent land.*

##### ***PO 45.2 – General Development Policies – Design in Urban Areas***

*Decks are designed and sited to minimise direct overlooking of habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones through suitable floor levels, screening and siting taking into account the slope of the subject land, existing vegetation on the subject land, and fencing.*

##### ***PO 45.3 – General Development Policies – Design in Urban Areas***

*Decks used for outdoor dining, entertainment or other commercial uses provide carparking in accordance with the primary use of the deck.*

The proposed deck is located within the Central Heart Garden, sited directly off the art room and games area on the ground level of the retirement facility. This internal siting ensures it is obscured from view from the public realm. It is to be used by residents of the retirement facility for recreational purposes and is an extension of the amenities sited on the ground floor of the retirement facility. Although the deck will have a finished level 1m above natural ground, its siting and location will not result in overlooking to adjacent sites. The deck will also minimise the need for any additional earthworks within the garden.

The deck satisfies **PO 45.1, 45.2 and 45.3 of General Development Policies – Design in Urban Areas**.

#### **Basement**

##### ***PO 5.1 - General Development Policies – Design in Urban Areas***

Development is sited and designed to maintain natural hydrological systems without negatively impacting:

- a) the quantity and quality of surface water and groundwater;*
- b) the depth and directional flow of surface water and groundwater;*

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- c) the quality and function of natural springs.

The proposal seeks to excavate the site to construct a basement level car park providing parking for the residents and visitors of the retirement facility and apartments within the 10-level building. Within numerous parts of the Council area are low lying water tables. Given the extent of excavation proposed, bore logs to the anticipated depth of the excavation were requested of the applicant. The bore logs indicated no ground water was encountered at the time of testing. As such, the development is not anticipated to negatively impact on the directional flow of groundwater and is considered to satisfy **PO 5.1 of General Development Policies – Design in Urban Areas**.

A condition is recommended to be included on any approval to ensure should any ground water be encountered it is not discharged into Council's stormwater system and is appropriately managed.

#### **Landscaping**

The applicant provided a Landscape Concept Design Report prepared by Clover, **refer to Attachment 7.1**. This landscaping plan relates to the entirety of the subject land a more detailed discussion will be discussed below under Site Wide Matters.

#### **Stormwater Management**

The applicant provided a Stormwater Management Plan and supporting calculations, prepared by FMG, **refer to the Attachment 3**. This stormwater management plan relates to the entirety of the subject land a more detailed discussion will be discussed below under Site Wide Matters.

#### **Dwellings**

An overview of each dwelling, when assessed against the relevant provisions of *the Code* are seen in the table below. Where a box is filled in red that dwelling does not satisfy the quantitative guidelines of the relevant **DPF**. If the box contains a (N/A), then the quantitative requirement does not apply to the dwelling.

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**Table 1 – Planning and Design Code guidelines**

	Planning and Design Code	Lot 1	Lot 14	Type A	Type B	Type C	Type D	Type E
<b>Building Height URNZ - PO / DPF 2.1</b>	Building Height (m): 18.5m Building Height (levels): 5	10.3m & 2 levels	9m & 2 levels	8.5m & 2 levels	8.6m & 2 levels	9.5m & 2 levels	8.8m & 2 levels	9m & 2 levels
<b>Primary Street Setback URNZ - PO / DPF 3.1</b>	In all other cases: 3m	10.6m – to the building line	4.2m	3m – to the building line	3.5m – to the building line	3.8m – to the building line	3.8m – to the building line	3.4m – to the building line
<b>Secondary Street setback URNZ - PO / DPF 4.1</b>	Minimum: 900mm	N/A	3m	Min: 3.56m	Min 0.9m	Min: 3.9m	-	Min: 4.7m
<b>Boundary Walls URNZ - PO / DPF 5.2</b>	Minimum 900mm from side boundaries shared with allotments outside of the development site	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Side Boundary: URNZ - PO / DPF 6.1</b>	First Level: 900mm Second Level: 900mm plus 1/3 of wall height above 3m	7m to both first and second level	N/A	N/A	N/A	N/A	N/A	Lot 13 (only): 3.4m first and second level setback
<b>Rear Boundary: URNZ - PO / DPF 7.1</b>	a) 3m for first building level or 0m where the rear boundary abuts a laneway; b) 5m for any second building level;	6.4m First level 3.5m Second Level	1.5m First level 1.5m Second Level	N/A	N/A	N/A	5m First level 3.2m Second Level	N/A
<b>Site Dimensions URNZ - PO / DPF 8.2</b>	Development with a net residential density over 70 dwellings per hectare on sites with a minimum area of 1200m <sup>2</sup> and minimum frontage width of 35m.	632m <sup>2</sup>	463m <sup>2</sup>	260m <sup>2</sup>	283m <sup>2</sup>	260m <sup>2</sup>	337.5m <sup>2</sup>	195m <sup>2</sup>
<b>Private Open Space PO / DPF 21.1 – Design in Urban Areas</b>	Table 1 – Private Open Space Site area <301m <sup>2</sup> : 24m <sup>2</sup> Site area > 301m <sup>2</sup> : 60m <sup>2</sup>	220m <sup>2</sup>	70m <sup>2</sup>	38m <sup>2</sup>	26m <sup>2</sup>	25m <sup>2</sup>	74m <sup>2</sup>	24m <sup>2</sup>
<b>Soft Landscaping PO / DPF 22.1 – Design in Urban Areas</b>	Site Area Between 150 – 200m <sup>2</sup> : Min 15% Between 200 - 450m <sup>2</sup> : Min. 20% >451m <sup>2</sup> : Min 25% Including at least 30% of any land between the primary street boundary and the primary building line.	Overall: 56% (360m <sup>2</sup> ) Forward of Building Line: 95% (170m <sup>2</sup> )	Overall: 22% (106m <sup>2</sup> ) Forward of Building Line: 86% (64m <sup>2</sup> )	Overall: 52m <sup>2</sup> (20%) Forward of Building Line: 24m <sup>2</sup> (66%)	Overall: 17.6% (50m <sup>2</sup> ) Forward of Building Line: 66% (28m <sup>2</sup> )	Overall: 16% (44m <sup>2</sup> ) Forward of Building Line: 55% (24m <sup>2</sup> )	Overall: 19.5% (66m <sup>2</sup> ) Forward of Building Line: 34% (23m <sup>2</sup> )	Overall: 39m <sup>2</sup> (20%) Forward of Building Line: 48% (14m <sup>2</sup> )
<b>Car Parking PO / DPF 5.1 – Transport, Access and Parking</b>	Dwellings with 1 bedroom: 1 space 2 or more bedrooms: 2 spaces (1 which is covered)	2 spaces both of which are covered	3 spaces 2 being covered	3 spaces 2 being covered	3 spaces 2 being covered	3 spaces 2 being covered	3 spaces 2 being covered	3 spaces 2 being covered

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#### **Built Form**

As discussed at the start of this report, the proposal seeks to construct 16 two-storey dwellings in a terrace arrangement in three groups. 13 of the dwellings front Fisher Street with three (3) dwellings fronting Highgate Street. There are seven distinct dwelling designs, with some dwellings being mirrored dependent on the access arrangements. The dwellings incorporate numerous materials and colours as well as articulation to all elevations by way of setback changes, windows, and various aesthetic vertical batten panel fixtures.

**PO 2.1** and **PO 2.2** of the **Urban Renewal Neighbourhood Zone** seeks:

***PO 2.1** - Buildings generally 2-3 levels with taller buildings located on sites that are a suitable size and dimension to manage massing and impacts on adjoining residential development.*

***PO 2.2** - Buildings on an allotment at the interface with a different neighbourhood-type zone are sited and designed to provide an orderly transition to the built form scale envisaged in that zone to mitigate impacts on adjacent residential uses.*

The proposed dwellings will have a maximum building height of two levels and 9.5m when measured from natural ground level, both less than the quantitative requirements sought by **DPF 2.1** of the **Urban Renewal Neighbourhood Zone**. The proposed dwellings are considered to provide an orderly transition and scale between the single storey nature of the Established Neighbourhood Zone (to the north, east and west) and the 5 storey retirement facility proposed for the middle of the site, ensuring limited material impact residential amenity, satisfying the intent of **PO 2.1** and **2.2** of the **Urban Renewal Neighbourhood Zone**.

The following **Urban Renewal Neighbourhood Zone PO's** provide guidance regarding setbacks and interaction with the locality:

***PO 3.1** – Buildings are set back from primary street boundaries to contribute to the existing/emerging pattern of street setbacks in the streetscape and integrate development with public open space.*

***PO 4.1** - Buildings are set back from secondary street boundaries to achieve a pattern of separation between building walls and public streets and reinforce a streetscape character.*

***PO 5.2** –Dwellings in a semi-detached, row or terrace arrangement maintain space between buildings consistent with a suburban streetscape character.*

***PO 6.1** - Buildings are set back from side boundaries to provide:*

- c) separation between buildings to minimise visual impact*
- d) access to natural light and ventilation for neighbours.*

***PO 7.1** – Buildings are set back from rear boundaries to provide:*

- e) separation between buildings to minimise visual impact*
- f) access to natural light and ventilation for neighbours.*
- g) open space recreational opportunities*
- h) space for landscaping and vegetation.*

**Table 1** above, shows the quantitative details of the proposal in relation to setbacks, site requirements and building height.

Currently the subject land is predominantly devoid of structures fronting directly to Fisher Street, except for the Gosse Building on the corner of Fisher and Highgate Street. The existing pattern of development seen on the site is open, spacious and heavily vegetated with limited structures, somewhat in contrast to the

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intent of the zone. The proposal will result in a new built form transitioning into a spacious road and will not have a detrimental impact on the character of the area.

Each dwelling has been provided with a minimum 3m front setback from the building line, satisfying the quantitative requirements of **DPF 3.1**. As outlined in *Part 1 – Rules of Interpretation of the Code*, **Desired Outcomes** are policies aid in interpreting a **Performance Outcome** by setting a general policy agenda for a **Zone, Subzone, Overlay or General Development Policies**. Fisher Street is noted for its wide road carriageway and verges, with either side comprised of single storey dwellings with generous front setbacks and well-maintained mature landscaping. In combination with the mature landscaping within the verges of Fisher Street, the street has a high level of amenity to residents and visitors. The character currently seen within the locality is consistent with the **Desired Outcomes** as sought by the **Established Neighbourhood Zone** sited to the north, east and west of the subject land, seeking sympathetic buildings to maintain the predominant streetscape character.

When considering the **Desired Outcome** of the **Urban Renewal Neighbourhood Zone**, there is a clear distinction between the existing streetscape and the desired housing forms and densities sought within the zone. The proposed development provides the housing diversity sought at a higher density consistent with the distinct difference in the **Desired Outcomes** between the two zones. While there will be a difference between the existing and emerging development patterns, the wide road width and the retention of the majority of the street trees on Fisher Street, the minimum 3m front setback to the proposed dwellings will contribute to the emerging pattern of development without detrimentally detracting from the character of the locality.

The dwellings on Lots 1 – 14 each have a secondary street frontage, either to Fisher Street or the internal public road. All dwellings have provided the minimum 900mm offset from the secondary street boundary to maintain the sense of separation between the building and the public realm. This is consistent with the existing pattern of development in the locality.

Since public notification Lot 1 has undergone substantial redesign, resulting in increased side setbacks from the western boundary to both the upper and lower levels. The entirety of the dwelling now provides a setback of 5.7m from the western boundary, exceeding the quantitative provisions of **DPF 6.1**. Notwithstanding this, the two-storey dwelling has been designed with differing materials, protruding elements and fenestration to provide visual interest and relief. Additionally, given the dwelling is adjacent to a car park and driveway to the entrance of the existing Retirement Facility on 123 Fisher Street, there is no appreciable impact to the amenity of the adjoining land.

Lots 1, 14, 15 and 16 will provide rear setbacks of 3.5, 1.5m and 3.2m respectively. These setbacks do not satisfy the quantitative requirements prescribed in **DPF 7.1**. Each allotment rear boundary abuts to either the Garden Walk & Western Link, refer to Pg 32 of Clovers Concept Report in **Attachment 7.1**, or the proposed public open space. With each dwelling providing an excess of Private Open Space, to be discussed further below, and adequate space for landscaping, it is considered the shortfall in rear setback is not detrimental to the locality.

For the reasons detailed above it has been considered the proposed dwellings satisfy the intent of **PO 3.1, 4.1, 5.2, 6.1 and 7.1 of Urban Renewal Neighbourhood Zone**.

## **Design and Appearance**

The following **PO's** from the **Design in Urban Areas** state:

### ***PO 17.1 - General Development Policies – Design in Urban Areas***

*Dwellings incorporate windows facing primary street frontages to encourage passive surveillance and make a positive contribution to the streetscape.*

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#### ***PO 17.2 - General Development Policies – Design in Urban Areas***

*Dwellings incorporate entry doors within street frontages to address the street and provide a legible entry point for visitors.*

#### ***PO 18.1 - General Development Policies – Design in Urban Areas***

*Living rooms have an external outlook to provide a high standard of amenity for occupants.*

#### ***PO 20.2 - General Development Policies – Design in Urban Areas***

*Dwelling elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.*

The dwellings have been designed to activate the streetscape of Fisher Street and Highgate Street through open front yards incorporating a variety of plantings and clearly defined entry ways enhancing the appearance of the buildings. Habitable rooms, including living areas, bedrooms and balconies front both to the primary and secondary street frontages allowing for passive surveillance across the public realm. The dwellings provide a high level of residential amenity for residents and are considered to satisfy **PO 17.1, 17.2, 18.1 and 20.2** of **General Development Policies – Design in Urban Areas**.

### **Private Open Space**

*The Code seeks an area associated with a dwelling to be included as Private Open Space (POS) with the following features it should:*

- *Be for the exclusive use of the occupants of that dwelling;*
- *Has a minimum dimension of 2.0m for ground level areas and 1.8m for balconies;*
- *Is screened from public view by a building, fence, wall or other similar structure with a minimum height of 1.8m above ground level and a maximum transparency of 20%.*
  - *Private Open space may include verandahs, alfrescos, balconies, terraces, decks where not enclosed on all sides. Private open space does not includes areas used for bin storage, laundry drying, rainwater tanks, utilities, driveways or vehicle parking areas.*

The relevant **PO's** of the **General Development Policies – Design in Urban Areas** state:

#### ***PO 21.1 – General Development Policies – Design in Urban Areas***

*Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.*

#### ***PO 21.2 – General Development Policies – Design in Urban Areas***

*Private open space is positioned to provide convenient access from internal living areas.*

Proposed Lots 1, 14, 15 and 16 all have a site area exceeding 301m<sup>2</sup> and therefore should provide a minimum of 60m<sup>2</sup> of POS. These three dwelling types demonstrate POS area exceeding the minimum desired amount. All the POS areas will be directly accessible from the open plan kitchen, living and dining areas and are of a size considered to be functional and useable. This satisfies the intent of **PO 21.1** and **PO 21.2** of **General Development Policies – Design in Urban Areas**.

The remaining dwellings are to be located on allotments with site areas less than 300m<sup>2</sup>, requiring a minimum of 24m<sup>2</sup> of POS. Type A, B, C & E dwellings have each been provided with either a singular balcony or two separate balconies of an area of 24m<sup>2</sup> or more. The width of the balconies exceeds 1.8m ensuring they are functional and useable. It is acknowledged the balconies are not proposed to be obscured and therefore do not satisfy the definition to be considered POS. Nevertheless, each balcony has been designed for the exclusive use of the dwelling residents directly accessible from the internal habitable rooms (bedrooms, living areas, media rooms etc.). The balconies are also sited above ground level providing a degree of privacy to the residents while not causing direct overlooking to the adjacent dwellings POS or the retirement facility at 123 Fisher Street. As outlined on Pg. 55 of the Clovers Landscape Concept



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Design Report, the proposal seeks to plant trees on either side of the public road, providing further screening to the dwellings ensuring a degree of privacy deemed to be acceptable to consider the balconies as the respective dwellings POS.

For the reasons detailed above, the dwellings are provided with POS satisfying the intent of **PO 21.1** and **PO 21.2** of **General Development Policies – Design in Urban Areas**.

#### **Overlooking**

Numerous representations raised concerns with overlooking both to and from the proposed dwellings and a general loss of privacy most notably from the dwelling on Lot 1. To address these concerns the applicant provided additional screening to this dwelling, in the form of Elliptical Aero Louvres, to the second level of the southern elevation. The addition of the screen will reduce the potential for direct overlooking to the existing Retirement Facility on 123 Fisher Street.

**General Development Policies – Interface between Land Uses PO 10.1** states

***PO 10.1** - Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.*

***PO 10.2** - Development mitigates direct overlooking from balconies to habitable rooms and private open space of adjoining residential uses in neighbourhood type zones.*

For the purposes of the Planning and Design Code, direct overlooking is defined as

*‘... limited to an area that falls within a horizontal distance of 15 metres measured from the centre line of the overlooking window and not less than 45 degree angle from the plane of that wall containing the overlooking window.*

*In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace.’*

As discussed earlier in the report, none of the second level balconies have screened balustrading, with the exception of the southern façade of the dwelling on lot 1. *the Code* seeks to mitigate, meaning to lessen or make less severe, direct overlooking to habitable rooms and POS of adjoining residential uses habitable rooms and POS. Although the dwelling balconies will have views into the service yards sited at the rear of the dwellings on Lots 2 – 13, these areas are not considered to be POS. The second level balconies do not result in direct overlooking to habitable areas. Further, the balconies are sited in excess of 15m from the adjacent retirement facility on 123 Fisher Street. As such the proposed development is considered to satisfy **PO 10.1** and **10.2** of the **General Development Policies – Interface between Land Uses**

#### **Landscaping**

Numerous representations raised concerns regarding the loss of vegetation on site. The removal of regulated and significant trees has been discussed previously, refer to *Regulated and Significant Tree* section for the assessment.

**DO 1** and **PO 22.1** of the **General Development Policies – Design in Urban Areas** seek:

***DO 1** - Development is*

- a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributing to the character of the locality*
- b) durable - fit for purpose, adaptable and long lasting*
- c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with*

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- the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors*
- d) *sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.*

**PO 22.1** - *'Soft landscaping is incorporated into development to:*

- (a) minimise heat absorption and reflection*
- (b) contribute shade and shelter*
- (c) provide for stormwater infiltration and biodiversity*
- (d) enhance the appearance of land and streetscapes.'*

Table 1 identifies the soft landscaping requirements and each dwelling's performance against the relevant DPF based on site areas.

Type B, C and D dwellings fall short on providing the minimum desired area of soft landscaping. Notwithstanding this, the proposal includes landscaping concept plans detailing how each dwelling will be landscaped, refer to **Attachment 7.1**. The inclusion of areas for soft landscaping, predominantly within the front yards, will enhance the appearance of the land using a variety of plantings. Once established, these plants will provide shade and shelter to the northern facades, as well as allowing for stormwater infiltration

As such, it is considered the proposal meets the intent of **PO 22.1** of **General Development Policies - Design in Urban Areas** section.

**Urban Tree Canopy Overlay PO 1.1** states:

**PO 1.1** - *Trees are planted or retained to contribute to an urban tree canopy.*

The corresponding DPF outlines the tree size and number required per dwelling with *Table 1 Tree Size* specifying the tree's minimum mature height, mature spread and soil area around the tree within the development.

As identified on pg. 55 and 56 of Clover's Landscape Concept Design Report, the *Master Plan Tree Replacement Plan* and *Fisher Street Frontage, Public Road & Laneway – Tree Masterplan* identifies each dwelling will be planted with a mix of small ornamental trees in the front yards of the dwellings. The trees will satisfy **PO & DPF 1.1** of **Urban Tree Canopy Overlay** and the mandatory condition, as per *Practice Direction 12 – Conditions*, has been applied to the development.

## **Traffic, Access and Parking**

The relevant **PO's** of the **General Development Policies – Design in Urban Areas** state:

### **PO 3.5 – General Development Policies – Design in Urban Areas**

*Access points are located so as not to interfere with street trees, existing street furniture (including directional signs, lighting, seating and weather shelters) or infrastructure services to maintain the appearance of the streetscape, preserve local amenity and minimise disruption to utility infrastructure assets.*

### **PO 23.1 - General Development Policies – Design in Urban Areas**

*Enclosed car parking spaces are of dimensions to be functional, accessible and convenient.*

### **PO 23.3 – General Development Policies – Design in Urban Areas**

*Driveways and access points are located and designed to facilitate safe access and egress while maximising land available for street tree planting, domestic waste collection, landscaped, street frontages and on-street parking.*

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#### **PO 23.4 – General Development Policies – Design in Urban Areas**

*Vehicle access is safe, convenient, minimises interruption to the operation of public roads and does not interfere with street infrastructure or street trees.*

#### **PO 23.5 – General Development Policies – Design in Urban Areas**

*Driveways are designed to enable safe and convenient vehicle movements from the public road to on-site parking spaces.*

Lots 1 – 13 incorporate vehicular access via the proposed public road accessed from Fisher Street. Lot 14 demonstrates vehicular access directly from Fisher Street with Lots 15 and 16 with access directly from Highgate Street. To support the access to Lot 14, one street tree (not regulated) will require to be removed. The street tree, identified as tree 237 in the Arborman Map and Clover's report has been supported for its removal by Council's Arborist, with the applicant to cover the cost of its removal and amenity loss – an Advisory Note regarding can be applied with any approval.

Although vehicular access to the dwellings results in the removal of a street tree, on balance, the proposal seeks to retain 18 existing street trees by providing a majority of vehicular access via the future public road. Additionally, the applicant requested Clover to undertake a review of the street trees and provide suitable re-planting locations to replace the loss of the street trees associated with the development, refer to pg. 55 of the Clover report.

The applicant has provided a traffic assessment by MFY, refer to **Attachment 4.1**, raising no concerns regarding vehicular access and egress from the subject land. The vehicle movements from the dwellings are able to be undertaken in a safe and convenient manner without negatively impacting on the operation of public roads or interfering with street infrastructure.

**PO 5.1 of the General Development Policies - Traffic, Access and Parking** states:

***PO 5.1** – Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:*

- a) availability of on-street car parking*
- b) shared use of other parking areas*
- c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- d) the adaptive reuse of a State or Local Heritage Place.*

The dwellings on lot 1 and 15 are provided with 2 on-site car parks, with at least one being covered, with the remaining dwellings providing a minimum of 3 on-site car parks, two of which are contained within double garages. All car parking spaces satisfy the minimum dimensions outlined in the corresponding **DPF 23.1**. As such the proposed dwellings provide sufficient on-site car parks to meet the needs of the residents.

Given the above, the proposal is considered to meet the intent of **PO 3.5, 23.1, 23.3, PO 23.4** and **PO 23.5** of **General Development Policies – Design in Urban Areas** and **PO 3.5** of the **Transport, Access and Parking** section.

## **Stormwater Management**

**Stormwater Management Overlay PO 1.1** states:

***PO 1.1** - Residential development is designed to capture and re-use stormwater to:*

- a) maximise conservation of water resources*

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- b) *manage peak stormwater runoff flows and volume to ensure the carrying capacities of downstream systems are not overloaded*
- c) *manage stormwater runoff quality.*

The corresponding DPF outlines the rainwater tank storage requirements. Each dwelling will be connected to a tank with a minimum capacity of 3000L (2000L retention volume & 1000L detention volume) connected to a minimum of 60% of the roof area, connected to one toilet and either the laundry cold water outlets or hot water service and includes a 20-25mm diameter slow release orifice at the bottom of the detention component of the tank. The proposal satisfies **PO & DPF 1.1 of Stormwater Management Overlay** and the mandatory condition, as per *Practice Direction 12 – Conditions*, applied to the development.

## **Waste Collection**

### **PO 24.1 - General Development Policies – Design in Urban Areas**

*Provision is made for the convenient storage of waste bins in a location screened from public view.*

As outlined in the Colby Philips – *Highgate Waste Report*, refer to **Attachment 5.1**, the dwellings will utilise the Council kerbside waste collection. Each dwelling is provided with 3 standard waste bins (general waste, recycling, and organics), with each resident responsible for maintaining and presenting the bins for collection on either Fisher Street or Highgate Street. Except for Lot 1, the three bins will be stored within the front yard of each dwelling. Council administration raised concerns with the storage of the bins in the front yard and to address this matter the applicant has now included bin enclosures, see **Figure 10** below. Lot 1 will house the bins to the side of the dwelling, obscured from the public realm.

**Figure 10 - Example of the bin enclosure forward of the dwellings**



The waste bins will now be discreetly screened from view of the public realm within the bin enclosures and are readily accessible for residents, thereby satisfying the intent of **PO 24.1 of General Development Policies – Design in Urban Areas**.

## **Overall Site Wide Matters**

### **Landscaping**

The relevant **PO's** of the **General Development Policies – Design in Urban Areas** state:

### **PO 3.1 & PO 22.1 - General Development Policies – Design in Urban Areas**

*Soft landscaping is incorporated into development to:*

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- a) *minimise heat absorption and reflection*
- b) *contribute shade and shelter*
- c) *provide for stormwater infiltration and biodiversity*
- d) *enhance the appearance of land and streetscapes.'*

#### **PO 7.6 - General Development Policies – Design in Urban Areas**

*Vehicle parking areas and associated driveways are landscaped to provide shade and positively contribute to amenity.*

#### **PO 13.1 - General Development Policies – Design in Urban Areas**

*Development facing a street provides a well landscaped area that contains a deep soil space to accommodate a tree of a species and size adequate to provide shade, contribute to tree canopy targets and soften the appearance of buildings.*

#### **PO 13.2 - General Development Policies – Design in Urban Areas**

*Deep soil zones are provided to retain existing vegetation or provide areas that can accommodate new deep root vegetation, including tall trees with large canopies to provide shade and soften the appearance of multi-storey buildings.*

#### **PO 13.3 - General Development Policies – Design in Urban Areas**

*Deep soil zones with access to natural light are provided to assist in maintaining vegetation health.*

#### **PO 13.4 - General Development Policies – Design in Urban Areas**

*Unless separated by a public road or reserve, development sites adjacent to any zone that has a primary purpose of accommodating low-rise residential development incorporate a deep soil zone along the common boundary to enable medium to large trees to be retained or established to assist in screening new buildings of 3 or more building levels in height.*

#### **PO 34.1 – General Development Policies – Design in Urban Areas**

*Soft landscaping is provided between dwellings and common driveways to improve the outlook for occupants and appearance of common areas.*

#### **PO 34.2 – General Development Policies – Design in Urban Areas**

*Battle-axe or common driveways incorporate landscaping and permeability to improve appearance and assist in stormwater management.*

#### **PO 34.4 – General Development Policies – Design in Urban Areas**

*Communal open space contains landscaping and facilities that are functional, attractive and encourage recreational use.*

The applicant has provided a Landscaping Plan that encompasses the entirety of the relevant land, including the proposed Public Open Space and Public Road plantings. As detailed in Clover's Landscape Concept Design Report, pg. 27 **Attachment 7.1**, the development has been designed in Precincts identified as *Townhouses, Public Open Space, Central Heart, South Gardens, Western Link and Opal Precinct*. Each precinct has an associated concept design, each can be found on pgs. 32, 36, 38, 58 & 62-65 showing a range of plantings including small – tall trees, small – large shrubs, ground covers and understory and climber plants.

Several representors raised concerns with the siting and location of the driveway into the retirement facility's basement carpark due to a number of factors including its appearance when viewed from the existing retirement facility on 123 Fisher Street. The applicant has proposed to provide a 4m landscaping buffer along the common boundary between 103 and 123 Fisher Street, providing a variety of plantings, including shade tolerant trees, vines and understorey plantings, to soften the built form but also to enhance the appearance and provide screening to the common driveway when viewed from the existing Retirement Facility.

The only car parking area readily viewed from the public realm is the ground level car park for the supported accommodation. This car park is adjacent dwellings fronting Highgate Street in the Established

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Neighbourhood Zone. Within this area is proposed to be new understorey plantings and re-surfacing of the existing car park with the retention of the existing mature landscaping along the road frontage. This will assist in maintaining the current character and amenity of Highgate Street.

The Central Heart Garden sited between the two towers of the proposed retirement facility and the Southern Garden, sited at the rear, seeks to provide the deep soil zones sought by *the Code*. Council's Urban Design Lead has raised concerns with the location and viability of the Central Hearts gardens and Southern Gardens and access to natural light as it will be overshadowed by the retirement facility building. As noted previously, it is recommended a Reserved Matter be included in any approval seeking a comprehensive landscaping plan. The species eventually chosen will need to be shade tolerant to ensure longevity and this can be assessed once a detailed the landscaping plan is provided.

On balance, the soft landscaping provided within these two gardens is provided as a communal area and is attractive and would encourage residents to use it for recreational purposes. The gardens surrounding the retirement facility enhance the appearance of the land, both internally and when viewed from adjoining properties. The variety of planting species proposed and identified in the Landscape Palette, as shown on Pg. 42-46, as well as the regulated trees to be retained and / or transplanted within the gardens will promote biodiversity and provide shade for residents using the area. Lastly, given the size of the gardens, the proposal will enable stormwater infiltration on the site rather than stormwater running into the Council stormwater system.

It should be noted the development of the public open space and public road will be determined during the land division assessment. However, it is understood the public open space is to be provided un-developed for Council to consider how this space will be developed in consultation with the local community.

The development is considered to satisfy **PO 3.1, 7.6, 13.1, 13.2, 13.3, 13.4, 34.1, 34.2** of **General Development Policies – Design in Urban Areas**.

#### **Stormwater management**

The relevant **PO's** of the **General Development Policies – Design in Urban Areas** state:

##### ***PO 7.1 – General Development Policies – Design in Urban Areas***

*Vehicle parking areas and access ways incorporate integrated stormwater management techniques such as permeable or porous surfaces, infiltration systems, drainage swales or rain gardens that integrate with soft landscaping.*

##### ***PO 36.1 – General Development Policies – Design in Urban Areas***

*Residential development creating a common driveway / access includes stormwater management systems that minimise the discharge of sediment, suspended solids, organic matter, nutrients, bacteria, litter and other contaminants to the stormwater system, watercourses or other water bodies.*

##### ***PO 36.2 – General Development Policies – Design in Urban Areas***

*Residential development creating a common driveway / access includes a stormwater management system designed to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that the development does not increase the peak flows in downstream systems.*

The applicant provided a Stormwater Management Plan (SMP), prepared by FMG, refer to the attachments contained in **Attachments 3**, managing all stormwater within the subject land. In principle, Council administration is supportive of the SMP and associated reports, provided as part of the application. It provides reassurance the stormwater collected on site is able to be managed to Council's satisfaction without increasing demand on Council's infrastructure or contaminating stormwater from vehicular parking areas or common driveways.



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Given Council's Project Lead Civil is supportive in principle of the current plan, the development is considered to satisfy **PO 7.1, 36.1 and 36.2** of **General Development Policies – Design in Urban Areas**.

It is recommended as part of any approval; a Reserve Matter is included requiring a final detailed design of the SMP to the satisfaction of Council.

#### **Water Sensitive Urban Design**

**PO 14.2** of **General Development Policies – Design in Urban Areas** seeks:

*14.2 – Development incorporates sustainable design techniques and features such as window orientation, eaves and shading structures, water harvesting and use, green walls and roof designs that enable the provision of rain water tanks (where they are not provided elsewhere on site), green roofs and photovoltaic cells.*

Clover's Landscape Concept Design Report, **Attachment 7.1**, has indicates Water Sensitive Urban Design (WSUD) techniques and opportunities can be incorporated into future Public Open Space and Public Road. At this time no WSUD techniques has been incorporated within the development of the future private land.

The development of Public Land is outside the remit of this application and will be matters negotiated at the time of a Land Division Assessment. It should be noted the future Public Open Space is not controlled by the applicant, and as discussed previously, will be provided to Council undeveloped.

In its current form the development has not provided WSUD within its current design of private land. As such, Council Administration recommended a Reserve Matter is included as part of any decision, to ensure WSUD is incorporated on the private land surrounding the development as part of the Stormwater Management Plan.

#### **Bicycle parking**

As part of the development, 26 bicycle parking spaces are proposed on site. Although the number of bicycle parks provided is low, the subject land is not located within a Designated Area and therefore is not required to provide a minimum of bicycle parking.

#### **Retaining wall and Fencing**

The proposal includes fencing to all boundaries of the subject land and along allotment boundaries, with retaining walls included with heights determined by the fall of the land.

**PO 9.1** of the **General Development Policies – Design in Urban Areas** states:

*PO 9.1 - Fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.*

The subject land has a gradual fall of approximately 2m from the north-eastern corner to the south-western corner of the site. As shown on the FMG Benching and Retaining Plan and Overall Site Plan and General Construction Plans, refer to **Attachment 3.6** and **3.7**, the proposal results in a degree of cut and fill across the site, resulting in retaining walls that vary in height from 0.2m up to 1.5m. The extent of cut and / or fill will not be readily perceptible outside of the subject land. As shown on the FMG Plan Benching and Retaining Plan, refer to **Attachment 3.6**.

Given the fall of the land, the dwellings fronting Fisher Street have finished floor levels stepping down to follow the slope of the land. This results in retaining walls between dwellings to a maximum height of 0.55m, with a 1.8m fence on top, refer to **Attachment 3.6**. The proposed fencing between the town houses

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is of a sufficient height to maintain privacy and security between dwellings and will not unreasonably impact on the amenity of the residents.

The rear boundary fencing of Lots 14 – 16 will abut the proposed public open space and will be sited on fill to a height of 1.5m with a 1.1m masonry fence on-top, refer to **Attachment 2.3**. Given the height of the retaining wall and fence along the rear boundaries of Lots 14 – 16, the 1.1m fence will be permeable to provide residents with a level of privacy to their rear gardens but also provide an outlook to the public open space.

Several representors raised concerns with the treatment of the common boundary between 103 and 123 Fisher Street. Between the two site there is a difference in natural ground level of 1m, with the development proposing an additional 1.2m rendered retaining wall with a 1m tubular fence resulting in an overall 2.2m rendered retaining wall and a 1m tubular fence on top. The fence will provide some acoustic treatments from the internal road to the existing retirement facility on 123 Fisher Street. The fence will also be broken up with the tubular fence to allow for sunlight and ventilation to the adjacent property, with its visual impact further reduced by the landscaping strip discussed previously.

The waste turning bay at the rear of the retirement facility will incorporate retaining to a height of 1.5m in cut, with a 1.5m tubular fence on top to protect the safety of residents. Although retaining and fencing will have a combined height of 3m, only 1.5m will be readily seen from within and outside of the subject land. As such, the height of the fence seen will not adversely impact on the amenity of the area.

As such the proposal is considered to satisfy PO 9.1 of **General Development Policies – Design in Urban Areas**.

#### **Retained Regulated and Significant trees**

**PO 2.1 of Regulated and Significant Tree Overlay** states:

***PO 2.1 - Regulated and Significant trees, including their root systems, are not unduly compromised by excavation and / or filling of land, or the sealing of surfaces within the vicinity of the tree to support their retention and health.***

The applicant provided a supporting report from Arborman, refer to **Attachment 6.2**. **This report** was peer reviewed by Council's consultant arborist. As a result of the concerns raised by Council's arborist, amendments to the development were made that differ from the plans made available during public notification. The alterations to the plans were outlined in the *Preliminary Information* at the beginning of the report. Pg. 64 – 68 in the Arborman Report, outlines the TPZ for individual trees and the encroachment from the proposed development. In general terms, typically when the built form encroaches into the TPZ by more than 10% it is considered a potential major encroachment. However, the tree species, existing growing conditions and existing encroachments are all taken into consideration when determining if the new built form encroachment is within tolerable limits.

Concern were raised with the applicant on the encroachment from the proposed driveway within the SRZ and TPZ of Tree 240 (A significant Ironbark sited within the street verge) and with the built form encroachment to Trees 34 and 36. To address these concerns the applicant substantially re-designed the dwelling on Lot 1 by reducing the building footprint, increased the front and side setbacks and moved vehicular access to be provided from the proposed public road. The alterations to the Lot 1 dwelling removed all encroachment within the TPZ's of Trees 34, 36 and 240 and reduce the encroachment of Tree 37 down to 15%. To allow for the construction of the dwelling, Tree 37 will also require approximately 10% of the crown to be pruned. The pruning is not anticipated to have a negative impact on the visual amenity of the tree. Both the pruning and the encroachment within the TPZ of Tree 37 is within tolerable limits and is supported by Council's consultant arborist.

Council also raised concerns regarding the encroachment of a Type B dwelling within the TPZ of Tree 47 (a significant lemon scented gum) sited within the proposed public open space. To address the concerns, Lot

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13 dwelling was replaced with a Type E dwelling, which has a lesser width of 7.5m, providing an overall setback of 3.4m from the tree. The additional setback from the tree has reduced the encroachment within the TPZ of Tree 47 to 4%, and is now within acceptable limits and supported by Council's consultant arborist. To the rear of the subject land, Trees 1 and 4 – 7, have a proposed TPZ encroachment varying between 9% and 18%. Given the existing level of slated concrete paving surrounding each tree, the proposed development is an improvement to their respective growing environment, and therefore the proposed TPZ encroachment within these trees is generally acceptable.

Tree 56, a Significant Showy Honey Myrtle results in an encroachment of 64%. The significant tree is adjacent to the existing Gosse building. The proposal results in a like for like encroachment and therefore the proposed encroachment in this instance is supported.

The encroachment into Tree 115, a Regulated Cotton Palm, is approximately 1%, the encroachment within the Tree Protection Zone is minimal and supported.

Although the encroachments are supported, the applicant must ensure the Tree Protection Plan (TPP), outlined within the Arborman Report is followed to ensure the health and safety of the Regulated and Significant trees to be retained within the subject land. A condition regarding the TPP is recommended to be applied to any approval.

As discussed above, the proposed development will result in some encroachment into the root system of the regulated and significant trees being retained. However, the development will not unduly compromise the health and structure of the trees and the encroachments into TPZs has been supported, satisfying **PO 2.1 of Regulated and Significant Tree Overlay**.

The applicant is proposing to transplant Tree 20, a Port Jackson Fig. This species is an exempt species. The applicant arborist has provided a transplanting plant to ensure its long-term viability of the tree.

### **Swimming Pools and associated safety structures**

As part of the development, a swimming pool is proposed to be located at the Ground Level of the 10-level building for the use of residents on Level 5 – 9. The private open space of the dwelling on lot 14 also incorporates a swimming pool. While included in the proposal, the swimming pools are considered to be accepted development and do not require a planning assessment.

## **CONCLUSION**

Whilst the development does not satisfy some of the Designated Performance Features set out within the relevant Performance Outcomes, these shortfalls are not considered to be detrimental to the established pattern of development within the locality.

The matters raised by the representors have been considered during this assessment. Having considered all the relevant assessment provisions, the proposal is considered to satisfy the intent of the Desired Outcomes and Performance Outcomes of the Planning and Design Code for the following reasons:

- On balance the proposed development satisfies the relevant Performance Outcomes of the Urban Renewal Neighbourhood Zone, Overlays and General Development Policies;
- The proposed land uses are considered to be complementary to the pattern of development in the locality and it will not detrimentally impact on the amenity of the predominantly residential area;
- The regulated and significant trees identified for removal do not make an *important* contribution to the local character and amenity nor form a notable visual element to the landscape of the local area. The applicant proposes to plant the 108 replacement trees for the regulated and significant trees removed;
- The encroachment of the proposed built form into the retained regulated and significant trees' Tree Protection Zones is within tolerable limits.

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- Adapting the existing 10L building into supported accommodation and dwellings will minimise the material impact on the streetscape character;
- The contemporary design of the dwellings, retirement facility and the re-cladding of the 10-level building is complementary to the contemporary building form of the adjacent retirement facility and education facility.
- The proposed buildings have been sited and design to reduce the visual bulk and scale to adjacent properties by providing landscaping buffers and generous setbacks from common boundaries with adjacent sites.
- The two storey dwellings fronting to Fisher and Highgate Street have been designed in a manner to provide a transition from the predominant single storey character of the Established Neighbourhood Zone and the proposed 5-level retirement facility on the subject land.
- Direct overlooking from upper-level habitable rooms windows and balcony has been appropriately mitigated to adjoining land uses.
- It has been demonstrated each dwelling and apartment will be provided with adequate provision for private open space fully accessible from habitable rooms
- Each residence within the retirement facility is provided with access to a balcony and supplementary communal open space.
- The proposed development has provided sufficient on-site car parking to satisfy *the Code* and has demonstrated any increase in traffic movements would not adversely impact upon traffic movements on the adjacent road network.
- The application has provided a landscape concept plan to assist with softening the built form when viewed from the public realm and adjacent properties.

## **RECOMMENDATION**

The applicant has indicated that the two buildings are to be sited on two separate allotments in a future Land Division application.

Therefore, given the unique arrangement sought by the development, and the parking shortfall on the site of the 10 Level Building for the dwellings proposed therein, the applicant offered to secure the additional car parking rights for the dwellings by way of Land Management Agreement (LMA). The Council accordingly requested that the land owners enter into an LMA, pursuant to s193 of the Act, to formalise the proposed parking arrangements.

At the time of writing this report the LMA had not been executed. To ensure that adequate number of car parks are provided to the residential dwellings within the 10 Level Building the LMA should be fully executed prior to a decision being made.

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. That the Council Assessment Panel resolve to DEFER “further consideration of” Development Application Number 24031252 by Living Choice Australia c/o URPS to enable the applicant to supply the following further information:
  - Executed Land Management Agreement in support of the Development Application.

**OR**

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1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 24031252 by Living Choice Australia c/o URPS is GRANTED Planning Consent subject to the following reserved matters and conditions:

## **RESERVE MATTERS**

### **Planning Consent**

#### **Reserved Matter 1**

Pursuant to Section 102 (3) of the *Planning, Development and Infrastructure Act 2016*, the following matters shall be reserved for further assessment, to the satisfaction of the Relevant Authority, prior to the granting of Development Approval of the relevant stage :

- *A full suite of finalised architectural plans which finalise all floor plans and remove all inconsistencies across the plan set.*

Note - Further conditions may be imposed on the Planning Consent in respect of the above matters.

#### **Reserved Matter 2**

Pursuant to Section 102 (3) of the *Planning, Development and Infrastructure Act 2016*, the following matters shall be reserved for further assessment, to the satisfaction of the Relevant Authority, prior to the granting of Development Approval of the relevant stage :

*A comprehensive and detailed landscaping plan for the site be provided including the following details:*

- *All Urban Tree Canopy trees to be planted to satisfy the Urban Tree Canopy requirements and shall clearly identified its species & location.*
- *Incorporate Waster Sensitive Urban Design techniques within the development of the private land to the satisfaction of the Relevant Authority.*

Note - Further conditions may be imposed on the Planning Consent in respect of the above matters.

#### **Reserved Matter 3**

Pursuant to Section 102 (3) of the *Planning, Development and Infrastructure Act 2016*, the following matters shall be reserved for further assessment, to the satisfaction of the Relevant Authority, prior to the granting of Development Approval Stage 1:

- *The Tree Protection Plan is updated to provide a demolition methodology plan demonstrating that tree sensitive demolition methods within the TPZ of all retained regulated and significant trees are undertaken to the satisfaction of the Relevant Authority.*

Note - Further conditions may be imposed on the Planning Consent in respect of the above matters.

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#### **Reserved Matter 4**

Pursuant to Section 102 (3) of the *Planning, Development and Infrastructure Act 2016*, the following matters shall be reserved for further assessment, to the satisfaction of the relevant authority, prior to the granting of Development Approval Stage 1:

*Final stormwater management plan including the following:*

- *Final engineering drawings;*
- *Final stormwater calculations showing pre and post stormwater outflows to the satisfaction of the Relevant Authority;*
- *The final design must avoid the use of a parallel pipe arrangement running north-south in the entry road from Fisher Street.*
- *Pipes in the future public roads should be minimum 375mm reinforced concrete (RCP).*
- *Final details on the stormwater quality treatment devices to the satisfaction of the Relevant Authority.*

Note - Further conditions may be imposed on the Planning Consent in respect of the above matters.

#### **Reserved Matter 5**

Pursuant to Section 102 (3) of the *Planning, Development and Infrastructure Act 2016*, the following matters shall be reserved for further assessment, to the satisfaction of the Relevant Authority, prior to the granting of Development Approval of the relevant stage:

- *A final car parking plan demonstrating individual car parking allocation under the 5 level retirement facility to each apartment in the 10 level building and each residence within the retirement facility, to the satisfaction of the Relevant Authority;*
- *A plan showing all traffic controls in the form of signs, line marking and directional devices is required to be provided, to satisfaction of the Relevant Authority.*

Note - Further conditions may be imposed on the Planning Consent in respect of the above matters.

## **CONDITIONS**

### **Planning Consent**

#### **Condition 1**

The approved development shall be undertaken and completed in accordance with the stamped plans and documentation as identified in **Appendix A** of the plan set, except where varied by conditions below (if any).

#### **Condition 2**

The materials used on the external surfaces of the proposed buildings, approved herein, and the pre-coloured steel finishes or paintwork must be maintained in good condition at all times to the satisfaction of the Relevant Authority.



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#### **Condition 3**

Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.

#### **Condition 4**

Replacement trees must be planted within 12 months of completion of the development at the following rates:

- if the development relates to a regulated tree—2 trees to replace a regulated tree; or
- if the development relates to a significant tree—3 trees to replace a significant tree.

Replacement trees cannot be within a species specified under regulation 3F(4)(b) of the Planning, Development and Infrastructure (General) Regulations 2017, and cannot be planted within 3 metres of an existing dwelling or inground swimming pool.

#### **Condition 5**

Tree Protection Zones shall be provided for the regulated and significant trees on the site that are to be retained. The development must be undertaken in accordance with the Tree Protection Plan, pages 57 – 59, Tree Protection Detail, pages 69 - 73 and Tree Protection Zone Guidelines, pages 74 – 78 as outlined within the Arboricultural Impact Assessment report prepared by Arborman Tree Solutions dated 29 April 2025.

Additionally:

The Protect Arborist must be on site to supervise all works within the Tree Protection Zones of the retained regulated and significant trees;

- Documentation shall be provided to Council certifying all works within the Tree Protection Zones have been completed in accordance with the plans within 24 hours of inspection;
- No major trenching shall occur within the Tree Protection Zones and no services shall traverse the Tree Protection Zones;
- Signage shall be erected indicating that no building materials shall be stored or disposed of within the Tree Protection Zones and vehicles shall not traverse over the area or be stored within the Tree Protection Zones;
- Nothing shall be attached to the canopy of the regulated and significant trees by any means.
- It is recommended that the dead wood in the canopies be removed prior to construction and absolutely no live wood is to be removed;
- Any pruning of regulated or significant trees should be undertaken under the guidance of a qualified arborist.

#### **Condition 6**

The establishment of all landscaping shall occur no later than the next available planting season after substantial completion of each stage of the development. Such landscaping shall be maintained in good health and condition to the reasonable satisfaction of the Relevant Authority at all times. Any dead or diseased plants or trees shall be replaced with a suitable species.

#### **Condition 7**

A watering system shall be installed at the time landscaping is established and thereafter maintained and operated so that all plants receive sufficient water to ensure their survival and growth.

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#### **Condition 8**

That the swimming pool pumps and filters shall be located and operated so as not to emit noise levels that detrimentally impacts the amenity of adjacent sensitive receivers to the satisfaction of the Relevant Authority.

#### **Condition 9**

That wastewater from the swimming pool shall be discharged to the sewer and not be allowed to flow onto adjoining properties or the street water table under any circumstances.

#### **Condition 10**

Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).

#### **Condition 11**

All stormwater from the buildings and site shall be disposed of so as not to adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.

#### **Condition 12**

Stormwater run-off shall be collected on-site and discharged without impacting the safety or integrity of the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

#### **Condition 13**

Temporary debris and sediment control measures shall be installed prior to the commencement of work on site, to ensure that debris, soil, soil sediments and litter are maintained within the construction site. At no time shall debris, soil, soil sediments and litter from the construction site enter Council's drainage system, road network or neighbouring properties.

#### **Condition 14**

No groundwater is to be discharged into Council's stormwater system.

#### **Condition 15**

The driveway, car parking and manoeuvring areas to be surfaced, drained and line marked in accordance with the approved plans and Australian Standards AS 2890.1:2004, 1742.2:2009 and 2890.6:2009, prior to occupation and commencement of use of the land and shall be maintained in good condition at all times to the satisfaction of the Relevant Authority.

#### **Condition 16**

Driveway, manoeuvring areas, car parking spaces and associated landscaping areas shall not be used for the storage or display of any materials or goods.

#### **Condition 17**

Waste collection and general delivery vehicles shall only service the 5-level retirement facility and 10-level apartment and supported accommodation building, between the hours of 9am and 5pm Monday to Friday. No waste collection is to occur on Saturday, Sunday or Public holidays.

#### **Condition 18**

Waste management and storage shall be in accordance with the Waste Management System as recommend in the following reports:

- Highgate Residential Development – Waste Management Plan, prepared by Colby Phillips Advisory, dated 24 April 2025;

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- Opal Residential Aged Care Highgate – Waste Management Plan, prepared by Colby Phillips Advisory, dated 4 Feb 2025

#### **Condition 19**

All redundant crossovers shall be permanently closed and reinstated with kerb and gutter prior to the commencement of use of the development. All costs are to be borne by the applicant.

#### **Condition 20**

All vehicles for the 5-level retirement facility and 10-level apartment and supported accommodation building, shall enter and exit any public road in a forward direction.

#### **Condition 21**

That all loading and unloading of goods shall be carried out upon the subject land and NO loading of any goods shall be permitted to be carried out in public streets.

#### **Condition 22**

Any lights on the subject land must be directed and screened so that overspill of light into the nearby properties is avoided and motorists are not distracted.

#### **Conditions imposed by Environment Protection Authority under Section 122 of the Act**

#### **Condition 23**

Remediation works must be undertaken in accordance with the *Construction Environmental Management Plan, 103 and 123 Fisher Street, Fullarton, South Australia dated 5 January 2025* and must be overseen by a suitably qualified and experienced site contamination consultant.

#### **Condition 24**

A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability (in the form described by *Practice Direction 14: Site Contamination Assessment 2021*) is issued by a site contamination consultant certifying the land is suitable for the proposed use.

## **ADVISORY NOTES**

### **Planning Consent**

#### **Advisory Note 1**

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

#### **Advisory Note 2**

Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

#### **Advisory Note 3**

This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.

#### **Advisory Note 4**

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

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#### **Advisory Note 5**

The applicant/developer is reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practical measures to ensure the activities on the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm. This includes being mindful of and minimising off site noise, dust and vibration impacts associated with development.

#### **Advisory Note 6**

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

#### **Advisory Note 7**

Please be advised that your application involves work that may impact on the stability of neighbouring land. Pursuant to section 139 of the Planning, Development and Infrastructure Act 2016, you are reminded of your obligations to:

- 20 business days before the building is commenced, caused to be served on the owner of the affected land a notice of intention to perform the building work and the nature of that work; and
- Take precautions as may be prescribed to protect the affected land or premises, carry out such other building work in relation to that land or premises as that adjoining owner is authorised by the Planning, Development and Infrastructure (General) *Regulations 2017* to require.

#### **Advisory Note 8**

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 1300 366 424 or refer to their web site at [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au).

#### **Advisory Note 9**

That the existing crossovers shall be closed and reinstated back to kerb and gutter in accordance with Council requirements and at the applicant's expense, prior to occupation of the development. Refer to the City of Unley website Forms & Applications – Application to Alter Public Roads and Driveway Crossover Specifications.

<https://www.unley.sa.gov.au/Page/Forms-Applications>

#### **Advisory Note 10**

The construction of the crossing places shall be carried out in accordance with any requirements and to the satisfaction of Council at full cost to the applicant. All driveway crossing places are to be paved to match existing footpath and not constructed from concrete unless approved by council. Refer to the City of Unley website Forms & Applications – Driveway Crossover Specifications.

<https://www.unley.sa.gov.au/Page/Forms-Applications>

#### **Advisory Note 11**

That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the applicant.

#### **Advisory Note 12**

The applicant must ensure there is no objection from any of the public utilities in respect of underground or overhead services and any alterations that may be required are to be at the applicant's expense.

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#### **Advisory Note 13**

No signage has been included as part of the subject application, The applicant is advised that some forms of signage (e.g. illuminated signage, signage located above a verandah) will require a separate Development Approval prior to being installed.

#### **Advisory Note 14**

Numerous parts of the Council area have low lying water tables. Where there is sub-surface development occurring, groundwater can be encountered. Issues related to the disposal of this groundwater, either temporarily or permanently, can cause damage to surrounding Council infrastructure and cause problems for adjoining landowners. Where groundwater is encountered during the construction of the development, it will be necessary for measures to be taken to ensure the appropriate containment and disposal of any groundwater.

#### **Advisory Note 15**

You are advised that it is an offence to undertake *tree damaging activity* in relation to a regulated or significant tree without the prior consent of Council. *Tree damaging activity* means:

- The killing or destruction of a tree; or
- The removal of a tree; or
- The severing of branches, limbs, stems or trunk of a tree; or
- The ringbarking, topping or lopping of a tree; or
- Any other substantial damage to a tree, (including severing or damaging any roots), and includes any other act or activity that causes any of the foregoing to occur but does not include maintenance pruning that is not likely to affect adversely the general health and appearance of a tree.

#### **Advisory Note 16**

The removal of the street tree (Tree 237) located on the Council verge adjacent to the subject site has been supported as part of this application. An authorisation under Section 221 of the Local Government Act 1999 is required to undertake this work. Refer to the City of Unley website Forms & Applications – Application to Alter Public Roads and Driveway Crossover Specifications.

<https://www.unley.sa.gov.au/Page/Forms-Applications>

#### **Advisory Note 17**

A requirement of the Food Act 2001 is that food business operators must **officially notify Council** before commencing operation of their food business, or when ownership changes. This can be done by completing and submitting a food business notification form:

<https://yourbusiness.unley.sa.gov.au/Regulations-Approvals/Food-business-regulations-approvals/Foodbusiness-notification>

#### **Advisory Note 18**

The development (including during construction) must not at any time emit noise that exceeds the relevant levels derived from the *Environment Protection (Commercial and Industrial Noise) Policy 2023*.

#### **Advisory Notes imposed by Environment Protection Authority under Section 122 of the Act**

#### **Advisory Note 19**

The applicant/owner/operator is reminded of the general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.