

Regional panel reference No.	2013SYW055
DA No.	DA 634/2012
Proposed development	Demolition, tree removal, and construction of a two storey apartment building containing 10 apartments under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
Applicant	NSW Land and Housing Corporation
Report by	Regional Panels Secretariat
Report date	29 July 2013

Crown DA Summary Report

This Crown development application (DA) has been referred to the Sydney West Joint Regional Planning Panel (regional panel) under section 89 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The applicant is taken to be the Crown for the purposes of Part 4, Division 4, of the EP&A Act, as it is a public authority (not being a council).

Section 89(1)(a) of the EP&A Act states that a consent authority must not refuse its consent to a Crown DA, except with the approval of the Minister. In this case, council has not provided consent to the DA and has resolved to refer the application to the regional panel. The DA seeks consent for the demolition of existing structures and construction of a two storey apartment building containing 10 apartments under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, referred to as the Seniors Living SEPP.

If the regional panel does not determine the DA within 50 days, the DA may be referred to the Minister for Planning and Infrastructure for determination.

1. EXECUTIVE SUMMARY & BACKGROUND

A DA was lodged by Land and Housing Corporation (the applicant) with Parramatta City Council on 26 October 2012 for the demolition of three single storey dwellings, the removal of six trees and the construction of a two storey apartment building containing 10 apartments under the Seniors Living SEPP. A copy of the applicant's Statement of Environmental Effects and plans are found at **Attachment 1**.

Council requested additional information on 30 October 2012 for the following:

- clarification of plans
- privacy and overlooking and
- revised waste management plan.

The DA was publicly exhibited between 7 November and 28 November 2012. On the 23 November 2012 the applicant supplied a response to the request for additional information.

As a result of the public exhibition, 1 submission in objection was received as well as 1 petition against the development application containing signatories from 11 households. Please refer to the council assessment report found at **Attachment 2A** for a list of the issues raised in the submissions.

On the 22 January 2013, council made a further request for additional information for the following:

- adaptable units
- access report
- solar access
- privacy issues
- fencing materials and
- stormwater drainage.

The additional information was supplied by the applicant on 26 February and 19 March 2013.

The council officer's assessment report prepared for the council meeting on 13 May 2013 found the proposal to be in the public interest and recommended approval subject to conditions. The assessment report found that the DA was compliant with the Seniors Living SEPP, the Parramatta Local Environmental Plan 2011 (LEP) and Parramatta Development Control Plan 2011 (DCP).

A memorandum dated 6 May 2013 providing revised draft conditions of consent with concurrence from the applicant was prepared by the assessment officer for the councillors to consider in addition to the assessment report. The memorandum recommended that council grant approval for the DA subject to the revised conditions. Please refer to **Attachment 3** for the memorandum dated 6 May 2013.

The elected council considered the matter at a meeting on 13 May 2013. At this meeting, council resolved to seek the Minister's refusal for the proposed development.

The matter was referred to the Sydney West Joint Regional Planning Panel on 28 May 2013.

2. SITE DESCRIPTION AND PROPOSED DEVELOPMENT

The site is located at 8-12 Bungaree Road, Toongabbie. The site is within the local government area of Parramatta City Council. The formal description of the site is Lots 50, 51 and 52, DP 35665. Refer to **Figure 1**.

Refer to council's assessment report (see **Attachment 2A**) for a full description of the site and surrounding locality and a description of the proposal.

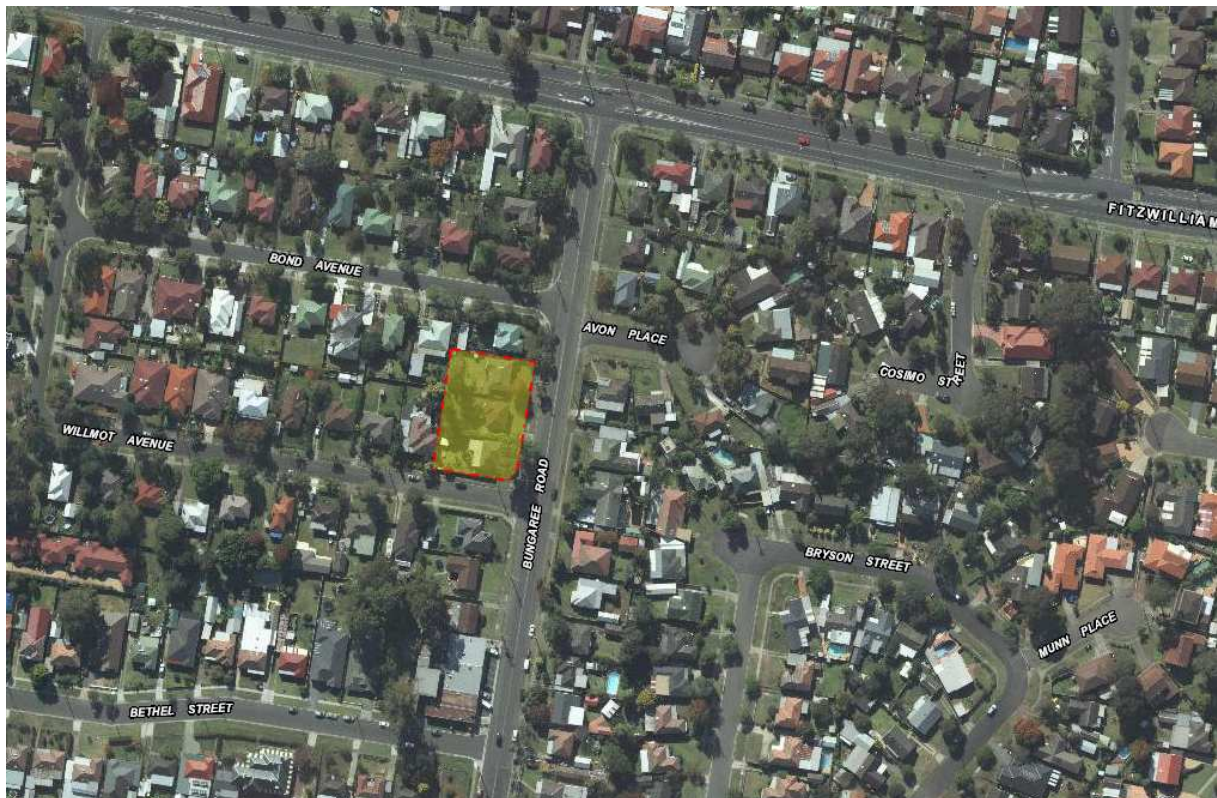


Figure 1 – Site Location

Source: Six Maps, NSW Land & Property Information

3. VIEWS OF COUNCIL

An assessment of the application has been undertaken in accordance with the provisions of the EP&A Act and all matters specified under section 79C(1).

The views of council assessment staff and elected council are summarised below.

3.1 Council - Assessment Report

The council assessment report recommended the application be approved subject to conditions.

The report identified that the proposed development is consistent with the aims and objectives of the relevant planning instruments and was not contrary to the public interest. Please refer to **Attachment 2A** for detailed analysis in the assessment report, and **Attachment 3** for the memorandum dated 6 May 2013 with the agreed draft conditions of consent.

3.2 Council – Elected Council

The elected council considered the DA at a council meeting on 13 May 2013. Council resolved to seek the Minister's refusal for the proposed development for the following reasons:

1. *The proposal will result in unacceptable overlooking opportunities from the first floor private open space areas and primary living areas towards adjoining low density properties.*

2. *The built form of the development is out of character with the surrounding low density dwellings that are predominantly single storey in scale. A two storey terrace housing development would be more consistent with the desired future character for the area*
3. *The density of the development is excessive.*
4. *The development does not provide satisfactory access for the mobility impaired to the first floor of the development.*
5. *The River Peppermint tree on the site may be a hazard.*
6. *The development will result in an unacceptable increase in on street car parking.*
7. *The garbage bin bays are inappropriately located.*
8. *As evidenced by the strong submissions to the proposal, the development is not in the public interest.*

The resolution was passed 8 in support of refusal and 6 against. Please refer to **Attachment 4** for the minutes of the council meeting and councils reasons for refusal. Please refer to **Attachment 7** for the submissions.

4. VIEWS OF THE APPLICANT

The applicant has provided comment to the regional panels secretariat regarding the above matters. The applicant considers that the majority of these matters were addressed in the Statement of Environmental Effects as well as in a letter sent to council dated 6 March 2013. This letter is found at Attachment 5A. The applicant also notes that all matters were addressed in the draft conditions of consent as agreed. A copy of this correspondence is found at Attachment 5B.

The applicants' comments in response to council's resolution can be found at **Attachment 5**. Please refer to Attachment 1 for the Statement of Environmental Effects and Plans. A copy of supporting reports and additional information requested by council is found at **Attachment 6**.

5. SUMMARY OF KEY ISSUES

The council assessment report recommended the DA be approved subject to the agreed draft conditions of consent. The assessment report found the proposal to be compliant with all relevant planning instruments and that the proposal was not contrary to the public interest.

The elected council has resolved to seek the Minister's refusal citing the strong evidence from the submissions received and the reasons outlined above in section 3.2 of this report.

6. CONCLUSION

The council assessment report recommended the DA for approval. The elected council reviewed the advice in the assessment report and the submissions received and are now seeking that the Minister for Planning and Infrastructure refuse consent for the DA. The report from council to the JRPP dated 30 July 2013 recommends seeking refusal based on the elected council's resolution.

The applicant notes that the majority of concerns raised in council's resolution to seek refusal have previously been addressed and that there should be no reason for the DA to be refused.

Pursuant to section 89 of the EP&A Act, if the regional panel wishes to impose a condition that is not agreed to by the applicant, or to refuse consent, the regional panel must refer the DA to the Minister for Planning and Infrastructure. Should the applicant agree to the imposition of conditions the regional panel may proceed to determine the application without referral to the Minister.

Should the regional panel determine to approve the application, council has provided draft conditions of consent for consideration by the regional panel (see Attachment 2).

Prepared by:

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Regional Panels Secretariat

LIST OF ATTACHMENTS

1. DA Documentation: Statement of Environmental Effects and Plans
2. Council Assessment Report for the Sydney West Joint Regional Planning Panel dated 30 July 2013
 - A. Council assessment report tabled to Parramatta Council on 13 May 2013
3. Council Memorandum with agreed draft conditions of consent dated 6 May 2013
4. Council resolution and council meeting minutes from 13 May 2013
5. Applicant comments to JRPP dated 30 July 2013
 - A. Applicant response to council addressing items of concern dated 6 May 2013
 - B. Applicant response to council regarding draft conditions of consent
6. DA Documentation: Applicant reports and additional information
7. Submissions