



JUSTIFICATION OF THE HEIGHT BREACH AS REQUESTED BY SYDNEY CENTREAL CITY PLANNING PANEL

**Submitted in Support of a Development Application
for a Residential Aged Care Facility at Toongabbie
Sports Club**

Wentworth Avenue, Toongabbie, NSW, 2146

**Prepared for
Opal Aged Care**

**by
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Job 16-050
Toongabbie RACF Justification of Height Breach.docx
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1. Introduction

This report has been prepared at the request of the Sydney Central City Planning Panel for the panel and Council to justify the height breach of DA1281/2016 (2017SWC007) for a Residential Aged Care Facility at the Toongabbie Sports Club site, Nos. 4-10 Wentworth Avenue and No. 12 Station Road, Toongabbie ("the site").

2. Relevant Controls

Clause 40(4) of the Seniors SEPP stipulates an 8-metre height limit on that part of the site that is within the residential zone (see below). Further the clause states that a building that is adjacent to a boundary of the site (being the site, not only of that development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height. The purpose of this standard is to avoid an abrupt change in the scale of development in the streetscape. Finally, a building located in the rear 25% area of the site must not exceed 1 storey in height.

Clause 40(4) states:

(4) Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

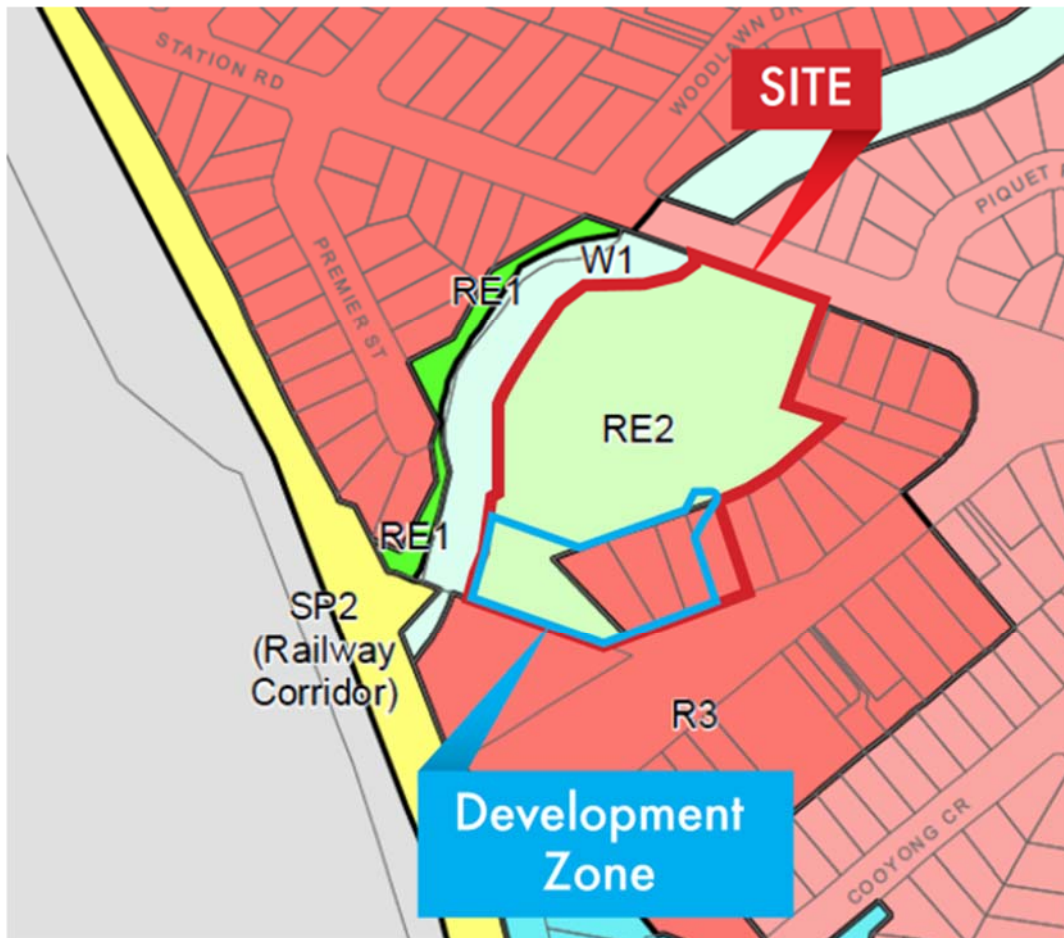
Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

These height controls apply to development applications lodged under the SEPP in all residential zones in NSW where area residential flat buildings are not permitted – typically R2 and R3 zones in some cases. The R3 zone applying to part of the site (see below) does not permit residential flat buildings.



There is no height control on the remainder of the site within Zone RE2. The diagram contained in Attachment 1 indicates that part of the site to which the Seniors SEPP height control applies.

For completeness, that part of the site within zone R3 is subject to a building height development standard of 11 metres under the LEP. However, this has no work to do as the application is made under the Seniors SEPP.

Under the Seniors SEPP height, in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

Under the LEP means the vertical distance from ground level (existing) to the highest point of the building in metres.

3. Height of the Development

The maximum height of the building measured in accordance with the SEPP definition is 13.4 metres.

The height of the building measured to the top of the plant area toward the centre of the building is 16.1 metres. This is in accordance with the height definition in the LEP.

The height of the main part of the building of four levels measured to the building parapet is 14.4 metres. The height of eastern part of the building closest to the adjoining residential lots to the east is 11.2 metres – comparable to the maximum height of 11 metres allowed on these medium density sites. The building is setback some 10 metres from the eastern boundary to an adjoining residential building (which forms part of the site) for the three-level element and 19 metres to the four-storey element.

It is not considered that this building is adjacent to the boundary in the terms meant by clause 40. Similarly, strict application of the rear 25% rule is unnecessary in this case given the nature of adjoining and adjacent development.

The non-compliance with the height controls in clause 40(4) of the Seniors SEPP is supported by a clause 4.6 request submitted with the development application.

4. Design Response

To the south (where there are no height controls), the side adjoins an existing apartment development comprising buildings of three storeys near to the boundary and four storeys to the centre of the development.

The design respects this interface by stepping and by presenting narrow façades to the south with an indented courtyard breaking the building mass. The building bulk aligns with the location of buildings to the south. This transition has been further improved with the amendments to the design to increase the building setback enabling the retention of existing trees.

To the south the building presents as a highly modified façade with deep recesses and narrow building frontages. The minimum building setback has been increased in response to the panels concerns regarding the development's interface with adjoining residential flat building to the south from 3.9 metres to a minimum of 7.9 metres.

There will be no negative bulk and scale impacts as a consequence of the proposal with the building resulting in an appropriate relationship to adjoining development.

The building form is arranged as a combination of 3 and 4 storeys with the greater height towards the north-western end of the site. The building then steps down to 3 storeys adjacent to the neighbouring residential properties to the east. The 3-storey building height is consistent with the zoning of the area and the medium density character of nearby residential development along Cornelia and Wentworth Avenues.

5. Justification

There will be no significant adverse amenity impacts arising from the non-compliance in relation to overlooking, obstruction of light or air, obstruction of views or any other such impacts on nearby residential properties. Overshadowing impacts of the development are acceptable. The proposal is consistent with the objectives of relevant planning instruments and will result in no significant adverse environmental planning impacts. The inherent characteristics of the site, including its size, existing use and surrounding development, make the proposal eminently suitable and entirely justifiable on environmental planning grounds. There is an absence of significant environmental harm associated with the non-compliance of the proposal with the height development standards.

Compliance with the height development standards under the Seniors SEPP including the maximum building height of 8m, the 2 storey and single storey height limit for a building

within the rear 25% area of the site, is unreasonable and unnecessary in the circumstances of this case for the following reasons:

- The development will be visually attractive and sympathetic to the existing and emerging character of the area;
- The development will maintain the neighbourhood amenity and character of the local area;
- The development is four storeys in height which is compatible with the neighbouring development to the south;
- The development reflects the desired future character of the area as reflected in Council's exhibited strategic planning documents;
- The development has an attractive and appropriate presentation to the street;
- The bulk and scale of the building is considered appropriate as outlined in the Statement of Environmental Effects accompanying the development application;
- The site is of sufficient size to accommodate the proposed development;
- The proposed RACF will meet an important social need in providing aged care services in the local community.

Compliance with the development standard is therefore unreasonable and unnecessary given the circumstances of this case.

The contravention of the above height development standards is justified on environmental planning grounds specific to this development for the following reasons:

- The bulk and scale of the proposal is compatible with the neighbouring development to the south and is considered consistent with the desired future character of the area;
- The proposed building setbacks have been designed to reduce perceived bulk and overshadowing, and the form and configuration of the proposal is sympathetic to the land form;
- The proposed building ranges from 3 to 4 storeys in height with the lower height portion of the building located adjacent to neighbouring properties to the east. In addition, the incorporation of a contemporary materials palette, the retention of existing tree plantings and the provision of new landscaping will enhance the visual aesthetics of the proposed building;
- Buffer tree and shrub planting is proposed along the northern and southern boundaries of the site as well as new multi layered tree, shrub, and groundcover planting adjacent to car park and driveway, maintaining privacy to properties adjacent to the site as well as future residents of the RACF;
- A contemporary palette of materials will be utilised including the use of face brickwork, glazed brickwork, facing brick tile, aluminium windows and doors, coloured cladding panels, sunshade elements, powder-coated balustrading and concrete roofing. This will contribute to the modulation of the building façade;
- There will be no negative bulk and scale impacts as a consequence of the proposal;

- The building will result in an appropriate relationship to adjoining development;
- There will be no significant adverse amenity impacts arising from the non-compliance in relation to overlooking, obstruction of light or air, obstruction of views or any other such impacts on nearby residential properties; and
- The overshadowing impacts of the development are acceptable.

The proposal is consistent with the objectives of relevant planning instruments and will result in no significant adverse environmental planning impacts. The inherent characteristics of the site, including its size, existing use and surrounding development, make the proposal eminently suitable and entirely justifiable on environmental planning grounds.

There is an absence of significant environmental harm associated with the non-compliance of the proposal with the height development standards.

There is no specifically stated purpose or object expressed in Clause 40(4) of the HSSEPP. The note to Clause 40(4)(b) states:

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

It can be assumed that the objective of the height and rear 25% area standard is to minimise amenity impacts of overshadowing and overlooking on adjoining detached dwellings and their private open space and to maintain a low scale residential form.

It is difficult to define and identify the rear 25% area of this site given the shape of the site and the underlying objectives of the control. In our view this control is intended for smaller sites in a residential context.

The rear 25% area is taken to be the area defined by a line parallel to the street frontage boundary within which 25% of the site area is contained.

It is noted that the site has a frontage to Wentworth Avenue. The rear 25% are of the site adjoins the Toongabbie Sports Club site.

The relationship of the proposed development to the street can be seen from the elevation drawings. The combination of articulated façade, building separation to the street frontage and building setback result in a change of scale that is acceptable and not inconsistent with character of the streetscape.

It is considered that there will be no significant adverse amenity impacts arising from the proposal in relation to overlooking, obstruction of light or air, obstruction of views or any other such impacts on nearby residential properties.

Privacy impacts on the existing 2 storey dwelling house along the eastern boundary and the 3-6 storey apartments along the southern boundary have been mitigated by means of a large setback, existing and proposed vegetation, orientation of windows and the potential for screening of window openings.

The development would result in additional overshadowing. However the orientation of the site and buildings and the location of adjoining development results in a development that maintains reasonable solar access to adjoining residential properties. In mid-winter, the property to the east would receive good solar access in the morning and begin to be affected by overshadowing in the afternoon. The apartments to the south would be affected by overshadowing in the morning (mid-winter) and would receive good solar access in the

afternoon. In mid-summer, the proposed development would not impact on solar access in relation to either properties to the south and east.

It is considered that the overshadowing impacts of the development are acceptable.

Future residents of the proposed RACF will experience excellent amenity with level access to communal areas on each floor and also access to the ground floor courtyards via paved walking paths. The proposed courtyards include landscaped gardens and have seating areas for resting and contemplation.

The objection to the standards Clause 40(4) is well founded for the following reasons:

- the development is appropriate in this location;
- the development does not undermine the underlying objectives of the standard;
- the non-compliance does not result in any significant adverse environmental impacts on the amenity of the surrounding area in general, or on the amenity of nearby residential properties in particular; and
- the scale of the proposal, notwithstanding the non-compliance, is compatible with the desired future character of the area and is appropriate in the current context.

The site is located within the R3 Medium Density Residential and RE2 Private Recreation zone under PLEP 2011.

The objectives of the R3 Medium Density Residential zone are as follows:-

“To provide for the housing needs of the community within a medium density residential environment.

To provide a variety of housing types within a medium density residential environment.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

To provide opportunities for people to carry out a reasonable range of activities from their homes if such activities will not adversely affect the amenity of the neighbourhood.

To allow for a range of community facilities to be provided to serve the needs of residents, workers and visitors in residential neighbourhoods.”

The objectives of the RE2 Private Recreation zone are as follows:-

“To enable land to be used for private open space or recreational purposes.

To provide a range of recreational settings and activities and compatible land uses.

To protect and enhance the natural environment for recreational purposes.

To identify privately owned land used for the purpose of providing private recreation, or for major sporting and entertainment facilities which serve the needs of the local population and of the wider Sydney region.”

The proposal is consistent with the above objectives, in that:-

- the site is in a location appropriate for development of this type;

- the proposal will provide for aged care health related infrastructure and services;
- the proposal will provide a high quality aged care facility that meets the needs of the community;
- the proposal will provide a development that is compatible with the amenity of the site and with the adjoining area; and
- the site is located within walking distance of public transport and local shops.

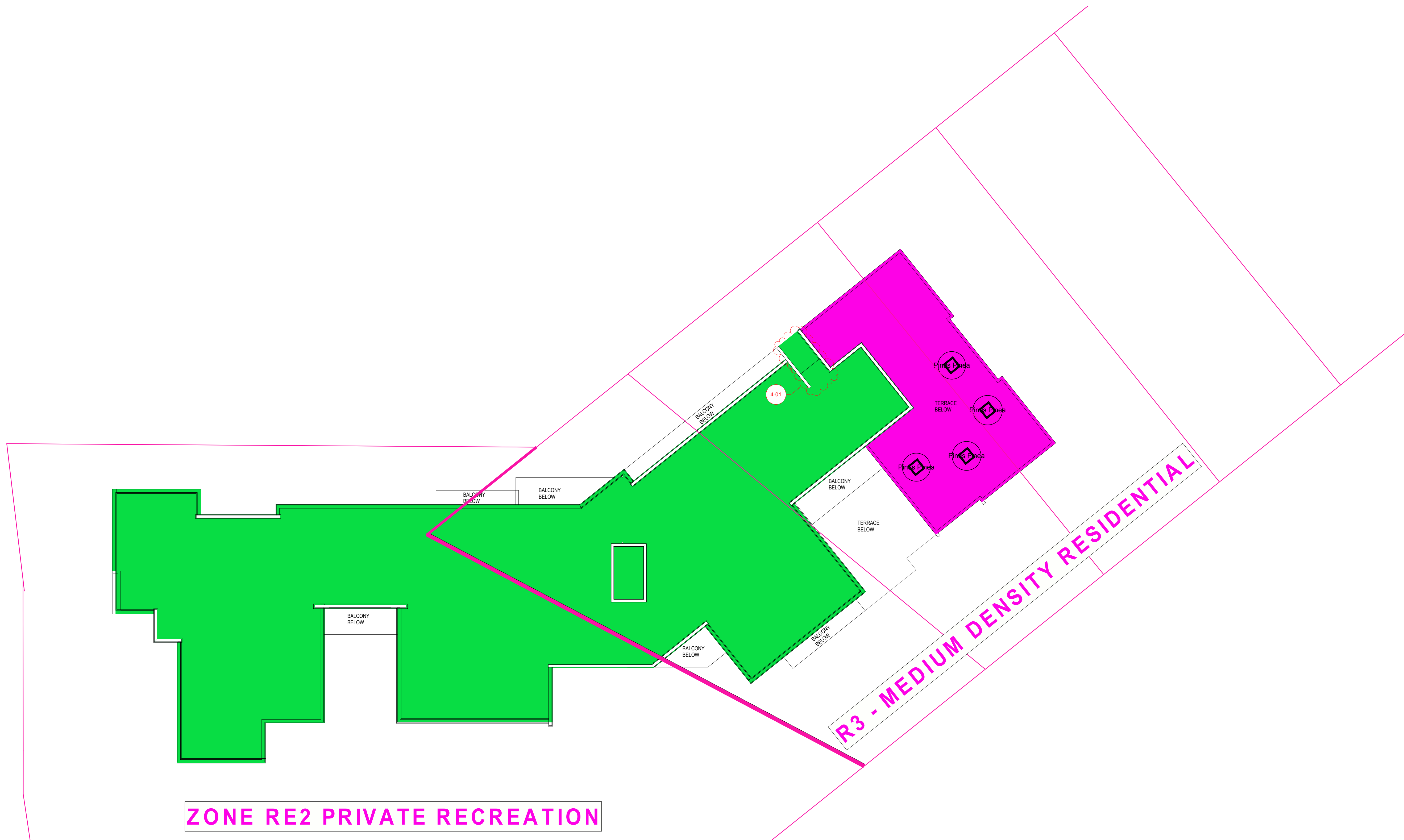
Seniors housing is prohibited in the RE2 Private Recreation zoned part of the site. Notwithstanding the provisions of the LEP, a residential care facility is permissible with consent in a RE2 Private Recreation zone under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

A site compatibility certificate was approved on 16 August 2016 which now permits development on the site for the purposes of seniors housing with development consent.

The density of proposed development is higher than that would otherwise be permitted in the R3 zone. However the location of the site in the context of the nearby shops, Toongabbie train station and given the mixed residential forms in the locality (including the neighbouring six storey apartments), this density is considered appropriate.



Attachment 1



ZONE RE2 PRIVATE RECREATION

R3 - MEDIUM DENSITY RESIDENTIAL