



5 July 2018

Our ref: DB/16-090

General Manager
Parramatta City Council
PO Box 32
PARRAMATTA NSW 2124

Attention: Shaylin Moodliar

Dear Sir,

Re: DA/1281/2016 for a residential care facility at 12 Station Street Toongabbie

We write on behalf of Opal Aged Care in repose to the above development application currently before the Sydney City East Planning Panel.

As you will recall, the Panel resolved as follows at its meeting on 7 March 2018:

- The Panel asks the Council to respond in writing to the additional material provided by the applicant; and
- asks the applicant to respond to the SES letter; and
- seeks a report from an independent flooding expert in relation to the impacts of flooding on the development. The Panel requests the Council to obtain the report at the expense of the applicant.

We understand that the Council has not responded to the Panel in writing to the additional material provided by the applicant. However, your email dated 17 April 2018 contained Council's response to the additional information provided on 23 February 2018 and the applicant's response to this is presented in the table below.

The applicant provided its response to the SES letter to Council on 4 June 2018.

Bewsher Consulting provided a report in draft form to the applicant and to Council on 2 July 2018.

In relation to Council's response to the additional material provided by the applicant, we provide the following additional information addressing the outstanding concerns.

Council Issue	Firstly, note the proposed amendments seek a reduction of 4 beds (from 128 to 124 bed RCF) by increasing the southern setback of the south-western portion of the building to 7.9m setback to the southern boundary (from 3.8m). This creates greater opportunity for landscaping along the southern boundary.
Response:	Noted
Council Issue	<p><i>DPI (Water) have issued GTA however have given direction into riparian setbacks from the creek. The applicant is to provide cross-sections taken through the creek to ascertain the top of the bank. Once this is provided all buildings and structures (including stormwater) must be a minimum 10m from the top of the creek bank. Cumberland Ecology have provided a response, dated 7 February 2018 (D05998081) and note "...the proposed development will have an average corridor width of approximately 15m..."</i></p> <p><i>This is not in accordance with GTA issued by DPI (Water) nor the 'Guidelines for riparian corridors on waterfront land' issued by DPI (Water). Further, the proposal seeks to create easements by way of seeking new stormwater pipes/services through the EEC land within the creek. This is not supported.</i></p> <p><i>The architectural and stormwater plans are to be amended in accordance with the DPI (Water) comments which require a minimum 10m riparian setback and an average setback of 20m across the site.</i></p> <p><i>Biodiversity reasons for refusal No.6, 7 & 8 remains unresolved.</i></p>
Response:	<p>The General Terms of Approval (GTA) issued by the DPI (Water) are noted. The DPI would have taken their own guidelines into account in issuing the GTAs. The Guidelines are not mandatory with GTAs often issued that are inconsistent with the riparian zone dimensions in the Guidelines where circumstances justify. The Guidelines were issued to provide more flexibility in how riparian corridors can be used and making it easier for applicants to determine the Office of Water controlled activity approval requirements.</p> <p>Notwithstanding this, changes have been made to the application that improves conditions within the riparian area. These include:</p> <ul style="list-style-type: none"> the site drainage proposal has been changed so that the development now drains to the street and not to the creek. This no works are required for drainage infrastructure to the creek; there is no impact to the existing vegetation in the creek and no works with 10 metres of the creek and the northern and southern setbacks provide more than adequate offsets in the circumstances with the provision for significant additional planting in accordance with the vegetation management plan required under the GTAs; the proposed landscaping is an improvement on the existing situation and has no adverse biodiversity impacts. <p>Refer to amended drainage drawings and landscape drawings submitted with this letter.</p>

Council Issue	<p><i>The height of the building and therefore the Clause 4.6 variation request is not supported due to the site failing to respond to the (natural) topography of the site.</i></p> <p><i>Height reasons for refusal No.1-3 remains unresolved.</i></p>
Response:	<p>The applicant provided a detailed justification for the height of the development in its response to Council dated 23 February 2018. This supplemented the justification submitted with the DA.</p> <p>The existing topography of the site is very gently graded. This will not change. The building platform and immediate surround at the entry area are being raised to enable the floor level to be above the PMF. The remainder of the site, particularly to the west remains the same.</p>
Council Issue	<p><i>BBC Consulting Planners response to the reasons of refusal notes that the proposal provides “approximately 19 square metres per resident”. This is less than required 25m² of landscaped area per bed.</i></p> <p><i>This does not achieve high residential amenity. Reason No.13 remains unresolved.</i></p>
Response:	<p>This matter has been fully addressed in the development application and in the additional information submitted to Council on 23 February 2018 as follows:</p> <p>Clause 48(c) of the Seniors SEPP 48 says that a consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds:</p> <p><i>(c) landscaped area: if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,</i></p> <p><i>Note. The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.</i></p> <p>The Seniors SEPP does not prescribe a minimum standard.</p> <p>The provision of landscaped area is less than 25m² per bed. In total 2,380 square metres or outdoor space is provided for the use of residents amounting to approximately 19 square metres per resident.</p> <p>The requirement of the SEPP applies in all situations and locations. It can be expected that opportunities for providing this amount of landscaped area would be more achievable in lower density situations than medium density situations such as the subject site and locality.</p> <p>The guidelines issued to accompany the SEPP “A guide for councils and applicants Housing for seniors or people with a disability” by the Department of Infrastructure and Planning, May 2004 provides the following advice on the interpretation of this requirement (emphasis added):</p> <p><i>“A potential conflict arises in relation to landscaping. The re-development of many existing residential care facilities or even new residential care facilities in established areas will be on sites that would not allow much land to be set aside for landscaping while achieving a 1:1 FSR. The most important external issues for these sites are the impacts on streetscape and neighbours. High amenity for residents can be achieved within the building without meeting a high landscape area standard. The clause 70 landscape</i></p>

	<p><i>standard of 25m² per bed, i.e. a standard that cannot be used to refuse consent, is not a minimum standard per se, that must be met. It is possible and reasonable for consent to be given to facilities that have less than 25m² per bed landscaped area if they take other issue such as streetscape and impact on neighbours into account.</i></p> <p>The landscaping and outdoor and indoor spaces have been developed specifically for the client group that will be using this facility. In comparable facilities operated by Opal Aged Care the average age of occupants is 85 years and over and the majority of the occupants will have some form of disability and impairment (such as dementia).</p> <p>The outdoor areas provided has focussed on quality and appropriateness including:</p> <ul style="list-style-type: none"> • purpose-built courtyard gardens are provided within the north-west corner of the site. This space will be a specially landscaped for residents affected by dementia. • additional landscaped area is provided around the site. • the upper levels of the building will incorporate substantial communal terrace areas and smaller balconies accessible from internal living areas. The less mobile residents will likely use these facilities more than the ground level landscaping. <p>In additional Opal will provide recreational activities within the facility tailored to the specific interests of residents.</p> <p>The building is considered to have an appropriate bulk and scale. Façade modelling and generous setbacks from boundaries and at upper levels results in a development with an appropriate relationship to the streetscape.</p> <p>It is considered that the provision of landscaped area is appropriate for the development and the location.</p>
Council Issue	<i>The amendments does not change the proposed alteration of the natural landform of the site (Reason No.14 remains unresolved).</i>
Response:	<p>Reason No 14 states: <i>The elevation of the building does not satisfactorily maintain reasonable neighbourhood amenity and appropriate residential character as the proposal does not provide building setbacks to reduce bulk, use siting to relate to the site's landform, and does not consider the impact of the location of the building on the boundary in accordance with Clause 33(c), 33(f) and 33(g) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004.</i></p> <p>The application has been amended to increase the setback from the southern boundary as requested by the Panel. The building height is justified in the report submitted on 23 February 2018. The height is totally appropriate on this site and in this context.</p>
Council Issue	<i>Reason No.15 remains unresolved as they relate to building height.</i>
Response:	<p>Reason No 15 states: <i>Pursuant to Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act, 1979 and the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the proposed development is inconsistent with the following clauses of this SEPP:</i></p>

	<p>a) Clause 40 Development Standards – minimum sizes and building height,</p> <p>b) Clause 48 Standards that cannot be used to refuse development consent for residential care facilities.</p> <p>The building height is justified in the report submitted on 23 February 2018. The height is totally appropriate on this site and in this context.</p>
Council Issue	<i>Reasons No.16-18 (Amenity) may be omitted as a reason of refusal due largely to the increased southern setback, other reasons for refusal around the building height. The general impression of the SCCPP that streetscape was not a major planning concern. The urban design is generally ok, the siting of the building is not.</i>
Response:	Noted
Council Issue	<i>Reason No. 19 remains unresolved as the proposed stormwater pipes within the creek does not enhance or preserve Girraween Creek.</i>
Response:	This is now resolved as there are now no stormwater pipes to Girraween Creek.
Council Issue	<i>The proposed DA has been amended to remove any works on the adjoining site. Public domain works for the roundabout may be conditioned. (reason no. 21 & 25 may be omitted). Blacktown and Cumberland Council's traffic sections are yet to respond to the proposed roundabout change.</i>
Response:	Noted
Council Issue	<i>Waste management plan has been provided and can be conditioned. (reason no. 30 may be omitted)</i>
Response:	Noted
Council Issue	<i>Public interest reasons for refusal remain as they relate to the flooding and not essentially relate to planning other than the built form environment</i>
Response:	This has been addressed by independent flood consultant who recommends

The applicant submits the following for determination:

1. Amended architectural drawings – these are the same drawings lodged with Council on the 23 February 2018 with an amended revision number to distinguish these drawings from those lodged with the DA.
2. Amended landscape plans to reflect the increased setback from the southern boundary as requested by the Panel, the changes to the stormwater management system and the removal of works from the western part of the site. Trees along the southern boundary are retained. A large vegetated area is proposed in the western part of the site which would be vegetated in accordance with the VMP to be prepared to meet the General Terms of Approval from DPI (Water).
3. Amended stormwater management drawings development following discussions with Councils catchment engineers and addressing concerns expressed by Council's property officer and open space and natural area planner.

These amendments respond to the matters raised by Council and the Panel.

Council is requested to present these drawings together with the applicant's response to the SES letter to the Panel for its September meeting. Council is also requested to prepare a set of conditions of consent for consideration by the Panel in the event that the panel is of a mind to approve the application.

Yours sincerely
BBC Consulting Planners

A handwritten signature in blue ink, appearing to read 'Dan Brindle', with a long horizontal stroke extending to the right.

Dan Brindle
Director

Encl:

Amended architectural drawings

Amended landscape drawings

Amended civil drawings

