

Assessment against planning controls: section 4.15, summary assessment and variations to standards

1 Environmental Planning and Assessment Act 1979

1.1 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of: (i) Any environmental planning instrument (EPI)	The proposal is not consistent with the significant EPI, being State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 ('the SEPP') and Blacktown Local Environmental Plan 2015. Seniors housing is a permissible land use with consent in the R2 Low Density Residential zone under BLEP, but the proposed major shortfall of landscaped area will detrimentally affect the amenity of future residents, and the proposal is not considered to have adequately addressed zoning Objective 3. The proposal for the new 126 beds RACF will not comply with the minimum landscaped area provision as required by the SEPP (a minimum of 25 m² per bed). The proposed landscaping provision for the new facility (excluding the existing facility site and its existing landscaping provision) will only be 14.9 m² per bed. In addition to the proposed non-compliant landscaped area, the proposed FSR for the new RACF is 1.34:1, when the SEPP specifies a maximum limit of 1:1. The above issues are discussed in more detail in the summary report, and the proposal in its current form should be refused.	No. Important criteria relating to FSR, density and landscaped area have not been complied with. The proposed FSR and landscaped area variations are not supported and the development should be refused on this basis.
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	N/A	N/A
(iii) Any development control plan (DCP)	The application does not address the maximum 1 storey requirement for aged care facilities, however the SEPP requirement which allows a 2 storey building prevails.	No, but the SEPP prevails.
(iii a) Any Planning Agreement	N/A	N/A
(iv) The regulations	N/A	N/A
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and	The proposed development has not satisfactorily addressed its siting, design, bulk and scale. As discussed in the summary report, the proposal presents a major shortfall in landscaping provision and an excessive FSR and thus represents an overdevelopment of the site. The proposal in its current form does not result in a good design with adequate amenities provided for the future residents.	No

Heads of Consideration	Comment	Complies
social and economic impacts on the locality	In view of the above, it is believed that the proposed development will result in unfavourable social impacts.	
c. The suitability of the site for the development	The proposal in its current form is not suitable for the site. It constitutes a significant overdevelopment and the required landscaping and FSR provisions under the SEPP cannot be addressed by way of conditions due to the scale of the variations being sought by the applicant.	No
d. Any submissions made in accordance with this Act, or the regulations	The proposed development was notified to property owners and occupiers in the locality between 11 December 2018 and 23 January 2019. The DA was also advertised in the local newspapers and a sign was erected on the site. We received 7 individual submissions and 1 petition containing 26 signatures. The issues raised by the residents relate to operational issues, safety concerns and the proposal being an overdevelopment. A summary of each issue and our response is at attachment 8. There is only 1 ground from the submissions to warrant a refusal of the DA.	Yes
e. The public interest	The proposed development is not considered to be in the public interest, based on the above key concerns.	No

2 State Environmental Planning Policy No. 55 – Remediation of Land

Summary comment	Complies
SEPP 55 aims to 'provide a State-wide planning approach to the remediation of contaminated land'. Clause 7 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent. The application was accompanied by a Preliminary Environmental Site Assessment report. The report concludes that the site can be made suitable for the proposed development provided the following recommendations are undertaken to address the data gaps: • Additional assessment of the site, in particular the west and south-west areas of 1 Crews Road and in previously inaccessible areas such as beneath buildings. The additional assessment should include sampling and analysis to assess the moderate salinity risk at the site. • Completion of a hazardous materials assessment of the existing buildings on the site, prior to any demolition or refurbishment works. If the application was recommended for an approval, a condition could be imposed on the consent requiring the recommendations be implemented and that all areas found contaminated shall be remediated, and a site contamination validation report prepared by a suitably qualified geoscientist be submitted prior to the issuing of any Building Construction Certificate.	Yes

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

Summary comment

We have assessed the proposal against the relevant provisions of the SEPP and the table below only identifies where compliance is **not** fully achieved under Chapter 3 Development for seniors housing.

Part 4 Development standards to be complied with

Standard	Comment	Complies
40 Development standards – minimum sizes and building height (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 m 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 m or less in height. (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.	The subject site is zoned R2 Low Density Residential which prohibits residential flat buildings. A portion of the proposed building's ceiling height is over 8 m in height. The building is 2 storeys high and a minor height non-compliance is to the raised roof above the living area on the first floor, on the north-eastern side of the development, which rises to 0.43 m over an area of only 42 m². The site with 2 street frontages does not have a traditional rear setback given the building is 2 storeys throughout the site with its proposed rear setback adjoining the existing 2 storey facility. Also of note is that the whole site (including the existing facility) has 3 street frontages.	No, but could be supported if this was the only variation being proposed.
Clause 48 – Standards which cannot be used to refuse (a) building height if all proposed buildings are 8 m or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or (b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less	As indicated above, the proposed building height exceeds 8 m. Whilst the Clause 4.6 justification assessment is acceptable, this is not the only variation being sought for this proposal. The proposed FSR of the new RACF is 1.34:1 when calculated against the subject site where the proposed new facility will be built. The proposed development therefore exceeds the FSR limit by 1,563 m², which constitutes approximately 55 beds (1 bed size is approximately 28 m²).	No No

(c) landscaped area if a minimum of 25 m² of landscaped area per residential care facility bed is provided	The proposal will have 126 beds requiring the provision of 0 3,150 m² of landscaped area on the subject site (excluding the landscaped areas for the existing facility). Landscaped areas for passive recreation will be located around the perimeter of the site, as well as 2 central courtyards located on the south-eastern and south-western parts of the ground floor. The proposed development site (excluding the existing facility site), will provide only 1,879 m² of landscaping or 14.9 m² per bed. It is therefore proposing a major shortfall of 10.1 m² per bed and this cannot be supported.	No
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4 Blacktown Local Environmental Plan 2015

Summary comment

Blacktown Local Environmental Plan 2015 applies to the site and the proposal does not comply.

R2 Low Density Residential Zone

Objectives	Comment	Complies
- To provide for the housing needs of the community within a low density residential environment. - To enable other land uses that provide facilities or services to meet the day to day needs of residents. - To enable certain activities to be carried out within the zone that do not adversely affect the amenity of the neighbourhood.	The proposed development will not provide an aged care service that is relevant for community needs, given its major landscaping shortfall that cannot be provided on the site. The proposal is detrimental to the future residents' amenity, and presents an overdevelopment of the site which will not be acceptable to surrounding neighbours.	No

5 Central City District Plan 2018

Summary comment	Complies
While the Act does not require consideration of District Plans in the assessment of DAs, the DA is consistent with the following overarching planning priorities of the Central City District Plan: Liveability - Improving housing choice - Improving housing diversity and affordability - Improving access to jobs and services	Yes

6 Blacktown Local Strategic Planning Statement 2020

Summary comment	Complies
The LSPS applies to the site, with 18 priorities and 61 sections contained within the plan to support the vision for our City and to guide development, balancing the need for housing, jobs and services with the natural environment. The LSPS builds on the framework established under the Blacktown community strategic plan <i>Our Blacktown 2036</i> and also gives effect to the NSW Government's Greater Sydney Region Plan and Central City District Plan. • Local Planning Priority 5 – Providing housing supply, choice and affordability with access to jobs, services and public transport.	Yes