

Report to the Sydney Central City Planning Panel on an application for a site compatibility certificate. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

SITE: The site compatibility certificate (SCC) application applies to the Toongabbie Sports Club at 12 Station Road, Toongabbie on part Lot 30 DP 1106209.

Contiguous to the club site are five residential allotments on adjoining land owned by, but not used for club purposes. This land comprises Lots 6 (part), 7, 8 and 9 in DP 22506 at 4-10 Wentworth Avenue, Toongabbie and is zoned R3 Medium Density Residential. Although an SCC is not required for this land, the future development concept for the whole site is included in the application, so the proposal to which this application relates can be viewed within its broader context. The SCC only applies to the registered club site (Figure 1).

The regional team inspected the land on 15 August 2018.



Figure 1: Registered club site (outlined in black) with approximate development area (blue) and contiguous club-owned residential lots (red) (source: SIX Maps).

APPLICANT: BBC Consulting representing Opal Aged Care on behalf of Toongabbie Sports Club.

PROPOSAL The application report (**Attachment C2**) details a proposal for the use of the site for a 124-bed residential care facility with vehicle access proposed from a roundabout on Wentworth Avenue. The proposal will have a maximum height of four storeys and maximum floor space ratio of 1.4:1.

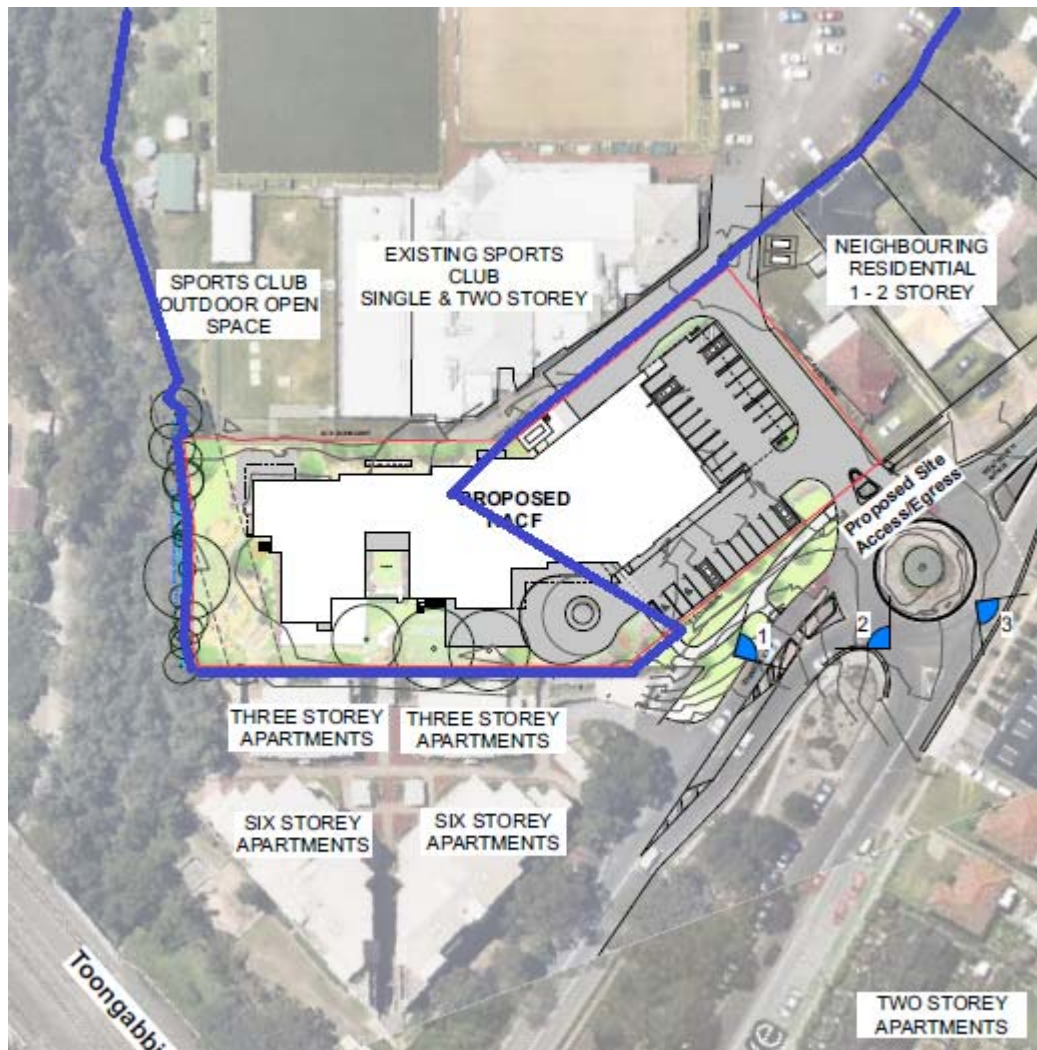


Figure 2: Layout of the future development (outlined in red) with approximate club site outlined in blue (source: applicant architectural plans).

The following supporting documentation was provided with the application:

- Traffic report.....(**Attachment C3**)
- Flood study(**Attachment C4**)
- Emergency response plan(**Attachment C5**)
- Acoustic report(**Attachment C6**)
- Development application drawings(**Attachment C7**)

It is proposed that the new residential care facility will be operated by the private aged care provider Opal Aged Care.

LGA: City of Parramatta

PREVIOUS SCC APPLICATION

On 16 August 2016, the Executive Director, Regions, as delegate of the Secretary, issued an SCC for the site. This certificate was valid for 24 months, ending 16 August 2018.

The certificate was issued on the basis that a development application for the purpose of seniors housing would be able to satisfy the following requirements (as included in Schedule 2 of the certificate):

- the final development layout and number of beds in the residential care facility will be subject to the consent authority being satisfied with the form, height, bulk, scale and setbacks and shall be determined through the assessment of the development application under the (former) section 79C (now section 4.15) of the *Environmental Planning and Assessment Act 1979*; and
- a flood evacuation plan is to be prepared with the development application to demonstrate how people dependent on care can be evacuated in case of an emergency.

CURRENT DEVELOPMENT APPLICATION

A development application for seniors housing was submitted to City of Parramatta Council on 23 December 2016 and referred to the Sydney Central City Planning Panel (as the development has a capital investment value more than \$20 million).

Council completed its assessment and recommended refusal to the Panel based on concerns relating to potential flooding impacts relating to the proposed 'sensitive' use of the land, as categorised in the Parramatta Development Control Plan 2011 and defined in **Table 1**.

Table 1: Residential land uses identified as sensitive according to Parramatta DCP 2011

Land use category	Identified land uses
Sensitive Uses and Facilities	Community facilities or Public administration buildings which may provide an important contribution to the notification and evacuation of the community during flood events; Child care centres; Hospitals; Residential care facilities; Seniors housing; Educational establishments.

At its meeting of 1 August 2018, the panel agreed to defer the determination of the matter to allow panel members to visit the site, further consider a clause 4.6 variation request (to height standards that apply to land in the R3 zone of the development) and obtain legal advice on whether the proposal complies with the terms of the schedule of the certificate.

If issued, the subject certificate will replace the previously issued certificate and any new certificate will be a relevant consideration in the assessment of the development application. As further information has been submitted in relation to flooding, the proposed requirements of the certificate should be amended accordingly but it still requires key flooding considerations to be fully assessed as part of the development application process.

If the new SCC is not issued it will not be possible for the Central Sydney Planning Panel to determine the outstanding DA for the proposal, as the previously issued certificate has lapsed.

Given the advanced stage of the assessment of the DA (it has been considered by the Panel 3 times already – 6 December 2017, 7 March and 1 August 2018) it is appropriate that the Panel have opportunity to finalise its determination of the outstanding DA, which is a more detailed assessment of the proposal rather than declining to issue the new SCC.

PERMISSIBILITY STATEMENT

The site is within an existing urban area surrounded predominantly by established low-density and medium-density housing.

The existing planning controls under the Parramatta Local Environmental Plan (LEP) 2011 for the club site, broader development and surrounding land are seen in Table 2 and Figure 3, next page.

Table 2: Site and surrounding LEP controls

	Land zones	Maximum height of buildings	Floor space ratio
Club site	RE2 Private Recreation	None	None
Broader development site	R3 Medium Density Residential	11m	0.6
	RE2 Private Recreation	None	None
Land adjoining the site	R3 Medium Density Residential	11m	0.6
	R2 Medium Density Residential	9m	0.5
	W1 Natural Waterways	None	None
Surrounding land	R3 Medium Density Residential	11m	0.6
	B2 Local Centre	12m	2.0
	RE1 Public Recreation	None	None

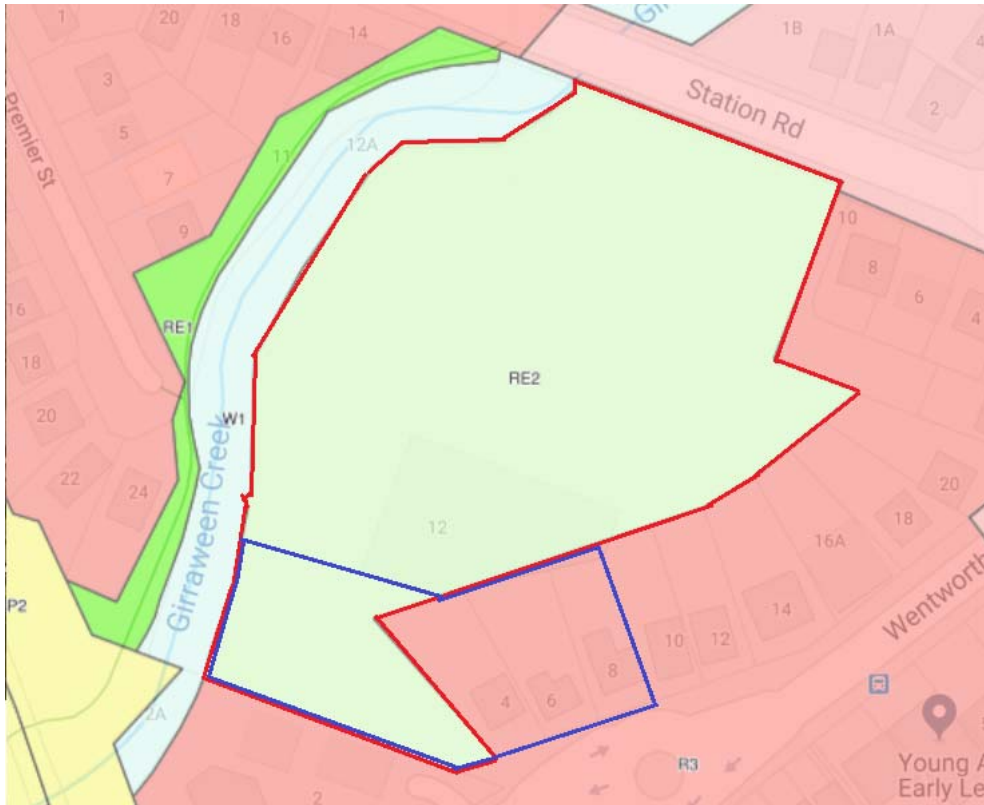


Figure 3: Land zone map of the site with the broader development site outlined in blue (source: NSW Planning Portal).

Land to which policy applies

It is considered that the subject land satisfies the requirements of clause 4 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP).

Clause 4(5)(b) identifies land that is being used for the purposes of a registered club as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes. The site is being used as a registered club, identified as Toongabbie Sports Club Ltd, licence number LIQC300230694, by the Independent Liquor and Gaming Authority (**Attachment E**).

Clause 4(6) of the Seniors Housing SEPP excludes the policy from applying to land that is environmentally sensitive as listed in schedule 1, which includes 'open space', 'floodway', 'high flooding hazard', 'natural hazard' and 'water catchment' as environmentally sensitive land. As none of these terms are identified under the Parramatta LEP 2011, the site is not identified as environmentally sensitive land.

PROXIMITY OF SITE TO WHICH THERE IS A CURRENT SITE COMPATIBILITY CERTIFICATE, OR AN APPLICATION HAS BEEN MADE BUT NOT YET DETERMINED

The site is not next to proximate site land, therefore, clause 25(2A) and clause 25(2C) do not apply and a cumulative impact assessment is not required.

CLAUSES 24(2) AND 25(5)

The panel must not issue a certificate unless the panel:

- (a) has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the general manager of the council within 21 days after the application for the certificate was made;
- (b) is of the opinion that:
 - (i) the site of the proposed development is suitable for more intensive development; and
 - (ii) the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).

COUNCIL COMMENTS

On 26 July 2018, the Department forwarded the application to Council and requested comments by 16 August 2018 in accordance with the requirements of the Seniors Housing SEPP.

Council wrote to the Department on 9 August 2018 advising that it recommended refusal of the proposed development primarily on flooding grounds. Council's comments are summarised below.

Table 3: Summary of Council's comments

Issue	Council comments
1. Flooding	<p>Council has recommended refusal of the development application because of flood impacts.</p> <p><u>DPE response</u></p> <p>The Department is obligated to consider all SCC applications having regard to their compatibility with the surrounding land uses. The detailed assessment of flood considerations will be undertaken by the panel as part of the development application process.</p>
2. Requirement for a flood evacuation plan	<p>Council seeks clarification on the adequacy of the proposed shelter-in-place flood emergency response to satisfy the scheduled requirement of the certificate for the preparation of a site evacuation plan.</p> <p><u>DPE response</u></p> <p>As discussed under the assessment section of this report, the potential flood constraints on the land are to be considered as part of the development assessment process and appropriate flood mitigation measures determined and implemented, if considered suitable. The flooding conditions of the site should not preclude the issuing of an SCC as there is potential for mitigation measures and the development layout to be assessed and negotiated to the satisfaction of the consent authority as part of the development assessment process.</p>

Issue	Council comments
	Further, as updated information has been submitted in relation to flooding, the scheduled requirement should be amended to require the final development application to be supported by appropriate documentation that demonstrates how residents will be made safe in a flood event and appropriately mitigate any risk to life.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The panel must not issue a certificate unless the panel is of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2)(a)):

1. The site of the proposed development is suitable for more intensive development (clause 24(2)(a))

The site is in Toongabbie and covers an area of 12,980m², comprising a club complex, two bowling greens and two car parking areas (Figure 4). The proposed residential care facility would also be located on four adjoining southern residential lots at 4-10 Wentworth Avenue, Toongabbie.



Figure 4: The site location with approximate boundary of the broader development site (blue).

The site is generally free of vegetation except for mature vegetation along the western and southern boundaries and domestic plantings within the four lots that form the southern residences.

The main sports club building is two storeys and contains a range of facilities including a bistro restaurant, TAB services, bowling greens and function rooms. The main entrance to the club is off Station Road.

The southern proposed development area of the site comprise a small one-storey building associated with the sports club, four 1-2-storey dwellings, a formed vehicle access way and a grassed area. Car parking is available for 125 vehicles, with access via two separate entry/exit points.

Most of the site is level, with a slight slope to the north-west. Most notable is the fall along the western boundary to Greystanes Creek.

Surrounding land uses

To the immediate east of the site are 1-2-storey residential dwellings facing Wentworth Avenue. Directly opposite the site (on the southern side of Wentworth Avenue) is a two-storey townhouse development.

To the south of the site is a multistorey residential complex up to six storeys.

To the west is Greystanes Creek, beyond which is low-density residential development. South of the site is higher-density residential development.

Toongabbie train station is approximately 250m to the south and Portico Plaza shopping centre is within 400m south-west of the site (Figure 5).

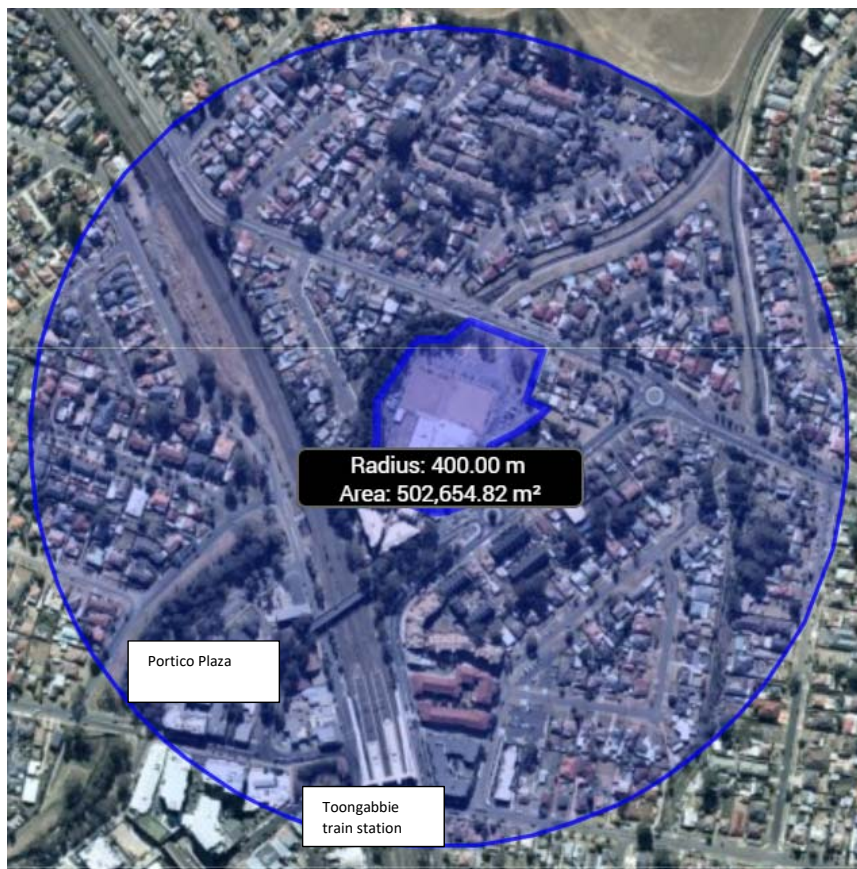


Figure 5: Surrounding land uses.

The site is suited to more intensive development as facilities, services and infrastructure are near the site and there is a prevailing mix of land uses in the area. Overall:

- the proposal is generally consistent with what is currently on the site and has the potential to integrate well with the existing uses;
- it is located adjacent to an established urban area with good road access and public transport connections to required facilities, including Toongabbie train station and Portico Plaza shopping centre;
- the proposal would contribute to meeting the needs for seniors housing in the Central City District; and
- the proposed development will provide seniors housing diversity and social benefit by providing housing options that will give residents the opportunity to access appropriate forms of housing as their needs change over time.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES

The panel must not issue a certificate unless the panel is of the opinion that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the following criteria (clause 25(5)(b)) and clause 24(2)(b)):

1. The natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))

Riparian corridors, drainage and flooding

The land subject to the proposed development is used for residential purposes and auxiliary uses of the existing club. Greystanes Creek is located to the west and there is potential for flooding of the site during major storm events in the creek catchment.

According to the City of Parramatta flood hazard map, parts of the site are subject to flooding under the 20-year, 100-year and PMF flood events (Figure 6, next page and **Attachment C8**).

The previous SCC issued by the Department included a requirement that an evacuation plan be prepared to demonstrate how people dependent on care can be evacuated in case of an emergency.

To achieve compliance with the scheduled requirement (in the original certificate) for flood evacuation, the applicant and Council commissioned an independent expert review of the flood study submitted with the development application (**Attachment F**). The review supports the recommendation made in the applicant's flood study that future residents can shelter in place during the PMF flood event as an alternative to evacuating the site.

This application therefore differs from the 2016 application as it proposes a shelter-in-place measure as part of the future development rather than evacuation off-site.

Given the updated information provided, an updated requirement is recommended to be included in the SCC requiring the final development application to be supported by appropriate documentation that demonstrates how residents will be made safe in a

flood event and how the proposal will be appropriately designed to mitigate any risk to life during a flood event. It is not appropriate for this SCC to pre-empt any decision of the panel in this regard.

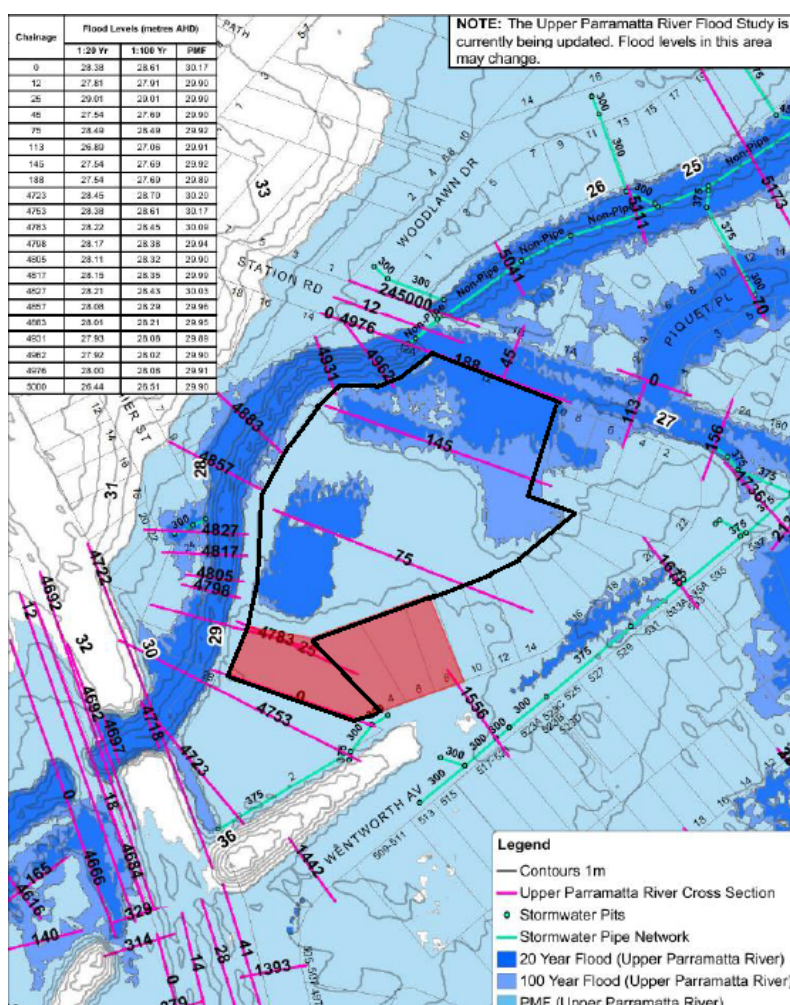


Figure 6: City of Parramatta flood hazard map of the club site and proposed development.

The flooding conditions of the site should not preclude the issuing of an SCC as there is potential for mitigation measures and detailed design to be assessed and negotiated to the satisfaction of the consent authority as part of the current development assessment process. Further it is considered that there are no other environmental or hazards on the site.

Compatibility with existing and approved land uses

The proposed seniors living facility will be 3-4 storeys adjoining an existing 3-6-storey residential flat building at 2 Wentworth Avenue.

The existing and approved uses of land surrounding the site are predominantly residential and include a club building and bowling greens. All are considered compatible with the proposed seniors living complex.

Therefore, the proposed seniors living complex is considered compatible with existing and future uses.

2. The impact that the proposed development is likely to have on the uses that, in the opinion of the panel, are likely to be the future uses of that land (clause 25(5)(b)(ii))

Permissible and future land uses

The RE2 zone permits a diverse mix of activities such as centre-based child care facilities, community facilities, emergency services facilities, entertainment facilities, registered clubs, respite day care centres, restaurants or cafes and tourist and visitor accommodation.

Generally, the surplus club land may not be deemed suitable for private open space or recreational purposes given:

- the small-scale size and fragmentation of parcels limiting the suitability of the land for open space; and
- the lack of alternative uses that are compatible with the surrounding predominantly residential context.

The development of seniors housing in accordance with the provisions of the Seniors Housing SEPP is considered appropriate as it will provide housing choice in appropriate locations.

The proposal is therefore considered to be consistent with the likely future uses on the land.

3. The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26 and any proposed financial arrangements for infrastructure provision (clause 25(5)(b)(iii))

Location and access to facilities

Clause 26 of the Seniors Housing SEPP requires that residents of a proposed development have access to:

- shops, bank service providers and other retail and commercial services that residents may reasonably require;
- community services and recreation facilities; and
- the practice of a general medical practitioner.

The clause notes that access is complied with if:

- the facilities and services are located no more than 400m from the site; or
- these facilities are not so located, there is a public transport service available that will take residents within 400m of the required facilities.

The site is well connected to pedestrian routes (Figures 7 and 8, next page) from Wentworth Avenue to Portico Plaza shopping centre (approximately 350m), where a range of retail, health and community services are available. The site also benefits from access to a pedestrian route to Toongabbie train station (approximately 250m from the site), which provides access to the nearby centres of Blacktown and Parramatta and essential services.

Clause 26 of the Seniors Housing SEPP requires the consent authority at the development application stage to ensure pedestrian access footpaths comply with the gradient requirements. Based on the submitted information and on-site

observations, it is considered possible for the future development to provide access to nearby pedestrian routes to local services.



Figure 7: Existing pedestrian route across Wentworth Avenue from the site.



Figure 8: Pedestrian routes to Toongabbie train station and Portico Plaza from the site.

Road network and parking requirements

The traffic report (**Attachment C3**) concludes that the proposed new access at the Wentworth Avenue / Cornelia Road roundabout represents an improvement on the existing access arrangements for the site.

The traffic report notes there is adequate capacity in the surrounding road network to cater for the traffic generated by the proposed development, with the intersection of

Cornelia Road and Wentworth Avenue continuing to operate at a similar level of service. The traffic report also states that the parking requirements of the Seniors Housing SEPP and Roads and Maritime Services' *Guide to Traffic Generating Developments* (as Council's DCP does not prescribe parking rates for seniors housing). The traffic considerations of the site should not preclude the issuing of an SCC.

Services infrastructure

The provision and augmentation of essential infrastructure services will be resolved with the relevant authorities as part of the development application.

4. In the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development (clause 25(5)(b)(iv))

The site is zoned for private recreation and, as there is no public open green space on-site, the proposed development will not reduce available open space or impact on the provision of land for special uses, satisfying clause 25(5)(b)(iv).

In the surrounding area, the closest public open space and special uses to the site is Ron Hill Park (1800m²) and Toongabbie Seventh-day Adventist Church. The consent authority may require additional studies in relation to potential impacts and this can be adequately managed during the development assessment process.

5. Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development (clause 25(5)(b)(v))

Given the prescribed development standards for height under the Seniors Housing SEPP and Parramatta LEP 2011, the development application process can adequately assess and determine the appropriate bulk, scale and built form for the proposal, noting that the SCC only applies to the land zoned RE2, not the adjoining land zoned R3. It is considered that any potential impact can be minimised through building design, setbacks and landscaping, and any privacy and amenity issues can be addressed as part of the development assessment process that is underway and nearing completion.

6. If the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the *Native Vegetation Act 2003*—the impact that the proposed development is likely to have on the conservation and management of native vegetation (clause 25(5)(b)(vi))

The *Native Vegetation Act 2003* was repealed on 24 August 2017. No significant ecological communities have been identified on the subject site.

7. The impacts identified in any cumulative impact study provided in connection with the application for the certificate (clause 25(5)(b)(vii))

As the site is not next to proximate site land, a cumulative impact study is not required to be provided.

CONCLUSION

The site adjoins land for urban purposes and is being used for the purpose of a registered club, meeting the requirement of the Seniors Housing SEPP. The proposed

development has the potential to provide the City of Parramatta with housing diversity for the needs of seniors housing, and care facilities for those with a disability in a locality where there are no significant constraints to more intensive development.

The application for an SCC is consistent with clause 25 of the Seniors Housing SEPP and it is considered that housing for seniors or people with disability is a suitable use of the site and compatible with the surrounding land as:

- there are no environmental constraints, subject to the satisfactory resolution of flood issues as part of the development application;
- there is potential to resolve any issues that may exist in relation to ensuring an appropriate bulk and scale as part of the development application; and
- there are adequate and suitable services available including provision for traffic, public transport and pedestrian access.

Whilst Council has raised concerns about flooding, it is considered that these flooding issues are being considered during the assessment of the current development application, and the issuing of an SCC enables this assessment to be finalised and the development application determined.

It is recommended that the Panel issue an SCC subject to conditions requiring the final development layout, design and number of dwellings be resolved through the consideration of further technical studies at the development application stage relating to:

- proposed built form, height, bulk, scale and setbacks; and
- resolution of issues relating to flooding.

ATTACHMENTS

Attachment B – Council Comments

Attachment C – Site compatibility certificate application and documentation

Attachment D – Site Map

Attachment E – Registered Club Licence

Attachment F – Independent flood review

Attachment G – Previous site compatibility certificate

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