



SYDNEY CENTRAL CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPS-2019CCI013
DA Number	DA/85/2019
LGA	City of Parramatta Council
Proposed Development	Demolition of existing structures, tree removal and construction of a part two (2) part three (3) and part four (4) storey residential care facility (Seniors Housing) comprising of 120 beds with one level of basement car parking. The application will be determined by the Sydney Central City Planning Panel.
Street Address	Lot 1 DP 210512, Lot 16 DP 238510, Lot 6 DP 259726, 43-47 Murray Farm Road, No. 13 and No. 19 Watton Road, Carlingford, NSW 2118
Applicant & Owner	H B+B Property Pty Ltd
Date of DA lodgement	13 February 2019
Number of Submissions	Forty five (45) submissions
Recommendation	Refusal
Regionally Significant Development	Clause 2 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the development has a Capital Investment Value (CIV) in excess of \$30 million. The proposed development has a CIV of \$34,446,500
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none">• Environmental Planning and Assessment Act 1979• Environmental Planning and Assessment Regulation 2000• State Environmental Planning Policy (State and Regional Development) 2011.• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017• State Environmental Planning Policy 55 – Remediation of Land• State Environmental Planning Policy (Infrastructure) 2007• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD 2004).• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005• Parramatta (Former The Hills) Local Environmental Plan 2012• The Hills Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none">• Attachment 1: Architectural Plans;• Attachment 2: Architectural Design Report;• Attachment 3: Clause 4.6 variation – Height of Building;• Attachment 4: Planning Circular - Variations to development standards

Clause 4.6 requests	<ul style="list-style-type: none"> • Clause 4.6 variation sought pursuant to Parramatta (former The Hills) Local Environmental Plan (LEP) 2012. • The development standard to be varied relates to Clause 40(4) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
Summary of key submissions	<ul style="list-style-type: none"> • Non-compliance with SEPP HSPD 2004 and LEP controls, in particular building height; • Bulk and scale of development no in keeping with low density character of area/streetscape; • Tree Removal; • Proximity to other Age Care Facilities; • Construction impacts – noise, dust, trucks, cranes, sediment control, deliveries; • Increased traffic/lack of infrastructure/safety/lack of parking • Noise Impacts; • Flooding/stormwater drainage; • Overshadowing/sun glare; and • Visual privacy
Report prepared by	Deepa Randhawa, Senior Development Assessment Officer
Report date	6 May 2020 (meeting date)

Summary of s4.15 matters

Yes

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Legislative clauses requiring consent authority satisfaction

Yes

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

Yes

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Special Infrastructure Contributions

No

Does the DA require Special Infrastructure Contributions conditions (s7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

N/A

1. EXECUTIVE SUMMARY

The application proposes demolition of existing structures, tree removal and construction of a part 2, 3 and 4 storey residential care facility (Seniors Housing) comprising of 120 beds with one level of basement parking on land at 43 - 47 Murray Farm Road, No. 13 and No. 19 Watton Road NSW 2118.

The site is located on land zoned R2 Low Density Residential pursuant to Parramatta (former The Hills) Local Environmental Plan 2012 ("The LEP"). The application is made pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP), which permits development for the purposes of *housing for older people or people with disabilities* on land within the R2 Low Density Residential zone.

Prior to submission of this development application (DA), Council provided pre-lodgement advice (under PL/124/2018) to the applicant for construction of a 123-bed Residential Care Facility. The applicant was advised that it was unlikely that the proposal would be supported due to the excessive height, bulk, scale, and adverse amenity impacts in the context of the site within the R2 Low Density Residential Zone.

Despite the advice given to the applicant during the prelodgement, a development application was lodged for a 132 bed residential care facility. The proposed development exceeds the 8 metre building height standard under Clause 40(4) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 by 4.6 metres (57.5% variation). The built form is not sympathetic with the character of the locality, particularly with the predominantly low-density residential development along both Murray Farm Road and Watton Road.

The application was briefed to Sydney Central City Planning Panel (SCCPP) at its meeting dated 12 June 2019. The Panel raised the concerns with regard to the proposal being incompatible with the surrounding low-density residential area because of its greater bulk and scale. The Panel also raised concerns in relation to the height breaches under both the Seniors SEPP and "The LEP", adverse amenity impacts on neighbours and lack of information regarding the access to facilities as the footpath gradients to the bus stops may be excessive.

Amended plans were submitted by the applicant to reduce the number of beds from 132 to 120 and present a two storey built form to the Murray Farm Road frontage, however the overall built form still presents as a part three and part four-storey development in a low scale non transitional neighbourhood. It is therefore still deemed to be incompatible within this context

The application was notified and advertised in accordance with The Hills DCP 2012. The application received 45 submissions, including one petition, all submissions objecting to the proposed development.

The bulk, scale, built form and character sought exceeds that envisaged for the site, particularly having regard to the adverse environmental impacts upon the streetscape and immediate neighbouring properties and the surrounding area.

The proposal is inconsistent with the aims and relevant clauses of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and Parramatta (former The Hills) Local Environmental Plan 2012.

Based on a detailed assessment of the proposal against the applicable planning controls, the proposed residential care facility does not satisfy the appropriate controls and legislative requirements. Accordingly, it is recommended that the Sydney Central City Planning Panel, as the determining authority, refuse this application for the reasons detailed within the recommendation section of this report.

2. KEY ISSUES

1. Height of Buildings - Clause 40(4) of SEPP- HSPD 2004

Control: 8m

Proposed: 12.6 (4.6m or 57.5% variation).

2. Floor space ratio - Clause 48(b) – of SEPP- HSPD 2004

Control: 1:1 or 7063.94m²

Proposed: 1.017:1 or 7188m² (0.7% breach)

Breaches result from areas not included by the applicant in GFA calculations. See assessment under Seniors SEPP and “The LEP”.

3. Incompatible bulk, scale and built form in the context of the area.

The proposed development predominantly presents as a part three and part four-built form, which is akin to a residential flat building, not suitable in this R2 low-density residential zone.

4. Adverse privacy impacts on adjoining residential properties.

3. EXISTING SITE AND CONDITIONS

The subject site consists of three lots and is legally known as Lot 1 DP210512, Lot 16 DP238510 and Lot 6 DP259726) and is also known as 43 - 47 Murray Farm Road, 13 Watton Road and 19 Watton Road, Carlingford. The site is irregular in shape, with a 50.29m frontage to Murray Farm Road to the south and 46.12m frontage to Watton Road to the north. The site area has a total area of 7,063.94m² and has a cross fall of approximately 9m from the front south-eastern corner (Murray Farm Road) to the rear (Watton Road) north-western corner of the site.

The site is zoned R2 Low Density Residential under the Parramatta (former The Hills) LEP 2012 and subject to a 9m height limit under the LEP2012. A maximum height limit of 8m pursuant State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies to the development type proposed. The properties do not contain any heritage items and are not mapped as containing any areas of biodiversity or bushfire prone land under “The LEP”. The site is also not subject to any FSR control under “The LEP”.

There is significant mature vegetation on the site and a high voltage power corridor running across the south-east corner of the site. See Figure 1 below.



Figure No. 1- Aerial view of the subject site outlined in red. Source: Nearmap -April 2020

Part of the site is subject to flooding by 1% AEP and PMF floods. The 1% AEP flooded area as shown below does not significantly impinge on No. 43- 47 Murray Farm Road but substantially inundates No. 19 Watton Road.

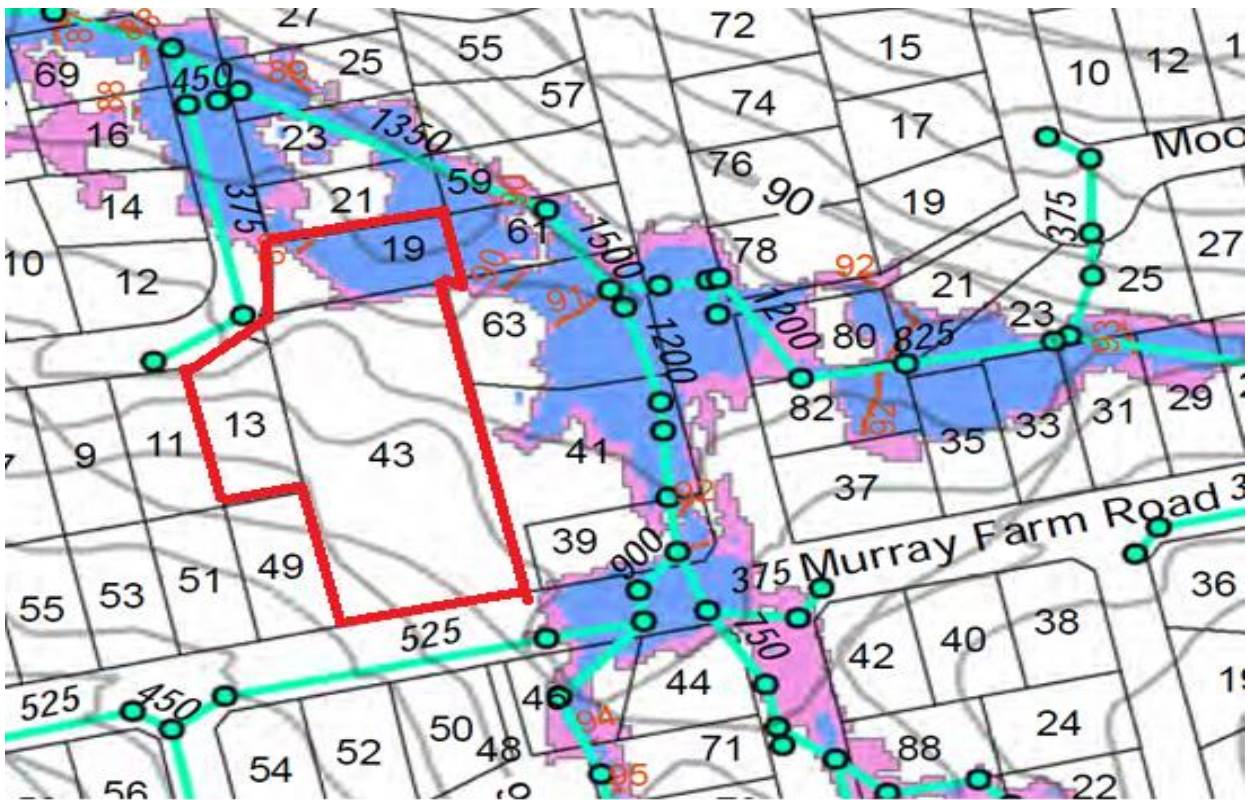


Figure 2: Council Flood Map showing 1% AEP flood extent. Subject site outlined in red.

The site contains several significant trees and mature vegetation. Currently, the site is occupied by a dwelling house and previous bus depot structures. Historically, the site was used by the Liverpool Bus Service as a bus depot. Remediation works have previously been carried out pertaining to the southern side of the site to remove fuel tanks.

The character of the locality is described as low density residential, comprised of standard size blocks occupied with individual one and two storey houses of modest proportions built in the 1960s to 1980s.

The surrounding locality is primarily zoned R2 Low Density Residential, supporting detached single dwellings. The site is surrounded by older style detached style single and two storey dwelling houses. Immediately opposite the Murray Farm Road frontage is a pathology laboratory, and there are pharmacy and medical related facilities within a short distance from the site. A neighbourhood shopping centre is located approximately 160m from the site on Carmen Drive, Carlingford.

4. PROPOSED DEVELOPMENT

Approval is sought for demolition works and construction of a part 2, part 3 and a part 4-storey, 120-bed Residential Care Facility (RCF) with basement parking including tree removal and earthworks. Details of the proposed works:

Demolition works

Demolition of the existing structures on-site, which include a single storey brick residence with a tiled roof, brick double garage, metal carport, in ground swimming pool, concrete driveway and external paving, metal shed, metal bus shelter, concrete slabs, timber log retaining wall and brick fence, as shown on figure 3 below.

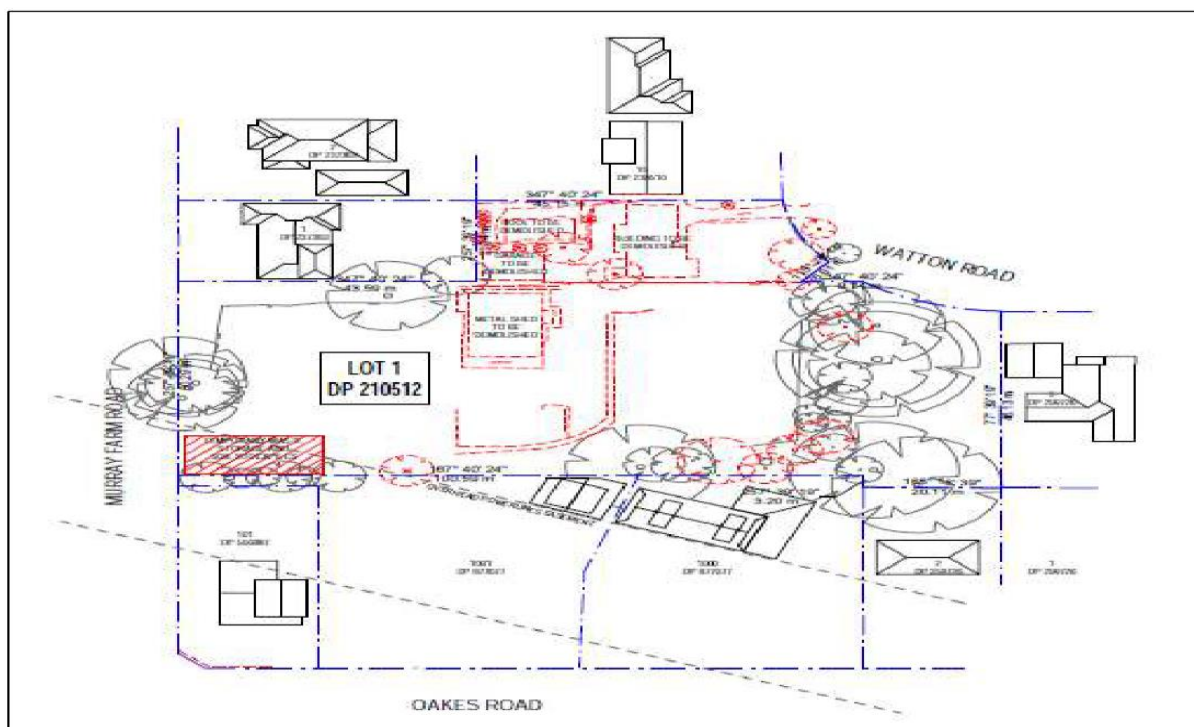


Figure 3 Demolition Works. Source Thompson Adsett Architects

Construction works

Basement Level includes the following elements:

- 12 bedrooms;
- Provision of 30 car parking spaces (including two accessible spaces);
- A switch room, maintenance room, training room; activity room, lobby and back of house lobby; staff amenities; laundry room, kitchen, waste storage and loading bay with service vehicle access via Watton Road in the north- west, and Courtyard open space (as the site slopes to the north and these areas are not within the 'basement' at this point).

Ground Floor Level includes the following elements:

- 35 bedrooms ;
- A café, administrative area, wellness centre, serveries, hair salon, interview room,
- back of house;
- Outdoor terrace areas, substation, temporary generator pad; and outdoor garden areas.

Level One includes the following elements:

- 46 bedrooms;
- Lounge and sitting areas, serveries, back of the house and balconies.

Level Two include the following elements:

- 27 bedrooms;
- Lounge and sitting areas, serveries, back of the house and outdoor terrace area.

Civil Works

The following civil works is proposed to be under taken would be undertaken in support of the proposed development:-

- Earthworks- Cut and fill the proposed building footprint (including the car park and public domain works for the footpath fronting the site on Murray farm Road.
- Retaining wall;
- Existing sewer line to be diverted;
- Stormwater pipe to be suspended under the ground floor slab;
- Pipe to run beside the basement wall and pierce through wall, connecting to junction pit; Swale to stormwater pit, 150mm wide;
- Onsite detention system;
- Existing embankment to be retained;
- Junction pits; Surface inlet pits; Overflow pits;
- Grated drain; and
- Stormwater outlet pipe to be connected to Council's existing inlet pit.

Tree Removal

- Removal of twenty-one (21) trees within the development site.

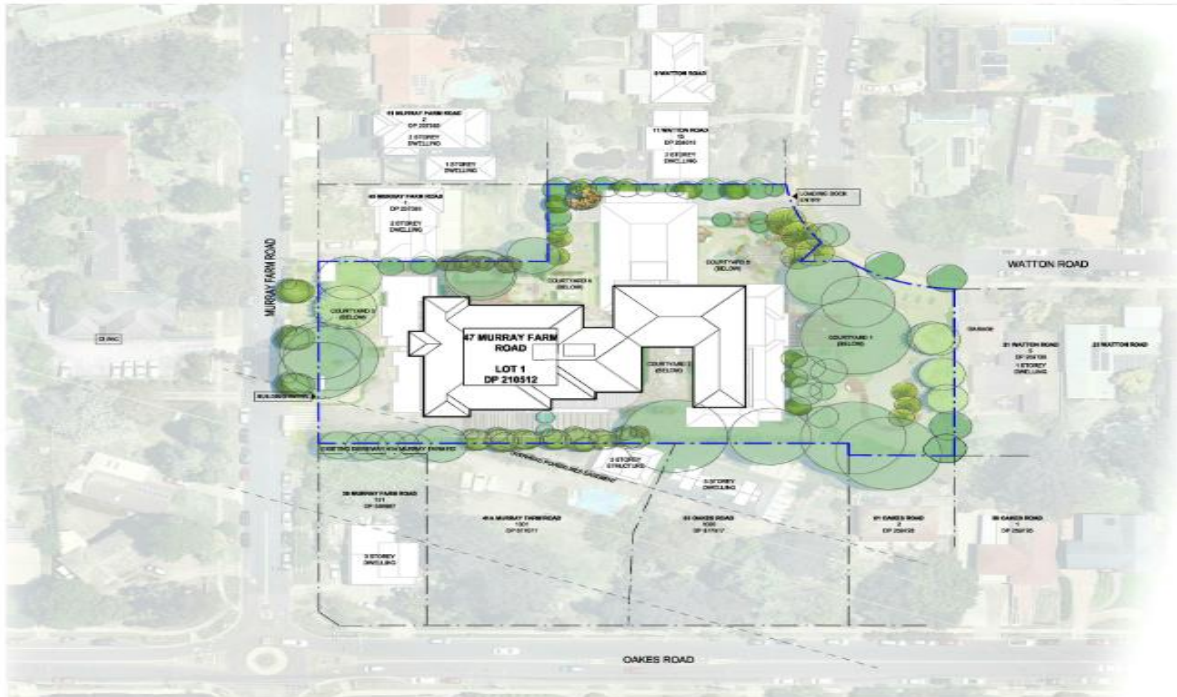


Figure 4: Proposed Site Plan. Source Thompson Adsett Architects



Figure 5: Photomontage of development site looking from south-east corner - Murray Farm Road. Source: Thompson Adsett Architects.



Figure 6: Photomontage of development site looking from north-west corner Watton Road.
Source: Thompson Adsett Architects.

5. REFERRALS

The following internal and external referrals were undertaken:

Sydney Central City Planning Panel Briefing

The application was briefing to the Sydney Central Planning Panel on 12 June 2019. The following matters were raised by the Panel at its briefing meeting:

- *“Character - the proposal appears to be incompatible with the surrounding low-density residential area because of its greater bulk and scale. No apparent attempt to mitigate through larger landscaped setbacks or a stepped building form.*
- *Height - the proposal breaches limits under both the SEPP and LEP, and it is not evident that this is satisfactory.*
- *Access to facilities - the distance criteria are satisfied except for the absence of a bank and post office. However, the intervening gradients may be excessive, and the necessary information has not been provided by the applicant.*
- *Amenity impacts on neighbours - there is potential for overshadowing and loss of privacy (e.g. 49 Murray Farm Road and 63 Oakes Road) which could be unacceptable.*

- *Site constraints - a small part of the site and part of Murray Farm Road are flood prone- the latter may affect evacuation. The site is partially affected by high voltage electricity transmission lines and the acceptability of resulting electromagnetic radiation needs examination.*
- *Design issues - cross-ventilation and sun access may be inadequate in places.*
- *The Panel recognizes that there would be benefit from more senior's housing in the area but considers that the preceding issues are significant and require resolution”.*

Amended plans were submitted by the applicant to address the above matters. The additional information submitted has satisfactorily addressed the flooding and electromagnetic matters raised by the Panel. However, as discussed in this report, the amended application remains non-compliant with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, especially in terms of the height breach and the development being incompatible with the surrounding low-density residential area,

Design Excellence Advisory Panel (DEAP)

The amended plans were considered by DEAP at a meeting on 12 March 2020. The panel was not supportive of the application in its current form and has provided the following advice:-

“It is noted the applicants did not attend this meeting therefore the following report is a based on a review of the submitted documents only.

1. *This is the second submission to the DEAP by the proponent for this project. The previous meeting was held on 06 June 2019.*
2. *The Panels response to the initial submission was that it was deemed an overdevelopment of the site given its R2 zoning. The bulk and scale was deemed incompatible with the neighbourhood context and streetscape.*
3. *While this second submission is deemed more legible and does to some extent provide contextual information it does not specifically address the Panel’s previous points. A design report has however been submitted and this contains part sections providing information on boundary conditions. It is noted that multiple clear sections though the proposal that extend beyond the site showing adjoining buildings would be more successful at clarifying context and potential impact as previously requested.*
4. *While some modifications have been made to the scheme in an attempt to reduce its bulk and scale it still presents as a part three/ part four-storey development in a low scale non-transitional neighbourhood. It is therefore still deemed incompatible with its context.*
5. *The Panel previously suggested splitting the building in the centre and lowering the height of the proposal to better align with the sites 8.5m cross fall. While some of the upper level at the western end of the building has been deleted the non-compliant height remains an issue. The revision has not substantially altered the proposals bulk and scale.*

6. *The Panel also previously recommended that the scheme set back the upper levels on all south facing elevations to increase solar access and reduce bulk and scale. Aside from the revision noted in Point 5 this has not been done.*
7. *The Panel noted that the proposed courtyards should be increased in size, in particularly Courtyard 2, due to overshadowing concerns given the currently proposed height. There appears to be no change evident in the resubmission. Increasing the width between built form to open the building at the centre of the plan was also recommended to provide enhanced connections to the courtyard and this appears to not have been undertaken.*
8. *There has been some revision of the buildings scale and form addressing Murray Farm Road and this is generally considered an improvement. The previous concerns regarding the main entry including the driveway, pedestrian entrance and layout remain. The previous and current arrangement has the pedestrian and vehicular access running parallel with the driveway being the more dominant element. The Panel still maintains that providing a clear and straight pedestrian link from Murray Farm Road into the building that is separate to the driveway would be a better outcome. Careful consideration of the root zones of the existing trees will need to be considered.*
9. *Furthermore the proposed undercroft space at the entry noted as excessive in the first review is still in need of revision. Access to sunlight and outlook from the entry lobby and associated spaces would enhance amenity. A redesign has relocated the café closer to the front of the building however it still seems to lack the desired outdoor connections due to the proposed planning.*
10. *The Panel feels that the proposed setbacks along the western boundary are inadequate and again raises concerns regarding the amenity impacts of the proposed outdoor terrace along the eastern boundary due to its inadequate setback.*
11. *While not strictly a matter for the Panel the lack of a pedestrian footpath and the resultant non-compliant gradient where one provided remains a concern. Council's urban design team has previously noted the lack of public domain information submitted with the application.*
12. *The proposal responds well to the preservation of existing mature trees and follows AS 4970 – Protection Trees on Development Sites. Apart from the courtyards/gardens located off the Watton Road frontage the remainder of the courtyard spaces are considered inadequate in size and achieve little solar access during morning and lunch times due to orientation, size and building height.*
13. *Whilst the proposals does respond to some of the existing site conditions (mature trees) the bulk, scale and height are deemed to be incompatible with the surrounding context. The courtyards are too small and the setbacks inadequate. The Panel would encourage a conceptual approach more sympathetic to the low density two storey context of the area.*

The Parramatta Design Excellence Advisory Panel (The Panel) does not support the proposal in its current form. The Panel advises that there are a number of significant issues with the proposal.

Development Engineer	Council's Senior Development Engineer has assessed the application for flooding, stormwater and earthworks and raised no objections to the proposed development, subject to the recommended conditions of consent. A detailed assessment of the above issues are discussed in the report under Clause 7.2 and 7.3 of the Parramatta (former The Hills) LEP2012.
Tree and Landscape Officer	<p>Council's Landscape and Tree Management Officer has reviewed the application and has provided the following comments:-</p> <p><i>There are existing trees located on the subject property that require removal in order to facilitate the proposed development. A large number of existing trees will be retained, including trees prominent in the landscape.</i></p> <p><i>A street tree planting condition has been recommended (2 x street trees along the Watton Road frontage and 7 x street trees along the Murray Farm Road frontage).</i></p> <p><i>Trees 2 to 16, 33, 35, 36, 39 and 46 are approved for removal as per the Arboricultural Impact Assessment prepared by Tree Wise Men, reference 2578AIA, dated December 2018.</i></p> <p>The landscaping proposed for this development is supported subject to conditions.</p>
Traffic and Transport Engineer	Council's Senior Traffic Engineer has reviewed the application and advised that based on the analysis and information submitted by the applicant, the proposed development is not expected to have a significant traffic impact on the surrounding road network. The proposal can be supported on traffic and parking grounds subject to recommended traffic related conditions.
Environmental Health Officer (Waste & Contamination)	<p>Council's Environmental Health Officer has reviewed the application and provided the following comments:</p> <p><i>The applicant has prepared and submitted a suitable waste management plan (WMP) for the proposal, which details all phases involved (demolition, construction and use of the site).</i></p> <p><i>The WMP outlines the existing structures on site are to be demolished and removed from the site, excavated materials will be both removed (after classification) and retained onsite for backfilling purposes and any asbestos containing materials will be disposed of appropriately.</i></p> <p><i>It is noted that the Environmental Site Assessment has identified minor anthropogenic material within the fill material in the northern portion of</i></p>

	<p><i>the site and asbestos containing materials on the ground surface. There is also a risk that further asbestos containing materials may be present on the ground surface, beneath the existing vegetation cover. No asbestos was found below the surface and in deeper soils.</i></p> <p><i>The WMP outlines the residential care facility will be serviced by a private waste contractor and that a central waste storage area in the basement has been designed to cater for the required number of waste, recycle and medical waste bins required.</i></p> <p>The proposed waste management for this development is supported subject to conditions.</p>									
Environmental Health Officer (Acoustic)	<p>An acoustic report has been submitted to address assessment of potential noise impacts associated with the proposed development. The assessment has focused on the traffic noise impacts from surrounding road carriages and noise generated within the site from plant and equipment.</p> <p>Council's Environmental Health Officer has reviewed the application and the acoustic report and has provided the following comments:</p> <p><i>Acoustic Logic have been engaged by the applicant to conduct an acoustic assessment of potential noise impacts associated with the proposed development.</i></p> <p><u>External Noise Impacts</u></p> <p><i>With respect to traffic noise impacts, it is noted that traffic noise from surrounding roads will be the primary external noise source impacting the proposed development. This is due to the site being approximately 280 metres from the M2 Motorway to the north of the site, approximately 600m from the Cumberland Highway to the east. Both of which roads carry more than 40,000 annual average daily traffic and Oakes Road which carries medium to high volumes of traffic flows.</i></p> <p><i>Unattended background noise monitoring was conducted between the 16 to 25 October 2018 (summarised in Table 4 on page 11) and attended short term measurements of traffic noise was undertaken on the 25 October 2018 (Table 5 on page 12).</i></p> <p><i>The report has determined the noise impact levels based on the attended noise measurements and unattended noise monitoring to be the following:</i></p> <table><tr><th></th><th colspan="2">Summary of Measured Existing Traffic and Traffic Noise Level</th></tr><tr><th>Location</th><th>Daytime (7am-10pm) dB(A)Leq (15hour)</th><th>Night time (10pm-7am) dB(A)Leq (9hour)</th></tr><tr><td></td><td></td><td></td></tr></table>		Summary of Measured Existing Traffic and Traffic Noise Level		Location	Daytime (7am-10pm) dB(A)Leq (15hour)	Night time (10pm-7am) dB(A)Leq (9hour)			
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	Proposed Northern Façade	61	59
	Proposed Eastern Façade	64	62
	Proposed Southern Façade	57	55
	Proposed Western Façade	55	52
<p><i>To ensure compliance with the internal noise level criteria, the report outlines specific recommendations for construction materials in the final design within section 5.3.1 of the noise report.</i></p> <p><i>Noise Generating Impacts</i> <i>Acoustic Logic make the following assessment of potential noise emissions from the use of the proposed development:</i></p> <p><i><u>Mechanical plant</u> – Section 5 of the report outlines compliant noise emission levels to be achieved and any acoustic treatments should be determined based on these levels. At this stage the external mechanical plant selections have not been determined.</i></p> <p><i>It is anticipated that “any podium roof top equipment which operates 24 hours per day (such as refrigeration plant) will require either enclosure in plant rooms or acoustic screens to provide a line of sight break between the equipment and any future residences”.</i></p> <p><i>Other equipment external items (fans) would be expected to be capable of compliance through use of internal duct lining and/or in-duct attenuators.</i></p> <p><i>Loading Dock - It is understood that the loading dock will be used for garbage collection approximately 2 or 3 times a week and will not be used before 7am or after 10pm. Acoustic treatments are not recommended for the loading dock.</i></p> <p><i><u>Carpark/ Driveway</u> - Noise on the access point/circulation roadway and noise emanating from within the car park (via the entry opening) has been assessed. Predictions of noise generation were based on the following:</i></p> <ol style="list-style-type: none"> <i>1. For noise within the basement car park itself, a sound pressure level of 65dB(A)Leq is assumed (based on measurements in enclosed car parks during peak periods of operation).</i> <i>2. An assumed sound power level of a car driving on a driveway (at 10-20km/h) of 84dB(A).</i> 			

	<p><i>The results presented in tables 11 - 13 on pages 17 and 18 of the report indicate compliance with the referenced EPA Industrial Noise Policy.</i></p> <p>Issues</p> <ul style="list-style-type: none"> - <i>External Mechanical Plant selections have not been determined at this stage, standard conditions are therefore applied.</i> <p>The proposal satisfies the requirements of Council's controls and can be supported, subject to standard and/or special conditions of consent, had the application been recommended for approval.</p>
Environmental Health Officer (Food)	<p>Environmental Health Officer has reviewed the application along with the additional information and provided the following comments:</p> <p><i>"Application provides details for the design and fit out of food preparation areas of residential care facility. Design of premises is being conducted as per AS4674-2004, with walls, floors and ceilings being mad of impervious materials. Details are provided on how the food service will meet food safety requirements.</i></p> <p><i>Food is to be prepared, for service straight away in the service area, or blast chilled and cooled rapidly. A system for sanitisation of products is being put in place.</i></p> <p><i>The centre will have place for 120 residents. Plans of kitchen, server area and café have a clear flow between food prep and cleaning areas</i></p> <p><i>Exhaust hoods will be used. Conditions will need to be put in place to ensure no offensive noise is generated from their use.</i></p> <p>The proposal satisfies the requirements of Council's controls and can be supported, subject to standard and/or special conditions of consent.</p>
Public Domain	<p>Council's Public Domain officer has assessed the application and has provided the following comment:</p> <ol style="list-style-type: none"> 1. <i>A complete set of Public Domain Drawings showing existing and proposed levels for roads, kerb and gutter, footways, forecourts and through-site links should be submitted in the next revision. The drawings should clearly show positive drainage away from the building and interfaces of the public domain and new building entries via a series of engineering cross and long sections, along with a preliminary public domain plan showing proposed general layout of elements, services and finishes. All drawings to be prepared in accordance with the requirements outlined in Chapter 2 of the Public Domain Guidelines (ref:</i>

	<p>https://www.cityofparramatta.nsw.gov.au/business-development/public-domain-guidelines).</p> <ol style="list-style-type: none"> 2. A 1.8 m concrete footpath, at the property boundary edge, needs to be constructed along the whole length of the Murray Farm Road boundary. 3. Pedestrian entries along both roads are unclear from the drawings. Details should be provided. 4. Materials should be specified for all elements of paving. 5. Driveways should conform to City of Parramatta standard, in accordance with Council's Drawing No. DS9. 6. Street trees should be planted along Murray Farm Road. Please refer to the Public Domain Guidelines for tree species suitable for planting under overhead wires. 7. Specify street tree species along Watton Road. 8. All disturbed public domain along both roads should be made good and completely reinstalled where necessary. 9. Street light pole locations and pit lid locations, if any, should be included in the next set of drawings <p>A complete set of public domain documentation, incorporating the comments above, is required to complete an assessment of the public domain.</p>
Urban Design	<p><i>Council's Urban Design Officer has reviewed the application and raised the following concerns:-</i></p> <p><i>Reviewing the updated design documentation it appears that the changes have been minimal, the heights have remained the same as before and the concerns with respect to the height breach aspect remain largely unaddressed.</i></p> <p><i>As reiterated in our earlier advice, given the low density residential context of the surrounding area it is advised no more than 2 storeys (+ 1 recessed upper floor) should be considered anywhere along the edges of the site, to minimise impacts and to form an appropriate scale relationship with the neighbouring dwellings.</i></p> <p><i>The proposed height at 4 storeys, especially towards the Wotton Road frontage is not likely to result in an appropriate streetscape relationship. Urban Design recommends this is reduced to no more than 2+1 storeys with the upper level recessed generously so that when viewed from adjacent properties and surrounding public domain it presents as a predominantly 2 storey edge. Service/ lower ground floor protruding more than a metre above natural ground floor should be counted as a floor.</i></p>
Access Consultant	<p>Council's Access Consultant has reviewed the application to comment on the access provisions for people with a disability and has provided the following comments:-</p>

	<ul style="list-style-type: none"> • <i>The kerb adjacent to the basement switch room may be an impediment for the workers trying to install equipment into the room.</i> • <i>Ensure the latch side clearances and door circulation requirements of AS1428.1 are adhered to.</i> • <i>The circulation and latch side clearances are essential for some people with a disability to independently access and use the doors within the development.</i> • <i>Ensure all external doors provide a low level ("Nursing Home Sills") this will allow for compliant access for persons using a mobility aid.</i> • <i>Ensure equitable access is provided to all the external features of the development including but not limited to the, courtyards, veggie garden, garden pavilion and terraces.</i> • <i>Ensure all pathway materials are traversable by a person using a wheelchair as defined in AS1428.1.7</i> • <i>Ensure all counters, serveries and kitchenettes to be used by the residents provide accessible features as required in AS1428.2.</i> • <i>Ensure the furniture (inside and outside) supplied provides accessible features for people with disabilities as required in AS1428.2.</i> <p>Further amendments would be required to address the design for matters raised above.</p>
Endeavour Energy	Endeavour Energy has raised no objection to the application, subject to recommended consent of consent.
Sydney Water	Sydney Water has raised no objection to the application, subject to recommended consent of consent.

6. ENVIRONMENTAL PLANNING INSTRUMENTS

Overview

The instruments applicable to this application comprise:

- SEPP (State and Regional Development) (SEPP SRD)2011;
- State Environmental Planning Policy (Vegetation in Non-Rural areas) 2017
- SEPP No. 55 (Remediation) (SEPP 55);
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP)
- SREP (Sydney Harbour Catchment) (SREP (Sydney Harbour)) 2005;
- SEPP (Infrastructure) (ISEPP) 2007; and
- Parramatta (former The Hills) Local Environmental Plan 2012. ("the LEP")

Compliance with these instruments is addressed below.

State Environmental Planning Policy (State and Regional Development) 2011

The proposed development has a Capital Investment Value (CIV) of more than \$30 million as such the application is captured by Clause 2 of Schedule 7 and Clause 20(1) of this SEPP

and therefore, the Sydney Central City Planning Panel (SCCPP) is the consent authority for this application.

State Environmental Planning Policy (Vegetation in Non-Rural areas) 2017

The application has been assessed against the requirements of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. This Policy seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The application proposes the removal of trees from the site. Council's Tree and Landscape Officer has reviewed the application and raise no objections to the removal of the vegetation from the site subject to conditions.

State Environmental Planning Policy No.55 - Contaminated Land (SEPP 55)

The site comprises of three parcels of land, these three lots are known as No. 43-47 Murray Farm Road, No. 13 Watton Road and No.19 Watton Road, Carlingford. A former bus depot was located at No. 43- 47 Murray Farm Road which accounts for a majority of the site, No. 13 Watton Road was a residential property and No.19 Watton Road is a vacant parcel of land.

Site remediation and validation works were completed at 43-47 Murray Farm Road in 2015. The remedial works carried out related to two fuel underground storage tanks (USTs) in the south eastern corner of the site, a waste oil underground storage tank (UST) in the centre of the site and asbestos impacted road base fill material in the southern portion of the site. The garage / mechanical workshop in the central portion of the site was demolished, to enable access to the service pits and waste oil tank. 1516.20 tonnes of material was disposed of offsite and 840 tonnes of virgin excavated natural material (VENM) was imported and used to backfill excavations, which were greater than 1m below ground surface. A groundwater assessment was also undertaken in the south eastern corner of the site and no evidence of widespread contamination was detected.

Further to this, the applicant has submitted an Environmental Site Assessment (ESA) report, for which a site investigation was undertaken on 3 July 2018 to assess site conditions. The investigation comprised of a site inspection, soil sampling from 11 excavated test pits, two (2) hand auger soil borings and a surface sample. Fragments of asbestos containing material (ACM) were observed on the site surface at the centre of the previously remediated southern portion of the site and along the northern and western lengths of the main building (on 43-47 Murray Road). Fill materials were observed within No. 19 Watton Road, which included brick, household waste, glass and concrete.

The key recommendations of the ESA report are as follows:

- *The risk of exposure to future users of the site is low and not unacceptable. The risk to offsite receptors is low and not unacceptable.*
- *An asbestos management plan (AMP) should be prepared for management of ACM identified on the surface of the site and for management of asbestos that may be present in existing buildings at the site. The AMP should consider regulatory requirements particularly for proposed demolition of existing buildings.*
- *It is considered that the site is suitable for the proposed residential use subject to the management of asbestos concerns via implementation of an AMP to address regulatory requirements.*

- *Given the nature of the site, it is recommended that a construction management plan including an unexpected finds protocol be implemented during the early works phase of future site development works such that any smaller scale issues associated with contamination may be suitably managed by the appointed contractors.*

Based on the findings of the investigation, the report considers that the site is suitable for the proposed residential use subject to the management of asbestos concerns via implementation of an AMP to address regulatory requirements.

The application along with the ESA submitted by the applicant was reviewed by Council's Environmental Health team who determined that satisfactory evidence has been provided that the site can be made suitable for the proposed development subject to conditions of consent.

Clause 7 of this Policy requires that the consent authority must consider if land is contaminated and, if so, whether it is suitable, or can be made suitable, for a proposed use. In considering this matter it is noted:

- The site has previous history as being contaminated. The site have a history of a previous land use that may have caused contamination.
- As discussed above, the applicant has submitted an Environmental Site Assessment (ESA) as part of the development application which concludes that the risk of exposure to future users of the site is low and not unacceptable. The risk to offsite receptors is also low and not unacceptable. It is noted that the report also conclude that the site can be made suitable for the proposed development subject to the recommendations within the report.
- Were approval is recommended conditions of consent would also recommended including the preparation of a site audit statement by a suitable qualified professional.

Therefore, in accordance with Clause 7 of the State Environmental Planning Policy No 55—Remediation of Land, the land is suitable for the proposed development being a residential care facility.

Were the application recommended for approval, standard and special conditions relating asbestos, site audit statement, site investigation and contamination would be incorporated into a notice of determination.

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

The proposal compares to the requirements of the SEPP in the following manner:

Clause	Requirement	Proposal	Complies
Clause 10	Seniors housing In this Policy, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with	The application proposes a residential care facility for a 120 bed Residential Care Facility. The proposal satisfies the definition of seniors housing contains a residential care facility	Yes

Clause	Requirement	Proposal	Complies
	<p>a disability consisting of:</p> <p>(a) a residential care facility, or</p> <p>(b) a hostel, or</p> <p>(c) a group of self-contained dwellings, or</p> <p>(d) a combination of these, but does not include a hospital.</p>		
Clause 11	<p>Residential care facilities</p> <p>In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes:</p> <p>(a) meals and cleaning services, and</p> <p>(b) personal care or nursing care, or both, and</p> <p>(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.</p>	<p>The proposed development is for a Residential Care Facility (RCF), which includes the provision of meals, cleaning services and personal care/ nursing care along with furnishing and equipment.</p>	Yes
Chapter 3 Development for seniors housing			
Part 1 General			
Clause 15	<p>What Chapter does</p> <p>This Chapter allows the following development</p>	<p>Clause 15 of the SEPP states that development on land zoned primarily for urban purposes for the purposes of any form of seniors housing is permitted</p>	Yes

Clause	Requirement	Proposal	Complies
	<p>despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy:</p> <p>(a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and</p> <p>(b) development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.</p>	<p>despite the provisions of any other environmental planning instrument if the development is carried out in accordance with the SEPP.</p> <p>In accordance with clause 15, the proposal is permissible development as the site is located on land that is zoned primarily for urban purposes and development for the purpose of dwelling houses is permitted on the site.</p>	
Clause 16	<p>Development Consent required:</p> <p>Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.</p>	The application seeks consent under the State Environmental Planning Policy (Housing For Seniors Or People with a Disability) 2004.	Yes
Clause17	<p>Development on land adjoining land zoned primarily for urban purposes</p> <p>(1) Subject to subclause (2), a consent authority must not consent to a development application made</p>	The land is zoned R2 Low Density residential Land and the proposed development will provide for a 120 bed Residential Care Facility. The proposed development is therefore consistent with the definition of a Residential Care Facility.	Yes

Clause	Requirement	Proposal	Complies
	<p>pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:</p> <p>(a) a hostel,</p> <p>(b) a residential care facility,</p> <p>(c) serviced self-care housing.</p> <p>(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided:</p> <p>(a) for people with a disability, or</p> <p>(b) in combination with a residential care facility, or</p> <p>(c) as a retirement village (within the meaning of the Retirement Villages Act 1999).</p>		

Clause	Requirement	Proposal	Complies
Clause 18	<p>Restrictions on occupation of seniors housing allowed under this Chapter</p> <p>Consent must not be granted to a development application unless a condition reinforcing the above through a requirement to register a restriction to user on the property title has been imposed.</p>	Should the application be recommended for approval, appropriate nominated conditions would have been included in the development consent to assure the development is for the purpose of seniors or people who have a disability.	Yes, subject to conditions
Clause 22 Fire sprinkler systems in residential care facilities for seniors.	Development for the purpose of the installation of a fire sprinkler system in a residential care facility for seniors may be carried out with development consent.	Fire/access report is provided	Yes, subject to conditions
Part 1A Site compatibility certificates			
Clause 24	Site compatibility certificates required for certain development applications.	The site is not subject to a Site Compatibility Certificate.	N/A
Clause 25	Application for site compatibility certificate.	The site is not subject to a Site Compatibility Certificate.	N/A
Clause 26(1)	<p>Location and access to facilities</p> <p>Distance to shops, banks, other retail and commercial services, community services, recreation facilities and the practice of a general medical practitioner is not to exceed 400m.</p>	<p>The nearest facilities and services are located at the at Carmen Drive neighbourhood centre which is located 400m the site.</p> <p>There are two medical practices located within a 400m distance from the site. A medical practice located 20m south of the site on the opposite side of Murray Farm Road and the second medical practice is located around 240 northeast of the site.</p> <p>The shopping centre at Carmen Drive does not a bank or a post office, therefore,</p>	No, however complies with Clause 26 (2)(b)

Clause	Requirement	Proposal	Complies
Clause 26(2)	<p>Access complies with this clause if—</p> <p>(a) Average gradient for distance of suitable accessible pathway to above services is not to exceed 1 in 14, although following gradients are acceptable along pathway:</p> <p>i) No more than 1:12 for maximum 15m at a time</p> <p>ii) No more than 1:10 for maximum 5m at a time</p> <p>iii) No more than 1:8 for maximum 1.5m at a time, or</p> <p>(b) in the case of a proposed development on land in a local government area within the Greater Sydney there is a public transport service available to the residents who will occupy the proposed development—</p> <p>(i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and</p>	<p>public transport provisions are required to meet the SEPP requirement.</p> <p>The major arterial road in proximity to the site is Oakes Road, which has four bus stops, within 400m of the site, providing regular bus services connecting to Beecroft Railway Station, Carlingford Train Station and the Carmen Drive shopping village.</p> <p>There is no pedestrian footpath directly fronting the subject site to provide a direct pedestrian link to the bus stops on Oaks Road. The applicant proposes to build a new footpath along Murray Farm Road to connect to Oaks Road and submits that the construction of new pedestrian footpath fronting the subject site can be considered as a condition of consent in order to satisfy the requirements of the SEPP.</p> <p>The applicant has provided long sections for the new proposed footpath along Murray Farm Road and the existing footpath along Oaks Road to provide evidence that the existing and any future footpaths to be installed be able to achieve the gradient to comply with the requirements of the SEPP.</p> <p>The application was accompanied by a Bus Map showing that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and as discussed above the gradient along the existing and proposed pathway from the site to the public transport services (and from the public transport services to the facilities and services complies with this Clause.</p>	Yes

Clause	Requirement	Proposal	Complies
	<p>(ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and</p> <p>(iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),</p> <p>and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).</p>		
Clause 27	Bush Fire Prone Land	The site is not located in a bushfire prone area.	N/A
Clause 28	<p>Water and sewer</p> <p>Clause 28 of SEPP (Housing for Seniors or People with a Disabilities) states that Council must not consent to a development application unless satisfied by written evidence that the housing will be connected to a</p>	The site is located within the Sydney Water service area and will be required to be connected to the required services.	Yes

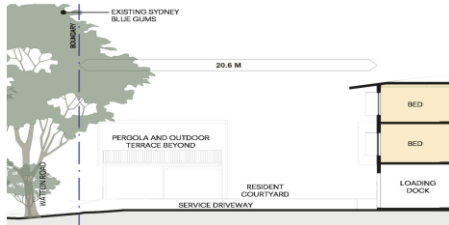

Clause	Requirement	Proposal	Complies
	reticulated water system and will have adequate facilities for the removal or disposal of sewerage.		
Part 3 Design requirements			
Clause 30	<p>Site analysis</p> <p>Clause 30 of SEPP (Seniors Living) 2004 states that consent is not granted unless a consent authority is satisfied that the applicant has taken into account a site analysis plan prepared by the applicant in accordance with this clause.</p> <p>Various</p>	<p>The site analysis submitted with the application and additional information does not comply with the requirements specified in clause 30 of the SEPP.</p> <p>The site analysis plan does not satisfactorily address the impact on the neighbouring properties as it fails to address :-</p> <p>(a) Neighbouring buildings:</p> <ul style="list-style-type: none"> - use - balconies on adjacent properties <p>(b) Privacy:</p> <ul style="list-style-type: none"> - adjoining private open spaces - living room windows overlooking site - location of any facing doors and/or windows. <p>(c) Walls built to the site's boundary:</p> <ul style="list-style-type: none"> - materials <p>(e) Solar access enjoyed by neighbouring properties</p> <p>(f) Major trees on adjacent properties.</p>	No
Clause 33	<p>Neighbourhood amenity and streetscape.</p> <p>The proposed development should:</p> <p>(a) recognise the desirable elements of the location's current character (or, in the case of precincts</p>	<p>The current character of the neighbourhood is of low density residential in nature, which consists of mainly single and two storey detached dwelling houses. The area is not undergoing a transition and the desired future character under the LEP is for low-density residential developments.</p>	No

Clause	Requirement	Proposal	Complies
	<p>undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p> <p>b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</p> <p>c) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent</p>	<p>The site is not in heritage conservation and not in the vicinity of heritage items.</p> <p>The proposal, as a part two, three and four storey development, is inconsistent with the predominantly single to two storey low-density dwellings due to its bulk and scale and does not positively contribute to the quality and identity of the area.</p> <p>The size and scale of the development is not in keeping with the existing development in the area. The maximum height limit for the subject site is 8m under Seniors SEPP and 9m under PFTHEP 2012. The proposed development results in maximum height of 12.6m (measured to the underside of the ceiling in accordance with Seniors SEPP) which is a 57.5% variation to the height standard. The maximum building height measured in accordance with the PFTHEP 2012 is 14m. This results in a 5m or 55.5% variation.</p> <p>Although, the design has been amended to provide a two-storey component facing Murray Farm Road, the visual presentation of the building has perceivable impact on the streetscape due to the bulk and scale of the building and</p>	<p>N/A</p> <p>No</p>

Clause	Requirement	Proposal	Complies
	<p>development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p> <p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p> <p>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape.</p>	<p>fails to achieve an appropriate streetscape outcome.</p> <p>To maintain reasonable neighbourhood amenity and appropriate residential character, the proposed development should adopt building heights at the street frontage that are compatible in scale with adjacent developments. The proposed RCF does not provide a building height that is compatible in scale with adjacent developments.</p> <p>The locality is primarily characterised by single and double storey residential dwellings as well as dual occupancies of a 2-storey nature. The contravention of the height requirement does not recognise the locality's current character or desired future character and thus conflicts with the identity of the locality. The height contravention results in a bulky development, which does not harmoniously fit within the current context of the locality.</p> <p>The proposed building setbacks is not sympathetic to No 49. Murray Farm Road, No. 11 Watton Road and No.63 Oakes Road, as it results in privacy impacts to these properties (see detailed discussion under Clause 34 of Seniors SEPP)</p> <p>For the above reasons, the proposed development is inconsistent with this clause and this issue has been included as a reason for refusal.</p>	
Clause 34	Visual and acoustic privacy	<p>The proposal is not suitably separated from adjoining residential dwellings. The development will compromise the privacy of dwellings located at No. 49 Murray Farm Road, No. 63 Oakes Road and No. 11 Watton Road.</p> <p><u>No. 49 Murray Farm Road (West)</u></p> <p>The proposed development will result in direct overlooking into the private open space from the dining room windows on Level 1 and a large number of bedroom windows (31 windows). It should be noted that most of these windows are full height</p>	No

Clause	Requirement	Proposal	Complies
		<p>and some include Juliet balconies, which will further exacerbate the privacy issues.</p> <p><u>No. 11 Watton Road (West)</u></p> <p>The development will result in overlooking impacts on the dwelling and private open space from the west facing windows to the corridor at Level 1 and Level 2 of the proposed building.</p> <p><u>No 63 Oakes Road (East)</u></p> <p>Appropriate separation is not provided between the proposed outdoor terrace of residential care facility. The outdoor terrace is located at 1.5m from the property boundary resulting in a 2.5m separation between the two buildings.</p>	
Clause 35	Solar access	The proposal fails to provide adequate daylight to the main living areas of residence and adequate sunlight to courtyards 2,3,4 and 5.	No.
Clause 36	Stormwater	A stormwater plan has been submitted with the development application that proposes drainage lines to be connected to the street system. Council's Development Engineer has assessed the proposal and has no objection subject the imposition of standard consent conditions.	Yes
Clause 37	<p>Crime prevention</p> <p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling</p>	<p>The proposed development does not incorporate CPTED principles in the following manner:</p> <ul style="list-style-type: none"> • The main lobby is not clearly visible from the street; and • The entries are not clearly distinguishable. <p>For the above reasons, the proposed development is inconsistent with this clause and this issue has been included as a reason for refusal.</p>	No

Clause	Requirement	Proposal	Complies
	<p>that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p> <p>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>		
Clause 38	<p>Accessibility</p> <p>The proposed development should:</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>Accessibility report submitted.</p> <p>The development relies upon existing and proposed accessible footpaths to public transport and services.</p>	Yes
Clause 39	<p>Waste management</p> <p>The proposed development should be provided with waste facilities that maximise recycling by the</p>	<p>The Waste Management Plan prepared by HB+B outlines that the residential care facility will be serviced by a private waste contractor. The architectural plans shows a central waste storage area proposed to be located in the basement which has been designed to cater for the required</p>	Yes

Clause	Requirement	Proposal	Complies
	provision of appropriate facilities.	number of waste, recycle and medical waste bins.	
Part 4 Development standards to be complied with			
<u>Division 1</u> Clause 40 provides that a consent authority must not consent to a development application unless the development complies with the standards specified in this clause.			
Clause	Requirement	Proposal	Compliance
40 (2) Site Size	1000m ² (min)	7063.94m ²	Yes
40 (3) Site Frontage	20m (min)	Murray Farm Road – 50.29m Watton Road- 46.12m	Yes
40(4) Height	8 metres or less Not more than 2 storey in height adjacent to a boundary of the site.	12.6m 3 Storey to western site boundary at the front entrance to Watton Road as shown in the figure below:-  <p>Figure 7: The storeys fronting Watton Road, Source Thompson Adsett Architects</p> 3 Storey to eastern site boundary to No. 63 Oakes Road, as shown in the figure below:-  <p>Figure 8: The storeys adjacent to No. 63 Oakes Road Source Thompson Adsett Architects</p>	No No

Clause	Requirement	Proposal	Complies
	Buildings located in rear 25% area of site not to exceed 1 storey	3 Storey to Watton Road frontage as above in Figure 7, which is within 25% of the rear area of the site facing Watton Road. Note: the four storey component is not located adjacent to a boundary or within the rear 25% of the site.	No
Part 7 Development standards that cannot be used as grounds to refuse consent			
Division 2 – Residential Care Facilities The consent authority must not refuse consent to an application on the grounds of the following if compliance is achieved. The proposal does not include any expansion of the residential aged care facility, however the cumulative impact on the seniors housing site must be quantified.			
48(a) Building Height	8 metres or less	12.6m	No, Refer to discussion on height within the Clause 4.6 of the Parramatta (former The Hills) Local Environmental Plan 2012.
48(b) Density and Scale	FSR 1:1 GFA permitted: 7063.94	<u>Applicant's calculation</u> 0.99:1 Total Site GFA: 6985m ² <u>Council's calculation*</u> 1.017:1 Total Site GFA: 7188m ² *Note: - The staff room, training room and the main lobby to the facility is included in the GFA as these are operational areas and not service activity areas.	No
48(c) landscaped area	Minimum of 25 square metres of landscaped area per residential care facility bed Required 120x 25m ² = 300m ²	3755m ²	Yes

Clause	Requirement	Proposal	Complies
48(d) parking for residents and visitors	<p>(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and</p> <p>(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and</p> <p>(iii) 1 parking space suitable for an ambulance.</p>	<p>Required: 29 spaces</p> <p>Provided: 30 car parking spaces, although none of the car parking spaces has been allocated to as an ambulance bay.</p> <p>It is recommended that one parking space be allocated as an ambulance bay and be clearly sign posted to ensure that the parking space will be available for use by an ambulance at all times.</p>	Yes

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The provisions of ISEPP have been considered in the assessment of the development application.

Endeavour Energy

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
- immediately adjacent to an electricity substation, or
- within 5m of an overhead power line.

The application was referred to Endeavour Energy for comments. Endeavour Energy raised no objections subject to network capacity/connection, earthing, safety clearances, vegetation management, noise, dial before you dig, demolition, public safety and emergency contact comments which would have been included as a conditions of consent should the application be recommended for approval.

Roads and Maritime Service (RMS)

The application is not subject to clause 101 of the ISEPP as the site does not have frontage to a classified road. The application is not subject to clause 102 of the ISEPP as the average daily traffic volume of Murray Farm Road is less than 20,000 vehicles.

With regards to requirements of Clause 104(2)(b) and, Schedule 3 of the ISEPP, the development does not have a capacity for 200 or more motor vehicles. Therefore, the ISEPP does not apply in this respect.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

The Sydney Harbour Catchment Planning Principles must be considered and where possible achieved in the carrying out of development within the catchment. The key relevant principles include:

- Protect and improve hydrological, ecological and geomorphologic processes;
- Consider cumulative impacts of development within the catchment;
- Improve water quality of urban runoff and reduce quantity and frequency of urban runoff; and
- Protect and rehabilitate riparian corridors and remnant vegetation.

The site is not located on the foreshore. The site is located adjacent to the Girraween Creek which is a natural waterway along the length of the development site within the wider subject site. The site and the surrounding area are subject to major low, medium and high hazard flooding. Girraween Creek is mostly a natural waterway upstream and is a concrete channel further downstream where Girraween Creek merges with Pendle Creek. Therefore, flow volumes are high and at times of concentration are shortened with flood peaks travelling rapidly downstream, resulting in short warning times, high intensity and potential for high peak floods.

Girraween Creek is subject to severe floods during extreme events of the upper Parramatta River catchment, resulting in flood hazard conditions for a majority of the site area.

The application subject to this review was assessed by Council's Catchment Engineer, who concluded that the proposed use of the site would expose occupiers of the building to the risks and hazards of flooding on the site.

For the above reasons, the proposed development has been found to be inconsistent with the aims of the SEPP and this issue has been included as a reason for refusal.

Parramatta (former The Hills) Local Environmental Plan 2012

The DA is not made pursuant to the Parramatta (former The Hills) LEP 2012, however, any inconsistencies between the SEPP (Housing for Seniors or People with a Disability) 2004 and the Parramatta (former The Hills) LEP 2012 are noted.

The relevant matters considered under "The LEP" and pursuant to Clause 5(3) of the Seniors SEPP for the proposed development are outlined below:

Clause 1.2 Aims of Plan

- (a) to guide the orderly and sustainable development of the City of Parramatta local government area, balancing its economic, environmental and social needs,*
- (b) to provide strategic direction and urban and rural land use management for the benefit of the community,*

- (c) to provide for the development of communities that are liveable, vibrant and safe and that have services and facilities that meet their needs,
- (d) to provide for balanced urban growth through efficient and safe transport infrastructure, a range of housing options, and a built environment that is compatible with the cultural and natural heritage of the City of Parramatta local government area,
- (e) to preserve and protect the natural environment of the City of Parramatta local government area and to identify environmentally significant land for the benefit of future generations,
- (f) to contribute to the development of a modern local economy through the identification and management of land to promote employment opportunities and tourism.

The application is inconsistent with the aims of “the LEP” as the application is considered to be an over development in terms of the height, floor space ratio and the bulk and scale of the development and as such, Council cannot support development which is incompatible within the surrounding areas and detracts from the existing streetscape.

The proposed development is not considered to be a desired development within the context of the site and is therefore not consistent with the aims of the Parramatta (former The Hills) LEP 2012.

Clause 2.3 Zone objectives and Land Use Table

The site is zoned R2 Low Density Residential

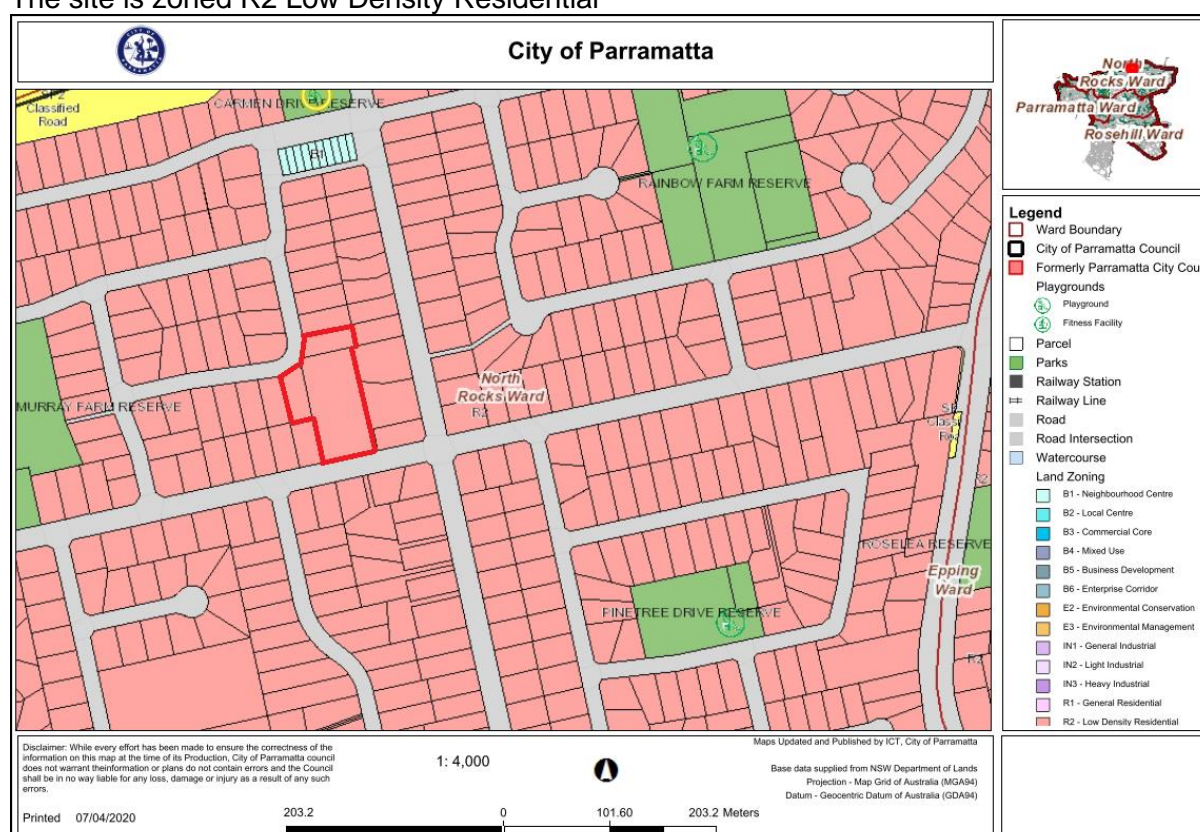


Figure 9 – R2- Zone Map of the subject site (highlighted in red)

Clause 2.7 Demolition requires development consent

Clause 2.7 states that the demolition of a building or work may be carried out only with development consent. Approval is sought for demolition works. Council's standard conditions relating to demolition works would have been included if this application were recommended for approval.

Clause 4.3 Height of Buildings

The maximum building height limit of 9 metres applies under "the LEP". However, the application is not made pursuant to "the LEP", rather it is made under the Seniors SEPP.

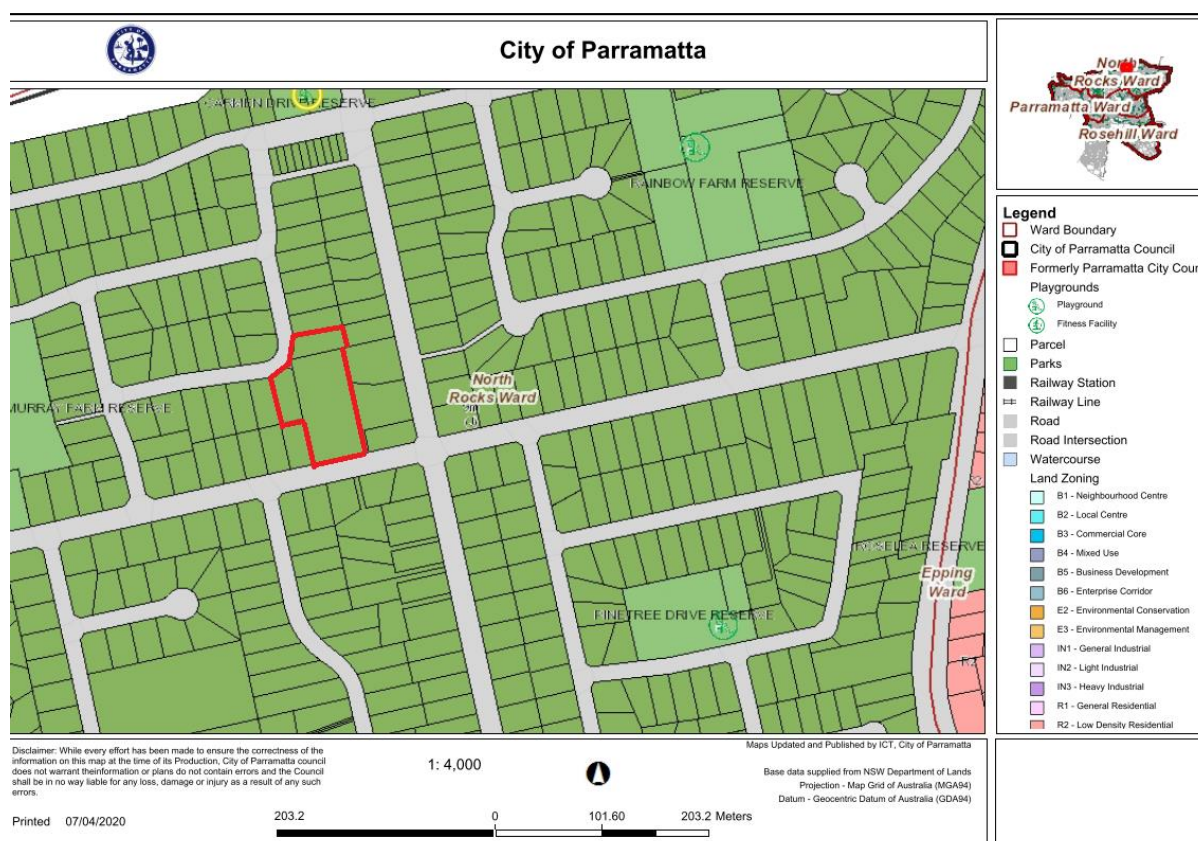


Figure 10 – 9m - Maximum height of building map of the subject site (highlighted) under the Parramatta (former The Hills LEP 2012. Note the application is lodged pursuant to SEPP (Housing for Seniors and Persons with a Disability) 2004.

The proposed RCF building height is 12.6m which does not comply with the maximum 8 metre building height development standard as prescribed by Clause 40(4) and 48(a) of the SEPP (Housing for Seniors and Persons with a Disability) 2004.

The development proposal exceeds the maximum permissible building height by 4.6m which is a 57.5% variation to the development standard.

The applicant's Clause 4.6 justification is not agreed with, and the variation to the height is not supported for the reasons outlined in this report. Refer to Clause 4.6 in this report.

Clause 4.4 Floor Space Ratio

The site is not subject to FSR standard pursuant to "the LEP".

Clause 4.6 Exceptions to Development Standards

Clause 4.6 allows Council to provide an appropriate degree of flexibility in applying certain development standards, where flexibility would achieve better outcomes.

The proposal does not comply with the maximum 8m building height development standard Clause 40(4) of the SEPP (Housing for Seniors and Persons with a Disability) 2004. The proposed RCF building height is 12.6m.

The development proposal exceeds the maximum permissible building height by 4.6m which is a 57.5% variation to the development standard.

In the absence of objectives for Clause 40(4) of the SEPP (Housing for Seniors and Persons with a Disability) 2004 the objectives of clause 4.6 of the Parramatta (Former The Hills) LEP 2012 are considered as follows:

- "(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances"*

The operation of clause 4.6 is not limited by the terms of Clause 4.6(8) of this LEP, or otherwise by any other instrument.

Clause 4.6(3) requires that the applicant provide a written request seeking to justify contravention of the development standard. The request must demonstrate that:

- "(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) there are sufficient environmental planning grounds to justify contravening the development standard."*

The applicant has submitted a written request justifying the variation to the height of building development standard. In the justification the applicant states:

- *A compliant development would not contribute towards meeting the demand for additional Residential Care Facility beds within the Parramatta LGA, as identified in the NSW Ageing Strategy 2016-202, the A Metropolis of Three Cities 2018 and the Central City District Plan 2018 by potentially resulting in a reduction in the provision of Residential Care Facility beds at the site;*
- *A compliant development would threaten the commercial viability of the proposed development by reducing the number of residential units that can be delivered to the marketplace;*
- *A compliant development would create fewer full-time equivalent jobs for staff working at the site, resulting from fewer residents being able to reside at the site;*

- *A complaint development would fail to meet the objectives of the Environmental Planning and Assessment Act 1979 by making orderly and economic use of a brownfield site for its full planning potential;*
- *The exceedance of the Height Standard would have minimal impact on the streetscape, on visual privacy and solar access of neighbouring development;*
- *The building height is suitable for the size and dimensions of the site in its context in relation to surrounding development;*
- *The building incorporates suitable setbacks and building separations*
- *In relation to adjoining properties, the height of the proposed development would only read as one additional floor above the height limit, or the equivalent of a two storey house with a roof;*
- *The proposed development would result in significant improvement in the quality and area of landscaping on the site;*
- *It is considered that there would be no unreasonable additional view loss impacts arising from the variation;*
- *The scale and form of the development is of a contemporary design;*
- *The additional height would not result in adverse impacts to adjoining properties;*
- *The FSR is compliant with the maximum FSR control under the SEPP;*
- *The proposed roof form is of a flat roof design;*
- *The proposed development is consistent with the objectives of the Height of Buildings development standard;*
- *The locality would benefit through the increased provision of open space and peripheral street activation; and*
- *The overshadowing impact due to the proposed development's non-compliance is not considered unreasonable and does not prevent other properties from obtaining an acceptable level of sunlight under the relevant controls and standards.*

In consideration of the variation to Clause 4.3 of the "the LEP" 2012, the following is noted:

- The proposed variation is inconsistent with the objectives of the development standard as provided in clause 4.3 of "the LEP";
- The FSR is non-compliant with the maximum FSR control under the Seniors SEPP;
- The proposed building height is incompatible with that of adjoining development and the overall streetscape;
- The proposed building height contributes to additional overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas;
- The subject site is not considered to be constrained in a way that prevents it from supporting a development that complies with the building height control;
- The justifications presented by the applicant against a compliant development are only centred around the additional beds and employment that can be provided, as well as the financial viability of the project, which are not matters for consideration under Section 4.15 of the EP&A Act;
- The proposed building height has not taken into account the existing low density character of the locality and streetscape;
- Contrary to the justifications presented by the applicant, the proposed building height will result in significant adverse bulk and scale impacts to the streetscape, as well as amenity impacts to neighbouring properties; and
- It is acknowledged that the City of Parramatta's Design Excellence Advisory Panel also raised concerns in regard to the non-compliance.

The clause 4.6 statement and justification was considered against the following cases:

- *Wehbe v Pittwater Council [2007] NSW LEC 827*

The outcome of this case established that the applicant must argue, and the consent authority must be satisfied, that compliance with the development standard is unreasonable or unnecessary with the following test:

Compliance with the development standard is unreasonable or unnecessary because

- *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- *the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- *the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or*
- *"the zoning or particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would be unreasonable or necessary"*

The objectives of Clause 4.3 of "the LEP" are:

- (1) *The objectives of this clause are as follows—*
 - (a) *to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
 - (b) *to minimise impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.,*

In consideration of the above objectives, the following comments are provided:

- a) The maximum height of 9m was nominated to facilitate standard single or double storey built forms to support the type of development intensity envisaged for a R2 Low Density Residential zone;
- b) The additional building height will create significant adverse visual impacts, as the building will present as a 3-4 storey residential flat building, which is inconsistent with the surrounding locality. The development has been assessed to have privacy impacts and solar access impacts to the adjoining low-density properties. Further detail of these assessments have been provided in the Seniors SEPP table, "the LEP" table and HDCCP table within this report;
- c) The variation sought by the applicant is not a result of site constraints. It is clear that a compliant building would be capable of being developed on the subject site; and
- d) The subject site and surrounding area is not under transition to higher density residential uses.

Therefore, Council considers that the development fails to meet the objectives of Clause 4.3 of "the LEP", and does not satisfy the first point in the test.

It is considered that a compliant development would be better suited to the R2 Low Density Residential zoning of the locality, and therefore it is not unreasonable or unnecessary to enforce compliance with the development standard.

- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 and NSWLEC 90*

The outcome of this case established that simply demonstrating that the development achieves the objectives of the development standard is insufficient to justify that a development is unreasonable or unnecessary in the circumstances of the case. Sufficient planning grounds particular to the circumstances of the proposed development must also be identified.

In that regard, it is considered that the proposal does not satisfy the objectives of the development standard, and therefore there are insufficient planning grounds to warrant a departure of the development standard.

- *Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245 and Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*

The outcome of this case provided that the consent authority (or Commission in that instance) “*had to be satisfied that there were proper planning grounds to warrant the grant of consent, and that the contravention was justified*” [21].

Baron elaborates on *Al Maha* in that “*the consent authority’s consideration of the applicant’s written request, required under cl 4.6(3), is to evaluate whether the request has demonstrated the achievement of the outcomes that are the matters in cl 4.6(3)(a) and (b). Only if the request does demonstrate the achievement of these outcomes will the request have “adequately addressed the matters required to be demonstrated” by cl. 4.6(3), being the requirement in cl. 4.6(4)(a)(i) about which the consent authority must be satisfied. The request cannot “adequately” address the matters required to be demonstrated by cl 4.6(3) if it does not in fact demonstrate the matter*” [78].

In this instance, Council is not satisfied that applicant’s Clause 4.6 Statement adequately addresses the matters in Clause 4.6(3) of “the LEP”. It has not provided a suitable argument as to why a compliant development cannot be achieved, and heavily relies upon the additional beds and employment generated as a result of the non-compliant development as a reason for contravention.

In that regard, the applicant has not shown that it is unreasonable and unnecessary to require compliance with the development standard in this case, and fails to demonstrate sufficient environmental planning grounds to justify contravening the Height of Building development standard.

Concurrence

Clause 4.6(4)(b) of “the LEP” states:

“The concurrence of the Secretary has been obtained”.

Assumed concurrence is provided to regional planning panels (such as the SCCPP) as per NSW Department of Planning Circular ‘*Variations to development standards*’ Ref: PS 18-003 dated 21/02/2018 (See Attachment 4). There is no limit to the level of non-compliance for

which concurrence can be assumed.

In summary, it is considered that breaching the building height control would not result in a better provision of the built form across the subject site. A three to four storey RCF is not suitable within a R2 Low Density Zone and the potential loss amenity outweighs any public benefit for the community. Further, the 3-4-storey building height is excessive and not compatible within the prevailing and desired future character along the Murray Farm Road streetscape. As such, the request to vary the height standard is not supported.

Clause 5.10 Heritage Conservation

The subject site is not identified as an item of heritage significance, and is not located within a heritage conservation area. The subject site is identified as having low aboriginal significance. Had the application been recommended for approval, a condition of consent would be imposed to ensure that if any relics are discovered during the excavation of the basement, work must cease and reported to Council.

Clause 7.2 Earthworks

Council's Senior Development Engineer has reviewed the application, the associated earthworks and proposed retaining walls and has raised no objections to the proposal. Had the application been recommended for approval, suitable conditions of consent would have been imposed regarding the proposed excavation and civil works.

Clause 7.3 Flood Planning

Part of the site is subject to flooding by 1% AEP and PMF floods. The applicant has submitted a Flood Risk Management report to address the flood risks in relation to the proposed development.

Council's Senior Development Engineer has reviewed the application and the Flood Risk Management report and has provided the following comments:-

"The 1% AEP flooded area as shown below does not significantly impinge on No 43- 47 Murray Farm Road but substantially inundates the land at No. 19 Watton Road, Carlingford.

The application has responded to this in the design of the building footprint which avoids the No. 19 Watton Road.

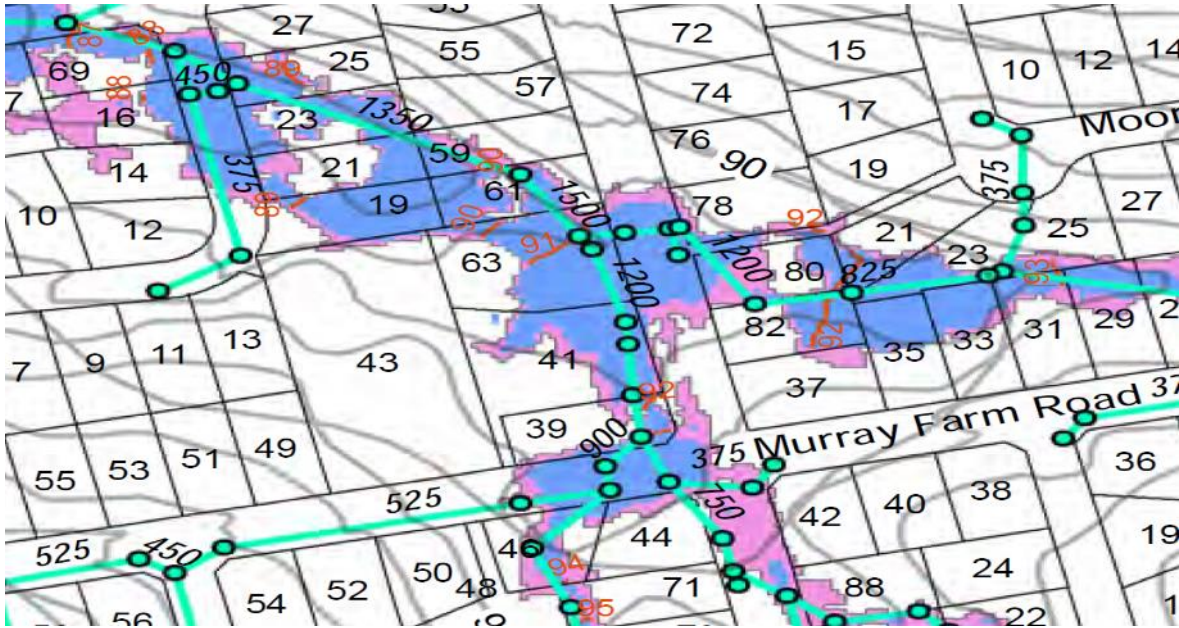


Figure 11: Council issued Flood Map showing 1% AEP flood extent

The identified 1% AEP flood levels are:-

- RL 88.9 m AHD at North Western Corner of 19 Watton Road
- RL 89.8 m AHD at South Eastern Corner of 19 Watton Road

Adding 0.5m to these levels for freeboard results in the following flood planning levels and minimum finished floor levels of habitable rooms.

Resulting Flood Planning Levels and minimum Finished Floor Levels (includes 0.5m freeboard) are:-

- RL 89.4 m AHD at North Western Corner of 19 Watton Road (1% AEP + 0.5m)
- RL 90.3 m AHD at South Eastern Corner of 19 Watton Road (1% AEP + 0.5m)

The proposed Finished Floor Levels as seen below are satisfactory to meet the above minimum requirements:

- (Habitable) Basement RL 91.3m AHD
- Ground Floor RL 94.7m AHD
- Level 1 RL 98.4m AHD
- Level 2 RL 101.8m AHD.

In recognition of the vulnerability of the occupants, the applicant has gone further than the available Hills Shire Council and City of Parramatta Council's flood modelling by providing a TufLOW 2D and hazard modelling for the PMF event as shown below in Figure 12. Whilst Hazard Levels H3 – H6 inclusive are unsafe for children and the elderly, no development takes place within these hazard areas, i.e. no development is proposed at No.19 Watton Road.



Figure 12: PMF Flood Hazard Classification model, Source BMT

As seen in the Council issued Flood Maps and PMF Flood Hazard Classification model submitted by the applicant, it is clear that from a flood risk and merit assessment perspective, the lots fronting Murray Farm Road seem clear of the PMF and so are not defined as 'flood prone land'.

Emergency Evacuation and Access by Services

The applicant's Flood report states that:

"The relatively steep catchment and PMF flow rates typically provide for high velocity conditions in the overland flow paths. Accordingly, much of the PMF inundation extent is classified H3 and above which typically provides for unsafe conditions for pedestrian or vehicular access. These peak flow conditions however are relatively short duration given the nature of flooding in the catchment (PMF 15-minute duration mapping shown).

"Access to the Site would not be overly restricted even during a PMF event. The access to the east of the site is mostly compromised given potential flooding around Oakes Road/Murray Farm Road. However, flood access would be generally be available to the west of the Site along the potential routes of Murray Farm Road, Dryden Avenue, Tracey Avenue and North Rocks Road. North Rocks Road is located at the ridgeline at the top of the catchment and given the proximity of the Site can be readily accessed even in PMF flood conditions."

The applicant has applied a conservative and safer level of risk assessment and is therefore acceptable.

The applicant has identified a viable flood evacuation and emergency services access route for flood conditions up to the PMF.

Flood Emergency Response Plan

The applicant has therefore concluded that all of the proposed building habitable floor levels provide for 'PMF immunity' from the overland flooding. This in turn means a 'Shelter In Place' strategy can form part of the Flood Emergency Response Plan along with the available access and emergency evacuation route described above.

The proposal satisfies the requirements of Council's controls and can be supported, subject to standard and/or special conditions of consent.

7. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

There are no draft environmental planning instruments relevant to the subject application.

8. DEVELOPMENT CONTROL PLAN

The Hills Development Control Plan 2012 (THDCP 2012)

The relevant matters to be considered under The Hills Development Control Plan 2012.

The Hills DCP 2012 does not contain specific controls relating to seniors housing developments. A consideration of the general residential development controls is provided below.

COMPLIANCE TABLE – THE HILLS DEVELOPMENT CONTROL PLAN 2012

The relevant matters to be considered under The Hills Development Control Plan 2012.

The Hills DCP 2012 does not contain specific controls relating to seniors housing developments. A consideration of the relevant sections of the DCP, which includes the controls for general residential development and residential flat buildings is provided below.

Part B – Section 2 - Residential		
2.5 Streetscape and Character	The development does not meet the existing and future desired character of Murray Farm Road and Watton Road given the R2- Low Density zoning applying to the land. The locality is primarily characterised by single and double storey developments. The proposed RCF is primarily 3-4 stories in height. Although an attempt has been made with a 2-storey element of the building fronting Murray Farm Road to reduce its bulk and scale, the overall built form still presents as a part three / part four-storey development in a low scale, non-transitional neighbourhood. It is therefore deemed incompatible with its context. As such, when viewed from the streetscape and from adjoining dwellings, the RCF is of a great bulk and scale and does not fit in harmoniously with the surrounding developments.	No
2.6	The site is not bushfire prone	N/A

Bushfire Hazard Management		
2.7 Geotechnical Site Stability	<p>The site has excessive slope, the site works include bulk earth works, including cut and fill on the site. The application is accompanied by a Geotechnical Report and Civil Works drawings showing details of the earth works and retaining walls to be carried out on site.</p> <p>Council's Senior Development Engineer has reviewed the application and advised that the proposed retaining walls proposed along the western, northern and southern boundaries will serve two purposes; the first is to cater for level difference between the site and the adjacent site and the other is to detain water as part of the overall OSD systems.</p> <p>This is acceptable from the perspective of stormwater management.</p>	Complies
2.8 Bushland and Biodiversity	The site does not contain any mapped significant bushland. The proposal involves tree removal. Council's Landscape Officer has reviewed the proposal and raises no objections subject to standard conditions of consent.	Complies
2.9 Erosion and Sediment Control	The proposal includes erosion and sediment control measures during construction. Had the application been recommended for approval, conditions pertaining to erosion and sediment control would form part of the Notice of Determination.	Complies
2.10 Heritage	The site is not heritage listed and is not in the vicinity of a heritage listed item or a heritage conservation area	N/A
2.11 Signage	No signage proposed	N/A
2.12 Stormwater Management	Council's Senior Development Engineer has reviewed the application and advised that the application is acceptable from the perspective of stormwater management	Complies
Part B Section 5 Residential Flat Building		
Frontage	30m	50m
Front Setback	10m	13.83m
Side Setback	6m	East- 5.5m West- 3.9m

9. PLANNING AGREEMENTS

No planning agreements relate to the site.

10. ENVIRONMENTAL PLANNING REGULATIONS

Applicable Regulation considerations including demolition, fire safety, fire upgrades, compliance with the Building Code of Australia, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection can be addressed by appropriate consent conditions.

11. THE LIKELY IMPACTS OF THE DEVELOPMENT

Context and setting

The Land and Environment Court planning principle on “compatibility with context” as established in *Project Venture Developments v Pittwater Council* provides the following test to determine whether a proposal is compatible with its context:

Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites?

Response

This proposal will result in unacceptable adverse physical impacts as:

- The design and location of the building will result in overlooking into the adjoining properties as adequate separation has not been provided in accordance with the planning controls;
- The proposal bulk and scale would be detrimental to adjacent and surrounding sites;

Is the proposal’s appearance in harmony with the buildings around it and the character of the street?

Response

This proposal will have a satisfactory relationship with its context for the following reasons:

- The scale, form and presentation of the building is not consistent with planning controls, and the design and site planning is not acceptable as independently assessed by Council’s Design Excellence Review Panel; and
- The built form results in significant adverse impacts for adjacent sites.

Built Form

Height

The proposal results in a non-compliance with the Seniors SEPP and “the LEP” controls. The additional height will result in overlooking impacts and it is considered that the transition in built form is not acceptable.

An assessment of the Clause 4.6 statement submitted by the applicant has been undertaken earlier in this report and it is considered that there insufficient environmental planning grounds have been demonstrated to vary this development standard.

12. SITE SUITABILITY

As outlined in this report, there are several issues which have not been resolved to the satisfaction of Council officers. As such, the site is not considered to be suitable for the proposed development.

13. SUBMISSIONS

The application was notified and advertised in accordance with The Hills DCP 2012.

The initial advertisement ran for a 21-day period between 27 February and 20 March 2019.

The amended plans were placed on notification between 6 November 2019 and 27 November 2019.

In total, 45 submissions, including one petition, were received during the two notification periods.

As per Council's resolution, as there were more than 7 objections, a recommendation was made to the applicant to partake in an optional Council facilitated conciliation meeting with the objectors. The applicant declined to participate in such a conciliation meeting.

The public submission issues are summarised and commented on as follows:

Tree Removal	<p>The application proposes the removal of 21 trees from the site.</p> <p>The trees proposed to be removed have been identified as having low to medium retention value. All trees with a high retention value have been proposed to be retained. The proposed tree removal will be replaced with new plantings as required in accordance with the landscape plan.</p> <p>Council's Tree and Landscape Officer has reviewed the application and raises no objections to the removal of the vegetation from the subject site subject to conditions.</p>
Proximity to other Aged Care Facilities	<p>Submissions received have raised concern that there are already a number of facilities within an 8km radius of the subject site.</p> <p>There are no controls that limit the number of Aged Care Facilities and therefore is not a matter for consideration under Section 4.15 of the EP&A Act 1979.</p>
Construction impacts – noise, dust, trucks, cranes, sediment control, deliveries	<p>There are provisions under the Protection of the Environment Operation Act 1997 that protect the amenity of residents in relation to noise and vibration issues. Had this application been recommended for approval, appropriate conditions would have been included in the recommendation to ensure that traffic, noise and vibration during the construction of the building and associated site works are carried out within the permitted hours and would not result in an unreasonable loss of amenity to nearby residents.</p>
Increased traffic/lack of infrastructure/safety/lack of parking	<p>The development application was accompanied by a Traffic and Parking Report. A detailed assessment was carried out by Council's Traffic Engineer who provided the following:</p>

	<p><i>Based on the analysis and information submitted by the applicant, the proposed development is not expected to have a significant traffic impact on the surrounding road network. The proposal can be supported on traffic and parking grounds subject to the imposition of conditions of consent.</i></p>
Non-compliance with SEPP and LEP controls, in particular building height - precedence	<p>It is acknowledged that the proposed development has a number of non-compliances with SEPP, LEP and DCP controls.</p> <p>A merit assessment of the non-compliances have been undertaken in accordance with the matters for consideration under S4.15 of the EP&A Act 1979.</p> <p>In that regard, many of the non-compliances were not considered to be acceptable and the application has been recommended for refusal.</p> <p>A detailed discussion of the non-compliances has been provided in the compliance tables within this report.</p>
Noise Impacts	<p>Concern has been raised that the use of the development for Seniors Housing will cause adverse noise impacts. The application was accompanied with an Acoustic Report that was reviewed by Council's Environmental Health Officer. In that regard, no objections were raised subject to conditions of consent.</p> <p>In addition, had the application been recommended for approval, additional conditions would have been imposed ensuring the use of the site does not cause unreasonable acoustic impacts.</p>
Flooding/stormwater drainage	<p>The site is subject to flooding on the northern portion.</p> <p>The application was referred to Council's Catchment Engineer who raised no objections to the proposal, subject to conditions of consent.</p> <p>In that regard, the proposed flooding and stormwater drainage for the proposal is considered to be satisfactory.</p>
Bulk and scale of development no in keeping with low density character of area/streetscape	<p>Council shares the view that the development is an overdevelopment of the site in regard to the low density character of the locality, and will be detrimental to the streetscape.</p> <p>The proposal was also submitted to Council's Design Excellence Advisory Panel for comment. The panel raised major concern regarding the bulk and outlook of the development.</p> <p>In that regard, the proposal is not considered to be compatible with the locality, and is therefore recommended for refusal.</p>

Visual privacy	<p>Concern has been raised in regard to the substantial overlooking impacts that would occur as a result of the bulk and scale of the development.</p> <p>Council agrees with these concerns and therefore the development is recommended for refusal.</p>
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The application was re-notified in accordance with Council's notification procedures contained within Part A Section 3 of the Hills DCP 2012. An additional 12 submissions were received during the re-notification period. The issues raised in the submissions were a reiteration of the concerns raised in the original advertisement. However some of the concerns have been addressed in regard to the amended plans, as below:

Issue	Response
Development still has the same bulk and scale issues present in first notification	Council agrees with these concerns and therefore the development is recommended for refusal.
The reduction of 12 beds is negligible	Council agrees with these concerns and therefore the development is recommended for refusal.

14. PUBLIC INTEREST

As outlined in this report, there are several issues which have not been resolved to the satisfaction of Council officers. As such the proposal is not considered to be in the public interest.

15. OTHER MATTERS

Electromagnetic Field Assessment

The applicant has submitted an Electromagnetic Field Assessment report to address the potential magnetic field associated with close proximity of the 132kV overhead line which runs through the south east corner of the proposed development site at 43-47 Murray Farm Road, Carlingford.

The main source of Extremely Low Frequency (ELF) magnetic fields as assessed in this report is 132kV overhead transmission lines. The assessment of the report focuses on the mitigation of ELF magnetic fields below the 2,000mG threshold limitation for the general public in accordance with statutory standards and guidelines such as the general ARPANSA Health Guidelines, and AS2067.

The report, based on the EMF model and site readings of the 132kV transmission line through the proposed development site at Murray Farm Road Carlingford, concludes:

- *The calculated ELF magnetic field at this site is well within the threshold for human exposure in the general public of 2,000mG. This limit has been calculated at a distance of 1m from the transmission line as shown in figure below.*

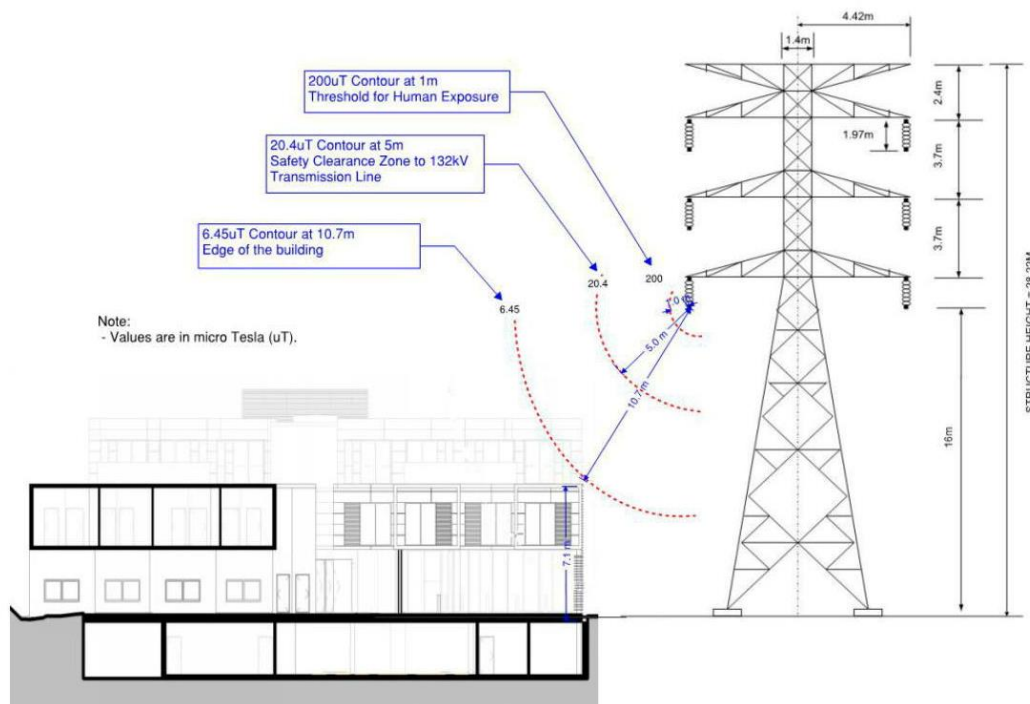


Figure 13- ELF magnetic field contours from source to the building

- The installation of local ELF magnetic field shielding is not required with fields to adjacent spaces naturally already below the acceptable threshold.
- Minimum safety clearance between structure and transmission line must be 5m based on AS 7000- 2016 'Overhead Line Design'. Considering this as the worst case scenario, ELF magnetic field density at 5m is calculated to be 204mG, as shown in figure above, which is far less than the maximum threshold for general public exposure.
- Site survey along with section view of the building clarifies that the closest point of the building to the transmission line is 10.7m. ELF magnetic field density at this point is calculated to be 64.5mG, as shown in figure above, which is far less than the maximum threshold for general public exposure.

This report concludes that ELF magnetic field density is in compliance with the permissible thresholds for general public exposure for proposed development site at 43-47 Murray Farm Road, Carlingford.

16. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

No disclosures of any political donations or gifts have been declared by the applicant or any organisation/persons that have made submissions in respect to the proposed development.

17. DEVELOPMENT CONTRIBUTIONS

Developer contributions are required as per the *City of Parramatta Council Section 94 Development Contributions Plan (Former Hills LGA)*. Had this application been recommended for approval, appropriate conditions would have been included in the recommendation requiring payment of the contribution prior to issue of a construction certificate.

18. SUMMARY AND CONCLUSION

The application has been assessed relative to section 4.15 of the Environmental Planning and Assessment Act 1979, taking into consideration all relevant state and local planning controls. On balance, the proposal has not demonstrated a satisfactory response to the objectives and controls of the applicable planning framework.

As such, it is recommended that the Sydney Central City Planning Panel (SCCPP) refuse the application.

18. OFFICER'S RECOMMENDATION

Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979:

1. That Sydney Central City Planning Panel as the consent authority refuse development consent to DA/85/2019 for the demolition of existing structures, tree removal and construction of a part two (2) part three (3) and part four (4) storey residential care facility (Seniors Housing) comprising of 120 beds with one level of basement car parking on land at 43-47 Murray farm Road, No.13 and No 19 Watton Road, Carlingford, for the following reasons:
 - a) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 30 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the site analysis does not adequately addresses the privacy of the adjoining properties by failing to identify location of balconies and windows overlooking the site.
 - b) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 33 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development does not maintain a reasonable neighbourhood amenity and appropriate residential character by failing to adopt a building height that is compatible in scale with adjacent developments.
 - c) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 34 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development fails to maintain a reasonable visual privacy of neighbours in the vicinity of the development.
 - d) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 35-'Solar Access' of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development fails to provide adequate solar access to the living areas and private open space for the future residents of the Residential Care Facility.
 - e) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 37 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development is inconsistent with the intent of the safety measures.
 - f) Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979* and Clause 40(4) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the proposed development is not suitably located and designed to be consistent with the objective of the Clause.

- g) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 40(4)(a) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 'Height in zones where residential flat buildings are not permitted' as the proposal will result in a building height of 12.6m exceeding the maximum building height by 4.6m (57.5%). The variation under the provisions in Clause 4.6 of Parramatta (former The Hills) LEP 2012 is not supported.
- h) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 40(4)(b) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the proposal breaches the number of storeys control stipulated under this Clause.
- i) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 48(a) – 'Building Height' of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as the proposal will result in a building height of 12.6m exceeding the maximum building height by 4.6m (57.5%). The variation under the provisions in Clause 4.6 of Parramatta (former The Hills) LEP 2012 is not supported.
- j) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 and Clause 48(b) – 'Density and scale' of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 as the proposal will result in a FSR of 1.017:1 exceeding the maximum FSR by 124m². (57.5%). The variation is not supported.
- k) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal is inconsistent with Parramatta (former The Hills) Local Environmental Plan 2012, Clause 1.2(a) and (d) 'Aims of Plan' as the subject application fails to provide an orderly and sustainable built environment that is compatible within the local context of the area.
- l) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, as the proposal fails to comply with the objectives of a low density residential zone objectives bullet point three of Clause 2.3 of Parramatta (former The Hills) Local Environmental Plan 2012, in that it does not satisfactorily maintain the existing low density residential character of the area.
- m) Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the development would result in an adverse environmental and amenity impact on the surrounding built environment as the proposal would result in adverse visual and overshadowing impacts and not be consistent with the existing streetscape.
- n) The proposal fails to satisfy the relevant considerations under Section 4.15(1)(c) Environmental Planning and Assessment Act 1979 for suitability of the site, built environment, and the public interest.
- o) The proposal fails to satisfy the relevant considerations under Section 4.15(1)(e) Environmental Planning and Assessment Act 1979 in that the adverse impacts by the development due to non-compliances with the applicable planning controls are

not beneficial for the local community and as such, are not in the wider public interest.

2. Further, that the submitters be advised of the Panel's decision.