

Addendum report to DA/85/2019

This addendum seeks to clarify a number of matter associated with statutory requirements applicable to the subject application relating to:-

- **Site compatible under Clause 29 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;**
- **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP); and**
- **Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities under reasons (i) and (j) used for refusal.**

For consideration of the panel, the following is submitted in addition to the Assessment Report:

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

In addition to the matters already discussed, the following should also be noted:

Clause	Requirement	Proposal	Complies
Clause 29	<p>Compatibility criteria, (where Clause 24 does not apply)</p> <p>A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v)</p> <p>The following must be considered:</p> <p>(i) The natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development.</p>	<p>Part of the site is subject to flooding by 1% AEP and PMF floods. The 1% AEP flooded area does not significantly impinge on No. 43- 47 Murray Farm Road but substantially inundates No. 19 Watton Road. The applicant has submitted a Flood Risk Management report to address the flood risks in relation to the proposed development.</p> <p>The site also has a high voltage power corridor running across the south-east corner of the site. The applicant has submitted an</p>	Yes

		<p>Electromagnetic Field Assessment report to address the potential magnetic field associated with close proximity of the 132kV overhead line.</p> <p>The 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.</p>	
	<p>(ii) The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</p>	<p>The site is located within a well-established residential area and the nearest facilities and services are located at the at Carmen Drive neighbourhood centre which is located 400m the site. The shopping centre at Carmen Drive does not a bank or a post office, however relies on nearby public transport provisions to meet the SEPP requirement for access to facilities.</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>The application was referred to Endeavour Energy and Sydney Water, and these authorities raised no objections additional services that will be required if the development was to be approved to the proposal subject to conditions.</p>	Yes
	<p>(v) The impact that the bulk, scale, built form and character of the proposed development is likely to have on</p>	<p>The site is located in non-transitional a low density residential area. As discussed thought the report, the scale, form and presentation of the proposed building would result in significant adverse impacts for adjacent dwellings.</p>	No

	the existing uses, approved uses and future uses of land in the vicinity of the development.		
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(b) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

In lieu of the comments made in respect to Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP), the following shall prevail:

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 within the wider catchment of the blue gum creek and the overland flows from this site drains into this water course.

This Policy, which applies to the whole of the Parramatta Local Government Area (LGA), aims to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment, and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole. Should application be supported appropriate conditions would be recommended to ensure appropriate measure to uphold the key principles of the SEPP.

(c) Clause 48 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

In light of Clause 48, the recommended reasons for refusal are as follows:

Reasons for refusal

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 is inconsistent with Building Height under this clause.
- 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 exceeding the maximum FSR under this clause.

- 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.