

SITE COMPATIBILITY CERTIFICATE

RECORD OF DECISION

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DECISION	Wednesday, 14 August 2019
PANEL MEMBERS	Michael Leavey (Chair), Kara Krason, and Julie Savet Ward
APOLOGIES	Jason Perica, John MacKenzie, Jason Dunn and Matthew Byrne
DECLARATIONS OF INTEREST	Kara Krason declared a non-pecuniary insignificant interest noting that the planning report accompanying the Site Compatibility Certificate application includes Garry Fielding's signature, whom Ms Krason previously worked with. Given more than 3 years has elapsed since Ms Krason previously worked with Mr Fielding it is not considered that a conflict exists however the interest of a past working relationship is declared

SITE COMPATIBILITY CERTIFICATE APPLICATION

2019HCC027 – Newcastle City Council – SCC_2018_NEWCA_001_00 at 32 Industrial Drive Mayfield (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

By circulation of papers the Panel considered: the material listed at item 5 of Schedule 1 and the matters raised and/or observed at briefings and site inspections listed at item 6 in Schedule 1.

Based on this information, the Panel determined:

- ☐ to issue a site compatibility certificate subject to satisfaction of certain requirements (as listed below), because the application has demonstrated that the site is suitable for more intensive development and it is compatible with the surrounding environment.
- ☒ to refuse to issue a site compatibility certificate, because the application:
 - ☒ has not demonstrated that the site is suitable for more intensive development as proposed in the application;
 - ☒ has not demonstrated the proposed development is compatible with the surrounding environment and land uses having regard to (at least) the criteria specified in clause 25(5)(b) of SEPP (Housing for Seniors or People with a Disability) 2004.

The Panel authorises the Chair to notify the applicant, Council and the Department of Planning, Industry and Environment of the Panel's decision to refuse the application.

The decision was unanimous.

REASONS FOR THE DECISION

In reaching its decision, the Panel noted the application outlined the proposed intended development outcome in some detail, including justification for the siting, height, density, land uses, future built form including amenity considerations, parking and access. While the Panel acknowledged that an

assessment and determination of the proposed detailed built form proposal does not form part of the site compatibility certificate (SCC) determination, it nonetheless informs the SCC application of the future desired character and general siting for the future development of the site, particularly with respect to the maximum number of dwellings proposed.

The reasons for the decision are outlined below:

1. While the Panel was satisfied the site is suitable for more intensive development, the Panel was of the opinion that the proposed development outlined in the application is not compatible with the surrounding environment and land uses having regard to the criteria specified in clause 25(5)(b)(i) and (v) of SEPP (Housing for Seniors or People with a Disability) 2004 ("the SEPP"). In particular:

a) Clause 25(5)(b)(i)

- The impact of the proposed development on the significant fig trees in William Street as a result of the density of development informed by the proposed setbacks (including the proposed basement);

In relation to the siting for the aged care facility, the Panel had regard to the 24 hour nature of existing and future port uses in the vicinity of the proposed development, potential impacts on future residents in relation to how it may affect future building design/ articulation and potential impacts or limits on the use of nearby state significant Newcastle Port lands. In particular, the Panel was concerned about potential noise, light and odour impacts, the sensitivity of aged care residents, the impacts of the recommended risk management measures on the capacity to provide a building that appropriately provides for the needs of aged care residents and how this may impact on the future external appearance of the building as outlined by the reference design plans that informed the SCC application.

- The Panel was not satisfied that the access arrangements in William Street have been demonstrated to be suitable for emergency access during a Probable Maximum Flood (PMF) event, noting that both vehicle entrances and William Street along the site's frontage are impacted by a PMF event.
- The Panel was not satisfied that potential contamination issues relating to groundwater and surface water flow from adjoining industrial/ port lands have been addressed in sufficient detail relevant to the site compatibility certificate.




b) Clause 25(5)(b)(v)

The Panel was of the opinion that the scale of development sought (262 serviced self-contained dwellings and a 216-bed residential care facility) is an overdevelopment of the site having regard to the overall bulk of the development, building height along the interfaces to low-density residential land, proximity of development to the fig trees along William Street and the impacts of the scale and layout of proposed development on the amenity of future residents. In particular, the detailed reference design plans that informed the SCC application raised concerns for the Panel in relation to the following:

- the edge treatments and building heights adjoining low-density residential land are not considered to be compatible with the existing and future likely character of surrounding land, notwithstanding that some screening will be provided by existing trees. Along the William Street frontage, the site is elevated above the street level and adjoining properties, and the design response provides a continuous wall length of some 110m with no through-openings.
- the setback and scale of the long elevation to William Street (as well as basement works below) would appear likely to have an adverse impact on the fig trees in William Street, for both the current situation and for future growth of the trees, and the area below the trees and future units adjoining the trees is likely to have limited access to natural light and solar access along that elevation.

- The height, bulk, scale and siting of the intended proposed development appears to result in reduced amenity for solar access in mid-winter to communal open space areas within the development site, and potentially a significant proportion of units and balconies along the east-west axis between future buildings.
 - The Panel is unable to determine, based on the submitted information, whether the siting, envelope and scale of the proposed aged care facility could accommodate the 216 beds proposed in the SCC application while enabling reasonable amenity and outlook for future residents, and provide appropriate landscaped and open space areas suitable for aged care residents. While noting that the reference design that informs the SCC has not been submitted as a development application at this stage, the Panel expressed concern that the bulk and scale of a future aged care building, along with required treatments to minimise impacts from adjoining port lands including a large screen wall to be erected, were not supported by the Panel.
2. While acknowledging the level of detail provided with the application, the Panel was of the opinion that significant change is required to site planning, building height and the density of the proposed development, and the Panel formed the view that the extent of change required, including to requested dwelling/ bed numbers, was not a matter that could be conditioned or included as a requirement of a Site Compatibility Certificate.
 3. The Panel had regard to written comments provided by the Council in accordance with clause 25(5)(a) of the SEPP and concurred with the issues raised by the Council while noting the site has particular characteristics which support some additional development potential which may not be recognised in current strategic planning documents.
 4. In principle, the Panel considered use of 'seniors housing' as being a suitable land use for the subject land given the nature of current uses on the site and considering the nature of other existing residential and sensitive uses already present in the general locality, with accessibility to shops and services in Mayfield, provided that any proposal, amongst other things:
 - a) demonstrates that an aged care facility in the location proposed is able to provide reasonable amenity for future aged care residents, and an external appearance appropriate for a highly visible location, having regard to the treatments required to avoid impacts from adjoining port lands and also to minimise impacts of the proposal on the future use of those port lands;
 - b) reduces building height, bulk and scale across the whole site, in particular adjacent to the William Street frontage, including increased setback from development to the Tree Protection Zone of the fig trees, breaking up the massing of development along this frontage and provides some visual permeability between building elements. Root mapping of the trees and an assessment of future growth potential may be required to inform site planning and setbacks, and therefore development capacity;
 - c) provides sufficient information on contamination risk from groundwater and surface water originating from outside the site;
 - d) provides sufficient information on the capacity for emergency access for residents during a PMF event and considers emergency egress through an access route not subject to potential future flooding;
 - e) provides maximum dwelling yield that considers building height, bulk and scale that provides for good solar access to communal open space areas within the development site in mid-winter, where possible increasing the amount of communal open space for residents, and ensures satisfactory internal solar access to living rooms of future units and balconies;
 - f) provides building height, bulk and scale as well as landscape treatment that better responds to the low scale residential development surrounding the site; and
 - g) provides building height, bulk and scale that allows for some variation in building typologies across the site, other than variations in building height as proposed.

In order for the Panel to be satisfied that the proposed development could meet the criteria required to be considered before issuing a site compatibility certificate, particularly the matters outlined above, the Panel is of the opinion that it would need to impose requirements that would result in a significantly different development. Accordingly, while the Panel had no objection in principal to the seniors housing land use on the site, the Panel decided it was unable to support issuing a site compatibility certificate for the proposed development in the form proposed in the site compatibility certificate application.

PANEL MEMBERS	
 Michael Leavey (Chair)	 Kara Krason
 Julie Savet Ward	

SCHEDULE 1		
1	PANEL REF – LGA – DEPT REF.	2019HCC027 – Newcastle City Council – SCC_2018_NEWCA_001_00
2	SITE DESCRIPTION	32 Industrial Drive, Mayfield 2304
3	DEVELOPMENT DESCRIPTION	262 self-contained dwellings in the form of serviced housing and a 216-bed residential care facility
4	APPLICATION MADE BY	West's Group Newcastle (C/- Graph Building)
5	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Site compatibility certificate application documentation • Assessment report from Department of Planning and Environment <ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>
6	BRIEFINGS, SITE INSPECTIONS & CIRCULATION OF PAPERS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: Wednesday, 14 August 2019 <ul style="list-style-type: none"> ○ Panel members in attendance: Michael Leavey (Chair), Kara Krason and Julie Savet Ward ○ Department of Planning, Industry and Environment staff in attendance: Caitlin Elliott and James Shelton • Briefing with Department of Planning, Industry and Environment: Wednesday, 14 August 2019, 1:45pm. <ul style="list-style-type: none"> ○ Panel members in attendance Michael Leavey (Chair), Kara Krason and Julie Savet Ward ○ Department of Planning, Industry and Environment staff in attendance: Caitlin Elliott and James Shelton • Papers were circulated electronically between: Friday, 16 August 2019 and Monday, 19 August 2019