

SITE COMPATIBILITY CERTIFICATE

RECORD OF DECISION

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DECISION	Friday, 14 August 2020
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli and Dai Lee
APOLOGIES	Frank Carbone
DECLARATIONS OF INTEREST	Ninos Khoshaba advised that he is a social member of the Club Marconi and some of the directors are known to him (in his capacity as a Councillor), however, this will not influence his decision as he has no private conflict of interest. However, after discussions with the Chair it was mutually decided that he does not participate in this matter to avoid any perception of conflict by the public.

SITE COMPATIBILITY CERTIFICATE APPLICATION

2019WCI056 – Fairfield City Council – SCC_2019_FAIRF_001_00 at 121-133 Prairie Vale Road, Bossley Park (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
 - ☐ 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 issue the Site Compatibility Certificate and notify the applicant, Council and the Department of Planning and Environment of the Panel's decision.

The decision was unanimous.

REASONS FOR THE DECISION

- As part of wider proposed staged improvements for the club site, the proposed seniors housing village offers the opportunity to locate suitable accommodation for the aged and

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disabled in a desirable location within Bossley Park particularly for residents of the Fairfield Local Government Area and surrounds, with adequate infrastructure to allow for the development.

2. In that context, the Panel has determined that the site of the proposed development is suitable for more intensive development, and development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to the criteria specified in clause 25 (5)(b) and the matters set out below.
3. The Panel is of the opinion that the proposed development is compatible with the surrounding land uses. The site is already used for a substantial sporting club and adjoins the existing retirement village at 84-88 Restwell Road. Any impacts on the housing across Restwell Road can be managed and will no doubt receive close attention at the DA stage.
4. There will be no unacceptable impacts on the natural environment. While there is a conservation area to the immediate east of the site behind the retirement village at 84-88 Restwell Road, there is no reason to expect that the proposed development will unduly affect the conservation values of that parcel. The site is not identified by any of the exclusions listed in schedule 1 of the Housing for Seniors or People with a Disability SEPP (HSPD SEPP).
5. Stockland Wetherill Park Shopping Centre, Greenfield Park Shopping Village and Bonnyrigg Plaza Shopping Centre will offer the retail, community, medical and transport services required to service future occupants and will be accessible by way of the bus stop on the southern boundary of the Club which is less than 400 metres away. Residents will also have the advantage of the adjacent club facilities.
6. As the existing site is a concrete carpark, the proposal will not reduce the provision of land for open space or other special uses in the vicinity of the development, which are in any event generously provided for by the club and surrounding sporting fields, as well as the nearby Western Sydney Parklands.
7. The reduction in the scale of the proposal since the proposal that was rejected by an earlier Joint Regional Planning Panel decision has resulted in a scheme that will allow for the bulk, scale, built form and character of the proposed development to be managed such that the proposal is unlikely to have an unacceptable impact in that regard on the existing uses, approved uses and future uses of land in the vicinity of the development.
8. The Panel has taken into account the written comments received from the Council concerning the matters outlined above and the consistency of the proposed development with the criteria referred to in paragraph 25(5)(b) of the HSPD SEPP.
9. Council has also questioned whether the proposal has demonstrated compliance with the following plans and policy documents:
 - Greater Sydney Region Plan;
 - Western City District Plan;
 - Fairfield City Plan 2016;
 - Fairfield strategy on the ageing 2013-2017;
 - Fairfield Open Space Strategy;
 - Marconi Park Plan of Management; and
 - the HSPD SEPP.

The Council does not however identify specific provisions of those instruments which are said to be countered by the proposal and the Panel does not agree that the proposal is inconsistent with them. Under the Western City District Plan in particular,

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provision for seniors and aged care housing is an important part of a diverse housing strategy. Increasing the supply and diversity of residences that meet the needs of seniors or people with a disability and making efficient use of existing infrastructure and services are also key objectives of the HSPD SEPP, which the proposal would support. As such, the Panel sees no significant constraint on this site which makes it unsuitable for the proposed housing for seniors and disabled persons.

10. While the Panel sees a development generally consistent with the general density described in the submitted plans as compatible with the surrounding area, it concurs with the Council's view that the urban design of the proposal in its current form could be improved.
11. The DA scheme (which may involve some reduction but no increase in envelope) would be assisted by an urban design report clearly demarcating the proposed pedestrian linkages to the club from Restwell Road through to Prairieville Road, with associated planning for the open space within the site, articulation or breaking up of the built forms to reduce their apparent bulk, and landscaping to screen the development from the adjacent sporting fields and conservation area. The Council's proposal for an independent peer review of the urban design report has merit, but for it to be genuinely independent the review may have to be commissioned by the Council. The urban design study may usefully form the basis for a site-specific development control plan or concept approval detailing controls for future development of the site.
12. The Panel also notes the recommendation from Transport for NSW, which encourages consideration of land being kept available for the future Spring Farm Link Road, as well as an appropriate contribution towards the Camden Bypass/ Liz Kernohan Drive intersection, but see these as matters to be addressed before the grant of development consent.

Is the site "zoned primarily for urban purposes"?

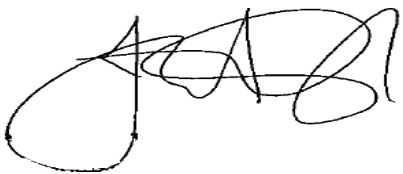



13. The Council has expressed the view that the subject site is not "zoned primarily for urban purposes" within the meaning of clause 15 of the HSPD SEPP but accepts that the subject site adjoins land zoned primarily for urban purposes.
14. The applicant has supplied its own legal opinion from Malcolm Craig QC dated 2 May 2019, which reaches a contrary conclusion that the subject site is itself relevantly zoned primarily for urban purposes.
15. In addition to the authorities referred to in the Craig QC advice, the decisions of Lloyd J in *Hallidays Point Developments Pty Ltd & Anor v Greater Taree City Council* [2008] NSWLEC 106 at [31] and [32] and of Commissioner O'Neill in *Wirrabara Village Pty Limited v The Hills Shire Council* [2018] NSWLEC 1187 would also seem to be relevant to this question.
16. The reason it is relevant whether the subject site or land adjoining it is "zoned primarily for urban purposes" is clauses 15 and 17 of the HSPD SEPP limit the forms of seniors housing for which development consent can be granted on land that only adjoins land primarily zoned for urban purposes, rather than the development site itself being so zoned.
17. That distinction is not however determinative as to whether a site compatibility certificate should issue. It is not one of the considerations identified by clause 25(5) of the HSPD SEPP, and the matter to be certified in relation to the land is the same whether the land is zoned primarily for urban purposes or not.
18. It is not therefore necessary to determine at this stage whether the views of the Council, or the opinion of Craig QC, are correct on that point.

DESCRIPTION OF THE KIND OF DEVELOPMENT CERTIFIED TO BE COMPATIBLE WITH THE SURROUNDING ENVIRONMENT HAVING REGARD TO THE CRITERIA SPECIFIED IN CLAUSE 25(5)(B) OF STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004

The development certified to be compatible with the surrounding development is a seniors housing development consistent with the indicative height (including number of storeys) and massing blocks shown in the Team 2 Architects Plans dated 4 April 2019 submitted with the application, but the development will be required to

- (a) achieve a sufficient standard of design excellence in the opinion of the consent authority having regard to:
 - (a) consideration of appropriate pedestrian linkages between Restwell Road and Prairieville Road;
 - (b) arrangement and usability of open space within the development;
 - (c) presentation of the development when viewed from Restwell Place and the adjoining sporting fields and environmental conservation zone;
 - (d) articulation and vegetative screening of the proposed buildings to mitigate their apparent bulk;
 - (e) waste and onsite vehicle management; and
 - (f) environmental sustainability;
- (b) include appropriate measures to separate the club from the residential areas of the proposed development in order to avoid land use conflicts, and
- (c) include an appropriate protocol for managing the relationship between the proposed development and the gambling facilities on the site of the club in order to minimise harm associated with the misuse and abuse of gambling activities by residents of the proposed development.

This may involve limits on the floor space achievable and some cut outs or breaks in the building massing.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Louise Camenzuli	 Dai Lee

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4PSQ 12 Darcy Street, Parramatta NSW 2150 | Locked Bag 5022, Parramatta NSW 2124 | T 02 8217 2060 | www.planningportal.nsw.gov.au/planningpanels

SCHEDULE 1		
1	PANEL REF – LGA – DEPT REF.	2019WCI056 – Fairfield City Council – SCC_2019_FAIRF_001_00
2	SITE DESCRIPTION	121-133 Prairie Vale Road, Bossley Park
3	DEVELOPMENT DESCRIPTION	The Site Compatibility Certificate (SCC) application (Attachment B1-B6) seeks to enable the development of a seniors housing village at the club site. The application provides a concept plan for the seniors housing village.
4	APPLICATION MADE BY	City Plan Strategy and Development P/L on behalf of Club Marconi
5	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Site compatibility certificate application documentation • Assessment report and briefing material from Department of Planning and Environment • Greater Sydney Region Plan • Western City District Plan • Fairfield LEP • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
6	BRIEFINGS, SITE INSPECTIONS & CIRCULATION OF PAPERS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: <ul style="list-style-type: none"> ○ No physical inspection of the site by the Panel was convened due to the Covid19 precautions. The site and surrounds were investigated using electronic means which the Panel concluded was sufficient to consider the relevant matters. • Briefing with Department of Planning, Industry and Environment: Tuesday, 26 May 2020, 9:45am <ul style="list-style-type: none"> ○ Panel members in attendance: Justin Doyle, Nicole Gurran, Louise Camenzuli and Dai Lee ○ Department of Planning, Industry and Environment staff in attendance: Amar Saini and Terry Doran • Papers were circulated electronically on: 27 May 2020.