

## Attachment I – Response to Panel’s concerns / reasons for refusal

Panel’s concerns / reason for refusal	New Proposal	DPIE Comment
<p>1. While the Panel was satisfied that 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:</p>	<p>Considered now compatible through removal of the previously proposed aged care facility, increased setbacks, providing building separation, variation in building typologies, a reduction in overall building height and significant reduction in the number of self-care units proposed by 86.</p>	<p>There has been a significant reduction in number of units, height, bulk and scale of development which protects surrounding fig trees and transitions to surrounding low scale residential development.</p>
<p>a) Clause 25(5)(b)(i)</p> <ul style="list-style-type: none"> <li>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).</li> </ul>	<p>The original proposal was set back approximately 13m from William Street and 10 metres from the trunk of the mature <i>Ficus Hillii</i> trees.</p> <p>The amended proposal is now set back 20 metres from William Street and a minimum of 17 metres from the mature <i>Ficus Hillii</i> trees.</p> <p>An Arborist has reviewed the trees and confirms no Tree Protection Zone encroachment for trees to be retained and only 2 trees to be removed.</p>	<p>Setbacks have been significantly increased from fig trees and will not encroach on Tree Protection Zones. The loss of two fig trees enables separate access for seniors’ residents.</p>
<ul style="list-style-type: none"> <li>In relation to the siting of 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 the future residents in relation to how it may affect future building design/articulation and potential impacts or limits of 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</li> </ul>	<p>Not applicable as now there is no aged care facility proposed.</p>	<p>Removal of the aged care facility has significantly reduced potential impacts between the port lands and future residents.</p>

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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.		
<ul style="list-style-type: none"> <li>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.</li> </ul>	The applicant now proposes a concept plan for emergency vehicle access to the site clear of the PMF level.	This matter has been addressed.
<ul style="list-style-type: none"> <li>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.</li> </ul>	A groundwater contamination assessment report has been undertaken which demonstrates that the site is suitable for this form of development.	<p>The report addresses the issue of groundwater to enable a SCC to be issued.</p> <p>Groundwater issues management during construction and site contamination generally needs to be addressed in more detail at the DA stage as identified by Council.</p>
<p>b) Clause 25(5)(b)(v)</p> <p>The Panel was of the opinion that the scale of the 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 the proposed development on the amenity of future residents. In particular, the detailed</p>	<p>The amended design now proposes reduced:</p> <ul style="list-style-type: none"> <li>building height – reduction in height from 6-9 storeys down to 4-6 storeys,</li> <li>bulk – three large buildings to five smaller scale, separated buildings, and</li> <li>scale – a reduction of 86 self-care units and removal of the residential aged care facility.</li> </ul>	This represents a significant reduction in height, bulk and scale and is more appropriate to the site and surrounding residential development.

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reference design plans that informed the SCC application raised concern for the Panel in relation to the following:		
<ul style="list-style-type: none"> <li>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</li> </ul>	<p>Significant setback is now achieved from the low-density residential development adjacent to the site.</p> <p>The William Street interface is three separate buildings of four storeys each, breaking up the elevations and screened by trees.</p> <p>The southern interface contains larger buildings set back a minimum of 18 metres from the boundary. This interface already has the view of the multi-storey carpark.</p> <p>New buildings over the carpark are further set back from this boundary.</p>	<p>These changes have reduced the visual impact of the proposal and improved the transition to the lower-density residential area.</p>
<ul style="list-style-type: none"> <li>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 the 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.</li> </ul>	<p>The amended design now shows a lower scale along William Street, which is also screened by the retained mature <i>Ficus Hillii</i> trees. The increased setback to the trees provides improved solar access and access to natural light.</p>	<p>The separation of buildings, their setback from William St and reduced height minimise the impact on fig trees and improve solar access.</p>
<ul style="list-style-type: none"> <li>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</li> </ul>	<p>The proposal has demonstrated that, with the new layout, solar access is maximised for winter solstice.</p>	<p>Solar access has been improved for the seniors housing and nearby residential development.</p>

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proportion of units and balconies along the east-west axis between future buildings.		
<ul style="list-style-type: none"> <li>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 area 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 the required treatments to minimise impacts from adjoining port lands including a large screen wall to be erected, were not supported by the Panel.</li> </ul>	Not applicable as there is no aged care facility proposed.	No longer applicable to the proposal.
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.	The proposal has been redesigned to address the issues raised by the Panel.	The modified proposal has made significant changes to address the Panel's concerns.
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	The proposed use remains the same as the last SCC.	City of Newcastle Council has provided comments that can be addressed at the DA stage. However, Transport for NSW does not want additional traffic at the intersection of William St and Industrial

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additional development potential which may not be recognised in current strategic planning documents.		Drive. A right turn into William St is proposed from the basement carpark which Council opposes.
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:	Noted.	The proposal has been significantly modified and reduced such that it now provides a suitable transition from the seven-storey hotel to the low-density residential development in the surrounding area.
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 such 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;	Not applicable as there is no aged care facility proposed.	No longer applicable to the proposal.
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 Zones 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;	This has been achieved with the plans showing a reduced height and scale across the development footprint, increased permeability in the built form and an increased setback to the TPZ of the mature <i>Ficus Hillii</i> trees.	Agreed. The changes have addressed these issues and the arborist’s report has confirmed the fig trees will not be adversely affected.

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c) provides insufficient information on contamination risk from groundwater and surface water originating from outside the site;	A groundwater contamination assessment report has been undertaken which demonstrates that the site is suitable for this form of development.	Groundwater issues management during construction as well as site contamination generally needs to be addressed in more detail at the DA stage as identified by Council.
d) provides insufficient 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;	The applicant now proposes a concept plan for emergency vehicle access to the site clear of the PMF level via Antill St.	Emergency access can be achieved for the site. Details can be determined through the DA process.
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.	The maximum dwelling yield for the units has been reduced to 176 units. Consequently, the overall building height is reduced and is moved to the middle of the site. The amended scheme also provides improved opportunities to develop substantial communal open space with appropriate solar access.	The reduction in number of units and design changes have addressed issues relating to height, bulk and scale and improved communal open space and solar access.
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	This has been achieved through reducing height, bulk and scale across the development, particularly along the eastern and southern interface. Increased setbacks to the eastern interface are now proposed. Note the eastern elevation and 4 storey buildings interfacing with the low scale residential development.	The modifications made to the height, bulk and scale of the development have resulted in an acceptable transition to the adjoining low-density residential area.
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.	Both four and six storey buildings are proposed, along different axis, which varies the building typology provided on site.	Agreed. The modifications have resulted in better design, building performance, articulation and variation of building types across the site.

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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 principle to the seniors housing land use on 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.	The proposal has been redesigned to respond to the Panel’s concerns.	Agreed. The modifications to design, layout and orientation of the proposed buildings as well as the removal of the aged care facility and reduction in number of units have addressed the Panel’s concerns.