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Industry &  
Environment

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## 25 Laitoki Road, Terrey Hills - Site Compatibility Certificate Assessment Report (SCC\_2020\_NBEAC\_002\_00)

Report to the Sydney North Planning Panel for a Site  
Compatibility Certificate under State Environmental Planning  
Policy (Housing for Seniors or People with a Disability) 2004

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Abbreviation	Definition
AHD	Australian Height Datum
ARI	Average Recurrent Interval
Council	Northern Beaches Council
DA	Development Application
DCP	Development Control Plan
Department	Department of Planning, Environment and Industry
EP&A Act	Environmental Planning and Assessment Act 1979
FPL	Flood Planning Level
LEC	Land and Environment Court
LEP	Warringah Local Environmental Plan 2011
LGA	Local Government Area
Planning Panel	Sydney North Planning Panel
PMF	Probable Maximum Flood
SCC	Site Compatibility Certificate
SEPP	State Environmental Planning Policy
Seniors Housing SEPP	State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

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# 1. Site Description

**Table 1:** Site Description

Site Description	The Site Compatibility Certificate (SCC) application applies to land at 25 Laitoki Road, Terrey Hills, which is legally described as Lot 261 DP 775299 (the site). The site is outlined red in <b>Figure 1</b> . Survey Plans are provided at <b>Attachment A3</b> .
Type	Site
Council	Northern Beaches Council
LGA	Northern Beaches Local Government Area



**Figure 1:** 25 Laitoki Road, Terrey Hills (the subject site) (Source: Nearmap, amended by the Department)

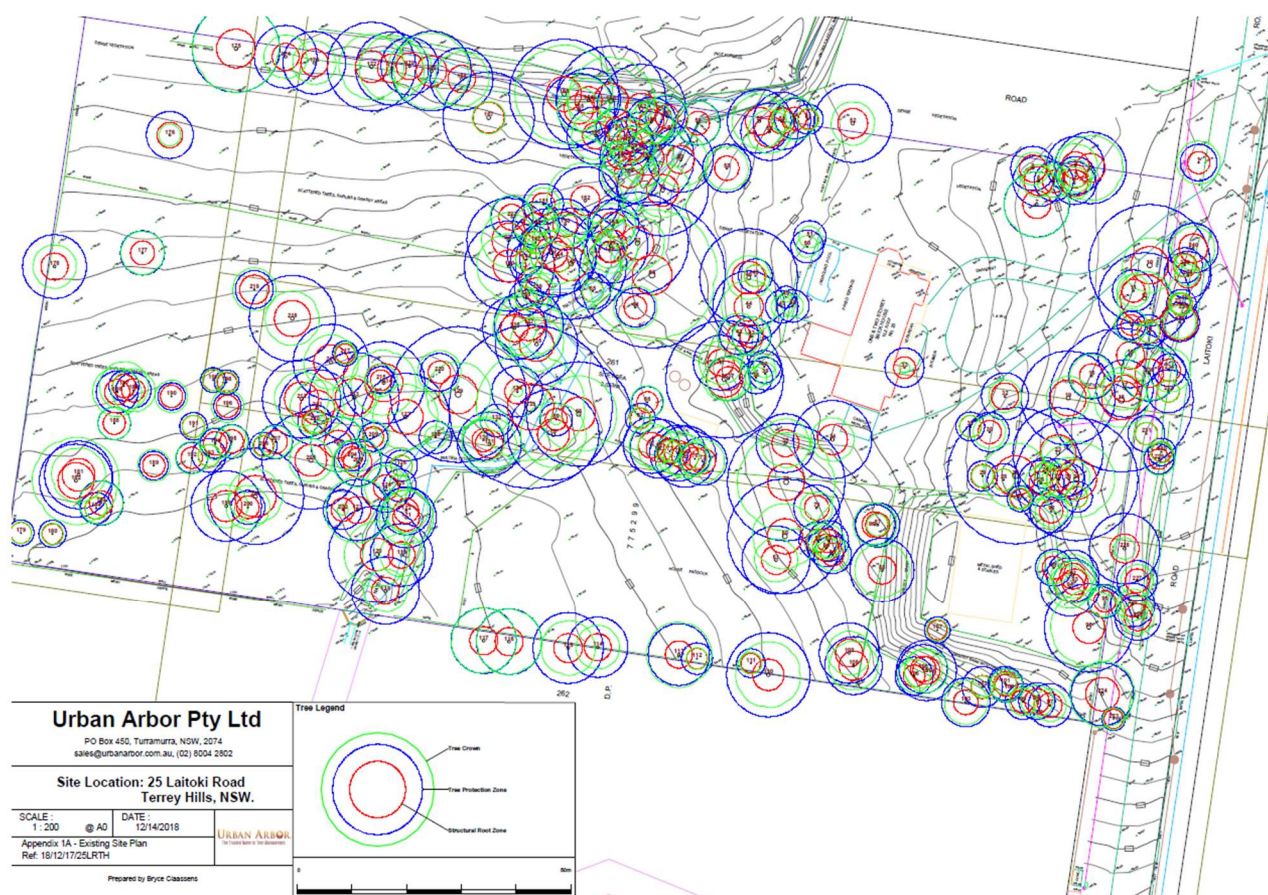
The site is located at 25 Laitoki Road, Terrey Hills on the western side of Laitoki Road between Booralie Road and Cooyong Roads. To the northern boundary is Tooronga Road, which is an unmade section of road.

The site is rectangular in shape, has a total site area of approximately 2.023 hectares and has a 100m frontage to Laitoki Road in the east. The site is a sloping allotment with significant gradients.

The site has a fall of 12m from the north eastern corner (highest point) to the south-western corner (lowest point). The eastern portion of the site falls by approximately 4m from the northern side boundary down to the southern side boundary. The western portion of the site falls by approximately 6m from the northern side boundary to the southern side boundary.

A watercourse forming part of the Neverfail Gully traverses through the centre of the site in a north to south direction, dissecting the site into an eastern and western portion. The site also contains a two-storey detached dwelling, shed structures and considerable vegetation. The existing site conditions are identified in **Figure 2**.





**Figure 2: Existing Site Conditions (Source: Arboricultural Impact Statement)**

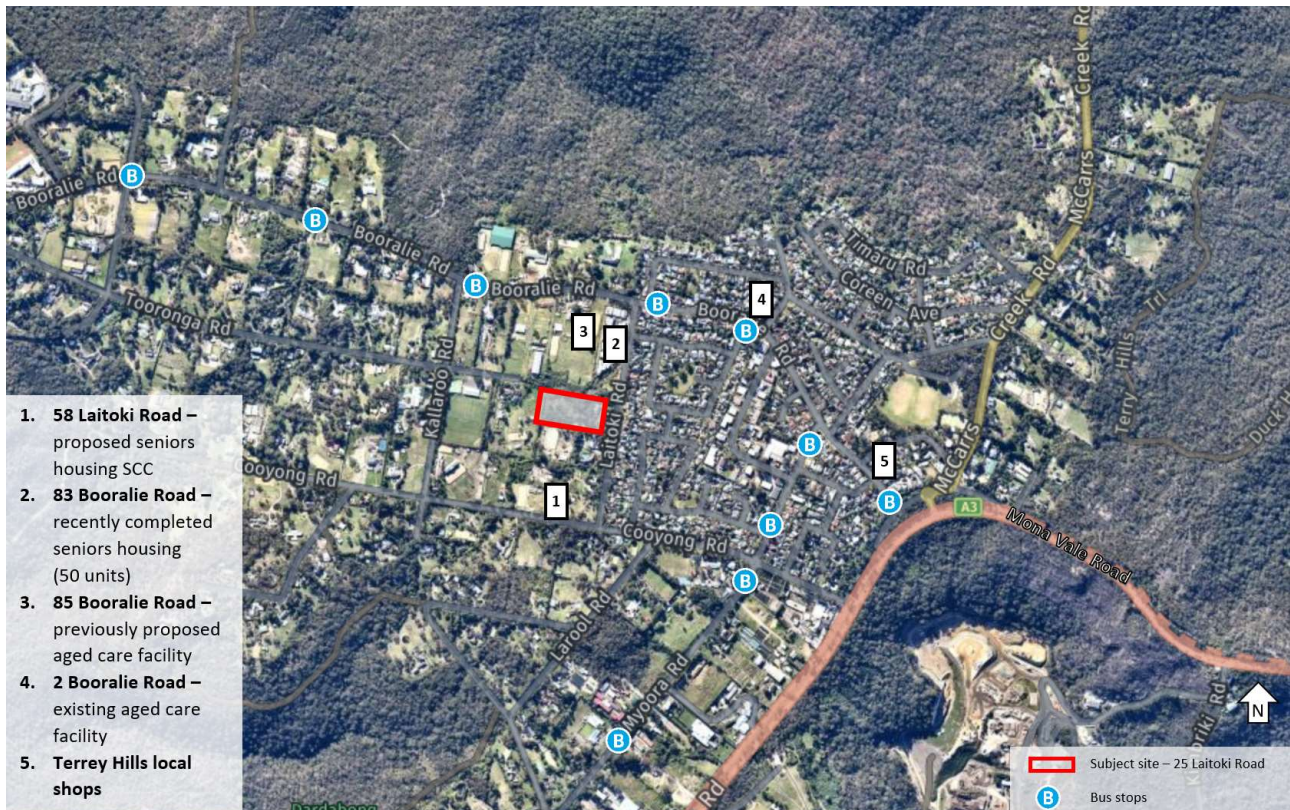
The site is surrounded by the following:

- To the north is 83 Booralie Road, which comprises 50 serviced self-care dwellings.
- To the east is Laitoki Road and low-scale detached residential dwellings.
- To the south is 35 Laitoki Road, which comprises an equestrian facility with stables.
- To the west is 47 Tooronga Road, which comprises a large rural residential private property.

Within the wider locality, land to the north, south and west of the site is primarily rural residential in character, comprising single dwelling houses, ancillary structures and uses permitted in the RU4 (Primary Production Small Lots) zone such as horse stables, and has a consistent subdivision pattern and largely similar sized allotments of 2ha or greater. The Terrey Hills shopping village is approximately 1 kilometre from the site and comprises local shops, a community centre and library. Ku-ring-gai Chase National Park lies approximately 700m to the north and west of the site and the Garigal National Park is approximately 2.9 km south of Mona Vale Road.

A SCC application has been concurrently assessed by the Department and is with the Panel for determination on a proximate site at 58 Laitoki Road, Terry Hills, (175m to the south) on the corner of Laitoki Road and Cooyong Road, and proposes a 90 bed residential aged care facility and 48 serviced self-care dwellings. Other seniors housing developments are also located near the site including a recently completed development at 83 Booralie Road and an established aged care facility at 42 Booralie Road.





**Figure 3:** Locality Map (Source: Nearmap 2021)

An image of the site, as well as images of views looking north and south from the site along Laitoki Road, are provided in **Figure 4**, **Figure 5** and **Figure 6**.



**Figure 4:** Existing dwelling at the site (Source: The Department – 15/10/2020)





**Figure 5: Photo** from the site looking north along Laitoki Road (Source: The Department – 15/10/2020)

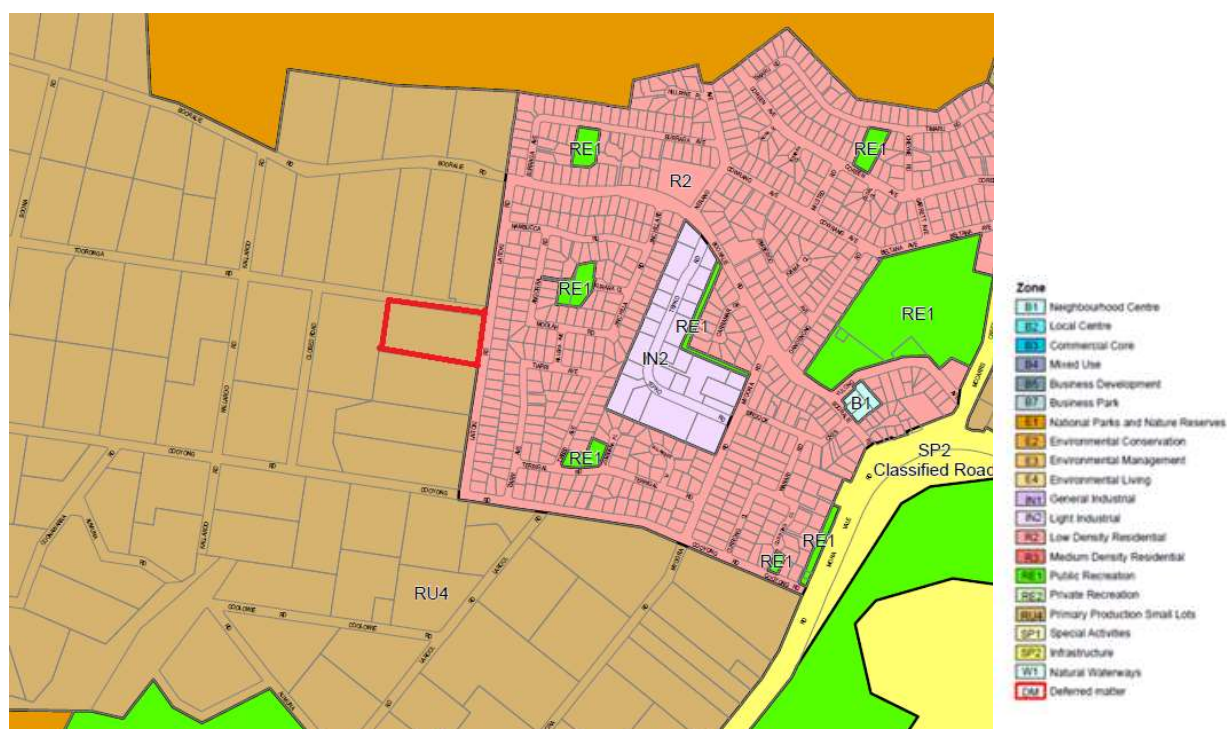


**Figure 6: Photo** from the site looking south along Laitoki Road (Source: The Department – 15/10/2020)

The site is subject to the following controls provided under the *Warringah Local Environmental Plan 2011* (Warringah LEP 2011):

- Land Use Zone: 'RU4 - Primary Production Small Lots' (see **Figure 7**).
- Maximum Building Height: 8.5m.
- Floor Space Ratio (FSR): No FSR applies.
- Minimum Lot Size: 2ha.
- Landslip Risk: Site contains land with 'Area A' and 'Area B' landslip risk.
- Heritage: Not identified as containing a heritage item and not located near heritage item/s or heritage conservation area/s.





**Figure 7:** Land Use Zoning Map (LZN\_006) (Source: Warringah LEP, overlay by the Department)

## 2. Application for a Site Compatibility Certificate

### 2.1. Description of the Proposal

A SCC report has been prepared by Minto Planning Services (**Attachment A1**) on behalf of Tolucy Pty Ltd for a seniors housing development for 54 serviced self-care dwellings at the site, comprising:

- 8 detached single storey dwellings;
- 4 attached single storey dual occupancies;
- 5 two-storey apartment blocks comprising 32 units; and
- 10 attached two-storey terrace houses.

The development also comprises on-site parking (basement and at-grade) and a community centre for the use of residents.

Detached dwellings and dual occupancies are proposed on the western side of the watercourse with car parking at grade. The apartments and terraces are proposed on the eastern side of the watercourse with basement parking. A bridge is proposed over the watercourse to connect the western portion of the development to the common access driveway from Laitoki Road.

The proposed development, which is located on a site within an area of 2.023 hectares, contains the following breakdown:

**Table 2:** Proposed Development Breakdown

Development Breakdown	Figures
Floor Area	7,990m <sup>2</sup>
FSR	0.395:1

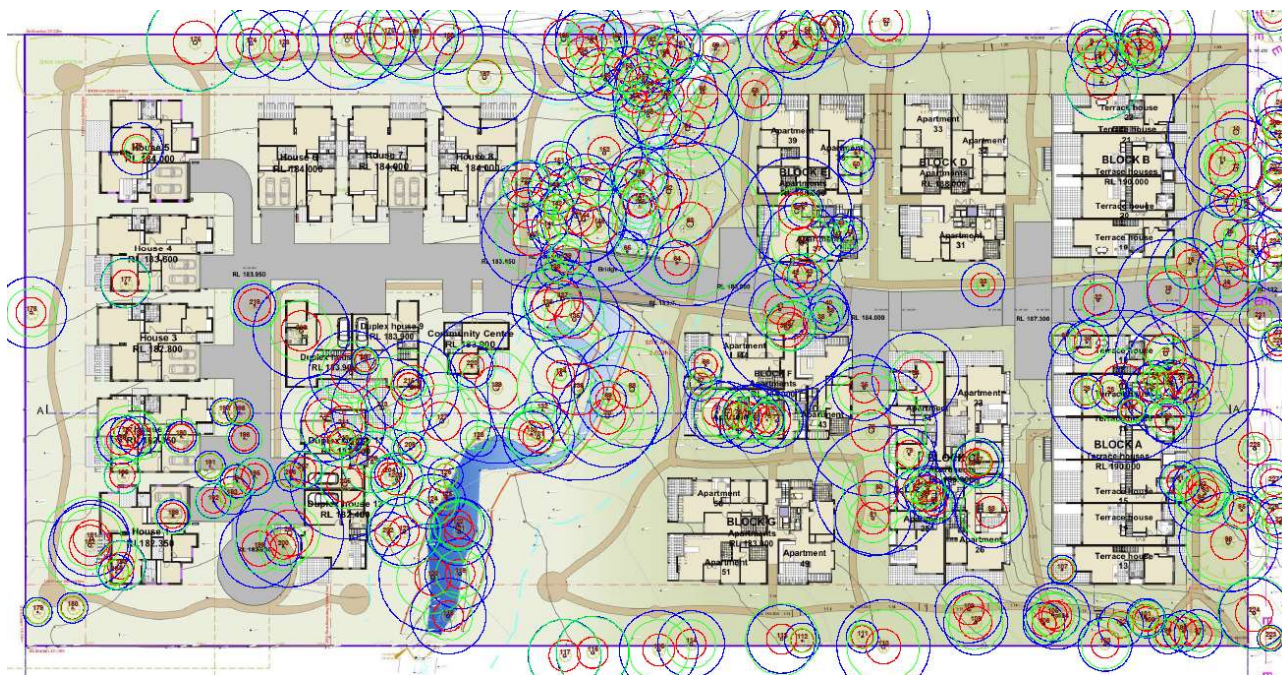
Development Breakdown	Figures
Landscaped Area	10,788m <sup>2</sup> or 53.5%
Deep Soil Area	8,600m <sup>2</sup> or 42.5%

The SCC application includes indicative architectural plans (**Attachment A4**) and landscape concept plans (**Attachment A5**) of the proposed development.

Concept images of the proposed development are provided in **Figure 8** and **Figure 9**.



**Figure 8:** Proposed Development at The Site – East Elevation Showing Entrance On Laitoki Road (Source: Playoust Churcher Architects)



**Figure 9:** Proposed development at the site – Ground Floor (Source: Arboricultural Impact Report)

## 2.2. Previously Issued Site Compatibility Certificates

No previous SCCs have been issued for the site at 25 Laitoki Road, Terrey Hills.

## 2.3. Surrounding Site Compatibility Certificates and Seniors Housing Development

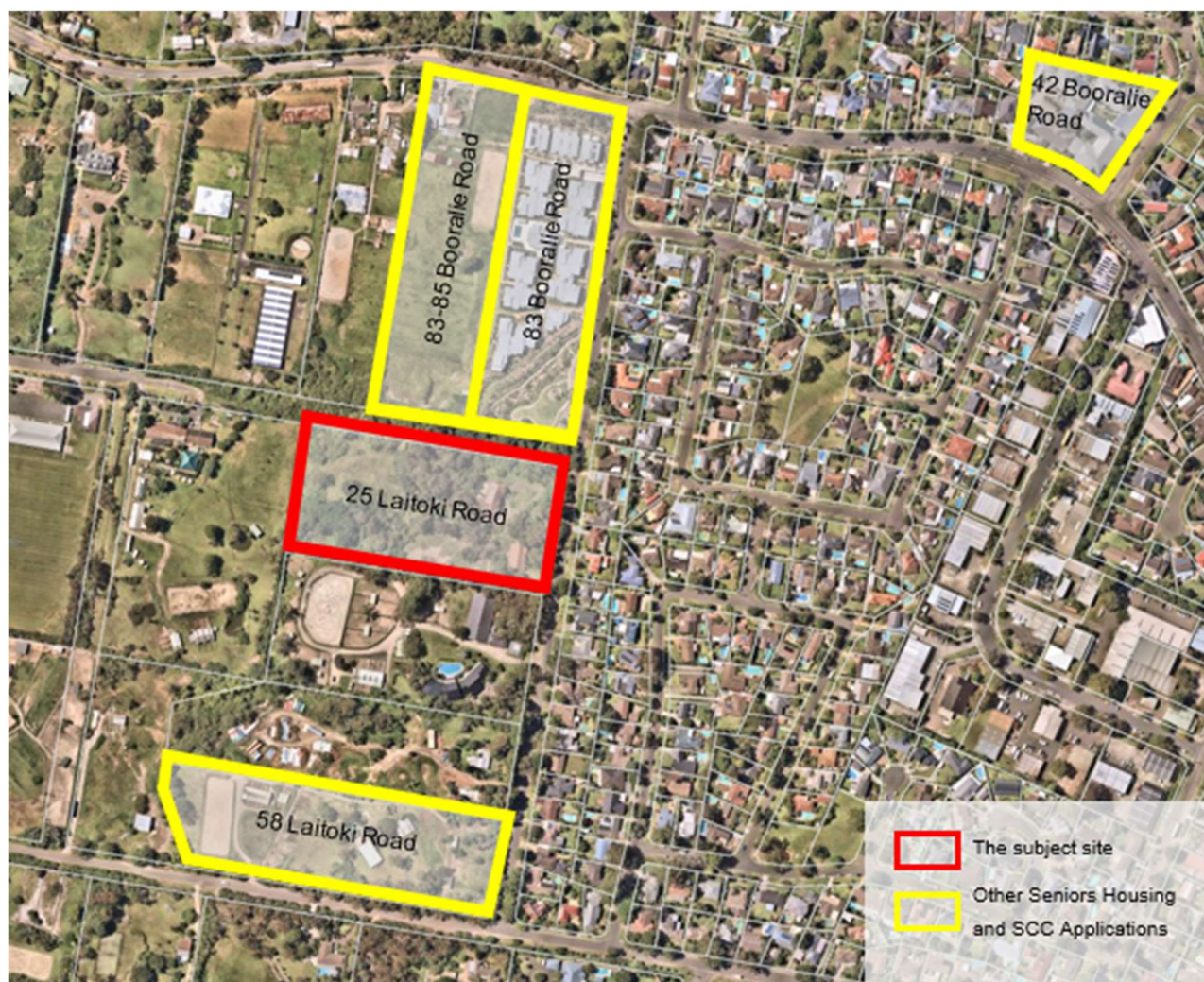
The site is within one kilometre of multiple SSC applications and seniors housing developments.

These are highlighted in **Figure 10** and comprise:

- 42 Booralie Road, Terrey Hills:



- Existing Residential Aged Care Facility with 42 high-care beds.
- 83 Booralie Road, Terrey Hills (SCC issued 2 May 2013 and acted upon):
  - Existing Residential Aged Care Facility with 50 serviced self-care units completed.
- 83-85 Booralie Road, Terrey Hills (SCC expired 12 July 2019):
  - For an additional 37 single-storey seniors housing self-care houses (in addition to the 50 seniors housing self-care units previously approved for 83 Booralie Road on 2 May 2013), providing a total of 87 senior housing dwellings.
  - The SCC was originally issued on 12 July 2017 but expired on 12 July 2019. A DA and Land and Environment Court appeal for the proposal has now been withdrawn.
- 58 Laitoki Road, Terrey Hills (SCC with Panel for determination):
  - On 16 March 2020, the Department received a SCC application for 58 Laitoki Road, Terrey Hills (located approximately 175m to the south of the site) to permit seniors housing on the land. The proposed development is for a residential aged care facility containing 48 serviced self-care dwellings, a 90-bed residential care facility, on-site parking and ancillary facilities.
  - A previous SSC was issued by the Department for 58 Laitoki Road, Terrey Hills on 14 July 2017, which has since lapsed. The new SCC application is under assessment by the Department for the Sydney North Planning Panel's (the Panel) consideration.



**Figure 10:** SSC's and Seniors Housing Surrounding The Site (Source: SIXMaps, overlay by the Department)



Recent changes to *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (Seniors Housing SEPP) require applicants to provide a cumulative impact study if the subject land or any part of the land is within one kilometre of two or more SCC sites.

A planning panel may also request a cumulative impact assessment be prepared at any time if it considers it is necessary to determine whether the land concerned is suitable for more intensive development. The cumulative impact assessment must include an assessment of the impact of the proposed development on the capacity of existing and future services to meet demands arising from the proposed development, including the impacts on water, reticulated sewers and public transport as well as the capacity of road infrastructure to meet any anticipated increase in traffic.

On 8 August 2019, the Panel resolved that the applicant must provide a cumulative impact study to determine whether the land concerned is suitable for more intensive development. A revised SCC report (**Attachment A1**) supported by a Social Impact Assessment Report, Preliminary Servicing Assessment and Assessment of Road and Public Transport Infrastructure was submitted in April 2020.

## 3. Assessment Against the Seniors Housing SEPP

### 3.1. Permissibility Statement

The site is zoned 'RU4 - Primary Production Small Lots' under the Warringah LEP 2011. Seniors housing is prohibited within this zone under the Warringah LEP 2011. However, development for the purposes of seniors housing (other than dual occupancy) may be permissible on the site under clause 24 of Seniors Housing SEPP, if an SSC is issued for the site.

The Seniors Housing SEPP applies to land that is zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes where it satisfies the additional requirements under clause 4 of the SEPP. In accordance with clause 24 of the SEPP the applicant is seeking a SCC on the basis that the land adjoins land zoned for urban purposes. However, an application for a SCC must also satisfy other criteria in the SEPP as outlined in Clause 24 (2) (a) and (b).

The subject site directly adjoins land to the east that is zoned primarily for urban purposes in this case R2 Low Density Residential (**Figure 6**).

The SCC is for 'serviced self-care' seniors housing and clause 4, clause 4A and clause 4B of the Seniors Housing SEPP applies to the subject land.

### 3.2. Application of the Seniors Housing SEPP

#### 3.2.1. Clause 4

As per clause 4(1) of the Seniors Housing SEPP, the SEPP applies to land that is:

- Zoned 'primarily for urban purposes' or land that 'adjoins land zoned primarily for urban purposes'; and
- Where development for the purpose of any of the following is permitted on the land:
  - Dwelling houses;
  - Residential flat buildings;
  - Hospitals;
  - Development of a kind identified in respect of land zoned as special uses; or
  - The land is being used for the purposes of a registered club.

The site satisfies these criteria as:

- The site directly adjoins land zoned primarily for urban purposes. 'R2 Low Density Residential' zoned land is located directly opposite to the east of the site and contains a variety of one and two storey dwellings over Laitoki Road; and
- Dwelling houses are permitted at the site.

Clause 4(6) of the Seniors Housing SEPP identifies land where the Seniors Housing SEPP does not apply. These include:

- (a) Land described in Schedule 1 (Environmentally sensitive land), or
- (b) Land (other than land to which *Warringah Local Environmental Plan 2000* applies) that is zoned for industrial purposes, or
- (c) (Repealed)
- (d) The land to which *Sydney Regional Environmental Plan No. 17 – Kurnell Peninsula (1989)* applies, or
- (e) The land to which *State Environmental Planning Policy (Western Sydney Parklands) 2009* applies.

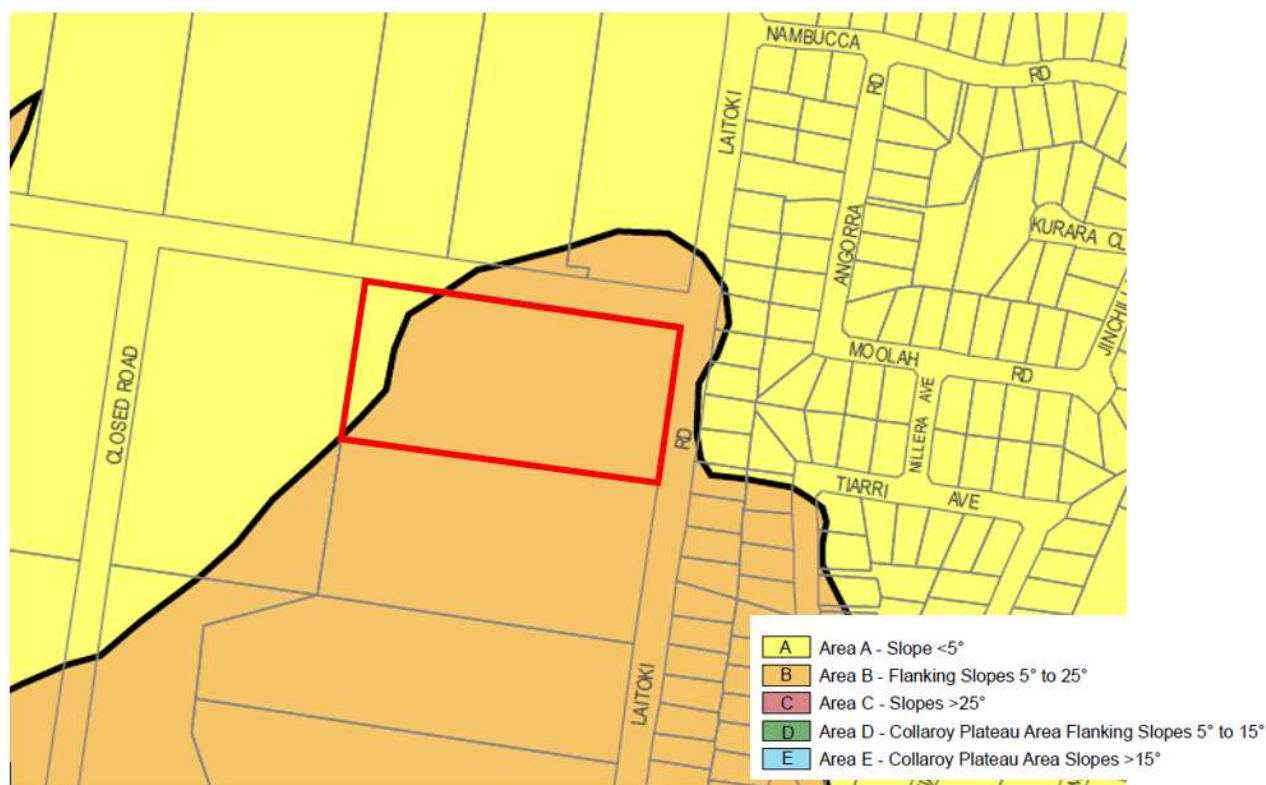
Schedule 1 of the Seniors Housing SEPP defines 'environmentally sensitive land' as land that is identified in another environmental planning instrument by any of the following descriptions, or by like descriptions, or descriptions that incorporate any of the following words or expressions:

- Coastal protection;
- Conservation (but not land identified as a heritage conservation area in another environmental planning instrument);
- Critical habitat;
- Environment protection;
- Open space;
- Escarpment;
- Floodway;
- High flooding hazard;
- Natural hazard;
- Scenic (but not land that is so identified if:
  - The land is within a residential zone in which development of two storeys or more in height is permitted; or
  - An adjacent residential zone, also identified as scenic, permits development of two storeys or more in height);
- Water catchment; and
- Natural wetland.

The site satisfies these criteria as:

- The site is not described as 'environmentally sensitive land' in accordance with the terms listed in Schedule 1 of the Seniors Housing SEPP;
- The site is not zoned for industrial purposes; and
- The site is not subject to the environmental planning instruments listed under clause 4(6) of the Seniors Housing SEPP.

The Department notes the site is mapped under the Landslip Risk Map of the Warringah LEP 2011 as being contained to landslip risk 'Area A' and 'Area B' (**Figure 11**). However, the Department considers this does not constitute the definition of 'natural hazard' land under Schedule 1 (environmentally sensitive land) of the Seniors Housing SEPP, as the Warringah LEP 2011 does not define landslip risk land as 'geotechnical hazard land' or 'natural hazard land'.



**Figure 11:** Land Slip Risk Map (LSR\_006) (Source: Warringah LEP 2011, overlay by the Department)

### 3.2.2. Clause 4A – Heritage Conservation Areas in The Greater Sydney Region

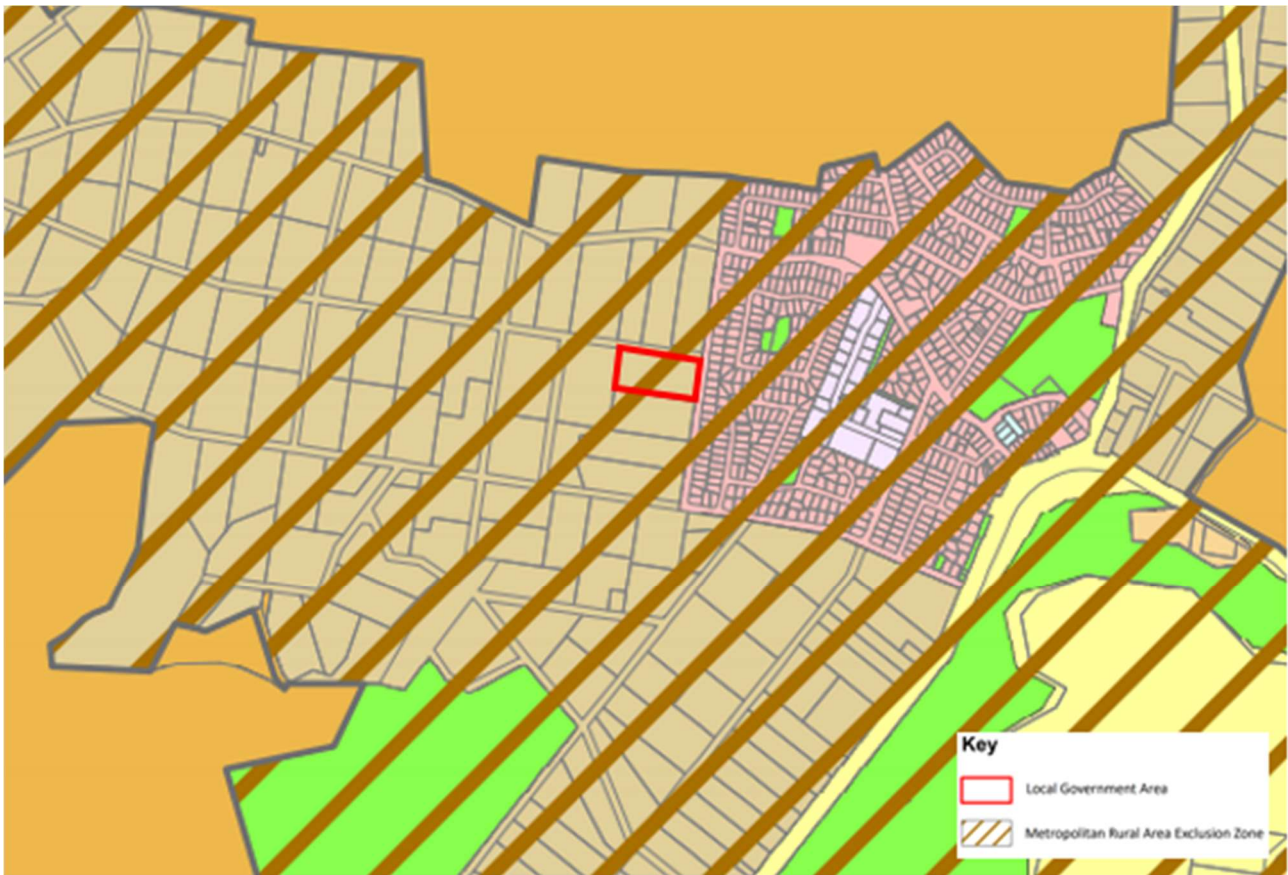
The land is not identified as being within a heritage conservation area.

### 3.2.3. Clause 4B – Metropolitan Rural Areas in The Greater Sydney Region

Clause 4B(1) of the Seniors Housing SEPP identifies that the Seniors Housing SEPP does not apply to land identified on the metropolitan rural areas exclusion zone map as a 'metropolitan rural area exclusion zone'. The site is identified on Sheet 10 of the Northern Beaches metropolitan rural areas exclusion zone map as being located in a metropolitan rural area exclusion zone. This is shown in **Figure 12**.

However, Clause 4B(3) of the Seniors Housing SEPP provides that an SSC may be issued for land referred to in Clause 4B(1) if the SSC application was lodged before the commencement of this clause. Given that the subject SSC application was lodged on 11 February 2019, prior to the prior to 29 July 2020 commencement date of Clause 4B, the Seniors Housing SEPP continues to apply to the site.





**Figure 12:** Metropolitan Rural Area Exclusion Zone Map – Northern Beaches LGA (Source: The Department, overlay by the Department)

### 3.3. Detailed Assessment

This section provides a detailed assessment of relevant matters to be considered by the Panel.

The panel must not issue a SCC unless the panel:

- a. has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the general manager of the council within 21 days after the application for the certificate was made;
- b. is of the opinion that:
  - (i) the site of the proposed development is suitable for more intensive development; and
  - (ii) the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).

An analysis of the SSC application against the abovementioned criteria is provided in the following subsections.

#### 3.3.1. Northern Beaches Council Comments

On 26 August 2020, comments were received from Northern Beaches Council (Council) on the SCC application (**Attachment C**). These comments are summarised in **Table 3**.

The Department has considered Council's comments in its assessment of the SCC application. The Department acknowledges that Council does not support the issuing of a SCC for the proposed development at the site, as it considers the development to be inconsistent with the criteria referred to under clauses 25 (5)(b)(i) to (v) of the Seniors SEPP including:

- built form density, character and landscaping is not compatible with surrounding RU4 zone and adjoining R2 zone;
- excessive bulk and mass of buildings particularly the residential flat building forms on the eastern portion of the site is not compatible with surrounding RU4 zone and adjoining R2 zone;
- not suitable for housing for seniors or people with a disability given the excessive street gradients to gain access to the closest public transport services;
- failure to demonstrate applicability of clause 17(2) of the SEPP; and
- failure to demonstrate access to facilities and services; bushfire related impacts, biodiversity related impacts and cumulative impacts.

**Table 3:** Council Comments

Issue	Council Comments
Biodiversity	<ul style="list-style-type: none"> <li>• Updated searches of threatened species databases are required as the searches and site visits provided date from 2018. Additionally, a suitable site survey methodology is required with an appropriate level to consider the potential impact on the natural environment.</li> <li>• A large portion of the site is mapped on Council's Biodiversity Values (BV) Map and this has been omitted. The BV Map shows this site as containing the Duffys Forest threatened ecological community (DFEC). The DFEC is identified as subject to potential Serious and Irreversible Impacts (SAIL) under section 6.5 of the <i>Biodiversity Conservation Act</i>.</li> <li>• Clearing of 0.5ha of native vegetation will exceed an area threshold and trigger the biodiversity offset scheme threshold.</li> <li>• The proposed development works indicate that 149 trees have been recommended for removal including a high number of native species. The arborist only considered species over five metres in height excluding a large extent of native vegetation.</li> <li>• An accredited assessor must apply the Biodiversity Assessment Method (BAM) and additional surveys for threatened species is recommended with the application of the BAM. The preparation of a Biodiversity Development Assessment Report (BDAR) is required indicating how the proponent will avoid and minimise biodiversity impacts.</li> <li>• It is recommended that the development be designed and sited to avoid any impact on the area mapped BV and remain below the clearing threshold of 0.5ha.</li> </ul>
Riparian Land Waterways	<ul style="list-style-type: none"> <li>• Neverfail Creek passes through the centre of the site from north-east to south-west. The riparian corridor varies from 30m in the north to 18m in the south. Council does not allow the riparian corridor to be included in or cleared for asset protection zones. As such, piping or channelisation of the creek is not acceptable due to the impact on the creek downstream from increased flow velocity and sediment.</li> <li>• Riparian zones mapped in the Warringah Development Control Plan 2011 (WDCP) exclude development including sewer and stormwater infrastructure. Therefore, Council considers that a significant area of the site would not be available for development.</li> </ul>
Flooding	<ul style="list-style-type: none"> <li>• A preliminary flood report has been prepared and appropriate measures have been applied concerning the stormwater infrastructure. However, it is unclear if</li> </ul>

Issue	Council Comments
	<p>this applies to the bridge structure and if the underside of the bridge deck is above the Probable Maximum Flood (PMF) Level.</p> <ul style="list-style-type: none"> <li>A number of proposed dwellings in the south-west corner of the site are likely to have their substructures impacted by flooding in the 1% AEP and PMF event. Council therefore does not support the proposed development in the absence of civil works plans and structural details.</li> <li>Council does not support the identified off-site flood impacts as a result of the development as they exceed acceptable adverse impact thresholds.</li> </ul>
Bushfire	<ul style="list-style-type: none"> <li>The land is in the vicinity of bushfire prone land. The applicant has not provided a report to address the requirements of Clause 27 (2) of the Seniors Housing SEPP which was a critical consideration in Northern Beaches Council v Tolucy Pty Ltd (2020 NSWLEC 76).</li> </ul>
Future Uses of the Land	<ul style="list-style-type: none"> <li>The development would undermine the primary objectives of the rural zoning and surrounding sites zoned RU4.</li> <li>The proposal to provide 54 dwellings is not compatible with the surrounding RU4 rural residential zoning, as the rural activities could not be accommodated without impacting on the amenity of the proposed residential development.</li> </ul>
Services and Infrastructure	<ul style="list-style-type: none"> <li>The application fails to demonstrate compliance with Clause 26 of the Seniors Housing SEPP as no details have been provided to determine whether there is adequate public transport and pedestrian access along Laitoki Road to services and facilities. The services available from the bus stops is infrequent and requires changing of services to reach main centres.</li> <li>The traffic report submitted with the application does not adequately address the traffic generated by the serviced self-care housing, including the number, type and frequency of service vehicle movements.</li> <li>The site is not suitable for housing for seniors or people with a disability, given the excessive steep gradients to gain access to the closest public transport services. No gradient details of the footpath in Laitoki Road are provided.</li> </ul>
Built Form and Setbacks	<ul style="list-style-type: none"> <li>The proposal is inconsistent with the predominant character and built form of the adjoining RU4 and R2 zoned land; and is more reflective of an R3 Medium Density Residential zone.</li> <li>There is insufficient space between buildings to allow for adequate open space and landscaping.</li> <li>The basement parking structures extend well beyond the footprint of the building, reducing the areas available for deep soil landscaping.</li> <li>The proposed continuous development fronting Laitoki Road conflicts with the setback control within the WDCP. This will contribute to the loss of rural character.</li> <li>The buildings demonstrate an excessive bulk and scale which should be lessened through reduction in the mass of built form and greater levels of articulation and separation.</li> </ul>
Cumulative Impact	<ul style="list-style-type: none"> <li>The site is located within a one-kilometre radius of other SCC applications. However, the applicant has not submitted a Cumulative Impact Statement that addresses the impact of the development in connection with other sites.</li> </ul>



### 4.3.2 The Department's Assessment

#### **Suitability for More Intensive Development**

The panel must not issue a SCC unless the panel is of the opinion that the site of the proposed development is suitable for more intensive development. The Department considers that although the proposed development would provide additional seniors 'serviced self-care' dwellings, the site is not suitable for more intensive development as proposed. The reasons are summarised below and as discussed in detail throughout this report.

#### **a. Impacts on Biodiversity and Landscape Character:**

- The proposed development would result in the removal of a considerable number of trees and native vegetation from the site. 149 trees have been recommended for removal with 70 of these ranked in a higher value category. This includes the removal of parts of the Duffys Forest threatened ecological community (DFEC) at the site. The DFEC is identified as subject to potential Serious and Irreversible Impacts (SAIL) under section 6.5 of the *Biodiversity Conservation Act 2016*. The Department considers this substantial tree loss to support more intensive development at the site has not been adequately justified and is avoidable.
- The removal of this vegetation from the site would detract from the rural and scenic character of the site, which is comparable with the surrounding character of Terrey Hills.

#### **b. Out of Character:**

- The bulk and scale of the proposed development emulates a low-rise medium density area which is inconsistent with the predominate low-density landscaped character of the surrounding suburb. Whilst the Department acknowledges that the adjacent site to the north contains 50 seniors housing self-care units, it is not characteristic of the predominant low-density character of the area and should not be relied upon as a precedent.
- It is considered that the existing equestrian facility on the adjacent site to the south could generate adverse noise, odour and dust impacts on the proposed development. The proposal for this site conflicts with surrounding RU4 development and is out of character with the predominant character of the surrounding area.
- The site is located within a metropolitan rural area. Construction of the proposal at the site would be inconsistent with various priorities and directions contained to local and State strategic plans that seek to protect metropolitan rural land from incompatible development. These policies support more intense urban development close to services and amenity and reduce car dependency. While the SEPP enables the Panel to consider the proposal, it lacks sufficient merit for these considerations to be set aside.

#### **c. Poor Accessibility:**

- The nearest bus stop is located within 400m to the north of the site on Booralie Road. Laitoki Road is used to access Booralie Road and the bus stop. The gradient of Laitoki Road is too steep for future elderly residents of the site to walk comfortably to and from the bus stop. The applicant has not provided analysis to demonstrate compliance with Clause 26(2)(a) of the Seniors Housing SEPP.
- The application fails to demonstrate convenient pedestrian access between the proposed development, Laitoki Street and the bus stop on Booralie Road. The concept plan includes a circuitous pedestrian pathway between the dwellings and the street.

As a result, residents living in the houses in the rear of the site would have a total route that is beyond 400m in length to access the bus stop. In addition, gradients within the site vary considerably. As a result, residents living in the houses at the rear of the site may face increased difficulty walking to Laitoki Street and the bus stop. The internal gradients have not been considered.

**d. Inconsistent with Priorities in the Northern Beaches Local Strategic Planning Statement:**

- The Northern Beaches Local Strategic Planning Statement (Northern Beaches LSPS) was adopted by Council on 25 February 2020 and finalised in April 2021.
- The Northern Beaches LSPS sets a 20 year vision for the Northern Beaches LGA, building upon the North District Plan and Greater Sydney Region Plan to act as the bridge between strategic land use planning at a district level and local statutory planning. The Northern Beaches LSPS introduces strategic principles to manage growth and change in the area. The proposed development is inconsistent with various priorities contained to the Northern Beaches LSPS, comprising:
  - *Priority 2:* Protected and enhanced bushland and biodiversity.
  - *Priority 3:* Protected scenic and cultural landscapes.
  - *Priority 4:* Protected Metropolitan Rural Area.
  - *Priority 5:* Greener urban environments.
  - *Priority 17:* Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.

**e. Bushfire Hazard:**

- The site is near to 'Category 1', 'Category 2' and 'Buffer' bushfire prone land. The applicant has not submitted a bushfire assessment nor provided sufficient analysis to guarantee compliance with all of Clause 27(2) of the Seniors Housing SEPP.

Terrey Hills is an isolated area where occupants may need to travel large distances through bush fire prone vegetation to evacuate and firefighters may be hindered from providing assistance.

Housing additional aged residents in a bushfire prone locality would increase the evacuation burden for emergency services and is not supported. Planning for Bushfire Protection Policy 2019 requires a strategic assessment of the potential bushfire risks and mitigation. Elimination of risk by making sound land use planning decisions is a principle of the Policy.

The cumulative impact on bushfire safety, including safe evacuation from the locality, is not addressed satisfactorily and the Department has no evidence that it could be with any further investigation.

**f. Earthworks and Flood Risks:**

- Earthworks are required at the site to address identified unacceptable offsite flood impacts during the 1% Annual Exceedance Probability and Probable Maximum Flood events that result from Neverfail Creek at the site.

The Department is concerned that future earthworks required to offset the identified unacceptable flood impacts would result in inappropriate landscape impacts that are inconsistent with the scenic and rural character of the land and locality.

**Compatibility with The Surrounding Environment and Land Uses**

The panel must not issue a SCC unless the panel is of the opinion that the proposed development is compatible with the surrounding environment, having regard to the following criteria specified in clause 25(5)(b):

- (i) ***the natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))***

**Vegetation Clearing and Biodiversity:**

An Arboricultural Impact Assessment has been prepared by Urban Arbor Pty Ltd for the SCC application (**Attachment A6**). To facilitate the proposed development, the report states that 149 trees have been recommended for removal. Of these, 70 are a higher value category.

An Environmental Assessment was also prepared by Narla Environmental for the SCC application (**Attachment A7**). It included the findings of a preliminary Ecological (Biodiversity) Site Assessment, which concluded that the site contains:

- No threatened species listed under the *Biodiversity Conservation Act 2016* (BC Act) or the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
- Degraded and a weed infested habitat for a small number of locally common threatened fauna species listed under the BC Act and/or the EPBC Act.
- A weed infested patch of one Endangered Ecological Community – Duffy's Forest in the Sydney Basin Bioregion (the DFEC).

The DFEC is listed on Schedule 2 of the *Biodiversity Conservation Act 2016* as an endangered ecological community and includes a variety of species.

The Department notes that a large portion of the site is mapped under the Biodiversity Values Map and Threshold Tool as containing biodiversity values (**Figure 13**). This has not been addressed by the applicant. The Biodiversity Values Map and Threshold Tool forms part of the Biodiversity Offset Scheme (BOS) Threshold, which is one of the triggers to determine if the BOS is applicable to a development proposal.



**Figure 13:** The Site Containing Biodiversity Values (Source: Biodiversity Values Map and Threshold Tool)

The Department is of the view that the applicant has not adequately addressed the presence of DFEC at the site, including the listing of the site on the Biodiversity Values Map and Threshold Tool. The Arboricultural Impact Statement marks trees located in areas of the site containing DFEC as some of the trees for removal. The applicant has not adequately addressed this in detail or addressed how the future development would avoid and minimise biodiversity impacts on the site.

In addition, the Department considers that the loss of 149 trees, including 70 higher value category trees to support more intensive development at the site, has not been adequately justified and is avoidable. The removal of this vegetation from the site would also detract from the rural and scenic character of the site, which is comparable with the surrounding character of Terrey Hills.

It is also inconsistent with various priorities contained to the Northern Beaches LSPS, comprising:

- *Priority 2:* Protected and enhanced bushland and biodiversity.
- *Priority 3:* Protected scenic and cultural landscapes.



- *Priority 4:* Protected Metropolitan Rural Area.
- *Priority 5:* Greener urban environments.
- *Priority 17:* Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.

The Department is of the view that should the Panel issue an SCC for the subject land, further information is required at the development application stage to demonstrate how biodiversity impacts, particularly on the DFEC, would be addressed when developing the proposal. The development should be designed to retain significant trees that contribute to the scenic character. This may require a reduction to the proposed built upon area and make the provision of suitable on-site services uneconomic for remaining units.

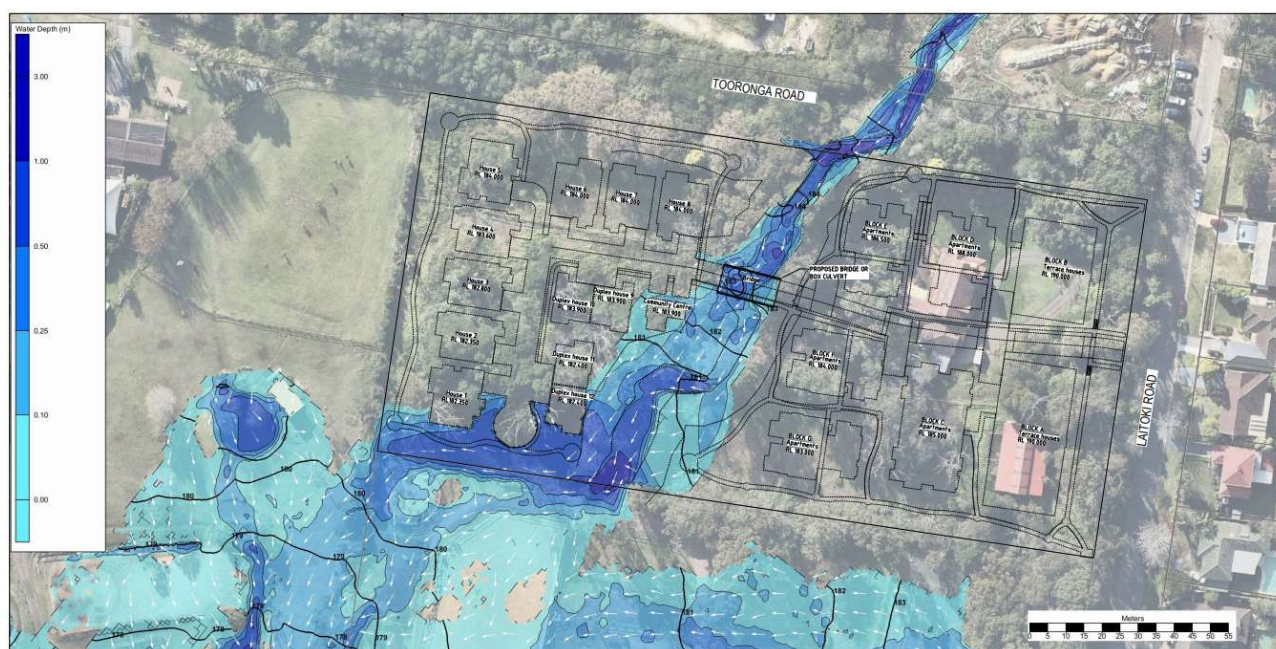
### Stormwater and Flooding

A Preliminary Site Stormwater and Flooding Constraints Assessment has been prepared by Martens and Associates Pty Ltd for the SCC application (**Attachment A8**). The letter states that the central and lower portion of the site are flood prone in the event of localised flooding from Neverfail Creek.

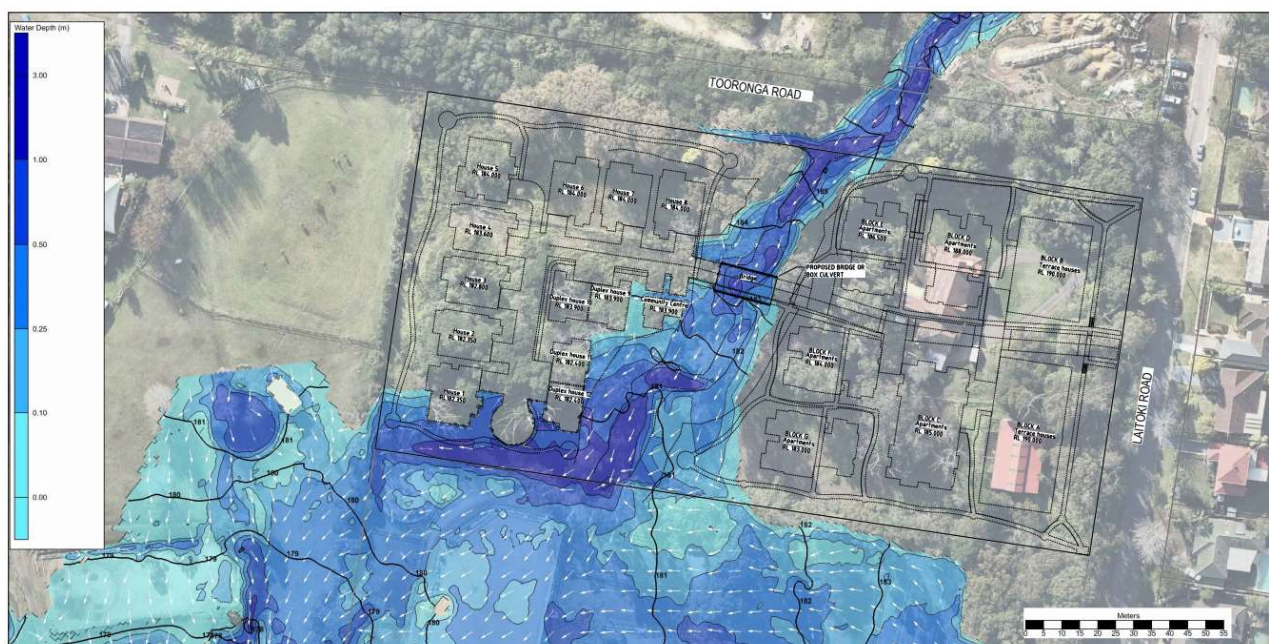
Martens and Associates Pty Ltd also prepared a Preliminary Flood Assessment (**Attachment A9**) for the SCC application. The report identifies that in Annual Exceedance Probability (AEP) and Probable Maximum Flood (PMF) events, the site is impacted by flooding.

In assessing the flood impact on the proposed development, the assessment provided modelling to determine the existing and proposed flood conditions in the 1% AEP and PMF events. The Department also notes the findings of the Preliminary Watercourse and Riparian Assessment prepared by Martens and Associates Pty Ltd for the SCC application (**Attachment A10**).

**Figure 14** and **Figure 15** show the 1% AEP and PMF events under proposed conditions.



**Figure 14:** 1% AEP Event Under Proposed Condition (Source: Martens and Associates Pty Ltd Drawing No. PS02-K200)



**Figure 15:** PMF Event Under Proposed Condition (Source: Martens and Associates Pty Ltd Drawing No. PS02-K210)

The modelling contained in the Preliminary Flood Assessment concluded the following:

- An area at the centre of the site along the existing drainage line and an area southwest of the site are flood affected by the 1% AEP and PMF events.
- Flood affection of the proposed buildings in the south-western area of the site is aggravated due to an existing raised fill pad on the southern property which detains flood waters and cause flood waters to back up onto the site.
- All of the proposed buildings on the eastern side of the creek would be flood free in the 1% AEP and PMF events.
- Six of the proposed buildings on the western side of the creek including the community centre are flood affected in the 1% AEP and PMF events.
- All of the proposed finished floor levels (FFLs) in the proposed development could comply with Council's flood planning requirements.
- The proposed bridge's top deck is 400mm above the 1% AEP and 200mm above the PMF level.
- The proposed internal driveways would remain flood free during all flood events up to and including the PMF.
- The proposed development would have minor offsite impacts on southern and western properties.
- Site evacuation would be available during the 1% AEP and PMF flood events via site egress.

The report concluded with various recommendations in response to the findings, including a recommendation to undertake earthworks at the site to address the unacceptable off-site flood impacts during the 1% AEP and PMF events. The Department is concerned that future earthworks required to offset the identified unacceptable flood impacts would result in incongruous landscape impacts that are inconsistent with the scenic and rural character of the land.

The Department is of the view that should the Panel issue an SCC for the subject land, further information is required at the development application stage to demonstrate that flooding could be appropriately managed in a way that does not require excessive earthworks that are incongruous with the rural landscape. This may require a reduction in the built upon area and the total number of dwellings.



In addition, the application would need to address the recommendations contained to the Preliminary Flood Assessment. Consultation with the NSW State Emergency Services on the proposed emergency response is to be resolved by the consent authority at the development application stage.

### Geotechnical

A Desktop Geotechnical Assessment has been prepared by Martens and Associates Pty Ltd for the SCC application (**Attachment A11**). The report states that the site is suitable for the proposed development from a geotechnical perspective, subject to recommendations concerning footing, foundations, earthworks and drainage and the results of a future geotechnical assessment.

The Department is of the view that should the Panel issue an SCC for the subject land, the applicant must undertake further investigations to address the report's recommendations in light of the potential land slip risk in the area.

### Land Contamination

A Preliminary Site Investigation has been prepared by Martens and Associates Pty Ltd (**Attachment A12**) for the SSC application. The report found no notices for Terrey Hills under the *Contaminated Land Management Act 1997*, the *Environmentally Hazardous Chemicals Act 1985* or on the list of NSW contaminated sites notified by the Environment Protection Authority (EPA).

Notwithstanding this, the report determined that the site is considered to have a risk of widespread and hotspot contamination. This is because there are potential contaminants in the form of asbestos, pesticides and heavy metals at the site due to the previous construction, use and maintenance of the site. An existing shed and stable at the site may have stored fuels, oil and other chemicals, leading to hydrocarbon contamination.

Additionally, fill may have been imported as a result of the construction of the dwelling, stables and paddock, introducing contaminants such as heavy metals, hydrocarbons and asbestos. Further assessment and a detailed site investigation are required to determine the risk to human health and the environment prior to development of the site.

The Department considers should the Panel issue an SCC for the subject land, the applicant must undertake further assessment at the development application stage to demonstrate that potential contamination at the site can be appropriately managed.

### Bushfire

The site is located close to 'Category 1', 'Category 2' and 'Buffer' bushfire prone land. As discussed, the cumulative impact on bushfire safety, including safe evacuation from the locality, has been not addressed satisfactorily..

The Transport and Traffic Planning Associates (TTPA) report (**Attachment A13**) provides an assessment in relation to clause 27(2)f & g of the SEPP and provides the road network and the capacity of the roads are sufficient to provide for an emergency evacuation circumstance. The report notes that the site is situated 900m from Mona Vale Road and provides immediate access to the high capacity arterial road available for emergency egress in the case of a bushfire event. The report does not detail the evacuation route from Mona Vale Road and does not provide a Bushfire Management Plan.

- (ii) ***the impact that the proposed development is likely to have on the uses that, in the opinion of the relevant panel, are likely to be the future uses of that land (clause 25(5)(b)(ii))***

The site is zoned 'RU4 Primary Production Small Lots' which encourages the use of the land for primary industry enterprises while maintaining the rural and scenic character of the surrounding area. The site contains a residential dwelling, associated shed structures and considerable vegetation.



The Department considers that the current condition of the site contributes highly to the rural and scenic character of the area.

While it is acknowledged that the site directly adjacent to the north (83 Booralie Road, Terrey Hills) contains a senior housing development, each of the sites directly adjacent to the south, west and north-west contain extensive rural and scenic character, which is representative of the area's RU4 zoning and the current and intended future character of Terrey Hills.

The proposed development is not considered to be compatible with the predominant future uses and character of the RU4 zoned land in Terrey Hills and the surrounding area.

The proposed development is also inconsistent with various local character priorities contained to the Northern Beaches LSPS, comprising:

- *Priority 3: Protected scenic and cultural landscapes.*
- *Priority 4: Protected Metropolitan Rural Area.*
- *Priority 17: Centres and neighbourhoods designed to reflect local character, lifestyle and demographic changes.*

With regard to Priority 4, the Northern Beaches LSPS seeks to protect metropolitan rural areas from incompatible development. This priority also supports State level directions in the North District Plan that seek to avoid housing growth in metropolitan rural areas. This is a key reason the Seniors Housing SEPP was amended on 29 July 2020 to no longer apply to land identified on the metropolitan rural areas exclusion zone map.

However, as the subject SCC application was lodged before the commencement of this amendment the Seniors Housing SEPP still applies in this instance and allows the consideration of the SCC application as it is captured by savings and transitional provisions.

As previously identified, the site is located within a metropolitan rural area. Construction of the proposed development at the site would therefore conflict with various priorities and directions contained in local and State strategic plans that seek to protect metropolitan rural land from incompatible development.

**(iii) *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 (clause 25(5)(b)(iii))***

## **Public Transport**

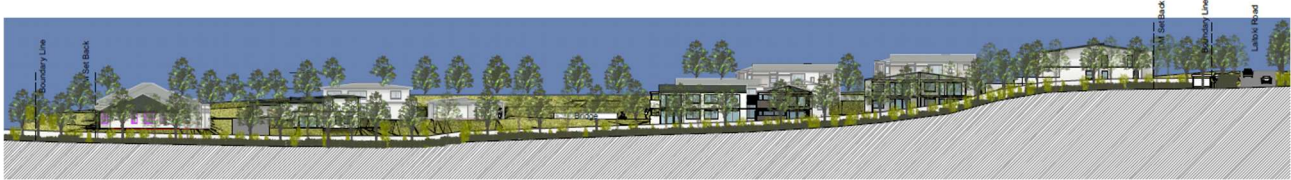
A Road and Public Transport Infrastructure Assessment has been prepared by TTPA for the SCC application (**Attachment A13**). The report outlines that a bus stop is located within 400m to the north of the site on Booralie Road. This bus stop services the 284-bus route, which comprises services between Duffys Forest and Terrey Hills and Chatswood, and services between Chatswood to Terrey Hills and Duffys Forest. There are other bus stops located along Myora Road that also service alternative routes. However, these bus stops in excess of 400m from the site.

A Social Impact Assessment has been prepared by Judith Stubbs and Associates for the SCC application (**Attachment A14**). The report outlines that the site relies upon public transport services to access shops and services. However, as previously discussed, the application fails to demonstrate convenient pedestrian access between the proposed development, Laitoki Road and the nearest bus stop on Booralie Road.

Residents living in the houses at the rear of the site would have a total route that is beyond 400m in length to access the bus stop. Their route to the bus stop could also be particularly challenging due to the steep gradients in the site and on Laitoki Road.

The applicant has not provided analysis to demonstrate compliance with Clause 26(2)(a) of the Seniors Housing SEPP. Gradients in the site are shown in **Figure 15**, with dwellings at the eastern edge of the site positioned significantly higher than houses at the western edge.

The proposed development has therefore not demonstrated that residents would have satisfactory access to public transport.



**Figure 15:** South Elevation of The Proposed Development Showing Site Gradient from Eastern Edge to Western Edge (Source: Playoust Churcher Architects)

### Services and Facilities

The Social Impact Assessment prepared for the SCC application (**Attachment A14**) outlines that the Terrey Hills Shopping Centre is located approximately 1.2km driving distance from the site and contains a variety of retail and commercial services including a chemist, post office, small supermarket, eateries, bakery, fruit and vegetable market and medical centre.

The Terrey Hills Shopping Centre is also accessible via a bus service from Booralie Road. However as previously noted, compliance with pedestrian access gradients to this bus stop has not been demonstrated.

The applicant has also stated that the proposed development would have in place prior to occupation a service agreement for the provision of services such as meals, cleaning services, personal care and nursing care to meet the requirements of the Seniors Housing SEPP that the units be developed as serviced self-care housing. While this would address some needs, the site does not have convenient pedestrian access to a range of services as it is on the fringe of an urban area.

### Infrastructure

A Preliminary Servicing Assessment has been prepared by Martens and Associates for the SSC application (**Attachment A15**). Their findings indicate that:

- Sydney Water has existing spare capacity to provide domestic water to the development.
- It was not known if there is supply for firefighting purposes from the Sydney Water main.
- It appears that the site is currently connected to a Sydney Water reticulated sewer service located in Laitoki Road.
- It is not known if the downstream sewer and pumping station have sufficient capacity to service the site and the feasibility from Sydney Water recommends further modelling.
- A site inspection confirms the presence of existing electricity infrastructure in the form of overhead cables and associated poles. It is reasonable to expect electricity will be available subject to a detailed design of the existing supply network.
- Gas can be supplied to the site subject to detailed design and review at the design stage of the development.
- Construction of the National Broadband Network (NBN) is due to commence soon and likely finished prior to the completion of the proposed development.
- There are existing Telstra services within the Cooyong and Laitoki Road reserves adjacent to the site, however, it is not known if there is sufficient capacity.

The Department considers that although some further studies are required, it is reasonable to expect that any future development would be able to be serviced by required infrastructure.

## Traffic, Parking and Internal Access

A Traffic and Parking Assessment has been prepared by Varga Traffic Planning Pty Ltd for the SCC application (**Attachment A16**).

The report notes that the proposal is anticipated to generate approximately 22 vehicle trips per hour over existing conditions during commuter peak periods. The report also indicates that the cumulative traffic flow on Laitoki Road is expected to be around 65 vehicle trips per hour during the PM weekday peak period (which includes the 22 new trips generated by the proposal).

The Department is of the view that the proposed development is anticipated to fall within acceptable traffic limits and would not have unacceptable impacts on the wider road network.

In regard to parking and internal access, the report notes that the proposal would provide on-site parking in excess of the number required under the Seniors Housing SEPP and in accordance with the requirements for parking for persons with a disability as set out in AS 2890.

However, the applicant has not provided analysis to demonstrate compliance with AS 2890, as the proposed parking spaces appear to be too small to satisfy the dimension requirements of AS 2890. The report also notes that the proposed development provides an internal roadway that allows vehicles including trucks up to 8.8m to turn safely within the site and to allow these vehicles to enter and exit the site in a forward direction at all times. However, the application does not include sufficient analysis, including swept paths, to demonstrate this outcome.

The Department is of the view that should the Panel issue an SCC for the subject land, the applicant must undertake amendments to the proposed development to ensure compliance with the parking requirements of the Seniors Housing SEPP, including compliance with AS 2890.

In addition, further assessment at the development application stage is required to demonstrate that trucks can enter and exit the site in a forward direction at all times.

**(iv) *in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development (clause 25(5)(b)(iv))***

N/A. The site is privately owned, zoned 'RU4 Primary Production Small Lots' and not for public use.

**(v) *without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development (clause 25(5)(b)(v))***

The site is in an area with a built form that is predominately low-density and characteristic of 1-2 storey detached dwellings and rural outbuildings. The proposed development seeks to construct buildings at the site that contain a one to two storey building height. The Department considers the proposed heights are consistent with the development standards as outlined by the Seniors Housing SEPP.

However, the density of the proposed development emulates a low-rise medium density area which is inconsistent with the predominate low-density landscaped character of the surrounding suburb. While the Department acknowledges that the adjacent site to the north contains 50 seniors housing self-care units, it is not characteristic of the predominant low-density character of the area and should not be relied upon as a precedent for future development.

In addition, it is considered that the existing equestrian facility on the adjacent site to the south would generate adverse noise, odour and dust impacts on the proposed development at the site. The proposal at the site is therefore seen to conflict with surrounding RU4 development and out of character with the predominant character of the surrounding area. The potential future uses of the RU4 zoned land surrounding the site could include a range of small scale agricultural pursuits that may conflict with the development should it proceed.



- (vi) ***if the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the Native Vegetation Act 2003—the impact that the proposed development is likely to have on the conservation and management of native vegetation (clause 25(5)(b)(vi))***

N/A. This subsection is not applicable as the *Native Vegetation Act 2003* was repealed on 25 August 2017 and replaced by the *Biodiversity Conservation Act 2016*. Biodiversity impacts relating to the proposed development have been discussed throughout this report and are a significant concern.

- (vii) ***The impacts identified in any cumulative impact study provided in connection with the application for the certificate (clause 25(5)(b)(vii))***

The SCC report (**Attachment A1**) included a cumulative impact study, which is based on findings provided within the Road and Public Transport Infrastructure Assessment (**Attachment A13**), Social Impact Assessment (**Attachment A14**) and Preliminary Servicing Assessment (**Attachment A15**) accompanying the SCC application. The cumulative impact study notes the following:

- The proposed development would add 62 additional people to Terrey Hills, equating to an approximate 2% increase to the total population of the suburb.
- The cumulative impact of the proposed development and existing/approved seniors development would add 263 people to Terrey Hills. The proposed development equates to 24% of this total figure.

The cumulative impact study concluded that the cumulative impact of the proposal on surrounding infrastructure, services and public transport is acceptable. While the Department agrees that the cumulative impact of the proposed development on surrounding infrastructure, services and public transport is anticipated to be generally acceptable, resident access to the surrounding public transport services is a considerable concern and not supported.

As previously discussed, this is because access to the nearest bus stop on Booralie Road is unacceptable. Residents living in the houses at the rear of the site would have a total route that is beyond 400m in length to access the bus stop. Their route to the bus stop could also be particularly challenging due to the steep gradients in the site and on Laitoki Road. The applicant has not provided analysis to demonstrate compliance with Clause 26(2)(a) of the Seniors Housing SEPP.

Further, detail has not been provided to demonstrate evacuation management in the event of a bushfire. The application advises that clause 27(2) of the SEPP will form part of the information accompanying the development application.

## 4. Conclusion

Based on the detailed assessment in Section 3.3 of this report, the Department is of the view that:

- The site of the proposed development is not suitable for more intensive development as proposed, having had regard to the criteria specified in clause 24(2)(a); and
- The proposed development is not compatible with the surrounding environment and land uses, having had regard to the criteria specified in clause 25(5)(b).

In summary, this is because the Department has determined that:

- The proposed development would result in the removal of 149 trees from the site. Of these, 70 are a higher value category and include parts of the Duffys Forest threatened ecological community. This substantial tree loss to support more intensive development at the site has not been adequately justified and is avoidable.
- The proposed development conflicts with surrounding RU4 development and is out of character with the predominant low-density landscaped character of the surrounding area.

- Construction of the proposed development at the site would be inconsistent with various priorities and directions contained to local and State strategic plans that seek to protect metropolitan rural land from incompatible development.
- The application fails to demonstrate convenient pedestrian access between the proposed development, Laitoki Road and the nearest bus stop on Booralie Road. Residents living in the houses at the rear of the site would have a total route that is beyond 400m in length to access the bus stop. Their route to the bus stop could also be particularly challenging due to the steep gradients in the site and on Laitoki Road.
- The proposed development is inconsistent with various priorities contained to the Northern Beaches Local Strategic Planning Statement that seek to protect biodiversity, scenic and cultural landscapes, metropolitan rural areas and local neighborhoods.
- The cumulative impacts of the proposed development on bushfire safety, including safe evacuation from the locality, is unresolved and inconsistent with Planning for Bushfire Protection Policy 2019.
- Future earthworks required to offset the identified unacceptable flood impacts could result in incongruous landscape impacts that are inconsistent with the scenic and rural character of the land.

## 5. Recommendation

The Department considers that a SCC should not be issued for the subject Land. This is on the basis that the proposed development does not meet the criteria specified in clause 24(2)(a) and clause 25(5)(b) of the Seniors Housing SEPP. It is therefore recommended that the Sydney North Planning Panel:

- **Considers** the findings and recommendations of this report.
- **Notes** the applicant's SCC package (**Attachment A1 – A16**).
- **Notes** the comments by Council on the SCC application under clause 25(5)(a) of the Seniors Housing SEPP (**Attachment C**).
- **Determines** that the application for a SCC under clause 25(4) be refused.

Recommended by:

**Jarred Statham**

**Planning Officer, Agile Planning and Programs**

**Christina Brooks**

**Planning Officer, Eastern Harbour City**

Endorsed by:

**Charlene Nelson**

**Manager Place and Infrastructure,  
Eastern Harbour City**



**Eva Stanbury**

**Acting Director,  
Eastern Harbour City  
North District**



**Malcolm McDonald  
Executive Director, Eastern Harbour  
City**

## Attachments

Attachment	Document
<b>A1 - A16</b>	Applicant's SCC Package
	Attachment A1 – Site Compatibility Certificate Report
	Attachment A2 – Application Form
	Attachment A3 – Site Survey Plans
	Attachment A4 – Architectural Plans
	Attachment A5 – Landscape Concept Plans
	Attachment A6 – Arboricultural Impact Assessment
	Attachment A7 – Environmental Assessment
	Attachment A8 – Preliminary Site Stormwater and Flooding Constraints Assessment
	Attachment A9 – Preliminary Flood Assessment
	Attachment A10 – Preliminary Watercourse and Riparian Assessment
	Attachment A11 – Desktop Geotechnical Assessment
	Attachment A12 – Preliminary Site Investigation
	Attachment A13 – Road and Public Transport Infrastructure Assessment
	Attachment A14 – Social Impact Assessment
	Attachment A15 – Preliminary Servicing Assessment
	Attachment A16 – Traffic and Parking Assessment
<b>B</b>	Site Map
<b>C</b>	Council Comments
<b>D</b>	Determination Letter to Council
<b>E</b>	Determination Letter to Applicant