
**Report to the Secretary on an application for a Site Compatibility Certificate
State Environmental Planning Policy (Housing for Seniors or People with a
Disability) 2004**

SITE

The site is known as the Bayview Golf Club and legally described as Lot 1 DP 662920, Lot 6 DP 45114 and Lot 1 DP 19161, Cabbage Tree Road, Bayview (refer to **Figure 1**).

The applicant is not seeking development of the entire Bayview Golf Club site for seniors housing purposes, and in this regard has nominated a two (2) hectare (approximately) development footprint within the north-western portion of the site (refer to **Figure 2**). The applicant has requested that the SCC, if issued, specify that seniors housing is only to be permitted within this nominated development footprint.

APPLICANT

Waterbrook Bayview Pty Ltd C/- JBA Urban Planning Consultants Pty Ltd

PROPOSAL

Seniors housing development comprising 7 buildings of 3-4 storeys in height, incorporating 95 in-fill self-care units, ancillary services, facilities and basement parking (**Attachment 1**).

LOCAL GOVERNMENT AREA

Northern Beaches (formerly Pittwater)



Figure 1: Site context (Source: SIX Maps 2016)



Figure 2: Proposed development footprint (Source: Six Maps)

PERMISSIBILITY STATEMENT

The site is zoned RE2 Private Recreation under the *Pittwater Local Environmental Plan 2014* (LEP) (Refer to **Figure 3**). Seniors housing is not a permitted land use within the RE2 zone.

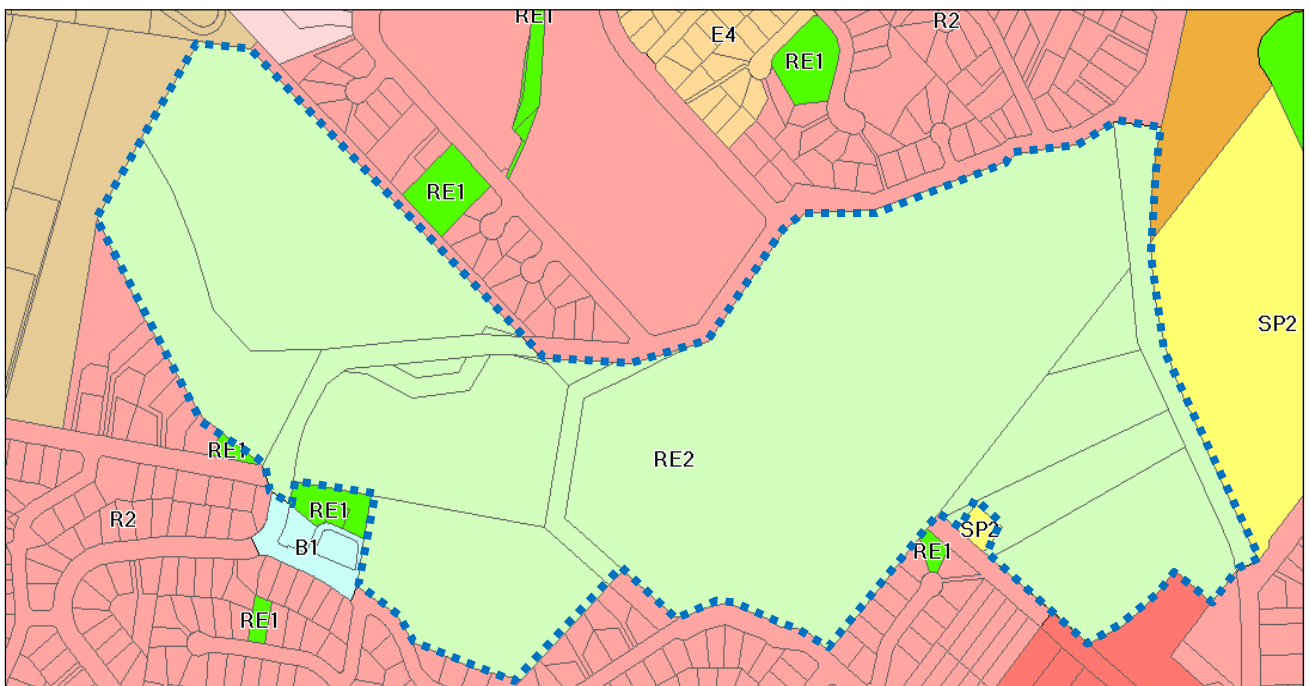


Figure 3: Land Zoning Map (Source: Pittwater LEP 2014)

Development of the site for seniors housing purposes therefore requires a site compatibility certificate (SCC) under clause 24 of *State Environmental Planning Policy (Housing for Seniors or*

People with a Disability 2004 (Seniors Housing Policy). The provisions under clause 4 of the Seniors Housing Policy provide that a SCC can be issued for the site because:

- The land is being used for purposes of an existing registered club (clause 4(1)(b));
- The site adjoins land to the north and south that is primarily zoned for urban purposes, being R2 Low Density Residential zoned land (refer to **Figure 3** on the previous page) (clause 4(5)(b)); and
- The land to which the SCC applies is not covered by any of the exclusions listed in Schedule 1 of the SEPP (this is discussed more below).

Environmentally Sensitive Land

Schedule 1 of the Seniors Housing Policy confirms which land meets the definition of 'environmentally sensitive land' in accordance with clause 4(6) of the SEPP. Environmentally sensitive land is to be excluded from having a SCC issued over it. Schedule 1 lists, amongst others, land identified as floodway, high flooding hazard and natural hazard under an Environmental Planning Instrument (EPI) as being 'environmentally sensitive land'.

The golf course site does contain land that is subject to flooding and geotechnical hazards. Due to these constraints the applicant has nominated a two (2) hectare development footprint within the north-western portion of the site. The applicant has requested the SCC to specify that seniors housing is only to be permitted within this nominated development footprint.

The Pittwater LEP 2014 does not identify floodway or high flood hazard land, nor does it contain flood mapping. It is noted that Council's adopted flood study for the local area, being the *Mona Vale Bayview Flood Study (2002)*, does identify land within the site as being below the flood planning level. This study does not identify floodway or high flood hazard land. In this regard, the identification of the site under Council's adopted flood study, does not meet the definition of 'environmentally sensitive land' under the Seniors Housing SEPP and a SCC could be issued. This approach is consistent with other SCCs which have been issued by the Department for sites that have contained flood prone land (**Attachment 6**).

In regard to natural hazards, the Pittwater LEP 2014 identifies 'geotechnical hazard land' and includes heads of consideration provisions for when proposing development on this land. The Pittwater LEP does not define this 'geotechnical hazard land' as a 'natural hazard'. However it is recognised that it could be interpreted to meet the definition and/or intent of 'natural hazard' under the Seniors Housing SEPP.

The Bayview Golf Club site includes land mapped as 'geotechnical hazard land' under the Pittwater LEP 2014 (refer to **Figure 4** on the following page). The applicant's nominated development footprint however, does not include land mapped as geotechnical land and has welcomed the Department to confirm on the SCC, if issued, that it does not apply to land mapped as 'geotechnical hazard land'. A copy of this map is provided under **Attachment 7**, and should be enclosed with the SCC, if issued.

Despite this nominated footprint, this assessment refers to the site being the whole golf course site.

BACKGROUND

The Department reviewed a SCC application for the site in January 2015 and determined to not issue a SCC based on site specific merit concerns. The key issues raised under the 2015 review included:

- Incompatibility with the character (bulk and scale) of the local area
- Insufficient evidence to confirm flooding was not a significant constraint for seniors housing on the site

- Limited evidence to address the direct and indirect impacts for existing flora and fauna and an adjacent wildlife corridor.

In response to this determination, the applicant has revised the concept design and updated the SCC application to address these site specific concerns. This has included:

- Undertaking additional studies to consider the flooding and vegetation characteristics of the site and how these can be managed under a future development scenario;
- a reduction in the bulk and scale of the proposed development;
- a revised footprint to remove development from hazard land; and
- making a commitment to undertaking site rehabilitation and revegetation works throughout the whole golf course site to contribute to wildlife movements and offset any vegetation loss.



Figure 4: Identification of development footprint (Cardno, November 2016)

CLAUSES 24(2) AND 25(5)

The Secretary must not issue a certificate unless the Secretary:

- (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; and*
- (b) *is of the opinion that:*
 - i) *the site of the proposed development is suitable for more intensive development 24(2)(a); 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).*

COMMENTS FROM PUBLIC, COUNCIL AND OFFICE OF ENVIRONMENT AND HERITAGE

Public Submissions

The SCC application was referred to Pittwater Council on 21 March 2016. Council requested an extension to the timeframe for response, which the Department granted.

In the interest of informing its community, Council placed the application on public exhibition and requested that submissions be made directly to the Department. In response to this, the Department received 51 public submissions (39 of these public submissions were made by one (1) individual), a petition with 39 signatures and an assessment by a planning consultant on behalf of local residents. The community raised issues with over development of the site, traffic safety, bulk and scale of the development, impact on endangered flora and fauna, impact on wildlife corridors, adverse impacts on water quality, flooding concerns on the site and geotechnical issues with the land.

Council Comments

On 3 May 2016, following the public exhibition of the proposal, Council provided its response to the Department (**Attachment 2**). Council opposes the issuing of a SCC, based on the following matters:

- permissibility under SEPP: the Seniors Housing Policy cannot apply to the subject site as it meets the definition of 'environmentally sensitive land' under Schedule 1 as it contains floodway, high flooding hazard, and natural hazard;
- assessment site: Council deem the entire Bayview Golf Course site should be considered in the assessment of the subject application;
- proposed restoration works: there is no assurance that the compensatory restoration and enhancement works proposed in relation to the removal of existing vegetation (which includes remnant species) will be undertaken;
- bushfire hazard: the proposed Asset Protection Zones sit outside the development footprint, therefore will result in further existing vegetation removal on the golf course site. Council also noted that the Landscape Plans are inconsistent with the proposed Asset Protection Zones;
- flood hazard: the Flood Risk Assessment report does not consider the most recent flood modelling for the site under the *Draft McCarrs Creek, Mona Vale and Bayview Flood Study (2005)*. There is an overland flow path running through the site, which should be considered as a flood hazard;
- current zoning: seniors housing is inconsistent with the RE2 Private Recreation zone objectives as seniors housing, commercial and retail uses are not permitted land uses within the zone;
- wildlife corridor: the site forms part of a key wildlife corridor, linking Bayview Heights with the Pittwater Waterway;
- vehicular Access: there are issues with the compliance of the proposed development's design in relation to vehicular access point, height and slope; and
- use of existing aged care facilities: the proponent is reliant on existing aged care facilities, which Council deem is not a desired development outcome in the local area.

Office of Environment and Heritage

The Office of Environment and Heritage (OEH) reviewed the former SCC application for the site and provided comments that additional work was required to accurately quantify the potential direct and indirect impacts on flora and fauna as a result of developing the site for seniors housing.

The issues raised by OEH generally relate to matters that can be addressed / reviewed further at the detailed design and development application stage. In this regard, it was not considered necessary that the current SCC be referred back to OEH for comment.

The issues raised in the public submissions, by Council and OEH have been addressed below in consideration of the matters listed under clauses 24(2) and 25(5) of the Seniors Housing SEPP.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The Secretary must not issue a certificate unless she is of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2)(a)):

1. The site of the proposed development is suitable for more intensive development (clause 24(2)(a))

The site is located within an existing urban area and within 2 kilometres of the Mona Vale commercial centre. The site has been developed and used as a golf course and registered club since the early 1920's. The proposed development forms part of a wider revitalisation strategy / master plan for the Bayview Golf Club site, which will continue to operate as an 18-hole golf course (**Attachment 3**).

The land within the nominated two (2) hectare development footprint gently slopes from the north-west to south-east, with steeper slopes in the southern portion of the site, and is predominantly free of flood and bushfire hazard land. Remnant forest vegetation sits within the site. This vegetation has predominantly been identified to be retained under the future development scenario. There is also significant opportunity to undertake rehabilitation and revegetation works throughout the entire golf course site to offset any loss of habitat.

The site is serviced by all essential utility infrastructure and the nominated development footprint fronts Cabbage Tree Road, which is a two way single lane roadway. There is a dedicated pedestrian pathway along this roadway on the opposite side of the site. This Council owned roadway provides direct access to Pittwater Road in the east, which is a major collector roadway that links the wider urban areas to the Mona Vale town centre and wider commercial hubs.

The information submitted under the SCC application, together with comments provided by Council's flooding engineers (discussed further below), confirms that the land may be suitable for more intensive development subject to an appropriate design response.

The site is considered to be suitable for more intensive development.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES

The Secretary must not issue a certificate unless she is of the opinion that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regards to the following criteria (clause 25(5)(b)):

1. 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))

The key site attributes and constraints are listed below and discussed in the context of a proposed seniors housing development on the land. Other matters considered under this SCC are outlined under **Attachment 4**.

Flora and Fauna

Despite the land being used as a golf course, it contains pockets of remnant vegetation and forms part of an identified wildlife corridor.

The ecological significance of the land has been surveyed under the former SCC application for the site, by Footprint Green, and again in 2015 by Anne Clements & Associates Pty Ltd in association with the current SCC application. Both of these assessments determined that clearing within the proposed development footprint is unlikely to have a significant impact on threatened species and populations listed in the schedules of the *Threatened Species Conservation Act 1995* and *Environmental Protection and Biodiversity Conservation Act 1999*.

The ecological assessment prepared by Anne Clements & Associates Pty Ltd recognises that the loss of vegetation onsite, due to accommodating the seniors housing development, any associated roadways and bushfire hazard protection areas would have some impact on wildlife movements across the site.

In this regard, the proposal has committed to undertaking further detailed studies and significant restoration and planting works across the whole golf course site to offset the loss of any vegetation and achieve an overall enhancement of environmental sustainability and improved habitat linkages. There are also opportunities for a biobanking offset strategy to be entered into if required.

This additional study and offset strategy would need to be confirmed under any future development application for revamping the whole golf club site and/or seniors housing development proposal.

Flooding

The site is identified to be impacted by flood under Council's *Mona Vale Bayview Flood Study (2002)*. A more recent draft flood study, being the *Draft Mona Vale, Bayview, and McCarrs Creek Flood Study Review (2015)*, has been prepared on behalf of Council and confirms the overland flow paths across the land.

A preliminary flood impact review has been undertaken for the site by Cardno which concludes that land within the proposed development footprint is above the flood planning level, and that only access routes to the development site would be subject to flood risk. The Cardno report concludes that given the land is above the flood planning level and that flood waters are predicted to retreat within less than 24 hours, it would be suitable for seniors and staff to remain on site during significant flood events. It is recognised that this may not be determined suitable however at detailed design stage, and in which case alternative emergency access arrangements would need to be considered. This may include investigating the provision of secondary access routes into the site. Council's flooding engineer has also provided comments that the site contains land suitable for seniors housing development (**Attachment 5**).

The Cardno report recognises that works to existing drainage / overland flow pathways as part of undertaking the seniors housing development and wider golf course restoration works will change and are intended to improve flooding behaviour / flow of water across the land.

Should a SCC be issued, further review could be undertaken by the proponent and Council to ensure flood risk is appropriately managed. This would include reviewing the flood risk levels for the site, flow paths and preparing appropriate evacuation design responses.

Flooding is not considered to be a constraint that would preclude use of the site for seniors housing.

Bush Fire Risk

The north – western corner of the proposed development footprint is mapped as being within a bushfire prone buffer area (refer to **Figure 5** on the following page).

Seniors housing is a 'sensitive use' under the *Rural Fires Act 1997*, requiring the referral of a development application to the RFS under the integrated development provisions. The development would need to comply with the Special Fire Protection Purpose controls under *Planning for Bushfire Protection 2006*.

A bushfire impact assessment has been submitted with the SCC application, which concludes that appropriate setbacks and Asset Protection Zones can be accommodated within the site to address bushfire risk.

This assessment provides a level of satisfaction that bushfire is not a constraint on the land that should preclude consideration of the site for seniors housing development.



Figure 5: Bushfire prone land map (Source: Pittwater Council Bushfire prone land map)

2. The impact that the proposed development is likely to have on the uses that are likely to be the future uses of that land (clause 25(5)(b)(ii))

The site is zoned RE2 Private Recreation under the *Pittwater Local Environmental Plan 2014* and has been used as a golf course and registered club since the early 1920's.

The SCC application has been made on the claim that the Bayview Golf Club is currently in administration and the future of the club is uncertain unless additional funding can be secured.

The proposed seniors living development forms part of the Bayview Golf Club's restoration / master plan for the whole site. This project is intended to rehabilitate and revamp the site and in turn generate funding which would allow continued club operations.

The proposed seniors housing development and wider site rehabilitation works are considered to be consistent with the objectives of the RE2 Private Recreation zone, which seek to facilitate a range of recreational uses, whilst protecting and enhancing the natural environment.

3. 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))

Retail, community and medical services

The Mona Vale town centre is located approximately 2km to the south east of the site. This centre provides a range of retail, community and recreational facilities including supermarkets, eateries, retail, library, post office, motor registry and banking. Other commercial centres, including the Warriewood Square, are also located within 5km of the site and provide similar services.

The Mona Vale Hospital is located approximately 2.5km from the site and provides community health services, dental, podiatry, rehabilitation and aged care services. It is planned that this hospital will continue to be used for a range of health services once the Northern Beaches Hospital commences operation. There are also a number of general practitioners and specialised health consultants located throughout the surrounding commercial centres.

A range of on-site social and recreational facilities are also proposed under the SCC application and will contribute to livability within the development site.

Transport services

Residents on the land will have access to regular bus services. A bus stop is located on Annam Road within 260 metres of the site. There are 13 services running from 6am to 6pm that access this bus stop and will transport residents to local commercial centres, including Manly. The SCC application indicates that slopes to this bus stop are less than 1:14.

The available public services comply with the requirements of Clause 26 of the Seniors Housing SEPP in terms of proximity and frequency.

Infrastructure Provision

The site is serviced by all essential utility infrastructure. Council has not raised any concerns regarding the capacity of these services.

It is considered that matters regarding provision, capacity and/or augmentation of services can be investigated at detailed design / DA stage.

4. 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))

The site is zoned RE2 Private Recreation and is currently being utilised as a registered club.

The recreational facilities are privately owned, though public use is available at a fee. Future development on the site will not impact on the provision of public open space or special use land.

5. 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 proposed concept plan includes seven (7) multi storey buildings, which will accommodate up to 95 self-care units. The building heights range from three (3) to four (4) storeys.

The proposed central facilities building include ancillary services and facilities for residents, such as a restaurant, café, meeting rooms, business centre, technology centre, main reception and basement level car parking.

The bulk, scale built form and character of the proposed development contrasts with the existing surrounding character of Bayview, which is predominately single detached housing with a maximum of two (2) storeys. However, the scale of the proposed development is consistent with other seniors housing developments throughout the Northern Beaches (former Pittwater) Local Government Area and will be significantly screened from surrounding land uses, given its location within the golf course site.

6. 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))

The land is located in an established urban area and is zoned for private recreational purposes. The *Native Vegetation Act 2003* does not apply to urban areas. Any potential impact on native vegetation can be considered through the DA process.

RECOMMENDATION

It is recommended that the Deputy Secretary, Planning Services as delegate of the Secretary:

- **forms the opinion** that the site of the proposed development is suitable for more intensive development;
- **forms the opinion** that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having had regard to the criteria specified in clause 25(5)(b);
- **determines** the application for a site compatibility certificate under clause 25(4)(a) by issuing a certificate; and
- **signs** the letters to the applicant and council advising of this determination.

Endorsed by:

Martin Cooper
Acting Director, Sydney Region East

Stephen Murray
Executive Director, Regions