

**Report to the Secretary on an application for a site compatibility certificate.
State Environmental Planning Policy (Affordable Rental Housing) 2009**

SITE: The site is at 21A Tucks Road, Toongabbie (Lot 2 DP 1129995) (**Figure 1**). It has an area of 4864m², is regular in shape and has road frontages to Tucks Road and Rausch Street. The site contains tennis courts, which are not in use, minor shade structures and a car park associated with the tennis courts. The site is zoned R2 Low Density Residential.



Figure 1: Aerial photo of immediate locality (July 2018) (source: Nearmap).

APPLICANT: Community Housing Ltd

PROPOSAL: The proposal seeks approval for a site compatibility certificate (SCC) under State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP) to enable the erection of a residential flat building containing 88 dwellings on the subject site, which is located in a R2 Low Density Residential zone. The proposal identifies that half of the future dwellings (44) will be provided as affordable housing for at least 10 years and managed by a registered community housing provider.

A reference design (**Attachment H**) has been provided outlining the following potential design outcome for the site:

- two separate four-storey buildings consisting of a total of 88 dwellings;
- a dwelling mix of eight one-bedroom dwellings, 72 two-bedroom dwellings and eight three-bedroom dwellings; and
- basement-level car parking.

LGA: City of Parramatta

CONCURRENT PLANNING PROPOSAL

A planning proposal (**Attachment G**), being considered by City of Parramatta Council for 21 and 21A Tucks Road, Toongabbie (80 dwellings), also applies to the subject site and the property immediately to the north which contains an indoor recreation facility zoned B1 Local Centre (**Figure 2**).



Figure 2: Area subject to a planning proposal

The planning proposal seeks to rezone the entire site to B4 Mixed Use (which would also enable the construction of a residential flat building), increase the maximum permissible floor space ratio (FSR) from part 05:1 and part 1.5:1 to 1.25:1 across the entire site and increase the maximum permissible height of buildings from part 9m and part 12m to part 9m and part 15m (four storeys). A Gateway determination was issued on 10 June 2016 subject to conditions, including reducing the FSR to 1.25:1.

The following provides a summary of the proposed development controls associated with the SCC application and the planning proposal.

Matter	Existing (21A Tucks Road)	SCC proposed (21A Tucks Road)	Planning Proposal (including land zoned B1 at 21 Tucks Road)
Site Area	4864m ²	4864m ²	7428m ²
Zone	R2 Low Density Residential	No change - R2 Low Density Residential	B4 Mixed Use
FSR	0.5:1	1.44:1 (approx.)	1.25:1
Height	9m	12m	part 9m (adjoining low density residential) and part 15m
Indicative number of Dwellings	0	88	81

On 18 September 2018, the Parramatta Local Planning Panel considered the planning proposal. The panel recommended Council not support the planning proposal because:

- the proposal would result in a large increase in the maximum height of buildings;
- the proposal would result in multi-storey residential flat buildings situated away from public transport;
- there is concern about the possibility of the land being subject to flooding; and
- it is considered inappropriate to have higher-density residential development in this location.

On 29 October 2018, Council considered the panel's recommendation. The matter was deferred to enable Council to receive advice from State Government on the Site Compatibility Certificate.

PERMISSIBILITY STATEMENT

Division 5 of the Affordable Rental Housing SEPP enables the construction of a residential flat building in a zone where it would be otherwise prohibited, provided at least 50% of the housing stock is affordable housing managed by a community housing provider. Clauses 34 and 35 of the SEPP outline the requirements to be met for development under Division 5 to be carried out.

Clause 34

The subject site satisfies the requirements of Clause 34 of the SEPP as:

- the land is zoned R2 Low Density Residential under the Parramatta Local Environmental Plan (LEP) 2011. Residential flat buildings are prohibited in this zone;
- the land is in the Sydney region; and
- the property is within 800m of Toongabbie train station (**Figure 3**).

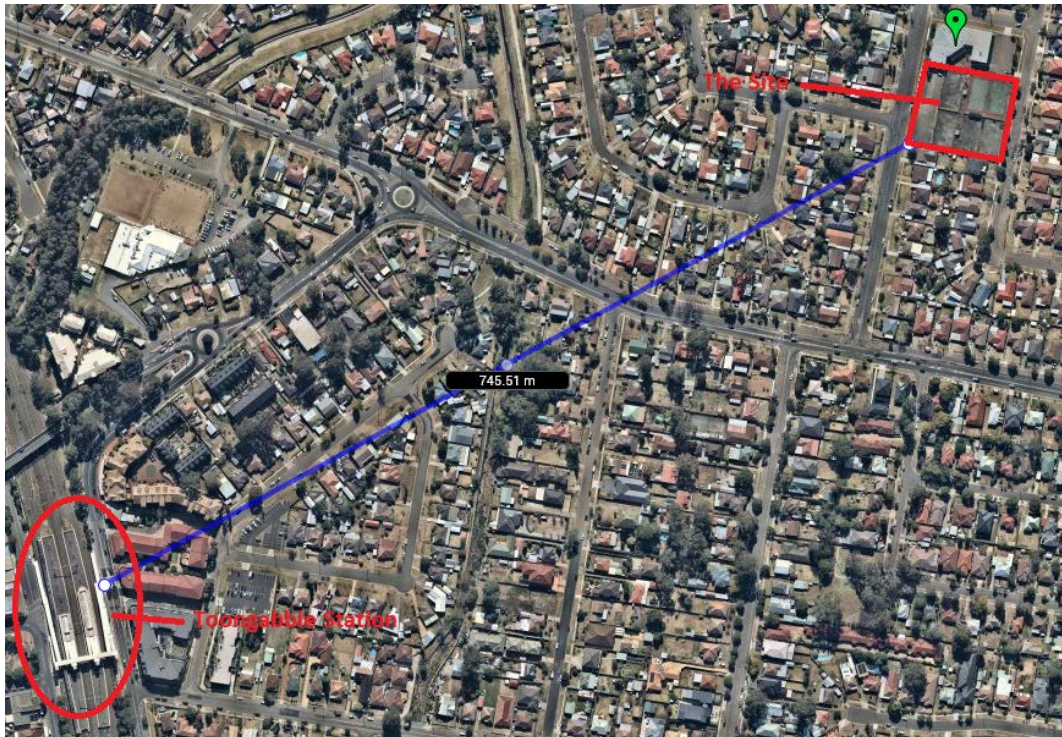


Figure 3: Location of site in relation to Toongabbie train station (source: Nearmap).

There is no requirement in the SEPP for the 800m to be walking distance from the station. The application of a linear distance is consistent with the consideration of other SCC applications under the Affordable Rental Housing SEPP. The Department does note, however, that the site is 1.1km walking distance from the Station via the existing road network.

Clause 35

Clause 35 allows for the development of a residential flat building by or on behalf of a public authority or social housing provider.

The applicant, Community Housing Ltd, is a Tier 1 registered community housing provider. Tier 1 providers generally have large, ongoing development activities at scale and therefore are subject to the highest performance requirements.

AFFORDABLE RENTAL HOUSING SEPP CONSIDERATIONS

Clause 37 of the SEPP outlines the matters that are to be considered in the issuing of an SCC. Provided the criteria established within clause 37 are met, the application is eligible for an SCC that will make a residential flat building permissible in the R2 Low Density Residential zone and enable the lodgement of a Development Application.

Clause 37(1)

An application for an SCC may be made by the owner or another person with the consent of the owner.

The landowner has provided consent for the SCC application to be lodged.

Clause 37(2)

The application must be accompanied with an application form, the relevant supporting documents/plans and the prescribed fee.

The application is consistent with this clause.

Clause 37(3)

The Secretary may request further documents and information to be provided to support the application.

No further documents have been requested in the consideration of this application.

Clause 37(4)

Council must be notified of the application within seven days and invited to make comment.

The application was received on 21 August 2018 and Council was notified of the application on 23 August 2018 and invited to comment. This clause has been satisfied.

Clause 37(5)

The Secretary may determine the application by issuing a certificate or refusing to do so.

It is recommended that the SCC not be issued, which is discussed further in this report.

Clause 37(6)

This clause requires consideration of relevant matters prior to the issuing of the SCC. The matters include consideration of Council comments, the compatibility of the development with the surrounding land uses and likely environmental impacts. Consideration of the relevant matters is outlined below.

COUNCIL COMMENTS – CLAUSE 37(6)(a)

Council provided comments on 6 September 2018 (**Attachment B**) before the Parramatta Local Planning Panel considered the concurrent planning proposal.

Council's comments are summarised below:

- Council's main contention with the SCC application is that Council is progressing a planning proposal that offers a better outcome for the site and locality;
- the scheme proposed in the SCC application presents a higher number of dwellings on a smaller parcel of land with 88 dwellings on 4864m² of land whereas the planning proposal identifies 81 dwellings on 7428m² of land;
- the setbacks identified in the SCC application are much less than those identified in the planning proposal. The SCC scheme is likely to result in greater amenity impacts on current residents due to the reduced setbacks;
- the proposed FSR, being approximately 1.44:1, is greater than the FSR proposed as part of the planning proposal (being 1.25:1), which was conditioned via the Gateway determination;

- the planning proposal offers a public benefit in the form of a roundabout at the intersection of Tucks Road and Fitzwilliam Road via a voluntary planning agreement; and
- Council notes that more than 700 submissions were made in response to notification of the planning proposal. Most submissions objected to the proposal. Council contends that the number of submissions represents significant community interest, which the SCC application is effectively bypassing.

Department comment

The comments from Council focus primarily on the reference design identified in the site compatibility certificate being, in the opinion of Council, inferior to that of the reference design identified in the planning proposal. However, more generally, the comments provided by Council are not supportive of the application for a compatibility certificate as it will likely result in a development which is inconsistent with the local character.

The planning proposal is subject to a separate planning process and will be considered on its individual merit. The Department notes Council's concerns with the proposed density on the site and the relationship with the surrounding locality.

On considering the SCC application, the Department has found that the intended use for the site, as expressed in the reference design, is not compatible with the character of the surrounding locality, being a predominantly R2 low density residential zone. This is discussed further within this report.

COMPATIBILITY WITH SURROUNDING LAND USES (CLAUSE 37(6)(B)(I))

The SEPP requires the current and approved uses of land near the development to be considered when considering if an SCC is appropriate.

Current planning controls

The Parramatta LEP 2011 contains the following controls relevant to the site and surrounding area:

- FSR – 0.5:1 (**Figure 4**)
- height – 9m (**Figure 5**); and
- zone – R2 Low Density Residential (**Figure 6**).

The LEP contains the following controls relevant to the property immediately to the north of the site:

- FSR – 1:5:1 (**Figure 4**);
- height – 12m (**Figure 5**); and
- zone – B1 Neighbourhood Centre (**Figure 6**).

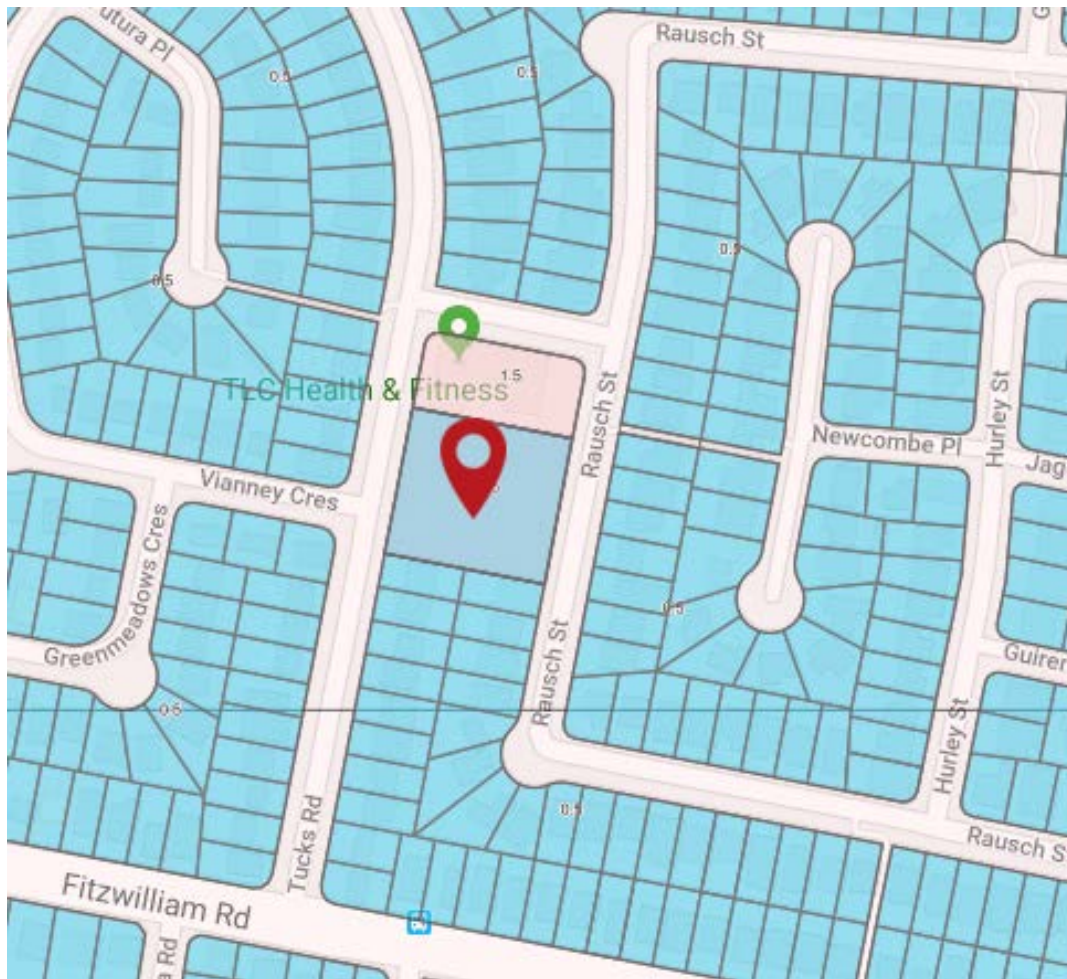


Figure 4: FSR controls with the subject site marked with a red marker (blue = FSR 0.5:1, pink = FSR 1.5:1) (source: NSW Planning Portal).

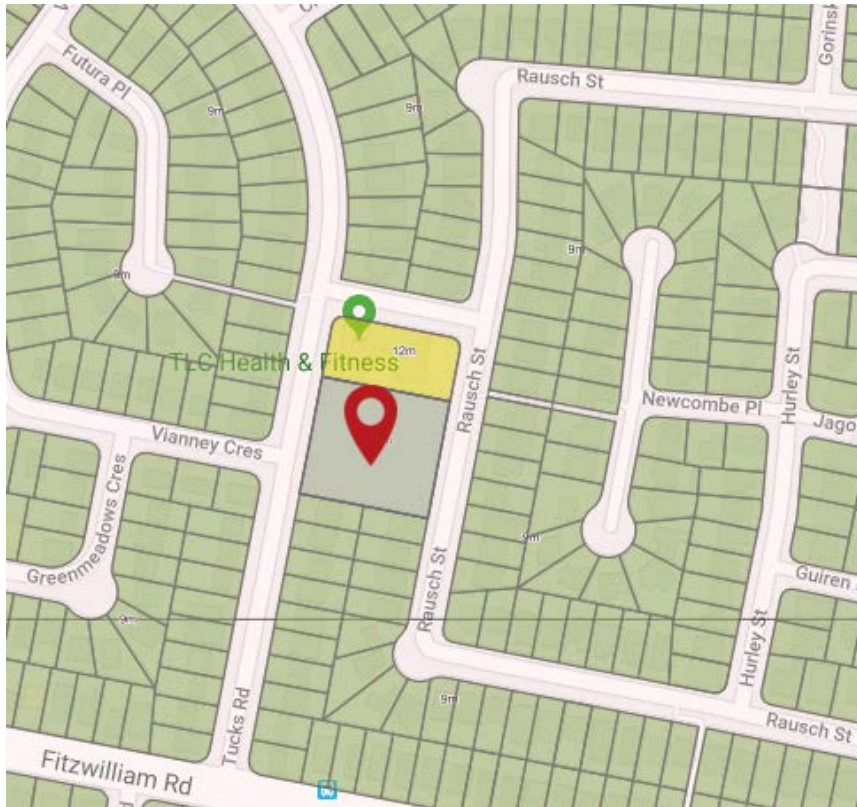


Figure 5: Maximum height of building controls with the subject site shown with a red marker (green = 9m maximum height, yellow = 12m maximum height) (source: NSW Planning Portal).

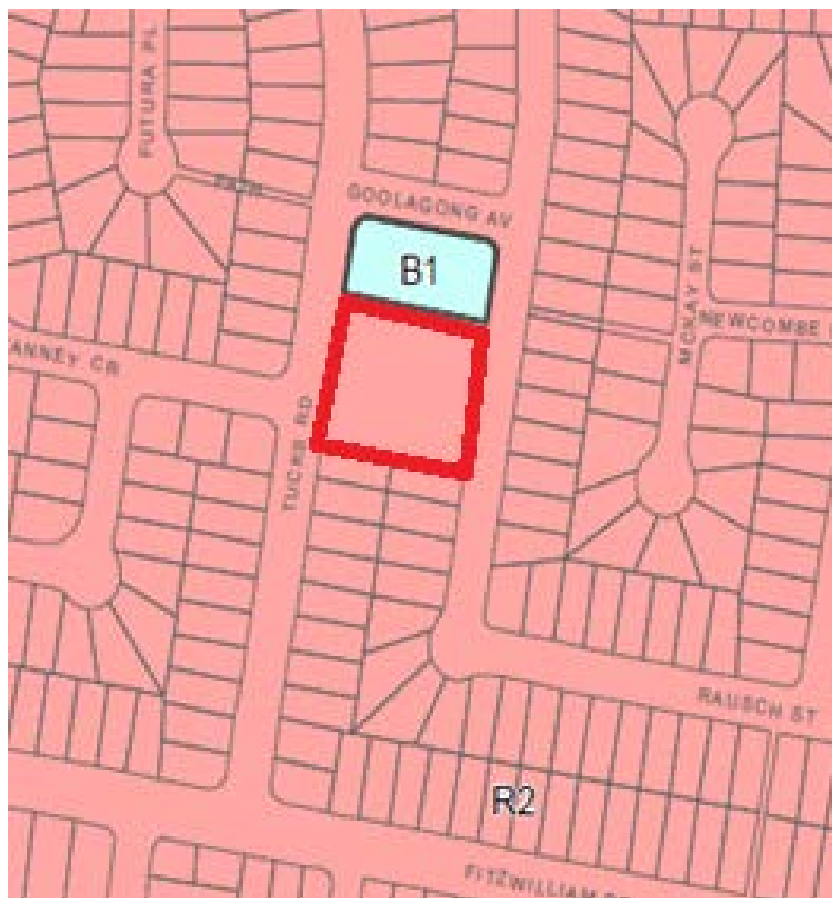


Figure 6: Land zoning with the subject site edged red (source: Parramatta LEP 2011).

The site is located in an area that is predominantly zoned R2 Low Density Residential (**Figure 6**). The R2-zoned land is typically characterised by detached single-storey and two-storey dwellings (**Figures 7 and 8**) with large setbacks to the roads to enable a garden setting.



Figure 7: Photo from southern end of Tucks Road towards the site (source: site inspection).



Figure 8: Photo from northern end of Tucks Road towards the site (source: site inspection).

The road reserves in the locality are typically 20m wide, and there are several street trees and trees on private property, which contribute to the low-density, suburban character of the locality (**Figures 9 and 10**).



Figure 9: Photo of Rausch Street to the west (source: site inspection).



Figure 10: Photo of Tucks Road to the east (source: site inspection).

The site immediately to the north is zoned B1 Neighbourhood Centre. The B1-zoned land contains an indoor recreation facility, which operates as a gym and squash courts. The building containing the recreation facility presents as 2-3 storeys to the public domain (**Figures 11 and 12**). A car park is located on the eastern side of the building to the Rausch Street frontage.



Figure 11: Recreation facility from the north (source: site inspection).



Figure 12: Recreation facility from the south (source: site inspection).

Other commercially zoned land in the locality is limited to a small area of B1 Neighbourhood Centre-zoned land approximately 650m to the east. The area contains a new commercial development consisting of retail and shop-top housing, a supermarket, a service station and other specialty shops. Approximately 600m to the south-west is the local centre of Toongabbie, zoned B2 Local Centre. Toongabbie train station is located within the local centre (**Figure 13**).

Small isolated pockets of RE1 Public Recreation-zoned land are present within the locality, with the closest being 200m to the north-east.

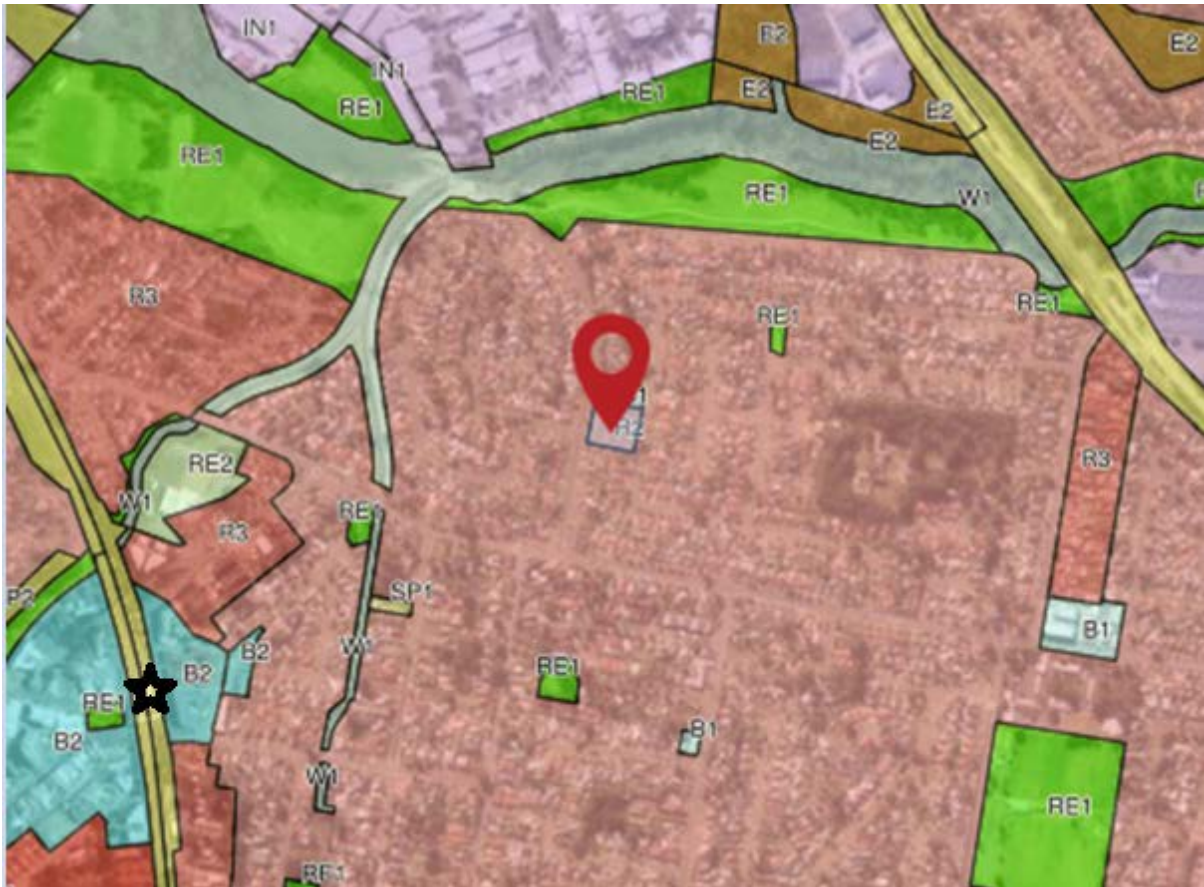


Figure 13: Zoning of wider locality with black star representing location of Toongabbie station (source: NSW Planning Portal).

Department comment

The issuing of a SCC would permit the erection of a residential flat building in the R2 Low Density Residential zone. The LEP defines a residential flat building as:

residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Given that a residential flat building is defined as a building containing three or more dwellings, provided the building is compatible in size and scale with the locality it is not necessarily incompatible with the R2 Low Density Residential zone.

However, the reference design for a residential flat building consists of two separate buildings over a basement parking area (**Figure 14**). The buildings are proposed to face both Tucks Road and Rausch Street, with relatively small front setbacks of 3m to each frontage. The typical setbacks of the low-density dwellings in the locality are approximately 8m.

Each building has a visual presence to the street of 51m in length and 12m in height (over four storeys) which is significant when compared to the existing low-density character of the locality which primarily consists of single storey residential dwellings (**Figures 7-10**).

The reference design has a hard edge to the adjoining residential development and does not transition in heights of setbacks. The reference design has not been able to

demonstrate that it is of a size or scale which is compatible with the character and predominate low density residential uses within the vicinity.

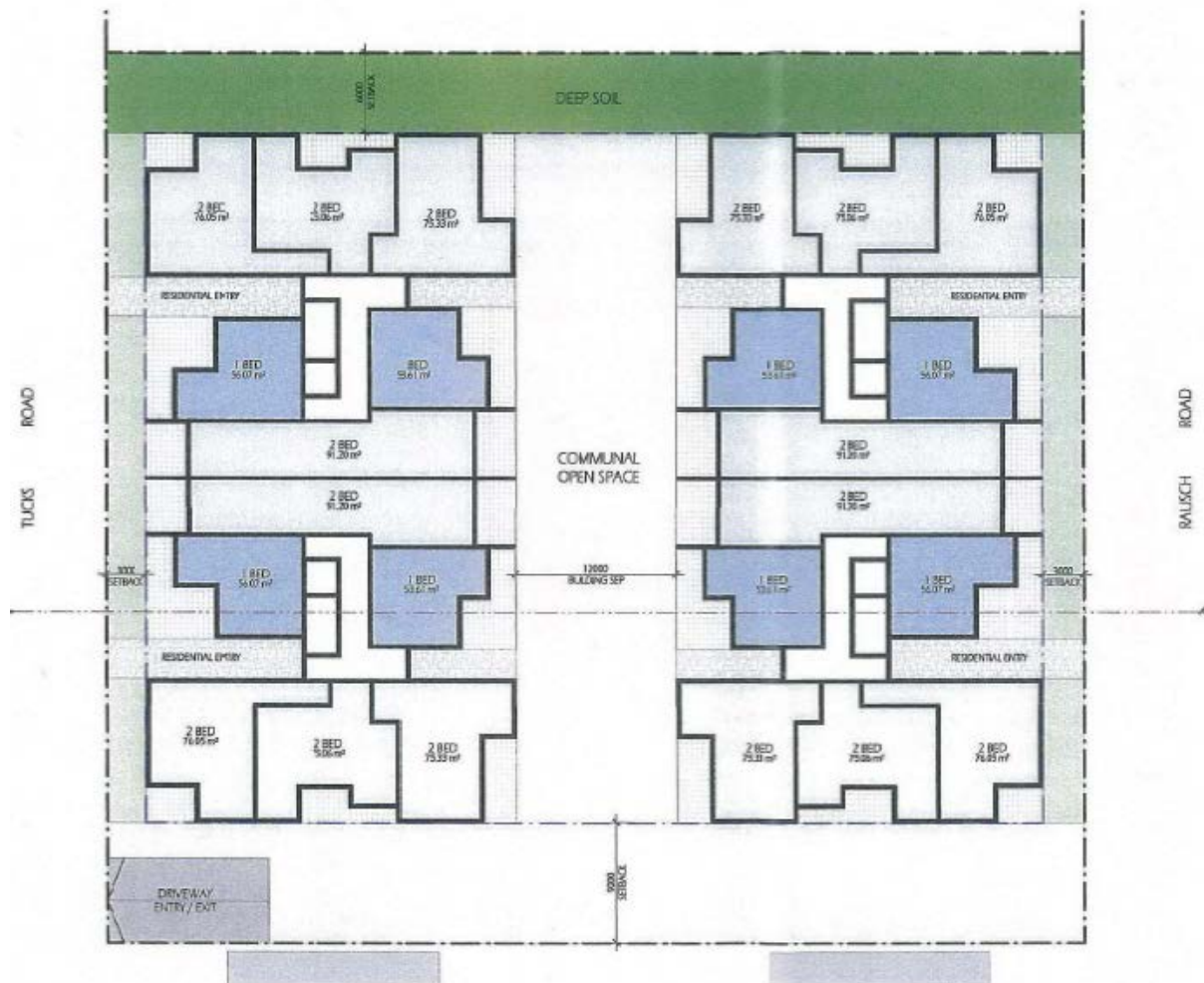


Figure 14: Reference design ground floor plan (source: SCC application)

IMPACT OF DEVELOPMENT ON THE LOCALITY (CLAUSE 37(6)(B)(II))

The Affordable Rental Housing SEPP requires that the likely impact of the development on the locality (existing uses, approved uses and likely future uses) is considered when reviewing if an SCC is appropriate.

Reference design (bulk, scale, setbacks, height)

The reference design (**Attachment H**) submitted with the SCC application is limited to a section demonstrating the front to rear and typical floor plans without room delineation. The reference design does not include elevations, streetscape presentation, streetscape analysis, dimensioned floor plans or dimensioned elevations.

The reference design indicates two separate buildings over a common basement, each addressing a separate road frontage (Tucks Road and Rausch Street). Each building is identified with a height exceeding 12m and four storeys. Each building has an apparent length to its respective road frontage of 51m and a front setback of 3m. A setback of 6m to the north and 9m to the south is provided for each building to the

respective boundaries. The combined FSR identified in the reference design is 1.44:1 (as advised by Council).

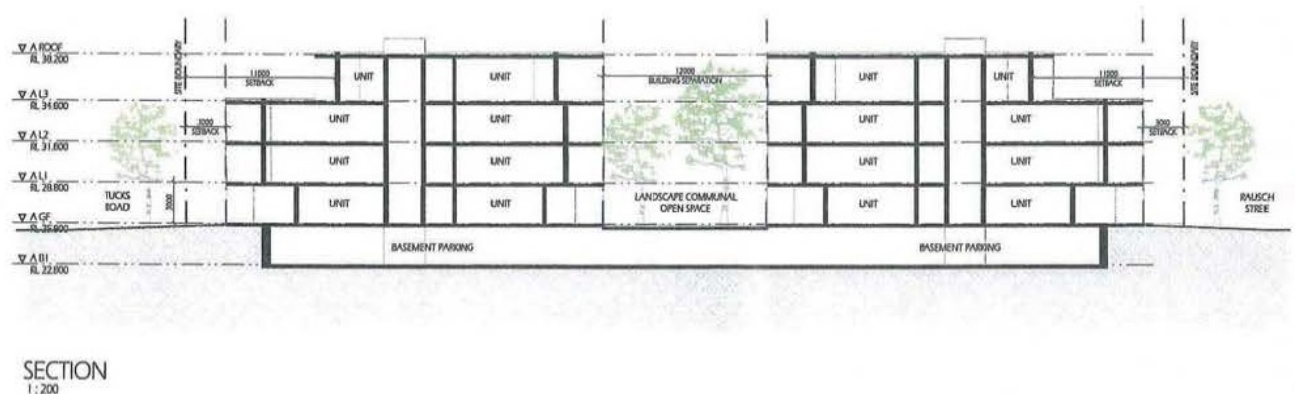


Figure 15: Reference design section (source: SCC application)

Likely future uses

There is no indication that Council is seeking to alter the planning controls of the broader R2 Low Density Residential locality that will result in a varied future character of the locality. Council has a proposal underway to rezone this site and 21 Tucks Road to B4 Mixed Use. There is also no indication that there are any state-led initiatives to rezone the locality or to provide guidance to Council for a change in the locality in documents such as the Central City District Plan. The existing character, being low density residential, is likely to be maintained.

The adjoining B1 Neighbourhood Centre zone offers a range of uses which are not permitted within the R2 Low Density Zone.

Department comment

The adjoining B1 Neighbourhood Centre zone and its built form provides some scope to consider how a new built form element of greater scale may be provided on the subject site, without detracting from the predominantly low density character of the surrounding area. Furthermore, the site is relatively large, which offers the opportunity to consider a site-responsive design. However, the reference design which has been offered by the proponent has not appropriately responded to the existing built environment.

The reference design submitted with the SCC is inconsistent with the predominant low-density residential character of the locality. The bulk and scale of the reference design is significantly larger (being more consistent with more intensive residential zones where residential flat buildings are permitted) than the low-density dwellings in the locality.

The bulk and scale is not considered to be appropriate for the locality and would likely detrimentally affect the current and future character of the locality.

SERVICES (DEMAND AND PROVISION) CLAUSE 37(6)(B)(III)

The Affordable Rental Housing SEPP requires consideration of whether there are services within the locality to meet the demands of the development.

Transport

The site is approximately 200m from a bus service (Route 711) on Fitzwilliam Road. The bus service stops at several train stations including Westmead, Seven Hills, Toongabbie and Wentworthville. The bus service runs along the T-Way, which connects Parramatta to Rouse Hill.

The site is within 800m of the entrance of Toongabbie train station (which is a requirement of the SEPP). Access to the station is available via footpaths and pedestrian crossings (at a walking distance of approximately 1.1km).

The site has a reasonable level of access to public transport and is consistent with the requirements of the SEPP with respect to proximity to the entry of a train station.

The additional residents from the development are unlikely to place significant pressure on the availability of public transport in the locality.

Services (water, power, sewer and telecommunications)

The site is within an established low-density residential area. The services required to support residential development (water, power, sewer and telecommunications) will be available either via the existing service network or upgraded services on the advice of the relevant service provider.

The additional residents from the development are unlikely to place significant pressure on the availability of services.

Shops (and other services)

The nearest local centre is Toongabbie, which contains several services (shops, medical services, etc). Other centres are available via bus/rail services or private vehicles.

The additional residents from the development are unlikely to place significant pressure on the local centre.

Government services

Several primary and secondary schools are in the locality. The closest primary school (Toongabbie Public School) is 645m to the south-east. The closest secondary school (Pendle Hill High School) is approximately 1km to the south.

Westmead Hospital is approximately 3km to the south-west. Blacktown Hospital is approximately 4km to the west.

Local government services/infrastructure

The development would place increased demand on the services/infrastructure provided by Council. Such services and/or infrastructure include, but are not limited to, local roads, open space, sporting fields, community facilities and libraries.

The following local government services/infrastructure are present:

- public open space – six locations in Toongabbie, with the closest being 200m to the north-east;

- a sports field (Binalong Park) containing a car park, cricket nets, a cricket wicket, a netball court, a playground and tennis courts is 700m to the south-east;
- a community facility (Toongabbie Community Centre) is 1km to the south-west within the Toongabbie local centre; and
- a library (Constitution Hill Branch Library) is 1.5km to the south-east in the suburb of Constitution Hill.

Council may also collect section 7.11 or 7.12 fees to contribute to the increase in demand the development is likely to have on these services should redevelopment of the site proceed.

Conclusion

The site has reasonable access to a range of services and infrastructure.

The scale of the development, as indicated in the reference design, is unlikely to place significant pressure on the provision of services.

ENVIRONMENTAL IMPACTS (CLAUSE 37(6)(C))

It must be demonstrated that the proposed development is not likely to have an adverse impact on the environment and will not cause any unacceptable environmental risks to the land.

The site is not mapped or known to contain any threatened or endangered ecological communities or items of flora or fauna. The site contains a limited number of trees.

The site is not bushfire prone.

The site is not near a noise source such as an arterial road or train line that would cause significant noise or vibration concerns.

The property and locality are flood affected. The Parramatta LEP 2011 contains controls related to flood-prone land that must be met with any development of the site. It is known that the State Emergency Service objected to the planning proposal on the basis of potential flood impacts in a Probable Maximum Flood (PMF), which could potentially result in flood waters 4-5 metres deep on the site and in the surrounding locality. While it is acknowledged that there are design measures in Council's planning controls that may be used to ameliorate impacts, there are outstanding concerns that the proposed use of the site is not suitable for the purpose of affordable housing given the potential site hazards.

OTHER CONSIDERATIONS

Clause 37(7)

It is considered that the reference design submitted with the planning proposal is inconsistent with the surrounding locality in terms of built form, bulk and scale. The application for a site compatibility certificate as currently proposed is not supported. It is noted that the Secretary could issue a certificate for an SCC and place requirements on the certificate for a reduction in the overall bulk and scale. However, in this instance, it is considered that the changes that are required to be made to provide an outcome that is more compatible with the surrounding environment are too great to resolve through the development application process. Refusal of the application is recommended.

CONCLUSION

The site is within 800m of a train station entrance as required by the Affordable Rental Housing SEPP. Furthermore, the application has been made by a community housing provider with the aim of providing 50% of dwellings for affordable rental housing for at least 10 years. There is a social benefit in a development providing community housing in the locality, and there is a need for affordable housing, subject to the design being appropriate.

The SCC application has not demonstrated that the reference design is consistent with the predominate low density character of the locality. The erection of a residential flat building with the bulk and scale identified in the reference design is not considered compatible with the locality. Additionally, the reference design has not demonstrated that an acceptable transition in terms of heights and setbacks would be offered.

Notwithstanding the broader social benefit of providing affordable rental housing under the SEPP, it is recommended that a certificate not be issued.

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