

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 subject site is located on Cabbage Tree Road, Bayview and forms part of the Bayview Golf Course (Lot 1 DP 662920). The site comprises the fairway and holes 4, 5, 6 and 7 of the Bayview golf course. The site has a 200 metre frontage to Cabbage Tree Road (south), and is bounded by low density residential dwellings to the north-east and west (Figure 1).



Figure 1: Site context (Source: SIXMaps 2014)

APPLICANT: Waterbrook Bayview Pty Limited

PROPOSAL: To develop the site for seniors housing comprising 7 buildings of predominately 4 storeys in height, incorporating 115 self-contained units with underground car parking, ancillary services and facilities.

The applicant intends to subdivide the allotment in the future to allow for a 2Ha developable site, however, the review of this application refers to Lot 1 DP 662920 in its entirety.

Local Government Area: Pittwater

PERMISSIBILITY STATEMENT

The site is zoned RE2 Private Recreation under the Pittwater Local Environmental Plan 2014 (refer to Figure 2). Registered clubs are permissible in the RE2 zone under the Pittwater Local Environmental Plan 2014, while seniors housing is prohibited in this zone.

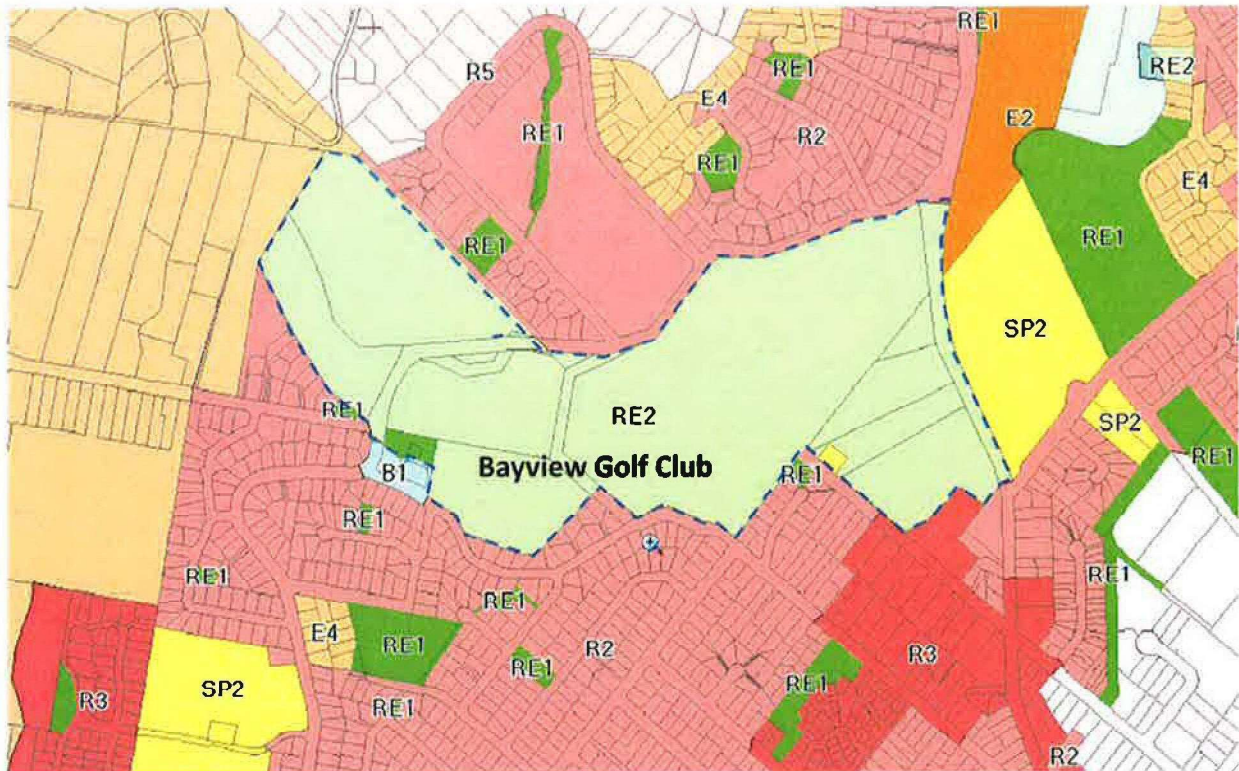


Figure 2: Zoning (Source: Land Zoning Map Pittwater Local Environmental Plan 2014)

The site is currently being utilised by a registered club, the Bayview Golf Club. Registered clubs are permissible on the site. Land which directly adjoins the site to the north-east and south-west is zoned R2 Low Density Residential.

The *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing Policy) applies to the subject site as the land adjoins land zoned for urban purposes and is being used for the purpose of an existing registered club.

CLAUSES 24(2) AND 25(5)

The Secretary must not issue a certificate unless she:

- (c) has taken into account any written comments from the General Manager of the council, received within 21 days after the application, regarding the consistency of the proposed development with the criteria in clause 25(5)(b); and
- (d) is of the opinion that:
 - (iii) the site of the proposed development is suitable for more intensive development; and
 - (iv) 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 COUNCIL

Pittwater Council objects (Tag B) to a site compatibility certificate being issued for the site for the following reasons:

- the clearing of the site for development will negatively impact on the existing natural environment, including the existing high priority wildlife corridor;
- concern with the inability to offset vegetation loss due to the introduction of the NSW Rural Fire Service 10/50 vegetated clearing code of practice;
- the application fails to sufficiently demonstrate its compatibility with the ongoing use of the site as a golf course;

- the applicants' response to a Probable Maximum Flood event is inconsistent with State Emergency Services policy that requires access to be maintained to a seniors housing development at all times;
- the development is likely to have a negative impact on the existing and desired future character of the area due to the bulk and scale of development proposed; and
- overall inconsistency between specialist reports and the proposed masterplan for the site;
- concerns regarding consistency with the provision of access to facilities clause 26 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;
- lack of information outlining the flood evacuation strategy, structural integrity of the proposed buildings, and Probable Maximum Flood/1% Annual Exceedance Probability and climate change overland flow paths through the site.

COMMENTS FROM OFFICE OF ENVIRONMENT AND HERITAGE

The Office of Environmental and Heritage reviewed the application and provided the following comments on (Tag C):

- the flora and fauna assessment is inadequate in relation to the potential impacts of the proposal on the vulnerable Little Bentwing Bat which has been identified to breed in the adjoining local government area;
- the adequacy of the surveys to determine the presence, extent and condition of Endangered Ecological Communities. Office of Environment and Heritage vegetation mapping suggests the Swamp Sclerophyll Forest on Coastal Floodplain Endangered Ecological Communities is likely to be present in several remnant patches across the site;
- the adequacy of the flora and fauna assessment, which contrarily indicates the presence of two Magenta Lilly Pilly (*Syzygium paniculatum*), but does not record them as being present on site;
- no assessment of significance was undertaken despite the presence of habitat and 15 known threatened species recorded within 10km of the site; and
- the potential negative impact the development will have on the identified wildlife corridor.

The Office of Environment and Heritage requested that a certificate, if issued, be subject to the following requirements:

- given the known occurrence of the Little Bentwing Bat to breed within the adjoining local government area, an additional survey of surrounding culverts and pipes to determine if it is breeding and or roosting;
- an assessment of significance of potential direct and indirect impacts on the Little Bentwing Bat;
- biodiversity surveying in accordance with the Threatened Species Survey Guidelines, Department Endangered Ecological Communities (2004);
- if Endangered Ecological Community Swamp Sclerophyll Forest is identified through abovementioned survey an additional assessment of significance is required to determine the potential direct and indirect impacts;
- assessment of potential direct and indirect impacts on the Magenta Lilly Pilly (*Syzygium paniculatum*); and
- consideration be given to the impacts of the development on the wildlife corridor and whether the measures proposed are sufficient to ameliorate these impacts.

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 forms part of the residential area of Bayview, which is largely characterised by single detached dwellings. The site is also close to a local town centre offering a range of retail, community and medical services.

The proposal includes seven multi storey buildings, with heights ranging from four to five storeys and basement car parking. In addition ancillary services and facilities for residents such as restaurant, café, gymnasium will be provided on site.

It is considered that the proposed development and site broadly meets the criterion in terms of suitability for more intensive development, due to the following:

- the site adjoins an urban area;
- the site is within close proximity to Mona Vale town centre, medical services and public transport infrastructure; and
- the site is being used for the purpose of an existing registered club.

Notwithstanding the above, there are a number of site-specific issues (i.e. flooding constraints, ecological issues and impact of development on surrounding land uses); which deem the site unsuitable 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 regard to the following criteria (clause 25(5)(b)) and clause 24(2)(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))

Flora and fauna

The flora and fauna assessment prepared by Footprint Green Pty Ltd ([application-Appendix 5](#)) found a total of 130 flora species on the site, of which 51 are exotic species. In addition, 34 fauna species were recorded on site.

According to the assessment report, no threatened flora species or endangered ecological communities were recorded, however, three threatened fauna species (Little Bentwing Bat) were recorded on site.

The assessment report characterises the site as comprising open forest (1,375m²), modified landscape (7,150m²) and golf course (11,475m²).

The open forest habitat forms a narrow band extending along the sites frontage to Cabbage Tree Road. Vegetation is consistent with North Coast Wet Sclerophyll Forest and described as Coastal Enriched Sandstone Moist Forest by the Office of Environment and Heritage.

The modified landscape predominately occurs in the areas adjacent to the golf fairways and comprises of indigenous trees, fill embankments and manicured lawn. Understorey vegetation is absent, ground cover is predominately exotic grasses. The assessment also notes small patches of indigenous ground cover including *Impertea cylindrical*, *Smilax glycyphylla* and *Eustrephus latifolius* in less disturbed areas.

The arboriculture impact assessment concluded that the majority of trees on site are indigenous species with some exotic and non-indigenous tree plants. Of the 234 trees surveyed, 98 are proposed to be retained while 136 trees will be removed (i.e. more than 50%).

The assessment report concludes that the proposal is unlikely to have a significant impact on threatened species and populations as listed in the schedules of the *Threatened Species Conservation Act 1995* and *Environmental Protection and Biodiversity Conservation Act 1999*.

The flora and fauna assessment contradicts the information and feedback provided by the Office of Environment and Heritage.

Flooding

The proponent concludes that there is no impediment to development of the site for the purpose of seniors housing. Although, the site has been determined by Pittwater Council as having the following flood affectations:

Mainstream Flooding Category	Category 1 - High Hazard
Mainstream Flooding 1% AEP flood level (mAHD)	2.2m
Mainstream Flooding PMF level (mAHD)	2.6m
Overland Flow Category	Category 3 - Major
Overland Flow 1% AEP flood level (mAHD)	10.4m
Overland Flow PMF level (mAHD)	12.39m

The findings of the preliminary flood assessment report provided by the proponent confirms that there is no flood free access to or from the site via Cabbage Tree Road, Bayview (application- Appendix 7). The report recommends two options for emergency response during extreme flooding events:

- shelter in place - residents shelter on site above the Probable Maximum Flood event; and
- evacuation - residents evacuate to the north and access transport via Nangana Road.

The preliminary flood assessment report does not offer solutions to overcome flood constraints, other than planned flood isolation. In addition, the masterplan does not accommodate the proposed evacuation to the north via Nangana Road.

In considering development proposals and in granting development consent, the consent authority needs to be satisfied that the development will not, in flood events exceed the flood planning level, affect the safe occupation of, and evacuation from, the land. The consent authority must also minimise the flood risk to life and property associated with the use of land.

There are opportunities to resolve such constraints by cut and fill requirements and the provision of a safe access for evacuation in a Probable Maximum Flood plus climate change event, however, the flood study remains inconclusive. The information provided does not provide sufficient justification for a departure from the *Floodplain Development Manual 2005*. A more detailed assessment including modelling would be required should the matter proceed to development assessment.

The flood prone nature of the land and the risk posed for future residents in relation to flood evacuation is sufficient reason to not issue the certificate under the provisions of clause 25(5)(b)(i).

Note: The **probable maximum flood** is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation. In relation to development assessment, the flood planning level is generally the 1% AEP (or 1in 100 year

flood). In this instance both the council comments and the proponents report refer to the Probable Maximum Flood.

Bushfire risk

A Bushfire Hazard Assessment report was submitted in support of the development, which identifies the site as being bushfire prone in accordance with Pittwater Council's bushfire prone lands map ([application-Appendix 6](#)).

The assessment concludes the masterplan has been developed to have regard to bushfire hazard and includes appropriate setbacks and Asset Protection Zones (minimum 60m) from the potential sources of hazard to the north-west and the west of the site. It is suggested that the Asset Protection Zones can be provided within the existing golf course and covered by an easement ensuring the ongoing maintenance of the Asset Protection Zones.

Notwithstanding, the masterplan does not accommodate the proposed Asset Protection Zone, as discussed in the assessment report.

Any future development on bush fire prone land such as the subject site will need to comply with the provisions of *Planning for Bush Fire Protection 2006*.

Geotechnical hazards

The site is identified as having geotechnical hazards in accordance with Pittwater Council's geotechnical hazard map.

The geotechnical assessment identifies that there are four potential forms of geotechnical hazards possible on site, these include translational slide, rotational slide, soil creep and lateral spread. Both soil creep and gross instability (SLIDE) are considered to be the most likely hazard to impact the proposed development.

Based on risk calculations and SLIDE modelling the assessment concludes that the proposed development is considered to constitute an acceptable risk to life and a low risk to the property resulting from geotechnical hazards. This conclusion is provided that the risks are mitigated by hill slope engineering practices as outlined in the report ([application-Appendix 11](#)).

Heritage

There are no heritage items on the site and the site is not a heritage conservation area.

Existing uses

The site is used for the purpose of a registered club and associated golf course.

The site adjoins the suburb of Bayview, land zoned for urban purposes, including low density residential dwellings.

2. The impact that the proposed development is likely to have on the uses that, in the opinion of the Secretary, 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 registered clubs are permissible. The land directly adjoining the site, to its north-east and south-west is zoned for residential purpose and is predominately single detached dwellings.

A RE2 Private Recreation zone is to facilitate a range of recreational uses, while protecting and enhancing the natural environment. The site is currently used as a registered club and, in the absence of this application, it is likely to continue to be used for that purpose in the future. It is therefore considered that the proposed development is likely to have an impact on the future use of the land.

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 nearest centre to the site is Mona Vale town centre located at a distance of approximately 2km. This centre has a range of retail, community and medical services including supermarkets, newsagency, retail, restaurants and cafes, library, post office, pharmacy, physiotherapist, chiropractor, dental services, medical services and ATMs.

In addition the site is approximately 4km from Warriewood Square. This centre has a range of services which include supermarkets, newsagency, retail, cafes, post office, pharmacy, motor registry and ATMs.

The nearest health service facility to the site is the Mona Vale Hospital, located at a distance of approximately 2.5km. The hospital provides community health services, dental, podiatry, rehabilitation, and aged care service.

The applicant notes that the proposed development will also offer a range of retail and community services, including a 24/7 concierge, restaurant and café, library, retail services (i.e. hair dresser) and recreational services (i.e. gym, workshop, arts and craft centre).

Transport services

The site is reasonably serviced by public transport including the following services access from a bus stop within 260 metres of the site, located on Annam Road. There is a weekday bus service from McCarrs Creek to Manly, via Mona Vale. This bus stop is within walking distance of the site. Buses from the Mona Vale town centre also run into the Sydney central business district.

Details of the bus service to Manly from Annam Road, Bayview are as follows:

- 6 services between 6am and 12pm; and
- 7 services between 12pm to 6pm.

Under the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* public transport services are required to be located at a distance not more than 400m from the site of the proposed development and are to be available at least once between 8am and 12pm and once between 12pm and 6pm on weekdays. The public transport services comply with the requirements of Clause 26 in terms of distance requirements and frequency.

Clause 26 also sets out requirements for the gradients of pathways to public transport facilities. The application advises that access from the site to the bus stop is achievable on pedestrian paths with a gradient of no more than 1:14.

Infrastructure provision

The applicant confirms that the site can be adequately serviced by utility infrastructure (application-Appendix 4). The applicant has not provided details of financial arrangements for additional infrastructure provision, however, if appropriate Council may consider the provision of local-level infrastructure at the development assessment 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 for private open space and is currently being utilised by a registered club, the Bayview Golf Course. The recreational facilities are privately owned and not open for general public use. Thereby any future development on site cannot be considered to impact on the provision of land for public open space within the local government area.

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 concept plan proposes to develop a 2ha portion of Lot 1 DP 662920 for seniors housing, including ancillary services and facilities for residents. The plan includes seven multi storey detached buildings to accommodate 115 self-contained units. Building heights range from four to five storeys and the proposed floor space ratio is 0.98:1.

A central facilities building is proposed that will include ancillary services and facilities for residents, these include restaurant, café, meeting rooms, business centre, technology centre and main reception. The development also proposes basement 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 storeys in a heavily landscaped environment. Additionally, the scale of this development is inconsistent with seniors housing development across the Pittwater Local Government Area.

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))

It is noted that the *Native Vegetation Act 2003* does not apply to urban areas or land within the Pittwater local government area. The possible impact of the proposal on native vegetation has been discussed in an earlier section on natural environment.

OTHER RELEVANT MATTERS

Pittwater 21 Development Control Plan – Wildlife Corridor

Pittwater Council has mapped key corridors throughout Pittwater. The corridors may be remnant bushland or replanted, such as has occurred along Careel Creek in Avalon, Cahill Creek in Mona Vale, and creeks within the Warriewood Valley. Major parts of the Pittwater area act a corridor for species inhabiting larger habitat areas to the north and south.

The intent of the wildlife corridor is to conserve habitat for native wildlife by retaining links through suburbia, and creating links between larger bushland reserves, such as the Ku-Ring-Gai Chase National Park located on the north-west boundary of the local government area.

The site has been identified by Council as part of a high priority corridor essential to fauna movement (Tag F). In addition, the site adjoins a major habitat area to the north-west.

The proposal has the potential to impact on ecological processes including allowing for the movement of animals and continuation of viable populations. Office of Environment and

Heritage are concerned with the negative impact the proposed development may have on the wildlife corridor and whether the measures proposed are sufficient to ameliorate these impacts.

Submissions

It should be noted that public consultation for an application for a site compatibility certificate is not a requirement of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Notwithstanding the above, the Department has received a number of submissions from the public objecting to the proposed development (Tag G). Key issues raised in the submissions include:

- the impact on the development would have on connectivity and the wildlife corridor;
- the potential loss of trees and the impact on threatened and endangered native species, such as the powerful owl;
- the effect on existing infrastructure i.e. roads;
- the location of the proposed development on flood prone land, as mapped by Pittwater Council;
- the influence such a development will have on the desired local character of the area, as envisaged by the community and reflected in the Pittwater Local Environmental Plan 2014; and
- the lack of opportunity for the community to provide comments in relation to site compatibility certificates.

CONCLUSION

A site compatibility certificate for seniors housing on the Bayview Golf Course site should be refused.

It is acknowledged that the site adjoins an existing residential area, is within close proximity to a local centre, medical services and public transport and is an existing registered club which broadly addresses the criteria for assessing an application for a site compatibility certificate.

However, the bulk and scale of the proposed development is out of character with surrounding urban development, and the potential impacts of a large scale development on the adjoining neighbourhood is unclear at this time. Additionally, Council does not support proceeding in its current form and concerns have been expressed by the Office of Environment and Heritage.

The information provided by the applicant does not provide sufficient evidence to support intensive development as follows:

- The flooding information is considered inadequate and does not provide sufficient justification for departure from the Floodplain Development Manual 2005. Additional flood studies demonstrating that the site could be safely developed with a clear flood emergency response acceptable to the State Government would be required.
- In addition, the proposal does not give sufficient consideration to the potential impacts the development may have upon the existing flora and fauna and their habitat.
- The site is considered to have significant natural environmental constraints and is inconsistent with surrounding land uses which deem it unsuitable for intensive development.

RECOMMENDATION

It is recommended that the Secretary of the Department of Planning and Environment:

- **considers** the written comments from Pittwater Council (Tag B) and the Office Environment and Heritage (Tag C) regarding the consistency of the proposed development with the criteria referred to in clause 25(5)(b) of the Seniors Housing Policy.
- **determines** that the application for a site compatibility certificate under clause 25(4)(a) be refused for the following reasons:
 1. The proposed height, scale and built form is out of character with the surrounding residential area, which predominately consists of two storey single detached housing in a heavily landscaped environment.
 2. The site is classified as flood prone land and insufficient evidence has been provided to demonstrate development potential or to ensure there would be no adverse impact on surrounding land uses or risk to life and property.
 3. The proposal has significant environmental implications for existing flora and fauna (including potential threatened species) and the adjacent wildlife corridor. Limited evidence or consideration has been provided to address the potential direct and indirect impacts of development or mitigation measures.

RT Cumming
9/12/14

Rachel Cumming
Acting General Manager, Metropolitan
Planning Services

aj
19/12/14
Andrew Jackson
Executive Director
Regions

Carolyn McNally
Secretary