

**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**

**THE SITE:**

The site is near the corner of Crabbes Avenue and Penshurst Street, North Willoughby (**Figure 1**). The subject site has a dual address of 243-245 Penshurst Street and 26 Crabbes Avenue, North Willoughby. The latter address is recorded as the primary address according to NSW Land & Property Information. The subject site is comprised of the following 14 parcels of land:

- Lots 4 to 11 Section C DP6291;
- Lot B DP364487
- Lots A and B DP438684
- Lot 1 DP950651; and
- Lots 1 and 2 DP950652

The site has an approximate 100m-wide frontage to Crabbes Avenue (north), a 50m-wide frontage to Penshurst Street (west) and a total area of approximately 1.38ha (13,788m<sup>2</sup>).

The site has been occupied by Club Willoughby (Willoughby Legions Ex-Services Club), a registered club since 1955. At the centre of the site is the club building, which is two storeys in height. An ancillary one-storey building is in the south-western corner of the site near three unused bowling greens. The northern portion of the site is largely occupied by a hardstand car park accessible from Crabbes Avenue (**Figure 1**).



Figure 1: Site locality (source: Nearmap).

**APPLICANT:** The applicant is Hyecorp Property Group on behalf of the owner, Willoughby Legion Ex-Services Club Limited.



**PROPOSAL:** The applicant seeks a Site Compatibility Certificate (SCC) under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) to permit seniors housing on the site because the land is used for the purposes of an existing registered club.

Club Willoughby is seeking to redevelop the site as a mix of seniors housing consisting of a residential care facility and self-contained dwellings. The proposal identifies four new buildings for seniors housing ranging in height between two to five storeys, with indicative numbers as follows:

- Residential care facility – 36 to 72 beds
- Self-contained dwellings – 99 to 125 dwellings

Redevelopment of the site also involves:

- a new registered club building along Penshurst Street;
- basement car parking (378-406 car spaces) accessible from Crabbes Avenue; and
- a new park and a new war memorial along Crabbes Avenue.

**LGA:** Willoughby

## **ZONING AND DEVELOPMENT STANDARDS**

The site comprises 13 lots zoned RE2 Private Recreation and one lot zoned R2 Low Density Residential under Willoughby Local Environmental Plan 2012 (WLEP 2012) (**Figure 2**).

Height of building, floor space ratio (FSR) and minimum lot size development standards do not apply to the site's RE2-zoned land under WLEP 2012.

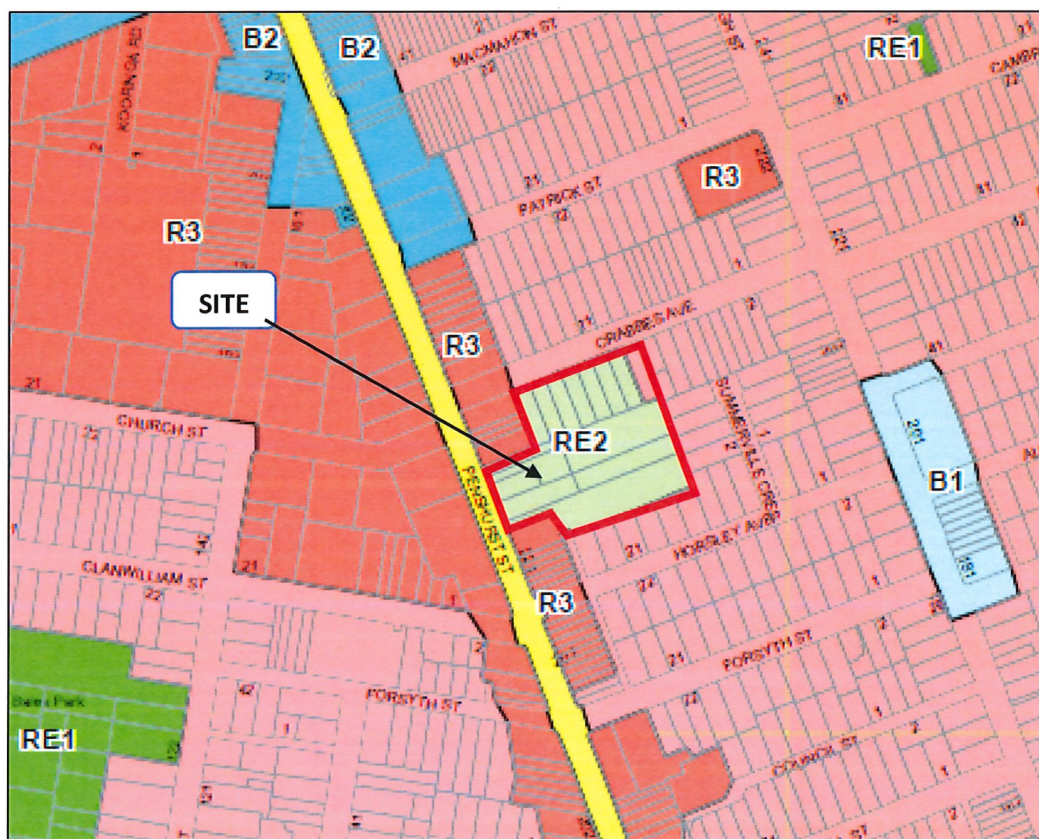


Figure 2: Extract of land zoning map – Willoughby LEP 2012 (source: NSW Legislation).

## PERMISSIBILITY STATEMENT

### Proposal's consistency with the Seniors SEPP

#### Clause 4 – Land to which Policy applies

##### **(1) General**

*This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:*

*(a) development for the purpose of any of the following is permitted on the land:*

*(i) dwelling-houses,*

*(ii) residential flat buildings,*

*(iii) hospitals,*

*(iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*

*(b) the land is being used for the purposes of an existing registered club.*

**Comment:** The subject site adjoins land zoned R2 Low Density Residential and R3 Medium Density Residential under Willoughby Local Environmental Plan 2012 (WLEP 2012) (**Figure 2**, previous page). R2 adjoins the site's northern, eastern and southern boundaries, while R3 adjoins the site's western boundary. In addition, the site is being used for the purposes of an existing registered club, being Club Willoughby (Willoughby Legions Ex-Services Club).

##### **(5) Application of Policy to land zoned for special uses and existing registered clubs**

*For the purposes of this Policy (and for the avoidance of doubt), a consent authority must not treat:*

*(a) land on which development for the purposes of special uses is permitted, or*

*(b) land that is being used for the purposes of an existing registered club,*

*as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes.*

**Comment:** Most of the land (in fact all of the land) that adjoins the site which is being used for the purpose of an existing registered club, is land zoned for urban purposes, that being R2 and R3 zoned land.

##### **(6) Land to which Policy does not apply**

*This Policy does not apply to:*

*(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.*

**Comment:** The subject site is not excluded from the application of the Seniors SEPP under clause 4(6).

## Site Compatibility Certificate

### Clause 24 – Site compatibility certificates required for certain development applications

*(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if:*

*(a) the development is proposed to be carried out on any of the following land to which this Policy applies:*

*(i) land that adjoins land zoned primarily for urban purposes,*  
*(ii) land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),*

*(iii) land that is used for the purposes of an existing registered club, or*

*(b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.*

**Comment:** The applicant seeks an SCC to permit seniors housing on the site because the land is used for the purposes of an existing registered club.

*(1A) Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.*

**Comment:** The majority of the site is zoned RE2 Private Recreation (13 lots), with one lot in the north-eastern corner of the site zoned R2 Low Density Residential under the Willoughby Local Environmental Plan 2012 (WLEP 2012) (**Figure 2**). Under WLEP 2012, seniors housing is not permitted in zones RE2 and R2.

### Clause 17 – Development on land adjoining land zoned primarily for urban purposes

*(1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:*

*(a) a hostel,*

*(b) a residential care facility,*

*(c) serviced self-care housing.*

**Comment:** The proposed seniors housing development is for a residential care facility and self-contained dwellings. The application does not further specify the type of “self-contained dwelling” to be developed, however in accordance with clause 17 of the Seniors SEPP, “serviced self-care housing” is the only type of “self-contained dwelling” that could be permitted on land adjoining land zoned primarily for urban purposes. “Serviced self-care housing” is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.

In addition, in accordance with clause 17(2), the proposed seniors housing may only be for:

- for people with a disability, or
- in combination with a residential care facility, or
- as a retirement village (within the meaning of the *Retirement Villages Act 1999*).

Clause 53 – Savings and transitional provisions for development applications made before SEPP (Seniors Living) 2004 (Amendment No 2)

*(4) Clause 24 does not apply to a development application for the purposes of development of a kind to which subclause (2) applies or extends.*

**Comment:** The proposed development is not staged development of a kind saved under the savings provisions of the Seniors SEPP.

**CLAUSES 24(2) AND 25(5)**

The Secretary must not issue a Site Compatibility 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; 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).

Matters relating to clause 25(5)(b) of the Seniors SEPP are addressed in detail later in this report.

**COUNCIL COMMENTS**

On 7 February 2018, the Department sought comments on the SCC application from Willoughby City Council. Council comments were received on 23 March 2018 (**Attachment B**).

A summary of Council's comments is as follows:

- Seniors housing on the site is considered compatible with the surrounding environment and locality.
- Justification should be provided to demonstrate the validity for the loss of open space land.
- It is expected that the new park will be publicly accessible at all times, and its ongoing maintenance and relevant insurances would be at the expense of the developer rather than Council.
- It is preferable that the higher building forms be located furthest away from adjoining development and transition to two storeys at the boundaries.
- The proposed number of storeys is acceptable in principle; however, clarification should be provided as to how the equivalent metre notations match the number of storeys proposed.
- The concept proposal for a maximum FSR of 1.35:1 for the entire site is acceptable.
- The proposed setbacks as shown in the concept design are considered acceptable.
- A more detailed traffic and transport assessment should be undertaken at the development application stage.

- A stormwater plan, incorporating on-site detention and water quality measures, will be required at development application stage.

## **SUITABILITY FOR MORE INTENSIVE DEVELOPMENT**

*The Secretary must not issue a certificate unless the Secretary 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 considered suitable for more intensive development for the following reasons:

- the subject site is in an existing urban area;
- the site is 450m walking distance from a neighbourhood centre (High Street Centre), which offers a range of retail, commercial, banking, medical, social and community services and facilities;
- a public park (Bales Park, Chatswood) is 500m walking distance from the site;
- a bus stop is in front of the site on Penshurst Road, providing regular services to the Sydney CBD, North Sydney, Chatswood, Bondi Junction and other locations;
- there are no major environmental constraints over the site; and
- the site is fully serviced by water and wastewater disposal.

## **COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES**

*The Secretary must not issue a certificate unless the Secretary 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)):*

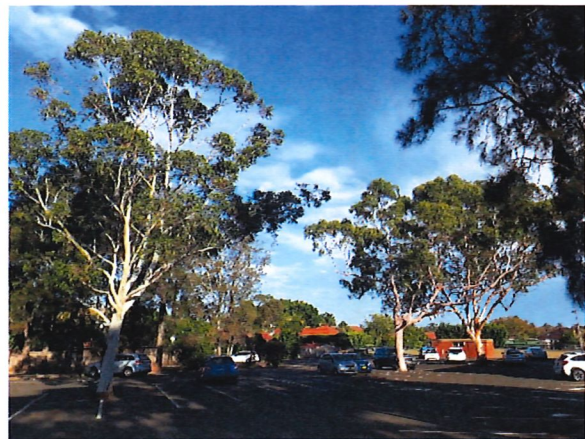
### **1. The natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))**

#### Tree and vegetation preservation

Vegetation in the form of trees and screening shrubs is generally limited to the north and north-eastern portions of the site and within and surrounding the hardstand parking area. The survey plan (C.M.S Surveyors Pty Ltd) shows at least 13 mature trees ranging in height from 15m to 20m, with canopy spread of 8m to 15m in diameter across the site.

A site visit was carried out on 24 February 2018. The photos overleaf were taken at this time:





An arborist report has not been provided with the proposal, therefore details concerning the type of vegetation, the exact number of trees, vegetation quality and which trees are to be removed and retained as a result of the proposal are unknown. The concept design shows trees within and around the perimeter of the site; however, details on replacement trees have not been provided.

It is recommended that the SCC impose a requirement for an arborist report detailing existing trees, trees to be removed/retained/replaced and proposed landscaping.

### Heritage

Under the Willoughby LEP 2012, the site is immediately adjacent to the Horsley Avenue (C7) heritage conservation area. The conservation area is inclusive of all the houses on Horsley Avenue (except for 26 Horsley Avenue) and all the houses on Summerville Crescent, as well as the streetscape. These single-storey houses are significant as a rare example of 1920s/1930s bungalow-type residential development in near original condition, with a uniformity of housing style and setting.

The proposal is supported by a heritage impact statement (NBRS & Partners Pty Ltd, 16 January 2018). The heritage statement acknowledges the increased height and density of buildings associated with the proposal, and notes that the proposed buildings adjacent to the heritage conservation area are to have an 8m setback from the property boundary and will be designed to be of a scale similar to those of the neighbouring houses in Horsley Avenue. The heritage statement affirms the proposal will:

- respect the visual curtilage of the heritage conservation area;
- respect and retain the existing streetscape; and

- protect the important views of the conservation area along the east-west axis of Horsley Avenue.

The heritage impact statement determined that the proposal is compatible with the requirements to retain the heritage significance of the adjacent Horsley Avenue heritage conservation area and does not adversely affect the identified heritage significance of the contributing elements within the conservation area.

### Hazards

There are no known flood or bushfire hazard constraints over the site.

### Existing and approved uses in the vicinity

Development in the surrounding area is mainly residential, with some commercial uses. Land to the north, east and south of the site consists of single-storey detached dwellings and is zoned R2 Low Density Residential. Land to the west consists of residential flat buildings 3-4 storeys in height and some single-storey detached dwellings. The adjoining land is zoned R3 Medium Density Residential.

Adjoining the site to the north-west (fronting Penshurst Street) are two-storey commercial premises built boundary to boundary. This land is zoned R3 Medium Density Residential. Adjoining the site to the south-east (also along Penshurst Street) is a two-storey residential flat building. This land is also zoned R3 Medium Density Residential.

There are three local shopping districts within the vicinity of the site, each offering a large array of retail, commercial and community uses – East Village Centre (350m north), High Street Centre (150m west) and Penshurst Street Centre (600m south).

Approximately 500m walking distance (or six minutes) south-west of the site is a 22,434m<sup>2</sup> public park, Bales Park, which includes a playground, barbecue, picnic tables, benches, sports field, bocce court and public toilets.

Within a 200m radius of the site are two churches, St Thomas Catholic Church (and associated primary school) on Horsley Avenue and the Uniting Church of Australia (on Clanwilliam Street).

The proposed seniors housing development is considered to be generally compatible with the existing and approved uses in the vicinity of the site given the residential nature of the proposal.

## **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 subject site is in a well-established urban area largely surrounded by residential uses. The site is primarily zoned RE2 Private Recreation under the Willoughby LEP 2012. The intention of the RE2 zone is to enable land to be used for private open space and recreational activities and compatible land uses. The existing registered club on the site has operated since 1955.

The proposed redevelopment of the site is considered to be generally compatible with the likely future uses of the land as it reinstates an existing use (registered club) with the addition of seniors housing in an area largely surrounded by residential development.



**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))**

Services and infrastructure

The site is within an established urban area and is connected to water, sewer, electricity and telecommunication networks. The proposal would require upgrades and/or augmentation to the existing utility services to accommodate the future residential population. It is considered that these matters can be investigated in detail at the design/development application stage. Notwithstanding, in considering Council's submission on the SCC application, it is recommended that a requirement be imposed on the determination related to drainage, including a stormwater plan incorporating on-site detention and water quality measures.

Location and access to facilities (clause 26)

The High Street Centre is the closest local shopping district to the site, approximately 450m walking distance along a suitable access pathway, which is a sealed footpath and pedestrian crossing. The area has good walkability in terms of pedestrian access, flat topography and tree-lined streets offering shade. High Street is a high-amenity neighbourhood centre offering a supermarket, pedestrian mall, small plaza, ATM banking facilities, cafes, restaurant, bakery, liquor store, newsagency, chemist, church, school and veterinary hospital.

Directly in front of the site on Penshurst Street is a bus stop that services four bus routes: M40 (Bondi Junction to Chatswood via Sydney CBD); 257 (Chatswood to Balmoral); 272 (North Willoughby to Wynyard); and 343 (Chatswood to Kingsford via Sydney CBD). These bus services operate several times a day, seven days a week except for route 272, which is only available Monday to Friday during peak hours.

It is considered that the proposal complies with the access to services/facilities and public transport requirements as set out in clause 26 of the Seniors SEPP.

Traffic

The SCC application is supported by a traffic statement (Colston Budd Rogers and Kafes, 12 January 2018), which includes a preliminary review of the traffic and parking effects associated with the proposed redevelopment of the site. The statement concludes:

- the development will have minor additional traffic generation of 35-50 vehicles per hour two-way at peak times;
- the surrounding road network will readily cater for this low traffic generation; and
- a detailed traffic and parking assessment will be undertaken at the development application stage.

Based on the findings of the traffic statement, it is considered that potential traffic impacts of the proposal can be adequately managed and addressed at the development application stage. Notwithstanding, in considering Council's submission on the SCC application, it is recommended that requirements be imposed on the determination related to traffic, parking provisions, vehicular access arrangements, and accessibility of service vehicles.

**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 not zoned for public open space or special uses. The land is zoned RE2 Private Recreation and existing improvements on the site include an operating registered club, a war memorial, a hardstand car park and three unused bowling greens.

Redevelopment of the site will see the removal of the unused bowling greens; however, the proposal will include a new park and a new war memorial to face Crabbes Avenue. The park will be available to club members, seniors housing residents and the public for passive outdoor recreation.

The proposal notes that there are other active bowling clubs in the surrounding area, including the Willoughby Park Bowling Club, Northbridge Bowling Club and the Artarmon Bowling Club.

Public open space is available approximately 500m walking distance (or six minutes) south-west of the site at Bales Park, which includes a playground, barbecue, picnic tables, benches, sports field, bocce court and public toilets. Bales Park has a site area of 22,434m<sup>2</sup>.

**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 application's indicative concept design (GMU Urban Design and Architecture, 20 December 2017) comprises five buildings across the site ranging from two to five storeys. Lower-scale buildings, with setbacks from 6m to 8m, are proposed along the boundaries of the site that adjoin low-density residential. The height of the proposed development will increase to five storeys in the centre and north of the site, with increased distance from Horsley Avenue heritage conservation area. Three-storey development built to the site's western boundary, where the new registered club is to be situated, is intended to increase accessibility and presence along Penshurst Road.

The preliminary shadow impact study (contained within the GMU indicative concept design) shows that most shadows created by the development will fall within the site throughout the day. However, potential additional overshadowing will affect the residential flat building adjoining the site to the south along Penshurst Road and some of the properties on Horsley Avenue.

The site's immediate and wider context to the north, east and south is predominantly single-storey dwellings zoned R2 Low Density Residential, with a maximum building height of 8-8.5m and a maximum FSR of 0.4:1 under the Willoughby LEP 2012. Built form controls increase for the properties fronting Penshurst Road and further west, with maximum building heights between 9m and 12m and a maximum FSR of 0.7-0.9:1. This is representative of the land's R3 Medium Density zoning, which mainly includes 3-4-storey residential flat buildings.

It is considered that the overall size of the site and its immediate context provide sufficient scope to accommodate additional new buildings with varying heights as proposed in the concept design.

In considering Council's submission on the SCC application, it is recommended that requirements be imposed on the determination related to building height, bulk and scale, specifically:

- a maximum floor space ratio of 1.35:1 over the entire site;
- a transition of building heights from five storeys at the centre of the site, graduating down to three storeys and two storeys at the north, east and south boundaries;
- supporting information to clarify how the equivalent metre notations match the proposed storeys for building heights across the site;
- building height to be measured in relation to the RL of the building – the vertical distance from the Australian Height Datum to the highest point of the building; and
- setbacks as indicated in figure 14 of the site compatibility certificate application (8m from the properties in the Horsley Avenue heritage conservation area).

The final building design and matters relating to the proposal's bulk, scale, built form and character can be addressed in detail at the development application stage.

**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 *Native Vegetation Act 2003* does not apply to land within the Willoughby LGA.

## **CONCLUSION**

The applicant seeks a Site Compatibility Certificate (SCC) under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) to permit seniors housing on the site because the land is used for the purposes of an existing registered club.

Club Willoughby is seeking to develop a mix of seniors housing consisting of a residential care facility, with approximately 36 to 72 beds and approximately 99 to 125 self-contained dwellings.

The proposal satisfies the requirements of the Seniors SEPP as:

- the subject site is being used for the purposes of an 'existing registered club' where the site is adjoining land zoned primarily for urban purposes;
- most of the land that the site adjoins is land zoned for urban purposes;
- the proposed seniors housing development is for the purpose of a residential care facility and self-contained dwellings; and
- the subject site is not excluded from the application of the Seniors SEPP under clause 4(6) - *Land to which Policy does not apply*, including Schedule 1 Environmentally sensitive land.



The indicative concept scheme is proposing redevelopment of the entire site, including a new club along Penshurst Street, another four buildings for seniors housing, basement car parking (378-406 car spaces) accessible from Crabbes Avenue, and a new park and new war memorial to face Crabbes Avenue.

It is considered that the site is suitable for more intensive development and that seniors housing of the kind proposed is generally compatible with the surrounding environment given:

- the site is within an established urban area;
- development in the surrounding area is mainly residential;
- the site's proximity to services and infrastructure (particularly retail, community, and public transport services); and
- there are no known environmental hazards over the site.

## RECOMMENDATION

It is recommended that the Executive Director, Regions, as delegate of the Secretary:

- **consider** Council's written comments (**Attachment B**);
- **form the opinion** that the site of the proposed development is suitable for more intensive development;
- **form 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 criteria specified in clause 25(5)(b);
- **determine** the application for a site compatibility certificate by issuing a certificate (**Attachment C**) for 26 Crabbes Avenue, North Willoughby; and
- **sign** the letters to the applicant and Council advising of this determination (**Attachments D and E**).



29/8/18

Amanda Harvey  
Director, Sydney Region East



Stephen Murray  
Executive Director, Regions  
Planning Services

30 August 2018

Approved / ~~Not Approved~~ / ~~Noted~~

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