

**Report to the Southern Regional Planning Panel on an application for a site compatibility certificate under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

**SITE:** 120 Walker Street, Helensburgh (Figures 1 and 2, below).

**LEGAL DESCRIPTION:** Lot 2 DP 548129



Figure 1: Aerial photo of site (source: Nearmap).

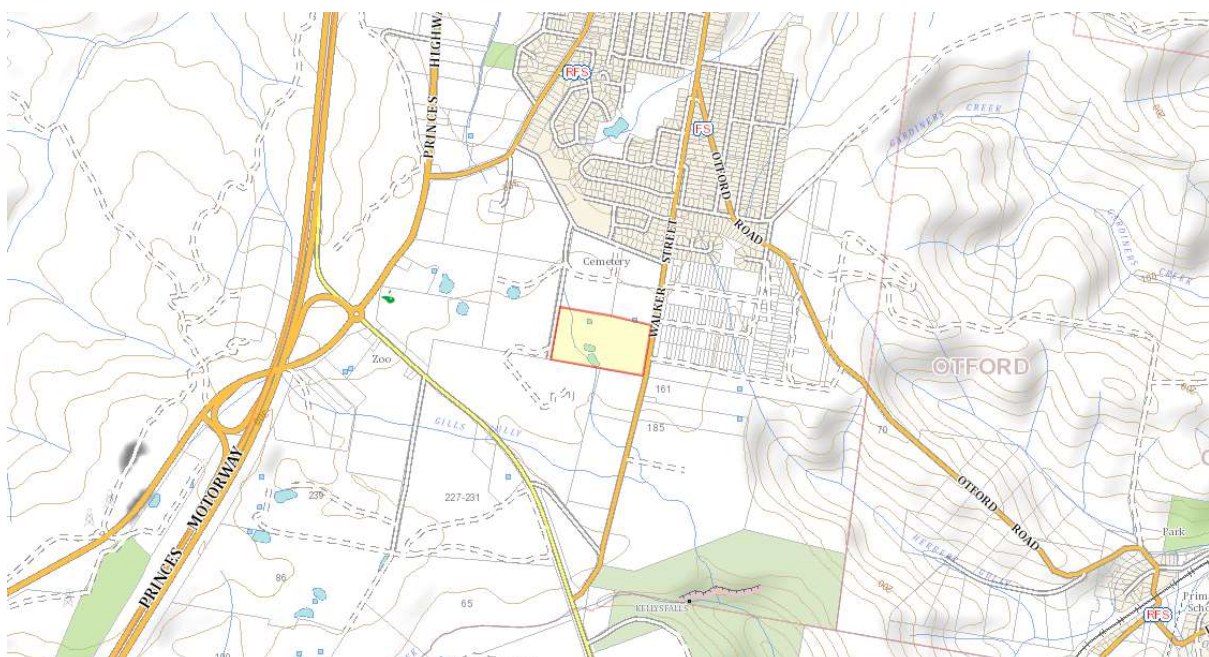


Figure 2: Site context map (source: SIX Maps).



**APPLICANT:** TCW Consulting Pty Ltd on behalf of Norman and Laraine Stibbard. The application for a site compatibility certificate (SCC) was submitted to the Department on 2 November 2018.

**PROPOSAL:** The proposal is for 176 seniors housing units and ancillary facilities at 120 Walker Street, Helensburgh. The proposal includes a mixture of serviced self-care housing and self-contained dwellings comprising 85 studio units and 38 dementia care units across two two-storey apartment buildings and 53 single-storey villas (including 10 dementia villas). Other development proposed includes:

- 193 at-grade parking spaces (including 47 spaces under a grass-covered structure), internal roads and footpaths;
- a two-storey resident facilities building with administration and medical offices;
- use of the existing cottage fronting Walker Street as a doctor and dentist surgery;
- use of the existing dwelling as a hairdresser, café, ATM, kitchen and hydrotherapy pool;
- use of three existing sheds/buildings for storage, waste collection and maintenance;
- cleaning and upgrading of three dams;
- landscaping; and
- construction of a new footpath, kerb and guttering along the site frontage and the provision of a new bus bay on Walker Street.

Indicative building plans have been provided for the site (Figures 3 and 4, below and next page). Architectural scheme drawings for the proposal by Phil O'Donnell Architects are provided at **Attachment A**.

The proposal is also supported by bushfire, traffic and preliminary stage 1 site investigation reports, a hydrologic and hydraulic modelling summary and a land use compatibility assessment (**Attachment A**).

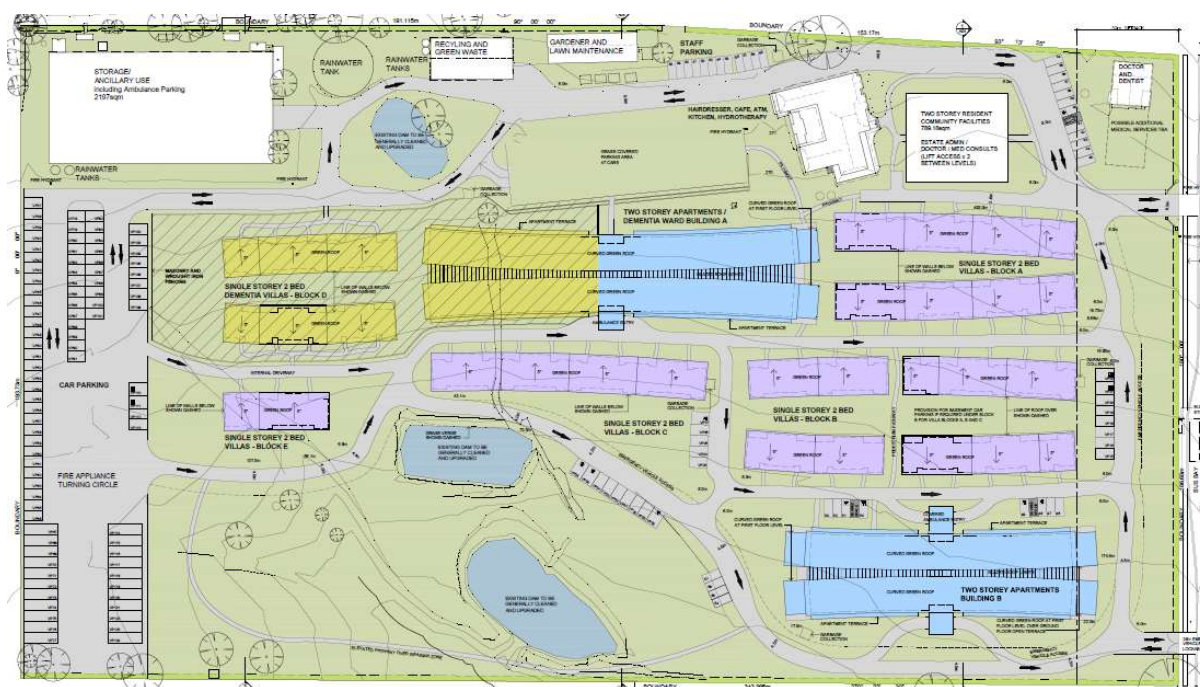


Figure 3: Indicative building plan (source: Phil O'Donnell Architects).

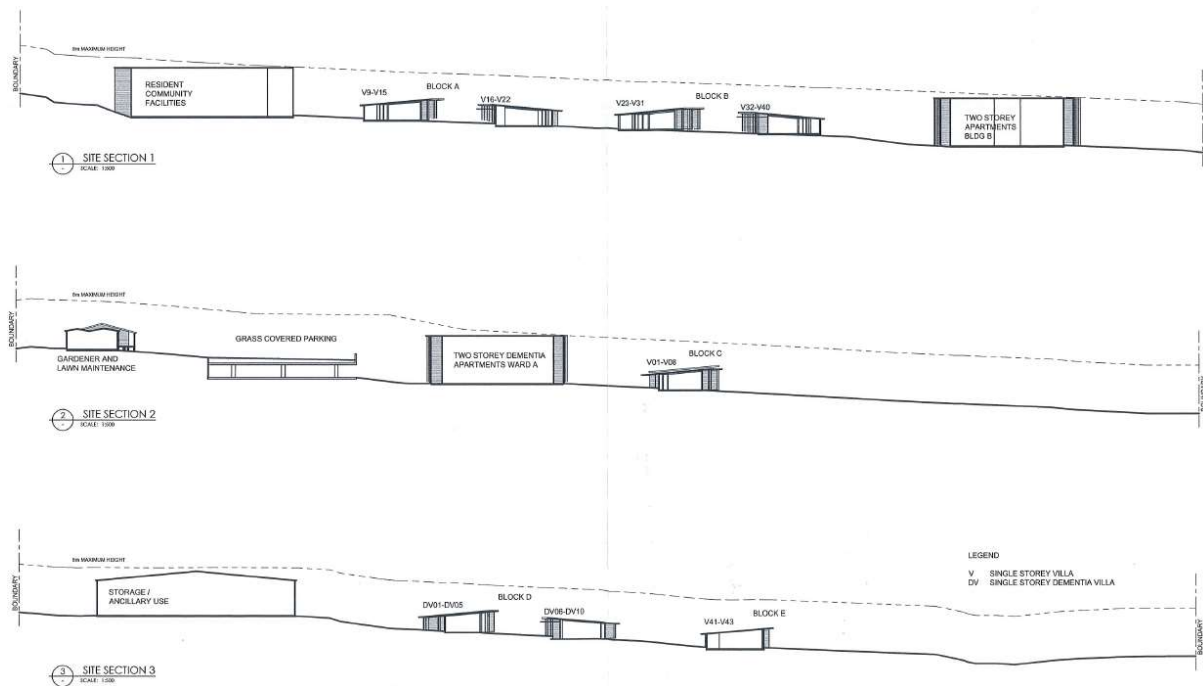


Figure 4: Indicative section plan of scheme (source: Phil O'Donnell Architects).

## LGA: Wollongong City

### PERMISSIBILITY STATEMENT

The seniors housing proposal is for a combination of self-contained dwellings and serviced self-care housing. The site is zoned RU2 Rural Landscape under the Wollongong Local Environmental Plan 2009 (Figure 5, below). Seniors housing is not a permitted land use in this zone under the LEP.

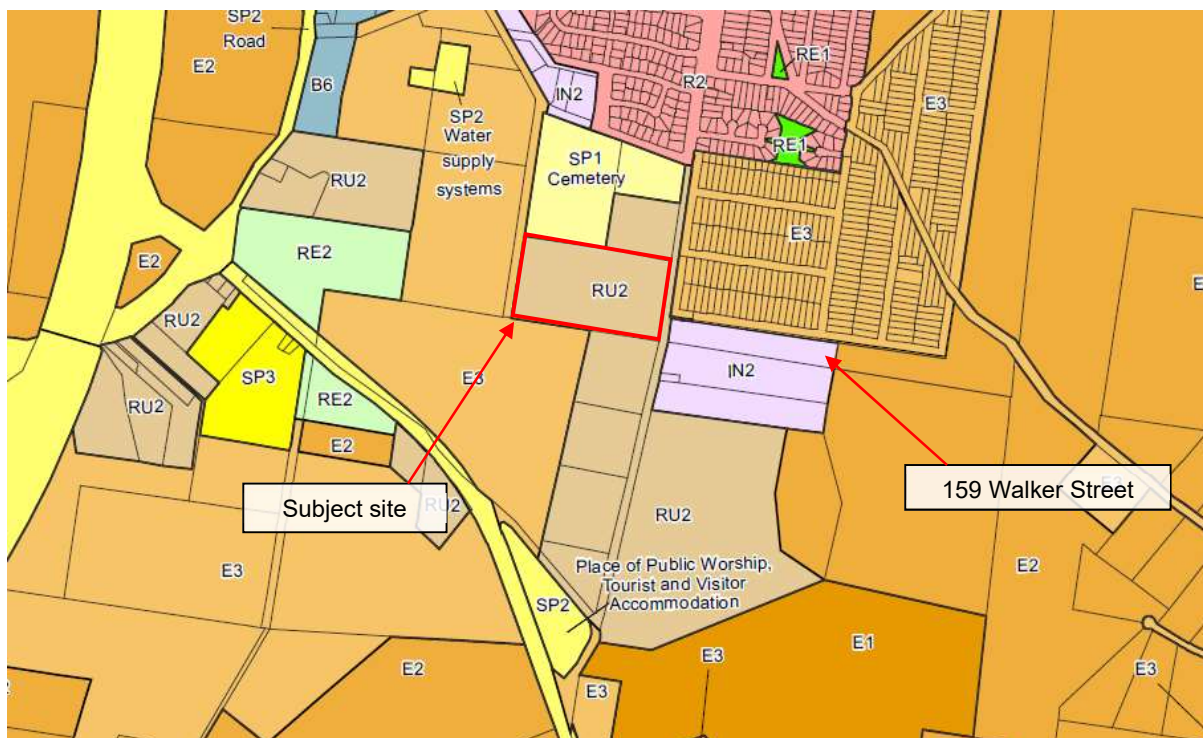


Figure 5: Land zoning map (source: Wollongong LEP 2009).

The applicant is seeking an SCC for seniors housing under clause 24(1)(a) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) on the basis that the subject site adjoins land zoned primarily for an urban purpose. The south-east portion of the site adjoins land on the opposite side of Walker Street, being 159 Walker Street, which is zoned IN2 Light Industrial under the Wollongong LEP 2009.

### **DOES THE SENIORS HOUSING SEPP APPLY TO THE SUBJECT SITE?**

Subject to other considerations detailed later in this report, the Seniors Housing SEPP applies to land that is:

- zoned 'primarily for urban purposes' or land that 'adjoins land zoned primarily for urban purposes' (clause 4(1)); and
- where development for the purpose of any of the following is permitted on the land:
  - dwelling houses;
  - residential flat buildings;
  - hospitals;
  - development of a kind identified in respect of land zoned as special uses; or
  - the land is being used for the purposes of an existing registered club.

### ***Is the subject site zoned 'primarily for urban purposes' or does it 'adjoin land zoned primarily for urban purposes'?***

Land not zoned primarily for urban purposes is defined under clause 4(2) of the Seniors Housing SEPP as (but not limited to) land that is:

- principally for rural purposes;
- principally for urban investigation; and
- a zone that is identified as principally for residential uses on large residential allotments (for example, R5 Large Lot Residential or RU6 Transition zones per the Standard Instrument LEP).

The SCC application states that the subject site is not land zoned primarily for urban purposes, but rather adjoins land zoned primarily for an urban purpose, being the IN2 Light Industrial-zoned land on the opposite side of Walker Street.

After reviewing the characteristics and the key objectives of the IN2 zone, being to: provide a wide range of light industrial, warehouse and related land uses; encourage employment opportunities; and minimise any adverse effect of industry on other land uses, it is considered that the adjoining IN2 land is land zoned primarily for urban purposes.

The application form states the proposed development involves serviced self-care housing and self-contained dwellings.

Clause 13 of the Seniors Housing SEPP defines 'in-fill self-care units' and 'serviced self-care housing' for the purpose of the SEPP as part of defining 'self-contained dwellings' (itself a form of 'seniors housing').

Clause 13(1) of the Seniors Housing SEPP provides that:

'... in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care'.

Clause 13(2) of the Seniors Housing SEPP provides that:

‘... 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’.

While both in-fill self-care housing and serviced self-care housing are considered self-contained dwellings under the Seniors Housing SEPP, serviced self-care housing requires the provision of services such as meals, cleaning services, personal care and nursing care, whereas in-fill self-care housing is characterised by the fact that it does not provide these services.

As a further point of distinction, clause 13(1) provides that in-fill self-care housing is seniors housing on land zoned primarily for urban purposes, whereas this restriction does not apply to serviced self-care housing.

This is further reinforced by clause 15 of the SEPP, which provides that chapter 3 (under which the provisions for SCCs are contained):

- allows any form of seniors housing, despite the provisions of any other environmental planning instrument (EPI), on land zoned primarily for urban purposes (if the development is carried out in accordance with the SEPP); and
- but only allows seniors housing in the form of a hostel, a residential care facility or serviced self-care housing on land that adjoins land zoned primarily for urban purposes.

This distinction is confirmed by clause 17, which provides that a consent authority cannot consent to a development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of a hostel, a residential care facility, or serviced self-care housing.

As such, an SCC can only be granted over the subject site where the proposed self-contained dwellings are wholly comprised of serviced self-care housing, and if an SCC is granted over the subject site, this should be stipulated in schedule 2 of the SCC as a requirement imposed under clause 25(7) of the Seniors Housing SEPP.

### **IS THE LAND EXCLUDED UNDER SCHEDULE 1?**

Despite the Seniors Housing SEPP applying to the subject site under clauses 4(1) and 4(2) of the SEPP, clause 4(6)(a) of the SEPP provides that the SEPP does not apply to land described in schedule 1 of the SEPP (environmentally sensitive land). This includes land that is identified in another EPI by any of the following descriptions, or by like descriptions, or descriptions that incorporate any of the following words or expressions:

- a) coastal protection;
- b) conservation (but not land identified as a heritage conservation area in another environmental planning instrument);
- c) critical habitat;
- d) environment protection;
- e) open space;
- f) escarpment;
- g) floodway;
- h) high flooding hazard;

- i) natural hazard;
- j) (Repealed);
- k) scenic (but not land that is so identified if:
  - i. the land is within a residential zone in which development of two storeys or more in height is permitted, or
  - ii. an adjacent residential zone, also identified as scenic, permits development of two storeys or more in height),
- l) water catchment; and
- m) natural wetland.

Part of the site is identified as riparian land under clause 7.4 of the Wollongong LEP 2009 (Figure 6, below). The clause requires the consent authority to consider the impact of the proposed development on the land and any opportunities for rehabilitation of aquatic and riparian vegetation and habitat on that land.

The applicant states that the riparian corridor exists over only part of the site, rather than as mapped, and the proposed development has been designed to provide a buffer around this area. It is also considered that the riparian land identification does not meet the classification for exclusion under schedule 1 as it is not 'critical habitat', 'conservation' or 'natural wetland', and development can occur on sites with identified riparian lands provided it adequately addresses clause 7.4 of the Wollongong LEP 2009.

Council's comments on the proposal identify that "Council's records indicate the site is flood affected and located within an uncategorised flood risk precinct". However, this is not relevant in this instance as the site is not identified as a flood planning area under the LEP.

As the land is not described as environmentally sensitive land in an EPI in accordance with the descriptions identified in schedule 1, the Seniors Housing SEPP does apply to the site.



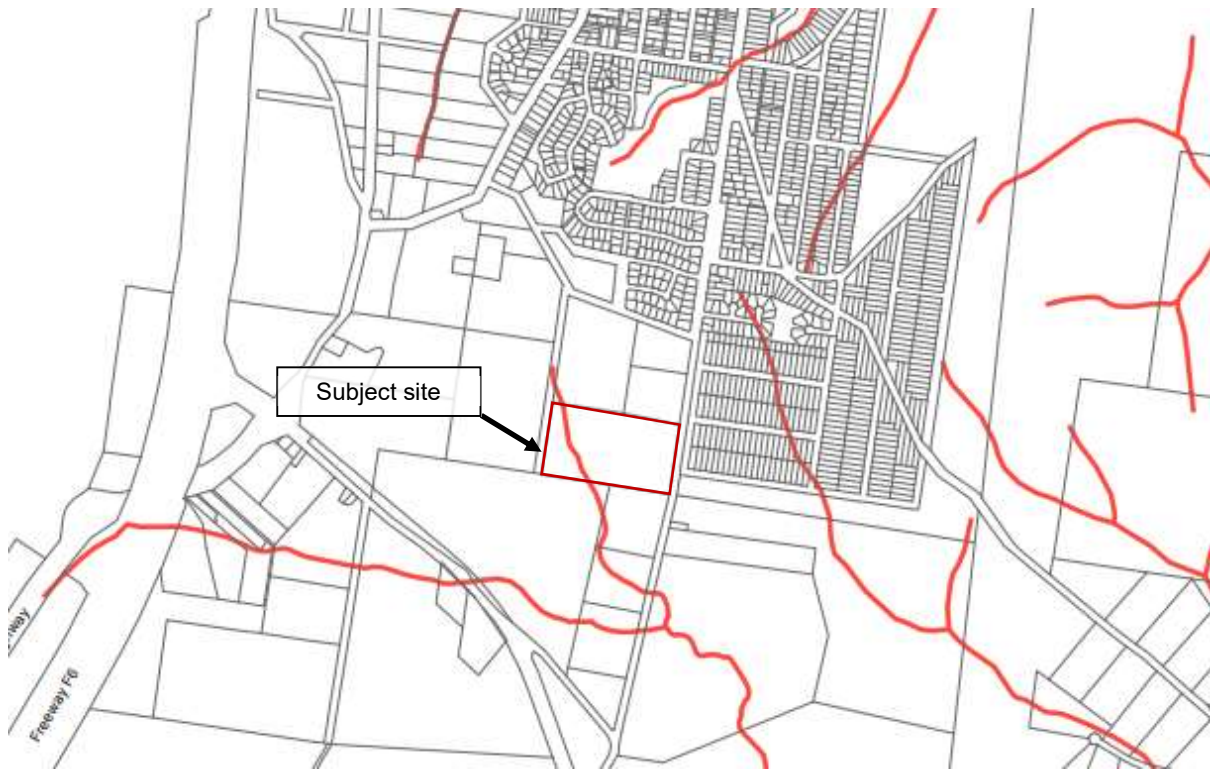


Figure 6: Riparian lands (source: Wollongong LEP 2009).

### **PREVIOUSLY ISSUED SITE COMPATIBILITY CERTIFICATE ON THE LAND**

No SCCs have been previously issued on the land.

A previous SCC application from the same applicant for 193 serviced and self-care dwellings and 201 parking spaces on the site was refused by the Secretary's delegate on 10 April 2018. The reasons for refusal were:

- having regard to the site location and accessibility, inadequate services (particularly retail, community, medical, transport services) and infrastructure (suitable access pathways) would be available to meet the demands of residents arising from the proposed development;
- the site is on 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;
- the proposed development would be likely to result in unacceptable land use conflicts with adjoining properties, which could adversely impact on the amenity of seniors' residents and is likely to restrict the existing and likely future uses of surrounding sites; and
- the bulk, scale, built form and density of the proposed development is considered to be incompatible with the existing and desired future character of the area and would result in adverse visual and amenity impacts on existing and future uses of land near the development.

The applicant has included a response to the reasons for refusal in the information provided with this application, including a response to issues of land use conflicts and compatibility prepared by Cardno Pty Ltd (**Attachment A**). These issues are considered further in the assessment below.

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

The panel must not issue a certificate unless the panel:

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

## **CLAUSE 25(2)(C)**

There are no current SCCs or pending applications for SCCs for land within proximity of the site and, as such, a cumulative impact study has not been provided.

## **COUNCIL COMMENTS**

The Department referred the SCC application to Council on 22 November 2018. Council's comments, dated 18 December 2018, were received on 7 January 2019 (**Attachment C**) and additional comments were sought from Council following additional information from the applicant. These comments were received on 20 March 2020 (**Attachment D**). Council's comment reflect many of the issues raised in the comments provided in response to the previous SCC application. Council's submission states that while it acknowledges the need for seniors housing, the proposal could be more appropriately located on residential land closer to the Helensburgh town centre. The key issues from Council's submission are summarised in the table below:

<b>Issue</b>	<b>Council comments</b>
Local strategy	<p>Use of the land for residential purposes was not envisaged by the Review of former 7(d) lands at Helensburgh, Otford and Stanwell Tops, being the most applicable local strategy for lands surrounding Helensburgh.</p> <p>The use of the land for self-care seniors' housing, enabled by a SCC would be tantamount to a rezoning without the rigor of a planning proposal and its associated community exhibition process. This is a concern given the inconsistency with the abovementioned strategic document, and the general level of public interest in land use matters in the locality.</p>
Land zoning	<p>The land is zoned RU2 Rural Landscape and seniors housing was not envisaged as a land use in the zone. The RU2 zoning was applied to the site in recognition of the ongoing agricultural land use.</p> <p>Previous development consents issued on the site are generally consistent with the objectives of the RU2 zone. Redevelopment of the site for seniors housing would result in an inability of the site to continue to meet the objectives of the zone.</p>
Lot size	<p>The site and surrounding RU2-zoned properties are under the minimum lot size for the zone. Redevelopment of the site for</p>



Issue	Council comments
	seniors housing would inhibit opportunities to consolidate land and create appropriately sized lots for rural and agricultural development. The proposal would create an isolated, undersized lot immediately to the north of the site.
Local character	The scale of the development is not considered to be in context with surrounding development, which is characterised by single dwellings on rural/environmental allotments. The character of the rural-zoned area would be unlikely to undergo significant change in the foreseeable future and the proposed development would not be in keeping with the character of the street and in harmony with the buildings around it.
Design	<p>The development fails to provide good design, thus not achieving the objectives of the Seniors Housing SEPP.</p> <p>The proposed use of the existing buildings for ancillary and support uses is considered to be a fragmented and ad hoc design approach.</p> <p>The location of car parking spaces remote from the dwellings is of concern.</p> <p>The provision of extensive carport areas over parking spaces is not considered to provide a good design outcome. Uncovered parking spaces at the rear of the site for residents do not provide a good development outcome.</p> <p>The front setback to Walker Street is not supported as it is not consistent with the streetscape and insufficient area is provided for landscaping along the street frontage.</p> <p>The proposed units lack architectural merit.</p>
Land use conflict	Extensive development of the site is likely to result in ongoing land use conflicts between the surrounding rural/agricultural land uses and the proposed residential land use. The amenity of the future residents of the development may be compromised.
Stormwater/ flooding	<p>The proponent's flood study indicates the site is located within a Medium Flood Risk Precinct. Chapter E13 of the Wollongong DCP 2009 defines development such as this as a 'critical utility' and these are not appropriate in a medium flood risk precinct.</p> <p>Council considers the proposed use of the site for seniors' housing does not give due regard to the potential risk to human life and damage to property arising from the natural flood hazard to which the site is subject.</p> <p>Council was also concerned about the need for flood refuges and associated filling and visual impacts.</p>
Environment	Council has concerns with the possible impacts of the proposed development on the water quality of the perched aquifer underlying the site and Gills Creek. Redevelopment of the site would require the on-site dams to be lined and the development

Issue	Council comments
	<p>would require design, siting, construction and management to ensure protection of the water quality in the area.</p> <p>Any seniors living development would need to protect and enhance the native vegetation in the identified riparian corridor area on the site.</p>
Infrastructure	<p>Council was concerned that the wastewater system servicing the subject site may not have capacity to service the proposed development. The proponent's submission included a letter from Sydney Water saying there is sufficient capacity in the system to support the proposed development.</p>

Council's comments support the position that the subject site is not suitable for seniors housing development.

### **SUITABILITY FOR MORE INTENSIVE DEVELOPMENT**

The panel must not issue a certificate unless the panel 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 not suitable for more intensive development (clause 24(2)(a))**

The seniors housing development, at the density proposed, is not considered compatible with the adjoining rural and industrial-zoned land and uses. The site is in a semirural landscape with surrounding low-density development. The proposal would result in a form of development that is generally inconsistent with the existing and likely future character of the surrounding area prescribed by the site's RU2 zoning.

There are several environmental constraints that suggest the site is unsuitable for this form of development. The site and surrounding land are identified as bushfire-prone, and heavily vegetated land adjoins the site in parts to the north, south-east and west. This poses a risk if there is a need to evacuate a large number of elderly residents in a short time. There are also unresolved concerns about the impact of development on the site on the groundwater (perched aquifer) and surface flows, as well as the impact of flooding on the proposal.

The town centre of Helensburgh is approximately 1.4km from the site and is limited in the range of services available due to the small population. Other services and facilities, including hospitals, are located some distance away in Wollongong or southern Sydney. Residents will primarily rely on private transportation as public transport is limited and pedestrian access is not suitable due to the distance, a lack of footpaths along the full distance of Walker Street and the undulating terrain. The proposal is heavily reliant on services provided on-site, including medical, food and private shuttle bus. However, limited detail is provided regarding how these will be provided and managed.

For the above reasons and the matters discussed below, the site is not considered suitable for the proposed intensity of seniors housing development.

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

The panel must not issue a certificate unless the panel 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))**

The key site attributes and constraints are listed below and discussed in the context of a proposed seniors housing development on the land.

Flooding and groundwater

Council's records indicate the site is flood affected and located within an uncategorised flood risk precinct.

A summary of hydrologic and hydraulic modelling of the 1% AEP (100-year) design flood, prepared by Rienco Consulting dated 26 July 2018, was submitted as part of the application. The summary concludes that the site is suitable for seniors housing development and overland flow can be managed across the site. Suggested overland flow measures include 'permitter drains or bunds ~300mm deep, and a pit and pipe collection system discharging to the formal watercourse starting at the southern boundary of the site'. This position was reiterated in a further flood study provided in December 2019 and submission in March 2020, both of which also concluded that direct evacuation access to Walker Street would be possible in a flood event.

In Council's comments on the proposal, it highlighted the proponent's flood study indicates the site is located within a Medium Flood Risk Precinct and that Chapter E13 of the Wollongong DCP 2009 defines development such as this as a 'critical utility' which are not appropriate in a medium flood risk precinct. Council considers the proposed use of the site for seniors' housing does not give due regard to the potential risk to human life and damage to property arising from the natural flood hazard to which the site is subject. Council was also concerned about the need for flood refuges and associated filling and visual impacts.

The proponent's supplementary information asserted the flood characteristics of the site did not mean the site was unsuitable, based on the DCP requirements for residential development, and that design responses to the flood issues could be determined at the DA stage.

While flooding and stormwater management issues may be able to be addressed in more detail at the development application stage, there remains uncertainty as to the extent of the site which is suitable for seniors housing due to flood risk and whether there will be any impacts on surrounding land.

Council also has concerns with the possible impacts of the proposed development on the water quality of the perched aquifer underlying the site and Gills Creek. Any development of the site will need to consider the impacts on groundwater and Council's requirements, including lining of the dams on-site. It is unclear based on the information provided whether the proposed development poses any risk to the aquifer.

Contamination

A stage 1 preliminary site investigation was undertaken by SESL Australia Pty Ltd (dated April 2017), which involved a desktop review of available information, a search of the historical records and a site visit.

The report concludes that there is the potential for soil contamination at the site from sources including the potential former agricultural activities, the storage of scrap

materials, fill of unknown origin, chemical spills and the presence of a large number of horses on the site (faecal matter). While the report considers the site could be suitable for the proposed development, it recommends that a detailed site investigation be undertaken to assess if the identified areas of environmental concern have resulted in contamination that would render the site unsuitable for the proposed development. The report also identifies that a detailed hazardous materials inspection may be required for structures on-site should demolition be proposed.

Should the proposal progress to the development application stage, site contamination and the suitability of the site for residential use will need to be studied in more detail, including the need for any remediation.

### Flora and fauna

Much of the site has been cleared of vegetation. However, the site is identified as containing a riparian corridor under the Wollongong LEP 2009. Clause 7.4(3) of the LEP requires that 'development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the impact of the proposed development on the land and any opportunities for rehabilitation of aquatic and riparian vegetation and habitat on that land'. A portion of the corridor appears to have been cleared and filled around 2014–15.

While the applicant has submitted a letter from Rienco Consulting (dated 1 July 2016) noting that the riparian corridor is across only part of the southern section of the site, the issue of rehabilitation would require further consideration at the development application stage. Any works proposed under a future development application within 40m of the watercourse may require a controlled activity approval under the *Water Management Act 2000*.

Clause 7.2 Natural resource sensitivity—biodiversity of the Wollongong LEP 2009 does not apply to the site but does apply to the land directly adjoining the western, north-western and south-western boundaries.

Impacts on the riparian corridor and adjoining sensitive land should be considered as part of any future development application, including the potential rehabilitation of riparian lands.

### Bushfire

The site and land adjoining the site are identified as bushfire prone (Figure 7, below). A pre-development application advice meeting was held between the applicant and the NSW Rural Fire Service (RFS) on 19 January 2017. RFS stated that no significant constraints to the development were identified. However, the use of existing buildings that are within the asset protection zone (APZ) are to be for non-habitable uses.



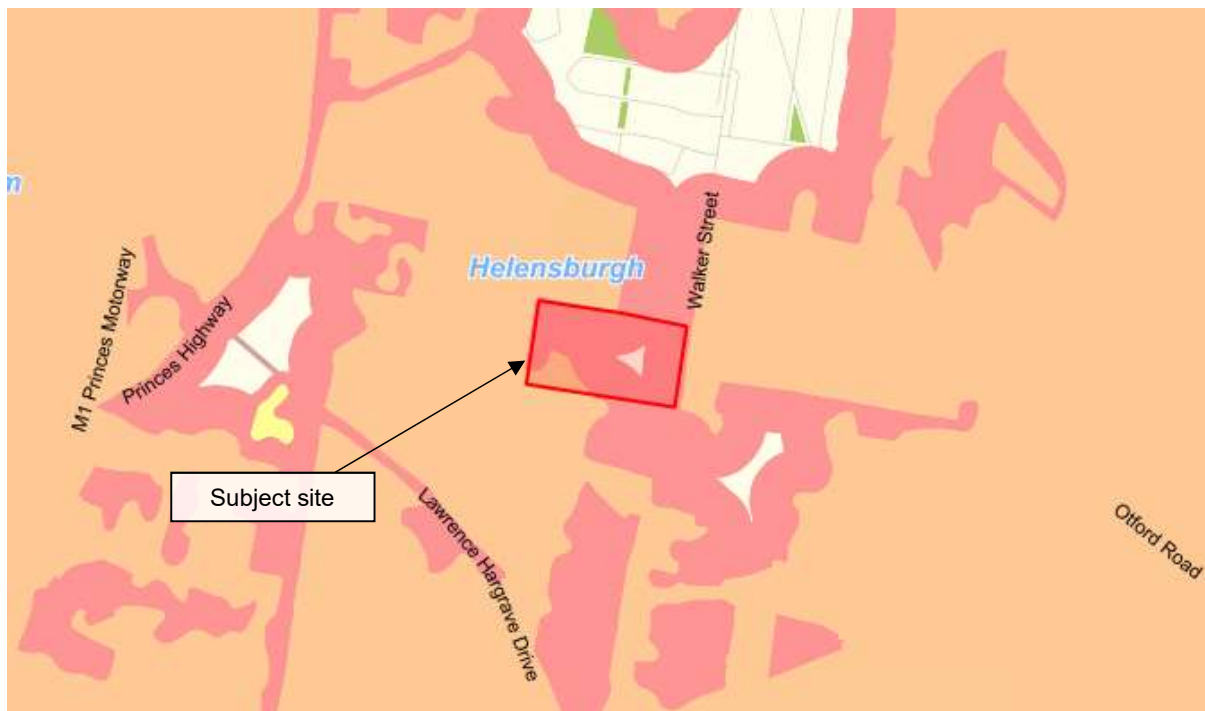


Figure 7: Bushfire-prone land (source: Wollongong City Council).

A bushfire assessment prepared by Peterson Bushfire (dated 17 October 2018) identifies the APZ requirements, necessary building setbacks and the area available for the development of habitable dwellings on the site (Figure 8, below).

The report confirms that the proposed development is compatible with the requirements of *Planning for Bush Fire Protection*. It is concluded that the available access in the north and south directions along Walker Street is adequate for the level of bushfire risk presented to the site, and the internal road layout ensures a compliant perimeter road and internal road layout, ensuring adequate evacuation or refuge could take place under the guidance of a bushfire emergency management and evacuation plan.

The site is surrounded by bushfire-prone land in all directions, and adjoining sites are heavily vegetated. Also, the development would rely on a bushfire emergency management and evacuation plan. The use of the site for a large seniors housing development is not suitable.

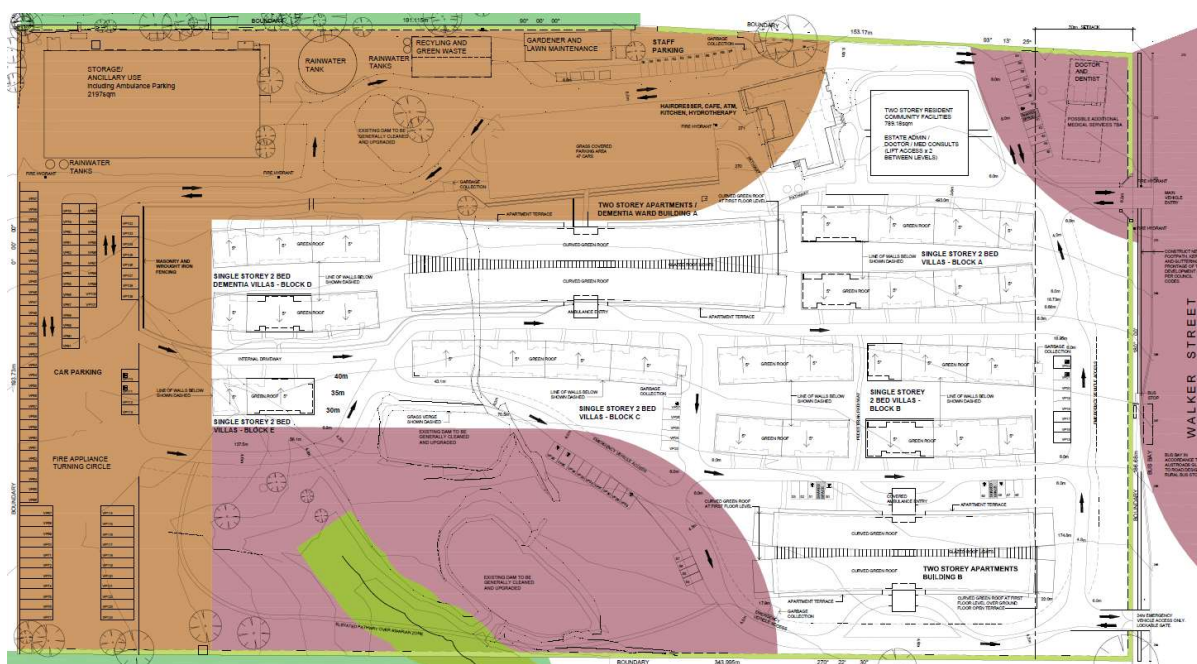


Figure 8: Proposed APZs (source: Phil O'Donnell Architects).

## Heritage

The site is not identified as a heritage site or part of a conservation area under the Wollongong LEP 2009. The cemetery site directly to the north is identified as an archaeological heritage site under schedule 1 of the LEP.

It is unlikely that development on the site will have an impact on the archaeological significance of the cemetery. However, heritage impacts of any future proposal, including Aboriginal heritage, should be studied further at the development application stage.

### Existing uses and approved uses of land in the vicinity of the proposed development

The subject site is used for horse training and agistment, and there are four dwellings, sheds, horse yards and other structures on the site. The surrounding properties consist of a variety of land uses, as summarised below:

*North*

The properties to the north are zoned RU2 Rural Landscape and SP1 Cemetery.

The rural property at 110 Walker Street is used for rural-residential purposes and an olive orchard, although several trees have been cleared in recent years. The dwelling on the site is approximately 113m from the boundary with the subject site and overlooks the site due to its higher elevation. A high-density seniors housing development has potential land use conflicts with any ongoing agricultural use of the land.

There is a vegetation buffer of approximately 70m between the cemetery, an archaeological site under the Wollongong LEP 2009, and the property boundary. The proposed development is not considered to have any significant impacts on the operation or amenity of the cemetery.

*East*

The properties directly to the east of the site, on the opposite side of Walker Street, are zoned E3 Environmental Management and IN2 Light Industrial.

The E3 land consists of a large paper subdivision, identified as the 'land pooling precinct' in Figure 9 (below). This area is densely vegetated and contains one dwelling accessed via Werrong Road, land that appears to be used for storage and an

associated structure; and a bus depot. The bus depot is directly opposite the site with access to Walker Street and operates under a consent issued by Council in 1987.

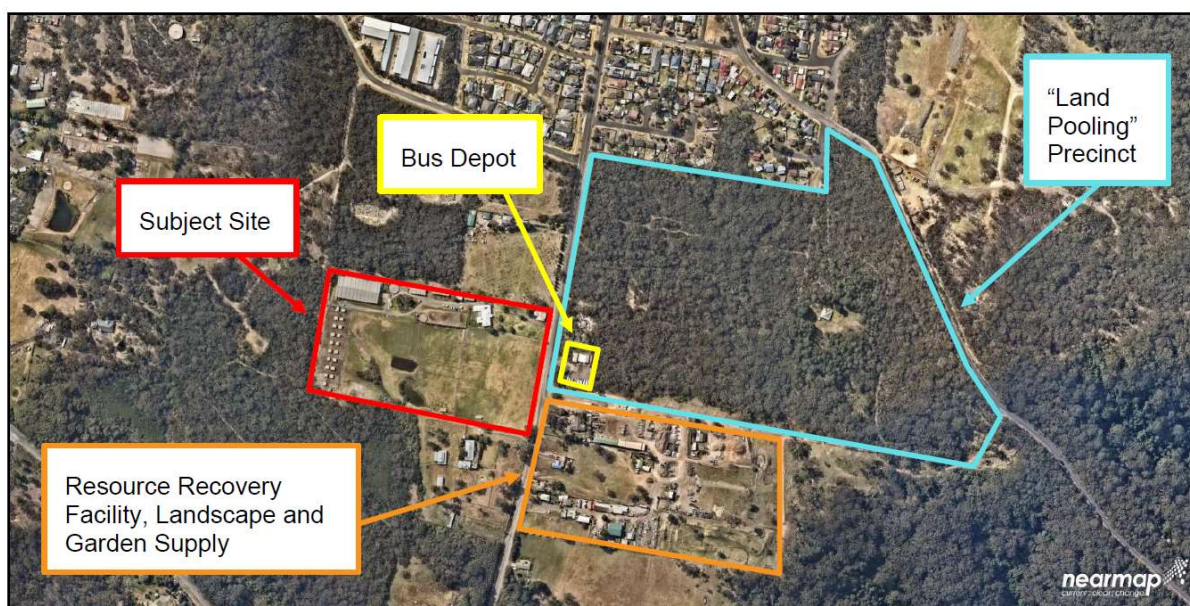


Figure 9: Land uses to the east of the site (source: Cardno).

The paper subdivision lots are held by several landowners. Council has previously not supported proposals to rezone this land and a nearby similar site to R2 Low Density Residential due to the potential impacts on the Hacking River Catchment and the Royal National Park. According to Council, Helensburgh is not identified as an urban release area and the Wollongong LGA is able to meet housing targets through land releases at West Dapto and Calderwood, and redevelopment in Wollongong and other centres.

The then Southern Joint Regional Planning Panel, in a pre-Gateway review and planning proposal review report dated 30 July 2014, stated:

- having considered the pattern of land ownership, the status of the paper subdivision of the land, the lack of dwelling entitlements and development capability, the regional panel is of the opinion that the land pooling area is not suitable for urban development and supports the application of zone E2 Environmental Conservation to this precinct and;
- the land is some distance from commercial and institutional services yet adjoins existing industrial development on land to the south, which may give rise to land use conflict.

The land pooling area adjoining the subject site is unlikely to undergo further development in the near future, and land to the south of Helensburgh is considered unsuitable for residential development.

The bus depot on the land pooling site is small and has a densely vegetated setback from the street. It is unlikely to have a significant impact on the use of the subject site. Similarly, a seniors housing development is unlikely to have a significant impact on the operations of the bus depot.

The IN2 land to the south of this area is primarily used as a landscape supply business. The four lots contain at least six dwellings and other structures. The area is also used for storage and horse stables. The low-density dwellings and structures on-site reflect the rural-residential character of the area.

Walker Street and a significant front setback of the landscape supplies business provide a reasonable buffer from the subject site. However, the activities undertaken on the site give rise to potential impacts, including noise and dust, on surrounding properties that are not compatible with the proposed residential development.

#### *South*

The properties adjoining the southern boundary of the subject site are zoned RU2 Rural Landscape and E3 Environmental Management.

The rural property at 130 Walker Street is used for rural-residential purposes. It contains a dwelling and associated structures for equine-related activities. The dwelling is approximately 28m from the boundary with the subject site. Equine-related activities present compatibility issues when adjoining higher-density residential development due to potential odour and noise impacts. The proposed development is likely to impact on the amenity of the residents of the property through changes to the rural character and increased noise from nearby units and internal roads.

The environmental-zoned land, Lot 1 DP 319310, is located to the rear of the southern boundary and, as identified in the application, has a consent for a caravan park development. Approval dates to 1980 and the consent can be considered to have physically commenced with the partial construction of a small number of structures in the 1980s – the remains of which still exist on-site. However, most of the site remains uncleared and the caravan park has not been completed. The site is densely vegetated, and it is unclear whether the caravan park development will ever proceed with the validity of the consent pending planning, environmental and legal considerations.

#### *West*

The land to the west of the subject site is zoned E3. Frew Avenue, a minor, unsealed road, directly adjoins the site. On the opposite side of the road, 14 Frew Avenue (Lot 339 DP 752033) is also zoned E3 and contains two dwellings and other structures and is used for rural-residential purposes. The closest dwelling is approximately 178m from the boundary of the subject site. The proposed development is unlikely to have significant impacts on this property due to the vegetation buffer and distance of the dwelling from the subject site.

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

The site is zoned RU2 Rural Landscape under the Wollongong LEP 2009. The objectives of the zone are to:

- encourage sustainable primary industry production by maintaining and enhancing the natural resource base;
- maintain the rural landscape character of the land;
- provide for a range of compatible land uses, including extensive agriculture; and
- encourage the retention, management or restoration of native vegetation.

A development comprising 176 seniors housing units is not compatible with primary industry production or rural landscape character.

The site is used for residential and horse training and agistment purposes. This is consistent with surrounding land uses, which include rural-residential, small-scale agriculture and animal boarding/training, environmental management and landscape supplies.



Council has indicated that “the character of the area would be unlikely to undergo significant change in the foreseeable future such that the development as proposed would not be in keeping with the character of the street and in harmony with the buildings around it”. Council has also raised concern that “extensive development of the site is likely to result in ongoing land use conflicts between the surrounding rural/agricultural land uses and the proposed residential land use”.

The subject site was rezoned to RU2 current zoning of the site and surrounding land was future of the Helensburgh is not identified as an area for further residential growth in the *Illawarra-Shoalhaven Regional Plan 2036*.

The rural and light industrial zoning of land adjoining the site permit activities that are not compatible with proposed density of seniors housing. The potential for agricultural land uses, including agistment or training of horses and other livestock, and industrial activities to be undertaken may be impeded as they are likely to impact on the amenity and operation of a seniors housing development by way of noise, odour and traffic. The potential for some land use conflicts with the surrounding land indicates that the proposed development is not compatible with the area where the site is located.

**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))**

Location and access to facilities

The site is approximately 1.4km south of the Helensburgh town centre.

The number and variety of services and facilities available in Helensburgh is limited due to the relatively small size of the population and surrounding service area. The services available in the Helensburgh town centre include:

- one supermarket and other small specialty shops;
- one bank (Illawarra Credit Union);
- one post office;
- cafes and restaurants;
- two dentists, four doctors/GPs, one pharmacy, one optometrist, one physiotherapist, one podiatrist and one chiropractor;
- solicitors and accountants; and
- a public swimming pool and two gyms.

The closest public hospitals (Coledale, Bulli, Wollongong, Campbelltown, Sutherland) are 20-40 minutes' drive away and not easily accessible by public transport from the site.

The applicant also proposes to provide services on-site, including a doctor and dentist, a hairdresser, a café, an ATM and a hydrotherapy pool. There is no detail on the operation of these services. Clause 42 of the Seniors Housing SEPP also requires residents of serviced self-care housing to have access to home-delivered meals, personal care and home nursing, and assistance with housework. The proponent has stated that ‘written evidence as to the provision of these services will be provided within any future development application. However, at this time, the proponents provide an assurance that these services can be delivered’.

In accordance with clause 44 of the SEPP, a consent authority must be satisfied that any facility or service provided as a part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation.

#### Traffic and transport services

In accordance with clause 26(2)(a), there are no services or facilities within 400m of the site. While Helensburgh town centre is accessible directly via Walker Street, the land is undulating, and footpaths are not provided for the entire distance to the site. It is currently not accessible for pedestrians to make this journey.

There is a public bus stop at the north-east corner of the site and the bus route provides access to and from the Helensburgh town centre more than once each day from Monday to Friday during daylight hours, in accordance with clause 26(2)(c). The plans submitted as part of the application propose the provision of a new bus bay and bus stop on Walker Street.

The public bus stop on the eastern side of the road when returning from Helensburgh may present a safety concern for elderly residents crossing Walker Street, where the speed limit is 70km/h, without a pedestrian crossing or traffic lights.

The applicant also proposes providing a private transport service to provide residents access to services and facilities. The applicant has provided a letter stating that the local bowling club would be willing to provide bus services to transport residents to the club. Limited detail is provided regarding the operation of these services; however, they will need to comply with the capacity and availability requirements of clause 43 – being a bus capable of carrying at least 10 passengers and available both to and from the proposed development to any such local centre at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.

While the site can comply with the access requirements of clause 26(2), residents will likely be reliant on either private transportation organised by the seniors housing management or personal vehicles as the distance and terrain are likely to make pedestrian access unviable.

A traffic and parking impact assessment was prepared by McLaren Traffic Engineering (dated 6 December 2018). It concludes that the proposal will have negligible impact on the surrounding road network.

#### Servicing

The applicant has provided evidence of correspondence with Sydney Water that confirms water and wastewater connections are available. Electricity, gas and telecommunication services have not been identified. However, it is likely that connections can be made to services available to the site and surrounding area.

It is considered that matters regarding the provision, capacity and/or augmentation of services can be confirmed at the detailed design/development application 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 not zoned open space or special uses.

**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 development comprises 14 new buildings and structures, including: two two-storey apartment buildings and 53 single-storey villas; 193 at-grade parking spaces (including 47 spaces under a grass-covered structure); internal roads and footpaths; a two-storey resident facilities building with administration and medical offices; and a potential extension to the cottage in the north-east corner of the site for 'possible additional medical services'. The proposal also includes the retention of existing dwellings and other structures on the site.

The two large, two-storey 'apartment buildings' are approximately 85m and 110m long and 30m wide. The attached single-storey villas are in 10 rows between 30m and 80m long. There are no residential buildings near the site that are comparable in bulk or scale. The properties directly adjacent to the site are large lots, some with 1-2 storey detached dwellings. There are only limited examples of multi-dwelling housing closer to the centre of Helensburgh, and most do not share similarities to the length, bulk and number of units as the two-storey buildings proposed. The large two-storey 'resident community facilities' building also adds to the bulk of the development at the front of the site. The bulk and scale of the proposed development is not in keeping with the surrounding development or future uses of the area.

While a 30m setback has been provided to the front boundary (excluding the existing cottage, new roads, parking spaces and part of 'Apartment Building B') and nearly 20m to the southern boundary, the development will still likely have a significant visual impact from the street and properties to the north and south. This is due to the sloping nature of the site, the lack of vegetation buffers and the open, rural appearance of the land. Given the site is surrounded by predominantly vegetated land or open space, there is no transition in the scale of development between the proposal and the surrounding area. The required APZs result in a design that concentrates buildings in the centre and front of the site, which increases the impact on the character of the streetscape and pushes most of the car parking spaces to the rear of the site, with limited car parking available closer to the proposed dwellings. This conflicts with the objective of the RU2 zone to 'maintain the rural landscape character of the land'.

Given the environmental, rural and special uses zoning of most land adjoining the site, it is unlikely that the scale or density of development will change in the foreseeable future. While the undeveloped property to the south-west of the site (Lot 1 DP 319310) has been identified as having a 1980 consent for a caravan park, there is no evidence to suggest development will proceed further after 39 years and pending planning, environmental and legal considerations. No recent development applications have been lodged for this site. As such, the surrounding area is likely to retain its rural character, which does not match the form of development proposed.

The scale of development and density of new population on the site, comprising residents of the 176 dwellings and an unidentified number of staff, is well above the residential density permissible on surrounding properties. This will also impact on the amenity of the area as a result of the noise generated by the increased number of people living and working on the site, as well as vehicles moving through and parking on the site. This will conflict with the noise levels experienced in the rural setting.

Design matters to be considered as part of any potential development application include the provision of adequate private open space for each dwelling, poor amenity

for units facing the covered car park structure, and use of landscaping to improve privacy and appearance of the development.

**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* was repealed on 25 August 2017 and therefore does not apply to the land.

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

As mentioned earlier in this report, a cumulative impact study was not required for this application.

## **CONCLUSION**

The Department considers that an SCC should not be issued for the subject site on the basis that:

- the proposed density of seniors housing development is not considered compatible with the adjoining rural and industrial-zoned land and uses. The site is in a semirural landscape with surrounding low-density development. The proposal would result in a form of development that is generally inconsistent with the existing and future desired character of the surrounding area;
- the bulk, scale, built form and density of the proposed development are considered to be incompatible with the existing and desired future character of the area and would result in adverse visual and amenity impacts on existing and future uses of land in the vicinity of the development;
- the proposed development would be likely to result in unacceptable land use conflicts with adjoining properties, which could adversely impact on the amenity of future residents and is likely to restrict the existing and likely future uses of surrounding sites; and
- the level of services available to residents in Helensburgh and accessibility to the town centre is not adequate for the scale of seniors housing proposed. The area is also isolated from major centres with access to hospitals and other services.

## **ATTACHMENTS**

Attachment A – Proposal documentation

Attachment B – Site map

Attachment C – Council comments December 2018

Attachment D – Council comments March 2020