

DECISION BY DELEGATE OF COUNCIL

SUBMISSION BY Maisie Tang

SITE:

Address of Site:	52 SEVEN OAKS ST TARINGA QLD 4068
Real Property Description:	L1 RP.218414
Area of Site:	11830 m ²
Zone:	COMMUNITY FACILITIES (HEALTH CARE PURPOSES) ZONE
Name of Ward:	Walter Taylor

APPLICATION:

Aspects of Development:	DA - SPA - Material Change of Use – Development Permit
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Description of Proposal:	Residential Care Facility (218 beds), Retirement Facility (49 Units) and Retirement Facility (98 Units)
Applicant:	Tricare (Pt Vernon) Pty Ltd c/- Town Planning Alliance PO Box 5329 WEST END QLD 4101
Application Reference:	A004685563
Lodgement Date:	29 June 2017
Properly Made Date:	13 July 2017

DECISION on development application

Having considered the application detailed above, the relevant provisions of the *Sustainable Planning Act 2009* and the Planning Scheme, I have decided that the application be refused as the application has failed to demonstrate compliance with the following:

The Delegate / Council refused the application for the following reasons:

The proposal has failed to demonstrate compliance with the *Brisbane City Plan 2014*, and as such I recommend that the development should be refused based on the following grounds:

- (a) The development is contrary with the policy directions of the ***Strategic framework – 3.7 Theme 5, Element 5.5 – Brisbane’s Suburban Living Areas*** as outlined below:
 - (i) The proposal conflicts with the Specific Outcome SO4 in Theme 5, Element 5.5, in that the proposal with its scale, bulk and height fails to reflect the local character. The location is characterised by a mix of houses and low and medium density units. The proposed development dwarfs surrounding units and houses in height, bulk and scale and fails to support high levels of local amenity. The proposed development does not enhance the area by retaining and protecting the significant landscape trees on site and the street level interface with the extensive retaining walls and basement out of the ground does not provide a pedestrian friendly interface or high levels of amenity for nearby dwellings.
- (b) The development conflicts with the relevant provisions of the ***Community Facilities Zone Code (Part 6.2.6.1 of Brisbane City Plan 2014)*** as outlined below:
 - (i) The proposed development does not satisfy overall outcome (4)(f)(iii) of the zone code, in that the development has not been designed to complement the

prevailing scale, height and bulk of expected development in the locality. The proposed buildings are 8, 12 and 16 storeys. The actual height of the buildings is equivalent to residential buildings of 10, 15 and 19 storeys and they do not complement the mix of existing or expected developments in the locality which vary in height from 1 to 9 storeys.

- (ii) The proposed development conflicts with overall outcome (4)(f)(iv) of the zone code, in that it is not generally consistent with the character of the area. The area is characterised by houses and units varying in height from 1 to 9 storeys. The proposed development has 3 substantial towers on site, which are 8, 12 and 16 storeys (equivalent to 10, 15 and 19 storeys for a residential building). The bulk and length of the proposed buildings, particularly the 8 storey residential care building is much greater than other buildings in the locality.
- (iii) The proposal conflicts with overall outcome (4)(f)(v) of the zone code, in that the proposal does not transition sensitively to surrounding uses. There is no stepping down the hill to reflect the topography of the site and the street level interface has expanses of retaining and basement out of the ground without active uses.
- (iv) The proposal conflicts with overall outcome (5)(c) of the zone code, in that the proposal does not maintain the amenity of adjoining sensitive land uses, particularly in relation to visual amenity given the proposed bulk, scale and height of the proposed buildings.
- (v) The proposed development conflicts with overall outcome (5)(d) of the zone code, in that the proposed vehicular access to major road (Whitmore Street) is not located and designed to have no adverse impact on the safety, efficiency, function and convenient of use or capacity of the road infrastructure.
- (vi) The proposed development conflicts with overall outcome (5)(i) of the zone code, in that the development fails to retain the 2 protected, significant landscape trees within the site to respond to environmental values and natural features. The proposed development also fails to address the topography of the site and step the proposed buildings down the hill.

(c) The development conflicts with the relevant provisions of the **Community Facilities Code (Part 9.3.5 of Brisbane City Plan 2014)** as outlined below:

- (i) The proposed development conflicts with the purpose (2)(f)(iii),(iv),(v) of the Community facilities code, in that the scale, bulk and height of the development fails to provide a high level of amenity with overshadowing occurring to buildings and open spaces on the subject site and on adjoining or nearby sites. The proposal fails to integrate the building form into the context. Even if an additional 2 storeys was contemplated as a performance outcome in response to Council's proposed Code for retirement and residential care facilities which is currently with the State for review and has no legislative weight, the proposed development does not sensitively transition to surrounding uses and the proposed bulk and scale is not consistent with the character of the area. It is also noted that the 2 additional storeys proposed in the draft Code is only for sites in Medium and High density zones which is not relevant to this site.
- (ii) The development conflicts with the purpose (2)(i), (j) of the *Community facilities code*, in that the development does not provide the variety of building form and treatments that complement the prevailing scale, built form and streetscape character of the surrounding area.

- (iii) Performance outcome PO2 – The proposed Residential care facility and Retirement facility will have detrimental impacts on the amenity of nearby sensitive land uses. Potential noise sources including early morning service and delivery vehicles as well as proposed hours of operation have not been addressed.
 - (iv) Performance outcome PO3 – Any emissions from the proposed basement car parks, kitchens and ancillary café will have a detrimental impact on the air quality amenity of nearby sensitive land uses.
 - (v) Performance outcome PO13 – The design of the proposed buildings is not consistent with the reasonable expectations for built form, site layout and landscape design in that the height and scale of the 3 proposed buildings are overbearing. The 8, 12 and 16 storey towers are much greater in height and scale than other developments (both existing and potential in accordance with the *City Plan 2014*) in the locality especially when considering the proposed height is equivalent to residential buildings of 10,15 and 19 storeys. The bulk and length of the buildings is also much greater than other buildings in the locality. The site layout and landscape design fail to retain and protect the significant trees on site and also fail to provide an attractive and active interface to all the street frontages of the site.
 - (vi) Performance outcome PO15 – The proposed development imposes adverse visual amenity impacts to surrounding sensitive uses. The existing multiple dwellings located to the south of the site would be affected by loss of daylight and breezes, overshadowing of the built form and associated open space. The landscaped buffer proposed is encroached upon by retaining walls and is not wide enough to cater for large subtropical shade trees to mitigate the visual amenity impacts from the proposed built form and the vehicle movement areas.
- (d) The development conflicts with the relevant provisions of *the Multiple dwelling code (Part 9.3.14 of Brisbane City Plan 2014)* as outlined below:
- (i) The development conflicts with the purpose (2)(e) of the *Multiple dwelling code*, in that the design, bulk and scale of the 3 proposed buildings are overbearing and are much greater in height and scale than other developments in the locality. The bulk and length of the buildings is much greater than other buildings in the locality. The proposed development has excessive bulk, scale, form and intensity that does not integrate with the existing and intended neighbourhood structure for the area, and the development has not been designed to be consistent with the location and street context of the site.
 - (ii) The development conflicts with the purpose (2)(j) of the *Multiple dwelling code*, in that the proposal fails to use built form, adequate boundary setbacks and height transitions to manage the interface and reflect the amenity, form, character and subtropical landscape with adjoining low and medium density residential areas.
 - (iii) The development conflicts with the purpose (2)(i),(l) of the *Multiple dwelling code*, in that the extent of retaining walls proposed along the site frontages and limited setbacks do not allow for in ground planting of large subtropical shade trees at regular intervals along the site frontages. The extent of retaining to the street frontages does not present as a high quality, subtropical streetscape interface.
 - (iv) The development conflicts with the purpose (2)(o) of the *Multiple dwelling code*, in that the proposal incorporates limited deep planting along the site frontages, especially to the porte cochre area of building one, where there is no tree planting shown to shade the extent of hardstand. Further, the two significant

landscape trees are not proposed to be retained on site within deep planting areas.

- (v) The development conflicts with the purpose (2)(s) of the *Multiple dwelling code*, in that the proposal fails to retain the significant vegetation (two significant landscape trees) on site to support the local character identity and strengthen the site features. The local character is a mix of mostly low to medium density units with some houses. The proposed development does not strengthen site features, in that the buildings do not complement or fit into the locality and step down the hill, rather, 3 bulky and tall buildings are proposed which would be highly visible from outside the locality and create a landmark site.
 - (vi) Performance outcome PO5 – The proposal fails to achieve a building separation distances prescribed in Table 9.3.14.3.F of the *Multiple dwelling code*. The development imposes adverse visual amenity impacts to surrounding sensitive uses, in that the existing multiple dwellings located to the south of the site would be impacted upon by loss of daylight and breezes as well as overshadowed by the proposed built form.
 - (vii) Performance outcome PO25 – The proposal fails to retain any vegetation (including the significant landscape trees) within the site to balance the bulk, scale and form of the building and provide a subtropical landscape setting including natural shade to mitigate heat island effects.
 - (viii) Performance outcome PO28 – The proposal fails to provide private open space for many of the dwellings.
 - (ix) Performance outcome PO30 – The proposal fails to retain any vegetation (including the significant landscape trees) within the site and deep planting areas have not been located in a position which maximises the potential to retain significant vegetation. Due to the excessive building height, bulk and scale proposed, the deep planting outcomes proposed are not sufficient to soften or reduce the impacts of the built form on the site.
 - (x) Performance outcome PO34 – The proposal fails to facilitate casual surveillance of the street and public space and fails to provide a positive interface to the streetscape due to the extent of planters, retaining walls and podium walls proposed along large expanses of the Seven Oak Street frontage.
- (e) The development conflicts with the relevant provisions of the ***Significant landscape tree overlay code (Part 8.2.19 of Brisbane City Plan 2014)*** as outlined below:
- (i) The development conflicts with the purpose (2)(a), (b) of the *Significant landscape tree overlay code*, in that it has not been demonstrated how the landscape character and visual amenity values of the significant landscape trees will be retained nor does it provide site design and development layouts to accommodate the retention of the two (2) significant landscape trees within the site.
 - (ii) The development conflicts with the purpose (2)(e) of the *Significant landscape tree overlay code*, in that the report by Litoria Consulting has noted the building design and layout as reason for removal, however the reasons provided are not exceptional circumstances that warrant the removal of the significant landscape trees. While an increase in tree planting on the site has been demonstrated, calculations for net canopy replacement have not been provided. It has not been demonstrated how replacement planting will replace the landscape character values of the 2 significant landscape trees.

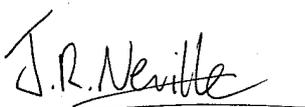
- (iii) Performance outcome PO2 – The proposal does not have exceptional circumstances for the removal of the significant landscape trees. Building envelope within the Tree Protection Zone (TPZ) is not an exceptional circumstance. Further, replacement planting and no net canopy loss has not been demonstrated.
- (f) The development conflicts with the relevant provisions of ***the Transport, Access, Parking and Servicing Code (Part 9.4.11 of Brisbane City Plan 2014)*** as outlined below:
- (iii) Performance outcome PO3 – The proposal fails to comply with PO3 of the *Transport Access, Parking and Servicing (TAPS) Code*. The proposal provides a vehicular crossover on Whitmore Street which is not designed and located to prevent significant impact on the safety, efficiency, function and convenient of use or capacity of the road network in accordance with *Transport Access, Parking and Servicing Planning Scheme Policy* and the location of the existing bus stop and the restricted width of Whitmore St would increase the number of conflict points along this road.
 - (iv) Performance outcome PO13 – The proposal fails to comply with PO13 of the *Transport Access, Parking and Servicing Code* which requires development provide on-site car parking spaces to accommodate the design peak of the uses. The proposal provides for 160 car parking spaces which is less than the required 184 car parking spaces. In particular, the proposal fails to provide adequate car parking for the retirement facilities use by virtue of the reduced rate applied to the assisted living units within the applicant's traffic impact assessment.
- (g) The development conflicts with the relevant provisions of the ***Streetscape hierarchy overlay code (Part 8.2.20 of Brisbane City Plan 2014)*** as outlined below:
- (i) Performance outcome PO2 – The proposal does not retain street trees to establish a high-quality subtropical streetscape and a strong pedestrian amenity focus.

The proposal is in conflict with the City Plan and there are no sufficient grounds to overcome the conflict.

I direct that:

1. the applicant be advised of the decision;
2. the Central SEQ Distributor-Retailer Authority be advised of the decision;
3. the SARA as a concurrence agency be advised of the decision;
4. the Local Ward Councillor for Walter Taylor Ward be advised of the decision; and
5. the submitters be notified of the decision.

Dated 10 November 2017



John Neville
Principal Urban Planner
Planning Services City West
As DELEGATE of Council