

# Referral Response

## IP – Strategic Planning



**Application Number:** DA/886/2010

**Date:** 14 October 2010

**Location:** LOT 11 DP 830292, LOT 12 DP 830292 40 BURTON ROAD, MOUNT HUTTON NSW 2290, 48 BURTON ROAD, MOUNT HUTTON NSW 2290

I refer to the subject application, and the revised application information provided for assessment, and advise the following:

### Proposal

The proposal has been modified based on the review of Council officer responses to internal referrals on the application. For reference purposes, IP's previous response to this application was provided on 15 July 2010.

This revised application is for the construction of a Retirement Village comprising fifty one (51) instead of seventy six (76) dwellings on the site. The plan configuration is now for 28 x 1 bed plus study, and 23 x 2 bed plus study, single story self contained one and two bedroom dwellings; a community centre, maintenance shed, and associated roadworks, revegetation and landscaping. It is proposed to stage the development. The application has been lodged pursuant to Clause 41 of LMLEP 2004.

The revised proposal also provides information to assist in demonstrating consistency with the zone objectives as discussed in Council's previous referral.

The proponent's analysis and IP's response is as follows:

2.1 Objectives of the 1(2) Rural Living Zone Matter Raised by Council	Proponents Response	Council Planners Comment
a) <i>provide for the enjoyment of a rural lifestyle and the operation of small-scale rural and tourism activities, and</i>	<p>The proposal comprises a retirement village within a rural setting to provide residents with a rural lifestyle.</p> <p>From within the development a rural and environmental theme will be provided through the low density nature of the dwellings and the extensive landscaping to be retained and/or provided. Dwellings will have a rural outlook and residents will be able to take advantage of the walking trails to be provided within the landscaped buffers, including the creek rehabilitation area at the rear of</p>	<p>The zone objectives contemplate uses, which are rural in nature and small in scale. The area is seen as having tourism potential and other land uses, which are compatible with a rural lifestyle, all within the servicing capacity of the area. Although the zone allows for a variety of other uses to be permissible with consent, the intent of the zone is clearly for small hobby farm and rural activities such as a retail plant nursery; grazing for cattle and horses; horticulture including fruit, vegetable, and flower crop</p>

	<p>the site (which is presently cleared and degraded). The landscaped area comprises 71% of the site and the development has a FSR of 0.12:1 providing each dwelling with an effective site area of around 972sqm. This provides a rural character which enables new residents to live within a rural setting.</p> <p>The new landscaping and increased setbacks to all boundaries will ensure the rural lifestyle of adjoining properties will not be adversely impacted upon by way of adverse visual or acoustic impacts.</p> <p>As detailed in Appendix 13, the site comprises Agricultural Suitability Class 4 which is defined as “<i>Land not suited for cultivation. Poor grazing or lands with seasonal grazing capabilities. Overall level of production is low.</i>” As a result, the site is not suited for rural activities (other than rural living) and therefore this component of the zone objective is not relevant.</p>	<p>production etc.</p> <p>Whilst it is acknowledged that the application has been revised to accommodate a less intensive built form to respond to concerns about general amenity to neighbouring properties, as well as site intensification generally within a rural area, the proposal cannot be said to comply with the overall intent of the objective of enjoyment of a rural lifestyle or that the application provides for the operation of a small-scale rural and tourism activity.</p>
<p><i>b) provide for a range of compatible land uses that maintain the rural environment, and</i></p>	<p>The current use of the site is for two residential dwellings and the proposed retirement village will continue the residential uses on the site. The surrounding area comprises a mix of low density rural lifestyle dwellings to the north and standard suburban residential subdivisions to the south and south west. The proposal use is non intrusive and will be compatible with the existing land uses in the area. Furthermore, as detailed above, the development will maintain the rural environment through substantial landscape buffers, the rehabilitation of the creekline vegetation, the low density nature of the development (eg. FSR of 0.12:1), the retention of a single storey scale across the site, etc. It is considered the retirement village will co-exist in a compatible way with the adjoining land uses. Provision of the additional landscaping, rehabilitation of the degraded areas and improved water cycle management of an otherwise nonexistent system will also significantly enhance the</p>	<p>The objective of the zone contemplates uses which are compatible with low density rural uses. This is evident from the types of permitted uses with consent from the table of uses to Clause 15 of the LMLEP 2004. If Seniors Housing was a use that was contemplated within this zone then the objectives and the land use table would reflect that intended use.</p> <p>Therefore, it cannot be said that this objective has been met.</p>

	biodiversity of the locality	
<p>c) ensure development is carried out in a manner that improves the quality of the environment, and is within the servicing capacity of the area, and</p>	<p>The development will improve the quality of the environment in the following ways:</p> <ul style="list-style-type: none"> <li>➤ Substantial additional landscaping and habitat provision in addition to the retention of the majority of the existing trees on the site.</li> <li>➤ The rehabilitation of the riparian zone at the rear of the site which is presently cleared and degraded. This will include substantial additional planting, habitat provision and maintenance through a Vegetation Management Plan.</li> <li>➤ The provision of a comprehensive water management plan including improved stormwater management, improved water quality, reducing off site stormwater impacts and improved flood mitigation.</li> </ul> <p>The quality of design is evident in the single storey design and site layout, and the use of suitable materials and colours compatible with the rural environment. The development is compliant with both Council's DCP and the SEPP (Housing for Seniors or People with a Disability) requirements in terms of FSR, height, landscaped area, deep soil zones, solar access, water retention, private open space and community facility provision.</p> <p>As detailed in the referral response from Council's Co-ordinator Social and Community Planning (29 July 2010) the proposal will provide "...<i>additional quality, affordable and adaptable seniors housing in an area that is with in close proximity to existing facilities, services and infrastructure,...</i>". The site is located in close proximity to a sub-regional centre and even closer to local centres. These areas include all relevant infrastructure and associated services, providing easy access to these.</p> <p>The development has access to the relevant utilities and where access is limited these can be extended to service the proposal.</p>	<p>It is understood that the revised proposal will have a reduced number of dwellings for Seniors Housing, and that this reduced area in building footprint would make available the remainder of the site to additional retention of existing trees, and additional landscaping, as well as the rehabilitation of the riparian area to the rear of the site. However, the comments from the previous section are still relevant.</p> <p>Therefore, it cannot be said that this objective has been met.</p>

<p><i>d) retain and enhance the rural character of land, and</i></p>	<p>As indicated in the SEE, the immediately adjoining properties have been developed for a function centre and large lot housing. Suburban housing lots are provided within the 2(1) Residential zone immediately to the south west of the site (ie. within 50 metres). The character of the land itself is semi-rural accommodating two large dwellings. There is therefore a mixed character of the area which is not entirely rural and the agricultural qualities are very limited (see Appendix 4). Through the extensive setbacks and landscaping proposed, views of the development itself will be extremely limited. The surrounding large residential dwellings do not include extensive vegetated areas or display rural characteristics. Notwithstanding, the proposal will enhance the immediate outlook of the area, by providing extensive landscaping and habitat improvements within a site that is predominantly cleared and developed.</p>	<p>The site is in close proximity to an urban residential zone and the character of the land to the south of this development is residential in nature. However, It is arguable that one can maintain in the rural character of the land by the introduction of Seniors Housing, given that the land is zoned for rural purposes. The outcome being a residential development within a rural zone which is not contemplated in the zone objectives or land use table of the zone.</p> <p>The proposal will also reduce the amount of land that can be effectively used for rural activities which in turn will increase demand/or need to rezone more land for rural purposes to maintain current supply.</p> <p>Therefore, it cannot be said that this objective has been met.</p>
<p><i>e) allow for the appropriate development of land presently within this zone so as to limit the need to rezone any more land to this zone, and</i></p>	<p>The development of a low density retirement village in this zone is a permissible land use pursuant to Clause 41.</p> <p>As detailed in Appendix 13, the site comprises Agricultural Suitability Class 4 which is defined as “<i>Land not suited for cultivation. Poor grazing or lands with seasonal grazing capabilities. Overall level of production is low.</i>”</p> <p>As a result, the site is not suited for rural activities, other than rural living which is being catered for with the proposed development. The proposal provides an opportunity to live in a retirement village in a rural setting in a low density way that will not compromise the rural character of the surrounding 1(2) zoned land. It will provide the opportunity for more people to live in a rural setting (compared with the 2 dwellings at present) thereby reducing the demand and negating the need to rezone more land for this purpose.</p>	<p>Clause 41 (1) of the LEP provides...” the opportunity for development of retirement village style accommodation for aged persons in appropriate locations”.... Clause 16 of the LEP also provides that Consent must not be granted for development unless the consent authority has had regard to the vision, values and aims of Lifestyle 2020 Strategy, and is satisfied that the development is consistent with the relevant objectives of the zone set out in Table to clause 15.</p> <p>As indicated in a previous referral for this site, the 2020 Strategy underpins the objectives and land use structure for the 1(2) Rural (Living) Zone of the LEP and therefore, it is IP's belief that the proposed development is in conflict with the intent of the Strategy and the objectives of the zone. Before a development of this scale and nature could be considered in this zone, the 2020 Strategy would need to be reviewed and altered to enable a</p>

		<p>Seniors Living proposal to be considered for an approval.</p> <p>Therefore, it cannot be said that this objective has been met.</p>
<p><i>f) avoid land use conflict by restricting or prohibiting development that has the potential to negatively affect the sustainability of existing agriculture, and</i></p>	<p>As detailed above, the site is deemed to be of low agricultural suitability and unlikely to be viable for agricultural production. The site is adjoining a function centre and other large residences. Development of the site as proposed will not result in any adverse impacts on nor restrict any agriculture operations or rural living opportunities within the area. The substantial landscape buffers proposed around the site will ensure there are no land use conflicts.</p> <p>As detailed in the letter from Spectrum Acoustics in Appendix 6, the proposal will not be a noise generator and will not alter the need for Ducks Crossing function centre to comply with their acoustic related DA conditions of consent.</p>	<p>The site may be classified as having a low agricultural suitability however; this does not preclude the possibility of small scale agricultural uses such as the keeping or breeding of horses or other animals, various types of horticulture which may use hydroponics, or other less intensive forms of agricultural pursuits.</p> <p>Therefore, it cannot be said that this objective has been met.</p>
<p><i>g) provide for sustainable water cycle management.</i></p>	<p>The proposal includes sustainable water cycle management through the amended stormwater management design.</p>	<p>Compatible with intent of objective.</p> <p>Although this objective has been met, it is not seen as a relevant zone objective for this proposal in terms of a residential use within a rural zone.</p>

### Planning Comment:

The zone objectives encourage uses, which are rural in nature and small in scale. The area is seen as having tourism potential and other land uses, which are compatible with a rural lifestyle, all within the servicing capacity of the area. Although the zone allows for a variety of other uses to be permissible with consent, the intent of the zone is clearly for small hobby farm and rural activities such as a retail plant nursery; grazing for cattle and horses; horticulture including fruit, vegetable, and flower crop production etc.

Clearly, the zone objectives play a significant role in the determination of issues and values, which must be considered before relevant uses are contemplated for approval.

### Lifestyle 2020 Strategy

The 2020 Strategy (the strategic document that the LMLEP is based on), provides the following description at clause 6.3.3 of the Green System Map, for Semi – Rural Open Landscapes and Agricultural Landscapes:

*The lands exhibit values that are characteristic of rural, semi rural and open landscapes. They are often used for agricultural activities or dispersed residential*

*settlement and are generally located on the western side of the City...Pockets of these lands are located on Cherry Road at Warners Bay, among other areas.*

*The value of these areas lie in their reflection of the past land uses of Lake Macquarie. They add to the scenic amenity of the City through their picturesque qualities and provide opportunities for economic development through agriculture, intensive agriculture and tourism.*

*Land in this category are intended to be retained to provide for rural related activities, provide pleasant vistas along the Movement System and form the open landscape character for the City.*

## **Planning Comment**

The revised proposal for a Retirement Village is still incompatible with the zone objectives, which has its genesis from Council's Lifestyle 2020 Strategy as discussed above. The area is clearly contemplated for rural type activities of a small scale within rural open landscapes, dispersed with residential settlements maintaining scenic amenity and vistas of the city and its character.

## **Strategic planning considerations**

A planning proposal to rezone 1(2) Rural (Living) zoned land to Zone 2(1) Residential Zone was recently submitted to Council's Rezoning Assessment and Prioritisation Panel (RAP) for consideration. The proposal was considered by RAP as not having merit until a full strategic overview was undertaken of all 1 (2) Rural Living land in the vicinity, as it was deemed as being inconsistent with Lifestyle 2020 Strategy.

An extract of the minutes provides the following:

*The Panel resolved that a major strategic investigation of the 1(2) Rural (Living) zoned land in this locality needs to be undertaken before the subject proposal is considered further. The Panel was of the view that the further reduction of rural residential land in this locality should not take place without the support of a broader land use investigation that identifies the need/desire to reduce the amount of 1(2) land in Mount Hutton and the surrounding area. The land currently supports a strong visual buffer between the residential development and rural lifestyle lots and its loss without appropriate rationale is seen as premature.*

*Council expects to undertake a review of the broader land use patterns of the 1(2) Rural (Living) zoned land in the next 12 or so months. The outcome of the investigation will determine how council proceeds in relation to your site.*

The above planning proposal has relevance to the current development application due to its proximity to the current proposal, and that it was the proponent's intent to submit a development application for a Seniors Living type of development, if the planning proposal for a rezoning was not acceptable to council.

An approval of this type of development would be prejudicial to an orderly planning outcome which should follow a broad land use investigation in the first instance. Approval would also set a precedence for similar development, and provide for an intensification of a rural area without appropriate infrastructure such as footpaths for the elderly being in place. Development of the proposal would also prejudice future potential land uses of the area, which may be identified in Council's review of land use patterns in the 1(2) Rural (Living) Zone. Prior to any development intensification in the area, a thorough assessment is needed to identify and substantiate future uses. Undertaking intensive development

prior to such an assessment is likely to result in development that is inappropriately located and designed, and prejudice future potential land uses. Integrated Planning has placed the revision of the 1(2) Rural (Living) Zone of Council's Lifestyle 2020 Strategy for the Mount Hutton area in its Forward Works Register as being of a high priority. Work has commenced on a scoping study, preparing a programme for the study, and identification of required studies.

On the basis of the above analysis, Integrated Planning believes that the proposal is, inconsistent with the zone objectives, inappropriate in terms of scale and intensity, and a premature development in the context of the 1(2) Rural (Living) Zone.

Please refer to the previous response provided on 15 July 2010, for the full context of IP's response to this referral.

Should you require any information please contact me on extension 509

**Gabriele Calcagno**

**Integrated Planning**