

2011SYE004 – 101 Acacia Road, Sutherland  
DA10/1360

## ASSESSMENT REPORT APPENDICES

Appendix	A	Report from Architectural Review Advisory Panel Meeting of 20 January, 2011
	B	Clause 26 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
	C	Applicant's SEPP No. 1 Objection

## Architectural Review Advisory Panel

Proposal:

**Residential Aged Care Facility - Demolition of Existing Structures and Construction of New Residential Aged Care Facility Comprising 144 Single Bedrooms, Basement Parking and Associated Infrastructure**

Property:

**101 Acacia Road SUTHERLAND NSW 2232**

Applicant:

**SDHA Pty Ltd**

File Number:

**DA10/1360**

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The following is the report of the Architectural Review Advisory Panel Meeting held on 20 January 2011 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

### **"2. Consideration of Development Application No. 10/1360 – Residential Aged Care Facility (RACF) at 101 Acacia Road, Sutherland**

Council's David Jarvis and Greg Hansell outlined the proposal, including providing details of Council's relevant codes and policies.

Savvas Hadjimichael, Tim Tait, Paul Myers, Lara Calder, Uyen Bui and Dan Brindle addressed the Panel regarding the aims of the proposal and the constraints of the site.

This three (3) storey high proposal has been configured with four (4) wings, each containing 18-20 beds per floor on the upper two (2) levels. This provides a total of eight (8) wings containing a total of 144 beds. Each wing is linked to a centralised dining/lounge facility. The facility's lower level contains car parking and essential services such as the laundries and kitchen.

It was advised by the applicant that the facility has been designed to cater for varying levels of care in six (6) of the eight (8) wings. The two (2) ground floor wings on the southern side of the building have been specifically designed to cater for dementia patients.

#### Context

The proposal sits comfortably in its context. Existing vegetation is an asset for the site. Adjacent development to the west and north is bulkier and more dense, so the proposal is a good fit.

#### Scale

The scale of the building is considered reasonable. However, there is potential for the proposal to be an additional floor higher and still relate appropriately to its immediate context.

#### Built Form

In response to the operational requirements of the facility, the form of the building provides eight (8) separate wings that are all serviced by a centralised core. The resultant building form responds well to both the operational requirements of the facility and its immediate context.

#### Density

The density of the proposal is also considered reasonable.

### Resource, Energy and Water

The orientation of the building results in a large proportion of residents' rooms receiving little direct solar access. However, it is acknowledged that the building form is largely driven by the operational strategy of the building. It is also noted that skylights have been provided to the upper level to improve solar access where possible. On balance, solar access to the facility is acceptable.

Further detail is required to determine if solar screening devices proposed for the facility are appropriate for each elevation.

### Landscape

Information relating to existing trees appears to be inconsistent between the survey, arborist report and landscape plans. As many trees as possible should be retained and consideration given to transplanting any trees that could be reused in more appropriate locations.

The landscape approach is generally considered to be successful, however the following suggestions are made to further finesse the proposal:

- Consideration should be given to refining the 1500mm wide paths to provide narrower more intimate paths where possible. Widths should only be increased to 1500mm for wheelchair passing bays in strategic locations.
- Landscaping in the entry forecourt appears potentially barren. More "soft" landscaping is recommended in this area. It is suggested that parking spaces be reduced in this area to accommodate only what is essential for the operation of the facility. Improved privacy for adjacent rooms will also be possible.
- The northern and eastern terraces also appear to be potentially bleak. Consideration should be given to stepping the profile of the floor slab to provide some opportunities for on grade planting within these areas.
- The choice of planting species is generally appropriate. It is suggested that more woodland canopy trees be used to reinforce the existing character of the site.

### Amenity

The building has been designed in a rational way that will be functional for both the operator and the residents.

The intent of separating the main dining and lounge areas from each wing and providing a dining space shared by two wings was questioned by the Panel. It is noted that the strategy of many established RACF operators is to provide a single dining facility for each wing and to connect the dining room directly to that wing. This approach is considered to encourage more residents to be sociable and use the dining rooms rather than having meals in their bedrooms. The applicant advised that the intent of their design was to create a strong definition between the more public and private spaces. It was also highlighted that more intimate social lounge areas were provided within each wing.

The Panel suggested that it would be desirable to incorporate lounges on the ends of the lower level northern wings (wings 3 and 4). A minor encroachment on the boundary setback in this location would be acceptable as the site adjoins a Telstra services facility.

It is noted that the proposed facility provides no opportunity for large social gatherings of residents (eg carpet bowls, carol singing, bingo etc). Whilst it is acknowledged that these will not be common occurrences in a facility of this type, it is suggested that it would be desirable to

create the potential to cater for such occasions. Reconfiguring the servery and WC servicing upper level dining rooms would allow a demountable partition to be located between the dining areas. This would create a space that could be utilised for large gatherings when necessary.

During the winter months the south facing balconies servicing wings 1 and 2 (upper and lower levels) will receive no solar access. It is suggested that more of the space allocated to these balconies should be dedicated to the lounge rooms to which they are connected.

#### Safety and Security

A secure environment appropriate for the varying levels of care required in a residential aged care facility is provided.

#### Social Dimension

The proposed development is acknowledged as being a much needed facility.

#### Aesthetics

The aesthetics of building are generally considered successful and appropriate for the use of the building. However, further information is required to document the proposed colour and finishes.

The *porte cochère* is aesthetically the least successful element of the building. The extent of the *porte cochère* and angled columns that extend past the canopy of the *porte cochère* roof appear inconsistent with the conservative, well mannered architectural language of the rest of the building.

#### **Recommendation/Conclusion:**

The proposed building responds well to its context and is a functional building that will provide a good level of amenity to its future residents.

Further improvement of the proposal's landscaping is recommended. The addition of small lounges to the lower level northern wings is also recommended. Further information is also required to document the proposed external finishes and solar screens."

Colleen Baker  
ARAP Coordinator

02 February 2011

## 26 Location and access to facilities

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:
  - (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
  - (b) community services and recreation facilities, and
  - (c) the practice of a general medical practitioner.
- (2) Access complies with this clause if:
  - (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:
    - (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
    - (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
    - (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or
  - (b) in the case of a proposed development on land in a local government area within the Sydney Statistical Division—there is a public transport service available to the residents who will occupy the proposed development:
    - (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
    - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
    - (iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or
  - (c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
- (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

- (3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

- (4) For the purposes of subclause (2):

- (a) a **suitable access pathway** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and
- (b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

- (5) In this clause:

**bank service provider** means any bank, credit union or building society or any post office that provides banking services.



**OBJECTION PREPARED PURSUANT TO “STATE  
ENVIRONMENTAL PLANNING POLICY NO. 1 –  
DEVELOPMENT STANDARDS”**

**IN SUPPORT OF A DA FOR**

**THE CONSTRUCTION OF A 144 BED RESIDENTIAL  
AGED CARE FACILITY AT**

**42 AUBURN STREET, SUTHERLAND**

**Prepared for  
Bupa**

**By  
BBC Consulting Planners**

Job No. 08207  
SEPP-1 Objection.doc  
February 2011

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## 1. INTRODUCTION AND BACKGROUND

This objection has been prepared in support of a development application for the development of seniors housing, comprising a 144 bed residential aged care facility ("the proposal") located at No. 42 Auburn Street, Sutherland ("the site").

This SEPP No. 1 Objection has been prepared in relation to a potential non-compliance with the development standard contained in clause 26 of SEPP (Housing for Seniors). It objects to the standard in the event that Council is of the view that the standard applies.

## 2. AIMS AND OBJECTIVES OF SEPP NO. 1

SEPP No. 1 "provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5 (a) (i) and (ii) of the Act".

## 3. REQUIREMENTS FOR APPLICATIONS

Clause 6 of the SEPP No. 1 states as follows:

- "6. *Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained therefore) the person intending to carry out that development may make a DA in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.*"

The Land and Environment Court, in *Winten Property Group Limited v North Sydney Council*, and *Hooker Corporation Pty Limited v Hornsby Shire Council*, has defined the approach to be taken when considering an objection under SEPP 1. The approach involves answering a number of questions:-

*"First, is the planning control in question a development standard?*

*Second, what is the underlying object or purpose of the standard?*

*Third, is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a) (i) and (ii) of the EP&A Act?*

*Fourth, is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

*Fifth, is the objection well founded?"*

## 4. RELEVANT STANDARD

The standard which this SEPP No.1 Objection addresses is that imposed by Clause 26 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (Housing for Seniors))

Clause 26 states:

*2) 26 Location and access to facilities*

*(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:*

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
- (b) community services and recreation facilities, and*
- (c) the practice of a general medical practitioner.*

*(2) Access complies with this clause if:*

*(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:*

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or*

*(b) in the case of a proposed development on land in a local government area within the Sydney Statistical Division—there is a public transport service available to the residents who will occupy the proposed development:*

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
- (iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or*

*(c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:*

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*

*(iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),  
and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).*

*Note. Part 5 contains special provisions concerning the granting of consent to development applications made pursuant to this Chapter to carry out development for the purpose of certain seniors housing on land adjoining land zoned primarily for urban purposes. These provisions include provisions relating to transport services.*

*(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.*

*(4) For the purposes of subclause (2):*

- (a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and*
- (b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.*

*(5) In this clause:*

*bank service provider means any bank, credit union or building society or any post office that provides banking services.*

The site is located within 400 metres of bus stops located in Clio Street and to a bus service that meets the service requirements in clause 26(2)(b) and that will take passengers to centres with the services mentioned in clause 26(1).

However the path of travel to these bus stops is not a sealed footpath and so compliance with clause 26(3) and (4) cannot be confirmed.

## **5. GROUNDS OF OBJECTION**

Pursuant to the provisions of SEPP No. 1, the applicant objects to the strict application of the standards referred to above in accordance with the approach taken in *Winten Property Group v North Sydney*.

### **5.1 Is the Planning Control a Development Standard?**

The planning controls in Clause 26(3) and (4) are a development standard. A development standard is defined in the EP&A Act to mean:



*"development standards" means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:*

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,
- (b) the proportion or percentage of the area of a site which a building or work may occupy,
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,
- (d) the cubic content or floor space of a building,
- (e) the intensity or density of the use of any land, building or work,
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,
- (h) the volume, nature and type of traffic generated by the development,
- (i) road patterns,
- (j) drainage,
- (k) the carrying out of earthworks,
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,
- (m) the provision of services, facilities and amenities demanded by development,
- (n) the emission of pollution and means for its prevention or control or mitigation, and
- (o) such other matters as may be prescribed.

## 5.2 What Is the Purpose/Object of the Standard?

There is no specifically stated purpose or object of the development standard expressed in Clause 26. However it can be inferred that the object of the standard is to ensure that residents have access to all facilities and services they reasonably require.

## 5.3 Is Compliance with the Development Standard Consistent with the Aims of the Policy? Does Compliance Hinder the Attainment of the Objects Specified in Section 5(a)(i) and (ii) of the EP&A Act?

### 5.3.1 Aims of SEPP No. 1

The aims of SEPP No. 1 are noted above in Section 2. SEPP No. 1 provides flexibility for development standards where compliance would be unreasonable or unnecessary or hinder the objects in Section 5(a)(i) and (ii) of the Act.

When the development is tested against the underlying objectives of the standard, and in the circumstances of this case, compliance with the standard would be inconsistent with the aims of the policy because strict compliance would hinder the objects of the Act by preventing a development that is totally acceptable in terms of the services provides to residents.

The purpose of the development is to provide high quality residential aged care for those who have been assessed as needing care. The development standard prevents this and thus inhibits the provision of an important community service on a site totally suitable for this purpose.



Therefore, the proposed development is a case where flexibility in the application of the development standard is justified. Strict application of the standard is unreasonable and unnecessary for the reasons noted in Section 5.4 below.

### **5.3.2 Objects of the Act – Section 5(a)(i) and (ii)**

These objects state as follows:-

*“5. The objects of this Act are:*

*(a) to encourage:*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land”*

Compliance would hinder the attainment of the above objects in that the proposal will provide a much needed aged care facility for the benefit of the community.

The proposed development is consistent with the objects of the Act and represents the orderly and economic use of the land which is justified in terms of the provision of aged care and disabled housing to the community and the absence of impacts on the amenity of the surrounding area.

### **5.4 Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?**

Strict compliance with Clause 26(3) and (4) of the SEPP (Housing for Seniors) is considered to be unreasonable and unnecessary in the circumstances of the case for the following reasons. These reasons address the underlying objectives of the standard and shows that these objectives are met.

As mentioned in the SEE accompanying the development application nursing home living is not a lifestyle option; rather it is obtained on a needs basis. There is an identified need within Sutherland Shire to provide residential aged care facilities which allow aging residents to remain in their locality, close to family, friends and existing social networks.

Whilst some aged care homes continue to specialise in low- or high level care, the proposed Bupa facility offers the full continuum of care which allows residents to ‘age in place’ — they can stay in the same home as their care needs increase.

Bupa Care Services aged care homes provide a range of care and services to residents including:

- staff to provide help at all times, including in emergency situations;
- assistance with daily living activities such as bathing, showering, dressing and mobility;

- assistance with medications;
- meals and refreshments, taking into account special dietary needs;
- basic furnishings including carpets, curtains, chairs, beds and bed linen,
- bath towels, face washers, soap and toilet paper;
- a laundry service, cleaning services and maintenance of buildings and grounds;
- services such as hairdressing, library, internet podiatry; and
- social activities.

Bupa employs suitably skilled and qualified staff to provide assistance to residents. All residents with high level care needs must have their nursing services carried out by a registered nurse. Additionally, all residents are provided with assistance in obtaining services from health practitioners including the family doctor.

The average age of residents moving into a Bupa residential aged care facility is approximately 85+.

Residents do not have the ability to independently access bus services or nearby centres. All services have to be provided on site to the residents or they need to be transported by ambulance or other means to the medical or community services they require.

In the case of the proposed development such access will be provided to residents as this is the very nature and intention of the facility.

Independent seniors who may seek to use the services of a bus to access nearby shopping or neighbourhood centres would not be eligible to gain access to the facility.

To the extent that the objective of the standard is to ensure that an appropriate level of care and support will be provided to seniors, it is submitted that the proposed development meets this objective to a high standard.

## **5.5 Is the Objection Well Founded?**

The objection to Clause 26(3) and (4) is well founded for the following reasons:-

- All necessary care and support services will be provided for residents on the site with appropriate arrangements made for the provision of all services of the type referred to in clause 26(1);
- the development does not undermine the underlying objectives of the standard; and
- the non-compliance does not result in any significant adverse environmental impacts on the amenity of the surrounding area.

Pursuant to the provisions of SEPP No. 1, the applicant objects to the strict adherence to the above development standard to the extent that it is relevant.



## 6. CONCLUSION

Having regard to the above, it can be concluded that the proposed non-compliance does not undermine or frustrate the underlying objective of the standard. The non-compliance also gives rise to no significant adverse environmental impacts. On the grounds stated above, it is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.