

STATE ENVIRONMENTAL PLANNING POLICY NO. 1 – DEVELOPMENT STANDARDS

OBJECTION PREPARED IN SUPPORT OF DEVELOPMENT APPLICATION FOR PROPOSED COMMUNITY AGED CARE COMPLEX, CORNER BRIGHTON AVENUE AND CARY STREET TORONTO

Prepared on behalf of:
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Prepared for submission to:
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1. INTRODUCTION

This objection has been prepared in support of a development application ("DA") which seeks the approval of Lake Macquarie City Council to redevelop land at Brighton Avenue Toronto as a Community Aged Care Complex.

The majority of the land is zoned 2(2) Residential, with a small portion of the site 2(1) Residential under the Lake Macquarie Local Environmental Plan ("LMLEP") 2004.

The development area (lower site portion) is 11,650sqm and generally rectangular in shape. The overall site area (including the lower and upper site portions) is 21,830m². The site is located on the southern side of Brighton Avenue Toronto.

2. RELEVANT DEVELOPMENT STANDARD

Pursuant to Clause 40(4)(a) of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004, if development is proposed in a residential zone where residential flat buildings are not permitted, the height of all buildings in the proposed development must be 8m or less. This SEPP No.1 Objection has been prepared in relation to non-compliance with that development standard.

The proposed height of the building on that portion of land zoned 2(1) is 3 storeys or 12m.

3. AIMS AND OBJECTIVES OF SEPP NO.1

The aims and objectives set out in Clause 3 of SEPP No.1 are as follows:

"This policy 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."

Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979 states the following:

"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;....."

Consideration of these matters is dealt with in Section 4.

4. GROUNDS OF OBJECTION

4.1 Grounds of Objection Pursuant to SEPP No.1

4.1.1 Objects of the Environmental Planning and Assessment Act 1979

Having regard to the aims and objectives of SEPP1 it is considered that the proposed development is consistent with the objects specified in section 5(a)(i) and (ii) of the EP&A Act in that:

- The development in its current form is a balanced solution to the site, facilitating the proper conservation and management of natural resources while promoting the social and economic welfare of the community;
- The development in its current form promotes the co-ordinated and orderly economic use and development of land zoned for urban purposes close to existing services and facilities;
- The proposal is infill development with access to existing infrastructure and services that represents orderly and economic development of the land.

4.1.2 Lake Macquarie Local Environmental Plan 2004

Clause 3 of the LMLEP 2004 provides that the objectives of the LEP are:

“...to achieve development of land to which this plan applies that is in accordance with the principles of ecologically sustainable development by:

- (a) promoting balanced development of that land, and*
- (b) implementing the Lifestyle 2020 Strategy adopted by the Council on 27 March 2000.”*

The proposed development, having regard to development controls, site capacity, and existing neighbourhood amenity and character, provides a balanced outcome consistent with the zoning and land use controls applicable to the land. It is consistent with the vision of the *Lifestyle 2020 Strategy* which is described in Part 2 as follows:

“The vision for the City, held by Council and the community, is that it is:

- *A place where the environment is protected and enhanced.*
- *A place where the scenic, ecological, recreational and commercial values and opportunities of the Lake and coastline are promoted and protected.*
- *A place with a prosperous economy and a supportive attitude to balanced economic growth, managed in a way to enhance quality of life and satisfy the employment and environmental aims of the community.*
- *A place that recognises, encourages and develops its diverse cultural life and talents and protects and promotes its heritage.*
- *A place that encourages community spirit, promotes a fulfilling lifestyle, enhances health and social well being, encourages lifestyle choices and has opportunities to encourage participation in sport and recreation.*
- *A place that promotes equal access to all services and facilities and enables all citizens to contribute to and participate in the City's economic and social development.”*

This vision is given further detail and clarity through Council's local development and planning controls, with which the proposed development is considered to be consistent, as detailed in the Statement of Environmental Effects supporting the DA.

Zone Objectives

The objectives of the 2(1) Residential zone are:

- (a) permit development of neighbourhoods of low-density housing, and*
- (b) provide for general stores, community service activities or development that includes home businesses whilst maintaining and enhancing the residential amenity of the surrounding area, and*
- (c) ensure that housing development respects the character of surrounding development and is of good quality design, and*
- (d) provide for sustainable water cycle management.*

As detailed in the Statement of Environmental Effects supporting the DA, the proposed development in its current form is generally consistent with the objectives of the 2(1) zone. The development will ensure that future residents are accommodated in a high quality residential environment close to existing services and facilities. The proposed residential component respects the character of surrounding development through appropriate siting and design measures, having particular regard for the interface between the development and the residential properties to the west.

Clause 21 of LMLEP

In addition to the matters set out in SEPP No.1, Clause 21 of the LMLEP 2004 states the following:

"The consent authority, in determining a written objection made pursuant to State Environmental Planning Policy No. 1 – Development Standards, is to consider the underlying objectives of the development standard or other requirement concerned and the following, to the extent that they are relevant to the proposed development:

- (a) neighbourhood and local context,*
- (b) topography,*
- (c) solar orientation,*
- (d) neighbourhood amenity and character,*
- (e) privacy,*
- (f) overshadowing,*
- (g) security, safety and access,*
- (h) local infrastructure,*
- (i) landscape design,*
- (j) waste disposal,*

in addition to the matters referred to in that policy."

In the absence of underlying objectives related to the height development standard set out in clause 40(4)(a) of SEPP (Housing for Seniors and People with a Disability) 2004, clause 29 of LMLEP 2004 is relevant. Clause 29 is set out as follows:

"In considering an application for consent to the erection of a building the whole or part of which exceeds 8 metres, clause 29 the consent authority must take into consideration whether that height is compatible with the heights of other buildings in the immediate vicinity or locality and is compatible with:

- (a) the site attributes, and existing or proposed uses of the land to which the application relates, and*
- (b) the other requirements of this plan and the provisions of any relevant development control plan."*

The land to which the SEPP 1 application applies is a narrow strip zoned as 2(1) Residential close to the south western corner of the development site (lower site portion). The land is surrounded on three sides by land zoned 2(2) Residential. The narrow strip has a fall from south to north of approximately 4m and forms an integral part of the site to be developed. A three storey building (12m high) is proposed to straddle the land, covering an area of the site which is zoned both 2(1) and 2(2) Residential. The height of the building on the 2(1) land will be the same as that on the adjoining 2(2) land (all part of the same building) and similar to the proposed height of the community building to the east and the independent living units fronting Brighton Avenue (3 storeys). The proposed height of the building is therefore compatible with the heights of other buildings in the immediate vicinity. The building is well set back within the overall site behind other buildings fronting Brighton Avenue and has a height and scale considerably less than the proposed residential aged care facility on the eastern side. Given the above, breaching the 8m height limit in this instance as set out in clause 40(4)(a) of SEPP (Housing for

Seniors and People with a Disability) 2004 will not result in a building incompatible with the surrounding built context.

Further, given the above, it is not considered that breaching the height limit in this instance will detrimentally affect the existing neighbourhood amenity and character, solar access to surrounding properties, nor result in unacceptable impacts on solar access or privacy of existing dwellings or the safety and security of existing or future residents. The table below specifically addresses the matters set out in Clause 21.

Requirement of Clause 21 of LEP 2004	Compliance and Comments
Objectives of the Development Standard	The objectives of the development standard are unclear, but associated aims and objectives of the LEP and specifically the zone, have been addressed above in Section 5.
Neighbourhood and Local Context	The proposal is reasonable within the neighbourhood and local context as it is consistent with Council's strategic objectives for the site. The land zoned 2(1) is a minor portion of the overall site zoned predominately 2(2) and identified for medium density residential development.
Topography	There will be earthworks, particularly for new buildings, within the residential land, but the topography of the site remains generally unchanged.
Solar Orientation	The total development has been designed where possible to take advantage of solar access through lot orientation and dimension.
Neighbourhood Amenity and Character	The proposed development will contribute to the amenity and evolving character of the surrounding residential area. The site is adjacent to the Toronto town centre which includes residential and commercial land uses as well as medical facilities such as Toronto Private Hospital. The suburb enjoys an urban environment that is adjoining areas of native vegetation that contribute to the character while also promoting and protecting environmental values of the landscape.
Privacy	The proposed variation will not affect privacy considerations for existing or future development of this and adjoining sites. Changes to the design have been made to ensure the proposal protects the privacy of adjoining residents.
Overshadowing	There will be no adverse overshadowing impacts as a result of the proposed development due to the orientation and topography of the site.
Security, Safety and Access	There will be no change in this regard with the design incorporating opportunities for passive surveillance both within and external to the site.
Local Infrastructure	Infrastructure and services are available to service the proposed development. Where necessary, services will be upgraded to support the proposal. The development represents an orderly and economic use of resources.
Landscape Design	Landscape design responds to the site and plans that comply with relevant controls have been submitted with the application.
Waste Disposal	<p>A Site Waste Minimisation and Management Plan has been prepared in support of the application in accordance with the Department of Environment and Climate Change NSW guidelines "Better Place Guide for Waste Management in Multi Unit Dwellings" and Lake Macquarie Councils Waste Management Guidelines 2004 to manage construction waste and waste generated by the facility's operation.</p> <p>The location and size of the waste collection facilities has taken account of matters such as access, security, visual sight lines, odour and noise control, existing topography and projected waste likely to be generated by the development.</p>

5. CONCLUSION

This Objection made under SEPP No.1 concludes that non-compliance with the development standard in Clause 40 (4)(a) of State Environmental Planning Policy (Housing for Seniors and People with a disability) 2004 does not undermine the aims, objectives and relevant provisions of Council's planning controls. The proposal is consistent with the objectives of the 2(1) Residential zone as well as other relevant provisions of LMLEP 2004. It is also consistent with the vision provided through the *Lifestyle 2020 Strategy* and further details of this compliance are provided for in the Statement of Environmental Effects supporting the DA.

The proposal constitutes an appropriate form of development which is consistent with the emerging character of the area. Compliance with the identified standard is considered to be unreasonable and unnecessary in the circumstances of the case.

The scale and nature of the non-compliance addressed in this SEPP No.1 Objection does not give rise to any matters of state or regional significance, nor does the non-compliance adversely affect the public interest.