



COUNCIL ASSESSMENT REPORT

Panel Reference	2017SNH005
DA Number	DA/1540/2016
LGA	Hornsby Shire Council
Proposed Development	Construction of a Seniors Living Residential Care Facility
Street Address	705-717 Old Northern Road, Dural
Applicant/Owner	Boston Blyth Fleming Pty Ltd / D J Thompson Pty Ltd
Date of DA lodgement	19 December 2016
Number of Submissions	Six
Recommendation	Refusal
Regional Development Criteria (Schedule 4A of the EP&A Act)	General Development Over \$20 million
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River • Draft North District Plan • Hornsby Local Environmental Plan 2013 • Hornsby Development Control Plan 2013
List all documents submitted with this report for the Panel's consideration	Locality Plan, Site Analysis Plan, Site Plan, Basement Plans/Floor Plan, Floor Plans, Roof Plans, Elevations/Sections, Materials & Finishes, Landscaping Plan, Earthworks Plan, Sewer Connection Plan, Certificate of Site Compatibility
Report prepared by	Garry Mahony
Report date	15 November 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

- The proposed development is for demolition of existing structures and construction of a Seniors Living residential care facility comprising 153 beds.
- The proposed development is unsatisfactory in respect to the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and the Certificate of Site Compatibility issued pursuant to the Policy.
- The proposed development is inconsistent with the Draft North District Plan priority to limit urban development within the Metropolitan Rural Area.
- Six submissions received in response to the proposal.
- The application is recommended for refusal.

RECOMMENDATION

THAT Development Application No. DA/1540/2016 for the demolition of existing structures and construction of a Seniors Living residential care facility comprising 153 beds and basement car park, at Nos. 705-717 Old Northern Road, Dural be refused for the grounds of refusal detailed in Schedule 1 of this report.

BACKGROUND

On 20 February 2015 the applicant attended a Pre DA Meeting with Council officers for a proposed residential care facility. At the meeting the applicant was advised the proposal was subject to a Site Compatibility Certificate being issued by the Department of Planning and Infrastructure. The applicant was advised that the development should be designed to maintain the rural character of the area and to protect the endangered ecological community at the frontage of the site.

In response to the Department's request for comments concerning the application for a Site Compatibility Certificate, Council in a letter dated 9 March 2016, advised the proposal would be inconsistent with the objectives of the RU2 Rural Landscapes zone and would not comply with the SEPP's site compatibility criteria. Further, that the issue of a Site Compatibility Certificate would be premature in respect to investigations concerning the South Dural planning proposal which includes the subject site.

On 15 July 2016, the Department of Planning and Environment issued a Certificate of Site Compatibility for the subject site for the following development:

New Residential Aged Care Facility providing 158 rooms (beds) with semi-basement car parking and communal facilities, including facilities for the care of patients with dementia.

On 19 December 2016, the subject development application was lodged.

On 8 February 2017, Council resolved to discontinue evaluation of the South Dural planning proposal until an agreed infrastructure plan is prepared for the precinct with the support of the State Government.

On 8 March 2017, the Sydney North Planning Panel was briefed by Council officers regarding the proposal. At the briefing the Panel raised concerns regarding the impact of the proposal on the rural character of the area and on the amenity of adjoining residents.

On 2 May 2017, the applicant submitted amended plans.

SITE

The rural site has an area 19,800m² and a frontage of 84m to the southern side of Old Northern Road. The site is regular in shape, is predominantly cleared of native vegetation and includes an existing brick and tile dwelling house and an open paddock.

The opposite side of Old Northern Road is a built up urban area of Dural known as Round Corner with a commercial centre and medium and low density housing. The commercial centre includes the older retail strip on Old Northern Road and Kenthurst Road and more recent shopping centres including Dural Mall behind the retail strip on Old Northern Road 50m west of the site.

Old Northern Road is a four lane classified State Road administered by Roads and Maritime Services (RMS). The site is subject to land reservation for road widening purposes involving a 5m wide strip of land across the frontage of the site.

The site is serviced by a reticulated water supply but is not connected to the sewer.

A fenced construction site area has been established at the frontage of the site.

The adjoining land is within the same rural zoning as the subject land. The western boundary of the site adjoins existing dwelling houses on large suburban lots and a townhouse development, fronting Old Northern Road.

The eastern and southern boundaries adjoin rural parcels similar to the subject site. The rural area includes a mix of small scale farming, intensive horticulture and rural lifestyle residential uses and bushland areas and forms part of the South Dural planning proposal area generally bounded by Old Northern Road to the west, New Line Road in the east and Hastings Road to the south. The South Dural area comprises approximately 240 hectares.

The site topography is gently sloping to a natural drainage line across the central part of the site and has an average gradient of 7%. The drainage line forms the start of a watercourse which commences below the dam on the land adjoining the eastern boundary. The watercourse forms the headwaters of Georges Creek a tributary of Berowra Creek and the Hawkesbury River.

The site vegetation includes pasture grasses, shrubs and several stands of radiata pine trees. The frontage of the site includes remnant forest trees identified as a critically endangered vegetation community - Sydney Turpentine Ironbark Forest. A row of pine trees on the adjoining land borders a section of the eastern boundary.

The proposal would involve the removal of 20 trees, the majority of which are exotic tree species.

The site is not within a bushfire prone area.

The site adjoins an item of heritage (house) at Nos. 671-673 Old Northern Road, Dural. The remnant forest trees within the road reserve at the frontage of the site are also identified as an item of heritage.

The site is adjacent to the commercial centre of Round Corner at the intersection of Old Northern Road and Kenthurst Road, 50m west of the site. The area on the opposite side of Old Northern Road is within The Hills local government area.

The site is in the vicinity of bus stops on Old Northern Road serviced by Bus Routes 637, 638 & 642 with connection to Castle Hill, Pennant Hills and Sydney CBD.

THE DEVELOPMENT

The application proposes demolition of the existing dwelling house and construction of a Seniors Living residential care facility.

The proposed residential care facility comprises a two and three storey building with basement car park. The proposed building has site coverage of 4,850m², a length of 110m and width of 60m.

The building is in brick construction with sheet metal roof. The proposed building includes 153 suites over three levels with support facilities including dining, lounge areas, nurses' stations, therapy rooms and utility areas. The suites have frontage to internal courtyards or the surrounding landscaped areas.

The ground floor front section of the building includes reception, administrative areas, function rooms, main lounge, coffee shop and a chapel.

The rear basement level of the building includes commercial kitchen, laundry, staff amenities & training rooms, workshop and storage rooms. The basement car parking areas for staff and visitors includes 87 car parking spaces with access off the driveway along the eastern side of the building.

The residential floor areas are designed according to the Thompson Health Care nursing home model as submitted by the applicant. The proposed facility would have 125 staff on a roster basis over three

shifts including clinical nurse specialist, 28 registered nurses, 55 nursing assistants, therapist, educator, activity coordinators, receptionist and administrative staff, together with kitchen, laundry and maintenance staff.

The proposed residential care facility includes support services involving physiotherapy, aromatherapy and podiatry services, entertainment, hairdressing and beautician services and access to related health care services and professional medical services.

The building includes a porte-cochere at the frontage for the building entry with a circular driveway and parking area.

The proposed building would be sited in the northern half of the site and involve excavation. The remainder of the land is proposed for open space.

The proposal includes accessible landscaped grounds for residents and interior landscaped courtyards. The proposed landscaping includes the retention of the locally indigenous trees along the frontage of the site.

The proposal includes upgrading of the footpath connection to public transport and sewer connection.

ASSESSMENT

The development application has been assessed having regard to the '*A Plan for Growing Sydney*', the '*Draft North District Plan*' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 A Plan for Growing Sydney and (Draft) North District Plan

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has realised the draft North District Plan which includes priorities and actions for the Northern District for the next 20 years. The subject site is within the Metropolitan Rural Area. The priority of the North District Plan is for the better management of rural areas by limiting urban development and to maximise the productive use of land and to incentivise biodiversity protection for remnant vegetation.

The proposed development would be inconsistent with '*A Plan for Growing Sydney*' and '*Draft North District Plan*' which has a planning priority to maintain and protect rural areas. The proposal would establish a precedent for further Seniors Living development along Old Northern Road east of the site, contrary to the priority of the North District Plan to limit urban development within the Metropolitan Rural Area.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider “*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations*”.

2.1 Hornsby Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

2.1.1 Zoning of Land and Permissibility

The subject land is zoned RU2 Rural Landscape and SP2 Infrastructure under the *HLEP*. The objectives of the RU2 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To encourage land uses that support primary industry, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

The objectives of the SP2 zone are:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The proposed development is defined as ‘residential care facility’ and ‘seniors housing’ under *HLEP* and is prohibited in the RU2 and SP2 zones.

The proposed residential care facility would result in a substantial building in scale and proportion larger than existing buildings within the urban area of Round Corner. The proposed development is essentially urban in form and use and would be inconsistent with the objectives of the RU2 zone.

The development application for the proposed residential care facility as lodged is pursuant to the provisions of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* which prevails to the extent of any inconsistency with *HLEP*.

2.1.2 Height of Buildings

Clause 4.3 of *HLEP* prescribes a maximum building height of 10.5m for the subject RU2 Rural Landscape zoned land.

The proposed building has a maximum height of 12m measured from the top of the ridge to natural ground level (*HLEP* definition *building height*).

Refer to discussion in Section 2.1.3.

2.1.3 Exceptions to Development Standards

The application has been assessed against the requirements of Clause 4.6 of the *HLEP*. The objective of this clause is to provide an appropriate degree of flexibility in applying certain development standards to particular development to achieve better planning outcomes.

The application includes request for variation of the building height standard pursuant to Clause 4.6 of the *HLEP*.

The objective of Clause 4.6 is to provide an appropriate degree of flexibility in applying certain development standards to particular development to achieve better planning outcomes. Clause 4.6 applies to the development standards under *HLEP* or any other environmental planning instrument.

The applicant has made a submission in support of a variation to the development standard in accordance with Clause 4.6(3) of the *HLEP*. The development application seeks to vary the 10.5m maximum height development standard of *HLEP*. The applicable building height control however is 8m measured from the topmost ceiling to existing ground level in accordance with the provision that applies under Clause 48(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HS)*.

Clause 40(4) of the *SEPP* includes a maximum height development standard of 8m in a residential zone where residential flat buildings are not permitted. The subject site however is in a rural zone. Clause 40(4) is not applicable to the proposal.

Clause 48 includes a building height of 8m as a standard that cannot be used to refuse consent to residential care facility development. The standard is therefore a discretionary standard and is not subject to variation under Clause 4.6.

Refer also to discussion in Section 2.6.7 a.

2.1.4 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire.

The site is located within the immediate vicinity of heritage items at Nos. 671-373 Old Northern Road (Item No. 347 – House) and at Old Northern Road, Glenhaven (Item No. 448 – Roadside trees) under Schedule 5 (Environmental heritage) of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

Item No. 347 is a good example of an Inter-War period house.

Item No. 448 is group of locally indigenous roadside trees which are remnant components of the Sydney Turpentine-Ironbark Forest.

The proposed building would have a minimal heritage impact in respect to the visual curtilage, setting or significant views to and from the heritage listed house at No. 671-373 Old Northern Road due to the physical separation distance of 120m.

The proposed development would involve the removal of exotic trees and shrubs from the site. The proposed development is setback from the heritage listed roadside trees and would not require the removal of any locally indigenous trees.

2.1.4 Earthworks

Clause 6.2 of the *HLEP* states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

The proposal includes excavation works to a depth of 5m and filling to a depth of 3m for the basement car park and to level and bench the site of the proposed building and involves an earthworks area of 11,590m² and zero setback from the eastern side boundary.

The geology of the site is identified as Wianamatta Group Shales formation.

A detailed geotechnical assessment of the site by a chartered structural engineer, would need to be undertaken for the design of the basement excavation and support, groundwater drainage, basement and foundation design.

A geotechnical assessment was not included in the application.

The proposed earthworks are not satisfactory in respect to Clause 6.2 of the *HLEP*.

2.1.5 Threatened Species Conservation Act 1995

The site includes remnant trees at the road frontage identified as Sydney Turpentine-Ironbark Forest an endangered ecological community listed under Schedule 1 of the *Threatened Species Conservation Act 1995*.

Pursuant to Section 5A of the *Environmental Planning and Assessment Act, 1979* the impact of the proposed development on the ecological community is assessed as follows.

The site is comprised predominantly of cleared lands with exotic species throughout the majority of the site. The road frontage contains a corridor of Sydney Turpentine Ironbark Forest (STIF) which is listed as Critically Endangered under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* and an Endangered Ecological Community under the *NSW Threatened Species Conservation Act 1995*. While the patch contains some remnant trees including White Mahogany (*Eucalyptus acmenoides*), Grey Ironbark (*E. paniculata*), Parramatta Green Wattle (*Acacia parramattensis*) and Rough-barked Apple (*Angophora floribunda*) it also contains some shrubs and grasses including Sweet Pittosporum (*Pittosporum undulatum*), Sydney Green Wattle (*Acacia decurrens*), Blackthorn (*Bursaria spinosa*), Plume Grass (*Dichelachne* sp.), Salt Bush (*Einadia hastata*), Love Creeper (*Glycine clandestina*), Wombat Berry (*Eustrephus latifolius*) and Kidney Weed (*Dichondra repens*).

The proposal is to retain the majority of indigenous trees on the site and provide additional landscaping along the road frontage. The proposed landscaping includes a few indigenous species with the majority being exotic species. Element 1C.1.1 Biodiversity of the *Hornsby Development Control Plan 2013*, under prescriptive measure h. notes that when landscaping is proposed within the buffer zones (to an EEC the buffer zone is 20m) it should comprise of species indigenous to the adjoining vegetation community.

The existing vegetation along the road frontage is subject to clearing for sightlines for motorists exiting the site. The necessary clearing would not involve the removal of any existing trees.

The proposed excavation works includes excavation along the front boundary of the site. The excavation works would be subject to measures to protect and retain the indigenous trees along the frontage.

The proposal is unlikely to have a significant effect on the endangered ecological community.

2.2 State Environmental Planning Policy No. 44 – Koala Habitat Protection

The provisions of this Policy apply as the site is greater than one hectare in size. The site is generally cleared land and does not represent potential or core koala habitat. Accordingly, no further consideration of the Policy is required.

2.3 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires that Council must not consent to the carrying out of development on land unless it has considered whether the land is contaminated or requires remediation for the proposed use.

The application includes a Stage 2 – Environmental Site Investigation dated 14 July 2017 following the Preliminary Site Investigation which identified the historical land use to include orchards and market garden activities.

The investigation included soil sampling in accordance with NSW EPA *Guidelines for Assessing Former Orchards and Market Gardens* (NSW EPA, 2005). The report includes the following comments:

The environmental investigation undertaken at the site to characterise the soils consisted of sampling soil from 30 sampling points at the site and three samples collected from the three stockpiles of unknown material identified at the site. The stockpiles of material at the site indicated presence of trace concentrations of heavy metals, polycyclic aromatic hydrocarbon, (PAH) and organochlorine pesticide (OCP). If the material is to be disposed off-site then further sampling in accordance with the NSW EPA (2014) Waste Classification Guidelines will be required. It is considered that the material in one of the stockpiles (SP2) is unlikely to be suitable to remain on the site, as it typically includes rubble, bricks and plastics.

The soil sampling showed the soils to be of a brown silty clay and the investigation of the soil indicated no presence of contamination at concentrations exceeding the SAC. The site can therefore be deemed suitable for the proposed residential aged care facility.

The dumped material is at the frontage of the site which is being used for temporary storage of building materials. Subject to removal and appropriate disposal of the dumped material the site would not require remediation for the proposed development.

2.4 State Environmental Planning Policy (Infrastructure) 2007

The application has been assessed against the requirements of *State Environmental Planning Policy (Infrastructure) 2007*.

The proposed development has frontage to Old Northern Road which is an RMS Classified Road with an average daily traffic count of 17,136 vehicles.

Pursuant to Clause 101 of the Policy, the consent authority must not grant consent to development unless it is satisfied that:

- a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - i) *the design of the vehicular access to the land, or*

- ii) *the emission of smoke or dust from the development, or*
- iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Pursuant to Section 138 of the *Roads Act 1993* the RMS has granted concurrence to the proposed development for works involving the classified road including the location and design of the proposed accessway. The proposal is therefore satisfactory in respect to Item a) and Item b) i) and iii) above.

The proposed development would not result in the emission of smoke or dust in respect to Item b) ii).

The proposed development is sited generally below the level of Old Northern Road. The front elevation of the proposed building is setback > 23.7m where the site experiences background noise levels of 49 dBA Day, 41 dBA Evening and 30 dBA Night. The proposed design is satisfactory in mitigating noise impacts and in this regard the proposal is satisfactory in respect to Item c) above.

The proposal is satisfactory in respect to the *State Environmental Planning Policy (Infrastructure) 2007* provisions regarding development with frontage to a classified road.

2.5 Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River

The site is located within the catchment of the Hawkesbury Nepean River. Part 2 of this Plan contains general planning considerations and strategies requiring Council to consider the impacts of development on water quality, aquaculture, recreation and tourism.

The site forms part of the upper catchment of a watercourse tributary of the Hawkesbury River.

Subject to the implementation of sediment and erosion control measures and stormwater management to protect water quality, the proposal would comply with the requirements of the Policy.

2.6 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

The *SEPP HS* is the prevailing planning instrument for the development of housing for aged and disabled persons in NSW and provides for hostels, residential care facilities, self-contained dwellings and multi-storey dwellings, primarily on land zoned for urban purposes.

The *SEPP HS* includes land use planning provisions, design principles, development standards and criteria specific to meet the housing needs of seniors and people with a disability.

The *SEPP HS* was amended in September 2007 to encourage and enable the provision of seniors housing in appropriate locations, to meet the needs of an aging population. The *SEPP HS* makes provision for residential care facility development on land that adjoins an urban zone, subject to a Site Compatibility Certificate being issued by Department of Planning certifying the land as suitable for more intensive development.

2.6.1 Residential Care Facility

Pursuant to Clause 11 of the *SEPP HS* a 'residential care facility' is residential accommodation for seniors or people with a disability that includes:

- (a) *meals and cleaning services, and*

- (b) *personal care or nursing care, or both, and*
- (c) *appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.*

The proposed residential care facility includes the necessary services and facilities to cater for the accommodation of frail aged persons and persons with dementia and is in accordance with the provisions of Clause 11 of the Policy as proposed.

2.6.2 Land adjoining land zoned primarily for urban purposes (Clause 17)

The subject land adjoins urban zoned land on the opposite side of Old Northern Road which is land zoned B2 Local Centre and R2 Low Density Residential under *The Hills Local Environmental Plan 2012*.

The *SEPP HS* prohibits Seniors Living development on the land unless the development is for a residential care facility or serviced self-care housing in combination with a residential care facility or as a retirement village.

The proposed residential care facility is permissible pursuant to Clause 17 of the *SEPP HS*.

Pursuant to Clause 24 of the *SEPP HS* the applicant has obtained a Certificate of Site Compatibility for the subject land for the following project.

New Residential Aged Care Facility providing 158 rooms (beds) with semi-basement car parking and communal facilities, including facilities for the care of patients with dementia.

The certificate is subject to the following requirement.

The applicant is to comply with clause 26(2) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 to provide appropriate footpath gradients.

Nothing in Clause 17 prevents a consent authority from granting consent to a development of a smaller scale (the proposal is for a 153 beds residential care facility) or from refusing to grant consent or limit the matters to be considered in determining an application.

In response to the Department's request for comment concerning the application for a Site Compatibility Certificate, Council in a letter dated 9 March 2016 advised the proposal would be inconsistent with the objectives of the RU2 Rural Landscapes zone and would not comply with the *SEPP HS* site compatibility criteria. Further, that the issue of a Site Compatibility Certificate would be premature in respect to investigations concerning the South Dural planning proposal.

The Department issued the Site Compatibility Certificate on 15 July 2016 (Refer attached). The certificate states that the development is compatible with the surrounding environment in respect to criteria in Clause 25(5)(b) of the *SEPP* which are as follows:

- (i) *the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
- (ii) *the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,*
- (iii) *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,*
- (iv) *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,*
 - (v) *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,*
 - (vi) *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.*

Pursuant to Clause 24(3)(a)(ii) of the *SEPP HS* a consent authority can refuse to grant consent by reference to the consent authority's own assessment of the compatibility of the proposed development with the surrounding environment pursuant to the criteria under Clause 25(5)(b) of the *SEPP HS*.

The Land and Environment Court has published a Planning Principle concerning compatibility of a proposal with surrounding development established in the in *Project Venture Development Pty Ltd v Pittwater Council [2005] NSWLEC 191*. The decision concerned an urban site but, notwithstanding, the planning principle is relevant to the subject proposal as discussed as follows:

a. Capable of existing together in harmony

Buildings can exist in harmony without having the same density, scale or appearance.

The proposed building is substantially larger than existing residential developments at Round Corner. The surrounding developments comprise dwelling houses and townhouses on the western boundary which are domestic in scale, and rural land uses comprising open paddocks and bushland areas south and east of the site.

The proposed building would be mainly two storey in appearance at the frontage and three storey over the southern half of the building. The proposed building would require extensive cut and fill and a retaining wall at the southern elevation. The visual impact and bulk and scale of the building is not compatible in relation to the surrounding rural area.

The proposed building would be significantly different in context to the surrounding rural landscape and would form an urban encroachment on the existing rural land uses.

The proposed building would not exist in harmony with the surrounding rural land uses.

b. Relationship of built form to surrounding space

The relationship is created by building height, setbacks and landscaping.

The proposed building has substantial bulk and scale with a length of 110m, a width of 60m and a building footprint of 4,850m². Whilst the proposed setbacks may be compliant with Council's controls and the proposed landscaping complement the building and provide screen planting to the western boundary, the bulk and scale of the building would not be diminished in relation to surrounding land uses.

The proposed development would not be compatible with the surrounding rural land and adjoining dwellings.

c. Architectural style

The proposed built form is for the function of the development as a residential care facility. The proposed development would be one of the largest buildings in Round Corner. The built form is inconsistent with the architecture of the adjoining domestic scale residential development.

The proposed scale and built form is contrary to the rural character of the site.

Summary

The proposed development would not be compatible with the surrounding environment due to inconsistency of the proposed bulk, scale and built form of the development with the surrounding land uses.

Refer also to discussion in Section 2.6.3.

2.6.3 Location and Access to Facilities

The site is opposite the Round Corner commercial centre. The commercial centre comprises single and two storey developments constructed at varying levels to the sloping topography.

The proposed Seniors Living development is within 100m walking distance of a doctor's surgery, pharmacy, supermarket, banks, restaurants, cafes, hairdressers, retail shops and post office. The commercial centre includes Dural Mall and smaller shopping centres. Access is facilitated by disabled access ramps and crossings through the mall. The shopping centre area includes footpaths with steep gradients. A lift can be accessed that would provide for disabled access between the upper and lower areas of the shopping centre area via the Woolworths development. However the gradients of the existing public footpaths are too steep for public access for disabled persons between the upper and lower areas of the shopping centre.

The site is within 200m of bus stops on Bus Routes 637 which would provide public transport access to Castle Hill which includes a greater range of community and recreational facilities with disabled access, and Bus Route 639 which would provide access to the Pennant Hills railway station. The bus routes operate 7 days a week with reduced services on weekends.

The existing footpath connection to the commercial centre and bus stops would require construction and upgrading to comply with gradient requirements of Clause 26(2)(a) of the *SEPP HS*. The application includes a Statement of Compliance Access for People with a Disability prepared by an accredited access consultant dated 09-05-2016, which includes recommended works for footpath construction with compliant grades for compliance with the Clause 26.

The recommended footpath upgrading works involve civil works within the adjoining local government area. The necessary disabled access to the required services and facilities is not fully addressed given the existing access limitations at Round Corner further, the recommended upgrading works do not include or address access from the bus stop for the return journey on public transport. The requirements of the adjoining local government authority have not been obtained for the proposed upgrading works.

The applicant submits that in accordance with the Land and Environment Court Judgement in *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde [2016] NSWLEC 153* it is not essential to require that the proposed residential aged care facility meet the locational requirements to facilities and services pursuant to Clause 26, given the high level of care received by people that would reside in the proposed aged care facility.

The proposed residential care facility is designed to provide a high level of care for older people with limited mobility. The applicant's submission is acknowledged in this regard. Notwithstanding, Schedule 2 of the Certificate of Site Compatibility includes the following matter:

The applicant is to comply with clause 26(2) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 to provide appropriate footpath gradients.

The development application is not reliant on future resident access to facilities in accordance with Clause 26 and does not demonstrate compliance as the necessary works are within the jurisdiction of another authority and do not address access for the return journey on public transport. The proposed development is not in accordance with the requirements of the Certificate of Site Compatibility and Clause 26.

2.6.4 Water and Sewer

Pursuant to Clause 28 of the *SEPP HS* a consent authority must not consent to Seniors Living development unless the housing will be connected to a reticulated water system and have adequate facilities for removal and disposal of sewerage.

The application includes a feasibility letter from Sydney Water dated 16 December 2014, which includes advice of the availability of water and sewer services for the proposed development and requirements for connection.

The site has access to a 200mm water supply main in Old Northern Road, Dural. In this regard the proposed development is able to be serviced by reticulated town water supply.

The applicant submitted details for connection to the Sydney Water sewer main on the opposite side of Old Northern Road, Dural. The proposed connection would involve the construction of an on-site pumping station together with mains connection under Old Northern Road and a rising sewer main for connection to the sewer at the rear of the property at Nos. 542-544 Old Northern Road, Dural opposite the site. The later property includes a commercial building. The application includes a plan for the sewer connection titled 'Dural Nursing Home Private Sewer Rising Main' which details the proposed sewer connection. The proposed connection could be achieved with appropriate safeguards for the existing building on the site.

The RMS granted concurrence under Section 138 of the *Roads Act 1993* for the sewer connection construction works in the classified road subject to recommended conditions.

A service easement over No. 542-544 Old Northern Road, Dural would be required to be negotiated for the connection. The applicant requests a deferred consent commencement condition for the easement to be registered on title. The proposal is uncertain as the necessary owners consent has not been obtained for an easement to be granted.

The provision of a sewer connection has not been adequately demonstrated by the applicant.

2.6.5 Site Analysis

The applicant has undertaken a detailed site analysis in respect to the matters to be addressed under Clause 30 of the Policy, as addressed in the Statement of Environmental Effects.

2.6.6 Design Principles

The *SEPP HS* includes provision under Part 3 Division 2 Clauses 31 to 37 for the proposal to have regard to the following design principles.

a. Neighbourhood Amenity and Streetscape

The principle is for buildings to contribute to the quality and identity of the area, have regard to heritage conservation and to maintain neighbourhood amenity, residential character and landscaping. The proposed development is of a bulk and scale inconsistent with the built form of the surrounding locality.

Notwithstanding, the proposed residential care facility is designed with regard to the character of the area in adopting the setback controls and in complementing the surrounding built form in materials and finishes.

The proposed building is setback 25m from Old Northern Road and is sited below the level of the road and would not result in dominant built form in the streetscape. The proposed scale of the building in the streetscape would not detract from the scale of existing development on Old Northern Road at Round Corner.

The proposed building is setback > 10m from side boundaries maintaining the minimum boundary setback applicable to rural lands in accordance with *HDCCP*. The proposed building includes indentations and breaks in the roof form which reduces the bulk and scale of the building which has a length of 110m, a width of 60m and an overall building footprint of 4,850m². The western elevation of the building which adjoins neighbouring residents fronting Old Northern Road has successive breaks in the built form achieved with hipped roof and flat roof sections and the split level section in the lower part of the site. The breaks are enhanced by an 8m x 13m indentation and variation in setbacks with the flat roofed sections setback 13m.

The existing remnant trees within the road reserve at the frontage of the site are identified as an item of heritage (No. 448) under Schedule 5 of *HLEP*. The proposal would retain the majority of existing trees at the frontage of the site maintaining the amenity of the streetscape. The proposed landscaping includes screen planting along the eastern and western side boundaries enhancing existing tree planting and screening the proposed building in relation to adjoining properties.

The rural amenity at the rear of existing dwellings adjoining the western boundary of the site and fronting Old Northern Road would be lost as a result of the proposed development. The proposed building would have a dominant visual impact notwithstanding the proposed setbacks and landscaping due to the bulk and scale and length of the building and the substantial change to the existing rural outlook.

The proposed building would be substantially different to the character of the rural land adjoining the eastern and southern boundaries of the site. The proposed three storey built form and operation of the service areas and driveway at the eastern elevation would detract from the rural character of the adjoining land.

b. Visual and Acoustic Privacy

The principle is to consider the visual and acoustic privacy of neighbours.

The proposed residential care facility is designed for resident patients to have an outlook to landscaped garden areas and central courtyards and would involve passive use of the facility.

The proposed building setbacks, landscaping and spatial separation with adjoining residential developments on the western boundary would ensure satisfactory visual and acoustic amenity of adjoining residents.

The proposed service areas and driveway at the eastern elevation would detract from the amenity of the existing dwelling house which adjoins the eastern boundary.

c. Solar Access and Design for Climate

The principle is to ensure sunlight access to private open space areas and design for energy efficiency.

The proposed roof design and building height would meet Council's criteria for 3 hours of unobstructed sunlight access between 9am and 3pm, 22 June, to neighbouring resident living areas and private open space and meet the *SEPP* requirements pursuant to Clause 35.

d. Stormwater

The principle is to minimise impacts of stormwater runoff.

The applicant submitted a concept stormwater drainage plan for the proposed development involving connection to a downstream watercourse via a dam on the adjoining land. A stormwater drainage easement would be required for the connection. The applicant requests a deferred consent commencement condition for registration of a stormwater drainage easement on title.

The proposed stormwater drainage system would include stormwater detention and water quality treatment to minimise impacts on downstream water quality.

The proposed drainage system would be satisfactory in respect to the *SEPP SH* requirements pursuant to Clause 34 subject to stormwater detention and water quality treatment measures.

e. Crime Prevention

The principle is to design for crime prevention.

The proposed seniors living development is satisfactory in design to minimise crime by enabling casual observation of approaches to the facility and clearly defining the building entry and reception.

The proposal is designed with regard to Clause 35 of *SEPP SH*.

f. Accessibility

The principle is to design for safe pedestrian access to public transport and local facilities and convenient access and parking for vehicles.

The proposed development would have a safe pedestrian link to public transport connection subject to recommended footpath upgrading works as discussed in Section 2.6.3.

The proposed car parking provision would provide safe convenient access for residents and visitors.

The proposed development is designed with regard to the accessibility requirements of Clause 38 of the *SEPP SH*.

g. Waste Management

The principle is for waste facilities that maximise recycling.

The proposed waste storage and collection area at Basement 2 includes sufficient space to house the 9 x 1100 litre bins required for the proposed facility. The recycling generation rates for residential care facilities ranges from 10-40 litres per bed per week. The proposed recycling rate of 15 litres per week is acceptable in this regard.

The proposed driveway and turning area is designed for waste collection by a heavy rigid waste collection vehicle.

The proposed waste management arrangements would meet the *SEPP SH* design criteria to maximise recycling pursuant to Clause 39.

Summary

The proposed development has adequate regard to the *SEPP SH* design principles other than in relation to the adjoining rural land uses at the eastern and southern elevations of the proposed building.

2.6.7 Development Standards

The proposed development has been assessed having regard to the development standards within the *SEPP*. The following table sets out the proposal's compliance with the mandatory standards under Part 4 Clause 40 and discretionary standards under Part 7 Clause 48:

SEPP SH – Development Standards			
Control	Proposal	Requirement	Compliance
Site Size (Clause 40)	19,800m ²	1,000m ²	Yes
Site Frontage (Clause 40)	84.43m	20m	Yes
Maximum Building Height (Clause 48)	12.0m	8m	No
Floor Space Ratio (Clause 48)	0.47:1	1:1	Yes
Landscaped Area (Clause 48)	13,350m ²	3,825m ²	Yes
Car Parking (Clause 48)	90 spaces	80 spaces	Yes

As detailed in the above table, the proposed development does not comply with the Clause 48 discretionary standards relating to maximum building height. The matters of compliance are discussed below, as well as a brief discussion on compliance with the accessibility and useability standards under Part 4 Division 2 of the Policy.

a. Building Height

The proposed building would have a maximum building height of 12m.

The non-compliance occurs at the south eastern section of the building. The non-compliance contributes significantly to the bulk and scale of the building particularly at the southern and eastern elevations of the building.

Refer also to discussion in Section 2.1.3.

b. Landscaped Area

The proposed landscaped area meets the minimum landscape area requirement.

The submitted landscape concept plan proposes landscaping of the frontage, the side setback areas of the building and rear area of the building adjacent to the drainage line. The proposed landscaping features structural plantings for common open space areas, screen planting, pedestrian routes, feature plantings and to enhance existing and locally indigenous trees to be retained.

The proposed landscaping is in accordance with the requirements of the *SEPP SH* for landscaping and deep soil zones.

The residue area of the site between the drainage line and the rear boundary comprising approximately 8,000m² is existing rural pasture and is not included in the proposal. The status of this land regarding future use is uncertain.

c. Car Parking

The proposed accessway, turning head and single driveway would comply with the AS 2890.1 – Off-street car parking and AS 2890.2 – Off-street commercial vehicle facilities, subject to recommended conditions.

The proposed car parking provision complies with the *SEPP SH* requirements for parking for residents and visitors of residential care facilities pursuant to Clause 48 of the Policy.

d. Accessibility and Useability Standards

Part 4 Division 2 of the *SEPP* includes the following note:

Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the Building Code of Australia.

The application includes a Statement of Compliance Access for People with a Disability – Proposed Aged Care Facility prepared by an accredited access consultant. The statement details the proposed design for access for people with a disability in meeting the Building Code of Australia (BCA) requirements for a Class 9c (aged care building). The proposed building complies or is capable of compliance with the access requirements of the BCA.

e. Fire Sprinkler System

Clause 55 of the *SEPP SH* is as follows:

A consent authority must not grant consent to carry out development for the purpose of a residential care facility unless the proposed development includes a fire sprinkler system.

The application includes the following statement:

Fire Sprinklers will be installed throughout the proposed building and carparks to comply with BCA requirements for a class 9c building and also in compliance with the mandatory fire sprinkler laws taking affect from 1 January 2013 stating all nursing homes are to have compliant fire sprinkler systems installed.

Sprinkler systems will be designed and installed and certified in accordance with the following standards and guidelines:

- *BCA Spec E1.5- Automatic Fire Suppression systems.*
- *AS2118.1-1999*
- *NSW Department of Planning – Fire Sprinkler Standard December 2013.*

The proposed development would include the necessary fire sprinkler system.

2.7 Section 94 Contributions Plans

Hornsby Shire Council Section 94A Development Contributions Plan 2014 – 2024 applies to the proposed residential care facility.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider “*the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*”.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The proposed development would necessitate the removal of 21 trees from the site. The trees to be removed are exotic species including Radiata Pine, Oak, Ash and Privet and are exempt from the Tree and Vegetation provisions of the *HDGP*.

Council's assessment of the proposal included a detailed examination of the existing trees on site. Appropriate safeguards would protect the trees to be retained including trees on adjoining land.

The site vegetation include pasture grasses, shrubs and several trees including a stand of remnant forest trees along the road frontage identified as a critically endangered vegetation community - Sydney Turpentine Ironbark Forest. The proposal would retain the majority of the locally indigenous trees on the site.

3.1.2 Stormwater Management

The site includes a natural drainage line in the lower central part of the site. The drainage line forms the start of a watercourse which commences below the dam on the land adjoining the eastern boundary. The watercourse forms the headwaters of Georges Creek a tributary of Berowra Creek and the Hawkesbury River.

The proposed stormwater drainage works include measures to maintain natural flows and downstream water quality. Refer to discussion in Section 2.6.6 d.

The proposal is acceptable in respect to the natural environment.

3.2 Built Environment

3.2.1 Built Form

The scale and proportion of the proposed built form would be considerable larger than the surrounding built environment and inconsistent with the rural character of the site and surrounding land.

3.2.2 Traffic Generation and Road Safety

A traffic and parking assessment has been submitted with the proposal which estimates that the proposed development would generate an additional 26 vehicle trips per hour in the morning peak hour and 34 vehicle trips in the afternoon peak hour.

Council's engineering assessment of the traffic impacts of the proposed development concludes the traffic generation would not detract from the capacity of Old Northern Road and the road network.

The proposed accessway off Old Northern Road is in accordance with the RMS design criteria and is subject to recommended condition for sightlines on Old Northern Road to be maintained and for 'left in & left out' traffic movements at the frontage of the site.

The proposed traffic generation and accessway design is satisfactory in respect to road safety.

3.3 Social Impacts

The proposed development would generally be of positive social impact in providing additional residential care beds for an aging population and in providing local employment opportunities.

3.4 Economic Impacts

The proposal would have a minor positive impact on the local economy in the locality by generating an increase in demand for local services during construction and once completed in supporting the local economy through service provision and employment.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider *"the suitability of the site for the development"*.

The subject site is not considered to be suitable for the proposed development as discussed in Section 2.6.2 of this report.

5. PUBLIC PARTICIPATION

Section 79C(1)(d) of the Act requires Council to consider *"any submissions made in accordance with this Act"*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 12 January and 26 January 2017, in accordance with the Notification and

Exhibition requirements of the *HDCP*. During this period, Council received five submissions objecting to the proposal.

The grounds for objection are addressed as follows:

5.1.1 Traffic Management

A submission raised concerns the left turn only requirement would disadvantage drivers attempting to exit adjacent driveways.

The proposed traffic generation would not significantly disadvantage adjacent residents. Refer to discussion in Section 3.2.2.

5.1.2 South Dural Precinct

The submissions raised concerns the proposal would compromise the South Dural Precinct plans for future roads.

The South Dural Planning Proposal included a road connection though the site. The proposal however has not progressed following Council's resolution on 8 February 2017 to discontinue evaluation of the planning proposal until an agreed infrastructure plan is prepared for the precinct with the support of the State Government.

5.1.3 Open Space Area

A submission raised concern the underutilised open space area of the site results in uncertainty for future use.

The applications does not include the rear half of the site in the proposed development and is uncertain regarding the future use of the remaining rural land.

5.1.4 Paved Surface Areas

A submission raised concern the proposed extent of impervious surface would diminish downstream water quality and suggested sustainable stormwater management options.

The application includes a flood study of the drainage catchment. The submitted stormwater drainage plan includes a stormwater detention system to maintain pre development flows and water quality treatment in accordance with Council's Water Sensitive Urban Design guidelines.

The proposed stormwater management system is acceptable for the proposal in minimising impacts on downstream water quality. Refer to discussion in Section 2.6.6 d and Section 3.1.2.

5.1.5 Preservation Radiata Pine Trees

A submission raised concern the existing pine trees on the western boundary should be retained.

The submitted landscaping plan includes a pathway along the western boundary designed to retain the two trees (Trees Nos 20 & 21 – Radiata Pine).

5.1.6 Accessible Footpath

A submission raised concern the proposed footpath connection to public transport was unacceptable.

The proposed pedestrian access to public transport is not satisfactory in addressing compliance with Clause 26 of the SEPP. Refer to discussion in Section 2.6.3.

5.1.7 Sewer Connection Works

Submissions raised concern the proposed sewer connection involves significant works and that the existing sewer line is of insufficient design capacity for the proposed development.

The proposed connection to the sewer involves tunnel boring under Old Northern Road. The RMS has granted concurrence to the connection works. Sydney Water has advised the proposed connection is feasible.

The consent of the owner of the land subject to the connection is required to be obtained for a service easement.

5.1.8 Noise Impacts Operating Plant

A submission raised concerns the operation of the proposed facility would result in unacceptable noise impacts.

The operating plant for the development would be designed to achieve noise emission levels not more than 5dB(A) above background noise levels which would be acceptable in accordance with the NSW Industrial Noise Policy.

5.1.9 Amenity Impacts During Construction

A submission raised concerns the construction of the proposed facility would result in amenity impacts.

A Construction Management Plan would be required to be implemented for the construction of the development to address amenity impacts.

5.1.10 Loss of Privacy and Rural Setting

A submission raised concerns the proposal would result in loss of privacy and rural setting.

The proposed residential care facility is generally inconsistent with the rural character of the area.

Refer to discussion in Section 2.6.6 a.

5.1.11 Traffic Generation

A submission raised concerns the proposed traffic generation is unacceptable.

The proposed traffic generation would not detract from the efficiency of the road network. Refer to discussion in Section 3.2.2

5.1.12 Sewer Connection

A submission raised concern the proposed sewer connection should be made available to neighbouring properties.

The proposed sewer line connection is a private line confirmed by Sydney Water.

5.1.13 Road Widening

A submission raised concern the proposal would need to provide for future road widening.

The proposed development is setback appropriately from the future front boundary with the land reservation for road widening in accordance with *HLEP*.

5.2 Public Agencies

The development application was referred to the following Agencies for comment:

5.2.1 Roads and Maritime Services (RMS)

The RMS granted concurrence for the proposal subject to conditions.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider "*the public interest*".

The application has not satisfactorily addressed the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* for seniors housing on land adjoining urban zoned land and would not result in an acceptable development outcome for the community.

Accordingly the proposal would not be in the public interest.

7. CONCLUSION

The application proposes demolition of existing structures and construction of a residential care facility comprising 153 beds.

The development application has not adequately addressed the requirement of the Certificate of Site Compatibility issued by the Department of Planning and Environment for the proposal to comply with the access gradient requirements of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP)* for the proposed development to have access to facilities.

The proposed residential care facility is inconsistent with the strategic planning priority of the Greater Sydney Commission to limit urban development within the Metropolitan Rural Area, in accordance with the Draft North District Plan.

The proposal would not be compatible with the surrounding environment due to inconsistency of the proposed bulk, scale and built form of the development with the surrounding land uses and is unsatisfactory in respect to the site compatibility provisions of the *SEPP*.

The proposed development is uncertain in that necessary owners consent has not been obtained to provide for connection of the proposed development to the sewer and is unsatisfactory in respect to Clause 28 of the *SEPP*.

The proposed development does not have adequate regard to the *SEPP* design principles in relation to the rural land uses at the southern and eastern elevations and does not comply with the 8m maximum building height.

The proposed built form is inconsistent with the rural character of the site and the rural zoning of the land. The proposal is uncertain in relation to the future use of the remaining rural part of the site.

Five submissions have been received in response to notification of the proposal.

The development application is recommended for refusal.

Attachments:

1. Locality Plan
2. Site Plan
3. Basement Plans/Floor Plans
4. Roof Plans
5. Elevations/Sections
6. Materials & Finishes
7. Landscaping Plan
8. Earthworks Plan
9. Sewer Connection Plan
10. Certificate of Site Compatibility

Schedule 1

1. The proposed development is unsatisfactory in respect to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the application does not adequately address the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
 - 1.1 The proposal does not demonstrate compliance with Clause 26(2) and would be inconsistent with the Certificate of Site Compatibility dated 15 July 2016 issued by the Department of Planning and Environment.
 - 1.2 The proposal does not demonstrate compatibility with the surrounding environment due to inconsistency of the proposed bulk, scale and built form of the development with the surrounding land uses and is unsatisfactory in respect to the site compatibility provisions of the Policy.
 - 1.3 The proposed connection of the development to the sewer is uncertain in respect to Clause 28 as the applicant has not obtained the consent of the owner of land for the proposed private sewer line.
 - 1.4 The proposed development does not have adequate regard to the design principles under Part 3 Division 2 in relation to the rural land uses at the southern and eastern elevation and does not comply with the 8m maximum building height under Clause 48.
 - 1.5 The proposal does not adequately address the access requirements of Clause 26 in respect to the return journey on public transport and the footpath upgrading works subject to the authority of the adjoining local government administration.
2. The proposed development is unsatisfactory in respect to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the application does not adequately address the provisions of *Hornsby Local Environmental Plan 2013*.
 - 2.1 The proposal does not adequately demonstrate the proposed earthworks are satisfactory in respect to Clause 6.2 of the *Hornsby Local Environmental Plan 2013*.
3. The proposed development is unsatisfactory in respect to Section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* as the proposed development is inconsistent with the Draft North District Plan priority to limit urban development within the Metropolitan Rural Area.
4. The proposed development is unsatisfactory in respect to Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* as the proposed built form is inconsistent with the environment of the surrounding rural area.

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5. The proposed development is unsatisfactory in respect to Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979* and the public submissions in response to the application.

- END OF REASONS FOR REFUSAL -

