

Report to the Director General on an application for a Site Compatibility Certificate - State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

SITE: Land at 50 Kenthurst Road, Dural (Lots 1, DP 195838). Refer to Appendix 1 and 2 for Site Location and Existing Lot Layout.

APPLICANT: The Papandrea Family care/of Homeplan Project Design Resources

PROPOSAL: A Site Compatibility Certificate is sought to support a development application for the construction of a retirement village consisting of 70 serviced self-care units¹ (i.e. 22 freestanding villas and 48 units in 4 buildings) and associated development (community room, bowling green, swimming pool and recreation room).

The Council will need to have regard to Clause 17 of the SEPP when determining any development application and the Council will need to be satisfied that the units will be provided:

- for people with a disability; or
- in combination with a residential care facility; or
- as a retirement village (within the meaning of the *Retirement Villages Act 1999*).

A State Environmental Planning Policy 5 development approval was issued by Baulkham Hills Shire Council in July 2004 which allowed for the construction of 38 self-care units consisting of two-storey dwellings. This development did not proceed.

Please refer to Appendix 3 for a proposed site layout; Appendix 4 for SEPP (Housing for Seniors or People with a Disability) 2004; and Appendix 5 for the relevant clauses of the Retirement Villages Act.

In order for a development application to be determined in accordance with the Senior SEPP and Environmental Planning & Assessment Act 1979 that the Certificate must be current at the time of determination. A development application (DA1317/2010/HC) was submitted to The Hill Shire Council on 1 April 2010 and has not been determined.

The Proponent is requesting the Department to issue a new certificate for the development of 167 senior housing. The proposal is consistent with the previous Site Compatibility Certificate issued on 23 March 2009 (Appendix 6).

In accordance with Clause 5(a) of the SEPP, The Hills Shire Council was notified on 11 February 2011.

LGA: The Hill Shire Council

¹ In the SEPP, Clause 13(3) defines serviced self-care housing as seniors housing that consists of self-contained dwellings where meals, cleaning services, personal care and nursing care are available on site.

PERMISSIBILITY STATEMENT

The site is zoned *Rural1(c)* under Clauses 12 and 13 of the Baulkham Hill Shire Council's *Local Environmental Plan 2005* (Appendix 7). The aims of the Rural 1(c) is to accommodate rural-residential development, provide for a range of activities that are compatible with the rural-residential character of the area and ensure that development in the area does not unreasonably increase the demand for public services and facilities.

Housing for seniors and people with a disability is not listed as permissible development and dwelling-houses are allowed in this zone only with Council consent.

The *Rural 1(c)* zone allows for the development of dwelling houses, but does not list housing for seniors or people with a disability as permissible development.

The site is adjacent to the existing Residential 2(a3) zone of Round Corner, Dural. This zone aims, amongst other things, to make provision for villas on suitable land, to ensure that development is in character with the surrounding built environment and to maintain the amenity and low density environment of areas predominantly characterised by detached dwelling houses.

The aim of the SEPP (*Clause 2: Aims of Policy*) (Appendix 4) is to encourage the provision of housing (including residential care facilities) that will increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The SEPP proposes to achieve this aim by setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards it specifies.

The application for a Site Compatibility Certificate should therefore be considered as the site is:

- Within the zone that allows the development of dwelling-houses (in accordance with Clause 4 of the SEPP); and
- On land that adjoins land zoned primarily for urban purposes (in accordance with Clause 24 of the SEPP).

CLAUSES 24 AND 25(5)

In order to issue a site compatibility certificate, the Director-General must form the opinion that:

- a) The site of the proposed is suitable for more intensive development [Clause 24(2)(a)]; and
- b) Development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria set out in Clause 25(5)(b) [Clause 24(2)(b)]

The Director-General may refuse to issue a certificate if he considers that the development is likely to have an adverse effect on the environment [Clause 25(6)].

Please refer to Appendix 4 for the relevant clauses of the SEPP.

COMMENTS FROM COUNCIL

The Director General must not issue a certificate unless he/she has taken into account any written comments concerning the consistency of the proposed development with the criteria specified in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made (clause 25(5)(a)).

The Hills Shire Council was consulted on 11 February 2011 and is supportive of the Site Compatibility Certification application. A copy of the letter is attached (Appendix 8).

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The Director General must not issue a certificate unless he/she is of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2) (a)):

- 1. The site of the proposed development is suitable for more intensive development (clause 24(2)(a))**

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES

The Director General must not issue a certificate unless he/she is of the opinion that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the following criteria (clause 25(5)(b)) and clause 24(2)(b)):

- 1. The natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))**

Ecological: The site is and has been used for horticulture. As a result, little natural vegetation remains. However, there are some scattered areas of vegetation, classified by the Council as "New Unclassified 2005". These areas include small spots in the centre, the north east corner and south west corner of the site.

Please refer to Appendix 9 for a copy of the Council's Vegetation Cover Map

No threatened or endangered species is identified within the mapping. It is noted a development application (DA3728/2003/HC) for the construction senior housing was approved by Council on 8 July 2004. Hence, it is unlikely that the site contains threatened or endangered species on-site.

Flood Risk: The previous approved senior housing development followed a similar site layout. As part of the development application, stormwater concepts and pre and post development overland flow assessment was submitted. The application was assessed and approved by The Hills Shire Council engineer (formerly the Baulkham Hill Shire Council).

The site is located in a low lying area of a small local catchment and subject to ponding during severe rainfall events.

As stated in the documentation submitted to Department of Planning, Appleyard Forrest Consulting Engineer have reviewed the new proposal and advised that the stormwater and hydraulic design can be resolved in a similar way to the previous DA approval.

Bushfire: As indicated in The Hills Shire Bushfire Prone Land Map (Appendix 10), a small proportion of the site, along the Kenthurst Road frontage, is identified as Vegetation Buffer Zone. Bushfire prone land does not form part of the consideration for a Site Compatibility Certificate. //

In accordance with Clause 27 of the SEPP, Council must be satisfied that the development application complies with the requirements set out in "*Planning for Bush Fire Protection*" and must consult Fire and Rescue NSW (formerly known as NSW Rural Fire Service)

Heritage: A review of the relevant LEP and the State Heritage Register has revealed that no heritage items exist on the subject site.

Geotechnical and Land Contamination: In February 2002, a Contaminated Land Investigation was undertaken. The investigation included a review of the site's historical uses and a soil sampling exercise. The assessment concluded that the site, in its current state, is unlikely to pose an unacceptable risk to human health or the environment.

Existing Uses: The site is classified as Class 3 Agricultural land, which is defined as:

"Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with sown pasture. The overall production level is moderate because of environmental constraints. Erosion hazard, soil structural breakdown or other factors, including climate, may limit the capacity for cultivation and soil conservation or drainage works may be required."

Please refer to Appendix 11 for a description of the features of Class 3 Agricultural Land.

As stated in the documentation accompanied the application, the subject site has not been used for agricultural purposes for the past 30 years.

The site is partially isolated from other farm lands. It is located adjacent to residential development and Dural sport and leisure centre and 450m from the Dural Mall Shopping Centre. The site has an area of 2 hectares and is not economically viable for agricultural use of any form, particularly due to its close proximity to urban area.

Land in the Vicinity: The properties to the east comprise mainly of low density detached dwellings with rural/residential adjacent to the north, west and south boundaries. The site is located approximately 450m from the Dural Mall Shopping Centre. The site adjoins to 54-56 Kenthurst Road, which is listed as an item of Environmental Heritage under Schedule 1 of the Council's Local Environmental Plan 2005.

However, the proposed senior living will be wholly contained within the site and will have no impacts on the heritage items.

2. 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 (clause 25(5)(b)(ii))

The Metropolitan Plan for Sydney 2036 and draft North-West Subregional strategy identified a need for new housing to be located within the walking catchment of centres with good public transport; and to promote and preserve agricultural activity while reducing land use conflict.

The subject site is zoned as Rural1(c) in the Hills Shire LEP 2005 and located at the boundary between urban and rural land. It is noted that the properties to the east consist of mainly low density detached dwelling and rural/residential to the north, west and south of the site. In addition, it is located within walking catchment (i.e. approximately 450m) of the Round Corner and close to existing services.

As noted from the previous Site Compatibility Certificate report, *"prior to 1976 the owners received many complaints from adjacent residential dwellings concerning the use of odorous fertilisers, chemical sprays, farm machinery and the hours of operation"*. By enabling the development of senior housing on the site, it will reduce conflicting land uses with the neighbouring properties.

The surrounding residential development provides minimal noise and air pollution. The rural land adjacent to the site (to the west) is an open, unused paddock and has no significant noise and air pollution impacts.

Under The Hills Shire LEP 2010, the subject site and surrounding lands to the north, west and south as Rural Small Holdings. The aim of this zone is to maintain the rural and scenic character of the land while ensuring that future development does not unreasonably increase the demand for public services or public facilities (Appendix 12).

The proposed development is not inconsistent with the Metropolitan Plan for 2036 and draft North West Subregional Strategy. The proposal will assist in the provision of housing for senior in close proximity to services and public transports.

3. 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 (clause 25(5)(b)(iii))

Location and Access to Facilities: *Clause 26: Location and Access to Facilities*, of the SEPP requires that residents of a proposed development have access to:

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

The clause notes that access is complied with if the facilities and services are located no more than four-hundred metres away; or if they are, that there is a public transport service available that will take them to within four-hundred metres of the required facilities.

The subject site is located approximately 450m from the Round Corner village and is located within the walkable catchment of a village centre, approximate 600m (as identified in the Subregional Strategies).

Bus stops can be accessed within 150m of the site and will provide access to a number of centres, including Round Corner, Pennant Hills (Village) and Castle Hills (a Major Centre). Occupants of the site will therefore have access to the range of facilities identified within Clause 26. Refer to Appendix 13 for the locations of bus stops and nearby facilities.

Council have indicated that:

- The proposed roundabout, at the intersection of Kenthurst Street and Pellitt Lane, *"is considered integral to the surrounding road network by reducing vehicle speeds on the approaches to busy commercial and school environments along Kenthurst Road"*.
- Subject to the construction of a footpath the development will comply with the SEPP requirement.

The subject site is in reasonable proximity to 3 hospitals:

- Mt Wilga Private Hospital (located at 2 Manor Road, Hornsby) is approximately 20km from the site and is a fully equipped specialist rehabilitation centre;
- Hornsby & Ku-ring-gai Hospital (located on Palmerston Road) is approximately 15km from the site and provide in and out patient service; and
- Neringah Hospital (located at 4 Neringah Avenue, Wahroonga) is approximately 18km from the site and provides a range of services, delivered in home or in day centres, for seniors.

Water Supply and Sewerage Infrastructure: A Section 73 Feasibility Letter from Sydney Water has been obtained by the applicants. This letter confirms that the capacity required servicing the site with a potable water supply and sewerage is available. It also indicates the works required to enable the adequate servicing of the site.

Other: Electricity and telephone network is available on the site. Existing sewer and water service are provided to the adjacent residential development at the corner of the site.

4. 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 (clause 25(5)(b)(iv))

The site is not zoned as open space or special uses. The proposed development has no affect on the open space provision.

5. 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 (clause 25(5)(b)(v))

As indicated in the draft The Hills Shire LEP 2010, the subject site and surrounding lands to the north, west and south as Rural Small Holdings. The aim of this zone is to maintain the rural and scenic character of the land while ensuring that future development does not unreasonably increase the demand for public services or public facilities. It is also noted that the properties to the east largely comprise of low density detached dwelling.

The application proposes the construction of 22 single storey villas to the perimeter of the site, 48 units in 4x two-storey buildings to the centre of the site and community facilities and swimming pool. In preparing the Development Application, the applicant is required to illustrate how the proposed built form will be compatible with the neighbouring properties and it likely impact on the locality and future character of the area.

6. 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 (clause 25(5)(b)(vi))

The application does not involve the clearing or removal of native vegetation on the subject site. Hence, the proposed development will have no impact on the conservation and management of native vegetation.

CONCLUSION

The subject site remains suitable for development for the purposes of senior housing and people with disability and is consistent with the previous approval issued on 23 March 2009.

Having regard to all of the above matters, it is considered that the proposal is consistent with Clause 24 and 25 of the SEPP (Housing for Seniors or People with a Disability) 2004.

RECOMMENDATION

It is RECOMMENDED that the Director General:

- **note** the report (provided at Tag A); and

- **consider** any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the relevant General Manager within 21 days after the application for the certificate was made as set out in the report and
- **form the opinion** that the site of the proposed development is suitable for more intensive development; and
- **form the opinion** that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having had regard to the criteria specified in clause 25(5)(b); and
- **determine** the application for a site compatibility certificate under clause 25(4) (a) by issuing a certificate (Tag B) for No. 50 Kenthurst Road, Dural (Lots 1, DP 195838).



Regional Director

Sydney West 31 March 11

**Executive Director
Planning Operations**



5/4/11

**Deputy Director General
Plan Making and Urban Renewal**



Director General