

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

SITE: Lots 1 and 2, DP 560912 (3 & 5 Pellitt Lane), and Lot 1, DP 534265 (9 Wirrabara Road), Dural.

APPLICANT: Claron Consulting Pty Ltd

PROPOSAL: The proposal involves construction of a seniors housing development to provide accommodation for:

- 104 serviced self-care dwellings (33 dwellings of 2 and 3 bedroom, and 71 apartments of 1 and 2 bedrooms);
- 72 bed residential care facility;
- communal centre, library, health facilities, medical clinic, recreational areas including tennis court, pool, landscaping; and
- approximately 100 car parks.

LGA: The Hills Shire

PERMISSIBILITY STATEMENT

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (Seniors Housing)) applies to land zoned primarily for urban purposes, or adjoining land zoned for urban purposes, where it satisfies clause 4. The type of seniors housing that may be carried out on this land is identified in clause 17.

The SEPP (Seniors Housing) is applicable under clause 4(1) but only if dwelling houses are permissible with consent. Dwellings are permissible with consent in the Zone RU6 Transition, under the *Hills Local Environmental Plan 2012*.

For the SEPP (Seniors Housing) to apply, in accordance with clause 4(4) the land must be 'land that adjoins land zoned primarily for urban purposes'. The north eastern boundary of the site is separated from the land zoned RE1 Public Recreation by a road, and is approximately 70 metres from land zoned R2 Low Density Residential. The legal advice (Tab 1 and J) confirms that the development satisfies the locational requirement by adjoining land zoned RE1 Public Recreation and being 'sufficiently proximate' to the land zoned R2 Low Density Residential located approximately 70m from the site.

The proposed development satisfies clause 17(2)(b) of the SEPP (Seniors Housing) by providing serviced self-care housing and a residential care facility.

CLAUSES 24(2) AND 25(5)

The Secretary must not issue a certificate unless the Secretary:

- (a) has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made; and
- (b) is of the opinion that:
 - (i) the site of the proposed development is suitable for more intensive development; and
 - (ii) the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).

COMMENTS FROM COUNCIL

The Secretary must not issue a certificate unless 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)).

A letter was sent to The Hills Shire Council on 25 February 2016 seeking written comments on the proposal. Council's response was received on 8 March 2016, within 21 days.

Council objects to the proposal, for the following reasons:

- the SEPP (Seniors Housing) does not apply to the land because it does not adjoin urban land;
- the appropriateness of the location (i.e. away from daily services) and the compatibility of the proposed development within the RU6 Transition zone, and the potential land use conflict with the surrounding land uses;
- the proponent has not addressed Council's Local Strategy, Residential Direction and Rural Lands Study;
- access and distance to services and public transport;
- potential hazard and evacuation difficulties of locating a senior housing facility within bushfire prone land;
- the proposed development could create a precedent for the unplanned expansion of such facilities in the Shire's rural areas.

A copy of Council's response (Tab B) is provided. Council's concerns are further assessed within this report. The SEPP (Seniors Housing) applies to this land, and thus permits a senior housing development to be located on this site. Council's future assessment of the development application will also examine the planning attributes of the site, any impacts on the surrounding land uses and activities, bushfire risk, biodiversity impacts/regeneration, servicing arrangements, and will determine the eventual development content and layout.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The Secretary must not issue a certificate unless 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))

The site is located approximately 620 metres north-west of the local centre and neighbourhood of Round Corner, Dural. The site has frontage to Pellitt Lane and Wirrabarra Road, Dural. The proposed senior housing development will be constructed over three adjoining allotments, with a total site area of 7,541 square metres. Refer to the locality plan (Tab H).

The eastern section of the subject land where the proposed senior housing development is to be constructed has been extensively cleared. Refer to vegetation plan (Tab L).

The land has previously been used for agricultural purposes for flower and market gardening and orchard growing, however, the land is now utilised as large rural-residential allotments. There are a number of existing dwellings which will be demolished if the development proceeds.

The Hills Council has raised concerns regarding the appropriateness of the location given the potential land use conflict that could arise when considering the broad range of permissible uses in the zone RU6 Transition. These uses include extensive agriculture, agricultural produce industries, landscaping material supplies and intensive plant agriculture which could conflict with an aged care facility in the future.

However, the locality plan (Tab H) reveals that the proposed senior housing development will be surrounded by the following land uses: church, school, recreational park and sporting oval, low density rural-residential development and bushland/vegetation. The broader area has a diversity of land uses and activities, transitioning to urban uses. The impacts of the proposed senior housing on the amenity of neighbours, or potential for land use conflict due to existing rural activities in the locality is considered minor, and can be resolved as part of any future development application.

Residents of the proposed senior housing development will have access to community and recreational facilities, bank and retail services, medical practitioners and commercial services at Round Corner within approximately 620m from the site. A public bus stop is located within 200m from the site, which will enable residents to access local and larger centres such as Castle Hill for a broader range of facilities and services.

The proponent advises that it is possible for the proposed development to be connected to reticulated sewer and water. Electricity and telecommunication networks can also be provided to the site.

In assessing constraints, the natural vegetation/bushland occurring along the western side of the watercourse imposes a bushfire risk upon the land. The proponent's bushfire assessment report (Tab M) addresses this matter by identifying Asset Protection Zones (APZ). The development's proposed layout incorporates the recommendations of the bushfire assessment (Tab N). As part of the development assessment process, approval is required from the NSW Fire Services under section 100B of the *Rural Fires Act 1997* as seniors living and aged care accommodation is considered a Special Fire Protection Purposes development.

Given the nature of the site, availability of services and infrastructure, the mixed land uses in the surrounding area, the site is considered suitable for more intensive development.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES

The Secretary must not issue a certificate unless 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))**

Ecology

The Hills Shire Council has provided a vegetation map of the site (Tab O). The vegetation/bushland along the watercourse is identified as predominately Sandstone Gully Forest. Council's map also identify several sites near the existing dwellings/buildings on Lot 2, DP560912, and Lot 1, DP 534265 including along the land's southern boundary edge as being Sydney Turpentine Ironbark Forest – listed as a critically endangered ecological community in the Sydney Basin.

The proponent's consultant BioDesign and Associates Pty Ltd, assessed the site's ecology indicating the vegetation cover that was present at the time of their analysis (12 May 2015) is not consistent with the mapping produced by Council (Tab P). The consultant agrees with Council's assessment that the species of indigenous tree present and the likely soil type associated with the soil are consistent with the vegetation being remnant of the Turpentine Ironbark Forest. However, the consultant argues that aside from a few isolated trees on the slope adjacent to the riparian zone of the watercourse, the remnant vegetation occurs largely in the form of mature trees growing beside the watercourse, and is of poor quality being heavily infested with weeds.

The proponent's bushfire assessment recommends the clearing of the under-storey and for it to be maintained largely free of shrubs and weeds. BioDesign and Associates Pty Ltd argue this will assist to support the health and well-being of the remnant native vegetation. Additionally, the proponent has indicated in their landscape masterplan (Tab Q), this remnant vegetation will be restored and replanted, being incorporated as pathways for passive leisure and private open space for use by the residents.

The Department is satisfied the site has capacity to support development and the potential impact on flora and fauna will be assessed at the development application stage.

Bushfire

Council has raised concerns regarding the increased risk, vulnerability, and evacuation process for residents in a senior housing development located within a bushfire prone area. The site is identified on The Hills Shire Council's Bushfire Prone Land Map as containing Category 1 Vegetation, and the 100 metres buffer zone from designated Category 1 Vegetation (Tab P). Consequently, the application of *Planning for Bushfire Protection 2006* and Australian Standard 3959-2009 is triggered. As the proposal relates to seniors living and aged care accommodation, it will be assessed as Special Fire Protection Purposes development under section 100B of the *Rural Fires Act 1997*.

The bushfire assessment prepared by Building Code and Bushfire Hazard Solutions, makes a number of recommendations, including minimum Asset Protection Zones (APZ), management details for vegetation, and the placement and setback of buildings and activities taking into consideration the vegetation/bushfire hazard (Tab R). The site's concept masterplan has considered this study, and proposes residential accommodation on the cleared land, located outside this APZ zone, at the upper contours of the site. Some non-

habitable buildings and leisure facilities will be located within the APZ. Refer to (Tab N). Council states in its response it would be irresponsible to locate non-habitable buildings and leisure facilities within bushfire prone land.

As the proposal is for a Special Fire Protection Purposes development, the NSW Rural Fire Services will be an approval body assessing the bushfire hazard. Therefore bushfire risks, and the final design layout for the senior housing development will be assessed at the development application stage

Contamination

The proponent has indicated that the land has been used by the present owners since the late 1940s, for market gardens, specifically vegetables and in later years, cut flowers and an orchard. These activities would not be considered in normal circumstances to generate undue potential for contamination except for minor residual fertiliser and pesticide in the soil profile, and possibly localised small quantities of fuel around the farm sheds.

The proponent advises a contamination investigation assessment will be prepared in accordance with *State Environmental Planning Policy 55 – Remediation of Land*, and the contaminated land planning guidelines, as part of the future development application. It is considered this matter will be assessed at the development application stage.

Other existing and approved uses in the vicinity

Due to the transitional nature of the RU6 zone, Council raised concerns there may also be potential for land use conflict between the various activities. As noted earlier, although the immediate surrounding locality of the proposed site is generally low-density, large lot rural-residential style development, or greenspace forming part of the Ellerman Park; the broader area has a diversity of land uses and activities, transitioning to urban uses.

The impacts of the proposed senior housing on the amenity of neighbours, or potential for land use conflict due to existing rural activities in the wider locality is considered minor, and will be assessed at the development application stage.

2. The impact that the proposed development is likely to have on the uses that, in the opinion of the Secretary, are likely to be the future uses of that land (clause 25(5)(b)(ii))

Existing Use of the Land

The site is zoned RU6 Transition under the *Hills Local Environmental Plan 2012*, and is located on the boundary between urban and rural-residential land. Historically the land has been used for agricultural purposes. The site presently contains 3 rural-residential dwellings and ancillary outbuildings.

Permissible and future land uses

The RU6 zone permits a diverse mix of activities such as community facilities, eco-tourist facilities, farm buildings, farm stay accommodation, garden centres, education facilities, intensive plant agriculture, landscaping material supplies, public administration buildings, recreation facilities both indoor and outdoor, restaurants and cafes, and veterinary hospitals.

The broader area has a diversity of land uses and activities, transitioning to urban uses. The Department is satisfied that the subject site is suitable for more intensive development and the assessment process will determine the appropriate bulk, scale and built form so that the senior housing development is sympathetic to the character of this locality and adjoining land uses. It is considered that any potential impact on neighbours can be minimised through building design, setbacks and landscaping.

The Hills Shire Council raised concerns that the proponent had not addressed the recommendations and strategic direction provided in Council's Local Strategy, Residential Direction, and Rural Lands Study. Council's local strategy does not identify this locality as a future urban investigation area. Notwithstanding, the Department supports the development of senior housing in accordance with the provisions of the SEPP (Seniors Housing) to continue to provide housing choice in appropriate locations.

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 of the SEPP (Seniors Housing) 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 from the site; or
- these facilities are not so located, that there is a public transport service available that will take residents within four-hundred metres of the required facilities.

The site is located approximately 620 metres from the Round Corner town centre which includes local retail and commercial services such as Woolworths, banks, medical practitioners and health services. The Dural library and community recreational facility is located approximately 200 metres south of the site. The development also proposes a community centre, medical clinic, library, indoor pool, bowling green and gym.

To access these local services and facilities, existing bus stops are located along Kenthurst Road. The closest bus stop is located within 200 metres distance from the subject site. The Hills Bus services routes 639 and 641 both run regularly during the week enabling access to Round Corner town centre, or to other more comprehensive facilities at Castle Hill, Cherrybrook and Pennant Hills. Refer to the Network Map ([Tab S](#)) and timetable ([Tab T](#)).

Clause 26 of the SEPP (Seniors Housing) requires the consent authority at the development application stage to ensure that pedestrian access footpaths comply with the gradient requirements. The Department is satisfied that it should be possible to provide the required footpath gradients to one of the nearby bus stops to access the facilities and services available at nearby commercial centres.

Access to the proposed facilities and services, and provision of public transport meets the minimum requirements of the SEPP (Seniors Housing).

Water Supply and Sewerage Infrastructure

The proponent has engaged infrastructure consultants - RMA infrastructure Pty Ltd which advises the site can be connected to reticulated water and sewer ([Tab U](#)).

Shelmerdines Consulting Engineers, advises that electricity and telecommunications can be provided to the site ([Tab V](#)).

The provision and augmentation of essential infrastructure services will be resolved with the respective infrastructure/supply authorities.

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 open space or special uses. The proposed development will not reduce the provision of land for open space or special uses within this locality. The existing public reserve across the road from the subject site, contains sporting ovals, Dural library and community facilities.

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))

The site is located on the north-western fringe of the local centre and neighbourhood of Round Corner, Dural. As noted earlier, although the immediate surrounding locality is generally low-density, large lot rural-residential style development, or greenspace forming part of the Ellerman Park; the broader area has a diversity of land uses and activities, transitioning to urban uses. A senior housing development at this location is not considered incompatible with the approved uses and future uses of the land in vicinity of the development.

The senior housing development proposes 21 buildings being of single or 2 storey construction and incorporates communal buildings for pools, health facilities, and administration. The proposed development will provide for a total of 104 serviced self-care housing and a 72 bed residential care facility. The proposal incorporates basement car parking which the proponent states can be provided to the buildings using the natural topography of the site without breaching the 10 metres height of buildings limit as provided within *The Hills Local Environmental Plan 2012*.

The bulk, scale, and built form of the proposal are inconsistent with the existing approved uses, and character of the site and surrounding rural-residential locality. Developments that have similar bulk and scale to the proposed development are the adjoining Baptist Church and Hills Grammar School; and the commercial/retail precinct at Round Corner, Dural.

The Department is satisfied that the development application process will determine the appropriate bulk, scale and built form so that the senior housing development is sympathetic to the character of this locality. It is considered that any potential impact on neighbours can be minimised through building design, setbacks and landscaping; and any privacy and amenity issues can be addressed as part of Council's development assessment process.

Council has also raised concerns that the proposed development could create a precedent for the unplanned expansion of senior housing facilities into the Shire's rural areas. In considering the existing and approved uses in vicinity of the development, it is noted that there are two other senior housing developments located on the edge of the residential and rural-residential lands within the Round Corner, Dural.

The Oak Tree Seniors Living Facility is located approximately 200 metres south of the site, on the corner of Kenthurst Road and Pellitt Lane. Another senior living development known as the Mountainview Retreat Retirement Village is located along Stonelea Court, south-west of Round Corner town centre. These developments are located on the edge of the residential area and similarly are an interface with the surrounding Zone RU6 Transition land, typically being large lot residential development. The Mountainview Retreat Retirement Village however is also within close proximity to the shopping and commercial precinct, so the building's bulk and scale is more compatible with development in its immediate vicinity.

The Department supports senior housing development undertaken in accordance with the SEPP (Seniors Housing) provisions to achieve the aims of A Plan for Growing Sydney, and the West-Central Subregional Strategy for greater housing and lifestyle choices.

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 Secretary does not need to consider the impact on the conservation and management of the native vegetation because the *Native Vegetation Act 2003* does not apply to The Hills Shire Local Government Area. Council will assess the impact of the development, and any required clearing for bushfire protection on the remnant vegetation, as part of the development assessment process

RECOMMENDATION

It is recommended that the Deputy Secretary, Planning Services, as a delegate of the Secretary:

- **notes** this report;
- **considers** any written comments from Council concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) attached at (Tab B);
- **forms the opinion** that the site of the proposed development is suitable for more intensive development;
- **forms 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
- **determines** the application for a site compatibility certificate under clause 25(4)(a) by issuing a certificate subject to satisfaction of certain requirements specified in the certificate (Tab C) for Lots 1 and 2, DP 560912 (3 and 5 Pellitt Lane) and Lot 1, DP 534265 (9 Wirrabara Road), Dural.



24/5/2016

Monica Gibson

Director, Regions Hunter and Central Coast



Stephen Murray
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Planning Services

6 June 2016