

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

**SITE:** 705-717 Old Northern Road, Dural - Lot X, DP 403409

**APPLICANT:** BBF Town Planners on behalf of Thompson Health Care.

**PROPOSAL:** 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 site is located in the Hornsby Local Government Area.

**PERMISSIBILITY STATEMENT**

The land is currently zoned as *RU2 Rural Landscape* under *Hornsby Local Environmental Plan 2013* (LEP). Seniors housing is a prohibited use in this zone, but land immediately opposite, on the northern side of Old Northern Road, is zoned for urban purposes (being zoned B2 – Local Centre and R2 - Low Density Residential, under the provisions of *The Hills Local Environmental Plan 2012*. The objectives of the B2 zone are to:

- provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;
- encourage employment opportunities in accessible locations; and
- to maximise public transport patronage and encourage walking and cycling.

Department Comment

Although the proposed seniors housing development is not permissible within the *RU2 Rural Landscape* zone, it adjoins land that is zoned for urban purposes, thus fulfilling clause 4(1) which requires adjoining land to be zoned for urban purposes (Figure 1).



**Figure 1: Site Location** (Source – <https://maps.six.nsw.gov.au>)



**SUITABILITY FOR MORE INTENSIVE DEVELOPMENT – CLAUSE 24(2) OF STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

The Secretary must not issue a certificate unless of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2)(a)).

It is considered that the site is suitable for more intensive development, as the land:

- is located adjacent to an established urban area, with good road access, and is served by public buses on Old Northern Road, providing connections to the Castle Hill Town Centre; and
- development, as proposed, would contribute to meeting the need for seniors housing in the north west of Sydney.

Further, there are no environmental constraints that would preclude the development of the site for seniors housing.

**COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES – CLAUSE 25(5) OF STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

The Secretary must not issue a certificate unless 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)).

**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)).**

No significant environmental values, resources or hazards have been identified in relation to the site. The site has not been identified as containing Bushfire Prone Land. Further, the site has not been identified as containing “Biodiversity” on *Hornsby Local Environmental Plan 2013* Terrestrial Biodiversity Map – Sheet BIO\_009.

Council also note that the Hornsby Local Government Area is listed in Part 3 of Schedule 1 of the *Native Vegetation Act 2003*. Accordingly, pursuant to Section 5 of that Act, land within the Hornsby Shire is excluded from its operation.

The subject land is currently zoned as RU2 Rural Landscape under *Hornsby Local Environmental Plan 2013* (HLEP), and adjacent uses to the south, east and west are predominantly rural residential in nature. Land immediately opposite, on the northern side of Old Northern Road, is zoned for urban purposes (being zoned B2 – Local Centre and R2 – Low Density Residential).

While it is acknowledged that a Gateway determination (refer following) has been issued for a Planning Proposal (encompassing the subject site and its immediate surrounds for rezoning for urban purposes), taking into consideration the nature of the proposed development of the subject land, as well as, the site’s location and features, there are no compatibility issues that would hinder the senior’s proposal proceeding at this time.



**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)).**

Council has suggested that the current application for a site compatibility certificate is premature, given that a Gateway determination has been granted by the Department for the South Dural Planning Proposal, to accommodate up to 3,000 dwellings, with completion of the Local Environmental Plan expected by 14 March 2018.

Department Comment

While Council's position is acknowledged, the potential impact that the proposed seniors housing development is likely to have on future adjoining residential uses, should the planning proposal for 3,000 dwellings ultimately proceed, is considered to be acceptable. It is considered that should the South Dural planning proposal proceed, the future residential development and the seniors housing development are compatible as they are both essentially residential in character.

Therefore, opportunities to develop the surrounding South Dural planning proposal area for future residential purposes, should this planning proposal proceed, will not be precluded by this senior housing development.

The application is also accompanied by a traffic investigations report, which concludes:

- *the traffic generation of the proposed development will be relatively minor and not present any adverse traffic implications;*
- *the proposed parking provision is adequate for the needs of the development; and*
- *the proposed vehicle access, internal circulation and parking arrangements will be appropriate to current design standards.*

It is accordingly concluded that the proposed development is unlikely to have any unacceptable impacts on future uses of the surrounding land.

**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)).**

The Round Corner Shopping Centre is located approximately 150m metres (walking distance) from the proposed development, containing a wide number of services including:

- a doctor's surgery (Round Corner Medical Practice);
- pharmacy;
- supermarket (Woolworths);
- banks (Commonwealth Bank, ANZ and Westpac);
- restaurants and café's;
- hairdressers; and
- retail shops.



The applicant has provided a brief “*Statement of Compliance*” report (Tab G), prepared by Accessible Building Solutions, which addresses the requirements of Clause 26 of *SEPP Housing for Seniors or People With A Disability 2004* in relation to access to transport services and infrastructure.

The *Statement of Compliance* indicates that the site is located within 100m from the facilities on the corner of Old Northern Road and Kenthurst Road and 150m to bus stops travelling in either direction on Old Northern Road which provide access to services 637, 638 & 639 linking with Castle Hill and connections to many other centres.

Clause 26(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* specifies that access complies with this clause if:

- (a) *the facilities and services are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:*
  - (i) *a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time;*
  - (ii) *a gradient of no more than 1:10 for a maximum length of 5 metres at a time; and*
  - (iii) *a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.*

The *Statement of Compliance* indicates that the shopping centre and bus stops are located at distances of less than 400m along suitable access pathways, and that the associated average gradients along these pathways are less than 1:14. However, it is also noted that for a small section along the formed footpath has a gradient of between 1:8 and 1:10 for approximately 4.7m. In this regard, the *Statement of Compliance* advises that:

*“Although outside the parameters indicated within the SEPP, this is generally considered functional for most people. Based on an inspection of the existing conditions, it is considered possible to create a new footpath which can achieve compliant grades, of around 1:20.”*

Reference is also made to *Norwest Alliance Group Pty Ltd v Parramatta City [2015] NSWLEC 1505*. In this decision, Senior Commissioner Brown acknowledged acceptance of:

*“... evidence that showed that the requirements in cl 26 can be satisfactorily addressed through the realignment of the existing footpath levels to gain access to the bus stop.”*

#### Department Comment

On the basis of the information and technical reports provided by the applicant, it is considered that the requirements in clause 26 can be satisfactorily addressed in the circumstances of this particular case, i.e. alternative routes at a lesser, acceptable grade may be provided, satisfying the clause (refer: Tabs F1-9 and F1-10 ). To ensure that this is the case, an appropriate condition is attached to the certificate.



The applicant has also provided written advice from Sydney Water dated 16 December 2014, indicating that the development will have access to a reticulated water system, and that a point of connection to a sewer main is available in Kenthurst Road for the disposal of sewage (Tab F).

The Sydney Water advice also notes that costs associated with certain works will be the responsibility of the developer. Council has suggested that as the proponent has not detailed any proposed financial arrangements to ensure infrastructure provision, the proposal is inconsistent with Criteria 3.

#### Department Comment

It is considered that the proposed development is compatible with the surrounding land uses having regard to the services and infrastructure that are or will be available to meet the demands arising from the proposed development. Council's comments regarding this issue are further addressed in 'Comments from Hornsby Shire Council' in this report.

**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)).**

A narrow strip approximately 5.5m wide across the Old Northern Road frontage of the site is zoned SP2 Infrastructure – Road (road widening).

#### Department comment

The location of this strip is illustrated on the concept architectural plans provided in support of the application, demonstrating that the road widening can be accommodated. No adverse impacts on land that is zoned open space or special uses have been identified.

**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 applicant advises that plans for the proposed built form of the development were prepared following detailed site and contextual analysis and formal pre-DA discussions with Hornsby Council.

The development is to comprise a part 2 / part 3 storey built form, with pitched roofs, which is acknowledged as generally consistent with the height of development and character of detached housing in the immediate vicinity of the site.

#### Department comment

Development of seniors housing comprising part 2 / part 3 storey built form, with pitched roofs, is considered appropriate and acceptable in terms of the impact it is likely to have on the existing uses, approved uses and possible future uses of land in the vicinity of the development.



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)).

Council advice confirms that the Hornsby Local Government Area is listed in Part 3 of Schedule 1 of the *Native Vegetation Act 2003*, and that pursuant to Section 5 of that Act, Hornsby Shire is excluded from its operation.

#### **COMMENTS FROM HORNSBY SHIRE COUNCIL**

Council's submission on the proposal is at Tab B.

#### **Criteria 1 – The natural environment and the existing and approved uses of land.**

Council note that the majority of the land is zoned RU2 Rural landscape, and that existing and approved uses to the west, east and south are currently rural uses. Council suggest that development involving construction of an aged care facility containing 158 beds would be inconsistent with the objectives of the RU2 zone.

##### Department Comment

In raising this issue Council has not acknowledged provisions of the State Policy and taken into consideration the proximity of the site to adjacent existing urban areas, immediately opposite the site to the north of Old Northern Road - as can be seen in Figure 2, overleaf. Particularly, the site is located immediately opposite the Round Corner local centre, and other adjacent urban development to the north.

#### **Criteria 2 – The impact that the proposal is likely to have on the likely future uses of land in the vicinity of the development.**

Council also note that a Planning Proposal has been submitted on behalf of the South Dural Resident and Ratepayers Association to rezone the South Dural precinct, which encompasses the subject site, for urban purposes, with the potential to provide 2,500-3,000 new dwellings.

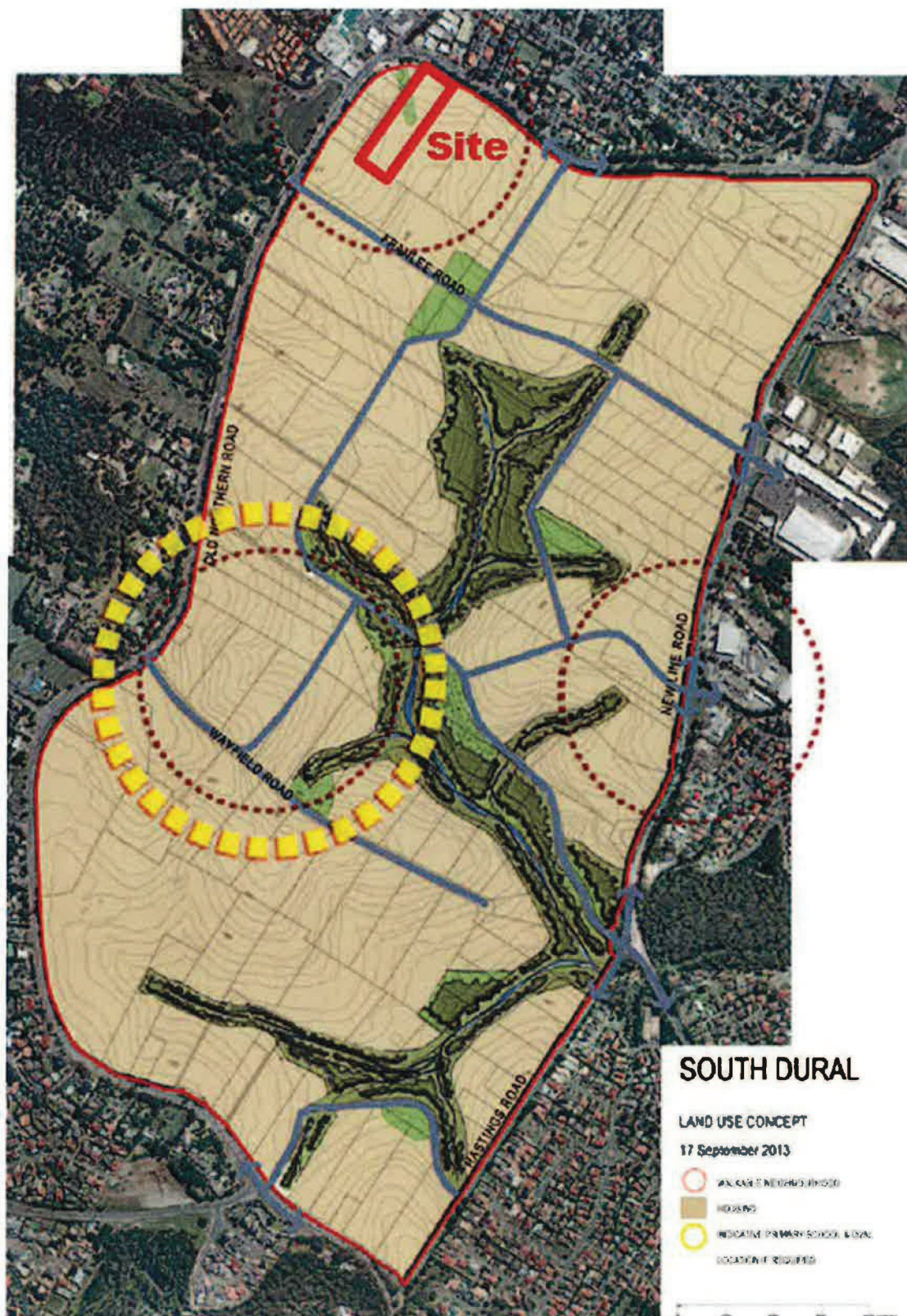
Council note that a Gateway determination has been granted by the Department of Planning and Environment for the South Dural Planning Proposal that allows completion of the Local Environmental Plan by 14 March 2018. Council suggest that it is unknown what the future uses of surrounding land will be, and therefore whether the proposal would be compatible with those land uses.

##### Department Comment

While acknowledged, Council's views on this point are not supported.

The South Dural Land Use Concept submitted with the planning proposal for the precinct shows the site, and its periphery, as predominantly proposed for housing, as shown in the diagram overleaf (Figure 2).





**Figure 2: Site Location within the proposed South Dural Precinct**  
(Source – Hornsby Shire Council, 2014)



**Criteria 3 – The services and infrastructure that are or will be available to meet the demands arising from the development and any proposed financial arrangements for infrastructure provision.**

Council note that the proponent has provided correspondence from Sydney Water, and also states that the proponent has not detailed any proposed financial arrangements to ensure infrastructure provision. On this basis, Council suggest that the proposal is inconsistent with Criteria 3.

Department Comment

Council's views on this point are not supported. The feasibility letter provided by Sydney Water dated 16 December 2014 provides advice that connection may be made to a 200mm water main in Old Northern Road, and that a potential sewer connection point is available in Kenthurst Road. The letter also refers to the "Section 73 Certificate" application process, which is the standard practice followed in the servicing of developments of this nature. The Sydney Water feasibility letter also outlines funding arrangements at page 4, under "Funding of works".

**Criteria 4 – In the case of applications in relation to land that is zoned open space or special use, 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.**

Council identify that the front portion of the property, being a narrow strip approximately 5.5m wide) is zoned SP2 Infrastructure – Road (future road widening), and note that the applicant fails to recognise and address this within their submission.

Department Comment

The location of the strip of land zoned SP2 Infrastructure – Road is illustrated on the concept architectural plans provided by the proponent in support of the application, demonstrating that the road widening can be accommodated. No adverse impacts on land that is zoned open space or special uses have been identified.

**Criteria 5 - 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.**

Council has suggested that it is difficult to assess the bulk and scale of the development as no elevations have been provided, but note that the built form indicated on the floor plan submitted with the proposal is substantial and largely urban in nature, and comment that this is inconsistent with that of the existing rural land use of the area.

Department Comment

Council's view is not supported. Council makes no reference to the form, bulk and scale proximity of adjacent development within the existing urban areas immediately opposite the site to the north of Old Northern Road (Figure 2). Development of seniors housing comprising part 2 / part 3 storey built form, with pitched roofs, is considered appropriate and acceptable in terms of the impact it is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.



**Criteria 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.**

Council advice confirms that the Hornsby Local Government Area is listed in Part 3 of Schedule 1 of the *Native Vegetation Act 2003*, and that pursuant to Section 5 of the Native Vegetation Act 2003, land within Hornsby Shire is excluded from operation of the Act.

## CONCLUSION

The proposal is consistent with the aims of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in that it will increase the supply and diversity of housing that meets the needs of seniors or people with a disability. The proposed land use is consistent with the surrounding built form, and site constraints have been recognised and accounted for. The proposal is also consistent with one of the key priorities for West Central Sydney in *A Plan for Growing Sydney: Accelerate housing supply, choice and affordability and build great places to live*.

It is considered that the site's location, access to transport infrastructure and proximity to the Round Corner village centre make it suitable for the use of seniors housing, and that the proposed development is compatible with surrounding land uses. Adequate access to water and sewer infrastructure and to public transport can be achieved via minor upgrades to existing facilities.

Hornsby Council has raised a number of concerns as noted above, but it is considered that these concerns relate either to matters more appropriately addressed at the development application stage or to a general objection to the intent of the site compatibility certificate process.

It is considered that Council's concerns have been adequately addressed.

As such, it is recommended that a site compatibility certificate be granted.

## RECOMMENDATION

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

- **considers** Hornsby Shire Council's written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) (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 having had regard to the criteria specified in clause 25(5)(b);
- **forms** the opinion that development for the purposes of seniors housing of the kind proposed in the site compatibility certificate application is compatible with the surrounding land uses; and



- **determines** to issue a site compatibility certificate for seniors housing at 705-717 Old Northern Road, Dural, subject to satisfying certain requirements specified in the certificate.

 13 July 2016  
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Executive Director, Regions

  
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Deputy Secretary  
Planning Services 11/07/2016

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