

17 January 2017

Hunter & Central Coast Region – Central Coast Office
NSW Department of Planning & Environment
PO BOX 1148
GOSFORD NSW 2250

Dear Ms Louise Starkey

**Subject Eleebana Shores Retirement Living Pty Ltd at 50 and 50A Burton Road,
 Mount Hutton**

This correspondence is in reference to the NSW Department of Planning and Environment's correspondence in relation to the Site Compatibility Certificate Application lodged under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Council officers have prepared this submission and the concerns expressed in the attached Schedule are therefore the collective views of Lake Macquarie City Council. The Department is requested to take these comments into consideration when considering the determination of the Site Compatibility Certificate.

Should you have any questions regarding this correspondence, please contact the undersigned on 02 4921 0358 or via email at aaregado@lakemac.nsw.gov.au

Kind regards,



Amy Regado
Development Planner
Development Assessment & Compliance

Schedule Of Issues

Proposed Eleebana Shores Retirement Living Pty Ltd – Lake Macquarie City Council Submission

Council's staff general comments and consideration to the provisions of Clause 25(5) of State Environmental Planning Policy (housing for Seniors or People with a Disability) 2004 is detailed hereunder.

Integrated Planning

Lifestyle 2030 Strategy

Council's Lifestyle 2030 Strategy recognises that the rural landscapes of Lake Macquarie are facing increasing pressure from expanding urban areas and increase in land values. The Strategy recognises it is important to protect and retain viable rural areas for the agriculture, intensive agriculture and rural and eco tourism activities. The Strategy recognises that rural-residential development offers an important lifestyle choice to residents of the City. One of the outcomes of Lifestyle 2030 Strategy is for a review of rural-residential land to be undertaken, including an analysis of the supply and demand for rural residential land.

There has been significant pressure on land in the RU4 zone to be rezoned to residential and for seniors housing developments. Council has been reluctant to rezone any of this land until the review of rural residential land is undertaken. There is limited availability of this type of land on the eastern side of Lake Macquarie and further investigation is needed to investigate potential landuse change. Council will begin work on this review of rural land as part of Council's new integrated landuse and transport plan that has commenced. It is likely that this review will provide greater direction on how this land should be managed in the future.

Development under the Seniors Living SEPP is resulting in this area being developed without strategic consideration of overall development of this area. Until this review has occurred, the future uses of this land and surrounding land is unclear and in the meantime is resulting in a pocket of seniors living. Whilst there are public transport options in the area, because of the rural character in this area, services such as footpath connections are currently limited and the site does not have good pedestrian and cycle connections.

Lake Macquarie Local Environmental Plan 2014

The proposal is not consistent with the zone objectives of the RU4 Primary Production Small Lots zone. The RU4 zone seeks the following:

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To provide for a rural lifestyle and other compatible activities.
- To maintain or improve the quality of the environment.

The development of seniors living on the site is a much more intensive urban style development than the small scale rural living opportunities that this zone seeks to allow. Seniors living is not permitted in this zone and as noted in the application, clause 7.12 is no longer operational and the application is thus being applied for under the SEPP.

It is noted that some of the apartment complexes are three storeys and 4.5m over the maximum height limit. This height limit variation is not supported due to the development still largely being located in a rural living type setting.

Flooding

Parts of the land are affected by probable flood affectations as determined from the South Creek Flood Study, April 2011 (see Figure 1). In accordance with DCP 2014, the Seniors Living development would be classified as a “Sensitive Use”.

To ascertain the velocities and depths of floodwaters and developable portions of the land, a site-specific engineering report should be undertaken. The report should also detail whether a failsafe means of evacuation or on-site means of safety for occupants at the site can be achieved.

Where development of the site for the proposed use is supported, all habitable floor levels of any units/buildings will be required to be constructed at or above the site-specific Probable Maximum Flood (PMF) level.

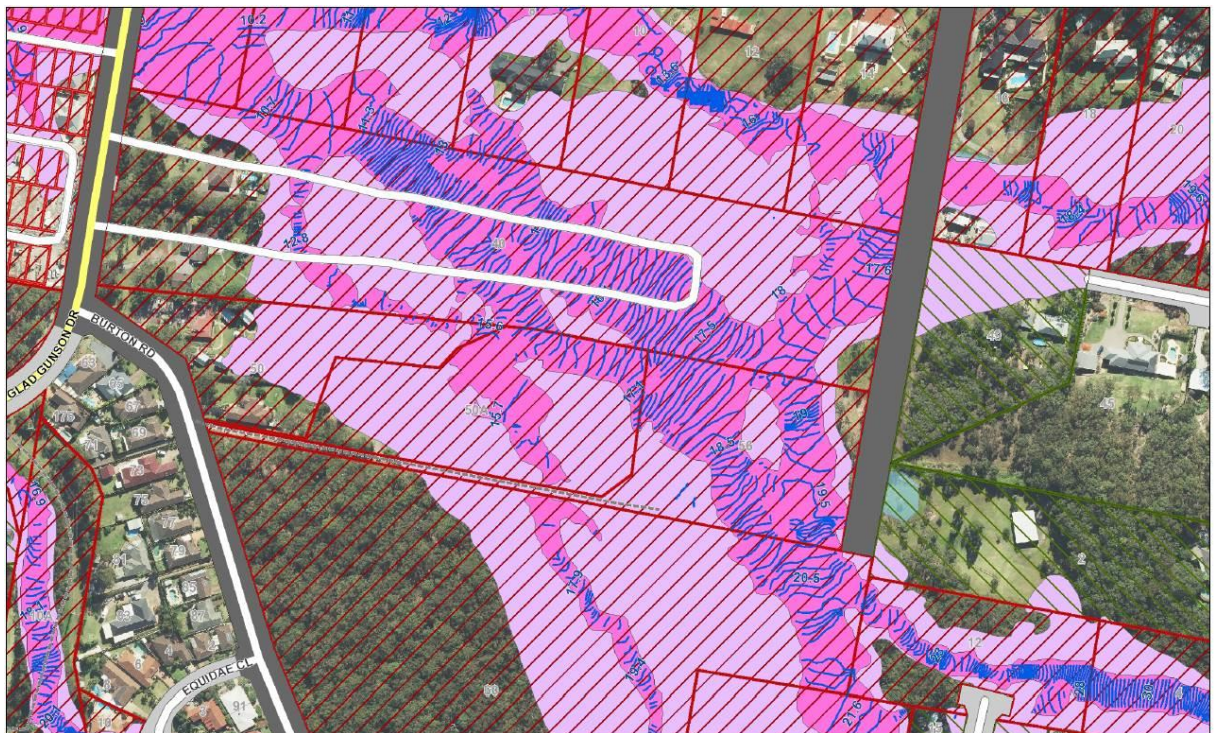


Figure 1: Extract from South Creek Flood Study, April 2011.

Flora and fauna

The site contains scattered native trees along the Burton Road frontage, including mature smooth-barked apple *Angophora costata*. These trees form part of a ‘rehabilitation corridor’ mapped in Council’s Native Vegetation and Corridor Map v1 (2011), and provide an

important linkage between patches of Environmental Zoned land in the local area (see Figure 2).



Figure 2: Extract from Council's Native Vegetation and Corridor Map v1 (2011). Rehabilitation corridor shown with pink dashed line.

Native vegetation on the remainder of the site is mapped as MU11 coastal sheltered apple-peppermint forest, which is not characteristic of a threatened community listed on the Threatened Species Conservation Act or Environment Protection & Biodiversity Conservation Act. Although Council's GIS maps native vegetation along the site boundary between 50 Burton Road and 40 Burton Road, due to recent development at 40 Burton Road the majority of this has been recently cleared.

There do not appear to be any hollow-bearing trees at the site, however the scattered trees would provide potential foraging habitat for mobile native birds, bats and arboreal mammals as part of a wider area of occupation. The native groundcover has been previously cleared and landscaped; the likelihood of threatened flora occurring is low.

Development as proposed would be generally supported from a flora and fauna perspective providing the rehabilitation corridor along Burton Road is protected from development by retaining existing native trees. Further planting of native trees along the Burton Road frontage to strengthen this corridor, and compensate for the loss of native trees over the remainder of the site will be required to be incorporated into any development application.

Creeks and Watercourses

Lot 3411 DP 1078978 (50 Burton Road) currently contains a constructed pond that appears isolated from surface water flows. Lot 3414 DP 1078978 (50A Burton Road) contains a large waterbody that is fed from a first order watercourse that flows from the parcel of land located to the south of the subject site. This watercourse is evident on the Deposited Plan for the subject lots and the recent watercourse mapping that Council has recently completed.

Council's Protection of Watercourses and Drainage Channel Policy and DCP 2014 aims to protect watercourses and their associated vegetation from being disturbed – redirected, reshaped, or modified unless extraordinary circumstances apply. Council's DCP also recommends rehabilitation of watercourses on development sites which contain degraded watercourses.

Council understands that the proposal incorporates modification to the waterbody and watercourse. Any modification to the waterbody and watercourse would unlikely to be supported unless sufficient justification can be provided as to detail why modifications are required and demonstration that potential impacts on water quality, aquatic habitat, and riparian vegetation will be negligible.

State Environmental Planning Policy (housing for Seniors or People with a Disability) 2004 – Clause 25 Application for site compatibility certificates

With regards to consistency with the criteria of Clause 25(5) (b) of the SEPP, the following comments are provided:

- (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.*

Please refer to comments previously in this correspondence regarding flooding, flora and fauna and creeks and watercourses.

It is also acknowledged that the site is subject to bushfire constraints which need to be taken into consideration.

- (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,*

As previously detailed, Council intends to undertake a review of rural-residential land which will include this site and surrounding RU4 zoned land. Until this review has been undertaken, it is unclear about the future uses surrounding the site.

- (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,*

Whilst the application identifies that there are nearby services in the area, these services are not within a walkable distance of the site and there is currently limited footpaths in the area. It is noted, that there is bus transport in the area with a newly built bus shelter built within vicinity of the proposed development site and new footpaths have been built as part of adjoining development. If the application is approved, it is recommended that these connections be extended.

- (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,*

Not applicable.

- (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,*

The immediate surrounding area has seen notable change with the development of two new seniors housing development adjoining the site. The character of the larger surrounding area, overall however still maintains a mix of rural and residential form. There is concern over the three storey apartment with the height being 4.5m over the current height limit.

(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.*

Please refer to comments above under “Flora and Fauna”.

The site is zoned RU4 and the provisions of the Native Vegetation Act apply. Consent from the Local Land Services prior to clearing of native vegetation at the site is required to be obtained.