

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 (Seniors Housing SEPP)

SITE: 1304 Windsor Road, Riverstone (Lot 8 DP218794). A site inspection was undertaken by the regional team on 9 October 2017.

APPLICANT: The application form (**Attachment E**) for a site compatibility certificate (SCC) was submitted to the Department of Planning and Environment on 21 September 2017 by Evolution Planning on behalf of the landowner, Ark Healthcare.

PROPOSAL: The application report (**Attachment F**) prepared by Evolution Planning details a 144-bed residential care facility (Figure 1) comprising four interconnected two-storey buildings. The proposal involves:

- access to the facility via Windsor Road;
- the building closest to Windsor Road containing an office, day care facility, function rooms and gymnasium;
- the three buildings towards the rear of the property containing residential accommodation; and
- a basement with car parking, kitchen and laundry services.

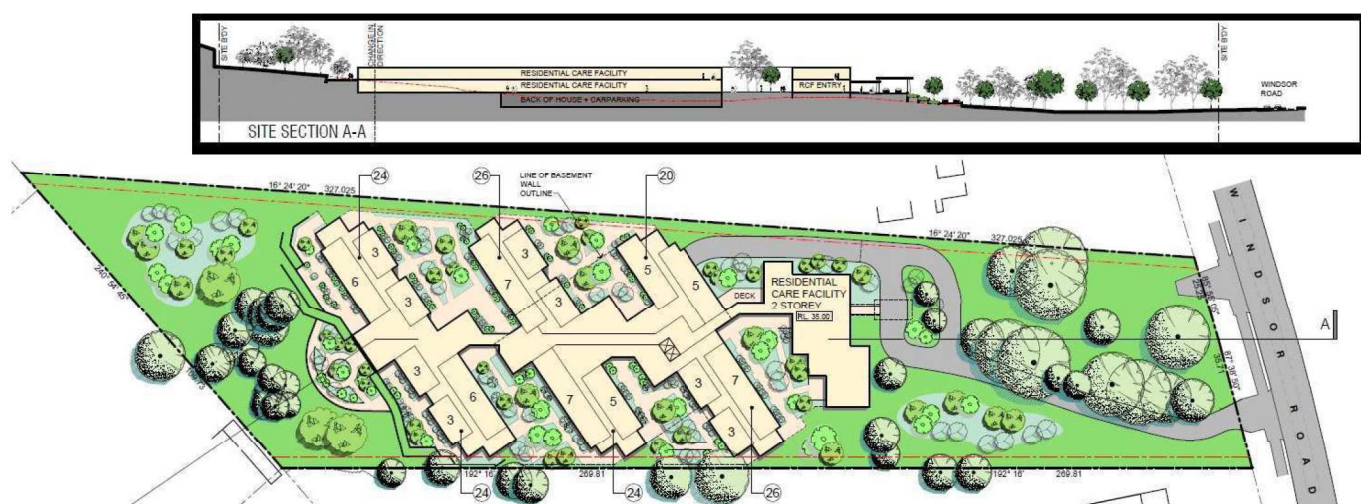


Figure 1: Proposed development.

It is proposed that the facility will be operated by Ark Healthcare.

The following additional supporting documentation was provided with the application:

- Pre-application meeting minutes.....(**Attachment F1**)
- Concept site plan(**Attachment F2**)
- Survey plan 1(**Attachment F3**)
- Survey plan 2(**Attachment F4**)

LGA: Blacktown City Council.

PERMISSIBILITY STATEMENT

The Seniors Housing SEPP applies to land zoned primarily for urban purposes, or adjoining land zoned for urban purposes, where it satisfies clause 4 of the SEPP. The type of seniors housing that may be developed on this land is identified in clause 17.

The Seniors Housing SEPP is applicable under clause 4(1) if dwelling houses are permissible with consent. The site is zoned RU4 Primary Production Small Lots in the Blacktown Local Environmental Plan 2015 (LEP) (Figure 2) and dwelling houses are permitted with consent.

For the Seniors Housing SEPP to apply, in accordance with clause 4(4) the land must meet the following criteria:

land that adjoins land zoned primarily for urban purposes includes (but is not limited to) land that would directly adjoin land that is zoned primarily for urban purposes but for the presence of a public road to which there is direct vehicular and pedestrian access from the adjoining land.

The land adjoining the site to the north is within the Box Hill Precinct and zoned B7 Business Park under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (North West Growth Centre Land Zoning Map Sheet LZN_008).



Figure 2: Land zone map.

Advice from the [REDACTED]

Council has raised concerns that the adjoining B7 land has no vehicle access from the adjoining public road (and that in future this B7 land will not have direct access to Windsor Road) and is unable to comply with the adjoining criteria of clause 4(4). Advice from the Legal Services Branch has confirmed that clause 4(4) is 'inclusive and not prohibitive' and that the site does adjoin the B7 Zone.

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

On 31 October 2017, Council wrote to the Department about the proposed development. Council does not support the issuing of a SCC (**Attachment B**).

Council notes the site is identified to be rezoned for future urban purposes as part of Riverstone East Precinct Stage 3, and that issuing a SCC may undermine the future orderly development of the precinct. Council's objections are summarised below:

- the application fails to meet the Seniors Housing SEPP assessment criteria including permissibility as the adjoining urban land does not have vehicular access to Windsor Road;
- the proposed development is incompatible with the existing semi-rural land uses;
- the site is within the North West Growth Centre and there is no detailed public information on the intended future land uses or indicative layout plan;
- there is unconfirmed availability of future essential services (electricity and sewerage) and key infrastructure (road network);
- it is not possible to assess if the proposed development would be compatible with the future surrounding land uses or have adequate access to services and facilities as they have not been planned; and

- the segregation of this large lot from the overall planning process has the potential to place unnecessary limitation and constraints on the future orderly development of Riverstone East Precinct Stage 3, which is yet to be rezoned.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The Secretary must not issue a certificate unless the Secretary 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 will eventually be suited to more intensive development as:

- there are no known environmental constraints that would preclude the development of the site for seniors housing;
- the proposal would contribute to meeting the needs for seniors housing in the north-west of Sydney;
- the proposed development will provide seniors housing diversity and social benefit by providing housing options that will give future residents the opportunity to access appropriate forms of housing as their needs change over time; and
- the site is in Riverstone East Precinct Stage 3, which is identified for more intense development and is the subject of a rezoning and land release process under State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).

It is considered that the proposed intensification is currently not appropriate or suitable as:

- the impact of the proposed development cannot be assessed as the indicative layout plan for the Riverstone East Precinct is being considered by the Department's Land Release Team; and
- issuing a SCC would pre-empt the Land Release Team's consideration of the indicative layout plan and potentially have negative impacts on the planning outcomes for the Riverstone East Precinct.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES

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.

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))

Natural environment

The application report states that there are no significant environmental values, resources or hazards in relation to the site or surrounding area. The applicant confirmed that the site is not identified as bushfire-prone land, flood affected, a heritage item or environmentally sensitive land as listed in Schedule 1 of the Seniors Housing SEPP.

It is considered that there are no known significant environmental values, resources or hazards on the site or surrounding area to preclude the issuing of a SCC.

Compatibility with existing and approved land uses

The site is 2.05ha with access to Windsor Road and an existing single dwelling (Figure 3). Surrounding land uses (Figure 4) include:

- to the north is the A2 Windsor Road, an arterial road that is a dual carriageway separated with vegetation and median barriers and has a speed limit of 80km/h;
- beyond Windsor Road to the north is vacant land recently rezoned for business park purposes as part of the Box Hill Precinct;
- the application refers to a neighbouring landscaping business. A desk-top analysis confirmed that the neighbouring lot to the east is a scrap metal yard and further beyond are rural industries; and
- to the west and south are a combination of rural residences, smallholdings and rural industries.

The site and surrounding land south of Windsor Road fall within a RU4 Primary Production Small Lots Zone. The objective of this zone is 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.

It is considered that the proposed development is unable to satisfy clause 25(5)(b)(i) as it is not compatible with the existing and approved uses, specifically the use of land for primary industry or the scrap metal yard.



Figure 3: The site and surrounding lands.

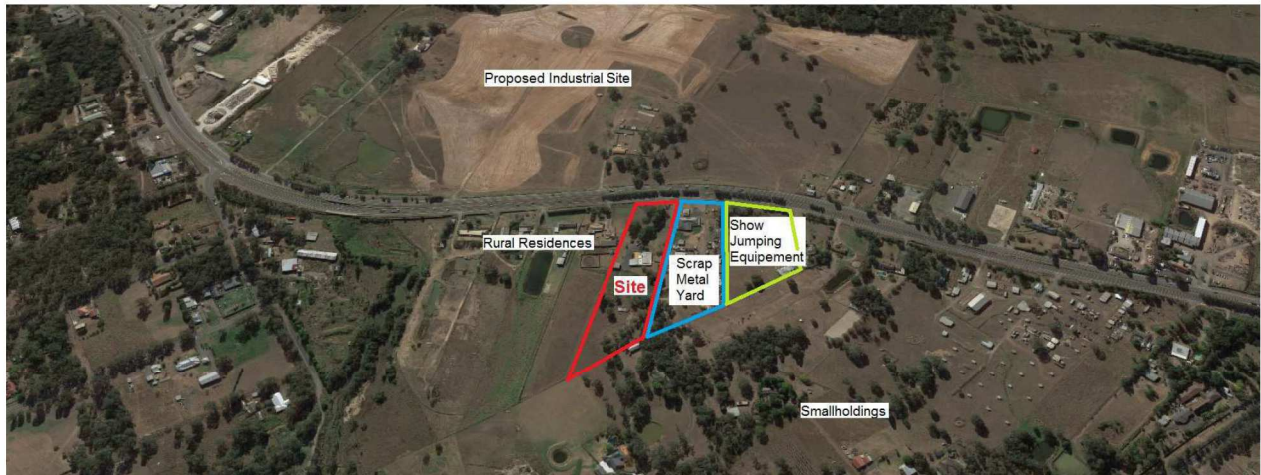


Figure 4: Surrounding land uses.

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))

The Land Release Team has provided advice relating to the proposed development as it is in Riverstone East Precinct Stage 3 of the North West Priority Growth Area. A boundary map can be seen at **Attachment H**.

The Riverstone East Brochure (**Attachment I**) details that Stage 3 has no set time frame and will occur when funding for the delivery of utility services is confirmed, being:

- sewerage infrastructure;
- the location of a new electricity substation;
- new and upgraded roads to support increased traffic volumes; and
- public transport.

The Land Release Team provided advice relating to the proposed development and servicing for the area (**Attachment J**), which raises the following issues:

- Riverstone East Precinct Stage 3 is deferred to align with the future delivery of services such as sewerage and electricity;
- the site is identified as having potential for low-density residential development in the Riverstone East Working Draft, but this is subject to further review;
- rezoning Riverstone East Precinct Stage 3 is anticipated in late 2018, following public exhibition of the draft indicative layout plan and subject to the Minister's approval;
- there is limited electricity capacity and no reticulated sewerage to the site;
- sewer services are planned to be delivered in 2018-19;
- electricity services are dependent on a new substation and a site has yet to be secured;

- continued access to Windsor Road is subject to approval from Roads and Maritime Services (RMS);
- the absence of a local road network restricts access to the site;
- there is no access to a local bus service; and
- the site is more than 2km from the proposed retail centre.

Figure 5 identifies the site as potentially suitable for low-density residential development. The Land Release Team advised that the working draft is subject to further review in relation to the location of local roads, electricity and sewerage infrastructure, special uses and open space. It is considered that if the site were to be developed for seniors living and not included as part of the overall planning of Stage 3, it may impose unnecessary constraints on the urban release area and negatively affect the planning outcomes for the precinct.



Figure 5: Riverstone East Precinct Stage 3 indicative layout – working draft.

The application report states that the purpose of the SCC is to allow for the lodgement of a development application with Council to give the proponent some certainty regarding the purchase of the site rather than waiting for the outcome of the priority precinct rezoning process.

Clause 275(2) of the Environmental Planning and Assessment Regulation 2000 restricts multi-dwelling residential development on land more than 2 hectares within the North West Growth Centre as follows:

Pursuant to section 78A (1) of the Act, a person cannot apply to a consent authority for consent to carry out development ... on land within a precinct of a growth centre ... to be released for urban development unless the application is accompanied by an assessment of the consistency of the proposed development with the relevant growth centre structure plan.

The aim of this provision is to avoid premature development that could sterilise land in the growth centre. In this case, the relevant growth centre structure plan is Riverstone East Precinct Stage 3, which has not been finalised. Therefore, the proposal is unable to demonstrate compatibility between the proposed development and the likely future uses of the 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))

Access to utility services

Water and electricity are connected to the site. The Department's Land Release Team advise that limited spare electricity capacity is available and that future supply will depend on a proposed new substation, for which a site has yet to be determined.

Reticulated sewerage services are currently available to the site. Sewerage infrastructure is planned to become available in line with Riverstone East Precinct Stage 3 in late 2018 or early 2019. Until timing and delivery of these services are confirmed, it is considered that the proposed development does not have adequate access to these utility services and development on the site would be premature.

Road network and parking requirements

The proposed development indicates access to Windsor Road. As part of Riverstone East Precinct Stage 3, access to Windsor Road will be subject to RMS approval. No internal local road network or indicative road layout is prepared for the precinct. Therefore, it is not possible to assess the demands on local roads from the proposed development or to pre-empt whether RMS will grant access to Windsor Road in the future.

Location and access to facilities

The application report states: 'There are presently no local services or facilities in the proximity of the site and the nearest public bus service is 650m to the east and 880m to the west' (Figure 6).



Figure 6: Location of existing bus stops.

The application report argues that clause 26 may be satisfied by the provision of adequate facilities and services within the proposed development. As residents will be frail and possibly unable to travel independently, reliance on a public bus would not be the best outcome if the services could be provided onsite. The application notes that a community bus may be provided by the facility to transport residents to shops and community facilities. The application states that the proposed development may include a café, hair and beauty salon and a shop, but this will be subject to the development assessment process. The application further notes that access to banking and other financial services may be made available online.

Existing services are not available to meet the demands arising from the proposed development. It is not considered appropriate that this matter be addressed with indications of the potential provision of some services available onsite, or accessible through a community bus or online, without detailed supporting evidence. Until the structure plan for Riverstone East is finalised, it is not possible to assess if adequate access to services will be available to meet the future needs of residents. Therefore, the proposal is unable to demonstrate that it satisfies the location and access requirements of clause 26.

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))

While the proposal has no impact on existing open space or special uses zones, as the structure plan for Riverstone East Precinct has not been finalised, it is not possible to assess the potential impact of the proposed development on the provision of land proposed to be used for open space or special uses. Therefore, the proposal is unable to demonstrate that it satisfies clause 25(5)(b)(iv) in relation to the potential impacts on the provision of land for open space or special uses.

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))

Existing and approved uses

The existing character of the surrounding area is predominantly low-density semi-rural residential housing, smallholdings and sustainable primary industry with industrial sheds. It is considered that the bulk and scale of the proposed 2-3 storey residential care facility is inconsistent with the bulk, scale and character of the existing and approved uses.

Future land use in the vicinity

As the structure plan for Riverstone East Precinct has not been finalised, it is not possible to determine the impact that the bulk, scale, built form and character of the proposed development is likely to have on the future uses of land in the vicinity of the development. Until planning has been finalised for the density of the area and an indicative layout plan has been confirmed, it is considered that the proposal is premature.

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 *Native Vegetation Act 2003* does not apply to this site.

CONCLUSION

It is considered that the site is not currently suited for more intensive development as:

- it is not compatible with the existing and approved uses of the land surrounding the site;
- the proposal has not demonstrated that appropriate access will be available to:
 - sewerage infrastructure and utility services;
 - local shops and community facilities; and
 - public transport and pedestrian access routes.
- the future impact of the proposed development cannot be determined as the indicative layout plan for the Riverstone East Precinct is still being prepared by the Department's Land Release Team; and
- the site is undergoing a precinct planning process under the Growth Centres SEPP and it is considered that issuing a SCC may negatively impact on the wider planning outcomes for the Riverstone East Precinct.