



16 January 2018

Adrian Hohenzollern
Team Leader – Sydney Region West
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Hohenzollern

Site Compatibility Certificate Application for 663-667 Old Northern Road, and 4 Franlee Road, Dural

I refer to your recent letter requesting comments on the application for a Site Compatibility Certificate for proposed seniors housing at property Nos. 663-667 Old Northern Road, and 4 Franlee Road, Dural.

Firstly, I would like to advise that, at its meeting on 8 November 2017, Council considered Mayoral Minute 18/17 concerning seniors living development in the rural areas of the Shire. Council resolved to seek an urgent meeting with the Minister for Planning and send letters to Local and State Members of Parliament concerning the inconsistencies of the *State Environmental Planning Policy (SEPP) Housing for Seniors or People with a Disability (Seniors Housing SEPP)* with the draft Greater Sydney Region Plan and revised draft North District Plan.

Council also resolved to request that no further site compatibility certificates be issued for seniors housing developments in the rural areas of Hornsby Shire until a clear vision for the region is prepared, including an infrastructure and funding plan to cater for existing and future development. A coordinated and holistic planning strategy is required for the area to avoid ad-hoc planning outcomes resulting from the proliferation of senior housing developments. To action Council's resolution, a letter was sent to the Minister for Planning on 24 November 2017 (copy attached). Council is currently awaiting response to this letter.

Notwithstanding the above, the strategic planning implications and specific comments concerning the proposed development in relation to the Site Compatibility Criteria contained within the *Seniors Housing SEPP* are outlined below for your consideration.

Description of Proposal

The Site Compatibility Statement prepared by APP and submitted in support of the application is flawed in its description of the proposal. Part 3 of the document describes the future seniors housing development including a 130 bed residential care facility, 44 self-contained dwellings and 36 self-contained living apartments. However, the concept plans indicate twelve separate 3 storey apartment buildings which would facilitate more than 36 apartments. The Traffic Assessment estimates there would be 491 units within the twelve apartment buildings. Combined with the 44 dwellings and 130 bed aged care facility, the proposal represents a large increase in density with a total capacity of 665 units/beds.

Clause 4 - Land to which Policy applies

Clause 4 (6) (a) of the *Seniors Housing SEPP* identifies that the policy does not apply to land described in Schedule 1 (environmentally sensitive land). The eastern portion of the site is identified as being an environmentally sensitive area under an environmental planning instrument, namely land identified as being of biodiversity significance on the Terrestrial Biodiversity Map under the *HLEP 2013*. It is queried whether the proposal can be considered given this affectation. Therefore, the Department should be satisfied as to whether the *Seniors Housing SEPP* applies before further consideration of the SCC application.

Clause 4 (4) of the *Seniors Housing SEPP* identifies land that adjoins land that is zoned primarily for urban purposes includes 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 directly opposite the site on the western side of Old Northern Road is zoned RU6 Transition under *The Hills Shire LEP 2012* which is land zoned for non-urban (rural) purposes (by definition under the *Seniors Housing SEPP*). The site is effectively surrounded by rural zoned land in both the Hornsby and The Hills local government areas. The proposal relies on the proximity of the northwest corner of property No. 667 Old Northern Road being located diagonally opposite the land at property No. 488 Old Northern Road that is zoned B2 Local Centre under *The Hills Shire LEP 2012*. The majority of the proposed development site does not adjoin land zoned for urban purposes. I note that the NSW Government recently exhibited proposed amendments to the *Seniors Housing SEPP* to seek to address the issue of incremental expansion of existing seniors living development. Council made a submission that the exhibited changes do not go far enough to address the issue of proposals for SCCs for multiple parcels of land where only one parcel adjoins urban lands. Only a corner of one of the five parcels that comprise the site adjoin urban lands. Therefore, the Department should be satisfied as to whether the *Seniors Housing SEPP* applies before further consideration of the SCC application.

Clause 25 Application for site compatibility certificate (CI 25 (5) (b))

Criteria 1 - 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

The existing and approved uses of land in the vicinity of the proposed development site are rural uses. Land uses in the immediate vicinity include rural residential, market gardens and plant nurseries. The expansion of urban development into the rural area may result in land use conflicts. The land is zoned RU2 (Rural Landscape) under the *HLEP 2013* and part SP2 Infrastructure. Seniors housing is prohibited within the Shire's rural zones under the *HLEP*. Development involving the construction of an on-site residential care facility containing 130 beds, 36 self-care housing units and 44 self-care dwellings would be inconsistent with the objectives of the RU2 zone, namely:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To encourage land uses that support primary industry, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

Council's rural land use planning strategy and associated planning controls are aimed at ensuring the rural character of the area is maintained. The zoning facilitates agricultural and other compatible land uses. Development involving the construction of twelve 3 storey apartment buildings and a 3 storey aged care facility would be alien to, and inconsistent with, Council's current rural land use planning strategy and associated development standards, namely one principal dwelling on a minimum lot size of 2 hectares and a maximum building height of 10.5m.

Property Nos. 663-665 Old Northern Road, and 4 Franlee Road, Dural are subject to flood related development controls and have exposure to flood hazard risk based on the 1 in 100 year ARI storm event flowpath identified by the *Hornsby Overland Flow Study (2010)*. A tributary of Georges Creek traverses the rear of the site in a north-south direction. Two dams are located in the north eastern and south eastern corners of the site, which are proposed to be retained. The application states that earthworks will be required which will change the local flooding conditions. However, the proponent has not submitted a hydrological study specific to the site and proposal. Nor has the proponent demonstrated the potential impact of the creek and dams on the proposed development or the impact of the proposed development on downstream receiving waters. The Water Cycle Management Plan, prepared by Cardno, submitted as part of the application relates to the entire South Dural precinct and a proposed detention strategy for a different proposal.

Threatened species mapping indicates the presence of Sydney Turpentine Ironbark Forest, Shale Sandstone Transition Forest and Blackbutt Gully Forests (Endangered Ecological Communities) along the eastern and southern boundaries of the site. The application states that the Concept Plans for the seniors housing development has been designed with substantial setbacks from the vegetation communities to all built structures, roads and service infrastructure. However, it is difficult to confirm this from the concept plan provided.

Criteria 2 - The impact that the proposed development is likely to have on the likely future uses of the land

A Planning Proposal has been submitted on behalf of the South Dural Resident and Ratepayers Association to rezone the precinct known as South Dural for urban purposes, with the potential to provide 2,500-3000 new dwellings. The Proposal applies to a 240ha precinct bounded by Old Northern Road, New Line Road and Hastings Road, currently zoned part RU2 Rural Landscape, part E3 Environmental Management and part SP2 Infrastructure – Road under the HLEP. A Gateway Determination was granted by the Department of Planning and Environment for the South Dural Planning Proposal and Council has exhibited the planning proposal. However, at its meeting on 8 February 2017, Council resolved to discontinue its evaluation of the South Dural Planning Proposal until an agreed infrastructure plan is prepared.

Property Nos. 663-667 Old Northern Road, and 4 Franlee Road, Dural are located within the South Dural precinct. Given that further consideration of the South Dural Planning Proposal is dependent on an infrastructure plan, it is unknown what the future uses of the surrounding land will be, and therefore whether the proposal would be compatible with those land uses. Accordingly, approval of a Site Compatibility Certificate for the property is premature.

Criteria 3 – The services and infrastructure that are or will be available to meet the demands arising from the 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.

The Traffic Assessment submitted with the application is flawed as the trip generation forecasts in Part 4.1 appear to be based on a total of 639 rather than 665 units/beds as calculated by the addition of 491 apartment units, 44 dwelling houses and 130 aged care facility beds. Notwithstanding, preliminary evaluation of the South Dural Planning Proposal revealed that the existing State Road network is underperforming and that upgrades are required, including works to New Line Road and Old Northern Road which have been estimated by the State Government will cost in excess of \$300 Million. Approval of the proposed Seniors Housing Development will place additional demand on the already underperforming State Road.

Compliance with the location and access requirements of Clause 26 of the *Seniors Housing SEPP* is problematic for the proposed development and not able to be satisfactorily assessed by Council. The application is based on a number of provisos to achieve compliance with Clause 26 which are not clearly articulated or guaranteed. The application relies on Bus Route 637 to Castle Hill Shopping Centre to provide access to the services and facilities referred to in the *Seniors Housing SEPP*. The Access Report, prepared by Judith Stubbs & Associates, outlines the following requirements to achieve compliance with Clause 26 of the *Seniors Housing SEPP* but these are not addressed or guaranteed in the concept plan.

- A sealed pathway of appropriate width and gradient between Franlee Road and the bus stop on Old Northern Road;
- Clearing of the overgrown portion of the south east side of Old Northern Road and reworking of a two metre length of footpath outside property No. 679 Old Northern Road due to uplifting by tree roots; and
- Pram ramps at the crossing of Old Northern Road and Stonelea Circuit require reworking.

The Traffic Assessment recommends the following changes to improve the accessibility of the site to bus transport but these are not addressed or guaranteed in the concept plan.

- Traffic signals at the intersection of Old Northern Road and Franlee Road;
- Relocation of the northbound bus stop to move it closer to the newly signalised intersection with Franlee Road and the installation of a concrete pad for embarking/disembarking low floor accessible buses and a shelter at the southbound bus stop; and
- A new footpath on the eastern side of Old Northern Road from Franlee Road to the intersection with Kenthurst Road.

The Access Report states that access to most of the retail and commercial services required under Clause 26 of the *Seniors Housing SEPP* are available inside Castle Towers, with lift access from the bus stop. However, the provision of access to a Post Office, Hairdresser, Bank, Restaurants, a Hotel and a General Medical Practitioner relies on the reworking of pram ramps to comply with gradient requirements crossing Castle Street, Castle Hill at the intersection with Old Northern Road. This location is outside of Hornsby Council's jurisdiction and no details are provided concerning how this would be achieved.

Access to a public library, community centre and park or similar outdoor space does not comply with the requirements of Clause 26 of the *Seniors Housing SEPP*. Therefore, the Access Report includes the following requirements:

- Arrangements with Hornsby Council to organise visits of the home library service to the proposed development; and
- A suitably sized community centre and park or similar outdoor space for passive recreation is required to be provided as part of the development;

No details have been given outlining any agreements with Council concerning a home library service or how passive recreation is to be provided as part of the development.

Criteria 4 - 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

The front portion of property Nos. 665 Old Northern Road is zoned SP2 Infrastructure – Road. The applicant fails to address this within their submission.

The SP2 zoned land is also subject to the Land Reservation Acquisition Map and Clause 5.1 of the *HLEP* which establishes the public authority acquisition obligations for the land, namely that the Roads and Maritime Services is responsible for acquiring a strip of land (approximately 3m wide) adjacent Old Northern Road for road widening purposes.

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

It is difficult to assess the bulk and scale of the development as no elevations have been provided. However, the built form indicated on the floor plan submitted with the proposal is substantial and urban in nature, inconsistent with that of the existing rural land use of the area. The 3 storey scale of the twelve apartment buildings and the aged care facility on the site is alien to its setting and represents an overdevelopment of the site when compared to the low density of development and rural character of the surrounding area.

Criteria 6 - The impact that the proposed development is likely to have on the conservation and management of native vegetation that is subject to the requirements of section 12 of the Native Vegetation Act 2003

This criteria is not applicable to the proposal. The Native Vegetation Act 2003 has been repealed and replaced with a new framework for Land Management and Biodiversity Conservation.

In summary, it is queried as to whether the *Seniors Housing SEPP* can be applied to the proposed development site, as part of it is identified under a planning instrument as being environmentally sensitive. Further, the proposal relies on the corner of the site being in proximity to a corner of an adjoining site to be land adjoining land zoned for urban purposes. The site is effectively surrounded by rural zoned land in both the Hornsby and The Hills local government areas. The Department should be satisfied as to whether the *Seniors Housing SEPP* applies before further consideration of the SCC application.

This site is not suitable for more intensive development due to the absence of a clear vision, infrastructure and funding plans for the Metropolitan Rural Area. The concerns with the proposed development outlined above clearly demonstrate that seniors housing developments do not respect the constraints of the rural areas and lead to ad-hoc planning outcomes.

The proposed development would be inconsistent with the objectives of the rural zone. The proposal does not adequately address the impacts on the environmental constraints of the site. The development of twelve apartment buildings 3 storeys in height and a 3 storey aged care facility on the site incorporating 665 units/beds would be alien to its setting and represents an overdevelopment of the land which would detract

from the character of the rural area. Furthermore, compliance with the location and access requirements contained within Clause 26 of the *Seniors Housing SEPP* is problematic and based on a number of provisos which are not clearly articulated or guaranteed. A site compatibility certificate is not supported in this instance.

Council's request to the Minister for Planning is reiterated that no further site compatibility certificates be issued for seniors housing developments in the rural areas of Hornsby Shire until a clear vision for the region is prepared, including an infrastructure and funding plan to cater for existing and future development.

I trust our comments on this matter will be given due consideration.

Yours faithfully

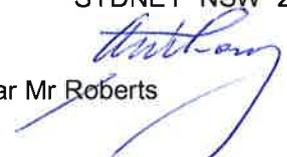
A handwritten signature in black ink, appearing to read 'J. J. Rawlin', written in a cursive style.

Jason Rawlin
Acting Manager
Strategic Planning Branch

TRIM Reference: F2007/01473, D07356772

24 November 2017

The Hon Anthony Roberts
Minister for Planning
GPO Box 5341
SYDNEY NSW 2001


Dear Mr Roberts

Seniors Living Developments in the Rural Areas of Hornsby Shire

The purpose of this letter is to seek your assistance to progress amendments to the State Government's policy for seniors housing which has the potential to detract from the character of the rural area of Hornsby Shire and impact on the sensitive environmental attributes of the area.

As you would be aware, land on the urban fringe is under development pressure to transform from rural to urban use. Hornsby Council previously resolved to investigate the opportunity for the urban release of the area known as South Dural for urban purposes. However, Council subsequently resolved to discontinue its evaluation of the proposal until an agreed plan is prepared to upgrade the State road network and other supporting infrastructure to sustain development of the precinct. A significant portion of land within South Dural adjoins urban zoned land and therefore, has the potential to be considered for seniors housing.

A coordinated and holistic planning strategy is required for the area to avoid ad-hoc planning outcomes resulting from site specific planning proposals and proliferation of senior housing developments. With this in mind, Council has sought to work with the State Government and The Hills Council to develop a clear vision for the rural areas in the region. It has been some time since Council wrote seeking an opportunity to discuss the preparation of a coordinated plan for the rural areas but to date we have not had a commitment.

Council's concerns about the proliferation of seniors housing in South Dural are now proving to be well founded. Council is aware of applications and proposals currently in various stages of planning that have the potential to result in over 1,500 independent living units and high care seniors housing being constructed within the precinct. The proliferation of seniors housing in our rural area is not good strategic planning. Consideration of the South Dural Planning Proposal has demonstrated the capacity of the State roads in the area requires immediate attention. Any increase in urban development should be supported by satisfactory funding arrangements to assist deliver essential community infrastructure such as open space and roads.

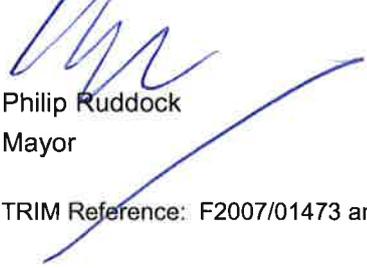
At its meeting on 8 November 2017, Council considered a Mayoral Minute which noted that the revised draft North District Plan prepared by the Greater Sydney Commission states that urban development is not consistent with the values of the Metropolitan Rural Area and includes an action to contain development to within existing urban areas. This position appears to be in conflict with State Government planning policy which promotes seniors housing development on the urban boundary.

Accordingly, Council resolved that I write to you to seek an urgent meeting to discuss the inconsistency of State Government planning policy which promotes seniors housing development with the recommendations of the Greater Sydney Commission that the values of the rural areas should be maintained. Until a clear vision for the region is prepared including an infrastructure and funding plan to cater for existing and future development, no further site compatibility certificates should be issued by the State Government for seniors housing developments in the rural areas of Hornsby Shire.

I acknowledge that the NSW Government recently released proposed amendments to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 to seek to address the issue of incremental expansion of existing seniors living development. Although this is a positive initiative, it is respectfully suggested that the changes do not go far enough to address the issues being experienced by Hornsby Shire including proposals for site compatibility certificates for multiple parcels of land where only one parcel adjoins urban lands.

I am confident that if you are agreeable to a meeting, we would be able to determine an appropriate way forward to address these issues. To confirm details for a meeting, your office can contact Council's Christine Cole on 9847 6604 or email ccole@hornsby.nsw.gov.au to make appropriate arrangements.

Yours sincerely



Philip Ruddock
Mayor

TRIM Reference: F2007/01473 and D07334833

*I am keen to progress these
so developments do not
preclude a considered outcome
for this important area
Warmest regards*

