

THE HILLS SHIRE COUNCIL

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ABN No. 25 034 494 656

30 October 2017

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

Our Ref: 1453462
Your Ref: 17/14002

Dear Mr Hohenzollern

Application for a Site Compatibility Certificate for Seniors Living Development, 3 & 5 Pellitt Lane and 9 Wirrabara Road, Dural - SEPP (Housing for Seniors or People with a Disability) 2004

I refer to your letter dated 9 October 2017 seeking comments with respect to an application for a site compatibility certificate for a seniors living development at 3 & 5 Pellitt Lane (Lot 1 DP 534265 and Lot 2 and DP 560912) and 9 Wirrabara Road (Lot 1 DP 560912), Dural.

It is understood that the existing site compatibility certificate for the same application (16/07199) set to lapse on 9 June 2018 and that a new one is required in order to progress the development application and complete development on the site.

The property at 3 & 5 Pellitt Lane and 9 Wirrabara, Dural is zoned RU6 Transition zone under The Hills Local Environmental Plan 2012 and is adjacent to land zoned RU6 Transition zone and RE1 Public Recreation zone. The western third of the site is covered in dense Sandstone Gully Forest and is bushfire prone.

Council on 8 March 2016 previously responded to this application and highlighted concerns regarding the following issues;

- Permissibility of the proposed 'seniors housing' and 'residential care facilities' which are prohibited within the RU6 Transition zone under the Hills Local Environmental Plan 2012;
- Consistency and application of SEPP (Housing for Seniors or People with a Disability) 2004;
- Appropriateness of location;
- Access to services; and
- Bushfire Hazards.

Council's previous comments are attached to this letter and are still relevant. It is requested that these comments dated 8 March 2016 be accepted and considered by the Department as part of this submission.

It is again reiterated that approval for the development should not be pursued under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 as the site is not within, nor does it adjoin land zoned primarily for urban purposes and therefore, the SEPP does not apply to the site.

It is evident that there is an increasing demand for seniors housing within The Hills Shire and Greater Sydney Region to meet the needs of an ageing Australian population. However, the application for seniors housing in this instance is inappropriate given the proposed location and inconsistency with the intent of State Environmental Planning Policy which could create a precedent for the unchecked expansion of such facilities into the Shire's rural areas. Accordingly, objection is raised to the issuing of a Site Compatibility Certificate for the proposed development.

In addition, on 11 April 2017 Council resolved to allocate funding towards the Dural Strategic Investigation. Concern is raised permitting seniors housing on the site prior to the completion of the Strategic Investigations would be premature and could undermine the outcome and integrity of this process.

Thank you for the opportunity to comment on the proposal. Please contact Patrice Grzelak, Senior Town Planner, on 9843 0364 if you require any additional information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Nicholas Carlton', is written over a faint, light blue circular stamp.

Nicholas Carlton
PRINCIPAL COORDINATOR FORWARD PLANNING

Attachment 1: Council Submission dated 8 March 2016

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8 March 2016

Mr Derryn John
Team Leader
Sydney Region West – Planning Services
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Your Ref: 16/03331
Our Ref: 14534362

Dear Mr John

Application for a Site Compatibility Certificate for Senior Living Development, 3-5 Pellitt Lane and 9 Wirrabara Road, Dural - SEPP (Housing for Seniors or People with a Disability) 2004

I refer to your letter dated 25 February 2015 seeking comments with respect to an application for a site compatibility certificate for a seniors living development at 3-5 Pellitt Lane (Lot 1 DP 534265 and Lot 2 and DP 560912) and 9 Wirrabara Road (Lot 1 DP 560912), Dural.

The property at 3-5 Pellitt Lane and 9 Wirrabara, Dural is zoned RU6 Transition under The Hills Local Environmental Plan 2012 and is adjacent to land zoned RU6 Transition and RE1 Public Recreation. The western third of the site is covered in dense Sandstone Gully Forest and is bushfire prone.

The objectives of the RU6 zone under The Hills LEP 2012 are to:

- To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage innovative and sustainable tourist development, sustainable agriculture and the provision of farm produce directly to the public.

Seniors housing and residential care facilities are prohibited within the RU6 zone.

A Site Compatibility Certificate is required under Clause 24 of SEPP (Housing for Seniors or People with a Disability) 2004 for seniors housing seeking consent under the SEPP. However, this clause refers to development which is proposed upon land that adjoins land zoned primarily for urban purposes. As discussed below, the site does not adjoin land zoned primarily for urban purposes and therefore the SEPP is not applicable to the proposed development.

An extract of The Hills Local Environmental Plan 2012 zoning map and aerial photograph of the site are provided in Figures 1 and 2 below.

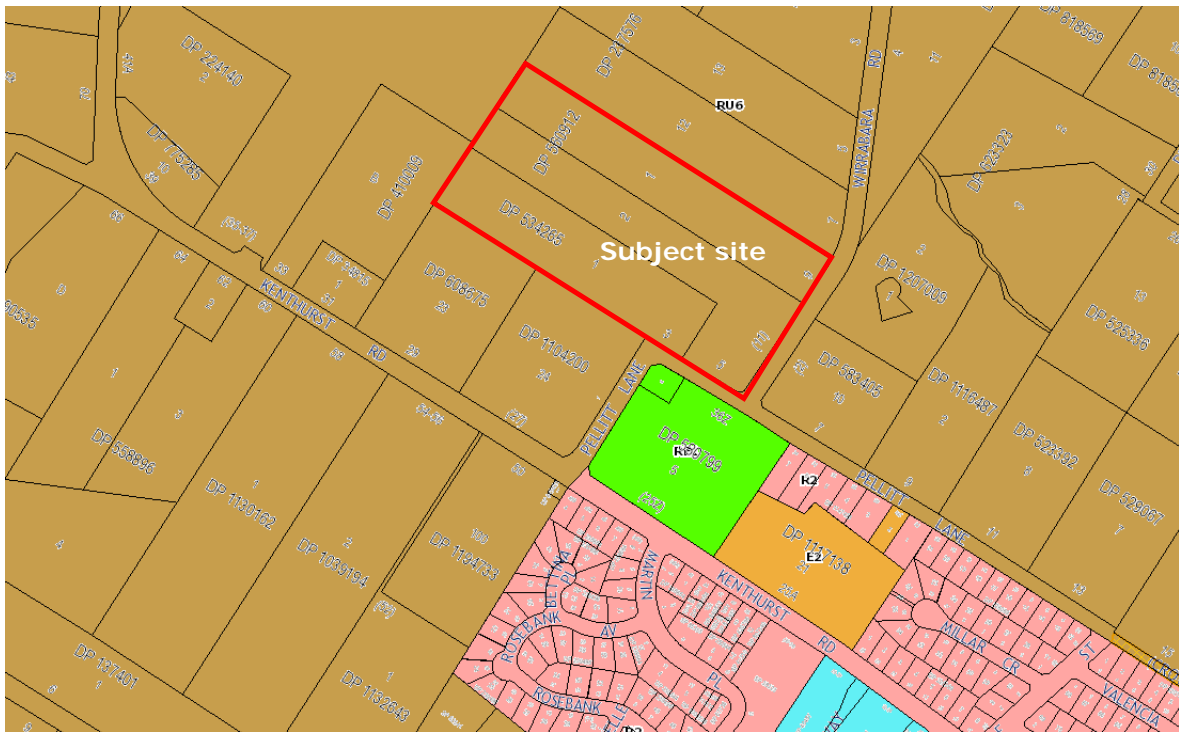


Figure 1
Zoning Map



Figure 2
Aerial photograph

Concern is raised regarding a number of matters associated with the proposal, particularly with regard to requirements under SEPP (Housing for Seniors or People with a Disability) 2004 as outlined below.

Application of SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Housing for Seniors or People with a Disability) 2004 applies to "land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes" (Clause 4 (1) of the SEPP). As demonstrated above, the land is not, nor adjoins land zoned primarily for urban purposes and therefore the SEPP does not apply to the site.

Clause 4 (2) of the SEPP further reinforces this conclusion stating: *"For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land that is within any of the following zones under another environmental planning instrument: ...(c) a zone that is identified as principally for residential uses on large residential allotments (for example, Zones R5 Large Lot Residential and RU6 Transition referred to in the standard instrument for principal local environmental planning instruments prescribed by the Standard Instrument (Local Environmental Plans) Order 2006)."*

Appropriateness of location

SEPP (Housing for Seniors or People with a Disability) 2004, while not being applicable to the site, aims to increase the supply and diversity of dwellings that meet the needs of seniors or people with a disability by making efficient use of existing infrastructure and services. The subject property does not adjoin residential zoned land. It is located away from daily services such as shops and is a poor location for such a development.

There is also concern regarding the compatibility of the proposed development with the RU6 Transition zone and surrounding land uses. The relevant objectives of the RU6 Transition zone include the protection and maintenance of land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities, and the minimisation of conflict between land uses within this zone and land uses within adjoining zones. There are a broad range of permissible land uses in this zone including extensive agriculture, agricultural produce industries, landscaping material supplies, and intensive plant agriculture which could conflict with an aged care facility in the future.

There is minimal urban development in the area immediately surrounding the site (especially to the north, west and east). A seniors living development in this location would not be consistent with existing and approved uses of land in the vicinity of the site and therefore, it is considered that it would fail to meet the criteria for the granting of a Site Compatibility Certificate (Clause 25 (5)(b)(i) of the SEPP).

In addition, the applicant has not addressed the recommendations and strategic direction provided in Council's Local Strategy, Residential Direction and Rural Lands Study.

Access to Services

The nearest shops, bank services and commercial services are located at Round Corner Town Centre, located more than 480 metres by foot. The site is adjacent to a local library and recreation facility (250 metres away). The nearest medical practitioner is located 540 metres away. Distances greater than 400 metres are considered to be unreasonable for the least mobile residents of a seniors housing development.

It is noted that the site is located within 200 metres of bus stops serviced by Hill Bus routes 639 and 641 which both run regularly during the week to facilities as required under Clause 26 of the SEPP.

Bushfire prone land

There is an existing bushfire hazard on much of the back half of the site, with the remainder of the site being located within the buffer zone. Given the increased difficulty associated with evacuation and the increased vulnerability of Seniors to the impacts of bushfire, it is

considered to be an inappropriate location for a seniors living development which fails to meet the criteria for the granting of a Site Compatibility Certificate (Clause 25 (5)(b)(i) of the SEPP).

The natural vegetation/bushland occurring along the western watercourse imposes a bushfire constraint upon the land; this has been addressed by the applicant by maintaining an appropriate Asset Protection Zone (APZ) of 85 metres. The development including some residential accommodation is located within this APZ of this zone at the upper contours of the site, leaving only non-habitable buildings and leisure facilities within the APZ. It is considered irresponsible to locate facilities for seniors within bushfire prone land.

Conclusion

Approval for the development cannot be pursued under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004 as the site is not, nor adjoins land zoned primarily for urban purposes and therefore does not apply to the site.

Whilst there is demand for aged care services and residential care facilities in appropriate locations within The Hills Shire to meet the needs of an ageing population, given the abovementioned concerns Council objects to the issue of a Site Compatibility Certificate for the proposed development. The proposed seniors housing development at 3-5 Pellitt Lane and 9 Wirrabara Road, Dural is contrary to the intent of the SEPP (Housing for Seniors or People with a Disability) 2004 and could create a precedent for the unchecked expansion of such facilities into the Shire's rural areas.

Thank you for the opportunity to comment on the proposal. Please contact Piers Hemphill, Senior Town Planner, on 9843 0511 if you require any additional information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'B. Smith', with a stylized flourish at the end.

Bronwyn Smith
PRINCIPAL FORWARD PLANNER