

3 October 2017

Ms Ellen Jones  
NSW Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Our Ref: 2017/370818

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Dear Ms Jones

**Re: 17/11642 Lodgement of a site compatibility certificate application for Elanora Country Club under the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004***

Thank you for providing Northern Beaches Council (Council) with the opportunity to comment on the site compatibility certificate application received for Elanora Country Club at 154-156 Elanora Road, Elanora Heights (Lot 2, DP 538508, Lot 1, DP201384, Lot 8 DP22281 and Lots 145 and 146, DP 22670), lodged under the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP HSPD).

The following comments within this submission are made in consideration of the proposed development's consistency with the criteria listed in Cl. 25(5) (b) of SEPP HSPD and having regard for the proposal compatibility with surrounding land uses.

- **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**

Flora and Fauna

The subject application is supported by an Ecological Constraints Assessment (prepared by Ecoplaning, dated 4 August 2017) which provides a summary assessment of the site. The applicant indicates that *"the proposed development is likely to be compatible with a seniors housing development and the impacts to the aforementioned species can be appropriately managed or mitigated"* through quantifying and assessing impacts through potential approval pathways including the preparation of a Species Impact Statement (SIS) as part of a future Development Application or the preparation of a Biobanking Statement. The Ecological Constraints Assessment however found that the site contains a range of ecological values including native vegetation, hollow bearing trees and known threatened species habitat that are of high conservation value. Further, this report indicates the *"proposal is likely to have an impact of habitat for threatened and migratory species listed under the EPBC Act. Significance Assessments would need to be completed at the DA stage in order to determine whether preparation of a Referral to the Commonwealth is required."*

It is noted that the Ecological Constraints Assessment refers to the submitted Bushfire Hazard Assessment (or vice versa), and it is therefore unclear whether the ecological report considers

the likely impacts associated with the establishment and maintenance of Asset Protection Zones (APZs) around the proposed building envelopes, which in accordance of Planning for Bushfire Protection (PfBP) would be as follows:

- 85 metres from the hazard to the north (Table A2.6)
- 40 metres from the hazard to the northeast (Table A2.6)
- 50 metres from the hazard to the south (Table A2.6)
- 30 metres from the hazards to the west (Table A2.6)

Council understands that both the proposed independent living units and associated special bushfire protection purpose APZs would be largely situated within areas of native vegetation adjoining the golf course; the placement of development within this proposed location would be inconsistent with the objectives of Cl. 7.6 (Biodiversity) of PLEP 2014, which for reference are as follows:

- (a) *protecting native fauna and flora, and*
- (b) *protecting the ecological processes necessary for their continued existence, and*
- (c) *encouraging the conservation and recovery of native fauna and flora and their habitats.*

Given that there are large areas of cleared and highly disturbed land within the Elanora Country Club site that adjoins the subject development site, Council does not support a proposal that would be situated within areas that include high conservation value threatened species habitat.

Such advice is based on relatively limited information that does not provide specific details regarding ecological impacts (e.g. number of trees proposed to be removed) that would likely be associated with the proposed development. Further, it is acknowledged within submitted documentation that additional assessments by the applicant would need to be undertaken. Noting such limitations, it is unlikely that Council or the Department can adequately assess the probable and significant natural environment considerations that would be associated with the current proposal.

- **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**

The subject site is located within an RE2 Private Recreation zone under Pittwater Local Environment Plan 2014; while the subject site forms part of a golf course, the location where the development is proposed consists predominately of a heavily vegetated area that is devoid of structures and/or substantial development. Residential development (including seniors housing) is prohibited within the RE2 zone. The objectives of the RE2 zone are as follows:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To allow development of a scale and character that is appropriate to the nature of its recreational use and is integrated with the landform and landscape.*

Due to substantial and historic site modifications associated with the golf course and associated development, the portion of the site where the development is proposed forms part of a local wildlife corridor. The current use of the site as a golf course is consistent with the objectives of the RE2 zone and would also facilitate the retention of vegetation and wildlife corridors. In accordance with the provisions of PLEP 2014 and in the absence of the proposed seniors housing development, it is likely that the current use of the site as a golf course would continue into the future.

With regard to the above, the proposed development is inconsistent with permitted land uses within, and the objectives of, the RE2 Private Recreation zone. Further, Council does not support the proposal as it would be situated within areas that include high conservation value threatened species habitat. Whilst there are large areas of cleared and highly disturbed land within the Elanora Country Club site that may be more suitable for such a development, it is unclear what impacts would be associated with relocating the development to a more suitable location on the site. Should the development be relocated to reduce the level of impact on the natural environment, it is likely that such a relocation would restrict the site's ability to both continue and function in accordance with the provisions of the RE2 zone.

While the proposed development would relate to a relatively limited portion of the Elanora Country Club site, the proposed seniors housing development would be reliant upon recommendations that may affect a larger proportion of the golf course site. Such recommendations and associated impacts have not been adequately addressed and would be subject to future investigation and/or the assessment of a future application(s). Potential impacts upon the use of the greater golf course site are therefore unable to be ascertained.

- **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**

#### Traffic generation

While the traffic generation rates within the submitted Traffic Report are acknowledged, it is unclear whether such findings accurately reflect the likely traffic demand of the development; the site's location would not comply with Cl. 26 of SEPP HSPD, as it is more than 400 metres from facilities and services and/or appropriate public transport options. While the applicant indicates that a *"bus service capable of carrying at least 10 passengers and which meets these requirements will therefore be required"*, no information has been provided to indicate how economically viable such a service would be and reasonable funded by only 46 dwellings.

#### Access to services

The submitted Traffic Report and accompanying SCC report do not indicate whether pedestrian access would be provided to the site. The plans do not propose any pedestrian connections to public pedestrian pathways within Elanora Road, and while connections are proposed to Iluka Avenue there is no information to suggest that there are any public pedestrian pathways within that road. Further, while the SCC report provides a "walkability map", in addition to the issues above it is unclear whether the walkable distances indicated are consistent with the required gradients prescribed by Cl. 26 of SEPP HSPD.

- **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 proposed seniors housing development would comprise of 46 dwellings which, including parking facilities, would be one-to-three storeys in height and stepped up the slope of the site.

Architectural information submitted as part of the application is extremely limited, however submitted plans suggest that the maximum height of the development would be approximately 8.5m. Aside from breaching the 8m building height development standard prescribed by Cl. 40(4) of SEPP HSPD, it is possible that the development would not comply with the 8.5m

height standard pursuant to Cl. 4.3 of PLEP 2014; the submitted statement indicates that "(A)ny future development application will address compliance with the applicable building height control", however it does not indicate whether the development would comply with the height standard. Irrespective of the above, it is noted that significant excavation and filling works are proposed; aside from being contrary to the objectives of the height standard within PLEP 2014, it is unclear how such earthworks would facilitate the retention of existing vegetation as proposed by the plans.

The elevated and sloping nature of the site would emphasise the excessive height of the development which would be further exacerbated by the clearing of vegetation to facilitate works and to satisfy APZ requirements. The SCC statement suggests that the size, bulk, scale and appearance of the proposed development would be consistent with the context of low density residential areas east of the site for the following reasons:

- *The proposed development site has sensitively considered the surrounding context of bushland, and the adjoining existing dwellings.*
- *The character of the adjoining residential dwellings is predominantly single and double storey detached dwellings.*
- *The proposed built form on the site (maximum of two storeys) will be consistent with the low density character of the surrounding area.*
- *The Section in Figure 16 demonstrates the terraced design of the dwellings respond to the topography of the site and minimises the bulk and scale.*
- *The proposed built form of the seniors housing is of a low scale, and will ensure that the amenity of the adjacent occupiers is well respected. The development is orientated in a manner that will not cause a loss of views and allows adequate privacy between these buildings and adjoining existing buildings.*
- *The proposed accessway facilitates in creating a buffer between the proposed seniors housing and the existing dwellings to the east, to ensure adequate separation between these buildings and existing dwellings, minimising impacts on privacy and noise.*
- *The proposal will not result in any significant loss of solar access to nearby properties as the site adjoins open space to the north, south and west.*

Such assertions however completely fail to demonstrate consistency with the surrounding area for the following reasons:

- While there is residential development to the east and southeast of the subject site, there is no such development on the subject site and/or immediately to the north and west. The lack of residential development in these areas, and the subsequent inconsistency of the proposal with these areas has been disregarded by the applicant's statement;
- The proposed rows of attached/semi-attached housing are up to 100m long, and would not be consistent with the residential area to the east, which consists predominately of detached residential dwellings and associated structures. Aside from the proposed height non-compliance, the tiered layout of the development would increase the likely apparent bulk and scale of the development (particularly when viewed from the southeast); the unbroken lines of dwellings would also not permit any landscaping between structures and would be contrary to the existing and desired characteristics of the Elanora Heights locality and applicable DCP outcomes/controls (such as Part D5.1 - Character as viewed from a public place (Excluding Elanora Heights Village Centre)); such outcomes and controls seek for development to be below tree canopies, to be screened/filtered by vegetation and present an appearance that secondary to the natural environment. Such outcomes would not be afforded by the design of the proposed development;

- The proposed development would severely affect the visual amenity of residential sites and some public areas within Iluka Avenue. The bushland vistas from these areas and/or any opportunity for effective landscape screening would be almost completely obliterated, as extensive tree clearing would be required both for the development and associated APZ requirements. Further, the proposed locations of the dwellings, internal roadways and footpaths would severely limit areas available for landscaping that would effectively filter/screen the visual impact of the development from areas to the east.

With regard to the above, the proposed development would be grossly inconsistent with the existing and desired future character of the Elanora Heights locality. The proposal would also be highly inconsistent with existing visual catchment of the site, which currently comprises of a bushland area within a recreational site.

In summary, the application for an SCC has not considered the provisions of the *Seniors Living Policy: Urban Design Guidelines for Infill Development* prepared by the Department for infill self-care seniors housing developments and has no regard for local planning outcomes as prescribed by PLEP 2014 and Pittwater 21 DCP.

Further to the above, the proposal would be reliant upon a request to vary a development standard relating to building height. Any such request would have to satisfy the criteria of SEPP 1 variation/Cl. 4.6 (Exemptions to development standards) of PLEP 2014, which applies to development standards imposed by the LEP "or any other environmental planning instrument". It is unclear how any such request could be considered with respect to the requirements of Cl. 4.6(4) as follows:

*Development consent must not be granted for development that contravenes a development standard unless:*

- (a) *the consent authority is satisfied that:*
  - i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) *(b) the concurrence of the Secretary has been obtained.*

Council contends that the proposal is not in the public's interest, as it would not be consistent with the RE2 zoning of the site. Further, the application of an 8m building standard is not considered to be unreasonable and/or unjustified in the circumstances of the proposal.

In summary, due to limited information provided by the applicant Council is unable to undertake a comprehensive assessment of the proposal. Such information does however indicate that the proposed development and associated works would require significant modifications to the landscape that would likely result in considerable adverse impacts on the natural environment. The proposed development would be highly inconsistent with the objectives of the RE2 Private Recreation zone and both the existing and desired character of the Elanora Heights locality. Further, the development would not satisfy the height standard nor provide adequate pedestrian access to public areas and/or necessary services pursuant to SEPP HSPD. Considering:

- That there are numerous expansive and highly modified areas within the Elanora Country Club site that may be better suited for development like that proposed by the subject site compatibility certificate; and

- Given the highly deleterious impacts that would likely be associated with the proposed development.

Council strongly urges the Department to refuse the subject site compatibility certificate application. If you have any questions in relation to this submission, please contact Anna Williams, Manager Development Assessment on 9970 1139.

Yours faithfully



Mark Ferguson  
Chief Executive Officer