Development & Environmental Services Committee Agenda

11 June 2019
To All Councillors

You are hereby notified that the next meeting of the Development & Environmental Services Committee will be held on 11 June 2019 in the Barry Rose Room at 10.00am, for the purpose of transacting the undermentioned business.

The Development & Environmental Services Committee consists of

Cr Kiwa Fisher, Cr Lee Watts, Cr Sue Abbott and Cr Ron Campbell.

STEVE MCDONALD
GENERAL MANAGER

1. APOLOGIES
2. DECLARATIONS OF INTEREST
3. PUBLIC PARTICIPATION
4. SITE INSPECTIONS
5. BUSINESS ITEMS

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6. COUNCILLOR QUESTIONS
DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE REPORTS

DESC.06.1 DEVELOPMENT APPLICATION NO. 16/2019
RESPONSIBLE OFFICER: Mathew Pringle - Director Environmental & Community Services
AUTHOR: Paul Smith - Senior Environmental Planner

PURPOSE

On 19 February 2019 Council received Development Application No. 16/2019 for a Change of Use to a Group Home at Lot 31 DP 1194098, No. 7 Surman Street Scone. The application is being referred to Council for determination as Upper Hunter Shire Council is the applicant and land owner. In addition, one submission has been received raising concerns about the proposed development.

RECOMMENDATION

That Council approve Development Application No. 16/2019 for a Change of Use to a Group Home at Lot 31 DP 1194098, No. 7 Surman Street Scone without imposing any conditions of consent related to the use of the building as a group home.

BACKGROUND

Applicant: Upper Hunter Shire Council
Owner: Upper Hunter Shire Council
Property: Lot 31 DP 1194098, No. 7 Surman Street Scone
Proposal: Change of Use to Group Home
Zone: R1 General Residential and B2 Local Centre

On 19 February 2019 Council received Development Application No. 16/2019 for a Change of Use to a Group Home at Lot 31 DP 1194098, No. 7 Surman Street Scone. The land contains a residential building, which until recently has been used as a market rental property.

REPORT/PROPOSAL

The development site comprises a 1,432m² lot with a 37m frontage to Surman Street. The land contains an existing single storey dwelling-house (refer to the site plan in Attachment 1). The development application proposes to change the use of the dwelling house to a group home for families requiring transitional housing for periods of 3-12 months. No works are proposed that require development consent. However repairs and other minor works will be undertaken to enable the dwelling to be used as a group home. A full assessment has been undertaken in the Assessment Report in Attachment 2.

OPTIONS

1. That Council approve Development Application No. 16/2019 for a Change of Use to a Group Home at Lot 31 DP 1194098, No. 7 Surman Street Scone without imposing any conditions of consent related to the use of the building as a group home.
2. That Council defer determination of Development Application No. 16/2019 for a Change of Use to Group Home at Lot 31 DP 1194098, No. 7 Surman Street Scone pending an assessment of the community need for the group home.

CONSULTATION

The development application was placed on exhibition from 6 March 2019 to 20 March 2019 and adjoining owners were notified. One (1) submission was received from an adjoining landholder raising concerns about the condition of the property, management of tenants and future plans for parking in relation to the medical practice. A copy of the submission is provided in Attachment 3.

STRATEGIC LINKS

a. Community Strategic Plan 2027

This report links to the Community Strategic Plan 2027 as follows:

Goal 1 - A supported community by advocating for, support and provide services and facilities for young people, children, families and people with a disability and facilitate partnerships which create and support a safe, inclusive and caring community.

We are working to achieve the following Community Priorities:

b. Delivery Program

Assessment of the application is in accordance with the Town Planning Community Strategies: CS13 - Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community, and

CS14 – Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.

c. Other Plans

Nil
IMPLICATIONS

a. Policy and Procedural Implications

To ensure there is adequate transparency in the assessment process, Development Applications/Modifications, where Upper Hunter Shire Council is the applicant, are outsourced to an either an external planning consultant or subject to peer review by a planner from another Council. The development application was referred to Strategy Hunter for peer review.

The review concludes:

The draft Assessment Report on the Development Application undertaken by Paul Smith and dated 25 March 2019 has been reviewed is considered to adequately review the issues required in the assessment of a change of use only development application of this type and magnitude.

The conclusion of the draft assessment that DA 16/2019 that consent be granted is agreed.

The full review report is provided in Attachment 4.

b. Financial Implications

Development application fees of $285 have been paid.

c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 (see Attachment 3).

Clause 46 of State Environmental Planning Policy (Affordable Rental Housing) 2009 states that:

(1) A consent authority must not:
   (a) refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or
   (b) impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.

Council has not undertaken a formal assessment of the community need for a group home for the purpose of refuge accommodation. Notwithstanding there is no other similar accommodation in Scone for the stated purpose. No conditions of consent are recommended in relation to the development for the purpose of a group home.

d. Risk Implications

Council determinations of development applications and modifications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied. In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made. There is a low risk of any third party legal appeal in relation to this application.
Environmental & Community Services

e. Other Implications

The development application concerns a matter that could affect the security of Council property. In this regard pursuant to Section 10A(2)(f) of the Local Government Act 1993 the part of the Development and Environmental Services and Council meeting dealing with this matter may be closed to the public.

CONCLUSION

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Affordable Rental Housing) 2009, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2015.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent.

ATTACHMENTS

1. DA 16/2019 - Public Document - Site Plan
2. DA 16/2019 - Assessment - Section 79c
3. DA 16/2019 - Norman Turner - Submission - 9 Surman St Scone
ADDRESS: LOT: 31 DP: 1194098
7 Surman Street Scone

APPLICATION No: DA 16-2019

PROPOSAL: Change of Use to Group Home

PLANS REF:

<table>
<thead>
<tr>
<th>DRAWINGS NO.</th>
<th>DRAWN BY</th>
<th>DATE</th>
<th>RECEIVED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan</td>
<td>Upper Hunter Shire Council</td>
<td>25.02.2019</td>
<td>19.02.2019</td>
</tr>
<tr>
<td>Floor Plan</td>
<td>No Author</td>
<td>No Date</td>
<td>08.05.2019</td>
</tr>
</tbody>
</table>

OWNER: Upper Hunter Shire Council

APPLICANT: Upper Hunter Shire Council

Po Box 208
SCONE NSW 2337

AUTHOR: Paul Smith

DATE LODGED: 19 February 2019

AMENDED: 

ADD. INFO REC’D: 

DATE OF REPORT: 25 March 2019

SUMMARY OF FACTS

ISSUES: No major issues were identified.

SUBMISSIONS: One submission was received.

RECOMMENDATION: Approval.
DESCRIPTION OF PROPOSAL

The development site comprises a 1,432m² lot with a 37m frontage to Surman Street. The land contains an existing single storey dwelling-house. The development application proposes to change the use of the dwelling house to a group home for families requiring transitional housing for periods of 3-12 months. No works are proposed that require development consent.

RELEVANT HISTORY

The land has been used for residential purposes.

REFERRALS

Not referred.

SUBMISSIONS

Surrounding properties were notified of the development proposal between 6 March 2019 to 20 March 2019. An advertisement was placed in the Scone Advocate on 6 March 2019.

One (1) submission was received with the main issues raised being summarised below.

<table>
<thead>
<tr>
<th>Name &amp; Address ofSubmitter</th>
<th>Basis of Submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>N J Turner 9 Surman Street SCONE</td>
<td>This submission raises a number of issues: about the current state of the property. Management of tenants Future plans for parking in relation to the Scone Medical Practice</td>
</tr>
</tbody>
</table>

CONSIDERATION

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, are assessed under the following headings:

ENVIRONMENTAL PLANNING INSTRUMENTS
### UPPER HUNTER LOCAL ENVIRONMENTAL PLAN 2013

<table>
<thead>
<tr>
<th>Land Use Table</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Zoning classification</strong></td>
<td><strong>B2 Local Centre and R1 General Residential</strong></td>
</tr>
</tbody>
</table>

**B2 Local Centre**
- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

**R1 General Residential**
- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The development proposal for the change of use is consistent with the R1 General Residential Zone objectives.

**Zoning permissibility**

Group homes are prohibited within the B2 Local Centre Zone, however Group Homes (transitional) are permitted in the R1 General Residential Zone with consent. A Group home is defined as: a dwelling:

(a) that is occupied by persons as a single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required, and

(b) that is used to provide temporary accommodation for the relief or rehabilitation of people with a disability or for drug or alcohol rehabilitation purposes, or that is used to provide half-way accommodation for persons formerly living in institutions or temporary accommodation comprising refuges for men, women or young people, but does not include development to which State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies.

**Part 5 – Miscellaneous provisions**

**Development near zone boundaries (Clause 5.3)**

(1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.

(2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 50 metres.

(3) This clause does not apply to:

(a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or

(b) land within the coastal zone, or

(c) land proposed to be developed for the purpose of sex
services or restricted premises.

(4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

(a) the development is not inconsistent with the objectives for development in both zones, and

(b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

(5) This clause does not prescribe a development standard that may be varied under this Plan.

The land is within both the B2 Local Centre Zone and the R1 General Residential Zone. The land that is in the B2 Local Centre Zone is within 50m of the land that is within the R1 General Residential Zone. The development is considered not inconsistent with the objectives of both zones as it both provides for the housing needs of vulnerable people and provides for a needed community use.

Heritage conservation (Clause 5.10)

The land is within the Scone Central Conservation Area. However there is no proposal as part of the development application to demolish or alter the exterior of any of the building.

STATE ENVIRONMENTAL PLANNING POLICIES

SEPP (Infrastructure) 2007

Division 1 is concerned with consultation with Councils by public authorities undertaking particular development. This is called up in Clause 43(2) of the SEPP (Affordable Rental Housing) 2009 (see below) in relation to Group Homes. Given that Council is a public authority consideration has been given. However it relates to development without consent. In this case development consent is being sought.

SEPP No. 44 – Koala Habitat Protection

Not applicable.

SEPP No. 55 – Remediation of Land

The subject property has a history of residential use and it is considered that the site is not likely to be subject to contamination that would require remediation of the land relative to the proposed development and use of the land.

SEPP (Affordable Rental Housing) 2009

Division 7 refers to Group Homes. The development as proposed meets the definition of Transitional Group Home which means a dwelling: that is occupied by persons as single household with or without paid supervision or care and whether or not those persons are related or payment for board and lodging is required. In the case of this development application it is proposed that the occupants will be part of the same family.

43 Development in prescribed zones

(1) Development for the purpose of a permanent group home or a transitional group home on land in a prescribed zone may be carried out:

(a) without consent if the development does not result in more than 10 bedrooms being within one or more group homes on a site and the development is carried out by or on behalf of a public authority, or
(b) with consent in any other case.

The land is partly within the R1 General Residential Zone (which is a prescribed zone) and partly in the B2 Local Centre Zone (which is not a prescribed zone) as defined in Clause 42. Notwithstanding development consent is being sought pursuant to Clause 5.3 of the Upper Hunter LEP.

(2) Division 1 of Part 2 of State Environmental Planning Policy (Infrastructure) 2007 applies in respect of development carried out by or on behalf of a public authority under subclause (1) and, in the application of that Division, any reference in that Division to that Policy is taken to be a reference to this clause.

See above consideration.

45 Complying development—group homes

(1) Development for the purposes of a group home is complying development if:

(a) the development does not result in more than 10 bedrooms being within one or more group homes on a site, and

(b) the development satisfies the requirements for complying development specified in clauses 1.18 and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (other than clauses 1.18 (1) (h) and 1.19 (1) (b) and the requirement that the development not be in a draft heritage conservation area).

The site is within the Central Scone Conservation Area and therefore this clause does not apply.

46 Determination of development applications

(1) A consent authority must not:

(a) refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or

(b) impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.

(2) This clause applies to development for the purpose of a group home that is permissible with consent under this or any other environmental planning instrument.

This clause provides a direction to the Consent Authority. In this case it is not proposed to refuse the application for the group home or impose any condition.

| SEPP No. 64 – Advertising and Signage | Not applicable. |
| SEPP No. 65 – Design Quality of Residential Flat Development | Not applicable. |
| SEPP (Housing for Seniors or People with a Disability) | Not applicable. |
Regional Environmental Planning Policies

There are no REP’s applicable to the site.

Draft Environmental Planning Instruments

There are no draft EPI’s applying to the land.

Development Control Plans

<table>
<thead>
<tr>
<th>Development Control Plan</th>
<th>Considered?</th>
<th>Comment (only if necessary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Hunter Development Control Plan 2015</td>
<td>YES</td>
<td>The UHDCP does not have any specific provisions in relation Group Homes.</td>
</tr>
<tr>
<td>Section 94A Levy Contributions Plan 2008</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Upper Hunter Section 94 Contributions Plan 2017</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Upper Hunter Servicing Plan for Water Supply and Sewerage</td>
<td>NA</td>
<td></td>
</tr>
</tbody>
</table>

Planning Agreements

There are no planning agreements relevant to the proposal.

Regulations

There are no provisions in the regulations relevant to the proposal.

Likely Impacts of the Development

Social Impact on the Locality

Concerns have been raised about potential adverse social impacts associated with the change of use to a group home in this locality. Being a Group Home for the intended purpose is to provide temporary accommodation for families (one family at a time) requiring supported transitional housing. The likelihood of domestic disturbance would be no greater than any other residential setting regardless of the nature of the housing. It is proposed to undertake modifications to the dwelling to improve security. The families that use this facility will be case managed by the Upper Hunter Homeless Support (or relevant provider) and will be regularly monitored. The families who use the group home are likely to come from other towns and cities, and their location will only be known to relevant persons.
SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The site is considered suitable for the proposed group home. There is an existing dwelling with all the services including on-site parking and outdoor open space. It is in close proximity to shops and other community facilities (e.g., banks, medical services).

THE PUBLIC INTEREST

The development application is considered to be in the public interest as it provides needed accommodation for potentially homeless families. It is consistent with the Upper Hunter Community Strategic Plan (Goal 1) Community Life and in particular to advocate for, support and provide services and facilities for young people, children, families and people with a disability. G1 CS4 Facilitate partnerships which create and support a safe, inclusive and caring Community.

SUMMARY OF LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

<table>
<thead>
<tr>
<th>ENVIRONMENTAL APPRAISAL</th>
<th>CONSIDERED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Statutory controls</td>
<td>YES</td>
</tr>
<tr>
<td>2. Policy controls</td>
<td>YES</td>
</tr>
<tr>
<td>3. Design in relation to existing building and natural environment</td>
<td>NA</td>
</tr>
<tr>
<td>4. Landscaping/open space provision</td>
<td>YES</td>
</tr>
<tr>
<td>5. Traffic generation and car parking provision</td>
<td>YES</td>
</tr>
<tr>
<td>6. Loading and servicing facilities</td>
<td>NA</td>
</tr>
<tr>
<td>7. Physical relationship to and impact upon adjoin development (views, privacy,</td>
<td>NA</td>
</tr>
<tr>
<td>overshadowing, etc.)</td>
<td></td>
</tr>
<tr>
<td>8. Site Management issues</td>
<td>NA</td>
</tr>
<tr>
<td>9. All relevant S79C considerations of Environmental Planning and Assessment Act 1979</td>
<td>YES</td>
</tr>
<tr>
<td>10. Section 89 LGA 93 including Clause 12 considerations of Local Government Regulations 1993</td>
<td>NA</td>
</tr>
</tbody>
</table>

CONSISTENCY WITH THE AIMS OF PLAN

It is considered that the development is consistent with the specific aims of the plan and the objectives of the zone and of the controls.

As such, consent to the development may be granted.

SUBMITTORS CONCERNS

One submission was received raising concerns about the physical condition of the property, the management of tenants and the future plans for the parking at the medical centre. These issues are considered below:

Issue: Physical condition of the property

Comment: Although this is not directly relevant to the development application it is noted that until recently the property has been in poor condition. Measures are proposed to make repairs and upgrades to make it fit for use as a group home.

Issue: Management of tenants

Comment: The Upper Hunter Homeless Support Service will be providing on-going property management and support of tenants. It is likely that the property and tenants will receive a higher level of attention that would be otherwise given to a market renter.
Issue: Future plans for the parking at the medical centre

Comment: This is not related to the current development application.

CONCLUSION

The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2015.

The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent.

RECOMMENDATION

PURSUANT TO SECTION 4.16/4.17 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT Council, as the consent authority, grant consent to Development Application No. 16/2019 without any conditions of consent pursuant to Clause 46(1)(b) of State Environmental Planning Policy (Affordable Rental Housing) 2009.

REASONS FOR RECOMMENDATION

The recommendation that the development application be approved for the following reasons:

- The proposed Group Home (transitional) is consistent with the objectives of the B2 Local Centre Zone and R1 General Residential Zone pursuant to the Upper Hunter Local Environmental Plan 2013.
- Group Homes (transitional) are permitted with consent in the R1 General Residential Zone pursuant to the Upper Hunter Local Environmental Plan 2013.
- The Group Home (transitional) is permitted in the B2 Local Centre Zone pursuant to Clause 5.3 in the Upper Hunter Local Environmental Plan 2013 as it is considered to not be inconsistent with the zone objectives and the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- Clause 46 of State Environmental Planning Policy (Affordable Rental Housing) 2009 states: a consent authority must not:
  (a) refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or
  (b) impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.
- The development satisfies the Upper Hunter Development Control Plan 2015.
- Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the development is unlikely to have any adverse impacts that cannot be addressed through conditions of consent.
- Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the site is suitable for the development.
- Pursuant to Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 the development is in the public interest.
There was one submission that objected to the change of use to the Group Home (Transitional) due to the lack of information and potential social conflict within the existing neighbourhood. Further advice was sought from the applicant which confirmed that user families will be case managed and the facility will operate in an anonymous capacity and be appropriately managed to ensure the security and safety of the tenants.

PAUL SMITH
SENIOR ENVIRONMENTAL PLANNER
20TH MARCH 2019

TO: UPPER HUNTER SHIRE COUNCIL
    GENERAL MANAGER

RE: NOTICE OF PROPOSED DEVELOPMENT
    DA 16 - 2019

FROM: NORMAN TURNER
      9 SURMAN STREET SCONE
      normanjturner@hotmail.com

PLEASE SEE ATTACHED LETTER AND PHOTOS OF PROPERTY 7 SURMAN STREET SCONE
As we understand it and we only have some basic information provided so far from the manager of business services to work with as to how this all may eventuate along the way. We would like to start our objection to the proposal this way.

We would like clarity regarding the following points if the proposal goes ahead for use as a group home.

1: Who will be responsible for the maintenance of the house, surrounds and lawnmowing etc.?

2: Will the property and house be presented in a proper and tidy state of repairs at all times?

3: Will the stormwater run-off be properly addressed?

4: Will there be a ban on tenants having pet dogs? There is no front Boundry fence so the potential is there for the residents dogs and cats to roam the streets freely. (especially after dark) this seems to happen at present.

5: has council considered the possibility of potential visitations by estranged husband/partners or other relatives and the ensuing domestic squabbles that we would then have to endure on a possible 24/7 basis? Our living/dining rooms area face your propertys house and front yard area. So we are fully exposed to whatever happens there.

6: what considerations have council allowed for if the tenants or extended family members become abusive towards the neighbourhood or patients visiting the adjoining doctors surgery?

7: Has the council any future plans for off street parking for the increasing number of visiting day patients at the doctors surgery?

We are objecting to the notice of proposed development — DA 16-2019 Until such time as we receive satisfactory answers from Scone Council.

Please note: I've first bought this property 9 Surman St Scone for good
reason, because of the location and the quietness and the friendly neighbourhood. No. 7 Surman St. Was then owned by Don and Peg Scott who took pride in their house and yards, they kept the lawns and trees in excellent condition and the bar was set high for the rest of the street to aspire to a reasonable level of neat and tidiness.

Since Scone Council bought the property (We were informed the main purpose was primarily for patients off-street parking for the then new surgery practice upgrade) it has been allowed to slide into a level of untidiness and disrepair. At times shrubs and weeds on the front Boundary have been allowed to grow out to encroach the public footpath. At times the weeds along the side fences can be as high as the fence. There are vines or creeping plants growing over the roof of the house. There are broken off tree branches on the house roof. The existing trees have been allowed to grow unchecked for some time and are messy and unsafe. One large conifer came down in the storm prior to Christmas luckily missing my new garage and new Boundary fence. The other big trees are very old and are severely damaged as well by the storm.

The roof guttering is blocked with rubbish and leaves and the downpipes are not operating. We are on the downhill side of the property and have to endure the resulting stormwater run-off.

Also please note there are open Holes in the exterior walls due to rot or termites or both, no maintenance repairs or painting has been done to this house in my memory since council ownership.

I would welcome your feedback on my comments. Thank you

Your sincerely
Norman Turner and Narelle Rutter
Sent from my iPhone
Peer Assessment of Development Proposal and draft Assessment

Change of Use from Dwelling to Transitional Group Home DA 16-2019
Lot 31 DP 1194098
7 Suman Street Scone
Disclaimer

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May 2019

Strategy Hunter
www.strategyhunter.com.au
solutions@strategyhunter.com.au
Proposal: Group Home (Transitional)

Development Application: DA 16-2019

Address: 7 Surman Street Scone. Lot 31 DP 1194098

Existing use: Residential dwelling

Relevant LEP: Upper Hunter Local Environmental Plan 2013 (LEP)

Land use zone: B2 Local Centre, R1 General Residential

Permissibility: Under the provisions of the Upper Hunter Local Environmental Plan 2013, Group homes are permissible with consent in the R1 zone, but are a prohibited use on the B2 zone.

Nature of proposal: Change of use, no physical works proposed as part of the application

Permissibility of Use issue:

Clause 5.3 of the LEP Development Near Zone Boundaries provides flexibility in land uses where a use is permissible is allowed on the other side of a zone boundary where:

- It is a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- the land that is within is 50 metres of any the 2 zones.
- land is not within in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or within the coastal zone, or proposed to be developed for the purpose of sex services or restricted premises.

Under this clause, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:

- the development is not inconsistent with the objectives for development in both zones, and
- the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

Planning response to permissibility of use issue:

The proposed land use is a logical use of the land, being on the fringe of the Scone town centre on a local road, with a low intensity health services premises adjacent to the north and a residential dwelling to the south. The balance of the street contains residences on its western side, and tourist accommodation on its eastern side. The location of the site is close to a range of services, including medical, retail and community.
It is noted that the proposed use is to be occupied by one family at a time and will receive ongoing support from the Upper Hunter Homeless Support Service.

The proposed development is a permissible use within the R1 zone, but prohibited in the B2 zone. The subject site is split between 2 zones. The Site is therefore within 50 metres of a zone where the proposed use is permissible.

The land is not within any of the zones to which Clause 5.3 does not apply, is not in the coastal zone and sex services premises are not proposed.

The proposed development is consistent with the objective of the R1 zone “To enable other land uses that provide facilities or services to meet the day to day needs of residents”. The proposed use is consistent with the objective of the B2 zone “To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area”.

It is considered that the proposed development meets the criteria of Clause 5.3 and therefore should be considered as permissible pursuant to this Clause.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP)

This SEPP applies to Group Homes. Amongst other aims, it seeks “to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation”.

Division 7 of the SEPP applies to Group Homes, and the proposed development is defined as a “transitional group home “under the SEPP.

Under Clause 43 of the SEPP  Development in prescribed zones

- Development for the purpose of a permanent group home or a transitional group home on land in a prescribed zone may be carried out:
  - without consent if the development does not result in more than 10 bedrooms being within one or more group homes on a site and the development is carried out by or on behalf of a public authority

Clause 42 of the SEPP identifies the R1 zone as a prescribed zone, however the B2 zone is not a prescribed zone. Therefore Clause 43 does not apply, notwithstanding the flexibility provided by Clause 5.3 of the LEP.

Clause 45 of the SEPP states development for the purposes of a group home is complying development if:

- the development does not result in more than 10 bedrooms being within one or more group homes on a site, and
- the development satisfies the requirements for complying development specified in clauses 1.18 and 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (other than clauses 1.18 (1) (h) and 1.19 (1) (b) and the requirement that the development not be in a draft heritage conservation area).
The site is located in the Central Scone Conservation Area, as defined by the LEP. Therefore Clause 45 of the SEPP does not apply, and the proposed is not complying development.

Clause 46 of the SEPP determination of development applications states:

- A consent authority must not:
  - refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or
  - impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.

- This clause applies to development for the purpose of a group home that is permissible with consent under this or any other environmental planning instrument.

As the proposed development has been determined to be permissible with consent under the LEP, Clause 46 applies.

Submission:

It is understood the application for the proposed development was notified for comment from 6-20 March 2019. One submission was received. The submission raised a range of issues which fall into three categories:

1. The physical condition of the premises and the site
2. The management of tenants
3. Future plans for parking in relation to the doctors' surgery

The submitter provided a conditional objection “until such time as they receive satisfactory answers from Scone Council (sic)”

Item 1 relates to property management issues and not the proposed development per se. Therefore, while the submitter’s concerns are recognised, and it would be beneficial for the applicant to be made aware of these concerns, they are not a consideration for the assessment of this application.

In relation to item 2, it is understood the Upper Hunter Homeless Support Service will be providing ongoing management and support of the tenants/tenancy. Accordingly, it is likely that the property will receive a higher level of property management than that experienced by a market tenant that might otherwise occupy the dwelling. While, it is considered reasonable to make the Council as the property owner and the Upper Hunter Homeless Support Service aware of the submitter’s concerns, in relation to the application the SEPP states that a consent authority cannot impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.

The submitter also raises a concern that the occupants may attract antisocial behaviour, such as abusive former partners. It is noted that the applicant plans to improve security arrangements at the property and it is also understood occupants are likely to originally
reside in any community, leading to some anonymity and isolation from those likely to create antisocial behaviour. Further, as noted earlier, a consent authority cannot impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.

In relation to Item 3, this is an unrelated matter and not a consideration for the assessment of this application.

Upper Hunter Development Control Plan 2015

Part 4: Upper Residential applies to Group Homes. However new physical works are proposed (essentially the proposed is from a tenanted dwelling to a special type of tenanted dwelling (i.e. group home) and this Part of the DP contains no special provision for Group Homes. In any case, the SEPP states “a consent authority cannot impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home”.

Development Contributions:

The Upper Hunter Section 94 and 94A Plans apply to the Site, however no new dwellings or intensification of use, or physical works are proposed as part of the application, and as a result no development contribution should be levied.

Assessment of the Application

The draft Assessment Report on the Development Application undertaken by Paul Smith and dated 25 March 2019 has been reviewed is considered to adequately review the issues required in the assessment of a change of use only development application of this type and magnitude.

The conclusion of the draft assessment that DA 16/2019 that consent be granted is agreed.