

29 February 2024

Activity Status Analysis for the compact housing development at 3 Kelly Road

1. The starting point for determining activity status in this case is the District Plan description of restricted discretionary activities at rule 2.4.1.3(b). The provision for compact housing refers to three different locations for compact housing as a restricted discretionary activity:

(b) Compact housing 7 or more dwellings per site located within the compact housing overlay identified on the planning maps, or

As provided for in rule 2.4.1.3(c), or

Within the following areas of the C1 and C2/C3 Structure Plan areas:

- *Within 200m of an active recreation open space, the Town Belt, a neighbourhood centre or a school; or*
- *Within 100m of a local centre or local open space; or*
- *Within a “compact housing” overlay identified with the Structure Plan maps.*

2. The reference to 7 or more dwellings per site is linked only with compact housing that is within the compact housing overlay identified on the planning maps. It is not intended to relate also to compact housing provided for in rule 2.4.1.3(c), or within the specified areas of the C1-C3 Structure Plan areas. In this case the compact housing development is not located within a compact

housing overlay area, but is within the C2 Structure Plan area and is within 200m of the Town Belt and within 100m of a local centre.

3. Compact housing is dealt with very differently in the C1-C3 Structure Plan areas in comparison with the way it is dealt with in the compact housing overlay areas:

In compact housing overlay areas (outside of the C1-C3 structure plan areas) a larger format of development is anticipated, containing 7 or more dwellings on a minimum site area of 2,000m². The 2,000m² minimum site area is required by rule 2.4.2.44. That rule applies only within the compact housing area overlay, to accompany the minimum of 7 dwellings per site.

Rule 2.4.2.44 specifies a series of 12 development requirements for compact housing, all of which are applicable only within the compact housing overlay areas. These cover a wide range of building and layout issues that are considered appropriate for compact housing in the overlay areas. Rule 2.4.2.44 does not apply any of those controls to compact housing developments in the C1-C3 Structure Plan areas, enabling wide design versatility for compact housing in those new development areas.

4. That approach supports the interpretation that the minimum of 7 dwellings referred to in the activity status rule 2.4.1.3(b) is limited to the overlay areas.
5. A further distinction between compact housing in the overlay areas and in the C1-C3 Structure Plan areas is found in the second part of rule 2.4.1.3(b). For compact housing within the C1-C3 Structure Plan areas, non compliance with any of the performance standards in rule 2.4.2 retains the restricted discretionary activity status. Rule 2.4.2 contains all of the performance standards for development. Where a compact housing development is located within the C1-C3 Structure Plan areas, any non compliance with a development standard will not affect the restricted discretionary activity status of compact housing.

6. Further support for the limited application of the 7 dwelling minimum per site provision is found in the final bullet point describing the qualifying parts of the C1-C3 Structure Plan areas. That third bullet point creates a separate provision for compact housing developments within a compact housing overlay, where that overlay sits within the C1-C3 Structure Plan areas. The distinction between that provision and the provision for compact housing in other compact housing overlay areas is that there is no reference to the minimum of 7 dwellings per site.
7. For compact housing overlay areas in the C1-C3 Structure Plan areas, the 7 dwelling minimum does not apply, which confirms the interpretation that the 7 dwelling minimum is only in relation to compact housing overlay areas identified in the planning maps outside of the C1-C3 Structure Plan areas.
8. In the present case, neither the 7 dwelling per site minimum, nor the 2,000m² minimum site area has any application to this development. Any non-compliance with the development standards for the residential zone will not change the activity of the development from restricted discretionary activity, so the proposal does not become a discretionary or non complying activity.

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Phil Lang, barrister

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