

COUNCIL ASSESSMENT REPORT

Panel Reference	2017HCC055 DA
DA Number	2017-2593
LGA	Maitland
Proposed Development	Seniors living development – 156 self-contained dwellings and associated community facilities
Street Address	Lot 2 DP1145348 – 107 Haussman Drive Thornton
Applicant/Owner	Maitland City Council
Date of DA lodgement	24 November 2017
Number of Submissions	Nil
Recommendation	Approval subject to conditions of consent
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	2. General development over \$30 million CIV - \$41,397,787 (at time of lodgement)
List of all relevant s4.15(1)(a) matters	• SEPP 55 – Remediation of land • SEPP (State and Regional Development) 2011 • SEPP (Infrastructure) 2007 • SEPP (Housing for Seniors or People with a Disability) 2004 • Maitland Local Environmental Plan 2011 • Maitland Development Control Plan 2011
List all documents submitted with this report for the Panel's consideration	• APPENDIX A – Draft Schedule of Conditions • Attachment 1 –Locality Plan • Attachment 2 – JRPP Briefing 02 August 2018 • Attachment 3 – Site Compatibility Certificate • Attachment 4 – DA94-67 – Quarry Extraction Plan • Attachment 5 – Annual EMR – CSR Quarry • Attachment 6 – DA18-1431 – Notice of Determination • Attachment 7 – Site Analysis Plan • Attachment 8 – Architectural Plans • Attachment 9 – Landscape Plans • Attachment 10 – Civil Engineering Plans • Attachment 11 – Road widening Plans • Attachment 12 – Tree Retention Map • Attachment 13 – Seniors SEPP compliance table • Attachment 14 – Seniors SEPP – clause 35 and 50(e) – Detailed Assessment • Attachment 15 – Public Submission and Council response
Report prepared by	Maitland City Council
Report date	31 July 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not
Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

No

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Provided to applicant in report to Council – comments will be provided separately to report

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

An application was lodged with Council on 24 November 2017 seeking development consent for a seniors living development comprising 156 serviced self-contained dwellings and community facilities including a community centre, pool, bowling green, playground, community garden and men's shed on Lot 2 DP1145348 known as 107 Haussman Drive, Thornton.

The site is the former CSR quarry (Housing Commission Clay Mine) which ceased operation in 2006 and has road frontage to both Raymond Terrace Road and Haussman Drive, Thornton. Vehicular access is proposed off Haussman Drive as access off Raymond Terrace Road will not be supported by NSW Roads and Maritime Services (RMS).

A 'deferred commencement' consent (DA18-1431) over the same site was granted by Council at its meeting on 12 March 2019 for bulk earthworks associated with this development. The bulk earthworks consent will become operational only if development consent is granted to this application.

The subject site is wholly within Zone RU2 Rural Landscape under the Maitland Local Environmental Plan 2011 (MLEP). The site is located within the Thornton North Urban Release Area and is identified in the related Chapter F.7 – Thornton North URA in the Maitland DCP 2011 as Stage 3 lands.

The proposed development is defined as 'seniors housing' under the MLEP and is not permissible in this zone under the MLEP. However, SEPP (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) makes provision for the issue of a Site Compatibility Certificate (SCC) to permit seniors housing on certain lands. The application is supported by a SCC issued by the NSW Department of Planning and Environment that permits the use of this land for seniors housing, subject to a number of requirements that must be considered to be satisfied before development consent can be granted to the proposal.

The development is captured under section 4.5 of the Environmental Planning and Assessment Act (EPAA) and Schedule 7 – SEPP (State and Regional Development) 2011 which confers the consent authority functions of Council to the Hunter and Central Coast Joint Regional Planning Panel (HCCJRPP) as the capital investment value (CIV) exceeds the threshold at time of lodgement.

While the determination of the application lies with the HCCJRPP, processing and assessment of the application falls to Council in the first instance.

The application is 'integrated development' under section 4.46 of the EPAA requiring a Bushfire Safety Authority under the Rural Fires Act 1997 for a 'special fire protection purpose'. General Terms of Approval have been issued by NSW Rural Fire Service dated 21 June 2019. Council has also consulted with RMS and Ausgrid under the relevant provisions in SEPP (Infrastructure) 2007. No objection is raised by either authority. Matters raised for consideration have been addressed in the assessment report.

The application was placed on public exhibition and notification over two periods: 06-20 December 2017 and 16 April – 15 May 2018. An objection was lodged by Mindaribba Local Aboriginal Land Council but was withdrawn following the preparation of a Due Diligence Assessment on Aboriginal archaeology. One submission was received during the first consultation period but is not in objection to the proposal.

The development has been assessed against the relevant provisions in the Seniors SEPP and found to be satisfactory as outlined in the assessment report.

Key site constraints to be considered by the HCCJRPP include:

- the requirement in the SCC for the consent authority to be satisfied that the proposed development achieves a balance between the need for bushfire mitigation on site against the need to maintain the ecological values of the identified EEC; and*
- the appropriate treatment for management of underground mine workings for this site as the land is not within a designated Mine Subsidence District.*

The application has been assessed under the relevant heads of consideration under section 4.15 in the Environmental Planning and Assessment Act 1979 and found to be satisfactory subject to compliance with the recommended schedule of conditions. Savings and transitional provisions are relevant to the assessment of the application under both the EPAA and the Biodiversity Conservation Act 2016.

The application is presented to the Hunter and Central Coast Joint Regional Planning Panel (JRPP) with a recommendation for approval.

OFFICER'S RECOMMENDATION

That the Hunter and Central Coast Joint Regional Planning Panel approve Development Application 17-2593 for a Seniors Housing Development comprising 156 self-contained dwellings with associated community centre and recreation facilities, car parking and landscaping on Lot 2 DP1145348 at No. 107 Haussman Drive, Thornton, subject to the recommended conditions of consent set out in **Appendix A**.

1.0 INTRODUCTION

Application has been made to Council seeking consent to develop the subject site for the purposes of a seniors living complex comprising 156 self-contained dwellings, a community facility and associated infrastructure. The development is to be operated as a retirement village. A Locality Plan is included in this report at **Attachment 1**.

The consent authority is the Hunter and Central Coast Joint Regional Planning Panel (JRPP). An initial briefing on this proposal was presented to the JRPP on 02 August 2018. A copy of the briefing notes is included in this report at **Attachment 2**.

2.0 BACKGROUND

2.1 Zoning – Site Compatibility Certificate

The subject site is in Zone RU2 Rural Landscape and described as 'land adjoining land zoned primary for urban purposes'. The application is lodged under the provisions of the Seniors SEPP with an accompanying Site Compatibility Certificate. The Certificate will lapse on 04 October 2019 if development consent is not granted by the HCCJRPP before this time.

Site Compatibility Certificate (issued 4 October 2017)

The Certificate is issued for a maximum of 161 serviced self-contained dwellings, community facilities and associated road works. The Certificate specifies that the determination of the final design and number of self-care seniors living dwellings in the proposed seniors housing development is subject to resolution of a number of Requirements imposed on the Certificate:

Requirements

Demonstrate that vegetation modification to support bushfire mitigation and access is balanced against maintaining the ecological values of the EEC on site.	Sections 5.6(b) – Ecological Impacts and 5.7(a) – Bush fire prone land in this assessment report. <i>Requirement considered to be satisfied.</i>
Address health and safety standards for residential development near an electrical substation facility.	Sections 5.1.3(e) and 5.7(c) – Acoustics and 5.7(d) EME Impacts in this assessment report. <i>Requirement considered to be satisfied.</i>
Address compliance with clause 26 of the SEPP (Housing for Seniors or People with a Disability) 2004.	Sections 5.1.3(e) and Seniors SEPP Compliance Table at Attachment 10. <i>Requirement considered to be satisfied.</i>
Include evidence of compliance with clause 42 of the SEPP (Housing for Seniors or People with a Disability) 2004	Sections 5.1.3(c) and Seniors SEPP Compliance Table at Attachment 10. <i>Requirement considered to be satisfied.</i>

Any development application for the proposed development must include the following:

Traffic Impact Assessment	Submitted. See section 5.6(c) in this report.
Stormwater Management Plan	Submitted. See section 5.6(d) in this report.
Contamination Report	Submitted. See section 5.1.3(b) in this report.
Flora and Fauna Report	Submitted. See section 5.6(b) in this report.
Geotechnical Investigation	Submitted. See section 5.7(f) in this report.
Bushfire hazard Report	Submitted. See section 5.7(a) in this report.

A copy of the Site Compatibility Certificate is included in this report at **Attachment 3**.

2.2 Development history

DA96-80: NOD issued 22 October 1980 for a clay quarry (PGH Ceramic Bricks NSW)

DA94-67: NOD issued 10 June 1998 for expansion of clay extraction operation. The quarrying operation ceased in 2006 with the associated closure of the Metford Brickworks. A copy of the Extraction Plan to indicate the extent of disturbance to the site is included in this report at **Attachment 4**.

The last *Annual Environmental Management Report (EMR)* for the reporting period 01 October 2012 – 30 September 2013 (VGT Pty Ltd, 11/06/2014) provides useful background information that clarifies the extent of the development footprint at that time and photographic data on rehabilitation works undertaken to 29 May 2014. A copy of the EMR is included in this report at **Attachment 5**.

DA18-1431: - NOD issued on 12 March 2019 for bulk earthworks associated with this application. As the bulk earthworks are directly related to this application, the determined was issued with a 'deferred commencement' condition and will not become operational unless development consent is granted to this application.

In the event that this application is not actioned, the recommended schedule of conditions replicates a number of conditions relating to construction impacts and interim driveway arrangements.

A copy of the Notice of Determination is included in this report at **Attachment 6**.

3.0 SITE DESCRIPTION

The subject site is legally described as Lot 2 DP1145348 and is known as No. 107 Haussman Drive, Thornton with a total site area of 18.96 hectares. The site is located within the Thornton North Urban Release Area and is located on the eastern side of Haussman Drive and the southern side of Raymond Terrace Road with frontage to both road reserves. The frontage to Haussman Drive is a battle axe handle arrangement with frontage width at the boundary of 40.545m. Vehicular access is proposed off Haussman Drive. No vehicular access is proposed off Raymond Terrace Road, other than an emergency egress point for bushfire along the alignment of a proposed pedestrian link.

No built improvements exist on the site. The site is a former clay quarry which ceased operation in 2006. Some rehabilitation (including filling and reshaping) has occurred in the void. A number of access tracks traverse the site, including a circular access track running generally around the void boundary. Two surface water ponds remain and a drainage channel in the centre of this site drains to these ponds, which then drain off-site to the east.

Vegetation around the perimeter of the site is remnant open forest identified as Lower Hunter Spotted Gum Ironbark Forest EEC. Some revegetation has occurred within previously disturbed areas of the site and is identified as regrowth open forest.

Part of the site is undermined by abandoned coal mine workings known as Glen Vale Colliery but is not within a Mine Subsidence District. The subject site is identified as bush fire prone land on Council's Bush Fire Prone Land Map as Vegetation Category 1 with a 100m buffer. Adjoining development is identified as follows:

<i>Western boundary</i>	<i>Land Use</i>	<i>Ownership</i>
Lot 1741 DP634868 121 Haussman Drive Thornton Zone RU2 Rural Landscape	Ausgrid electricity substation and telecommunications tower	Ausgrid
Lots 172-173 DP569000 111-115 Haussman Drive Thornton Zone RU2 Rural Landscape	Vacant land (identified as surplus to needs)	Hunter Water Corporation
<i>Southern boundary</i>		
Various Zone R1 General Residential	Residential development (dwelling houses)	Private ownership
<i>Eastern boundary</i>		
Lot 182 DP792071 480 Raymond Terrace Rd Thornton Zone RU2 Rural Landscape	Vacant land (bushland)	Private ownership
<i>Northern boundary</i>		
	Raymond Terrace Road	MR104 (classified State road)
	Developing suburb of Chisholm	

A Site Analysis Plan (Aerial) is included in this report at *Attachment 7*.

4.0 PROPOSAL

Proposed is the development of Lot 2 DP1145348 for the purposes of a **seniors living** complex, comprising 156 dwellings in combinations of 2-bedroom and 3-bedroom designs with associated resident and visitor parking. Community facilities, including a community centre, pool, bowling green, playground, community garden, men's shed and site

landscaping form part of the design to support the resident population. A designated caravan and RV storage area is also proposed.

It is proposed to operate the development as a *Retirement Village* under the provisions of the Retirement Villages Act 1999.

Dwelling design (156 dwellings)

Dwellings are designed as semi-detached villas, mostly sharing one common wall. The majority of dwellings will be single storey. A number of dwellings are designed as 'unders and overs' to accommodate the slope of the site. These dwellings are designed on a single level, with one dwelling sitting below (or above) the other. Access is provided to each 'under and over' at ground level via the road network. In total, 143 dwellings are proposed as two-bedroom, with the remaining 13 dwellings of three-bedroom design.

Type	2bed	2bed + study	2bed + w/shop	3bed	Garage (dw)	Total Garages
B	16				1	16
C		18			1	18
D			10		2	20
E				13	2	26
F	16				1	16
G		29			2	58
H	24				1	24
I		30			2	60
Total	56	77	10	13		
						238

A total of 282 parking spaces are proposed on site: 238 resident parking spaces, 29 visitor parking spaces and 15 spaces for caravans and RV storage.

Access to the site for the former quarry operation was informally provided through the Ausgrid site on Haussman Drive. Access to the proposed development will be formalised through the construction of a new driveway to Haussman Drive approximately 100m further south than the existing driveway crossing through the property handle frontage of the subject site.

Community Facilities

The proposed development includes a number of community facilities, including:

- A community centre containing meals area, amenities ,art room, library, and specialist rooms for services such as a medical practitioner (approx. 1000m² GFA)
- BBQ area;
- Bowling green;
- Swimming pool;
- Vegetable garden;
- Picnic areas; and
- Children's playground

The proposed community facilities flank the southern and eastern portions of the site. The pool and community centre form a suite of low-lying buildings within the southern portion of the site, with an emphasis on passive solar design. To the east is the bowling green and sports pavilion. The men's shed and separate caravan and RV parking is located in the north-east corner of the site.

Construction Stages

It is proposed to construct the overall development in eight (8) stages as shown on the Staging Plan (DA-004, Issue B, 11/02/19). The delivery of the proposed on site community facilities are also to be staged, with full services to be completed with Stage 4 as indicated below:

Stage 1:	16 dwellings
Stage 2:	18 dwellings +community centre (Stage 1)
Stage 3:	16 dwellings + sports pavilion
Stage 4:	26 dwellings + men's shed + community centre (Stage 2)
Stage 5:	21 dwellings
Stage 6:	23 dwellings
Stage 7:	20 dwellings
Stage 8:	16 dwellings
<i>Total:</i>	<i>156 dwellings</i>

One of the villas is proposed to be used as a temporary community centre within Stage 1 and will remain open until the community centre is operational as part of Stage 2 works.

Earthworks are required to reduce the slopes over the site to comply with the walkability gradients in the *Seniors SEPP*. The site is proposed to be landscaped in accordance with an overall retirement complex theme, including connecting pathways, a children's playground, a community vegetable garden and boundary fencing to Raymond Terrace Road frontage. An entry sculpture with signage wall is proposed within the battle-axe handle. Remnant vegetation around the perimeter of the site is to be retained apart from specific trees identified for removal as part of the Asset Protection Zone construction.

Development plans are included in this report at Architectural plans are included in this report at *Attachment 8* – Architectural Plans, *Attachment 9* – Landscaping Plans and *Attachment 10* – Civil Engineering Plans.

5.0 PLANNING ASSESSMENT

The application has been assessed under the relevant heads of consideration set out in section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

5.1 Any relevant environmental planning instrument [Section 4.15(1)(a)(i)]

5.1.1 Maitland Local Environmental Plan 2011 (MLEP 2011)

The following clauses under the LEP are relevant for consideration in the assessment of this application:

Zone and objectives

The proposed development is defined as **seniors housing** under the MLEP 2011.

The subject site is wholly within Zone RU2 Rural Landscape and is subject to the *Site Compatibility Certificate* for permissibility under the relevant SEPP.

The proposed development is considered to be inconsistent with the zone objectives within Zone RU2 Rural Landscape. The Site Compatibility Certificate overrides consideration of the zone objectives.

Clause 5.10 – Heritage conservation

There are no items of European Heritage to consider with regard to this application. Aboriginal archaeology is addressed in section 5.6(a) in this report.

Part 6 – Urban Release Areas

The site is located within the Thornton North Urban Release Area.

Clause 6.1 – Arrangements for designated State public infrastructure

There is no subdivision proposed. Therefore, this clause has no effect.

Clause 6.2 – Public utility infrastructure

This clause requires the consent authority to be satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

Hunter Water Corporation has issued its Formal Notice of Requirements dated 14 December 2017 and advises that connection into the reticulated water and sewer systems is available. Electricity, telecommunications and gas are available in the public road network.

Clause 6.3 – Development control plan

This clause prevents a consent authority from granting consent to development on land in an urban release area unless a development control plan is in place for the land that provides for the specific matters identified in subclause (3).

The applicant is of the opinion that this clause has no effect and cites section 3.42(1) in the EPAA:

3.42 Purpose and status of development control plans (cf previous s 74BA)

(1) The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:

- (a) giving effect to the aims of any environmental planning instrument that applies to the development,*
- (b) facilitating development that is permissible under any such instrument,*
- (c) achieving the objectives of land zones under any such instrument.*

The provisions of a development control plan made for that purpose are not statutory requirements.

The development is prohibited under the MLEP 2011. Therefore, the requirement for a DCP under the MLEP 2011 has no relevance. This position is supported by Council officers.

Clause 7.1 – Acid sulfate soils

Document: *Proposed Seniors Living Development - Preliminary Contamination Assessment, Lot 2 DP1145348, 107 Haussman Drive Thornton* (Qualtest, NEW17P-0074-AB, 29 June 2017).

The site is identified as potential Class 5 ASS on the ASS Map. No higher order lands are in the vicinity of the subject site. The Preliminary Contamination Assessment considered the likelihood of exposing ASS and concluded that the site is located within an area of “no known occurrence” of ASS. Therefore, this clause has no effect.

Clause 7.2 – Earthworks

Clause 7.2(2)(b) provides for earthworks associated with this application to be assessed as ancillary to the proposed development. Separate consent is, therefore, not specifically required. The matters for consideration in subclause (3) are addressed in section 5.6(e) in this report.

Clause 7.5 – Significant extractive resources

The subject site is identified on the Mineral Resources Area Map (MRA_006A) as an 'identified resource'. Clause 7.5(2) is triggered which identifies the land so mapped as land to which clause 13 in **SEPP (Mining, Petroleum Production and Extractive Industries) 2007** applies.

NSW Resources & Geoscience (GSNSW)

The application was referred to GSNSW for comment. In its response dated 31 January 2018, GSNSW advise that no issues are raised with the proposal in relation to the compatibility test under clause 13 in the Policy. The issue of the remaining clay resource for brickmaking was considered previously by GSNSW in its response to the Department in consideration of the Site Compatibility Certificate. The response acknowledged that, while a resource remained in situ, the private mining agreements (PMAs) and other forms of mining titles/applications have either expired or been relinquished and PGH has no further plans to extract material from the site.

GSNSW further advise that it is intended to amend the Mineral Resources Area mapping layer to remove all identified sites within this location.

5.1.2 Hunter Region Plan 2036 and Greater Newcastle Metropolitan Plan 2036

The application is considered to be consistent with both Plans as they recognise the broader role of Maitland in providing housing diversity and choice, which will improve affordability including the needs of an ageing population.

5.1.3 State Environmental Planning Policies

The following SEPPs are relevant for consideration against the proposed development:

(a) SEPP 44 – Koala Habitat Protection

Document: *Ecological Assessment – McCloy Thornton P/L – Proposed Seniors Housing Development, Lot 2 DP1145348, 107 Haussman Drive Thornton (Kleinfelder, 24/10/17)*

The Assessment identified one tree species listed under Schedule 2 within the study area: *Eucalyptus punctata* (Grey Gum). This species was observed to occur in low densities within the site (<15% of the total number of trees in the upper or lower strata of the tree component) throughout the study area. Therefore, vegetation within the site is not considered to be 'potential core habitat' as defined in the Policy and a consent authority is not prevented, because of this Policy, from granting consent to the development application. No further assessment under this Policy is required.

(b) SEPP 55 – Remediation of Land

Document: **Site Compatibility Certificate** – Schedule 2 – Requirements – Contamination Report

The subject site is a former clay quarry. The centre of the quarry void has been partly filled in the past (source unknown). While the majority of the site is bushland, constructed access tracks exist through and around the void. A number of brick stockpiles exist on the site. A drainage channel remains within the site and two surface water ponds remain. Overflow from the ponds drain off-site to the east to a creekline.

The objectives of the Preliminary Contamination Assessment (PCA) are outlined as:

- (a) Identify potentially contaminating activities that are currently being performed on the site, and that may have been performed on the site in the past;
- (b) Develop a preliminary conceptual site model (CSM) for the site, including assessment of Areas of Environmental Concern (AECs) and Chemicals of Potential Concern (COPC);
- (c) Carry out a preliminary assessment of potential contamination within fill materials on site; and
- (d) Provide recommendations for further assessment and/or management, as required.

Areas of Environmental Concern (AEC)

Three AECs were identified: AEC 1 comprises the fill in the central part of the void; AEC 2 comprises fill observed on the access track and in Test Pit 11 (TP11); and AEC 3 comprised surface water and sediment in ponds on the eastern side of the site.

Three samples were collected of the fill in AEC 1, and showed concentrations of contaminants below the adopted residential land use criteria. Taking into account that 3m-5m of fill may be placed over this area, and no observations of gross contamination (odours or staining) were observed, it is considered that further sampling and analysis in the area of AEC 1 is not required.

No samples were collected in AEC 2. The potential for contamination in AEC 2 is considered to be low based on observations of the materials. Depending on the proposed use of this material, further sampling and analysis may be required (i.e. if it is to be placed within 2m of the surface of the residential development).

No samples were collected in AEC 3. The potential for contamination in this AEC is low. Taking into account that excess water from AEC 3 flows off-site, assessment of potential contamination is recommended.

The PCA makes the following conclusions and recommendations which are captured in a specific condition included in the recommended schedule of conditions:

Based on the site history and sampling and analysis carried out to date, the site is likely to be suitable for the proposed development in its present state, provided the following recommendations are implemented:

- Due to the presence of fill materials, an Unexpected Finds Procedure should be prepared and implemented during earthworks on the site.
- Sampling and analysis of the surface water and sediments in the ponds is carried out;
- Further sampling and analysis of fill materials on the access tracks and northern portion of the site (TP11) may be required if these materials are proposed to be used within 2m of the final surface of the residential allotments.

- If material is proposed to be re-used or disposed off-site, the material will require classification in accordance with the NSW EPA (2014) Waste Classification Guidelines, or assessment in accordance with a Resource Recovery Exemption/Order under the POEO (Waste) Regulation 2014.

(c) SEPP (Housing for Seniors or People with a Disability) 2004 – Seniors SEPP

Document: *Site Compatibility Certificate* - issued on 04 October 2017 for **Lot 2 DP1145348** (161 serviced self-contained dwellings, community facilities and associated road works).

The subject site is in Zone RU2 Rural Landscape and described as 'land adjoining land zoned primary for urban purposes'. The application is lodged under the provisions of the *Seniors SEPP* with an accompanying Site Compatibility Certificate. A compliance table has been completed against the relevant provisions in this SEPP and included in this report at [*Attachment 13*](#).

In summary, the application is considered to comply with the relevant provisions in this Policy, subject to specific conditions included in the recommended schedule.

Compliance with clause 50(e) as it relates to solar access has been more broadly interpreted having regard to the provisions in AMCORD (as referenced in the related clause 35 in this Policy) and the revised Planning Principle on solar access as expressed in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 at 144.

In short, AMCORD considers solar penetration into dwellings in a temperate climate to be satisfactory for a period of 3 hours between an extended timeframe of 9am – 5pm. The revised planning principle discounts the previous mathematical formulae relating to the proportion of glazed area in sunlight and emphasises that an assessment is required on the adequacy of solar amenity in the built space behind (i.e solar penetration into the living areas).

The Solar Access Compliance Schedule (Issue E, 11/02/2019) submitted by the applicant with a number of supporting plans and 3D model images concludes that a combined total of 117/156 (75%) of dwellings comply with clause 50(e). Council's assessment concludes that a total of 112/156 (71.8%) of dwellings comply with clause 50(e). On balance, it is concluded that the application is considered to satisfy the development standard under clause 50(e) and cannot be refused on these grounds.

A detailed assessment is included in this report at [*Attachment 14*](#).

(d) SEPP (BASIX) 2004

The development is defined as a BASIX affected development under the EPA Regulation 2000. BASIX certificates for multi dwelling housing have been submitted with the application as required under the provisions in this Policy and the issue dates comply with clause 2A(1) in the Regulation.

The BASIX Certificates confirm that the development can meet the sustainability criteria requirements in the Policy and the NatHERS Certificate provides for an average Star rating of 6.7 for the development.

(e) SEPP (Infrastructure) 2007

Division 5 – Electricity transmission or distribution

Clause 45 – Determination of development applications – other development

An electricity substation adjoins the site at 121 Haussman Drive Thornton (Lot 1741 DP634868). The development triggers referral to *Ausgrid* under clause 45(1)(b)(ii) in this Policy.

A referral under clause 45(2) in this Policy was sent to *Ausgrid* for comment. The consent authority must not determine the application unless it has taken into consideration any response received within 21 days after the notice is given. Council received the response within the specified time period.

Ausgrid does not raise any objection in its response but makes the statement that, in considering the suitability of the site for the development, the consent authority should consider the *compatibility of the proposed development with existing Ausgrid's infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.* Consideration of the response received is addressed in section 5.7(c) with regard to noise and section 5.7(d) in this report with regard to emissions.

Electrocution and fire risk have not been specifically considered as the substation is fenced and an evacuation management plan will be in place in the event of a fire on the site. The same plan will be enacted in the event of a fire within the substation. Visual amenity has been considered in the design with the row of dwellings immediately adjacent to the substation being 'overs' with the dwellings facing north and east, not towards the substation. Perimeter landscaping will soften the edge effect but the substation will still be a prominent structure on the adjoining site.

Division 17 – Roads and traffic

Clause 101 – Development with frontage to classified road

Document: *Traffic and Parking Impact Assessment – Seniors Living Residential Subdivision at 107 Haussman Drive, Thornton* (McLaren Traffic Engineering, 09.11.17)

The site has frontage to Raymond Terrace Road, Thornton which is a classified State road (Main Road No. 104). Clause 101(2) states that a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable, vehicular access to the land is provided by a road other than the classified road

Comment:

Vehicular access to the development is proposed off Haussman Drive, Thornton. A pedestrian access and 'fire trail' is proposed off Raymond Terrace Road, Thornton at the turnaround on the southern side of the Settlers Boulevard intersection.

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land

Comment:

The application was referred to RMS for comment. No objection was raised to the proposed intersection design. It should be noted that the Haussman Drive upgrade will eventually restrict access to the site to a left-in, left-out arrangement.

(ii) the emission of smoke or dust from the development

Comment:

Emissions from the operation of the development will be minimal, given its residential nature. Any potential emissions during the construction phase will require management through a Construction Management Plan.

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land

Comment:

The intersection of Haussman Drive and Raymond Terrace Road is identified in the Thornton North Section 94 Contributions Plan 2008 for upgrading to traffic signals. Similarly, Haussman Drive in this location will be upgraded and a roundabout constructed on the corner of Haussman Drive/Taylor Avenue. The road network is capable of supporting the proposed traffic generation arising from this development.

RMS also advise that the subject site may be affected by further road widening along Raymond Terrace Road to facilitate the proposed widening of Raymond Terrace Road (MR104) to dual carriageway along this section of State road. The AECOM plans that support the Thornton North Section 94 Contribution Plan 2008 indicate that further road widening is required. The final details are not yet known. A specific condition has been included in the recommended schedule to require the road widening to be dedicated to Council prior to issue of a Construction Certificate for the first stage of the development.

(c) the development of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:

Traffic noise from Raymond Terrace Road has been addressed in this assessment report in section 5.6(c) and found to be within acceptable limits without the need for specific acoustic controls. Vehicle emissions are not considered significant in this location due to the lower traffic volumes and the separation distances to proposed dwellings.

Clause 104 – Traffic-generating development

Schedule 3 – Column 2 – Any other purpose: 200 or more motor vehicles

The application was referred to Roads and Maritime Services (RMS) under this Policy as the development proposes 156 dwellings with a total parking allocation of 282 spaces, including 15 spaces for caravans and RV storage.

RMS issued its response dated 30 July 2018 in which RMS advises that it has no objections to the proposed development, based on the position that no vehicular access from Raymond Terrace Road would be supported.

(f) SEPP (State and Regional Development) 2011

The proposed development has an estimated capital investment value (CIV) of \$41.4 million at the time of lodgement. The application was identified as regional development under Schedule 4A in the EPA Act (development that has a capital investment value of more than \$20 million) at the time of lodgement.

The Policy now nominates a capital investment value of \$30 million as the trigger for regional development under Schedule 7 – Item 2. However, clause 24(3) in the Policy provides that the application remains identified as regional development under transitional arrangements, and the CIV value at time of lodgement still exceeds this amended value.

Section 2.15 in the EPA Act confers the functions of the consent authority for this application on the Hunter and Central Coast Joint Regional Planning Panel.

5.2 Any draft environmental planning instrument that is or has been placed on public exhibition [Section 4.15(1)(a)(ii)]

None relevant.

5.3 Development control plan [Section 4.15(1)(a)(iii)]

The Maitland Development Control Plan 2011 applies to the proposed development. In particular, the following chapters are relevant: Chapter A.4 – Community Participation and Chapter B.6 – Waste Not.

(a) Chapter A.4 – Community Participation

The application was placed on public consultation (notification and exhibition) in accordance with the DCP between 06 – 20 December 2017 (1st consultation period) and 16 April – 15 May 2018 (2nd consultation period). Further comment is provided in section 5.8 in this report.

(b) Chapter B.6 – Waste Not – Site Waste Minimisation & Management

Document: *Waste Management Plan – Retirement Village – 107 Haussman Drive, Thornton* (Barr Property & Planning, 23 November 2017)

Plan Set: *Garbage Truck Turning Paths* (Costin Roe Consulting, CO13452.00-SKC01-SKC05, Issue A, 14.03.18)

The submitted Waste Management Plan (WMP) considers the waste management components of the proposed development, including: waste hierarchy, waste classification, waste management and waste mitigation measures.

Waste management throughout the construction phase will be based on the waste hierarchy of avoid; re-use; recycle; and dispose. Mitigation measures are outlined in the WMP:

- ❖ Manage and reduce consumption and use of natural resources and promote the use of alternative environmentally friendly materials where practical;
- ❖ Licensed waste contractors will be used to collect, transport and dispose of materials at a licensed off-site facility in accordance with waste regulations;
- ❖ Waste will be appropriately contained in designated waste areas located away from drainage paths;
- ❖ No burning of waste or vegetation is allowed under any circumstances;
- ❖ General and putrescible waste and recyclables such as metals, plastic, glass, paper, cardboard will be segregated and collected in suitable waste containers positioned in convenient locations within each work area;
- ❖ Concrete, steel, timber, green waste and plasterboard will be stored in separate skip bins;

- ❖ Soil will be stored in stockpiles away from drainage lines and drip lines of trees with appropriate run-off controls;
- ❖ All waste skip bins will have secure lids in place to prevent water ingress and access for animals;
- ❖ Quantities of waste kept on-site will be kept to a minimum. Maximum volume of each waste stored will be consistent with the regulations and guidelines
- ❖ Waste concrete, timber, steel, cardboard, paper, recyclable plastics etc. removed from site will be recycled at recycling facilities; and
- ❖ Any Asbestos Containing Materials ('ACM') identified will be disposed off-site at a licensed facility in accordance with waste classification guidelines.

Operational Waste

The WMP outlines that operational waste from the retirement village will be collected by private contractor and disposed of off-site to an appropriately licensed waste facility. Waste collection points for garbage and recycling bins are located throughout the site as designated bin enclosures. Turning templates submitted with the design documentation (based on a 12.5m rigid vehicle) demonstrates that garbage vehicles can service the development as proposed. Garbage trucks will circulate around the perimeter road only to access the designated bin enclosure areas.

Comment:

The WMP is considered satisfactory in terms of the management and minimisation of waste. A specific condition is included in the recommended schedule to require waste management in accordance with the WMP.

5.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 [Section 4.15(1)(a)(iia)]

Not applicable.

5.5 Regulations (to the extent that they prescribe matters for the purposes of this paragraph) [Section 4.15(1)(a)(iv)]

There are no relevant prescribed matters under clause 92 in the *Environmental Planning and Assessment Regulation 2000*.

5.6 Likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality [Section 4.15(1)(b)]

(a) Aboriginal archaeology

Document: *Due Diligence Aboriginal Heritage Assessment for a Seniors Living Development at 107 Haussman Drive, Thornton NSW* (MDCA, 06 July 2018)

Mindaribba Local Aboriginal Land Council (MLALC) originally objected to the application due to the lack of a culture and heritage assessment in relation to Aboriginal objects or places, and requested a Due Diligence Assessment be prepared for the site.

The Due Diligence Assessment (DDA) clarified that a previously registered site had been erroneously identified on the subject land (AHIMS #38-4-0399/38-4-0355). A site inspection was also undertaken on 07 June 2018 by MDCA archaeologists and representatives from

MLALC to adequately characterise the archaeological sensitivity and potential of the subject site.

The DDA concludes that the subject site has been found to contain no evidence of past Aboriginal use, and very low likelihood for surviving deposits of Aboriginal stone artefacts. No further archaeological investigations are considered warranted, with the recommendation to include a specific condition alerting the developer to the legal requirements of the *National Parks and Wildlife Act 1974* in terms of Aboriginal heritage in the event of an incidental find.

The submitted DDA was referred to MLALC for comment who then formally withdrew the earlier objection. The following condition is included in the recommended schedule.

If any Aboriginal objects or bones suspected of being human are identified during construction, site workers must:

- a. Not further disturb or move these remains.
- b. Immediately cease all work at the particular location.
- c. In the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, notify The Office of Environment & Heritage Environment Line on 131 555 as soon as practicable and provide available details of the objects or remains and their location. The Mindaribba Local Aboriginal Land Council should also be notified to assist in the determination of appropriate management for the objects or remains.
- d. Not recommence any work at the particular location unless authorised in writing by the Office of Environment & Heritage.

(b) Ecological Impacts

Pending or interim planning application: Part 7 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 - Provides for the assessment of the application under the former planning provisions of the EPA Act.

Document: *Ecological Assessment – McCloy Thornton P/L – Proposed Seniors Housing Development, Lot 2 DP1145348, 107 Haussman Drive Thornton* (Kleinfelder, 24/10/17) and *Addendum Assessment – Targeted Threatened Species Survey* (Kleinfelder, 22/11/17).

Document: ***Bushfire Threat Assessment for a Seniors Housing Development at 107 Haussman Drive Thornton*** (Firebird ecoSultants Pty Ltd, October 2017) and additional information on radiant heat calculations for APZs dated 01 April 2019.

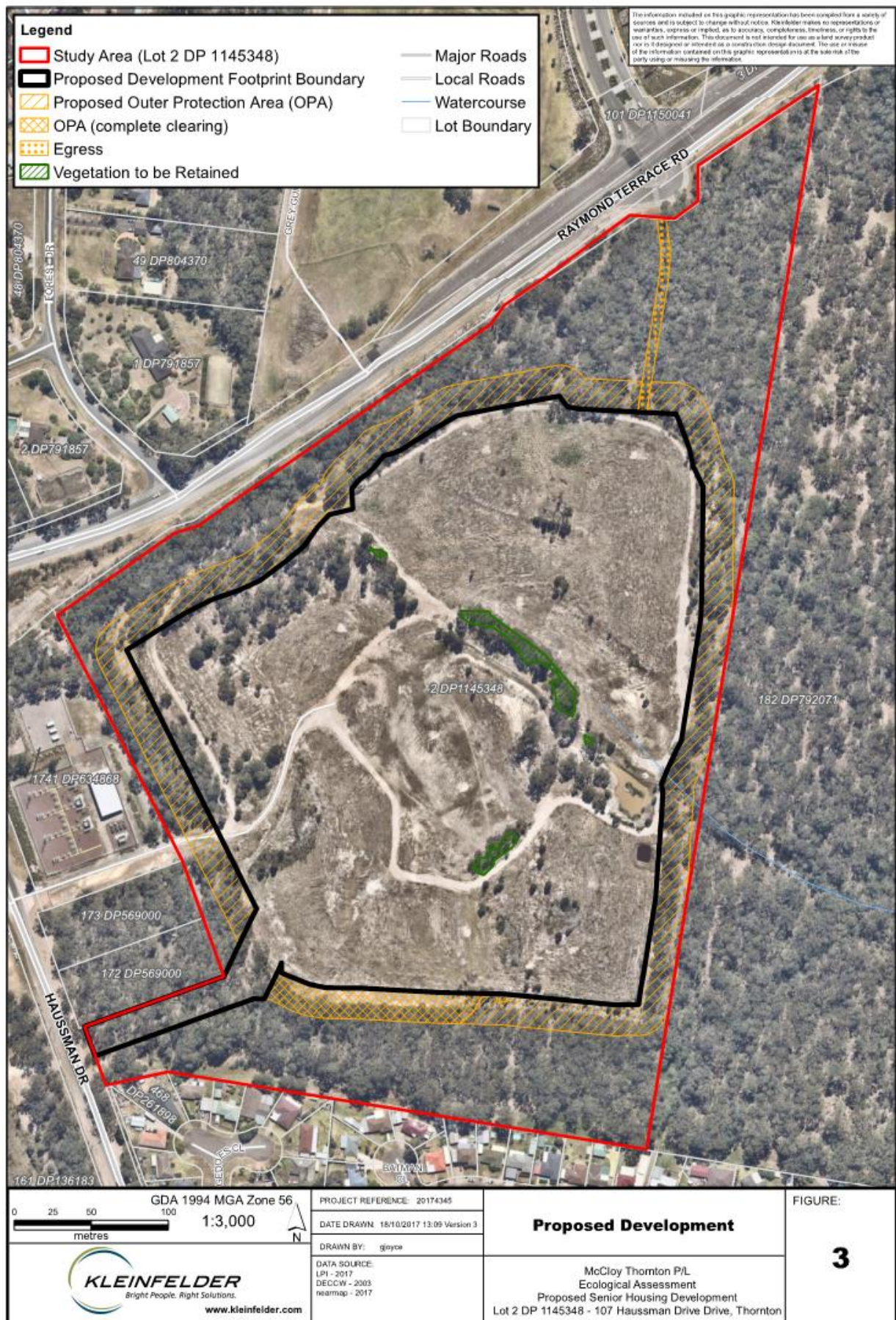
Document: Site Compatibility Certificate – Schedule 2 – Demonstrate that vegetation modification to support bushfire mitigation and access is balanced against maintaining the ecological values of the EEC on site.

The Ecological Assessment (EA) adopts the development footprint and proposed access roads to the extent of the limits of the Outer Protection Area Asset Protection Zone as the disturbance area described in the EA as the 'subject site' for assessment purposes.

The disturbance area is further defined as an access corridor off Haussman Drive to a width of 20m and a 6m wide bush fire emergency egress connecting to Raymond Terrace Road. The APZ is considered to comprise an Inner Protection Area (IPA) and an Outer Protection Area (OPA) with the OPA to be approximately 20m in width, as outlined in *Figure 3* extracted from the EA below.

Clearing of vegetation within the OPA is stated to be limited to the following:

Disturbance with the OPA will largely comprise modification of native vegetation to APZ standards (except for a small strip along the southern boundary of the subject site), whilst the remainder of the disturbance area (such as the development footprint and access roads) will be completely cleared. As the OPA will be modified to APZ standards and not completely cleared, any hollow-bearing trees and stags within the OPA will be preferentially retained. There is a single hollow – bearing tree within the 20m wide access road that will be retained within the road easement.



Fields surveys were undertaken on 08 June and 18 August 2017. Potential habitat for *Tetratheca juncea* and *Grevillea parviflora* subsp. *parviflora* was the subject of a targeted survey on 21 November 2017. The EA concluded that the site contains the following ecology:

- No threatened flora species,
- Four (4) threatened Microchiropteran bat species were detected as listed under the TSC Act,
- Approximately 6.73ha of remnant EEC Lower Hunter Spotted Gum – Ironbark Forest in the Sydney Basin Bioregion, and 2.0ha of regrowth EEC, and
- A total of fifteen (15) hollow-bearing trees and seven (7) tree stags.

The EA identifies that the proposed development has the potential to remove 1.87ha of remnant EEC and 1.49ha of regrowth forest representing EEC. No hollow-bearing trees or stags will be removed for the proposal. The EA includes a 7-Part test and consideration of the EPBC significant impact criteria and concludes that the proposal is unlikely to have a significant impact on any locally occurring threatened flora or fauna species, migratory species or the Ramsar wetland (Hunter Estuary Wetlands) to the east of the site.

Comment:

The General Terms of Approval issued by NSW RFS dated 19 January 2018 required greater Asset Protection Zones for the development than the Bushfire Threat Assessment (BFTA). Given that the EA based its assessment and conclusions on the APZ as provided for in the BFTA, Council requested additional information on the relationship between the requirements of the NSW RFS and the conclusions reached in the EA:

- An updated plan of the boundaries of the APZs to identify the site for the purposes of the EA;
- An update to the EA to address the likely impacts of the development, specifically whether it will maintain the ecological values of the EEC on site; and
- The amended EA is to address the identification of the remnant forest vegetation along the southern boundary of the site as a vegetation conservation corridor, noting the impact of clearing for an APZ on the integrity of this corridor.

Subsequent liaison between the applicant and NSW RFS has resulted in a modification to the GTAs as issued in 2018 with a reduction in the required APZ in accordance with a Tree Retention Map.

Additional information was submitted by the applicant on the ecological impacts associated with the APZ requirements (*Kleinfelder*, 09 January 2019). The additional information updates the original assessment under the BioBanking Assessment Methodology (BBAM) due to minor changes in the native vegetation clearing footprint and considers the Squirrel Glider and wildlife corridors; a fauna species that has been specifically considered in the planning of the Thornton North URA.

With regard to the clearing of remnant EEC and the Squirrel Glider corridors, *Kleinfelder* make the following assessment and conclusions:

The native vegetation clearing is divided into two Management Zones. MZ 1 entails complete clearing for construction of access and bushfire protection adjacent to the community centre in the southwest of the site. MZ 2 entails modification of native vegetation for establishment of an Asset Protection Zone (APZ).

The vegetation impact area is shown in **Figure 1** and the areas are provided in **Table 1**.

Table 1: Vegetation types, condition and impact areas

Vegetation type			Area	Impact Area		Retained (Offset)
LHCCREMS	Biometric	Condition		Removed	APZ	
			Hectares	Hectares	Hectares	Hectares
MU 17	HU806	Low weeds	4.05	0.14	1.16	2.75
MU 17	HU806	High Weeds	2.57	0.14	0.25	2.18
MU 17	HU806	Regrowth	0.54	-	-	0.54
Totals			7.16	0.28	1.41	5.47
Total impact area			-	1.69		-
Credits generated				17	37	55
Total impact credits generated				54		-

A total of 1.69 ha would be impacted by the development, comprised of 0.28 ha requiring complete removal of vegetation (MZ 1), and 1.41 ha of vegetation requiring modification to establish bushfire Asset Protection Zones (MZ 2). These impact zones generate biodiversity credits using the BBAM calculator at different rates due to the differential clearing of each zone. In total 54 impact credits are generated, comprised of 17 credits from MZ 1 and 37 credits from MZ 2.

A total of 5.47 ha is potentially available of offsets on site, which includes 0.54 ha of regrowth vegetation. Under the BBAM calculator this generates a total 55 credits.

CONCLUSION

Under the current proposal footprint there is a slight reduction in the clearing footprint compared to the proposal assessed in Kleinfelder correspondence dated 24 October 2017. It was concluded in this report that the impact on native vegetation and habitat arising from establishment of the development footprint and bushfire protection has been kept to a minimum under the site and development constraints, and can be adequately offset on site provided the management actions prescribed are implemented, and in accordance with current and future State standards. This conclusion is unchanged under the current proposal, and it is therefore concluded that the development would 'maintain the ecological values of the EEC on the site' with on-site offsets as required under the SEPP.

2. REMNANT FOREST VEGETATION SQUIRREL GLIDER CORRIDOR - MAITLAND DCP 2011

The Ecological Assessment (EA) (Kleinfelder 24 October 2017) included an assessment of Sugar Glider. The habitat was assessed to be marginal. The assessment of significance concluded there was unlikely to be a significant impact on a locally occurring population. Habitat fragmentation was considered and concluded the proposal was not likely to substantially fragment or isolate habitat for Squirrel Glider.

The EA did not specifically address the vegetation corridor along the southern boundary of the site. However this corridor was considered in the advice provided to support the SCC application (Kleinfelder letter dated 24 October 2017) and was assessed in accordance with the principles of connectivity under the BBAM.

In the letter dated 24 October 2017 this was identified as a local scale corridor in the range of >30m-100m wide along the southern boundary of the site.

It was identified that the proposal would impact the western end adjacent to the access easement where the corridor width would be reduced to 10 to 30 meters wide over a length of approximately 40 meters. This 40 meters is only a small proportion of the length of the corridor would overall be maintained at an average width of approximately 70 meters, and no gaps would be created in the corridor. The corridor would be enhanced by control of Lantana and other weeds.

CONCLUSION

It is concluded that the development proposal including establishment of bushfire protection would not impact on the connectivity of habitat for Squirrel Glider in the locality, nor impact on potential movement of Squirrel Glider using the corridor along the southern boundary.

The conclusions with regard to the EEC and the Squirrel Glider connectivity are supported, having regard to the related bushfire requirements that incorporate biodiversity outcomes through selective clearing and the installation of nest boxes. As the proposed development will not clear all remnant vegetation from the site, opportunity exists to maintain the ecological values over the site through a Vegetation and Habitat Management Plan that can be connected to the development of the overall site.

The Squirrel Glider has been recorded within vegetation on the southern side of Raymond Terrace Road to the east of the subject site and a Nest Box Installation Area exists within the riparian corridor known as No. 19 Honeymyrtle Street Thornton.

Specific conditions are included in the recommended schedule to require the preparation of the management plan and the management of the plan in perpetuity for the lifetime of the development. Having regard to the above conclusions and the recommended schedule of conditions, the requirement in the SCC to ensure that the development maintains the ecological value of the EEC on site is considered to be satisfied.

(c) Traffic and Transport

Document: *Traffic and Parking Impact Assessment – Senior Living Residential Subdivision at 107 Haussman Drive, Thornton* (McLaren Traffic Engineering, Issue A, 09 November 2017)

The submitted TIA considers the impacts of the proposed development on the public road network and makes an assessment of the internal road and pedestrian network designed to service the proposed development.

Existing Road network

With regard to the existing road network, the TIA concludes that the worst turn movements at the intersection of Haussman Drive and Raymond Terrace Road are right turn movements from Haussman Drive. However, this right turn movement is operating at Level of Service (Los) “C” which is within satisfactory operational performance levels for intersections.

Traffic Impacts from Development on road network

The estimated traffic generation for the proposed development is summarised in the submitted TIA as follows:

TABLE 2: EVENING PEAK HOUR TRAFFIC GENERATION

Development Type	Scale	Peak Period	Rate	Peak Traffic Generation	Trip Assignment ⁽¹⁾
Dwelling Houses	156	AM	0.4 per dwelling	63	12 IN; 51 OUT
		PM		63	51 IN; 12 OUT

Note (1): Assumes 20% inbound & 80% outbound during AM peak (shown above). Vice versa for PM.

As shown above, the traffic generated by the site equates to **63** vehicles trips in both the AM (12 in; 51 out) and PM (51 IN; 12 OUT) peak periods respectively.

Traffic assignment is assumed to be an even split 50% northbound and 50% southbound along Haussman Drive during both the AM and PM period, with 10% of vehicles turning right at the intersection with Raymond Terrace Road and 40% turning left in the morning peak period and vice versa in the peak PM period.

The additional traffic has been added to the existing intersection at Raymond Terrace Road/Haussman Drive, with 100% of the additional traffic volumes added to the existing peak AM and PM periods representing a worst case scenario.

TABLE 3: INTERSECTION PERFORMANCES (SIDRA INTERSECTION 7)

Intersection	Peak Hour	Degree of Saturation ⁽¹⁾	Average Delay ⁽²⁾ (sec/vehicle)	Level of Service ⁽³⁾	Control Type	Worst Movement
EXISTING PERFORMANCE						
Haussman Drive / Raymond Terrace Road	AM	0.75	7.4 (28.8)	N/A (Worst: C)	Priority	RT from Haussman Drive
	PM	0.7	7.7 (36.5)	NA (Worst: C)		RT from Haussman Drive
FUTURE PERFORMANCE						
Haussman Drive / Raymond Terrace Road	AM	0.76	7.6 (29.6)	N/A (Worst: C)	Priority	RT from Haussman Drive
	PM	0.73	8.2 (39.6)	NA (Worst: D)		RT from Haussman Drive

As demonstrated in the table above, the additional traffic movements change the LoS during the peak PM period for the worst traffic movement (right turn from Haussman Drive) from LoS "C" to LoS "D", due to an increase in average delay for this turn movement of 3.1 seconds.

Based upon the existing and future traffic flows the intersection of Raymond Terrace Road and Haussman Drive will operate with a total volume of vehicles turning right (479) into Haussman Drive and right out of Haussman Drive onto Raymond Terrace Road (151) during the PM peak period. This is an increase of 21 vehicle movements, an increase of 3.5% over the existing traffic flow movements. When compared to the existing traffic movements at this intersection, the TIA considers this increase to be acceptable, noting that the proposed upgrade of this intersection is identified in Council's Thornton North Section 94 Contributions

Plan 2008 which will improve the performance of this intersection before this development is completed and operational.

Upgrade of Haussman Drive, Thornton

The upgrade of Haussman Drive between Raymond Terrace Road and Taylor Avenue, Thornton is listed in the Thornton North Section 94 Contribution Plan 2008 under a number of identified works:

- Intersection upgrade to traffic controls signals (Raymond Terrace Road/Haussman Drive)
- Intersection upgrade to roundabout (Haussman Drive/Taylor Avenue)
- Road upgrade (Haussman Drive – Raymond Terrace Road to Railway Avenue)

Upgrade works for Haussman Drive between Raymond Terrace Road and Taylor Avenue (including both intersections) is in design phase and construction is expected to be completed in 2020-2021. The design will duplicate the existing lanes (resulting in 2 lanes each direction) and upgrade the existing T-intersection at Taylor Ave/Haussman Drive to a roundabout and introduce a central median in Haussman Drive that will effectively prevent right turn movements into and from the development site.

Once the road upgrade is complete, U-turns will be necessary around the proposed roundabout for traffic movements for vehicles exiting the site and travelling west and vehicles will need to enter the site from Raymond Terrace Road.

New intersection into development

The TIA includes a concept plan for intersection works onto Haussman Drive, Thornton, designed as a T- intersection seagull arrangement. The TIA notes that the intersection has been over engineered and a storage length of only 12m is required (excluding the taper) for the right turn into the site. However, this intersection is inconsistent with the proposed road upgrade and adjustments to the design will be required. These amendments will necessitate minor road widening along Haussman Drive to ensure that adequate verge width is provided to cater for a shared path in this location and a left turn lane into the development.

An interim driveway will be required in the event that works commence on the site prior to the Haussman Drive upgrade project. An interim driveway was included in the bulk earthworks application (DA18-1431) and this intersection is appropriate for all construction works on the site.

Specific conditions are included in the recommended schedule to address this design and construction process.

Public Transport (public bus route)

The TIA references the RMS Guide to Traffic Generating Developments 2002: Clause 4.6 which outlines the following with respect to residential subdivisions and public transport.

Residential subdivisions should be located in proximity to existing developments when possible, to assist in the design of bus routes. Subdivisions should ideally have at least two entrances to the major road network, to avoid circuitous bus rounding. At least 90% of dwellings are to be within 400m safe walking distance from an existing or potential bus route, and not more than 500 metres from the nearest stop or potential stop.

The TIA identifies that the nearest bus stops from the centre of the development are located within approximately 600m walking distance from the site along Haussman Drive (south of the access) and along Raymond Terrace Road (north of the proposed access). Based upon the RMS requirement, the TIA concludes that the development does not meet the walkability criteria and cannot rely on the use of existing public transport routes to service the development.

The TIA acknowledges that the operation of the development includes the provision of a private village bus, which is nominated to operate weekdays to the local shopping centres and railway station.

Internal Road Network and Parking

The TIA has reviewed the proposed internal road layout and concludes that the conceptual road layout is adequately designed according to Council's AMCORD requirements and will be subject to detailed design at Construction Certificate stage. Comments regarding the need to provide a 1.2m wide internal footpath around the site that connects to the community centre for residents to access the facilities and the community bus, and the need to ensure that the internal road geometry and gradients are designed to accommodate service vehicles (particularly garbage collection) are acknowledged and addressed elsewhere in this report.

The proposed development includes a total of 282 parking spaces:

- 238 garages for resident use (each dwelling has at least 1 garage);
- 29 visitor parking spaces,
- 15 parking spaces for caravans and RVs.

Visitor parking spaces are located around the perimeter road in combinations of 90 degree and parallel parking. The distribution of visitor parking is considered adequate, particularly given that on-site resident parking exceeds the provisions in the *Seniors SEPP*.

No.	Location	Stage
6	90° parking spaces opposite Unit 91 (1-6)	1
6	parallel parking spaces opposite Units 100-102 (7-12)	1
4	90° parking spaces opposite Units 111-112 (and adjoining the community garden and men's shed (13 – 16)	4
4	parallel parking spaces opposite Units 124-125 (17 – 20)	4
4	parallel parking spaces opposite Units 154-155 (21 – 24)	5
3	parallel parking spaces opposite Units 149-150 (25 – 27)	6
2	parallel parking spaces opposite Units 7-8 (28 – 29)	8
29		

The 15 parking spaces allocated for caravan and RV storage are located adjacent to the community garden and men's shed and also nominated as the parking area for the community bus.

The submitted TIA concludes that on-site parking complies with the requirements in the *Seniors SEPP* and is considered satisfactory in terms of this particular development. This conclusion is supported.

(d) Stormwater Management

Document: *Civil Engineering Report: Development Application – Proposed Development: 107 Haussman Drive, Thornton NSW* (Costin Roe Consulting, Rev. A, 17/11/17).

Plan: *Concept Drainage Plan* (Costin Roe Consulting, CO13452.00 -SK15, Issue C, 17/11/17).

This Report notes that the design for stormwater management is to comply with Council's Manual of Engineering Standards (MoES). The development footprint is identified as 13.3ha of land within a total site area of 18.96ha. The design includes bio-retention systems in landscaped areas within the proposed development, and an on-site detention basin is proposed to be located to the east of the development.

Council's Manual of Engineering Standards (MoES) – Section 8

In precis, Council requires the following:

The purpose of the stormwater management system is to control the flow-rate and quality of stormwater runoff from the proposed development on the downstream environment, by maintaining (as close as practically possible) the pre-developed flow regime, with the employment of storage structures for retention such as earth basins, incorporating pollution control facilities.

This Report calculates that an active detention storage of 5,500m³ is required to attenuate the post development flows to pre-development flows for the 13.3ha development footprint. A detention system has been designed that comprises an above ground, earth-formed basin with maximum depths of 1500mm.

The stormwater treatment system has been designed for the entire catchment, as required in Section 6 of Council's MoES. All developed areas are required to be treated by Stormwater Treatment Measures (STM). Rainwater tanks have not been allowed for in the modelling of this site.

Components of the treatment train for the development are as follows, with the water quality solution based on achieving the required pollution reduction targets for the overall catchment:

- Tertiary treatment of site water via 600m² of bio-retention system situated in landscaped areas on site.
- Supplementary treatment of site water will be via a 2500m³ permanent pond.

This Report recognises that each component of the water quality treatment train is properly operated and maintained, and includes an indicative maintenance schedule. Importantly, this Report also recommends that 'event heavy rain inspections' should be carried out as soon as practicable following an intense period of rainfall (i.e. greater than 100mm over 48 hours). This recommendation is supported.

The concept Stormwater Management System has been reviewed by relevant council officers and found to be satisfactory subject to a number of conditions included in the recommended schedule. The Civil Works Plans are included in this report at [Attachment 10](#).

(e) Earthworks

DA18-1431: 'deferred commencement' consent issued for bulk earthworks. Operational only if consent is granted to this application.

The existing ground levels over the site are summarised as:

- A low lying area in the centre of the site (RL19m AHD);
- The western side of the site slopes up from RL19m AHD – RL20m AHD (near the centre) to about RL38m AHD;
- The southern side of the site slopes up from RL19m AHD – RL20m AHD (near the centre) to about RL31m AHD;

- The eastern side of the site slopes up from RL19m AHD (near the centre) to about RL21m AHD;
- The northern side of the site slopes up from RL19m AHD – RL20m AHD (near the centre) to about RL34m – 38m AHD.

The site is required to be filled and reshaped to comply with the gradient criteria set out in clause 26 – Location and access to facilities in the *Seniors SEPP*.

DA18-1431: bulk earthworks

This application is designed to address the bulk earthworks required to fill the deepest part of the quarry void and reshape the slope over the site, acknowledging that some further detailed reshaping will be required in the design stage of this application. Fill to a depth of 5.0m is proposed under this application within the void, tapering back to existing ground level at the perimeter of the void, which ranges in height from RL22m AHD at the eastern edge to RL28.5m AHD at the western edge atop the existing embankment. *A copy of the Notice of Determination is included in this report at Attachment 6.*

Matters for consideration have largely been addressed under DA18-1431 and remain appropriate for this related application. A specific condition of consent is included in the recommended schedule that links the importation of fill to the site with the requirements in DA18-1431.

(f) Landscaping and Visual Amenity

Plan Set: *Thornton North Senior Living Development – 107 Haussman Drive, Thornton* (Moir Landscape Architecture, Rev. B, Sheets LP01-LP21, 15.02.2018)

Landscaping proposed within the development includes the following:

- Public Art and signage – entry sculpture with signage wall,
- Plazas and courtyards throughout the site for seating and outdoor gathering, pedestrian connection and letterbox access,
- Low native grasses to provide good sightlines and minimal maintenance,
- Accessible community vegetable garden,
- Pathways to connect the pool and BBQ area,
- Children's playground,
- Planting along the pathways and the boundaries of the Inner Protection Area (IPA) for privacy,
- Timber post and rail fencing along the Raymond Terrace Road frontage; and
- Signage as indicated on the landscaping plans.

Landscape drawings for each villa type provide a detailed plan for private open space and front yards, including water tanks, grassed and paved outdoor private open space, timber boundary fencing to 1.2m height, border landscape screening, retaining walls and letter boxes.

The proposed landscaping is consistent with the development of a retirement village and is considered appropriate for this land use. Casual surveillance is intended in this design and forms part of the community lifestyle. To provide increased legibility in the streetscape, a specific condition has been included in the recommended schedule to require the construction of timber post and rail fencing proposed for Raymond Terrace Road along the Haussman Drive frontage.

Visual amenity is maintained to neighbouring properties through the retention of the remnant vegetation around the perimeter of the site, particularly to the south where the site adjoins

long-established residential lots. The majority of the development will not be visible from the public road network.

The Landscape Plans are included in this report at [Attachment 9](#).

Boundary fencing along road frontages

Timber post and rail boundary fencing with corten steel and sandstone pillar inserts is proposed along the Raymond Terrace Road frontage of the site (Landscape Plan LP12). No specific boundary fencing is proposed on the frontage with Haussman Drive. For legibility in the streetscape, it is considered appropriate to require the same boundary fencing to be erected along the Haussman Drive frontage with the corten steel and sandstone inserts providing an effective entry feature for the new driveway. A specific condition is included in the recommended schedule of conditions requiring the fencing to be constructed in accordance with the detail provided for the Raymond Terrace Road frontage.

Boundary fencing with adjoining residential properties

The replacement of boundary fencing that adjoins residential properties to the south is not considered reasonable in most instances, as the development footprint is adequately separated by distance and the vegetation buffer to mitigate any adverse impacts that would warrant new fencing by the developer.

However, residential properties that adjoin the battle-axe handle will be subject to construction impacts associated with noise and the potential for dust emissions. DA18-1431 includes specific conditions relating to the construction of a dust fence and the construction of new masonry boundary fencing on the common boundary between the subject site and No's. 23 – 25 Geddes Close, Thornton. These requirements remain appropriate for this development, in the event that DA18-1431 is not separately actioned. Specific conditions from DA18-1431 have been included in the recommended schedule of conditions for clarity purposes.

5.7 SUITABILITY OF THE SITE FOR THE DEVELOPMENT [SECTION 4.15(1)(c)]

(a) Bush fire prone land

Integrated development: The subject site is identified as bush fire prone land on Council's Bush Fire Prone Land Map. Application requires authorisation under section 100B of the *Rural Fires Act 1997* for development of land for a '*special fire protection purpose*'.

Document: **Site Compatibility Certificate** – Schedule 2 – Requirements – Bushfire Hazard Report

Document: **Bushfire Threat Assessment for a Seniors Housing Development at 107 Haussman Drive Thornton** (Firebird ecoSultants Pty Ltd, October 2017) and additional radiant heat calculations for the APZs dated 01 April 2019

Document: General Terms of Approval – NSW Rural Fire Service dated 19 January 2018 and re-issued dated 21 June 2019.

The Bushfire Threat Assessment (BFTA) assessed the proposed development and concluded that the development can comply with the *Planning for Bushfire Protection 2006* guideline, subject to the following recommendations:

- An APZ of 70m is required between the Open Forest to the east of the site and 30m APZs are required from the remnant vegetation to the north, south and west of the proposed development.
- A Monitoring and Fuel Management Plan should be prepared by detailing the maintenance of the APZs.
- The buildings will be assessed as within a range of BAL-LOW to BAL-12.5 depending on the separation distance from the retained vegetation and the vegetation classification.

- The site is connected to reticulated water and linked to water pressure mains including fire hydrant installations.
- An Emergency Response and Evacuation Plan is prepared in accordance with NSW RFS guidelines.
- An internal road will provide primary access to the buildings and link directly to Haussman Drive in the opposite direction of the bushfire hazard. A secondary emergency access occurs to the north that connects with Raymond Terrace Road.

Comment:

The original General Terms of Approval issued in 2018 required greater Asset Protection Zone for the development than the Bushfire Threat Assessment. As the related Ecological Assessment only considered the disturbance area of the development footprint as the outer bounds of the OPA as described in the BFTA, further information was requested from the applicant to ensure that the condition in the SCC to ensure that a balance was achieved between the need to manage the bushfire threat on the site against the need to maintain the ecological values of the site was measureable.

The applicant provided additional information to NSW RFS in the form of radiant heat calculations to demonstrate that the extent of the APZs could be reduced. This information included a Tree Retention Map that includes biodiversity outcomes with regard to selective clearing to retain a range of tree species consistent with the EEC, retention of hollow-bearing trees and the installation of nest boxes.

The revised General Terms of Approval issued by NSW RFS on 21 June 2019 reflect the obligations under this additional information and the requirements of the Bush Fire Safety Authority include specific reference to the Tree Retention Map. The General Terms of Approval are included in the recommended schedule of conditions.

The General Terms of Approval include the creation of suitable restrictions on the title of the land to ensure that the obligations to maintain the site as a managed development are legally enforceable.

(b) Mine Subsidence

Document: ***Proposed residential development – Thornton North – Mine subsidence constraints*** (GHD, 04 December 2015).

Plan: DA-007: Mine Works Overlay – Architectural Plan set (Attachment 8).

The subject is not located within a Mine Subsidence District but is undermined by abandoned coal mine workings from the Glen Vale Colliery. The location and orientation of the workings are shown on Plan DA-007. The GHD report notes that this interpreted location is different from that provided by MSB and may not represent the actual extent or shape of the workings at the time of abandonment.

The GHD report is based on the following key assumptions:

- Council will place conditions on development that are comparable to that expressed by the MSB and generally in line with the MSB Graduated Design Guidelines for Residential Construction (NSW)
- The location and orientation of the workings not only are approximate (as shown in the attached Figure 1: note that this interpreted location is different to that shown on the MSB plan provided) but also represent a poorly defined layout at a particular time. This mine layout may not represent the actual extent or shape of the workings at the time of abandonment
- The finished ground surface level will be not more than 1 m below the ground surface shown on the 2012 CSR borehole location plan provided
- Filling of mine voids with up to a cover depth of 20 m will be acceptable to Council as a means of eliminating the risk of future mine subsidence
- Not filling mine voids greater than 20 m cover depth will not preclude residential development, although Council may impose conditions on dwelling size and materials
- The two shafts and two tunnel entries will be located by excavation and backfilled with fill rather than capped with reinforced concrete slabs
- The scope of risk reduction work, quantities and cost rates are as presented in Section 5.

The GHD report states that:

"We understand that MSB advised the site is undermined by abandoned coal mine workings. The MSB have concerns that future subsidence may damage proposed dwellings as well as create a hazard to the public generally. In order for development to occur, the MSB advised CSR that the risk of subsidence would need to be eliminated by grouting and/or excavation."

Referral to Mine Subsidence Advisory NSW (SA NSW)

As the site is not within a Mine Subsidence District, an informal enquiry was sent to SA NSW seeking advice as to whether Mines will comment on the proposed development. SA NSW advised the following (16/02/2018):

SA NSW considered this proposal and attached reports.

The Risk Engineering section considers that, if this property was in a Mine Subsidence District and the applicant was seeking our approval, the abandoned mine workings to the entire site would require grouting.

The submitted proposal is to grout only the workings to 20m depth of cover.

Given the uncertainty of the workings, and the nature of the development, SA NSW does not consider partial grouting adequate.

In response, the applicant states that the mine workings will be investigated on site, and appropriately stabilised as required, prior to the issue of a Construction Certificate for Stage 3. During Stages 1 & 2, the applicant will finalise the methodology and undertake all mine remediation activities, as deemed appropriate to the site and the development.

Comment:

Plan DA-007: Mine Works Overlay identifies the extent of the mine workings (as understood at this time) to lie beneath Stages 3 – 5. Single storey residential buildings and the associated internal road network are proposed within this footprint.

The appropriate treatment of the mine workings cannot be determined at this time given the uncertainty over the depth of cover and the extent of the mine workings within the site. The

applicant's response appears to present a reasonable approach and specific conditions are included in the recommended schedule of conditions to require additional investigative work as the site develops. Importantly, the conditions also clarify that treatment of the mine workings and design and construction standard recommendations arising from this investigative work will form part of the development consent.

(c) Acoustic Impacts

Document: *Traffic Noise Assessment – Proposed Retirement Village, Thornton NSW* (Spectrum Acoustics, 16 February 2018)

The Assessment considers traffic noise along Raymond Terrace Road and likely noise impacts from the electricity substation at 121 Haussman Drive, Thornton.

Road traffic noise (Raymond Terrace Road)

The nearest residential units will be approximately 150m from Haussman Drive and no acoustic assessment for traffic along this road is required.

The Assessment notes that only those units with direct frontage to Raymond Terrace Road have the potential to be impacted by road traffic noise, given that the majority of the development will be below the road level and with the assumption that the earthen embankment along the Raymond Terrace Road boundary of the site will remain in place and forms an effective acoustic barrier.

The Assessment considers the noise impact against the *NSW Road Noise Policy 2011* which adopts the internal noise levels as expressed in clause 102 in SEPP (Infrastructure) 2007 as:

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Road traffic noise was logged between 11-15 February 2018 with the logger location installed in a *'slightly closer, and more exposed to the traffic noise, than the facades of the closest residences in the proposed development . . . [to] . . . provide a degree of conservatism to the current assessment'*.

An increase in traffic volume of approximately 15% over existing noise levels has been adopted in this Assessment to determine potential impacts, which results in an increase in traffic noise of about 0.8 dB(A).

The resultant noise levels at the facades of the residences closest to Raymond Terrace Road are modelled at 59 dB(A) Leq (1 hr) during the day and 53 dB(A) Leq (1 hr) during the night.

The Assessment states that standard building construction and glazing can achieve the internal noise criteria for both categories without any specific acoustic requirements for ventilation to allow for windows to remain closed.

Noise from electricity substation

Noise generation from the electricity substation is identified as general broad band hum from transformers in the open yard. Noise levels were measured and analysed at a distance of 40m from the centre of the substation to be 37 dB(A) Leq (15 min). The façade of the

nearest residence is approximately 100m from the centre of the substation. The Assessment states that the received noise from the operation of the substation would be in the order of 29 dB(A) Leq (15 min) which is in compliance with the adopted night time criterion of 35 dB(A) for residential accommodation (suburban).

Construction Noise

Potential construction noise has been considered under DA18-1431, particularly for those residents closest to the entrance and the 'truck shaker' at the exit point. The determination includes a requirement to construct a masonry fence along the common boundaries between the subject site and the two closest residential properties, to minimise the noise impacts associated with the movement of construction vehicles. The same conditions are included in the recommended schedule, in the event that DA18-1431 is not actioned.

(d) Proximity to electrical substation

Referral: clause 45 in SEPP (Infrastructure) 2007 - Ausgrid

Site Compatibility Certificate: Requirement to address health and safety standards for residential development near an electrical substation facility.

Document: **Assessment of Electromagnetic fields for Avid Project Management Pty Ltd**, EMR Australia, 19 October 2017 (EME report).

The aim of the assessment was to measure low frequency (ELF) electromagnetic fields in proximity to the Ausgrid substation at 121 Haussman Drive, Thornton. The Assessment clarifies that magnetic fields generally vary according to the amount of current flowing through power lines and wiring and this depends on electricity consumption, and that magnetic fields diminish rapidly with distance from the source.

Measurements along the common boundary between the substation and the subject site ranged from 0.2 mG – 0.6 mG. The relevant documents for interpreting the measurements in this Assessment are identified as the ICNIRP Guidelines and IARC Monograph.

ICNIRP Guidelines: specifies a General Public exposure limit of 2000 mG.

IARC Monograph: in 2001 classified magnetic fields of more than 4 mG as possibly carcinogenic to humans.

The Assessment concludes that magnetic field measurements complied with, and were very much lower than, the limits of the ICNIRP Guidelines and IARC Monography.

Ausgrid response

Ausgrid was provided with a copy of the EME report with the referral. *Ausgrid* does not raise any objection in its response but makes the statement that, in considering the suitability of the site for the development, the consent authority should consider the compatibility of the proposed development with existing Ausgrid's infrastructure, particularly in relation to Electric & Magnetic Fields (EMFs) that may impact on Ausgrid or the development.

(e) Proximity to telecommunications tower – 121 Haussman Drive Thornton (RFNSA Site No. 2322/009)

Document: **Site Compliance Certificate** (Document Issue No. 6, 07/01/2015) and **Environmental EME Report** (25/01/2019)

DA06-404: Development consent was issued on 15 May 2006 for a telecommunications tower on the Ausgrid site and modified on 18 December 2007 and 05 June 2009.

The radio frequency electromagnetic energy (EME) Report (2019) indicates that the maximum EME level calculated for the existing systems at this site are 1.2% and with the proposed changes to the systems at this site (upgrade to include 5G network) the maximum EME level is calculated to be 1.72% of the public exposure limit at 183m from the location.

(f) Geotechnical Constraints

Document: *Proposed Seniors Living Development Preliminary Geotechnical Assessment – Lot 2 DP1145348, 107 Haussman Drive Thornton* (Qualtest, 29 June 2017)

The Geotechnical Assessment includes preliminary geotechnical recommendations for urban development including:

- Site capability assessment – Assessing the suitability of the site for the proposed development from a geotechnical perspective, including geotechnical constraints for development;
- Preliminary site classification to AS2870-2011 - *Residential Slabs and Footings*;
- Recommendations for earthworks including site preparation, excavation conditions, batters and benching, the suitability of the site soils for use as fill, and fill construction procedures.

The geotechnical report concludes that the site is considered suitable for the proposed development from a geotechnical viewpoint provided the development is carried out in accordance with sound engineering practices and good hillside practice including geotechnical input during the design and construction phase.

5.8 Any submissions made in accordance with this act or the regulations [Section 4.15(1)(d)]

External agencies/authorities

	Comment
<i>Integrated</i>	
NRAR	Response dated 26/04/18. Not occurring on waterfront land. No CAA required.
NSW RFS	GTAs issued 19/01/18 and reissued 21/06/19. Requirements included in schedule of conditions.
<i>SEPP (Infrastructure) 2007</i>	
Ausgrid (clause 45)	Response dated 14/12/17. No objection. Matters for consideration addressed in assessment report.
RMS (clauses 101 and 104)	Response dated 30/07/18. No objection subject to no access off Raymond Terrace Road.
<i>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</i>	
NSW Resources & Geoscience (GNSW)	Response dated 31/01/18. No objection.
<i>Other referrals</i>	
Hunter Water Corporation (as adjoining landowner)	HWC raise no objection to the proposed development, and requires that a Section 50 Compliance Certificate be issued from HWC prior to the issue of a Construction Certificate.
Subsidence Advisory NSW (not integrated as not within MSD)	Response dated 16/02/18. Matters addressed in assessment report.

Public submissions

1st consultation period (06 – 20 December 2017)

One (1) public submission was received. A copy of the submission and Council's response is included in this report at *Attachment 15*.

2nd consultation period (16 April – 15 May 2018)

An objection was lodged from Mindaribba Local Aboriginal Land Council (MALC) due to the lack of a Due Diligence report on Aboriginal archaeology. This report was subsequently prepared and the objection withdrawn (see section 5.6(a) in this report).

5.9 The public interest [Section 4.15(1)(e)]

Providing for greater housing diversity and choice, including meeting the needs of an ageing population, is consistent with the strategic outcomes of both the Hunter Regional Plan 2036 and the Greater Newcastle Metropolitan Plan 2036. The development is considered to be in the public interest and will provide for 'ageing in place' for long-term residents within the Thornton community.

6.0 DEVELOPMENT CONTRIBUTIONS (s7.11)

The Thornton North Section 94 Contributions Plan 2008 applies to the proposed development. A contribution for each dwelling (seniors housing rate) is applicable to the development and will be payable prior to the release of the Construction Certificate for each relevant construction stage. The total contribution is outlined below and will be payable pro-rata at each Construction Certificate stage. A credit for the existing lot (equivalent to 1 x 3 bedroom dwelling) is granted.

Development Contribution (current to 01 February 2020)

Bedrooms	No. of dwellings	Contribution/dw	Total
2	143	\$18,747	\$2,680,821
3	12	\$22,764	\$273,168
Total	155		\$2,953,989

Road widening is required along both Raymond Terrace Road and Haussman Drive for the Thornton North URA road hierarchy upgrades. Once final land allocations are known, land credits may be available to the developer for the land dedications, and can be addressed under a future amendment under section 4.55 of the EPAA.

CONCLUSION

The application has been assessed against the relevant heads of consideration under section 4.15 in the *Environmental Planning and Assessment Act 1979* and found to be satisfactory subject to the recommended conditions of consent.

The application is to be presented to the Hunter and Central Coast Joint Regional Planning Panel for determination.

Signed (Assessing Officer)
Robyn Hawes
Urban Release Area Coordinator

R Hawes

Date: 01/07/19

Reviewed (Supervising Officer)
Leanne Harris
Acting Manager – Development and Environment

Leanne Harris

Date: 1/7/19

Authorised for submission to JRPP
Bernie Mortomore
Group Manager – Planning Environment and Lifestyle

Bernie Mortomore

Date: 17.19

APPENDIX A

SCHEDULE OF CONDITIONS

Reason for Condition(s)

The following condition(s) have been applied to the development, subject of this consent, to ensure that the development meets the requirements of the NSW Environmental Planning and Assessment Act 1979, the NSW Environmental Planning and Assessment Regulation 2000, and the various policies and development controls of Maitland City Council and other government agencies relevant to the development being undertaken.

APPROVED PLANS AND DOCUMENTATION

- The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent or as shown in red colour on the plans.

Plan Ref No.	Sheet No.	Revn No.	Revision Date	Prepared by: (consultant)
Cover Sheet	DA-001	C	07.02.19	Jackson Teece
Masterplan	DA-003	D	11.02.19	Jackson Teece
Staging Plan	DA-004	B	11.02.19	Jackson Teece
Site Accessibility	DA-005	B	11.02.19	Jackson Teece
Site Accessibility	DA-006	B	11.02.19	Jackson Teece
Mine Works Overlay	DA-007	B	11.02.19	Jackson Teece
Independent Living Unit – Type B (attached)	DA-101	C	30.07.18	Jackson Teece
Independent Living Unit – Type C (attached)	DA-102	C	30.07.18	Jackson Teece
Independent Living Unit – Type D (attached)	DA-103	C	30.07.18	Jackson Teece
Independent Living Unit – Type E (attached)	DA-104	C	30.07.18	Jackson Teece
Independent Living Unit – Type E (detached)	DA-105	B	30.07.18	Jackson Teece
Independent Living Unit – Type F (attached)	DA-106	C	30.07.18	Jackson Teece
Independent Living Unit – Type G (attached)	DA-107	C	30.07.18	Jackson Teece
Independent Living Unit – Type G (detached)	DA-108	B	30.07.18	Jackson Teece
Independent Living Unit – Type H (attached) – Floor Plans	DA-109	C	30.07.18	Jackson Teece
Independent Living Unit – Type H (attached) – Elevations and Sections	DA-110	C	30.07.18	Jackson Teece
Independent Living Unit – Type I (attached) – Floor Plans	DA-111	D	06.02.19	Jackson Teece
Independent Living Unit – Type I (attached) – Elevations and Sections	DA-112	D	06.02.19	Jackson Teece
Independent Living Unit – Type I (detached) – Floor Plans	DA-113	C	06.02.19	Jackson Teece

Independent Living Unit – Type I (detached) – Elevations and Sections	DA-114	C	06.02.19	Jackson Teece
Community Centre – Lower Level	DA-200	B	25.01.18	Jackson Teece
Community Centre – Upper Level	DA-201	B	25.01.18	Jackson Teece
Community Centre – Roof Plan	DA-202	B	25.01.18	Jackson Teece
Community Centre – Elevations	DA-203	B	25.01.18	Jackson Teece
Ancillary Buildings – Sheet 1	DA-204	B	25.01.18	Jackson Teece
Ancillary Buildings – Sheet 2	DA-205	B	25.01.18	Jackson Teece
Street Elevations	DA-300	B	25.01.18	Jackson Teece
External Materials	DA-500	B	25.01.18	Jackson Teece
Landscape Master Plan	LP04	B	15.02.18	Moir Landscape Architecture
Landscape Detail Plan 1	LP05	B	15.02.18	Moir Landscape Architecture
Landscape Detail Plan 2	LP06	B	15.02.18	Moir Landscape Architecture
Landscape Detail Plan 3	LP07	B	15.02.18	Moir Landscape Architecture
Landscape Detail Plan 4	LP08	B	15.02.18	Moir Landscape Architecture
Landscape Detail Plan 5	LP09	B	15.02.18	Moir Landscape Architecture
Landscape Detail Plan 6	LP10	B	15.02.18	Moir Landscape Architecture
Section & Elevation	LP11	B	15.02.18	Moir Landscape Architecture
Sections	LP12	B	15.02.18	Moir Landscape Architecture
Sections	LP13	B	15.02.18	Moir Landscape Architecture
Detail Floor Plan – Unit A & B	LP14	B	15.02.18	Moir Landscape Architecture
Detail Floor Plan – Unit C & D	LP15	B	15.02.18	Moir Landscape Architecture
Detail Floor Plan – Unit E & F	LP16	B	15.02.18	Moir Landscape Architecture
Detail Floor Plan – Unit G & H	LP17	B	15.02.18	Moir Landscape Architecture
Detail Floor Plan – Unit I	LP18	B	15.02.18	Moir Landscape Architecture
Planting Palette	LP19	B	15.02.18	Moir Landscape Architecture
Theming Palette	LP20	B	15.02.18	Moir Landscape Architecture
Landscape Area	LP21	B	15.02.18	Moir Landscape Architecture
Ecological Assessment		3.0	24.10.17	Kleinfelder Australia Pty Ltd
Bushfire Threat Assessment			10/17	Firebird ecoSultants

				Pty Ltd
Bushfire Threat Assessment – additional information and Tree Retention Plan			01.04.19	Firebird ecoSultants Pty Ltd
Site Grading Plan	SK10	E	17.11.17	Costin Roe Consulting
Site Grading Plan with Aerial Overlay	SK11	E	17.11.17	Costin Roe Consulting
Site Shading Plan	SK12	E	17.11.17	Costin Roe Consulting
Site Grading Sections	SK13	E	17.11.17	Costin Roe Consulting
Proposed Roads Longitudinal Sections	SK14	E	17.11.17	Costin Roe Consulting
Concept Drainage Plan	SK15	E	17.11.17	Costin Roe Consulting
Civil Engineering Report for Development Application	Co13452.00	A	17.11.17	Costin Roe Consulting
Thornton North Section 94 Review – Raymond Terrace Road: Feasibility Design Review	60101952-C-000 to 60101952-C-024		03/2010	AECOM
Haussman Drive Road Upgrade – Stage 2	22-20067-C001	C	10.05.19	Maitland City Council

CONTRIBUTIONS/FEES

2. Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 the Thornton North Section 94 Contributions Plan 2008 and the Maitland City Wide Section 94 Contributions Plan 2016, a contribution of \$2,953,989 shall be paid to the Council.

The contribution is calculated from Council's adopted Section 94 Contributions Plan in the following manner:

Facilities	2 BR	Total	3 BR	Total	Total
	1	143	1	12	155
TN Rec & Open Space Facilities (Seniors)	\$3,045	\$435,435	\$3,698	\$44,376	\$479,811
TN Community Facilities (Seniors)	\$966	\$138,138	\$1,173	\$14,076	\$152,214
TN Road & Traffic Facilities (Seniors)	\$11,717	\$1,675,531	\$14,227	\$170,724	\$1,846,255
TN Cycleways/Shared Paths (Seniors)	\$105	\$15,015	\$128	\$1,536	\$16,551
TN Plan Management & Admin (Seniors)	\$482	\$68,926	\$585	\$7,020	\$75,946
CW Aquatics (Seniors)	\$305	\$43,615	\$371	\$4,452	\$48,067
CW Library Floorspace (Seniors)	\$1,595	\$228,085	\$1,936	\$23,232	\$251,317
CW Road & Traffic Facilities (Seniors)	\$284	\$40,612	\$345	\$4,140	\$44,752
CW Cycleways/Shared Paths (Seniors)	\$248	\$35,464	\$301	\$3,612	\$39,076
Total	\$18,747	\$2,680,821	\$22,764	\$273,168	\$2,953,989

The above contributions may be indexed annually with reviewed rates to apply from 1st February each year in accordance with the provisions of the abovementioned Section 94 Plans. Please refer to Council's web page for the rates currently applicable.

Payment of the above amount is required prior to issue of the Construction Certificate for each stage of the development.

This condition has been applied to ensure that:

- a) Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979.
- b) Council's administration expenses are met with respect to the processing of the application.

COMPLIANCE

3. In accordance with Clause 18(1) of *SEPP (Housing for Seniors or People with a Disability) 2004*, occupation of the residential units shall be limited to the following kinds of people:

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(Note: **Seniors** and **people with a disability** are defined in this Policy under clauses 8 and 9 respectively as follows:

In this Policy, **seniors** are any of the following:

- (a) people aged 55 or more years,
- (b) people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided,
- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

In this Policy, **people with a disability** are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.)

4. **Prior to the issue of the first Occupation Certificate**, a Plan of Management for servicing of the development that takes into account the staging schedule shall be submitted to Council. The Plan of Management shall include, but not be limited to, details to demonstrate compliance with the following provisions in *SEPP (Housing for Seniors or People with a Disability) 2004*:
 - An outline of services to be provided to residents under the provisions of clause 42 in this Policy; and
 - Details relating to the capacity and operation of a community bus service to and from the development in accordance with clause 43 of this Policy.
5. **Prior to occupation of the development**, a restriction as to user must be registered against the title of the property in accordance with section 88E of the *Conveyancing Act 1919*:
 - (a) limiting the use of any accommodation on the property to the categories of persons referred to in clause 18(1) of *SEPP (Housing for Seniors or People with a Disability) 2004*;
 - (b) requiring the provision of a community bus service referenced in condition (4), to be provided upon occupation of the first dwelling and for the life of the development that provides a level of service to the occupants as detailed in clause 43 of *SEPP (Housing for Seniors or People with a Disability) 2004*. A copy of the draft instrument shall be provided to the Council for review and approval prior to its registration; and

- (c) requiring the development to operate as 'serviced self-care housing' in accordance with clause 42 of *SEPP (Housing for Seniors or People with a Disability) 2004*, which requires that residents of the proposed development will have reasonable access to services as outlined in subclause (1) in this clause.
- 6. A temporary community facility that complies with clause 43 in *SEPP (Housing for Seniors or People with a Disability) 2004* is to be provided within Stage 1 and remain operational until such time as Stage 1 of the Community Building is completed and operational within Stage 2 as shown on the approved Staging Plan. Details are to be provided to the satisfaction of Council's Manager – Development and Environment prior to the issue of a Construction Certificate for works within Stage 1.
- 7. The proposed development is to be carried out in accordance with the sequencing as shown on the approved Staging Plan.
- 8. The community buildings are to be constructed in accordance with the approved Staging Plan (and as modified by this consent) **and operational** before the issue of an Occupation Certificate for any dwellings within the associated stage:
 - Stage 1: use of one of the dwellings as a temporary community facility
 - Stage 2: Community Centre (Stage 1 as shown on the approved Plans DA-200 & DA-201 including the provision of two accessible carparking spaces)
 - Stage 3: Sports pavilion
 - Stage 4: Men's shed and Stage 2 of the Community Centre as shown on the approved Plans DA-200 & DA-201)

CERTIFICATES

- 9. **Prior to the commencement of works** an application for a Construction Certificate shall be submitted to, and be approved by, the Accredited Certifier.
- 10. **Prior to the issue of an Occupation Certificate**, all conditions of development consent shall be complied with for the respective stage.
- 11. **Prior to occupation of the building** an Occupation Certificate shall be issued by the Principal Certifying Authority.
- 12. The applicant shall submit to Council, "Notice of Appointment of the Principal Certifying Authority" at least two (2) days **prior to the commencement of construction works**.
- 13. The applicant shall submit to Council a "Notice of Commencement" form at least two (2) days **prior to the commencement of construction works**.
- 14. **Prior to issue of the Construction Certificate**, a Compliance Certificate under Section 50 of the Hunter Water Act 1991, for this development, shall be submitted to the Accredited Certifier.
- 15. (1) Building work that involves residential building works (within the meaning of the Home Building Act, 1989) must not be carried out unless the principal certifying authority for the development to which the work relates:
 - (a) in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor licence number, and
 - (ii) is satisfied that the licence has complied with the requirements of Part 6 of that Act, or
 - (b) in the case of work to be done by any other person:
 - (i) has been informed in writing of the person's name and owner-builder permit, or

(ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

(2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act, 1989, that states that a person is the holder of an insurance policy issued for the purposes of this clause, is sufficient evidence that the person has complied with the requirements of that part.

DESIGN

16. The development shall comply with the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
17. Internal footpaths are to be increased to a minimum width of 1.2m where the footpath is designed to connect residents to the community centre and between the community centre and Haussman Drive, where connection is required to the shared path as provided for in the Haussman Drive Road Upgrade design.

EARTHWORKS (FILL)

18. Any fill imported to the site shall be carried out in accordance with the requirements in DA18-1431 with regard to bulk earthworks.

LAND CONTAMINATION

19. Site management is to be carried out in accordance with the recommendations contained in the ***Proposed Seniors Living Development Contamination Assessment*** (Qualtest, NEW17P-0074-AB, 29 June 2017) and as modified as follows:
 - Due to the presence of fill materials, an Unexpected Finds Procedure should be prepared and implemented during earthworks on the site,
 - **Prior to the issue of a Construction Certificate**, sampling and analysis of the surface water and sediments in the ponds is to be carried out and submitted to the Principal Certifying Authority. Recommendations arising from this analysis is to form part of the development consent.
 - **Prior to the issue of a Construction Certificate**, further sampling and analysis of fill materials on the access tracks and northern portion of the site (TP11) is required to be carried out and the results submitted to the Principal Certifying Authority.
 - If material is proposed to be re-used or disposed off-site, the material will require classification in accordance with the NSW EPA (2014) Waste Classification Guidelines, or assessment in accordance with a Resource Recovery Exemption/Order under the POEO (Waste) Regulation 2014.

MINE WORKINGS

20. **Prior to the issue of a Construction Certificate** for Stage 2, the extent of mine workings including depth of cover are to be determined by a detailed ***Site Investigation Report*** for the purposes of establishing the appropriate treatment of abandoned mine workings to permit the staged surface residential development for the purposes of this consent including the internal road network and associated utility installations.

The Site Investigation is to include conclusions and recommendations on civil design and building construction standards to ensure that the development will be designed to remain safe, serviceable and repairable in the event of mine subsidence.

The recommendations arising from this *Site Investigation Report* form part of the development consent and are to be incorporated into any relevant construction stage.

21. **Prior to the issue of a Construction Certificate** for Stage 3, all remediation works associated with the *Site Investigation Report* for the purposes of this consent shall be completed and the works verified by an appropriately qualified professional. The verification report is to be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

ARCHAEOLOGY

22. If any Aboriginal objects or bones suspected of being human are identified during construction, site workers must:
- (a) not further disturb or move these remains;
 - (b) immediately cease all work at the particular location;
 - (c) in the case of suspected human remains only, notify NSW Police. In the case of Aboriginal objects, notify the Office of Environment and Heritage Environmental Line on 131 555 as soon as practicable and provide available details of the objects or remains and their location. The Mindaribba Local Aboriginal Land Council should also be notified to assist in the determination of appropriate management for the objects or remains.
 - (d) not recommence any work at the particular location unless authorised in writing by the Office of Environment and Heritage.

BUSH FIRE

23. The development shall be carried out in accordance with the General Terms of Approval issued by NSW Rural Fire Service on 21 June 2019 as follows:

Asset Protection Zones

1. At the commencement of building works, and in perpetuity, the property east of proposed Units 99 to 117 to a distance of 50 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

An additional 20 metres shall be maintained as an outer protection area (OPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' or the remaining distance between the units and the site boundary (whichever comes first).

2. At the commencement of building works, and in perpetuity, the property north of proposed Units 107, 124, 125, 138, 139 and 153 to 156 to a distance of 40 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

An additional 20 metres shall be maintained as an outer protection area (OPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006'.

and the NSW Rural Fire Service's document 'Standards for asset protection zones' or the remaining distance between the units and the site boundary (whichever comes first).

3. At the commencement of building works, and in perpetuity, the property north west of proposed Units 9-10, 27-28, 45-46, 49-50 and 151 to 156 shall be maintained as an asset protection zone as outlined on the diagram prepared by Firebird ecoSultants dated 21 November 2018 (Figure 1-1: Tree Retention Map, Ref No. 2025M).
4. At the commencement of building works, and in perpetuity, the property south west of proposed Units 9-18 shall be maintained as an asset protection zone as outlined on the diagram prepared by Firebird ecoSultants dated 21 November 2018 (Figure 1-1: Tree Retention Map, Ref No. 2025M).
5. At the commencement of building works, and in perpetuity, the property south of proposed Units 18, 55, 91, 99 and the Community Centre to a distance of 40 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

An additional 20 metres shall be maintained as an outer protection area (OPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' or the remaining distance between the units and the site boundary (whichever comes first).

6. At the commencement of building works, and in perpetuity, the property either side of the proposed entry point from Haussman Drive into the development linking to the internal roads shall be managed as an outer protection area (OPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' as depicted on the plan prepared by McCloy Group dated 10 December 2017 (referenced 2017036 A DA-003 6).
7. **At the issue of an occupation certificate**, the asset protection zones (APZ) shown on the plan titled Figure 1-1: Tree Retention Map prepared by Firebird ecoSultants Pty Ltd dated 21 November 2018 shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006'; and the NSW Rural Fire Service's document 'Standards for asset protection zones' to the fuel loads specified in the table prepared by Firebird ecoSultants Pty Ltd dated 1 April 2019 (referenced Thornton – RFS letter).

A suitably worded instrument(s) pursuant to section 88 of the Conveyancing Act 1919 shall be created for the subject site which requires the ongoing provision of these APZs and prohibits the construction of buildings other than class 10b structures within the APZs. The name of authority empowered to release, vary or modify the instrument shall be Maitland City Council.

Water and Utilities

8. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Access

9. The proposed pedestrian path between the development and Raymond Terrace Road shall comply with section 4.1.3(3) of 'Planning for Bush Fire Protection 2006' and be made available as an emergency access to the development.

10. Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Evacuation and Emergency Management

11. A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning – A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan, December 2014'.

Design and Construction

12. New construction within 100 metres of the retained and Forest vegetation within and adjacent to the site shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

If construction is proposed greater than 100 metres from the vegetation, the proposed development shall comply with Section 4 BAL Low of Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas'.

Landscaping

13. Landscaping with the asset protection zone, except for the area identified as "APZ ground cover" and "All vegetation modification . . ." on the plan prepared by Firebird ecoSultants Pty Ltd dated 21 November 2018 (referenced 2025M) is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

ECOLOGICAL

24. **Prior to the issue of a Construction Certificate** for Stage 1, a Habitat Enhancement and Vegetation Management Plan is to be prepared for the remnant vegetation and approved by Council's **Manager – Development and Environment**. The Plan is to be prepared generally in accordance with the recommendations contained in approved *Ecological Assessment* and the approved *Bushfire Threat Assessment* (October 2017 and 01/04/19), and is to include:
 - APZ Management (in accordance with the Tree Retention Plan)
 - Nest Box Installation and Replacement Plan
 - Active weed management and regeneration works for remnant EEC; and
 - Monitoring framework and reporting timeframes.
25. **Prior to commencement of any works on site**, nest boxes are to be installed in accordance with the approved Habitat Enhancement and Vegetation Management Plan. Establishment of the Nest Box Installation Areas shall include:
 - Sufficient nest boxes (suitable for the nesting requirements of Threatened Species such as micro-bats, Little Lorikeet and Squirrel Glider)
 - Creation of suitable instruments under the *Conveyancing Act 1919* to both restrict any development or activity within the identified areas (including clearing of native vegetation beyond the requirements of the APZ) and require the maintenance and monitoring of the nest box installations, including replacement if necessary.
26. **Prior to the issue of a Subdivision Certificate** for Stage 1, a report from the ecologist on site during the tree felling process (incorporating documentation on the removal and

relocation of any threatened species, if relevant) shall be submitted to **Council's Manager – Development and Environment**.

27. **Prior to commencement of works**, a qualified ecologist shall inspect, supervise and report to Council regarding the removal and relocation of any threatened fauna species, which in the professional opinion of the ecologist, require such removal and relocation.
28. **Prior to issue of the Subdivision Certificate**, documentation on the implementation of the approved Habitat Enhancement and Vegetation Management Plan shall be submitted to Council's Manager – Development and Environment.
29. No native vegetation shall be cleared from this site unless it is authorised elsewhere in the terms of this consent.

LANDSCAPING

30. All landscaped areas of the development shall be maintained in accordance with the approved Landscape Plans. The landscaped areas shall be kept free of parked vehicles, stored goods, garbage or waste material and the like.
31. **Prior to the issue of an Occupation Certificate** for the respective stage, all landscaping is to be completed in accordance with the approved Landscape Plans.
32. **Prior to the issue of an Occupation Certificate** for the respective stage, boundary fencing along the common boundaries of the subject site with the road reserves is to be constructed in accordance with the approved Landscape Plan (Raymond Terrace Road Elevation – Sheet 12 of 21). The fences shall be constructed having regard to any boundary adjustment necessary to accommodate road widening of Raymond Terrace Road and Haussman Drive in these locations:
 - Boundary fencing along Raymond Terrace Road – to be constructed with Stage 5; and
 - Boundary fencing along Haussman Drive – to be constructed with the final stage.
33. **Prior to the issue of an Occupation Certificate** for Stage 1, check boundary fencing along southern boundary of existing res properties.

CARPARKING

34. Car parking for the development shall be provided in accordance with the approved plans, with the allocation for the development of spaces as follows:
 - 238 resident spaces (in the form of attached garages);
 - 29 visitor parking spaces
 - 15 parking spaces for caravans and RVs (including a parking space specifically allocated for the community bus).
35. All driveways, parking areas and vehicles turning areas shall be constructed with a bitumen or segmental paver surface (on a granular pavement base), or as reinforced concrete.
36. All parking bays shall be delineated. "Visitor parking" spaces shall be signposted. Caravan and RV parking spaces shall be delineated and signposted and a space designated for the community bus.

VEHICLE ACCESS

37. The proposed driveway intersection with Haussman Drive is to be designed in accordance with the *Haussman Drive Road Upgrade – Stage 2* (MCC, Drawing No. 22-20067-C001, Rev. C, 10.05.19) as modified to include a designated left turn (deceleration) lane into the development site. The detailed design is to be prepared in consultation with Council's Manager – Engineering & Design.
38. **Prior to commencement of works** (*in the event that construction is proposed prior to the Haussman Drive Road Upgrade works*), a type BAR intersection treatment shall be provided within Haussman Drive at the junction of the site access in accordance with Austroads Guide to Road Design and Council's Manual of Engineering Standards (MoES).
39. **Prior to commencement of the works**, a sealed driveway crossing shall be provided on Haussman Drive to access the site. The driveway shall have a minimum width to permit two 19.0m articulated vehicles to pass whilst entering and exiting the site.
40. Site access shall only be via the access handle within Haussman Drive, Thornton. A minimum 7.0m wide stabilised all weather access track shall be constructed as detailed on the approved plans and maintained until the final internal road connection is constructed.
41. **Prior to commencement of works** within an existing public road reserve:
- a) an engineering design, in accordance with Council's Manual of Engineering Standards, shall be submitted to Council for approval
 - b) consent under the Roads Act for the approved works, shall be issued by Council
 - c) all relevant Council fees shall be paid
 - d) a work zone traffic management plan in accordance with the RMS publication "Traffic control at Worksites" shall be submitted to Council.
 - e) Approval by the Traffic Committee for any regulatory signage or pavement marking within the road reserve.
42. **Prior to issue of the Occupation Certificate** for Stage 1, the final driveway intersection with Haussman Drive shall be constructed, in accordance with Council's Manual of Engineering Standards and the Roads Act Approval, to the satisfaction of the Roads Authority (being Council).

STORMWATER DRAINAGE

43. **Prior to issue of the Construction Certificate**, the construction details in accordance with Council's Manual of Engineering Standards shall be provided for the following stormwater requirements:
- a) On-site Detention (OSD) of stormwater that reduces post-developed discharges to pre-developed discharges for the 1, 10 and 100yr ARI critical storm events, and strictly in accordance with drainage plan number SK15 revision C dated 17/11/2017 by Costin Roe Consulting; and
 - b) Minimum on-site detention volume of 5,500m³; and
 - c) Detailed pavement finished surface levels demonstrating 1% conveyance paths to, and 1% inlet capacity into the OSD tank/structure, and
 - d) Structural certification is required for all structural elements associated with the drainage system; and
 - e) an emergency overland flow path for major storm events, that is directed to the public drainage system/ legal point of discharge, and

- f) entrapment of gross pollutants, nutrients and hydrocarbons generated from the contributing ground-surface catchment areas in accordance with Councils Manual of Engineering Standards, and
- g) A combined minimum of 600m² of bio-retention filter media area; and
- h) A water quality pond designed and constructed in accordance with current best practice and standards with a minimum permanent pond volume of 2500m³.
- i) conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties).

- 44. Prior to Occupation or Operation of the development,** a *Stormwater System Maintenance Procedure Plan* shall be prepared by an engineer, detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal, a copy of which shall be supplied to the owner/operator and to Maitland City Council for supply of future owners as needed. The Plan shall include a 'heavy rain inspection' protocol following an intense period of rainfall (i.e. greater than 100mm over 48 hours).
- 45. Prior to issue of the Occupation Certificate,** the stormwater-control system shall be constructed in accordance with the approved stormwater drainage plan. A qualified engineer shall supply written certification to the PCA and Council that the constructed system including detention volume and discharge rates achieve the consent requirements for detention.
- 46.** Final discharge of collected stormwater runoff shall be piped, in accordance with Council's Manual of Engineering Standards to the existing nominated watercourse on the eastern boundary strictly in accordance with drainage plan number SK15 revision C dated 17/11/2017 by Costin Roe Consulting.
- 47. Prior to issue of the Construction Certificate** for the detention/water quality basin, confirmation from the NSW Dam Safety Committee shall be obtained demonstrating that the dam is not classified as a 'prescribed dam'. Any requirements of the Dam Safety Committee shall be adhered to and submitted in the construction certificate documentation.
- 48.** A suitably qualified geotechnical engineer shall supervise the decommissioning of the existing dams to ensure any contamination is identified and actioned appropriately. Where contamination is found during the decommissioning, an action plan is to be provided to, and approved by Council, prior to undertaking the decontamination works.
- 49. Prior to issue of the Occupation Certificate,** certification from a suitably qualified geotechnical engineer shall be provided confirming that any contamination at the decommissioned farm dam site has been removed.

ENVIRONMENTAL MANAGEMENT PLAN

- 50.** A detailed Environmental Management Plan (EMP) shall be prepared by a suitably qualified person/consultant. The EMP shall include plans at a suitable scale and shall detail the objectives of the EMP, compliance with consent conditions, as well as best practice, to ensure specified environmental objectives are met. The EMP shall provide (but not necessarily be limited to):
- (i) a detailed Soil and Water Management Plan.
 - (ii) details of all potential sources of dust generation and monitoring, including how dust emissions are to be assessed, monitored and controlled;
 - (iii) details of ongoing water quality monitoring and assessment program;
 - (iv) details of attended noise monitoring;

- (v) details of materials waste tracking;
- (vi) details of weed control and ongoing management methods.

51. A copy of the EMP shall be forwarded to Council's Manager – Development and Environment, and reviewed by, Council prior to the commencement of filling on site. A copy of the EMP shall be kept on site at all time under the management of the site supervisor.

EROSION CONTROLS

52. The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, "Managing Urban Stormwater" shall be submitted as part of the Construction Certificate application.

53. Prior to the issue of a Construction Certificate, a Soil and Water Management Plan shall be submitted to Council for approval, in accordance with Council's Manual of Engineering Standards and "Managing Urban Stormwater – Soils & Construction 2004 Manual. The plan is to be prepared by a suitably qualified professional detailing temporary and permanent measures to be installed. The Plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the relevant Manual.

54. Prior to issue of an Occupation Certificate, all necessary works required for compliance with this consent and the Construction Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:

- a) Confirmation that the construction works have been completed; and
- b) Geotechnical certification of the road pavements are designed and constructed in accordance with Councils Manual of Engineerins Standards and Austroads Guidelines; and
- c) Confirmation from the road authority for any Roads Act Approval requirements; and
- d) Work-as-executed drawings, utilities plans, electronic files are provided to Council; and
- e) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided; and
- f) Geotech and civil engineering certification of the detention basin and water quality works (including any clay core requirements).

CONSTRUCTION MANAGEMENT

55. The applicant must implement best practice measures to minimise dust emissions from the site during construction. The site shall be managed to prevent the generation of dust in accordance with the final EMP, the measures to be employed include:

- The site shall be managed at all times so as to prevent the generation of dust by moving vehicles within the site (e.g. by water spray or other dust suppression methods) from the public road access point; and
- Ceasing construction activities (i.e. no vehicles or equipment use) during adverse meteorological conditions (i.e. on windy days); and
- The construction of a dust barrier fence to a height of 1.8m along the southern boundary of the development site and the adjoining residential properties, prior to commencement of works and maintained until works are complete.

56. Prior to commencement of works on site, a 1.8m high masonry wall shall be constructed on the common boundary between the development site and the following residential

properties to mitigate noise impacts from the site access:

- ☐ Lot 468 DP261898 – 25 Geddes Close, Thornton
- ☐ Lot 469 DP261898 – 23 Geddes Close, Thornton

The design and material of the masonry fence is to be agreed upon with the affected landowners and be of consistent design across both common boundaries.

57. The proposed development, including all plant and equipment to be utilised on site shall not give rise to any offensive noise as defined under the *Protection of the Environment Operations Act 1997*.

BUILDING CONSTRUCTION

58. All building work shall be carried out in accordance with the provisions of the Building Code of Australia (BCA).

SITE CONSIDERATIONS

59. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.
60. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the area and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.

Where a retaining wall is planned for this purpose and such wall requires consent (refer to State Environmental Planning Policy -Exempt and Complying Development Codes, 2008) plans and specifications of the wall shall be approved by Council and/or an accredited certifier.
Note: The submission of a separate Development Application is not required for a retaining wall associated with this approval and indicated on the approved plans.

61. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- (i) Must preserve and protect the building from damage, and
 - (ii) If necessary, must underpin and support the building in an approved manner, and
 - (iii) Must, at least seven (7) days before excavating below the level of the base of the footings or a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (Includes a public road and any other public place).
62. The applicant is required to notify Council in writing prior to commencing building operations, of any existing damage to kerbing and guttering and/or footpath paving associated with the subject Lot. The absence of such notification signifies that no damage exists and the applicant shall therefore be liable for the cost of the repair of any damage to kerbing and guttering or footpath paving which may be necessary after completion of the building operation.
63. A temporary toilet shall be provided on site from the time of commencement of building work to ensure that adequate sanitary provisions are provided and maintained on the building site for use by persons engaged in the building activity. The number of toilets provided shall be 1

toilet per twenty persons or part thereof employed on the site. The temporary toilet is to be connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

64. Unless otherwise approved by Council in writing, all general building work shall be carried out between the hours of:
- a. 7.00am to 6.00pm Monday to Friday
 - b. 7.00am to 5.00pm Saturday
- Any work performed on Sunday's or Public Holidays that may cause offensive noise, as defined under the Protection of the Environment Operations Act, is prohibited. Minor works (such as hand sanding, painting, digging and the like) is permitted between the hours of 9.00am to 5.00pm. Power operated tools are not permitted to be used.
65. Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.
66. Waffle pods, if used in the construction of the building, shall not be delivered to the site unless wrapped or securely tied. The waffle pods are to be secured on-site to prevent scattering by wind. Off-cuts and unused pods must be wrapped in plastic or similar material and removed from the site immediately upon completion of slab construction.
- Note: Where building materials and/or refuse is found to have caused pollution beyond the boundaries of the development site (eg. blown off-site by wind), the Council may issue infringement notices / fines as prescribed under the Protection of the Environment Operations Act 1997.*
67. All building materials, plant and equipment shall be contained wholly within the development site.
68. The Principal Contractor (or Owner/Builder) shall erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work. The sign shall also display the name, address and telephone number of the Principal Contractor for the work (or Owner/Builder) and shall state that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
69. The site shall be cleared of all building refuse and spoil immediately upon completion of the building.
70. All waste generated during construction and operation of the development shall be managed in accordance with the *Waste Management Plan – Retirement Village – 107 Haussman Drive, Thornton* (Barr Property & Planning, 23 November 2017).

SERVICES & EQUIPMENT

71. Upon completion of the building but prior to its occupation, a Final Fire Safety Certificate with respect to each critical and essential fire safety measure installed in the building shall be submitted to Council. Certificates shall be prepared in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.
72. A copy of the Fire Safety Schedule and Fire Safety Certificate is to be prominently displayed in the building in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation 2000.
73. A Fire Safety Statement in respect of each required essential and/or critical fire safety measure installed within the building shall be submitted to Council and the NSW Fire Commissioner annually (or at a more frequent interval for supplementary statements).

Statements shall be prepared and issued in accordance with Division 5 of Part 9 of the Environmental Planning and Assessment Regulation, 2000. Note that monetary penalties may apply for failure to lodge a fire safety statement within the prescribed timeframe. Statements to the NSW Fire Commissioner are to be submitted electronically to afss@fire.nsw.gov.au.

Standard forms and further information for lodging Fire Safety Statements may be downloaded from Councils website.

74. **Prior to issue of an Occupation Certificate** for the dwellings, a fire hydrant system shall be installed to service those dwellings. The hydrant system shall comply with the requirements of Australian Standard 2419.1.

SWIMMING POOL/ SPA POOLS

75. The swimming pool and required child resistant pool fencing and gates must be constructed, installed and maintained in accordance with this approval and is to comply with the provisions of the Swimming Pools Act 1992, Swimming Pools Regulation 2008 and Australian Standard AS1926.1-2012 Swimming Pool Safety – Safety barriers for swimming pools and AS1926.2-2007 Swimming Pool Safety – Location of safety barriers for swimming pools.
76. The swimming pool/spa filter and pump shall be installed and operated in such a manner that plant noise does not affect dwellings on adjoining allotments.
77. The management of the swimming pool is to be in accordance with the NSW Department of Health Public Swimming Pool and Spa Pool Guidelines June 1996, Public Health Act 1991 and Public Health (Swimming Pools and Spa Pools) Regulation 2000.
78. The pool shall be equipped with an effective water circulation system, filter and continuous automatic disinfectant dosing control system. Automatic control and dosing refers to a continuous dosing system activated and controlled by feedback from electrical chemical sensing equipment and does not include the use of a dissolving chemical floating dispenser.
79. The frequency of pool water testing shall be carried out in accordance with the NSW Department of Health Public Swimming Pool and Spa Pool Guidelines June 1996 with the use of suitable testing apparatus to ensure accurate results. Plastic Perspex kits known as '4 in 1' or '5 in 1' kits are not suitable for testing public/learn to swim pools.
80. A register or log book shall be used to record the results of every test performed on the pool. The register shall be used to record data as detailed in the aforementioned document.
81. In accordance with the Public Health (Swimming Pools and Spa Pools) Regulation 2000, Council's Environmental Health Officers may undertake inspections of the pool and surround, records, carry out field tests on pool water and take or remove samples of pool water. A fee may be charged for this inspection.

LAND TITLE

(Note: Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.)

82. The proposed road widening on the property frontages to both Raymond Terrace Road and Haussman Drive, Thornton shall be dedicated to Council, at no cost to Council, prior to the issue of the Construction Certificate for Stage 1 of the development.

Detailed dimensions are to be confirmed with Council before the road widening plans are finalised. Concept plans are identified as follows:

- Thornton North Section 94 Review – Raymond Terrace Road: Feasibility Design Review (AECOM, Drawing Nos. 60101952-C-000 to 60101952-C-024, March 2010);
- Haussman Drive Road Upgrade – Stage 2 (MCC, Drawing No. 22-20067-C001, Rev. C, 10.05.19)

(Note: The Thornton North Section 94 Contributions Plan 2008) identifies road widening along both Raymond Terrace Road and Haussman Drive, Thornton. Land credits will be applicable to road widening identified in the Plan and as relevant to this application once final survey details are known. An amendment to the development contribution condition in this consent will be required to grant the land credits as an offset to the total contributions payable in the Roads and Traffic Category of the Plan).

- 83.** A restriction and positive covenant on the title of the development site shall be created under the *Conveyancing Act 1919* to give effect to the following:
- (a) a restriction on the use of the land identified as the Habitat Enhancement and Vegetation Management Land to be consistent with the intent of Ecological Assessment and Bushfire Threat Assessment; and
 - (b) a requirement to maintain the local biodiversity in accordance with the terms of the Habitat Enhancement and Vegetation Management Plan.

ADVICES

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A** You are advised that where underground works within the road reserve are required or necessary for supply of services (such as water, sewer, electricity, gas) further consent for a “Road Opening” must be obtained from Council.
- B** You are advised that there may be design matters in relation to the drainage *concept* plan that warrant further attention prior to the issue of the Construction Certificate.
- C** You are advised that, prior to pouring of internal concrete driveways and kerbs which act as surface depression storage for the stormwater detention (and/or surfaces which divert runoff to those storage areas), formwork set-out and levels should be confirmed.
- D** The water recirculation and filtration system in the spa/swimming pool shall comply with the Building Code of Australia NSW Part 3.9.3 Swimming Pools by incorporating safety measures to avoid entrapment of/or injury to young children. Compliance with AS1926.3 - 2010 satisfies the requirement.
- E** NSW Rural Fire Service advise that the Bush Fire Safety Authority (BFSA) for this development has been issued on the basis of a stand alone performance solution prepared by Firebird ecoSultants Pty Ltd dated 01 April 2019 (referenced Thornton RFS letter), with bush fire attack modelling and modified fuel loads proposed to ensure asset protection zones and construction can comply with ‘Planning for Bush Fire Protection 2006’.

Attachment 1

Locality Plan

Attachment 2

JRPP Briefing Notes 02 August 2018

Attachment 3

Site Compatibility Certificate

Attachment 4

DA 94-67 Quarry Extraction Plan

Attachment 5

**Annual EMR
01 October 2012 –
30 September 2013**

Attachment 6

DA 18-1431

Notice of Determination

Attachment 7

Site Analysis Plan (Aerial)

Attachment 8

Architectural Plans

Attachment 9

Landscape Plans

Attachment 10

Civil Engineering Plans

Attachment 11

Road Widening Plans

Attachment 12

Tree Retention Plan (bushfire)

Attachment 13

Seniors SEPP Compliance Table

Attachment 14

Seniors SEPP - Clause 35 and 50(e) - Detailed Assessment

Attachment 15

Public Submission and Council Response