

Hunter and Central Coast Regional Planning Panel

Panel Reference	2019HCC003
DA Number	2018-2086
LGA	Maitland
Proposed Development	Residential Care Facility – 108 beds (36 bed dementia specific care units and 72 bed high care units) with associated services and facilities, car parking and landscaping. The proposal also includes the adaptive reuse of Closebourne House, the former Laundry, Gym/Chapel buildings and Arkell House (also known as The Registry).
Street Address	367 Morpeth Road, Morpeth (Lot 3, DP 20740). The Closebourne Village site includes just over 40ha of land and is bound by Morpeth Road to the north, Tank Street to the east and is in close proximity to the Village of Morpeth and the Hunter River. The site is listed on the NSW State Heritage Register (Item 00375).
Applicant	Catholic Healthcare Limited C/- Lendlease Retirement Living Holding Pty Ltd.
Owner	LLRL Management Services Pty Ltd as trustee for LLRL Management Services Trust as agent for Lendlease Retirement Living Holding Pty Ltd as trustee of Lendlease Retirement Living Trust.
Date of DA lodgement	20 December 2018
Number of Submissions	Twelve (12)– Round 1 and Thirteen (13)– Round 2 – Total: 25 submissions.
Recommendation	The proposal is recommended for approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	General development over \$30M.
List of all relevant s4.15(1)(a) matters	Environmental Planning Instruments: s4.15(1)(a)(i): <ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979; • Heritage Act 1977 • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy No 55 – Remediation of Land; • State Environmental Planning Policy No 64 – Advertising & Signage; • State Environmental Planning Policy (Infrastructure) 2007; • Maitland Local Environmental Plan 2011; • Maitland Development Control Plan 2011; and • Maitland City Wide Development Contributions Plan. <u>External Referrals – NSW Heritage</u>
List all documents submitted with this report for the Panel's consideration	Appendix A – Draft Schedule of Conditions Appendix B – General Terms of Approval NSW Heritage Appendix C – Development Plans Appendix D – List of Development approvals on the overall site (including a copy of the link road approval DA 19-575). Appendix E – Chronology of Events Appendix F – Photographs in and around the Closebourne site Appendix G – Submission responses and submissions
Report prepared by	Belinda Martin - Maitland City Council
Report date	2 June 2020

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? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	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)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not Applicable
Conditions	
Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Development Consent is sought for the construction of a Residential Aged Care Facility consisting of 108 beds, including 36 dementia resident beds and 72 high care beds together with associated facilities, car parking and landscaping. The development will include the adaptive re-use and conservation of Closebourne House, the former Laundry, Gym/Chapel buildings and Arkell House (also known as The Registry) with the remaining buildings to be removed and the new buildings included. Car parking occurs mainly to the rear of Closebourne House (other than a designated/drop off ambulance area and a few visitor spaces in the proximity to the entrance). The development will provide integrated health care to residents with provision of preventative health and well-being programs to ensure a continuum of care for older residents, some of which will transition from the existing retirement development on the site to the facility.

The application was lodged with Council on 20 December 2018 and the Capital Investment Value of the development is \$31,139.092 (excluding GST), requiring determination by the Hunter and Central Coast Joint Regional Planning Panel (HCCJRPP), as the capital investment value exceeds (\$30 million).

The development is within a Heritage Conservation Area as identified in the Maitland Local Environmental Plan 2011 (MLEP 2011), is listed on the State Heritage Register and contains items of heritage significance including Morpeth House, Closebourne House and the Avenue of Brush Box Trees. The property retains considerable cultural significance for its historic, architectural, landscape and social values.

The development is Integrated development under Section 4.46 of the Environmental Planning & Assessment Act 1979 in relation to the Heritage Act 1977 and General Terms of Approval have been issued by NSW Heritage Office and are attached to this report.

LEGISLATIVE CLAUSES

The following legislative clauses are relevant to the proposal and require the consent authority to be satisfied before consent is granted:

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004

- *Clause 18 – restriction on occupancy of accommodation to people specified in Clause 18(1), being seniors, people with a disability, people living with seniors or a person with disability or staff assisting in the provision of services.*
- *Clause 26 – residents of the development under this chapter/policy must have access to services identified in Clause 26(1).*
- *Clause 28 – provision of reticulated water and sewer.*
- *Clause 30 – Site Analysis*
- *Clause 32 – development must demonstrate that adequate regard has been given to the Design Principles in Division 2.*
- *Clause 40 – development must comply with the standards specified in this Clause.*
- *Clause 48 – A consent authority must not refuse consent to a development on grounds identified in Clause 48, if it satisfies the specified standards in the clause.*
- *Clause 55 – Fire Sprinkler system required.*

The proposal is considered to be consistent with the requirements of the SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 – whether the site is suitable for its intended use.

The development is considered to satisfy this clause and is suitable for the proposed use.

State Environmental Planning Policy No 64 – Advertising & Signage

Clause 8 – signage must be consistent with the SEPP objectives and the criteria in Schedule 1.

The development is considered to satisfy these requirements.

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 of the SEPP relates to development within vicinity of 2m of an underground electricity power line or an electricity distribution pole and within 10m of any part of an electricity tower, within or immediately adjacent to an easement for electricity purposes or immediately adjacent to an electricity substation or within 5m of an exposed overhead electricity power line.

The development is considered to satisfy these requirements.

Maitland Local Environmental Plan 2011

Clause 5.10 – Heritage Conservation.

The development is considered to satisfy these requirements and General Terms of Approval have been issued by NSW Heritage.

Several zonings apply to the overall site, including Ru1 Rural Landscape, R5 Large Lot Residential and R1 General Residential. The proposed Residential Care facility the subject of this Development Application is to take place on land zoned RU2 Rural Landscape. Under Maitland Local Environmental Plan 2011, seniors housing is not a permitted land use within this zone, however the Application has been lodged under the Heritage Incentives Clause 5.10(10) of Maitland Local Environmental Plan 2011.

In addition, the site was subject to an earlier re-zoning to part 1(b) Secondary Rural land, part 2(a) Residential and part 1(d) Rural Residential in 2008. The development was permissible under the previous Instrument on 1(b) Secondary Rural Land and the prescribed zonings and the proposed use and development on the site are supported by the approved CMP, Masterplan and Heritage Agreement for the site.

The development was advertised and notified for a period of 30 days from 16 January 2019 to 14 February 2019 and revised plans were re-notified to those same objectors between 15 January 2020 and 28 January 2020. A total of 25 submissions have been received across the two periods of notification. Each of the submission responses have been considered at length in this assessment and suitable information has been provided to enable the consent authority to be satisfied that the proposal is acceptable in relation to the concerns raised.

There is a critical need for both seniors housing and aged care in the Maitland Local Government Area with a high concentration of seniors within the Hunter and particularly the Maitland Catchment over coming years.

The application has been assessed under the relevant heads of consideration under section 4.15 in the Environmental Planning & Assessment Act 1979 and found to be satisfactory subject to compliance with the recommended schedule of conditions attached to this report.

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

OFFICER'S RECOMMENDATION

That the Hunter and Central Coast Joint Regional Planning Panel approve Development Application 18-2086 for a Residential Care Facility - 108 beds (36 bed dementia specific care units and 72 bed high care units) with associated services and facilities, car parking and

landscaping on Lot 3, DP 270740, 367 Morpeth Road, Morpeth subject to the recommended conditions of consent set out in Appendix A.

INTRODUCTION

This report provides a detailed overview of the development proposal involving a Residential Care Facility – 108 beds (36 bed dementia specific care units and 72 bed high care units) with associated common services and facilities, car parking, landscaping and adaptive reuse of Closebourne House, the former Laundry, Gym/Chapel buildings and Arkell House (The Registry) at 367 Morpeth Road, Morpeth. The report also includes a comprehensive planning assessment of the development against the relevant matters of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979 (EPAA).

The development application was lodged with Council on 20 December 2018 and is integrated development with referral being completed to the NSW Heritage Office.

The development is reported to the Hunter and Central Coast Joint Regional Planning Panel, noting the estimated cost of works over the \$30M threshold.

BACKGROUND/SITE DESCRIPTION

The Closebourne Village site includes just over 40ha of land and is located at the western edge of the village of Morpeth and is bound by Morpeth Road to the north and Tank Street to the east. Dwelling houses exist to the south and west of the overall site.

The site is listed on the NSW State Heritage Register (Item 00375). The land previously known as the St John's Centre of Ministry is located within the Morpeth Heritage Conservation Area and is a key site in the history of Morpeth. The site originated in around 1821 as a grant of 2600 acres given by Governor Lachlan Macquarie to Lieutenant Edward Close. In its context, setting, landscape, buildings, fabric and archaeology, the site retains tangible evidence of its central role in the establishment of European settlement in the Hunter Valley and in the founding evolution of the Anglican Diocese of Newcastle. The site has played an ongoing role in the training of clergy as well as the education in the region.

The site contains significant heritage items including Closebourne House, Morpeth House and Brushbox Avenue which are all listed on the State Heritage Register.

The site includes two main building groups, the 'Closebourne House Group' and the 'Morpeth House Group'. The most significant buildings in these groups are as follows:

- (a) Closebourne House (1829) and Morpeth House (1849), both homes of Edward Close the founder of Morpeth;
- (b) Closebourne laundry (1880's) – built during the occupation of Closebourne House as Bishopscourt; and
- (c) The Warden's Residence (1926), Robinson House (1927 & 1956), ST John's Chapel (1941) and Library (1956) – relating to the use of the site as ST John's Anglican Theological Collage.

Morpeth House, ST John's Chapel and the Library have been conserved and adapted for use as community facilities.

A Conservation Management Plan (CMP) was prepared for the site and endorsed by the Office of Environment & Heritage (NSW Heritage Division) Office in 2005. The CMP established the parameters within which any future development on the site will take place. The approved Master Plan under DA 08-2335 reflects the provisions contained within the CMP. (The Master Plan DA 08-2335) was approved by Council at its Ordinary meeting on 14 July 2009 and has

been operational since 23 March 2010). The Masterplan provides the framework within which future development can take place on the site and the subject proposal has incorporated the policies of the endorsed Masterplan.

The approved Masterplan works in conjunction with a Heritage Agreement to ensure the long term retention and maintenance of the cultural significance of the property as well as the significant heritage items on the property which are to be appropriately conserved, adapted and reused. The focus of the Heritage Agreement is on restorative works related to specific heritage items. Those works are restorative and maintenance works and sit outside of the adaptive reuse in the Masterplan.

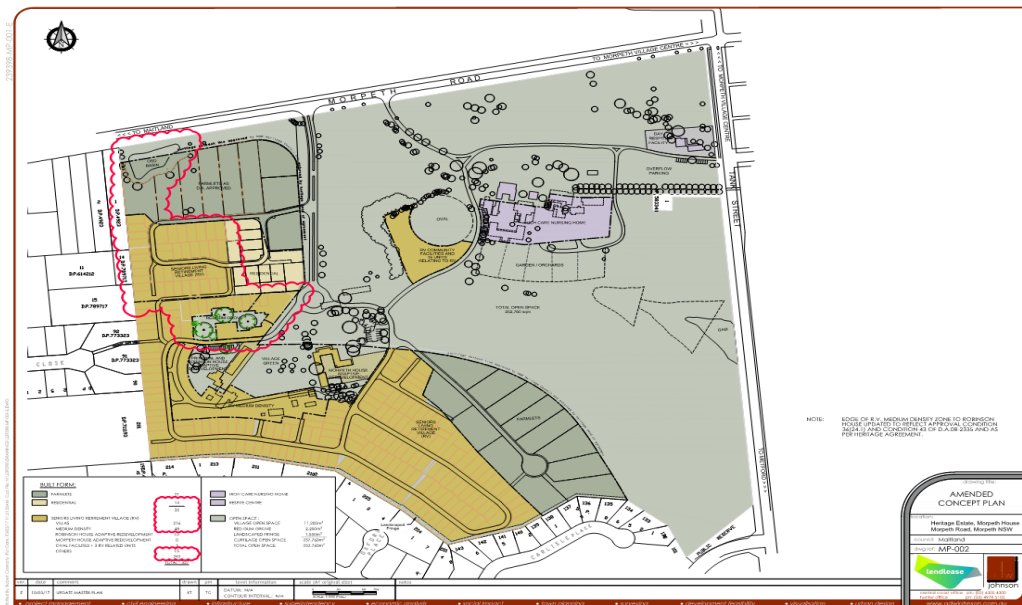
The Master Plan approval provides for a range of land uses including:

- Nursing home, high care and dementia, plus day respite care in and around the Closebourne House area (surrounded by curtilage open space – approximately 23.327ha);
- Retirement living, including reuse of Morpeth House (café, activities, meeting rooms), retirement village services (retail), village open space (11200m²), Redgum grove and Principal Lodge;
- Residential lots (14 residential lots and 21 farmlet lots in two locations);
- Retirement village with 263 mixed dwelling types;
- 64 residential housing/farmlet lots;
- Associated Community facilities;
- A total of 327 dwellings incorporating a mix of self care retirement living, residential and rural/residential lots was proposed over the site and the site operates under a Community Title Scheme.

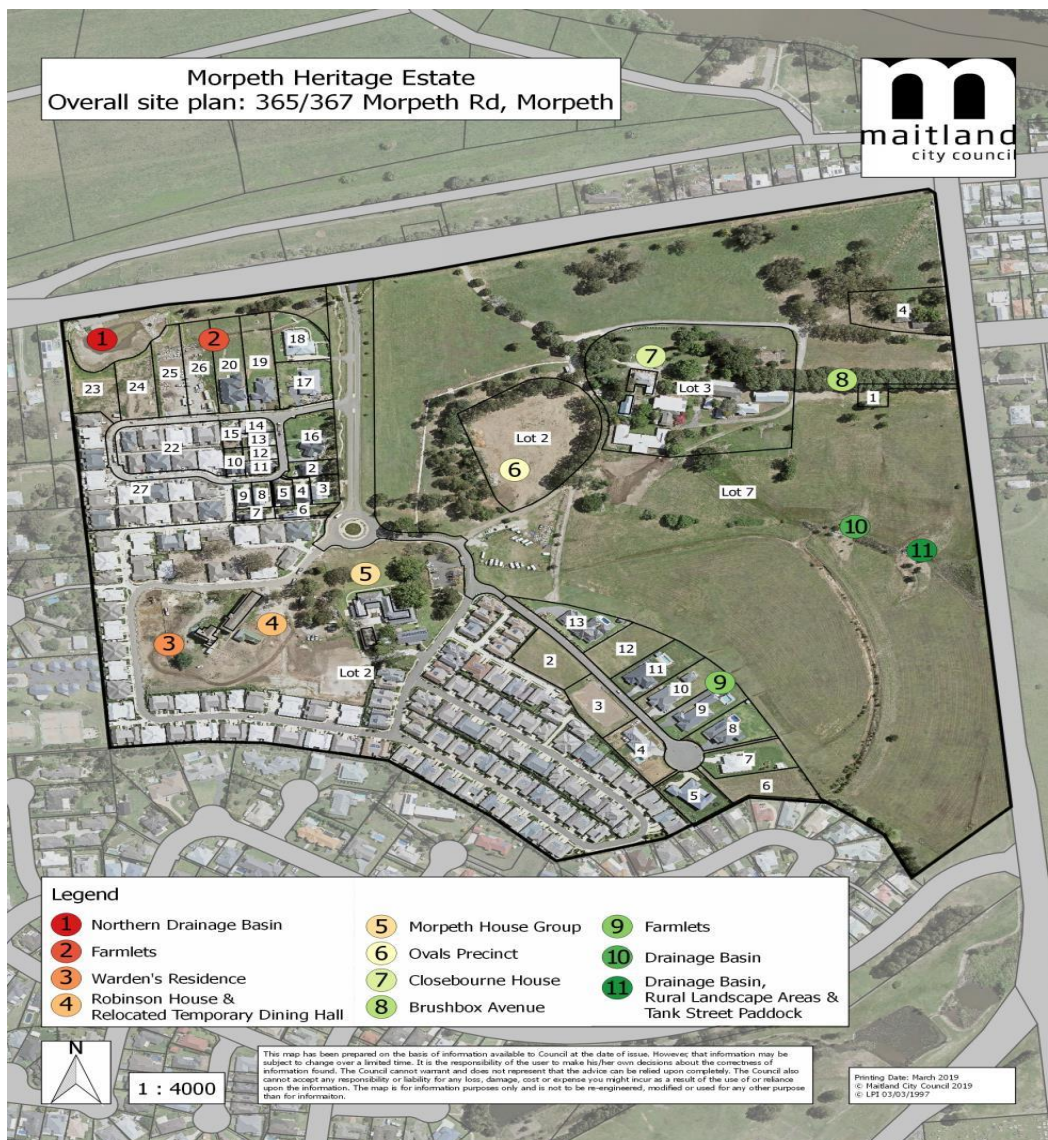
An amendment to the Masterplan on 26 April 2017 granted development consent to the following:

- Farmlet lots/dwellings – 21;
- Residential lots/dwellings (non retirement) – 14;
- Retirement Villas – 216;
- Retirement medium density units – 48;
- Robinson House retirement adaptive reuse units -10; and
- Oval precinct retirement units – 3
- Others
- TOTAL: 327.

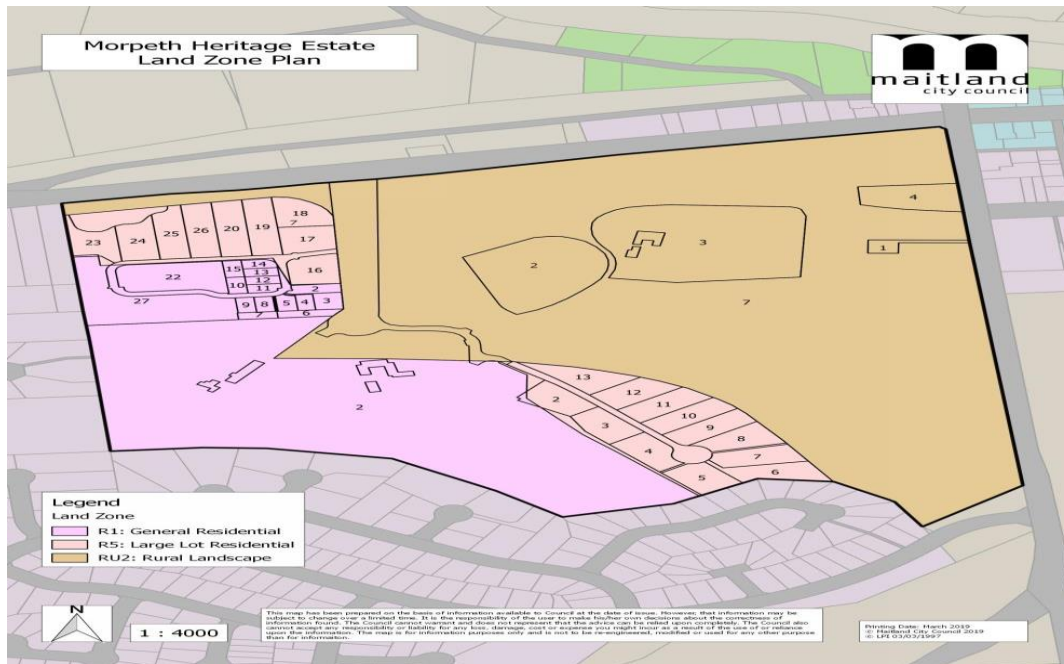
A copy of the Master plan extract (red highlighted section represents 2017 amendment) of the site is set out below:



An aerial image, cadastre view and zoning view of the development on the land is set out below.
Note: the development for the Residential Care Facility is proposed on Lot 3, DP 270740



The zoning map for the site is set out below:



The site gently slopes from the main high point at the centre of the site. The land falls to the south towards the adjacent residential development, east towards Tank Street and north towards Morpeth Road and Closebourne House. The highest point on the main ridge is occupied by the Morpeth House group, whilst the Closebourne House group is situated a short distance to the east on a slightly lower but more prominent section of the same ridge. The lowest points on the site are located near the drainage reserves, one located at the north western boundary and the other located adjacent to Tank Street. The topography of the site typically ranges in grades from 1-8%.

Closebourne House Precinct

The Closebourne House precinct and its related buildings form the primary subject of this proposal. See the photograph below - Buildings identified in blue are proposed for adaptive reuse and buildings in red for demolition.



Photograph Six Maps – Heritage NSW

Closebourne House was constructed in (1829) and was the main residence of Edward Charles Close. A photograph of Closebourne House is depicted below – this building is of exceptional significance and is to be adaptively reused.



Photograph of Closebourne House, Morpeth Road elevation (Council staff photo).



Photograph of Closebourne House western elevation (Council staff photo).



Photograph western elevation looking south towards the laundry/gym buildings. (Council staff photo)



Photograph rear of Closebourne House and existing wings. (Council staff photo).

Development to follow the construction of Closebourne House included, The Closebourne Laundry (1880's) – built when Closebourne House was occupied as Bishops Court between 1849-1912. This building is to be adaptively reused.



Closebourne Laundry – CMP Photo

The Gymnasium (1930's) – this building is to be adaptively re-used as the main entry/reception.



The Gymnasium – CMP photo

Arkell House (1946) – The Registry – this building is to be adaptively re-used as a multi-functional space.



Arkell House – CMP Photo

The following buildings are of moderate to little/neutral significance, some are not in good condition. All buildings are supported for demolition by NSW Heritage:
Assembly Hall 1946 – (Moderate significance)



Assembly Hall – CMP photo

Toilet Block (1940's) – (Moderate significance)



Toilet Block – CMP photo.

Dining Hall (1955) – (Moderate significance)



Dining Hall – CMP photo

Belle Vue House (1955) – (Little/neutral significance)



Belle Vue House – CMP photo

Tillimby House (1957) – (Little/neutral significance)



Tillimby House – CMP photo

The buildings below also formed part of the Closebourne group and were utilized by the St Albans boys home and Broughton Boys Grammar school who occupied the site during 1922-1959.

Cintra House (1960) – (Little/neutral significance)



Cintra House – CMP photo

Workshop (1980) – (Little/neutral significance)



Workshop (1980) CMP photo

Bishop Tyrell Lodge (1982) – (Little/neutral significance).



Bishop Tyrell Lodge (1982) CMP photo

These buildings were primarily constructed for the Closebourne Anglican Conference Centre between 1960 – 2009. The gradings of significance are further discussed in the Clause 5.10 of Maitland Local Environmental Plan 2011 section of this report.

Note: To assist the Panel further a set of photographs taken in and around Closebourne House is attached as **Appendix F**.

A list of the Development Applications approved on the site have been annexed to this report as **Appendix D**. Note: the internal link road approval plan has been included as part of this appendix to indicate formalization of the link roadway between Morpeth House and Closebourne internal roadway. The Panel should also be aware that there are currently two other Development Applications on hold (out for re-design, also awaiting determination of this Development application). These relate to the adaptive re-use of Robinson House and the Warden's Residence and the Villas to be constructed in and around the Ovals precinct.

The following development has occurred on the site since 2009:

- 243 independent seniors living villas (Stages 1 – 7 have been constructed and are occupied) and the Community Shed (adaptive re-use of previous Temporary Dining Hall is close to receiving an Occupation Certificate)
- 28 Villas approved under Stage 6 (modified to 27 villas) – 27 Villas are complete with most occupied;
- The retirement village is serviced by a connecting internal road network that extends around Morpeth House Group and the Village Green. Morpeth House has been adaptively redeveloped and forms part of the retirement village infrastructure;
- Residential subdivisions have occurred (including 21 farmlet lots of 2000m²) in two areas of the site – 14 constructed and occupied and 3 dwellings are presently under construction;
- Integrated residential subdivision and construction of 14 x 2 storey dwelling houses have been constructed and occupied to the south of Morpeth Road farmlet lots and via partially constructed Matilda Circle.
- The overarching titling structure of the site has been approved and established via Community Title Subdivision Scheme (DP 270740) with some lots re-subdivided by the Precinct Scheme;
- Key access roads and infrastructure has been planned, constructed and installed as necessary, including the main entry (Edward Close Boulevard) and roundabout and utility services as necessary to service ongoing site development; and
- Approval of the internal link roadway between Morpeth House and Closebourne House has occurred and a copy of that internal roadway approval plan is attached to the list of development approvals on the overall site at **Appendix D**.

PROPOSAL

Development Consent is sought for the construction of a Residential Aged Care Facility consisting of 108 beds, including 36 dementia resident beds, 72 high care beds together with associated facilities, car parking and landscaping.

The development will include the adaptive re-use and conservation of Closebourne House, the former Laundry, Gym/Chapel buildings and Arkell House with remaining buildings to be demolished and a new building extension of single storey and double storey components included. The proposal includes the following components:

- Site preparation works, including building demolition, tree removal and excavation works;
- The construction of a residential care facility accommodating 108 beds (36 bed dementia specific care units and 72 bed high care units) within the development;
- Reception and community facilities;
- Support spaces;
- Back of House services;

- Staff areas; and offices;
- Landscaping works throughout a series of courtyards and around the development;
- Car parking - 32 car parking spaces, plus the drop off pick up bay and an ambulance bay;
- Construction of vehicle access; and
- The extension/augmentation of services and utilities to the development.

In addition, the proposal for a residential care facility will provide for a café (self service focus), gym, hair salon, specialized care provision which includes meals and catering, cleaning services, nursing care/staffing and non care related services such as maintenance, gardening and associated services. The proposal will ensure that those patients/residents with higher level needs (dementia) as well as the other high care residents of the nursing home are well looked after in appropriately secure areas within the site. Having regard to the high end nature of the facilities it is possible that only limited numbers of residents will utilize all the facilities on offer, however, the availability of these services ensures the wellbeing of patients of the facility is prioritized.

Access to the site from Morpeth Road is from the south west. The site is accessed via the covered walkway at the west of the development which leads to the prime reception area. Houses A and B are single storey and Houses C and D remain two storey. The wings of these houses use simple hipped roofs and run from west to east.

Lower Ground Floor/sub floor inclusions:

Service areas including pump, maintenance and waste areas. Main facility kitchen and laundry, staff lounge, terrace and amenities. Egress is into the car park at the south-east corner of the building. An alternative egress is provided via a southern door. A long hallway connects the area to two internal lifts and a stairway which leads to the upper floor.

Ground Floor inclusions:

72 bedrooms with ensuites, building reception and administration support area, café, gym, meeting rooms, chapel, dining area, lounge areas, kitchen, hair salon, serveries, staff stations, mechanical plant and car parking. The works also include alterations to the Closebourne House floor plan. This building is to be used as a chapel, meeting room, waiting room, consulting room, etc. The yard area currently located between the rear skillion roof portions of the building is to be converted into an internal waiting room. At the rear of Closebourne House will be a reception, hair salon and cafe. A wheelchair platform lift provides access to the rear verandah for those persons requiring non discriminatory access.

The waiting room is linked to the former Gym/Chapel building. This existing structure is to be used for office purposes. It will open onto a courtyard area named as Household A Courtyard. Household A opens also into this courtyard and includes a number of single rooms, each with an ensuite, a lounge and sitting-room, a residents kitchen and staff room.

Household B has a similar room use although the configuration is different. This area opens onto the Household B Courtyard which is located between Household A and Household B. An internal interconnecting stairway is located at the eastern end of Household B which adjoins a sitting room and terrace.

Household C is located opposite and east of existing Closebourne House and Arkell House (The Registry). It has a similar layout to the other Households. An internal stairway is located in this area. To the south of Household C is the Household C Courtyard. On the southern side of the courtyard is Household D. This area also has an internal stairway. Consistent with the other households Household D has a separate courtyard.

36 bedrooms with ensuites, serveries, dining areas and lounge areas, Households C1 and D1. These do not have interconnecting stairs to the lower storey apart from the areas adjacent to the proposed lifts. These floors house the dementia patients. The upper floor of Closebourne House will also be used as a general use/multi function room/storage and includes a small kitchenette. A lift has been included to the upper floor of Closebourne House which will provide access for residents, visitors and staff who may not be able to utilize the existing staircase. The lift will provide for equal employment opportunities and DDA requirements to be met as well as enabling users of the facility to enjoy the framed views from the upper floor windows of Closebourne House towards the Morpeth river and surrounds. The prime use of this area will be for larger meetings, training presentations and ensures the adaptive reuse of Closebourne House.

- the adaptive reuse of Closebourne laundry.
- the adaptive reuse of the gym building (primary entry), reception and café area.
- the adaptive reuse of Arkell House as a multi-functional space.
- construction of a porte cochere for the main building entry.
- demolition of all other buildings in the Closebourne House Precinct (ie., those with moderate or little/neutral significance).
- retention/removal of trees and associated landscaping with generous plantings to screen the development to the southern perimeter, providing sensory garden areas and also landscaped courtyard areas, and
- fencing and business signage is also included.

The application will not involve any works or alterations to the remaining development on the site.

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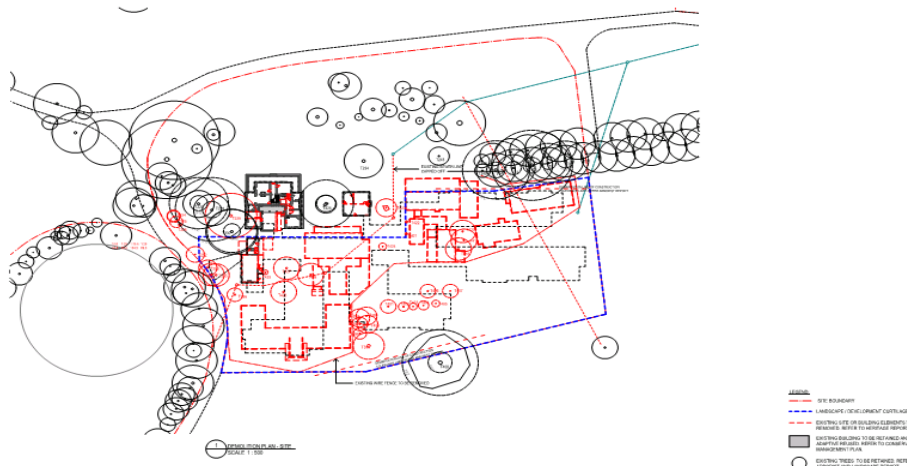


Figure 2 - Proposed Demolition works (note: blue dotted line reflects the development zone.



Figure 3 – Plan view of entry and development to rear of Closebourne House.

A full set of Architectural plans are attached to the report at **Appendix C** of this report.

PROCESS AND CHRONOLOGY

The DA was lodged on 20 December 2018 and whilst the Applicant did not enter into a pre-lodgement process with Council (prior to lodgement of the proposal), the Applicant has worked extensively with Council and NSW Heritage and its Heritage Committee to ensure an acceptable outcome on the site for this facility and to ensure the integrity of the existing heritage items on the site are preserved allowing for their adaptive reuse.

It was identified by Council in April 2019 and subsequently by NSW Heritage in June 2019 that the development as originally lodged required extensive redesign and the submission of additional information (including a detailed Fabric Survey). The development was considered at this point to be unacceptable in regard to its consistency with the development principles contained in the CMP, approved Masterplan, Heritage Agreement and Council's DCP. The design in its initial form resulted in a loss of integrity to listed heritage items, and in particular, it was felt the extensive changes to the rear of Closebourne House had a detrimental impact upon its heritage value and significance of the site.

Over the last year numerous meetings have occurred between NSW Heritage, the Applicant and Council including meetings on the site and in the offices of NSW Heritage. This culminated in the plans and documents being amended on numerous occasions and resulted

in the NSW Heritage Council (assessment division) briefing the full Heritage Committee in March 2020 with finalized plans that included:

- *A reduction in the extent of modifications to the external and internal fabric, space and elements of Closebourne House;*
- *A platform lift access to the rear verandah, adjacent to the existing stairs and retaining access to the basement, to remove the previously proposed ramping and minimize impact to the heritage fabric while achieving equity of access;*
- *Retention of roofline on the rear wings of Closebourne House, with reduced changes to these parts of the building;*
- *Reduced scale of the connection between Closebourne House and the new development, with improved views to the landscaped space at the rear of Closebourne House;*
- *Increased landscaping and retention of trees in the curtilage of Closebourne House (retaining 11 of the 12 significant trees);*
- *Improved car parking and access arrangements, with most parking spaces relocated to the rear of the new aged care development and away from Closebourne House, for an enhanced curtilage of landscaped area around the House;*
- *Enhanced design of the aged care facility including revision of the building entry away from Closebourne House, reduced scale of porte-cochere and improved internal design to better appreciate views to the rear of Closebourne House; and*
- *Additional heritage assessment and fabric analysis to clarify the suitability of the adaptive reuse and conservation measures.*

That process resulted in a letter from the Heritage Committee identifying that whilst they supported the overall use of the site for a Residential Aged Care Facility (in principle, including the adaptive reuse of Closebourne House), they raised further concerns with the proposal which were primarily related to the following key issues:

- *Impacts to the site (more specifically the southwest corner of the site);*
- *Consideration of the cultural landscape setting not being adequate;*
- *Concern regarding the connection of the courtyard to Closebourne House;*
- *Consideration of the Closebourne building without a lift;*
- *The scale and form of the Port Cochere/entry to be reconsidered;*
- *Café location and size;*
- *Archaeology testing;*
- *Door widening in Closebourne House; and*
- *Fencing and southern views.*

Upon receipt of this letter from NSW Heritage and its Committee members (a division of NSW Heritage), concern was raised by the Applicant and Council with NSW Heritage that a significant amount of work had been put into the plans to date, (including numerous concept redesigns) and that perhaps the Committee members were not able to appreciate some of the issues more fully, given they had not been to the site. A site meeting with the Committee and NSW Heritage staff was to be undertaken with the Applicant. NSW Heritage and the Committee Chair were agreeable to this, however, due to COVID19 restrictions this was abandoned as the site was in lockdown being a retirement village. An electronic meeting subsequently occurred for all parties to obtain feedback from the Chair of the Committee. This resulted in clarity of the issues raised by the Committee and the Applicant subsequently amended their design to include proposed sketches (as requested by the Committee) and further information in regard to Archaeology. Copies of this information have been provided in the Development Plans at **Appendix C**.

The Committee accepted the changes and Heritage NSW proceeded to issue the General Terms of Approval dated 6 April 2020 a copy of which are annexed to this report at **Appendix B**.

A detailed Chronology of Events outlining the key issues and timeline of the proposal is also attached for the assistance of the Panel at **Appendix E**.

PLANNING ASSESSMENT

Section 4.15(1)(a)(i) provisions of any environmental planning instrument

Environmental Planning and Assessment Act (EP&A Act) 1979

Section 4.5 Joint Regional Planning Panels

Section 4.5 of the EP&A Act and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 requires the Joint and Regional Planning Panel (JRPP) to determine applications for general development over \$30M. The application was lodged on 20 December 2018 and exceeds \$30M, therefore requiring determination by the JRPP.

Section 4.46 – Integrated Development

The development proposal is integrated development pursuant to Section 4.46 of the *Environmental Planning & Assessment Act* 1979 as an approval is required under the *Heritage Act* 1977. The broader site encompasses significant heritage items including Closebourne House and Brushbox Avenue which are listed on the State Heritage register (Item number 00375), in addition to Morpeth House. Given its state significance the entire site is protected by a Permanent Conservation Order under the *Heritage Act* 19077 (PCO 375) and as such the referral to NSW Heritage is required.

Regional Environmental Plan

Release of the Hunter Regional Plan 2036 includes land use planning priorities and decisions over the next twenty years in the Hunter area. Whilst Morpeth is not specifically identified in the plan, Morpeth provides a thriving tourist destination and tourism promotion is central to the strategy. In addition, it is noted the median age of residents in Morpeth is 47 years of age and in the Lower Hunter there is a large percentage of the population of the lower hunter (approx. 6.5% who are 50 and above), therefore the demand for these sorts of facilities will increase over time.

Heritage Act 1977 –

This State legislation makes provisions for the conservation of the State's environmental heritage whilst providing for identification, protection and registration of items of heritage significance and the operation of the Office of Environment & Heritage (NSW Heritage Division). The proposed development contains State Heritage Items and referral to the Office of Environment & Heritage (NSW Heritage Division) has taken place as Integrated development and General Terms of Approval are annexed to this report at **Appendix B**.

Aged Care Act 1997 (Commonwealth) -

This Commonwealth legislation applies to Residential Care Facilities and promotes the provision of high quality care and accommodation for recipients of aged care services. The Act also aims to protect the health and well being of recipients and targets those in the greatest need. Non discriminatory access to services and respite for families and carers is also a key focus. Diverse, flexible and responsive aged care services must also be appropriate and affordable and provide for quality of care. Laws on diversity and discrimination also apply to aged care.

The proposal is required to meet the requirements of the Act and does so by integrating planning and delivery of Aged care services with planning and delivery of related health and community services and with provision of a facility that provides for non discriminatory access whilst delivering high quality care.

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 of the SEPP requires the Joint Regional Planning Panel to be the determining authority for development included in Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*. This includes general development over \$30 million in value. The proposal is general development with a value of \$31,139,092 plus GST and accordingly, the application is submitted to the Hunter and Central Coast Joint Regional Planning Panel for determination.

State Environmental Planning Policy No 55 – Remediation of Land

This State Policy aims to promote remediation of contaminated land for the purpose of reducing the risk of harm to human health or other aspects of the environment. The Policy requires a consent authority to consider if the land is contaminated, and if so, whether it is satisfied that the land can be remediated and will be suitable for the intended use upon completion of works.

The site has been investigated for the potential of contamination with Douglas Partners carrying out a Geotechnical and Contamination assessment in conjunction with the Masterplan DA 08-2335. The assessment found that there was generally a low risk of gross contamination on the site, whilst some areas of the site were identified for potential minor contamination.

An inspection regime was set out by the Geotechnical Engineer given results of chemical testing included potential contaminants such as bricks and ash had been observed during the testing regime. Council has also raised previous issues about uncontrolled fill on the site and the Applicant was required to provide clarity in regard to potential contamination on the site in this area. A letter was provided by the Geotechnical Engineer dated December 2019 noting that:

- *The investigation generally did not identify visible or olfactory signs of contamination in the fill materials that overlie the natural soil, although it was noted that a number of bores encountered fill which included, glass, bottles, bricks, slag or coal fragments. The results of chemical testing undertaken on selected samples from these bores and pits indicated containment concentrations were within the General Solid Waste criteria (without leachability testing – CT1) as outlined in NSW EPA (2014a).*
- *The results of chemical testing were compared against Excavated Natural Material Order 2014 (NSW EPA, 2014b) and were all below the maximum and average permissible concentrations in the ENM order with the exception of one sample of filling which returned a total recoverable hydrocarbon (TRH) concentration of 894 mg/kg which is above the maximum permissible value of 500mg/kg in the ENM order.*
- *The natural soils tested were below the adopted background values (ENM maximum average guideline values) for heavy metals and less than the laboratory detection limit for other contaminants tested (ie., TRH, BTEX, PAH, OCP, OPP and PCB), with the exception of trace concentrations of PAHs in Bore 208/1.01.1m which was sampled beneath a fill layer containing PAHs.*

Potential contaminants such as bricks were noted by the Geotechnical Engineer to be possibly indicative of material sourced off site, thereby presenting risk of introduction of contaminants as a result of poor segregation practices and unknown activities on the source site. Hazardous materials were also of potential concern and it was recommended that during construction a specific inspection regime be implemented to identify areas of fill warranting further assessment and to confirm the suitability of the preliminary waste classification. This would include regular inspections and strict handling procedures.

Several old buildings have been demolished within several areas of the site and risks of asbestos within the soils could alter waste classifications. Given the potential for

archaeological artefacts to be present on the site works will be required to align with the requirements of the archaeology testing and conditions have been included in this regard, together with an unexpected finds protocol, see conditions 18 and 19 of the schedule of conditions attached to this report.

A Hazardous materials assessment was undertaken relating to the buildings in the Closebourne group on site and it was noted that there was some existence of contamination including the presence of lead paint and asbestos. Arkell House included detection of friable asbestos in the carpet underlay under the entire floor area (150m²) and the Dining Hall kitchen included bonded asbestos however, friable asbestos was noted in the roof void. See condition 21 in the schedule of conditions attached to this report.

General concerns were also raised in regard to vibration as part of future construction issues (as noted by the Geotechnical Engineer – *pneumatic or hydraulic hammering*) and therefore Dilapidation surveys of existing buildings will be a requirement via the imposition of conditions of consent. See conditions numbered 16 and 17 in the schedule of conditions attached to this report.

The development is acceptable in regard to this State Policy subject to the conditions of consent contained in the schedule to this report.

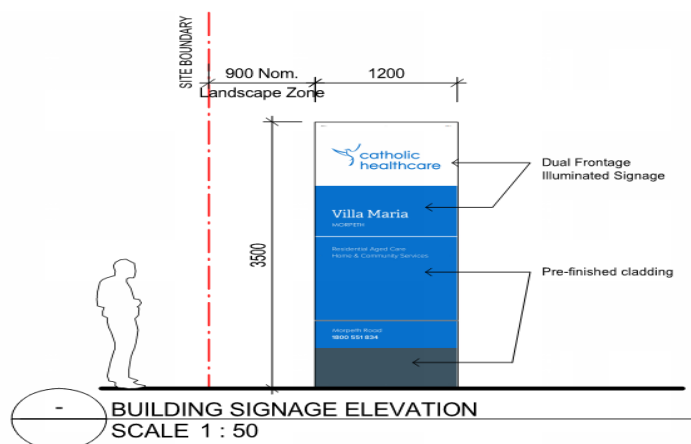
State Environmental Planning Policy No 64 – Advertising & Signage –

This State Policy requires development to ensure that advertising and signage not only provides effective communication but that signage is compatible with visual character and desired amenity of an area, whilst being of a high quality design and finish.

The signage proposed under the application is defined under the SEPP as business identification signage.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
 - (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,
- but that does not contain any advertising relating to a person who does not carry on business at the premises or place.



The signage is freestanding and is 1.2m in width by 3.5m in height. The signage will include the name of the Residential Aged Care Facility, the healthcare provider and contact phone

number. The signage is to be located adjacent to the entry into the internal accessway that leads to the car park and will sit flush with the ground level. The signage is not situated in close proximity to any neighbouring dwellings. The signage will maintain a low halo illumination and will not impact the amenity of existing residents on the site.

Clause 8 of SEPP 64 requires the consent authority to be satisfied that the signage is consistent with the objectives of the SEPP as set out in clause 3(1)(a) and the signage satisfies the assessment criteria specified in Schedule 1. Assessment against Clause 3(1)(a) and Schedule 1 is provided below:

1. Character of the Area

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?

The signage is 1.2m in width by 3.5m in height and will identify the facility clearly. The signage itself is relatively simple however it is considered that the signage should be reduced to 2.5m to ensure it is compatible with the desired future character of the area (this requirement has been noted in the GTA's of NSW Heritage attached at Appendix B). The signage provides a clear description of the development upon entry to the facility. Lighting included will be required to be of a low halo illumination. It is not considered that the signage will impact the view corridor between Morpeth House and Closebourne House noting its position to the right of the main driveway and also the reduction in height that will be required. The signage is considered suitable for the proposed development and the Morpeth Heritage Conservation Area. Colours and finishes cannot be changed due to the corporate branding.

Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

There is no particular theme for outdoor advertising in the locality that would be specific to this development nor do the Morpeth Heritage Guidelines prepared for the site (to guide dwelling design on the Lifestyle allotments) relate to this development. However the site does contain State Heritage items and the signage has been required to be reduced to 2.5m in height to ensure there are no impacts to the view corridor between Morpeth House and Closebourne House. The low impact (low halo) lighting will not impact immediate neighbours.

2. Special Areas

Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

Given the scale and location of the signage it will not detract from the Morpeth Heritage Conservation Area or the overall site and will be integrated into the southern part of the site as a modest structure.

3. Views and Vistas

Does the proposal obscure or compromise important views?

The site does contain State Heritage items and the signage has been reduced to 2.5m in height to ensure there are no impacts to the view corridor between Morpeth House and Closebourne House.

Does the proposal dominate the skyline and reduce the quality of vistas?

The signage does not obscure the skyline nor reduce the quality of vistas. The signage is relatively simple and will be reduced to 2.5m in height.

Does the proposal respect the viewing rights of other advertisers?

The signage is only specific to the proposed Residential Care Facility and will have no impact on the rights of other advertisers.

4. Streetscape, setting or landscape

Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

The scale, proportion and form of the signage is acceptable with a reduction in height to 2.5m to ensure the signage respects the view corridors between Morpeth House and Closebourne House.

Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

The signage is integrated into the site as part of the overall facility and will not impact the streetscape in Tank Street or existing development within the site.

Does the proposal reduce clutter by rationalizing and simplifying existing advertising?

There is no existing advertising within close proximity to this area of the site. The site also maintains limited signage (other than some directional signage) generally, due to the Heritage significance of the site and the State heritage items situated on the site.

Does the proposal screen unsightliness?

The signage will be identification signage only and will not screen unsightliness. The signage is to be integrated into the overall design of the facility and there will be substantial plantings along the southern boundary area.

Does the proposal protrude above buildings, structures or tree canopies in the area or locally?

The signage does not protrude above buildings, structures or tree canopies in the area.

Does the proposal require ongoing vegetation management?

N/A landscaping is included in the development, however the signage will not require further landscaping in its proximity.

5. Site and Building

Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located.

The scale, proportion and form of the signage is modest and acceptable with a reduction in height to 2.5m to ensure the signage respects the view corridors between Morpeth House and Closebourne House. These details are required to be submitted with the s.60 application and this has been detailed in the NSW Heritage General Terms of Approval.

Does the proposal respect important features of the site or building, or both?

The proposed signage is contemporary in design but will integrate with the contemporary additions to Closebourne House which are situated at the rear of Closebourne House.

Does the proposal show innovation and imagination in its relationship to the site or building, or both?

The signage shows innovation in the relationship of the signage to the building and the site.

6. Associated devices and logos with advertisements and advertising structures
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which its is displayed?
 Lighting is included but will be of a low halo illumination type only (similar to that used outside hospitals).

7. Illumination
Would illumination result in unacceptable glare?
Would illumination affect safety for pedestrians, vehicles or aircraft?
Would illumination detract from the amenity of any residence or other form of accommodation?
Can the intensity of the illumination be adjusted, if necessary?
Is the illumination subject to curfew?
 The illumination will be of a low halo illumination type only and will not impact residences on the site given the closest residences in Albuera Close will not be directly adjacent to the lightbox.

8. Safety
Would the proposal reduce the safety for any public road?
Would the proposal reduce the safety for pedestrians or bicyclists?
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?
 The proposed signage would not reduce the safety for any public road or private internal roadway, pedestrians or cyclists as the signage does not obscure sightlines from public or open space areas.

A general advice should be included in regard to any future signage that does not meet the exempt criteria of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 will require separate approval from Council and may also trigger referral to the Office of Environment & Heritage (NSW Heritage Division). See the advices section of the conditions of consent attached to this report.

Signage applied for as part of this application has been assessed against Clause 13 of SEPP 64 (matters for consideration). In this regard, the signage is compatible with the desired amenity and satisfies the requirements of this State Planning Policy.

State Environmental Planning Policy (Infrastructure) 2007

The aim of this State Policy is not only to facilitate effective delivery of infrastructure across the State but to ensure provision of flexibility in relation to the location of infrastructure and service facilities and identify any concerns in relation to assessment of development adjacent to particular types of infrastructure.

Clause 45 of the SEPP relates to development within vicinity of 2m of an underground electricity power line or an electricity distribution pole and within 10m of any part of an electricity tower, within or immediately adjacent to an easement for electricity purposes or immediately adjacent to an electricity substation or within 5m of an exposed overhead electricity power line.

Council notes that there is an existing electricity substation in the vicinity of Household A. NSW Heritage (Committee section) identified more recently, the requirement for this facility to be moved and conditions have been included at number 9 in the schedule of conditions for the Applicant to liaise with Ausgrid in regard to final Ausgrid requirements for the substation to be moved.

State Environmental Planning Policy (Housing for Seniors or People with a Disability - 2004) –

The proposal is one to which State Environmental Planning Policy (Housing for Seniors or People with a Disability 2004 (SEPP HSPD) applies. This State Policy sets aside local planning controls and provides specific standards and design controls in order to regulate and facilitate the development of seniors housing. The purpose of the SEPP is to encourage the provision of housing which meets the needs of seniors and people with a disability. It directly targets any person over the age of 55 years, people with a disability of any age and their family or carers.

Clause 47 of the SEPP exempts the proposal from the need to comply with certain controls, building height, density and scale, landscaped area, parking for residents and visitors (as long as the minimum requirements of clause 48 are met) on the basis that the land is the subject of listing on the NSW State Heritage Register. This exemption recognizes that strict application of the 'standard' controls may be unreasonable and onerous given the special planning circumstances that are likely to be encountered on these types of sites. As such the design controls are better assessed on a merits basis for these special sites. The approved masterplan, which has been developed from a comprehensive conservation management plan for the site (endorsed by the NSW Heritage Office) provides the 'planning control' context for the site at a holistic level.

The SEPP defines seniors housing as:

Seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these, but does not include a hospital.

Accommodation does not have to be limited to seniors or people with a disability. Seniors housing may also be used for accommodation of the following:

- (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.

The proposal falls under the definition of a *residential care facility*.

The proposal has been assessed against the relevant provisions/standards of the SEPP (Housing for Seniors or People with a Disability) 2004 and the proposed development is considered to meet all design requirements under the SEPP for a residential care facility.

Relevant provisions considered under SEPP (Housing for Seniors or People with a Disability) 2004 are as follows:

Chapter 1 – Preliminary

Clause 2 Aims of Policy

The Policy also aims to encourage the provision of housing (including Residential Care Facilities), increase the supply and diversity of residences that meet the needs of seniors or people with a disability, whilst making efficient use of existing infrastructure and services, and ensuring provision of good design.

The aims of the Policy are met by the proposed development of a high quality design, that will provide for an increase in supply and diversity of care units that meet the needs of seniors and will make efficient use of existing infrastructures and services within the locality.

Clause 4 Land to which Policy applies

The subject site is zoned RU2 Rural Landscape under Maitland Local Environmental Plan 2011 and seniors housing is not a permitted land use within this zone. However the development has been lodged under Clause 5.10(10) Heritage Incentives Clause of MLEP 2011. See discussion in the MLEP 2011 section of this report and details relating to the previous Masterplan approval for the site.

Clause 11 Residential Care Facilities

Residential care facility is residential accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and appropriate staffing, furniture, furnishings and equipment for the provision of accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

The proposal is consistent with this Clause of the SEPP. The development will provide integrated health care to residents with provision of preventative health and wellbeing programs and will provide a continuum of care for older residents to protect their health and wellbeing.

Clause 18 Restrictions on occupation of seniors housing allowed under this Chapter

Relevant conditions of consent are recommended to ensure that the requirements of this clause are satisfied, see conditions numbered 11 and 12 in the attached schedule of conditions.

Clause 22 Fire sprinkler systems in residential care facilities for seniors

Under Clause 94 of the *Environmental Planning & Assessment Regulations 2000*, Council previously indicated to the Applicant that it may require Closebourne House to be upgraded to meet building fire safety requirements.

This level of scrutiny and provision of documentation at the time of lodgement of the initial application had not been applied due to the fact that Closebourne House, Arkell House and the former laundry/gym building are incorporated into the overall development which will need to be the subject to PCA assessment prior to the issue of a Construction Certificate (including Fire Engineering considerations).

The fire safety strategy indicates that design will encourage *...quick and effective egress with multiple choices of exit paths. Systems are included as necessary to help support the fire engineering strategy such as sprinkler protection and targeted fire and smoke separation.* Council's Building surveyor has included conditions in regard to BCA Compliance/Fire Safety and provision of a higher level of documentation will be required as part of the Construction Certificate process. A condition has been included for compliance with the Building Code of Australia, see condition 64 of the attached schedule of conditions.

Clause 26 Location and access to facilities

The site is located outside Greater Sydney and access must not be more than 400m of an accessible path of travel to services or facilities including shops, bank service providers and other retail and commercial services, community services, recreation facilities and the practice of a general medical practitioner or to a transport service that accesses those facilities.

An assessment of site related requirements was undertaken under the Master plan application and it was determined that the location of the development was appropriate in terms of its access to essential services and facilities.

In relation to transport, a bus stop was approved under the Master plan on the western side of the main entry road. This bus stop has been constructed under the Stage 1A civil works and is considered appropriate to service the development.

The existing overall Morpeth Heritage Estate site includes retirement village accommodation, residential housing and farmlet lots and associated community facilities. As part of the retirement living concept existing residents are provided the following services to allow them to retain their independence:

- Meals and nutrition management;
- Home help (laundry, meals, housework, shopping);
- Personal hygiene management;
- Nursing services;
- Mobility assistance (including transfers);
- Rehabilitation programs;
- Podiatry;
- Emergency alert and response (24 hours a day, 7 days per week by on-site staff); and
- Transport services.

Given the high end care nature of the facility residents may not always wish to leave the site or be able to seek services. In this regard, the Residential care facility will provide for a café, gym, hair salon, provision of specialized care including meals and catering, cleaning services, nursing care and staffing together with non care related services such as maintenance, gardening and associated services.

The site is located within close proximity to local shops, supermarkets, parks, services and Morpeth Village (approximately 300m from the retirement village entrance). The dominant commercial activity within Morpeth Village is primarily tourist related business however the small village provides a vibrant shopping precinct which includes a butcher, pharmacy, small independent convenience store, delicatessen, fashion stores, restaurants and coffee shops. No bank or building society is situated in Morpeth however, residents are able to access banking services through the Post office or ATM machine located in the commercial precinct.

In addition, the site is within a short distance to East Maitland (approx. 10 minutes drive), and to Central Maitland and the Greenhills shopping precinct (approximately 15 minutes drive). The site is serviced by public transport services (Transport Buses, Transport NSW) and in particular, route 184 – Stockland Green Hills Shopping Centre to Morpeth via East Maitland and Tenambit is the prime public transport route travelling through Morpeth. The East Maitland Railway station is also in close proximity.

Internal footpaths will be designed in accordance with the SEPP gradient requirements and conditions will be included in regard to compliance with accessibility standards. In addition, a BCA compliance statement has confirmed that the development is capable of complying with

the performance provisions of the BCA, see condition 64 of the attached schedule of conditions.

Clause 28 Water and Sewer

The site is currently serviced by reticulated water and sewerage services which will be extended and connected to the proposed development. The amended plans were stamped by Hunter Water and Hunter Water who provided a Notice of Requirements to the Applicant dated 12 March 2019.

Hunter Water confirmed previously that there is sufficient capacity in the water supply network to service the development and indicating that it would not issue a Compliance Certificate under Section 50 of the *Hunter Water Act* 1991 until the requirements of the Notice had been met by the Applicant. In addition, Hunter Water noted that the development is to be serviced in accordance with the Morpeth House Heritage Estate Sewerage Servicing Strategy (Version 5 – 02 March 2011) and any additional requirements specified by Hunter Water

Given the Notice of Formal Requirements lapsed in March 2020, the Applicant has obtained an updated Notice of Formal Requirements dated 25 May 2020.

Conditions have been included in regard to provision of water and sewerage services and the requirement for a Section 50, see condition numbered 8 in the attached schedule of conditions.

Clause 30 Site Analysis

Site analysis has largely been addressed and supported through the CMP for the site Master plan process. Issues such as ecology, slope, archaeology, indigenous heritage, servicing, accessibility and context have also been addressed in the development application for the site Masterplan and Storm water drainage. The site is otherwise unconstrained in terms of bushfire, flooding or any known landslip.

PART 3 – Design Requirements

Clause32 The proposal is considered consistent with the Principles set out in Division 2, as detailed below:

Clause 33 Neighbourhood amenity and streetscape

The existing character is predominantly influenced by the Seniors Housing on the site and the State heritage listing. The built form of the residential care facility will sit to the rear of Closebourne House but will include the adaptive re-use and conservation of Closebourne House, the former Laundry, Gym/Chapel buildings and Arkell House with remaining buildings to be removed and a new building extension of single storey and double storey components included. The development is compatible in terms of scale and design and with the broader Morpeth area and Heritage Conservation Area.

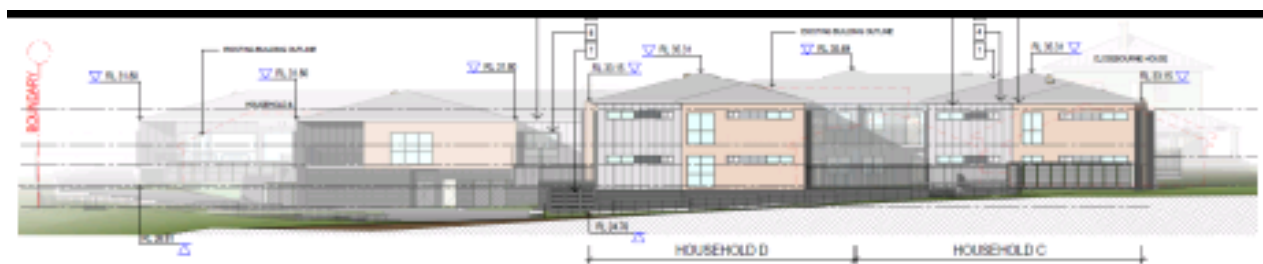
The amenity of the neighbourhood is not considered to be impacted given the contemporary form of the development will be sited to the rear of Closebourne House and away from the existing residential development on the site and will maintain appropriate setbacks and height, in particular, the new development does not exceed the height of Closebourne House and provides for a contemporary built form. In addition, the development will be located towards the southern portion of the Closebourne precinct and provide for generous landscape plantings which are suitable for this location. This site is also surrounded by the Tank street paddocks and the visual curtilage areas of Closebourne House.

Clause 34 Visual and Acoustic Privacy

The design provides for amenity and separation distance between Closebourne House and the Household buildings of the Residential Care Facility within the development area. In addition, the development is supported by generous landscaped areas and courtyards to minimize potential privacy impacts.

As part of the assessment the Applicant was required to provide a further Visual Impact response with the inclusion of photomontages to provide an assessment of landscape character and views to be maintained, particularly in light of the of the heritage significance of the site and the views towards St James Church, back from the eastern part of the development. The resultant photomontages demonstrated that the development will not have a significant impact upon the setting of Closebourne House and the surrounding landscape values. The landscape plans are acceptable to Council, however the final landscape plan was submitted to Council after NSW Heritage had provided its report to the Committee and therefore requirements for a final landscape plan to be submitted to NSW Heritage for approval has been included as part of the General Terms of Approval at **Appendix B** of this report.

Main Elevations (without landscaping) are noted below:





An acoustic report has been provided by Wood and Grieve Engineers and includes appropriate glazing to achieve internal noise levels specified in the related Australian standards and the report also references the Industrial Noise Policy guidelines.

The development is setback significantly from other residential dwellings on the site and the proposal is well supported by generous landscaping and a car park area which together with the open space of the Tank street paddock separates the development from the closest residents of the site. The design provides for suitable residential amenity and separation distances.

Council's Building Surveyor discussed the contents of the report with the Acoustic consultant and is satisfied the report is adequate. The report was prepared in line with the Industrial Noise Policy Guidelines which are stringent in regard to noise compliance in NSW. Conditions will be included to ensure the development complies with the recommendations of the report and also that an Acoustic Engineer certify the development has complied with the noise requirements of that report. See also Section 4.15(1)(b) section of this report. See condition numbers 32 and 33 of the attached schedule of conditions.

35 Solar access and design for climate

The proposal includes provision for appropriate solar access. Shadow diagrams have been provided by the Applicant and no solar access concerns are raised.

Solar access is provided within the development to rooms and outdoor space areas having regard to the site orientation and building design. During the summer period there is adequate solar access being achieved across the entire day. Courtyards and sensory gardens will provide appropriate areas for seating and enjoyment of garden spaces during the warmer months. During the winter period up until midday the proposed development can achieve adequate sunlight. Given the winter solstice shadow impacts on the open space areas increase, there is less availability of sunlight after 3pm.

The sunlight to outdoor areas will contribute to overall levels of amenity. The proposal provides for a good level of community facilities as well accessible communal landscaped open space areas which can be used for passive recreation purposes, as well as secure space for dementia patients to enjoy the garden and outdoor areas.

The proposal will not impact other residential development on the site given its location.

Clause 36 Storm water

A concept storm water plan and strategy has been provided as part of the application. The development will collect run off from all impervious areas, including surface run off from new roof areas, car park and landscape areas and this will be directed via a new stormwater management system and conveyed to the internal drainage system.

The initial drainage analysis report prepared by Lindsay Dynan Consultants (Project Number: 00012607) dated 11 October 2018 for Morpeth Closebourne Village noted that existing drainage Basin 3 is to be upgraded to achieve post-development flows to the pre-development flow rates of the subject site. The Applicant was subsequently required to provide additional information regarding proposed modification of the existing drainage structures including preliminary engineering plans and hydrology and hydraulic calculations with DRAINS model data and results.

Hydrology and hydraulic calculation (DRAINS MODEL) were provided to Council and found to be acceptable. The storage capacity of Basin 3 was increased from the current volume of 3315m³ to 5480m³ to accommodate additional flow from the subject development.

The development makes suitable provision for the collection and disposal of stormwater from the development to the existing drainage channel/basin. Conditions have been included in regard to the final storm water design, see conditions 60-62 of the schedule of conditions attached to this report.

Clause 37 Crime Prevention

The proposal will provide for improved access control and security for residents and discourage crime risk by use of the proposed entry. The entry will have suitable surveillance and territorial control. The development specifically provides the following:

- Perimeter fencing around the Residential care facility to clearly delineate private space for the residents of the facility;
- Clear paths of travel;
- Dedicated off-street parking which reduces the opportunity for vehicle theft; and
- Landscaping.

The development provides for good visual surveillance from windows to open space areas. Landscaping and fencing boundaries will assist to reduce entrapment areas and limit opportunities for crime to occur. The site is well designed and limits the potential for entrapment with good delineation of landscaping, car parking areas and provision of appropriate lighting. The design also provides for improved territorial reinforcement through clear separation of the entry and the service areas to the rear of the development.

In addition, the requirements of the Aged Care Act 1977 requires that Residential care facilities not only provide for a high quality of care and accommodation but that protection of the health and well being of the recipients is foremost.

Safety and security are a prime consideration for a facility such as this and the development will be required to ensure that lighting is provided to minimum Australian and New Zealand standards and in compliance with the SEPP requirements and conditions have been included in regard to lighting, see condition 51 of the attached schedule of conditions.

Clause 38 Accessibility

The development provides for clearly delineated paths and pedestrian links and access to public transport facilities as discussed elsewhere in this report. In addition, whilst the main car parking area is to the rear of the site, a drop off/ambulance bay is location immediately adjacent to the entry to the Residential Care Facility for access as well as some visitor parking. Rear access is also available from the southern area of the site. Staff and service areas are also appropriately separated and situated to the rear of the site.

A BCA and Accessibility Compliance Statement has been provided which confirms that the development is capable of complying with the performance provisions of the BCA. The only exception identified in the report was in regard to the internal staircase within Closebourne House which was noted as potentially non compliant and was recommended to be made compliant. However, it is noted that the development application does not propose modification to the existing stairwell within Closebourne House and given that a platform lift is to be installed to provide access to the rear verandah off Closebourne House (for those requiring non discriminatory access), NSW Heritage recommended the Victorian period staircase remain in its unmodified form, which will ensure protection of this original structure.

As noted previously in this report the internal link road between Morpeth House and to the southern boundary of the Closebourne Precinct has been previously approved. Pedestrian links are also provided along this section of roadway.

Access to and around the development is satisfactory and the services/facilities provided on site are adequate, attractive and safe.

Clause 39 Waste Management

The development will provide for appropriate garbage storage areas and a Waste Management Plan has been prepared to provide details in relation to collection, handling, storage and removal of waste from the site.

Waste includes:

- General waste;
- Comingled recycling (including paper and cardboard); and
- Medical waste (generally sharps/bandages etc).

Any green waste generated on site will be taken offsite and disposed of correctly by qualified contractor.

Council's Waste Management Officer has confirmed the residential and commercial waste and recycling generation rate is considered adequate. Concern was raised regarding the waste collection area being adequate for the required bin storage. In response the Applicant has amended the Architectural plans to provide sufficient area for 12 x 1100L bins, 4 x 120L bins and 2 x 240L bins. The amended plans include a width of 1.30m bin storage for easy removal of bins from this area.

The Applicant has advised that a private contractor will most likely be used for waste pick up.

Staff will be trained in regard to disposal of clinical waste (including sharps) and these will be removed by contractors. There will only be small amounts of clinical waste given any acutely ill/injured persons would be transferred to a hospital for treatment.

Bulk detergents and cleaning agents would be required to be stored appropriately on the site in compliance with necessary guidelines and any other chemicals to be stored in appropriately bunded areas, see condition 48 of the attached conditions of consent.

Conditions have also been included in regard to waste disposal of demolition waste and other construction waste on the site to a Licensed Landfill Authority. See conditions numbered 21 and 22 of the attached schedule of conditions.

Clause 40 Minimum standards, minimum size and building height

The site is over 40.29ha overall and the Residential Care Facility is to be undertaken on a site that exceeds the 1000m² minimum requirement. The main site frontage is well in excess of 20m wide minimum requirement and complies with the SEPP in this regard.

The plans indicate there is no encroachment to the 8m ceiling height plane from natural ground level and Closebourne House remains the prominent and tallest building at a ridge RL of 38.21 with the two storey component of the aged care buildings being at RL 35.31 to the ridge. See the elevation plans in this regard.

Division 2 – Residential Care Facilities – Standards concerning access and useability

Note: Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the Building Code of Australia.

No issues are identified in relation to the Commonwealth Aged Care Accreditation standards or the Building Code of Australia in regards to access/useability.

A BCA and Accessibility Compliance Statement has been provided which confirms that the development is capable of complying with the performance provisions of the BCA and Council's Building Surveyor has not raised any further concerns in regard to accessibility.

PART 7 – Development Standards that cannot be used as Grounds to Refuse Consent

Division 1 – General

This clause states that a consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds:

- (a) Building height – if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),*

As noted in the SHI – the survey shows the ridge of Closebourne House at RL 38.16 (9.220m above the GF of the CBH) and DA application drawings showing the highest ridge of the proposed single storey buildings to the south at RL 33.93 (households A and B) and the highest ridge of the proposed double storey buildings to the east RL 35.1 (households C and D). The hipped roof form proposed lowers the ridge levels at the end of the buildings.

The plans indicate there is no encroachment to the 8m ceiling height plane from natural ground level and Closebourne House remains the prominent and tallest building at a ridge RL of 38.21 with the two storey component of the aged care buildings being at RL 35.31 to the ridge.

- (b) Density and scale – if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,*

The FSR of the development is 0:35:1 and is within the 1:1 limit.

- (c) Landscaped area – if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,*

A landscaped area of 11, 279.318m² is provided in accordance with the SEPP as follows:

- Household A – courtyard space – 322.02m²
- Household B – courtyard space – 277.94m²
- Household C – courtyard space – 574.42m²
- Household D – courtyard space – 605.57m².

This equates to 104m² of landscaping per residential aged care facility bed.

Landscaped corridors are provided through the centre of the facility creating a pleasant pedestrian corridor when combined with seating, shelter and arbours. The development is acceptable in regard to landscape outcomes and will maintain privacy for the occupants of the facility whilst providing adequate levels of 'softening' of the built form whilst respecting the existing heritage buildings and Heritage Conservation Area of Morepeth. See also the discussion in the Clause 5.10 section (MLEP 201) of this report.

(d) Parking for residents and visitors – if at least the following is provided:

(e)

- (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and*
- (ii) 2 parking space for each 2 persons to be employed in connection with the development and on duty at one time, and*
- (iii) 1 parking space suitable for an ambulance.*

32 parking spaces are provided for the development, in addition to the drop off space and ambulance bay and the development meets the SEPP requirements which requires a minimum of 26 spaces plus 1 ambulance space for this development. The development therefore provides for an excess of car parking and complies with this section of the SEPP. This is further discussed in the Traffic section of this report.

Chapter 4 Miscellaneous

Clause 55 Residential Care Facilities for seniors required to have fire sprinkler systems

A consent authority must not grant consent to carry out development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system.

See Clause 22 of the SEPP Seniors section of this report. Acceptable documentation in regard to fire safety has been provided for DA concept purposes. Sprinklers are to be included as part of the fire safety system. A condition has been included to ensure the development meets the requirements of the Building Code of Australia, see condition 64 of the schedule of conditions attached to this report.

Local Environmental Plan

Maitland Local Environmental Plan (MLEP 2011)

Several zonings apply to the overall site, including Ru1 Rural Landscape, R5 Large Lot Residential and R1 General Residential.

The proposed location for the Residential Care Facility is zoned RU2 Rural Landscape under Maitland Local Environmental Plan 2011 and seniors housing is not a permitted land use within this zone. However the development has been lodged pursuant to Clause 5.10(10) Heritage Incentives of MLEP 2011.

Seniors Housing is defined within the MLEP 2011 as follows:

seniors housing means a building or place that is:

- (a) a residential care facility, or
 - (b) a hostel within the meaning of clause 12 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, or
 - (c) a group of self-contained dwellings, or
 - (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for:
 - (e) seniors or people who have a disability, or
 - (f) people who live in the same household with seniors or people who have a disability, or
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,
- but does not include a hospital.

However, the Applicant seeks consent from Council under the Conservation Incentives of Clause 5.10 of Maitland Local Environmental Plan 2011 which notes:

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) The conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of the consent;*
- (b) The proposed development is in accordance with a heritage management document that has been approved by the consent authority, and*
- (c) The consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and*
- (d) The proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and*
- (e) The proposed development would not have any significant adverse effect on the amenity of the surrounding area.*

The adaptive reuse of the heritage buildings on the site as part of this proposal will include conservation works to be completed in conjunction with the assessment of any adverse impacts upon the heritage items, setting or the heritage significance of Aboriginal place. The development assessment has also taken into account the amenity of the surrounding area. The development can comply with the requirements of Clause 5.10(10) of MLEP 2011.

In addition, a Conservation Management Plan (CMP) was prepared for the site and endorsed by the NSW Heritage Office in 2005. The CMP established the parameters within which any future development would take place on the site and the approved Masterplan reflects the provisions contained within the CMP and the Heritage Agreement in accordance with the provisions of the Heritage Act, signed by the Minister administering the Act and the owner of the subject site.

The site was also subject to an earlier re-zoning to part 1(b) Secondary Rural land, part 2(a) Residential and part 1(d) Rural Residential in 2008. Whilst the development is currently not a permitted land use under Maitland Local Environmental Plan 2011, it was permissible under the previous Instrument on 1(b) Secondary Rural Land and the prescribed zonings and use are supported by the approved CMP, Masterplan and Heritage Agreement for the site.

The development is permissible pursuant to Clause 5.10(10) of Maitland Local Environmental Plan 2011.

Other clauses of relevance within MLEP 2011 include:

Clause 2.7 – Demolition requires development consent

The development will include the adaptive re-use and conservation of Closebourne House, the former Laundry, Gym/Chapel buildings and Arkell House with remaining buildings to be demolished and removed and new building works completed. The demolition of these buildings will not have a significant impact upon Morpeth House, Closebourne House or the adjoining Chapels and Diocesan Registry Group.

Development consent is sought for demolition works as part of the proposal and in this regard, conditions will be imposed to ensure demolition is undertaken in compliance with Australian standards and to ensure compliance in regard to removal of contaminants such as lead paint and asbestos materials. Demolition works will need to be undertaken carefully in conjunction with testing and excavation occurring on the site as part of the historical archaeology requirements and conditions have been imposed in this regard. See condition number 18 of the attached schedule of conditions.

Note: NSW Heritage has included a condition in regard to photographic archival recording of the Closebourne House group buildings to be demolished (interior and exterior together with landscaping and spaces) in condition 7 of the General Terms of Approval attached to this report as **Appendix B**.

Clause 4.3 – Height of Buildings

The site is not mapped on the height of buildings map in Council's Local Environmental Plan 2011, therefore there are no specific restrictions on height that are applicable to this proposal.

Clause 4.4 – Floor Space Ratio

There is no mapped floor space ratio applicable to this site in Council's Local Environmental Plan 2011.

Clause 5.10 - Heritage Conservation –

The objectives of this clause of Council's MLEP 2011 are to conserve the environmental heritage of Maitland, conserve the heritage significance of heritage items and heritage conservation areas including, the associated fabric, settings and views. In addition, the clause also provides for conservation of archaeological sites and conservation of Aboriginal objects and Aboriginal places of heritage significance.

The site benefits from the protections provided under Clause 5.10 which relate to the development and protection of the heritage significance in this Heritage Conservation Area of Morpeth. The original Masterplan (DA 08-2335) approved for the site was found to be generally consistent with key Council policies which have been developed (including the Morpeth Heritage Guidelines) as well as the Conservation Management Plan adopted by the Heritage Office for the site. The site is key in the history of the Hunter Valley and is crucial in the identity of Morpeth. The principle buildings on the site are very fine and unusual examples of their period. They retain a significant amount of original fabric and high integrity.

The land is located within the Morpeth Conservation Area as identified within the MLEP 2011. The broader site encompasses significant heritage items including Closebourne House and Brushbox Avenue which are listed on the State Heritage Register (item number 00375) in addition to Morpeth House. Morpeth township provides views out over the surrounding landscapes and the site is visually prominent on the approaches to Morpeth from both the south and west.

Given the state significance of the entire site, the site is protected by a Permanent Conservation Order under the Heritage Act 1977 (PCO 375) and the integrated development proposal was required to be referred to the Heritage Council for approval as noted within this report.

The Office of Environment & Heritage (NSW Heritage Division) Office previously endorsed the 2005 Conservation Management Plan (CMP) for the site. This document informed the development of the initial site Master plan and includes the establishment of curtilage lines which determined the extent to which the site could be developed whilst still preserving its rural character, view lines and minimizing impacts on listed heritage items, spaces and views. In addition, the CMP categorises various areas of the site with 'significance' gradings based on differing criteria relating to the importance and sensitivity of the curtilages and the existing heritage buildings on the site.

Grade 1 represents the highest level of significance with Grade 4 being the lowest level of significance and Grade 5 is considered intrusive. Extracts from the CMP are detailed below:

Grade 1 – Exceptional Significance

These spaces, structures or elements are of exceptional cultural significance. These are essential to an understanding of the significance of the place and play a crucial role in supporting this significance. They must be retained and their significant setting and elements respected and conserved. They may be adapted with minimum alteration for new uses as long as the integrity of their context and setting, spaces and fabric and their associations and original design intent is respected and, if possible, strengthened.

Grade 2 – High Significance

These spaces, structures or elements are of high cultural significance and play an important role in strengthening and supporting the significance of the place, but less than that for Grade 1. They should be retained and conserved. Adaptation and alteration of these spaces and elements is possible and new elements may be introduced which alter them as long as the integrity of their context, as well as their significant associations are respected and, if possible, strengthened.

Grade 3 – Moderate Significance

These spaces, structures or elements retain some integrity but are of lesser cultural significance. They play a moderate role in supporting the significance of the place and may have been altered or obscured. They can be adapted and changed, and this would be preferred to their loss or removal.

Grade 4 – Little/neutral significance

These spaces, structures or elements retain only minor or neutral significance and may be adapted substantially or removed.

Grade 5 – Intrusive

These spaces, structures or elements retain virtually no significance, and in some cases may be considered intrusive.

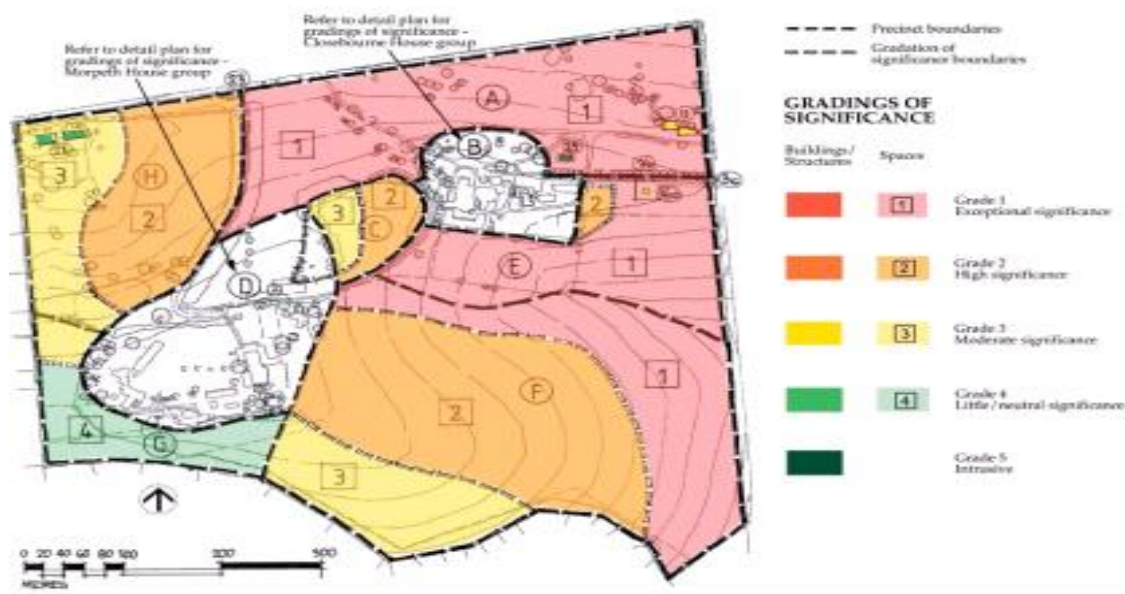
The Closebourne House precinct is divided into the following overall gradings:

Closebourne House Precinct	Overall Grading of significance	Threshold for Listing
Closebourne House site including buildings	Grade 1	State Listing

Closebourne House (1827-1829)	Grade 1	State Listing
Brushbox Tree Avenue	Grade 1	State Listing
Closebourne Laundry (1890)	Grade 3	
Sandstone Steps (1905)	Grade 2	Local
Site of Bishop Stretch room (1917 - demolished 1983 and now the present courtyard)	Grade 3	
Gymnasium (1930)	Grade 3	
The Registry (1946)	Grade 3	Local
Closebourne Assembly Hall	Grade 3	
Oval (1947)	Grades 2 & 3	



CMP gradings of significance – overall site



CMP gradings of significance –Closebourne House Group

The CMP for the site notes that the Closebourne House Group has a strong relationship to other precincts including a strong link to St James Church to the east, views to the south east across precincts E & F to rural landscape and the cemetery beyond together with the views from Brushbox Avenue.

Precinct E – Closebourne House – Tank street paddock

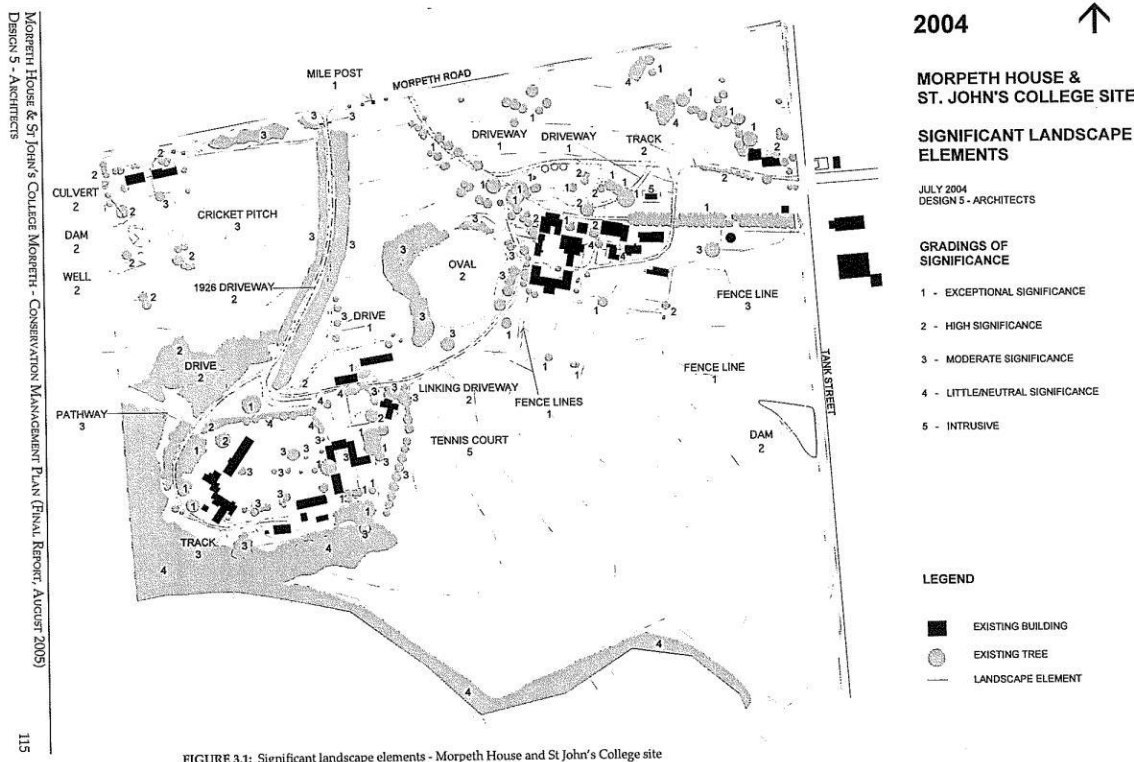
Maintains continuity between rural landscape to the east and west of Tank street and character of ridge based development. Significant visual links to rural landscape and cemetery beyond along valley.

Precinct F – Morpeth House – Tank Street paddock

Open grassed ridge rising from Tank street to Morpeth House Group. Relationship to other precincts – eastern part reads as part of open foreground to Closebourne House (Precinct B) and also as a continuation of rural landscape along the edge of Morpeth Township.

The CMP notes (page 116) – *The Closebourne House group of structures retains the prominence of the original house with all other structures taking a subservient role in its setting and generally hidden from principal views. ...The exceptional aesthetic significance of this part of the site arises from the careful and spectacular siting of Closebourne House and the manipulation of the landscape and the built elements around it strengthen its domination of the site and all it commands.*

The significant landscape elements are noted on the plan below extracted from the CMP below:



Page 165 of the Conservation Management Plan notes the following for the Closebourne House Group – PRECINCT B:

- *Maintain all significant and mature planting;*
- *Retain prominence of 'centre stage' setting of Closebourne House within precinct;*
- *Retain pergola structure including the full set of cast iron columns taken from the second Closebourne verandah;*
- *All structures, spaces and elements to be conserved, adapted, modified or removed in accordance with other policies and guidelines and subject to future detailed investigation and consideration;*
- *New development may occur within precinct along the south and south-east sections as long as the significance of the group and its parts are retained and respected and the low key view lines are retained. Scale and form of development to respect and strengthen significance of spaces and elements;*

- *Retain in situ and, if necessary, protect archaeological remains and evidence of earlier significant structures in this area (refer to Archaeology – section 5.4).*

As noted previously in this report, the original use of the House was as the Close family residence. The CMP notes the building is the earliest extant building on the site and is visually prominent when viewed from north, north-east to north-west across landscaped area (Precinct A). The building is noted to have a high degree of integrity and exceptional significance.

Alterations to this Building Item over time included:

Alterations associated with major changes of ownership and use as set out in brief history Front verandah considerably altered: original verandah with open parapet & timber posts demolished; new verandah with eaves and cast iron columns built (c.late 1800's ? shown in 1912 photo); enclosed upper storey verandah added (c1925 shown in 1937 photo); two storey verandah demolished and reconstruction of original built with enclosed parapet (1980-1988). Some inconsistency in detailing between original verandah and reconstruction. [CMP page 71].

The main alterations were therefore carried out between C1891-1905 when Bishop Stanton was in residence, in 1922 when it was converted to St Albans Boys home and again in 1925 when construction of the enclosed verandah occurred to provide more accommodation for the boys. Between 1980 and 1988 conservation works were undertaken under the direction of Geoffrey Danks (NSW Heritage Council) and these works included removal of the enclosed upper verandah, reconstruction of the original verandah, demolition of the Bishop Stretch room, opening up of the cellar and internal conservation works. In 1993 further conservation works including restoration of the rear verandah and stone repairs together with alterations to the east wing.

In addition, a Section 60 approval was issued by the NSW Heritage office in July 2018 by NSW Heritage for maintenance works which included roof replacement (the building was sustaining water ingress). The replacement of the roof (metal sheeting) formed part of the Schedule of Conservation and Maintenance Works approved for the site as part of the Heritage Agreement. This Heritage Agreement was embodied as part of the Masterplan approval on the site under DA 08-2335 and subsequently signed and approved by the Minister administering the Heritage Act 1977. A Section 65A application was also approved by NSW Heritage on 19 November 2018 in regard to verandah works.

A structural report was provided by Wood & Grieve Engineers dated 18 December 2018 for Closebourne House, Arkell House and the former Laundry and Gym/Chapel building. In addition, the proposal was supported by Hazardous materials survey reports from Douglas Partners dated September 2018 for the buildings the subject of this proposal as part of the DA information submitted.

In regard to Closebourne House the structural report noted that ... *the loadbearing walls are constructed of sandstone (noted as potentially containing two skins with the external skin faced with natural, coursed sandstone blocks). A mix of solid floors were found to directly bear down on the ground with some suspended timber joists. Roofing was timber framed* and it was noted that *the original had timber shingles that were removed with metal sheeting and then re-roofed back to shingles in the late 1980's.* The building was noted to have several defects, including:

- *Leaking roof in many locations resulting in damp walls and floors on the upper storey;*
- *Uneven stone wall bed courses in the external wall of the west elevation as a result of settlement related movements (There are two very large trees nearby);*

- *'Dropped' window head arches and minor cracks in the wall of the east elevation, alongside the area where there is a cellar under. We suspect that this is the result of long-standing minor settlement of footings locally;*
- *Extremely springy floor joists, possibly associated with rotten timber joist in one of the rooms in the east wing at ground floor level.*

The adaptive reuse of Closebourne House includes refurbishment and ultimately conservation in order to provide for upgraded facilities for users and to ensure this building is integrated into the overall Residential Care Facility.

Arkell House (The Registry) –

The structural report from Wood & Grieve Engineers dated 18 December 2018 provided with the proposal noted the building was *constructed in the mid 20th century using (stone windows, doors, framing etc) and walls contained double skin cavity brickwork.*

Defects – *extensive cracks in external brick walls emanating from the corner of the windows, cracks as a result of expansive forces created by several corrosion of steel lintels supporting brickwork over window openings.*

The former Laundry & Chapel –

The structural report from Wood & Grieve Engineers dated 18 December 2018 noted this building as a ... Single storey building built in brick beneath a pitched roof. Two distinct parts joined together – northern section dates to around mid 19th century and construction of solid brick walls. Southern section mid 20th century.

Defects – *The most significant defects in evidence relate to cracks in the brick wall on the north facing return wall on the rear (west) elevation. Cracks are located in a wall of the former Chapel building, close to where this return wall butts up against the former Laundry building. It appears that the new section has suffered subsidence – related movement possibly associated with nearby trees and their roots. The cracks are quite wide (75mm) and diagonal in nature, extending almost the full height of the wall.*

Both of these buildings will be adaptively reused as part of the proposal.

The proposal also includes the demolition of the following buildings:

Assembly Hall (1946), Toilet block (1940), Dining Hall (1955), and Bishop Tyrell Lodge (1982) – Grade 3 Moderate Significance; and Belle Vue House (1955), Tillimby House (1957), Cintra House (1960) and Workshop (1980) – Grade 4 – Little/Neutral significance.

The most significant buildings are to be retained and adaptively reused as part of this proposal. As noted in the CMP the buildings are able to be demolished as they are of moderate to little or no significance, and support for their demolition has been provided by NSW Heritage.

Statement of Heritage Impact

A Statement of Heritage Impact has been provided by the Applicant as part of the initial DA lodgement of documents for the proposal. This report was subsequently updated in the package of documents provided to Council in December 2019, to address identified concerns, including deficiencies or inconsistencies in documentation noted in the first round of submission responses.

The report noted that Closebourne House and Arkell House, the former Laundry and Gym/Chapel buildings have been closed for some time and remain unused. Adaptive reuse of Closebourne, Laundry/Chapel and Registry are proposed as part of the Facility together with demolition of the other buildings within the Closebourne precinct.

The report also noted that since the Masterplan approval it had been known that there would be some impact on the heritage significance of place and with respect to the original fabric and setting, however the degree of impact could be managed to mitigate the potential impacts. The proposal was also supported by a Fabric Analysis prepared by Placemark Architecture and Cultural Heritage dated 3 September 2019.

In regard to Closebourne House, the report referred to the following:

- *The form of the building, its presentation to front paddocks and Morpeth Road, the character of the c19 interior all rely on original walls. The sandstone is likely to have been won from Close's quarry on site. Avoid or minimize impacts on stone. The house has experienced many changes and reversals in its 190 years, particularly in the late 1890's then in the 1920's original fabric from periods of changing use remain. The 1980s restoration works are evident. All contribute to understanding and interpreting the c19 origins of the house, including the hierarchy of spaces in the 19th Century home.*
- *Where doorways are technically non-compliant in width or height further concessions should be negotiated. The wall thicknesses create deep doorway reveals, often lined in paneled joinery detail that cannot be lifted in the wall without substantial damage to the original fabric (the walls are the most original fabric of the building).*

Whilst there is a minor intrusion to achieve integration of the facility with Closebourne House it is noted that no works are proposed to the House frontage and that *....interior joinery is to be retained and protected wherever possible, including doors, door frames, architraves and skirtings. Original windows and 1980's reconstructed windows are to be retained, upgraded and protected to ensure safety and security as well as reuse.*

In regard to the revised lift proposal it was noted that the main considerations related to:

- *Removal of portions of internal original sandstone walls and some original plastered brickwork walls, the removal of floor framing and the excavation of footings;*
- *Location of lift shaft in accessible WC installed in 80's (fabric around this area dates from 1930s to 1940s). The lift shaft is not to penetrate the upper lath and plaster ceiling in order to protect the 1829 structural timber framing in the roof space above;*
- *To achieve a compliant lift lobby at both ground floor and upper floor means more parts of walls are proposed to be removed to door head height.*

The glazed roof over the waiting area will enable interpretation of the original scale and form of the house and its arrangement. The report goes on to note that the *....roof is below the existing barge/eaves to the rear wings, at the same pitch as the existing roof. The rear wing roofs remain as existing other than a roof window, one in each roof (to be included in a low and discreet manner).*

Internal doors –the door schedule maintains nearly all the 19th century door sets. *To achieve the required clear opening widths for the path of egress at Ground Floor level, three door leaves will be carefully removed and protected.*

The report goes on to note in regard to Closebourne House, the following:

- Representativeness noted as – *Rare surviving expression of early 19th century mansion and landscaped setting characteristic of early, substantially intact town with intact manor house with intact additional layers of significant Anglican occupation. (CMP).*

- Integrity/Intactness – *High degree of original fabric. Demonstrates key element of the item's significance.*
- *Closebourne House is a very fine example of an 1820's Colonial Georgian mansion and displays typical details for its period; however, a number of these are recent reconstructions which diminish its integrity. Its planning and elevational treatment are formal and symmetrical but the smallness of the upper windows in proportion to the elevations suggest the hand of an unskilled designer. Compare this elevation to that of Cleveland House (c.1811) by Francis Greenway or even Rouse Hill House (1813-18) by an unknown designer, and the relevant meanness of the window openings for a building of this period becomes evidence.*
- *The reconstructed verandah has not been constructed as documented and now appears rather heavier than it should.*
- *Internally, the detail and proportion of the original joinery suggests an unskilled designer but nevertheless what remains is still impressive, and very typical of the very early 19th century. The quality and condition of the masonry is very high, much higher than many of its contemporaries.*

The report notes in regard to adaptive reuse:

- *The modification of a heritage place to a new use that conserves its heritage values. Adaptation may involve the introduction of new services, or a new use, or changes to safeguard the heritage item. A good adaption is one that is sympathetic to the existing building and its historic context, and inserts new work, or makes changes that enhance and complement the heritage values of the heritage item.*

Possible impacts to buildings to be adaptively reused and the development generally were noted by the Heritage consultant to include:

- *the whole site;*
- *the immediate precinct and context (including views,, trees, archaeology); and*
- *for Closebourne House.*

In a letter issued by Council on 2 April 2019, Council advised the Applicant that the proposal (as originally lodged) was inappropriate for the following key reasons (these comments were at the time awaiting final commentary from NSW Heritage):

- The maintenance of the curtilage lines established under the CMP and consistency with the development principles contained in the CMP (in particular Figure 5.4 – development zones below), approved Master plan and Council's City Wide Development Control Plan;
- Preserving the character of the site and its view lines to minimise impacts on listed heritage items was a prime concern; and
- The connection of views between buildings and open space.

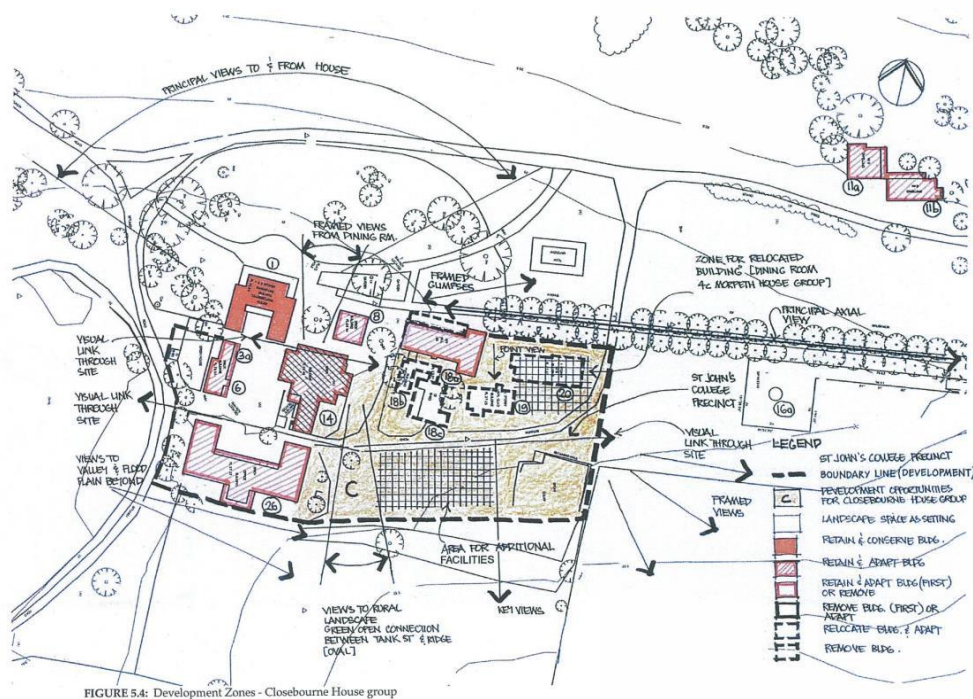


FIGURE 5.4: Development Zones - Closebourne House group

Figure 5.4 – CMP – development opportunities more able to be facilitated on the right hand side of the site.

Masterplan

It is noted that the GTA's that supported the approved Masterplan for the site included (but were not limited to the following conditions):

- *The proposed use in the Closebourne House area is considered acceptable. However, the information submitted does not demonstrate that a viable 80 bed high care nursing home can be designed in the vicinity of Closebourne House without an unacceptable impact on the significance of the subject site. The actual number of beds accommodated in this area is therefore not approved, but will be considered as part of a detailed separate application.*
- *Any development in the Closebourne House area shall be in accordance with the policies of the CMP and specifically figure 5.4 of the CMP;*
- *The Bishops Tank is to be retained. Any additional water storage that may be required as part of the project must be undertaken with minimum impact on the Bishop's Tank and also the overall rural setting of the subject site;*
- *This development is considered the maximum development possible on this site without making adverse impacts unacceptable in heritage terms;*

Council noted in its letter dated 2 April 2019, that the development was required to be undertaken in accordance with the approved Masterplan and that the SHI considered that the major departures to the CMP were justified on the needs basis for adaptive reuse of the site and client requirements for the operations of the aged care facility.

This letter also included several other issues including, but not limited to, preservation of character of the site, view lines, loss of integrity, deficiencies in material presented, extensive changes to the rear of Closebourne House, siting of buildings, lack of detailed fabric analysis, contamination, archaeology, environmental health, building and engineering concerns together with non compliance with the SEPP. See the Chronology attached to this report at **Appendix E** for further detail.

This view was supported by NSW Heritage who in June 2019 issued an advice to Council and the Applicant raising concerns in regard to:

- 1.The proposal being inconsistent with the Heritage Agreement (noting the development would extend into the 'preserved landscape curtilage' to the south of Closebourne House and Arkell House and concerns regarding the detrimental impact this would have on Closebourne House (in particular, its freestanding nature) and the garden courtyard;
- 2.Siting of building and rear wings was found not respect the design intent;
- 3.The development proposed neglected the significant open space at the rear of Closebourne House and its exceptional significance;
- 4.Whilst the use of the proposal was supported in principle, concern was raised in regard to the Masterplan and CMP policies and the Bishops Tank retention;
- 5.Assessment of buildings for demolition required in terms of heritage significance of place;
- 6.Impacts to Closebourne House were noted to affect original fabric, spaces and elements and had not been fully addressed;
- 7.No support provided for changes to the roofline of the original two wing form, the introduction of a covered courtyard, removal of the open courtyard and connection to a new building.

Reconsideration of the following was also required:

- 8.Modifications to the entire rear verandah for provision of a ramp and balustrade;
- 9.Removal of known and potential archaeological remains – included Bishop Stretch footings (1912) which were purposely retained;
- 10.Lift access in Closebourne;
- 11.Widening of corridors and doorways to provide access to the lift; and
- 12.Widening and heightening of the majority of doorways and new doors to meet BCA.

Concerns were also raised in regard to cumulative impacts, the possibility of relocating staff amenities into the new buildings, reconsideration of doorway changes within Closebourne House (noting that the construction type had been rarely seen in Australia and was usually only present in the earliest period houses and is still present at Old Government House Paramatta, which was built in 1799). It was noted that – *The mouldings in the panels of the internal doors are moulded as part of the stiles and rails rather than being made as separate elements and applied last.*

Landscape design was required to fully consider significant trees and in particular, trees 229 and 230 were of high significance and could be retained. Tree plantings were to be further considered and the overall landscape design.

Archaeological potential and assessment of archaeology was not considered in the first Heritage Impact Statement and was required to be further addressed.

In response to the above concerns, several meetings occurred between the Applicant and Heritage NSW to try and resolve the concept for the site. The revisions included elements such as a platform lift that would reduce possible impacts to the heritage fabric of Closebourne House, detailed schedule of doors and widths with updated door schedule to be provided, Bishop Stretch footings to be integrated into the new concrete floor flooring, signage elevations to be provided, landscape plans updated as well as several other amendments.

In particular, the free standing nature of the heritage buildings was to be maintained together with the large courtyard area and very minimal connections to the new facility. The rear of Closebourne house was to provide transparency when looking towards the southern boundary elevation.



Existing and proposed modifications to the rear of Closebourne House

In summary, the consultations with the NSW Heritage Office, Lendlease and Council included several site inspections and meetings including, but not limited to, 16 July 2019, 22 August, 2019 and 6 November 2019 as well as further phone discussions and skype meetings.

The revised plans provided to NSW Heritage for their report to the Heritage Committee provided for:

- 1. A reduction in the extent of modifications to the external and internal fabric, space and elements of Closebourne House;*
- 2. Rear access to Closebourne House included a platform lift access to the rear veranda (adjacent to the existing stairs and retaining access to the basement), to remove the previously proposed ramping and minimize impact to the heritage fabric while achieving equity of access;*
- 3. Retention of the roofline on the rear wings of Closebourne House, with reduced changes to these parts of the building;*
- 4. Reduced scale of the connection between Closebourne House and the new development, with improved views to the landscaped space at the rear of Closebourne House;*
- 5. Increased landscaping and retention of trees in the curtilage of Closebourne House (retaining 11 of 12 significant trees);*
- 6. Improved car parking and access with the majority of car parking located at the rear of the new development away from Closebourne House, thereby providing for enhanced landscape curtilage around Closebourne;*
- 7. Improved design with revised building entry away from Closebourne House, reduced scale of the porte-cochere and improved internal design to appreciate views to the rear of Closebourne House;*
- 8. Additional fabric analysis to clarify the suitability of the adaptive reuse and conservation measures.*

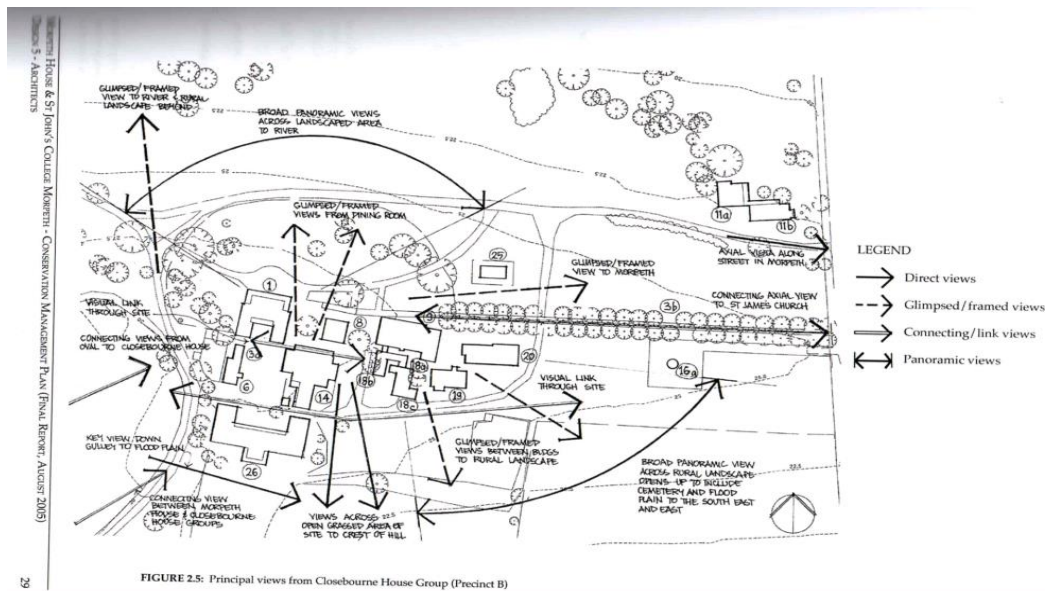
The substantial amendments were to provide reduced impacts on the architectural integrity of Closebourne House and its landscape setting.

Visual Impacts –

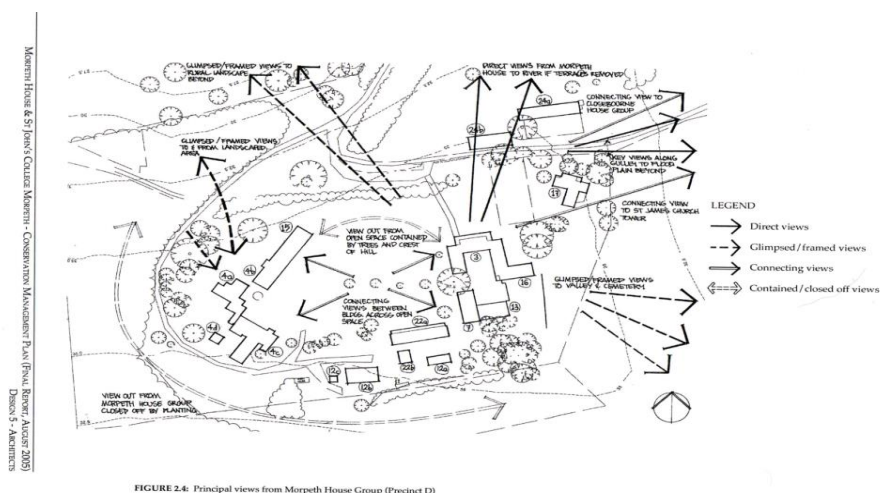
The documentation submitted by the Applicant includes a full visual analysis and updated view photomontages and elevations as requested by Council. The CMP for the site notes the relationship of Closebourne House Precinct B is strong in regard to the link to St James Church to the east, views to the south east across the Tank Street paddocks, rural landscape and to the cemetery beyond. The site is situated along the ridge line and has a visual presence to Morpeth Road.

It is noted that there has been substantial time and effort placed into addressing the visual impacts of the development, in particular the impacts of the development to the east when viewed along the ridge to St. James Church.

The view corridors (Closebourne Precinct) are noted on the extracts from the CMP below:



Views from Morpeth House precinct and noted below:



The land is located within the Morpeth Heritage Conservation Area. It is within the 'Rural outskirts precinct' which surrounds the township of Morpeth and defines the edge of the town as located on a natural ridge above the river and surrounding floodplain land. The area is of open rural nature and provides views to and from Morpeth and the surrounding plains, the Hunter River and the hilltop township of Morpeth as viewed from the entry roads into the town.

The proposed development will protect and maintain identified significant views/corridors and in this regard the development is effective in using the topography of the site to strategically locate the new development, so as to maintain the extensive rural setting around the existing significant heritage buildings. By clearly defining the extent of the new development and retaining open rural land in key areas and along view lines, the sense of rural setting to the significant buildings and landscape is respected.

Having regard to the type/location and built form including the bulk and scale proposed for the development, it is not considered that there are likely to be any negative impacts on the natural scenic and historic visual qualities of this area. The elevations provided demonstrate that the new buildings will not impact upon the significance of the site and the existing heritage buildings on the site.

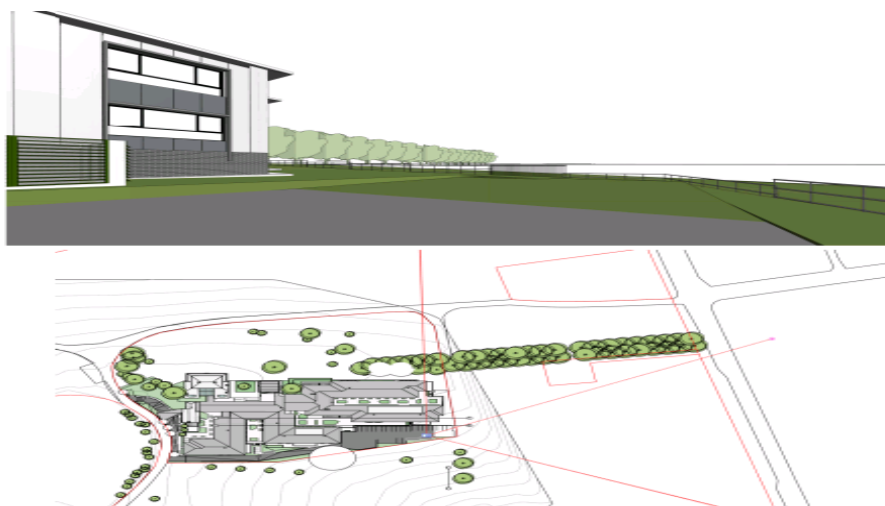
Extracts from the visual impact assessment plans are noted below, however a full set of images are attached to the View Analysis plans and landscape plans at **Appendix C** of this report.:



View along Brushbox Avenue towards St James Church.



View along the southern elevation of the development with additional plantings.



View over the car park area and looking towards Tank street from car park.



View from Tank street towards Brushbox Avenue and the open landscape area.

It is considered that the development will maintain the rural setting and significant relationship with Morpeth township and the river, whilst being supported by the increased landscaping. Visual curtilage and vistas are also included on the landscape plans.

The development will not detract from the significance of Closebourne House and the built form which will transition from single storey to two storey towards the east of the site. The new buildings will incorporate residential design and will use contemporary materials of face brick, masonry base walls, cladding/weatherboards and aluminium windows. The development will be sympathetic to the heritage buildings in the precinct. Conditions have been included in regard to final details of colours and finishes and materials and profiles which are to be provided to NSW Heritage for approval, to ensure they are complimentary to the heritage setting. See condition numbered 34 in the attached schedule of conditions.

The buildings will not obscure or dominate the significant buildings on the site and are sensitively designed to respect and compliment their built form and character. The development will respect existing view corridors and the significance of the landscape setting and visual curtilage on the site, whilst ensuring the maintenance of the historic views and significant settings on the site.

Vegetation Removal/landscaping –

The development was supported by a report from Terras Landscaping dated December 2019 which confirms that the trees of exceptional significance will not be impacted by the development. The revised design will retain the trees at the front setting of Closebourne House and only two trees of high significance are proposed to be removed.



Carob Tree to be removed and replaced.

The report submitted in regard to Tree assessment notes:

Of the 48 trees assessed, fifteen trees could be retained (Trees 1,4,5,8,9,12,227,228, 230, 234, 243, 248,249, 408 and 425. This included six trees located off the site (trees 1,4,5,8,9,12 and 408). Within the group of retained trees eleven (Trees 1,4,5,8,9,12,227,228,234,408 and 425) of a possible total of twelve trees, were listed as significant trees either on the State Heritage Register or in the current Conservation Management Plan. The only significant tree that could not be retained was the Carob Tree (tree 423).

The development therefore retains 15 trees and removes 33 trees. However the proposed development provides for extensive plantings of trees, garden beds (including raised garden beds), screen plantings, a memorial garden, the heritage pergola is to be reinstated and sandstone will be used as a feature of garden design. Plantings of trees within the garden courtyard areas include, Japanese Maple, Carob Tree, Lemon Scented Gum, Crepe Myrtle, Sweetgum and Dwarf Evergreen Magnolia. Garden furniture and screening arbors are included together with use of stone clad walls, rendered block walls, gravel, timber and concrete edging. Lighting details are also provided in the landscape plans. A diverse planting of shrubs, low ground covers, climbers together with an edible herb garden are included. Native perimeter plantings of trees and shrubs, groundcovers, grass and climbers are also indicated in the landscape plans. Pedestrian surfaces will be required to be non slip in compliance with the necessary Australian Standards for accessibility.

Landscape plans have been provided and form an integral part of the design response for the site. The overall design provides for an appropriate level of tree planting to mitigate the impacts of the development. These plantings when combined with the garden courtyards and structures will provide a pleasant and sensory experience for the occupants and staff of the facility. Rural fencing and palisade fencing is considered acceptable. However, the fencing in the vicinity of Arkell House will need to be reviewed at the request of NSW Heritage Committee who required the fencing to be more in sympathy with the landscape curtilage and rural setting of the site.

Council has discussed with NSW Heritage the inclusion of plantings across the border into Lot 3 with NSW Heritage. This lot is not included in the development but will remain in the ownership of the current owner Lendlease. Lendlease (on behalf of the Applicant) have agreed to provide additional plantings in this area and these are indicated on the latest landscape plans. These latest plans were provided to Heritage NSW however this was after the closing date of their report to the Heritage Committee. Therefore Council will include a general condition regarding this planting and NSW Heritage have required a final landscape

plan as part of the General Terms of Approval. The schedule of documents in the conditions will reflect a comment to explain this. See condition 49 of the conditions of consent attached to this report.

European Archaeology

In regard to archaeology, the CMP notes the potential for archaeology on several areas of the site. In particular, it had been noted that in regard to Closebourne House:

- Sub floor spaces may reveal evidence of occupation and development;
- Stone built feature near south-western wing likely to confirm use as a tank or reveal another purpose and date the period of construction;
- Foundations of brick cottage (built most probably 1820s/1830's) – staff cottage (at end of home paddock to the south east of the main house);
- Excavation in the area of the house, early paths and the home paddocks should be treated with caution – evidence likely to be revealed of undocumented features, landscape elements, drainage works and portable relics.
- Closebourne renovated several times during residency of Bishops – likely to have contributed to evidence of sub-floor deposits as well as being responsible for damage or removal of earlier material. (also relates to main fabric of house).

The Applicant was required to undertake further investigation into Archaeology by NSW Heritage. The report was provided with the package of documentation provided in December 2019 and included a report from AMAC Archaeology dated November 2019 and by way of an addendum 19 March 2020.

It is noted that whilst the site has potential for State significant relics given the early occupation of Closebourne House and the site mostly remains undocumented in terms of relics and their location.

Archaeological potential was noted in regard to the site as follows:

Summary of Archaeological Potential and Significance

Location	Date of construction	Archaeological Resource	Archaeological Potential	Significance
Closebourne House and cellar	1826 -1829	Underfloor deposits	Low - Moderate	Local - State
Closebourne Laundry	1850 -1890	Underfloor deposits, drainage and pipes	Low - Moderate	Local
Bishop Stretch Room	1917	Footings	High	Local
Tank	Unknown	Foundations / deposit	Moderate - High	Local - State
Timber cottage/ outbuilding	1830s -1840s	Underfloor deposits, footings, postholes	Low - Moderate	Local - State
Undocumented features	Early 19 th century	Wells, cesspits, yard deposits, rubbish pits, footings, postholes, surfaces	Unknown	State
Undocumented features	Mid-late 19 th century	Wells, cesspits, yard deposits, rubbish pits, footings, postholes, surfaces	Unknown	Local
Paths	1820s -1890s	Surfaces	Low - Moderate	Local
Garden Beds	1820s -1890s	Brick or stone lining, garden soils (palynological samples)	Unknown	Local
Undocumented features	1820s -1890s	Drainage, pits, wells, scatters	Unknown	Local

Location of archaeological sites was identified by Survey in 1998 below:

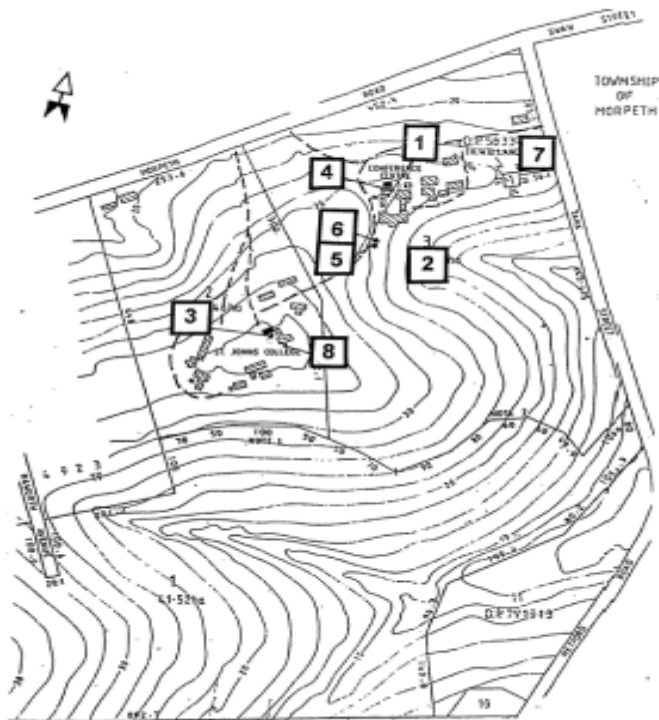


Figure 1.5 Location of archaeological sites as identified by 1998 survey. Thorp for EJE Town Planning (1998) 27

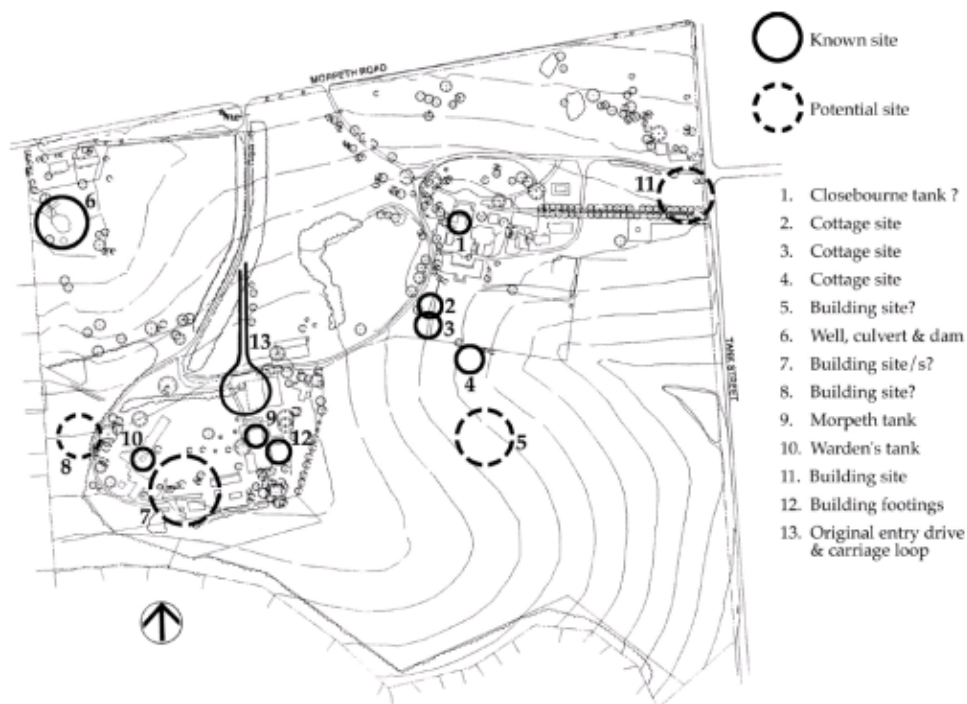


Figure 1.6 Extract from 2005 CMP: Known and Potential Archaeological Resources – Morpeth House and St John's College Site. Note: This plan appears to reproduce and expand upon the ground survey established by Thorp in 1998. Design 5 Architects Pty Ltd (August 2005) p. 127

A research design and archaeology methodology including test excavation as well as open area monitoring and recording were suggested. The addendum letter from AMAC Archaeology states:

As the only potentially locateable relics of State significance at this stage, should they survive, are the underfloor deposits of Closebourne House, the tank and the 1830's-1840's Timber Cottage (Building

1b-D), the latter likely heavily disturbed, there is limited opportunity to test for relics of State significance based on the current design which seeks to make minor changes to the floor levels within Closebourne House and does not seek to impact the tank. In this way, based on the current development, there is no identifiable impact to known relics of State significance.

It was noted that this methodology suggested would provide a management strategy for discovery of unexpected relics of State significance. Conditions have been included in the NSW Heritage General Terms of Approval in this regard.

The issue of the General Terms of Approval by NSW Heritage provides the Council with a sufficient level of confidence that adequate consideration has been given to the conservation of identified European Heritage items.

Aboriginal Archaeology

The Aboriginal archaeology assessment prepared by Myall Coast Archaeological services for the site Masterplan did not identify any places or relics of Aboriginal archaeological importance located on the Closebourne Estate site, therefore the report indicated that there would be no significant impact on aboriginal places, objects or culture from the proposed development of the subject site. Conditions have been included in the General Terms of Approval issued by NSW Heritage in regard to any unexpected relics found during site works.

The proposal is therefore acceptable in regard to Aboriginal archaeology.

Historical Archaeology

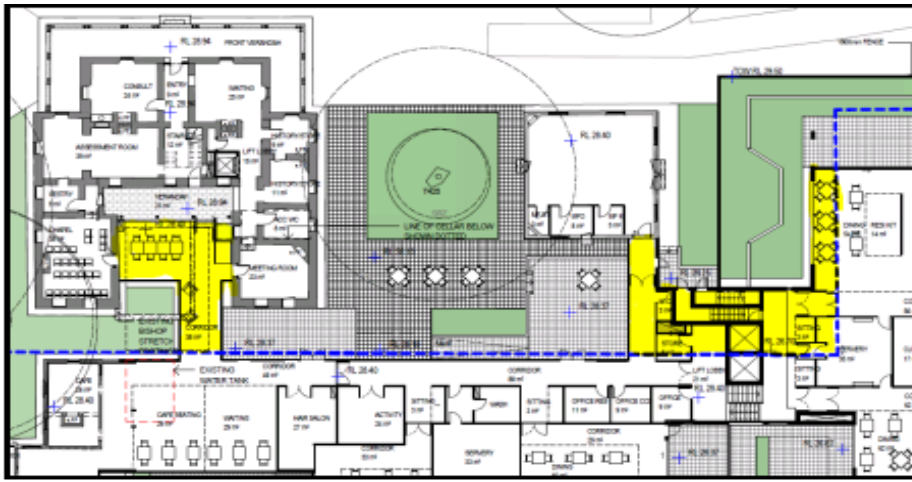
The Conservation Management Plan endorsed by the Heritage Council states that those sites (known and potential) which are considered most significant, generally are located in areas identified to remain open space, without development. Removal of relics of state significance will not be approved and in this regard conditions have been included for a repository of relics, see condition 39 of the attached schedule of conditions.

NSW Heritage report to the NSW Heritage Committee

The report prepared by NSW Heritage to the Heritage Committee included comments in regard to the partial enclosure of the courtyard space between the rear wings of Closebourne House were a concern, given the free standing historic nature of the building. However they also noted the redesign did allow for transparency and readability of the building form and they believed the proposed integration was ultimately respectful to the Heritage Agreement. The removal of the fabric and any adverse impacts were considered to be able to be mitigated through conditions of consent.

The report supported the demolition works proposed, with the archival recording of the Closebourne House Group of buildings and associated landscape.

It was noted that the proposed aged care facility sits generally within the development zone other than for two small intrusions highlighted below:



In this regard, the link connection from the new facility to Arkell House was considered acceptable as it was appropriately set back from Arkell House (enabling it to retain its prominence) and the partial enclosure between the rear wings and the link connection to the new building). The second intrusion was noted to be more adverse and would change the historic free standing character of Closebourne House, whilst partially removing the garden courtyard. However as a result of negotiation between the Applicant and NSW Heritage it was noted that the adverse impacts could be mitigated by:

- *Use of glazing to enable transparency;*
Setting the skillion roof below the barge and eaves of the rear wings, with sufficient gap above the verandah roof;
- *Stepping back the link corridor from the rear wings; and*
- *Partial retention of the courtyard and garden around the wings.*

It was noted by NSW Heritage whilst the free standing nature of Closebourne House was affected it was still possible to read and appreciate the form of the building.

A platform lift provides for access from the corridor link to Closebourne House at the rear. The platform lift will enable access from the courtyard waiting area to the verandah level, this was included in lieu of the previously proposed ramp which would have resulted in demolition of significant fabric.

A lift within Closebourne house enables access to the upper floor of the house. This is proposed to be located...*within the ground floor room that was modified in the 1980's for a bathroom*. The lift will be ...*a small electrically operated lift requiring a simple steel framed shaft and a nominal pit*. *The first-floor joists which are cut back to form the new opening will be supported on the new steel framed lift shaft*. *The lift shaft and associated conduits will not penetrate the original lath and plaster ceiling above.*

The Applicant was requested to provide justification for the lift to NSW Heritage, noting that the lift and accessibility issues were the main drivers for widening accessways and doors and increasing the height of those structures as required. This justification was also required to satisfy the Building Code of Australia and the Disability Discrimination Act 1992 and will ultimately ensure the building can provide public access. As noted by the Applicant, equitable access is provided for staff, residents, visitors, family and contractors who may be involved in *training, education, information sessions, functions or related activities*. In addition, the access allows for the building to be accessed in its entirety and to be part of the Residential Care Facility. The upper floor views from Closebourne House can also be appreciated and enjoyed. The Applicant notes:

This proposal currently represents a suitable adaptive re-use as was envisaged by the CMP for the site and the expectation would be that the entirety of the building and not just the ground floor would be used and occupied. Given constraints of uses of the remainder of the site, this upper level area is an important part of the facility.

NSW Heritage noted that given a lift is being installed the existing Victorian period staircase was to remain unmodified.

Concerns were raised in regard to the number of doors being widened and/or removed in Closebourne House. Specific concern was raised in respect of the front door which was not original and was required to be replaced with *a single leaf door with the paneled appearance of equal leafs*. This was found to be acceptable to NSW Heritage provided any replacement door had sympathetic detailing. The front door also is not the primary entrance but forms a nominated egress door.

Some door openings were to remain unmodified whilst others would need to be widened and heightened to meet accessibility requirements. 7 original or early doors were to be removed. Conditions were imposed in the GTA's to include a register of removed building elements. NSW Heritage initially did not recommend approval of the skylight windows to the wings however these were supported by the Heritage Committee and subsequently through the imposition of the General Terms of Approval.

The rear wings and courtyard required refinishing of verandah stone floor, increase in floor height of each of the rear wings by 10mm and 6mm to address damp, and provision of new flooring to the waiting area. Detail of this is sought via the General Terms of Approval.

Removal of the internal walls in the laundry was noted however the fireplace and external walls would be retained. Works to Arkell House to connect it to the new facility were seen to improve Arkell House which will be utilized as a multi function room. Internal alterations result in a more generous space and the opening in the rear wall will align with the new connecting corridor to the new facility. The development results in the maintenance of the landscaped courtyard and its relationship to Closebourne House being retained.

Landscaping was conditioned for a further landscape report and fencing in the vicinity of Arkell House was to be reviewed to ensure a more sympathetic form of fencing in this location.

The proposal was seen to retain the significant rural setting and the earlier relocation of the majority of car parking to the southern area of the site was acceptable. Historic views would be maintained and plantings would supplement the loss of vegetation on the site.

Retention of stone footings (Bishopstretch) with proposal for interpretation to be explored, modification of windows facing the courtyard, Victorian period staircase to be unmodified, replacement details for windows and doors to be included, no concerns raised with historic views and relevant conditions recommended.

In regard to archaeology it was noted that *...the current proposal is not supported as proposed without a phase of testing to better understand the surviving archaeological fabric of significance and adjust the design for the redevelopment and its impacts*. A condition was recommended for archaeological testing by NSW Heritage in the General Terms of Approval.

Heritage Committee response

The development was supported in principle with a request for the following concerns to be addressed:

- *Impacts to the site (more specifically the southwest corner of the site);*
- *Consideration of the cultural landscape setting not being adequate;*
- *Concern regarding the connection of the courtyard to Closebourne House;*
- *Consideration of the Closebourne building without a lift;*
- *The scale and form of the Port Coche/entry should be reconsidered;*
- *Café location and size;*
- *Archaeology testing;*
- *Door widening in Closebourne House;*
- *Fencing and southern views.*

After further meetings the plans were marked up by hand and re-submitted to the Heritage Committee who accepted the marked up plans in satisfaction of their concerns. The changes primarily related to:

- *Increased landscaped green space at the rear of Closebourne House, change of internal rooms (hairdresser and café location),*
- *Intensity of use of the upper level of Closebourne House minimized including revision of lift type and scale to lighten its impact,*
- *Door fabric changes minimized,*
- *Simplified form of Porte Cochere with roof extending over the ambulance drop off area only;*
- *Substation to be relocated to a discrete location in the southern elevation and condensers to be relocated,*
- *Café now open plan,*
- *Archaeological testing with archaeological management framework. Testing to follow concept design/DA approval and part of the s.60 application,*
- *Household A to be moved approximately 1m east,*
- *Car parking to remain in current location,*
- *Door widening minimized,*
- *Skylights confirmed as acceptable,*
- *Fencing adjacent to Arkell House to be reduced in height to 1m*
- *Materials, finishes and detailed design elements/landscaping – conditions to be included.*

Final versions of these plans have formed part of the requirements in the General Terms of Approval issued by NSW Heritage.

Conclusion

Heritage NSW has issued General Terms of Approval for the development after multiple meetings between the Applicant, NSW Heritage (including the Heritage Committee Chair) and Council. In this regard the amended proposal was found to be generally consistent with the endorsed Conservation Management Plan, the 2009 Masterplan and the 2010 Ministerial Agreement.

Support for the adaptive re-use of Closebourne House and the demolition of the buildings outlined in this report has been supported by NSW Heritage and General Terms of Approval provided (**Appendix B**).

The development has been thoroughly assessed and revised as required and meets the requirements of Clause 5.10 of Maitland Local Environmental Plan 2011.

Clause 7.1 – Acid Sulfate Soils

This clause aims to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The land is mapped as containing Clause 5 Acid sulfate soils under MLEP 2011. Given the Class 5 classification of land no further investigation is necessary nor is the requirement for an Acid sulfate soils Management Plan required.

Clause 7.2 – Earthworks

The overall site gently slopes from the main high point of the land at the centre of the site. The land falls to the south towards the adjacent residential development, east towards Tank Street and north towards Morpeth Road and Closebourne House. The highest point on the main ridge is occupied by the Morpeth House group, whilst the Closebourne House group is situated a short distance to the east on a slightly lower but more prominent section of the same ridge. The lowest points on the site are located near the two dams, one located at the north western boundary and the other located adjacent to Tank Street. A small drainage depression discharges water from relatively small catchments into both of these locations. The topography of the site typically ranges in grades from 1-8%.

Plans accompanying this application demonstrate that proposed earthworks to be undertaken including cut and fill operations to create suitable building platforms for the development of the facility and its internal roads. The plans indicate the cut volume of 2,080m³ and fill volume of 1,500m³ leaving a balance of 580m³ volume of cut. Cut and fill depths range across the development footprint, in particular for the area of the lower level of the development which will house the kitchen, laundry, staff lounge, service and waste areas. In this regard, the bulk excavation for the lower floor level (approx. 3.74m dep) is required for the link between Households A and B.

The development will respond sensitively to the topography of the land to restrict and control excessive earthworks. The cut and fill will minimize land shaping outside of the building footprint to ensure that development does not concentrate surface flows onto adjoining properties or areas of the site, whilst maintaining amenity and privacy.

Retaining walls have been included but reduced as much as possible on the site. Council raised concern in regard to the retaining along the southern elevation of the buildings and the potential visual impacts. This wall ranges in height from approximately 732mm to 928mm and the plans have been updated to include sections that identify boundaries and fencing. It is noted that the landscape plan has been designed to limit retaining and selects battering across level changes combined with landscaping as the preferred option in most instances. The development will be well screened with vegetation and the retaining walls are not considered to detract from the proposed development.

Council requires development to prevent erosion and sediment laden run off during site preparation, construction and ongoing use of the land. Implementation of the necessary soil erosion and sediment controls will be required to be put in place for any development works on the land to ensure the protection of the adjoining lands throughout the duration of works on the site and conditions will be included that appropriate measures are installed prior to works commencing on the site.

Section 4.15(1)(a)(ii) any draft environmental Planning instrument that is or has been placed on public exhibition

There are no draft environmental planning instruments relevant to this development.

Section 4.15(1)(a)(iii) any Development Control Plan

The following chapters of Maitland Local Environmental Plan 2011 apply to the development:

Part A - Administration

A4 – Community Participation

The development was advertised and notified for a period of 30 days from 16 January 2019 to 14 February 2019 (12 submissions received) and revised plans were re-notified to those same objectors between 15 January 2020 and 28 January 2020 (13 submissions received). A total of 25 submissions have been received across the two periods of notification, including some support submissions.

Each of the submission responses has been considered at length in this assessment and suitable information has been provided to enable the consent authority to be satisfied that the proposal is acceptable in relation to submission concerns raised. These submissions are set out in section 4.15(1)(d) of this report.

B – Environmental guidelines

B5 – Tree/vegetation Management

Council's DCP prescribes the types of trees and vegetation where development approval is required. The DCP enables trees on all privately-owned urban land to be removed without development consent in certain circumstances. However, the DCP requires consent for:

- Trees that are a listed Heritage Item; or
- Trees on land containing a Heritage Item; or
- Where the tree is to be retained as a condition of development consent; or
- Subject to an 88B Restriction or the like, or
- Listed on Council's Significant Tree Register.

Tree removal has been assessed in the Clause 5.10 section of this report. In addition, the site is to be extensively landscaped to assist in rehabilitating the land, to maintain the visual and landscape curtilage of the site and to protect the significance of the existing heritage buildings on the site.

Conditions of consent will be imposed in relation to additional landscape requirements by the Office of Environment & Heritage (NSW Heritage Division) and Council. See condition number 49 in the attached schedule of conditions.

B6 – Waste Not – Site Waste Minimisation and Management

Waste will be generated as part of the operations for the site and this will be required to be managed in a dedicated bin storage area within the site for collection by private contractor waste disposal.

Imported uncontaminated fill will be required to be free of contamination from manufactured chemicals, process residues, building debris, sulfidic ores or other foreign matter and conditions will be imposed in this regard.

Conditions have been included in regard to bin storage and waste collection together with conditions in regard to fill. See condition numbers 63, 24-30 of the attached schedule of conditions.

C – Design Guidelines

C1 – Accessible Living

Given the proposal is being assessed as housing for aged or disabled persons under SEPP Housing for Seniors or People with a Disability (2004), the provisions of these chapters only provide supplementary guidelines. A BCA and Accessibility Compliance Statement has been provided which confirms that the development is capable of complying with the performance provisions of the BCA.

C4 – Heritage Conservation

Council's DCP places value on heritage items, conservation areas, archaeological sites and historic artefacts individually and collectively. Development must consider the characteristics of existing buildings, the buildings in the surrounding area and must sit within the context of the area whilst harmonizing with the existing development.

A Statement of Heritage Impact has been provided with the proposal and the development will provide for adaptive reuse of Closebourne House, Arkell House and the Gym/Chapel/Laundry buildings. The development has been referred to NSW Heritage given its state heritage listing, the NSW Heritage Committee (via referral from NSW Heritage and has found to be acceptable subject to conditions of consent.

The proposed development has been well considered resulting in an appropriate design and has demonstrated that the development meets the Heritage Conservation Area requirements of Maitland City Council DCP and the NSW Heritage Office. The proposed buildings have regard to the existing significant buildings on site and are located and orientated to enable their successful integration. The development is considered to be of an appropriate scale for the size of the land and is designed to ensure the development will not detract from the larger significant buildings on the site. The development does establish a connection with nearby development on the site with its use of muted tones, simplified design and landscaping. The development provides for a positive design theme that does not seek to mimic surrounding items.

The development will ensure protection of building fabric, archaeological relics, landscape curtilage, views and vistas and the new development is contemporary in nature and will read as new works whilst maintaining the exceptional significance of items such as Closebourne House. The height of buildings respects the prominence of Closebourne House and further details of colours and finishes, materials and profiles will be required to be submitted as part of conditions imposed in the General Terms of Approval. The proposed landscape outcome is considered to be a good outcome with plantings along the southern boundary and within courtyards and open spaces.

It is also considered that the proposal is generally in accordance with the policies of the endorsed CMP and the approved Masterplan. The General Terms of Approval from the NSW Heritage Office were received on 6 April 2020 and form an attachment to the schedule of conditions to this report. It has been concluded that the development will not have a detrimental impact on Heritage Conservation Area and its contributory items.

C8 - Residential Design

Given the proposal is being assessed as a Residential Care Facility under the SEPP Housing for Seniors or People with a Disability (2004), the provisions of the DCP Chapter Residential Design do not apply.

The café will be a self service (lower scale) café operation however conditions have been included for this to be registered with Council for a yearly inspection. The commercial kitchen for the main facility may require inspection by NSW Public Health and a condition has also been included in this regard. The development will be required to comply with the necessary food standards for fit out within the premises. In addition, the hair salon will be required to comply with the necessary Public Health Regulations and Guidelines. See conditions included at 40-47 of the schedule of conditions.

It should however be noted that the proposal is considered to be generally in accordance with the intent of this section of the DCP.

C11 – Vehicular Access and Parking

Car parking provision for the development is regulated under SEPP Housing for Seniors and People with a Disability which is consistent with Council's DCP requirements. This has been discussed in the State Planning Policy section of this report. The parking calculation is provided as follows;

Table 1 Breakdown of proposed parking

Rate	Factor	Required	Provided
SEPP & DCP REQUIREMENTS			
1 space per 10 beds	72 beds	8.0 spaces	8 spaces
1 space per 15 dementia beds	36 beds	3.0 spaces	3 spaces
1 space for each 2 people employed on duty at one time	29 staff	15 spaces	21 spaces
1 space for an ambulance	-	1 ambulance space	1 ambulance space
TOTAL		26.0 spaces plus 1 ambulance space	32 spaces plus 1 Ambulance space

The applicant advises in regard to staffing *...for the peak demands across the working day being 6.30am to 11pm there will be a peak staff demand of 29 staff located on the site for approximately 30 minutes either side of 2.30pm, when there will be a major staff changeover and overlap in shifts. Prior to 2pm there will be 21 staff on the site and after 2.45pm there will be 19 staff on the site. During the evening there will be 5 staff on site during 11pm and 6am.*

The car parking complies with the SEPP and DCP requirements and given that the staff will work on a rotational roster the proposed car parking is acceptable to Council.

The car parking on the site has been designed in accordance with AS2890 and all vehicles can enter and exit the site in a forward direction.

The applicant's traffic study states that the impact of the masterplan development for Closeburn Village has been assessed with Sidra for the key intersection of Morpeth Road and Tank Street. The traffic for the approved masterplan has been distributed to the road network and the results, based upon the existing traffic volumes surveyed at the intersection of Tank Street and Morpeth Street/Swan Street.

The current intersection layout will operate with minimal delays and congestion allowing for the additional traffic movements associated with the development of the balance of the revised masterplan for the future design year of 2025.

Based upon the Sidra assessment completed for the project and the traffic flows that could be generated by the approved masterplan for Closebourne Village it is considered that there would not be significant traffic impact to the local road network due to the proposed aged care facility.

Vehicular Access

The site for Aged Care facility is located within Closebourne Village Estate and is accessed via a network of internal roads. The entrance and egress to the internal road network is via Morpeth Road. The internal roads provide vehicular access to the precincts within the Closebourne Village Estate. Vehicle access to the site is proposed via a link road which connects to Wonnarua Drive. This link road is to be constructed (under DA 19-575) prior to occupation of the facility.

The main access to the development is proposed via Edward Close Boulevard off Morpeth Road. Edward Close is a two-lane two-way internal access road which is capable of accommodating traffic generated by this development.

There is a gravel access road to the site off Morpeth Road which is not suitable for heavy traffic. Therefore, it is required to restrict this access for the Aged Care Facility (other than for access by emergency vehicles). Signage or alternatively some sort of entry restriction is to be erected to direct traffic to the facility from Morpeth Road. However final details of this will be required to be provided to Council prior to the issue of a Construction Certificate, to ensure the proposed entry restriction is suitable given the Heritage Conservation Area and the significance of this access in proximity to Closebourne House. See condition 59 of the attached conditions of consent.

Construction Traffic Management

Vehicle movements will be controlled and managed by site management and directional signage.

A Traffic Management Plan and Construction Management Plan is to be provided prior to issue of the Construction Certificate and conditions have been included in this regard. See condition number 57.

It is not considered that the development will exacerbate traffic generation to the site as discussed, nor will the proposed development adversely impact on the local and state road network. The development is also not considered to significantly impact on the amenity of the existing residential development in the area through generation of road noise.

C12 – Safer by Design

Crime Prevention through environmental design ensures that good urban and environmental planning leads to safe communities.

Landscaping proposed is considered to be attractive and will limit opportunities for entrapment. Access control is achieved through landscaping and fencing and these elements also assist to provide for a clear distinction between the public and private realms. The improved courtyards and connectivity between buildings allows for good surveillance. Landscaping is generous but will reduce opportunities for entrapment. Conditions will be included to ensure illumination is not obtrusive to surrounding development.

Clear distinction is made between spaces on the site and site planning provides for centrality with the linking corridors and glass roof above to enable interpretation of Closebourne House. New fencing will assist to ensure site security.

The development is acceptable in regard to Crime Prevention through Environmental Design and this chapter of Council's DCP.

Part E – Special Precincts

E3 – Heritage Conservation Area – Morpeth

Council's DCP notes that:

The character of Morpeth derives its history of development over 150 years as well as its popularity over the past 20 years as a residential area and a place for developing specialty shops for the tourist market. The town is regionally significant and buildings which house major services within the town – the Post Office, former Court House, former Railway station and CBC Bank remain as landmarks, complimented by modest houses, churches and schools.

The town remains visually a river town, its immediately distinctive characteristics include:

- *Its situation on higher ground adjacent to the river with a distinctive timber bridge at its heart and with its major streets laid parallel to the river – in this regard the town is the same size and shape as indicated in the earliest known plan (1840);*
- *Beside the town are the houses and grounds of EC Close (Closebourne and Morpeth house) each sited with expansive views to the Hunter River, and later owned by the Anglican Church.*
- *Morpeth is of State significance for its role in the pattern of NSW's cultural history: as the major river port town in the European settlement and development of the Hunter River region.*
- *Morpeth is also of Regional significance as an uncommon example of a town whose road layout and extent has changed little since the mid 19th century and has developed and maintained a clear edge and distinctive form of rural setting.*

Closebourne is within the Rural Outskirts Precinct and which relates to Morpeth Common, the sportsground and the Riverside.

The proposed development is compatible with the design and character of the Heritage Conservation Area of Morpeth and the adaptive reuse of existing heritage buildings has been designed to reduce the impacts on the fabric and significance of the buildings. The development has demonstrated that it will not adversely impact upon the existing historical buildings on the site or other existing development on the site. The development will also assist to promote the ongoing use of Closebourne House, the Laundry/Gym/Chapel and Arkell House (Registry) buildings.

Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The development has been assessed against the relevant clauses of the *Environmental Planning & Assessment Regulation 2000*.

Demolition of buildings will be conditioned to be undertaken in accordance with Australian Standards and the requirements for asbestos removal to be undertaken in accordance with SafeWork NSW legislative requirements and guidelines.

Fire safety and structural adequacy reports have been provided and are acceptable for the DA concept approval. Further details will be required at the Construction Certificate stage.

The land is not impacted by the Government Coastal Policy under clause 92 of the *Environmental Planning & Assessment Regulation 2000*.

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

Heritage/Building Design and Context

The site is a key site in the history of the Hunter Valley and is crucial to the identity of Morpeth.

The scale of the development will not impact upon the existing Heritage Items on the site nor the Heritage Conservation Area of Morpeth. The contemporary design of the new work allows for proportioning, patterns, height and massing that will not detract from the existing buildings on the land.

One of the main outcomes of the CMP process was the establishment of curtilage lines which determined the extent to which the site can be developed whilst still preserving the rural character, view lines and minimizing impact on listed heritage items. The proposed

development will respect the site curtilage and an interpretation plan has also been required as part of the NSW Heritage General Terms of Approval, see **Appendix B**.

The development has been subject to a detailed assessment, numerous discussions and meetings, culminating in the issue of General Terms of Approval by NSW Heritage.

Views

An extensive assessment of the view corridors on the site has been undertaken and it has been found that the development will integrate with the surrounding environment to reduce visual impacts by way of the contemporary built form and design of the proposal which has been designed to retain the significance and prominence of Closebourne House by reducing the dominance of the contemporary additions.

The most significant visual impact occurs when viewing the site from Tank street however the inclusion of additional plantings along the east of the development together with the fact the development retains a large area of open grassland is a contributing factor to the maintenance of the rural character of the site and, in particular, the southern rural foreground to Closebourne House.

The development will ensure the maintenance of view corridors and the landscape curtilage on the site.

Traffic & Transport

The Traffic, access and parking assessment has concluded the future surrounding road network will have sufficient capacity to accommodate the traffic generation to the site. Whilst there will be some increase in traffic it is considered this will be relatively minor and the development will not exacerbate traffic generation significantly and parking has been considered throughout this report. In addition, the subject site is adjacent to the village of Morpeth and bus services currently travel in and out of Morpeth providing for transport services to and from other areas such as Greenhills shopping centre, East Maitland railway station and central Maitland.

Acoustic Impacts

A Noise Impact assessment was provided with the Development Application from Wood and Grieve Engineers.

As noted previously in this report, conditions have been included to ensure the development complies with the recommendations of the report and also that an Acoustic Engineer certify the development has complied with the noise requirements of that report.

The construction works have the potential to create adverse impacts. Construction noise levels will vary throughout individual days and throughout the length of the overall works. Noise associated with construction works is short term in nature and any exceedances are considered to have a negligible impact on the surrounding area given they will be for a limited duration. Conditions have been imposed to ensure the development complies with environmental and noise standards, at condition 32 and proposed construction hours also forms a condition of consent, numbered 69 in the attached schedule of conditions.

Overall, noise impacts however are expected to be negligible, however conditions will be imposed to ensure the development is constructed in accordance with required relevant Australian and environmental standards.

Social and Economic Impacts

The development provides for social and ultimately timely, economic benefits through provision of the Residential Care Facility which will provide a high care nursing home for the residents of the retirement village and the area of Morpeth. The culmination of providing services and facilities as well as health and wellbeing programs will result in social cohesion and enhancement of social values and overall net community benefits.

In addition, the development will make a positive social and economic contribution to the community by offering additional employment opportunities during the construction phase and the development is in close proximity to public transport and services within the Village of Morpeth.

Utilities

The site is served by town water, sewer, electricity and telecommunications. Extension of services will be required pursuant to Hunter Water Notice of Requirements and a Section 50 Compliance Certificate will be conditioned to be provided prior to the issue of a Construction Certificate

Storm water Management

The development provides for an internal drainage system for the site which collects run off from all impervious areas of the proposed development including the roof of the Aged Care Facility and associated buildings and conveys it to the internal drainage system through pits and pipes. The On Site Detention performance measures have been met and the MUSIC modelling carried out the applicant ensures water quality targets through provision of grass swales and rainwater re-use tanks.

The development is satisfactory in regard to storm water management.

Landscaping

A detailed landscaping plan has been provided, including a final amended landscape plan demonstrating the provision of additional plantings to occur on the southern side of the southern boundary. The plantings have been conditioned and a final landscape plan has been requested by NSW Heritage for their review as part of the s.60 process.

The development provides for appropriate landscape plantings not only in compliance with the SEPP but to provide a pleasant visual outcome in this Heritage Conservation Area.

Erosion and Sediment Controls

Council requires development to provide erosion and sediment controls during site preparation, construction and ongoing use of the land. Erosion and sediment controls will be required to be implemented before, during and until completion of works in accordance with Council requirements and conditions have been included in this regard.

A Construction Environmental Management Plan (CEMP) is required to be implemented prior to earthworks commencing, in order to appropriately manage the on site and off site disposal of soil, sediment and water. Conditions will also be imposed in regard to the CEMP and fill on the site, see conditions numbered 23 and 24-30.

Section 4.15(1)(c) the suitability of the site for the development

An extensive heritage assessment of the site has been undertaken to ensure its suitability for the site. In this regard, the question of site suitability has been considered throughout this assessment in conjunction with the requirements of the CMP, Masterplan and Heritage Agreement relating to the site and in regard to key issues such as infrastructure provision,

road access, stormwater management, built form, accessibility, and the requirements of the Morpeth Heritage Conservation Area.

The development has been found to be consistent with the intent of these documents, the legislation, regulations and Council guidelines for the site. The proposal is permissible by way of the Heritage Conservation Clause in MLEP 2011 and the previous zonings of the land. The development responds to and respects the heritage constraints in this locality. The development will form a positive contribution to the existing development on the site and the functionality and continued use of those buildings to be adaptively reused and ultimately conserved.

Maitland Contributions Plan (Section 94 now known as Section 7.11 of the Environmental Planning & Assessment Act 1979.

The development would normally attract a monetary contribution of \$322,384 pursuant to Section 4.17 of the *Environmental Planning & Assessment Act 1979* and the Maitland S.94A Levy Contributions Plan 2006.

The applicant has requested that the contribution be waived or reduced as the Applicant Catholic Healthcare Limited falls within the definition of a 'social housing provider' under *State Environmental Planning Policy (Housing for Seniors with a Disability) 2004*.

The SEPP defines 'social housing provider' as follows:

social housing provider means any of the following—

- (a) the New South Wales Land and Housing Corporation,
- (b) the Department of Housing,
- (c) a community housing organisation registered with the Office of Community Housing of the Department of Housing,
- (d) the Aboriginal Housing Office,
- (e) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
- (f) the Department of Ageing, Disability and Home Care,
- (g) a local government authority that provides affordable housing,
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.

The Applicant has provided Council with a legal advice justifying the non imposition of the s.94 contributions based on:

- (a) Ministerial Direction 14 September 2007 under s.7.17(1) of the *Environmental Planning & Assessment Act 1979*; and
- (b) In circumstances where Catholic Healthcare falls within the definition of a social housing provider under the SEPP Seniors above.

Catholic Healthcare Limited is a not for profit organization and registered charity (ABN 69064946318).

Maitland Section 94 Levy Contributions Plan notes the instances in which Council may consider a reassessment may include the following:

Crown development and development by not for profit organisations where they are carried out with an underlying philosophy of community service in accordance with the Development Contributions Guidelines will not be levied under Section 94A.

The Applicant has demonstrated that CHL is a charity under the category of a 'public benevolent institution and is registered with the Australian Charities and Not-for-Profits Commission.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulations

The development was advertised and notified for a period of 30 days from 16 January 2019 to 14 February 2019 (12 submissions received) and revised plans were re-notified to those same objectors between 15 January 2020 and 28 January 2020 (13 submissions received). A total of 25 submissions have been received across the two periods of notification, including some support submissions.

Submissions related generally to impacts to the original fabric of Closebourne House, changes to historical significance of space, the impact of integration of the new facility to the courtyard space of Closebourne House, the previous works undertaken to Closebourne House, the proposal in terms of its heritage impact, landscaping, tree removal, impacts on the heritage precinct and site curtilage, the size and scale of the development, impacts to views and the general impacts to the existing heritage integrity of the overall site.

Responses to the submissions have been set out in a table attached to this report at **Appendix G** to this report. The submission issues raised throughout this assessment have been addressed to Council's satisfaction and the General Terms of Approval issued by NSW Heritage.

Section 4.15(1)(e) the public interest

The approval of the development will result in the delivery of the much needed high care nursing home facility (Residential Care Facility) on the site. The development also represents employment opportunities both during the construction phase and once completed in the aged care and health sectors. The outcomes proposed will achieve a highly functional development compatible with the surrounding locality, including the existing seniors housing development on the site.

The proposal is considered appropriate in terms of maintenance of heritage parameters and heritage curtilage, preserving the rural character of the site and its view lines to minimize impacts on listed heritage items and in allowing the sensitive and appropriate re-use of significant buildings on the site to provide a sound and sustainable basis for their ongoing conservation and maintenance.

It is considered the development is in the public interest and will ensure the efficient and economic use of the land whilst maintaining the conservation of the highly significant heritage buildings and landscape curtilage on the land.

Conclusion

The proposal has been assessed in accordance with the relevant environmental and planning framework including Section 4.15 of the EP&A Act 1979. The proposal is consistent with the State and local planning frameworks. The site is considered suitable for the development and any potential adverse impacts will be mitigated through the imposition of conditions of consent attached to this report and the General Terms of Approval issued by NSW Heritage at **Appendix B** of this report.

The subject land contains a Master plan development approval to facilitate the development of the site in accordance with the endorsed 'Morpeth House and St John's College Morpeth Conservation Management Plan – August 2005'. The current proposal has been found to be

generally consistent with the endorsed Master plan and CMP for the site, together with the Morpeth Heritage Guidelines and is supported through the issue of the General Terms of Approval by NSW Heritage.

The development will allow for creation of a Residential Care Facility which will provide for a high quality facility designed with an understanding of the heritage significance gradings on the site, its key views, whilst providing for a safe, equitable and walkable built form of development that will ensure high visual integrity and amenity. In addition, the development will be sympathetic to the existing heritage items on the site and will not detract from the significance of the heritage conservation area of Morpeth and the importance of this State Heritage site.

It is considered that the development will retain and maintain its heritage significance in perpetuity and will offer the site a new lease of life with significant benefits to the local community.

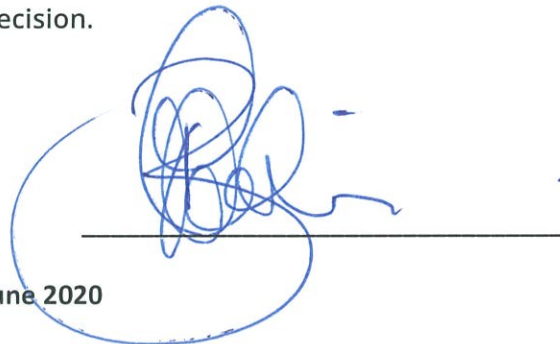
Recommendation

Pursuant to Section 4.16 of the *Environmental Planning & Assessment Act* 1979, the following is recommended:

- A. That the Hunter & Central Coast Joint regional Planning Panel grant consent to Development Application number 18-2086; and
- B. That the objectors be notified of this decision.

SIGNED (Assessing Officer)

Belinda Martin, Senior Town Planner – Date: 2 June 2020



Authorised for submission to JRPP
Leanne Harris, Coordinator Development Assessment
Planning & Environment – Date 2 June 2020

