

HUNTER AND CENTRAL COAST REGION REGIONAL PLANNING PANEL

Panel Reference	PPSHCC - 77
DA Number	8/2021/21158/1
LGA	Cessnock City Council
Proposed Development	Construction of a seniors housing development (to occur in 15 phases) comprising 206 self-contained dwellings and associated recreational facilities, boundary adjustment, roads, stormwater infrastructure, landscaping and signage.
Street Address	Lot 490 & 491 DP 1212110 and Lot 1776 DP 1256914 97 & 107 Kesterton Rise and 1864 Wine Country Drive, North Rothbury
Applicant/Owner	Sencia Holdings Huntlee Pty Ltd c/- DFP Planning / Sencia Holdings Huntlee Pty Ltd
Lodgement date	09/03/2021
Submissions	Nil (0) submissions received over two notification periods
Recommendation	That the application be approved
Regional Development Criteria	Development with a Capital Investment Value (CIV) of more than \$30 million. Accordingly, the DA is identified as being Regionally Significant Development under Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> .
List of all relevant s4.15 matters	• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>; • <i>State Environmental Planning Policy (Planning Systems) 2021</i>; • <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>; • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>; • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>; • <i>State Environmental Planning Policy (Koala Habitat Protection) 2020 (repealed 17/03/2021)</i>; • <i>Environmental Planning and Assessment Regulation 2000</i>; • <i>State Environmental Planning Policy (Housing) 2021 – However contains transitional provision for assessment under previous SEPP (Seniors Housing)</i>; • <i>Environmental Planning and Assessment Regulation 2021 – includes Transitional Savings Provisions</i>; • <i>Cessnock Local Environmental Plan 2011</i>.

Enclosures	Appendix A – Development Plans Appendix B – Proposed Conditions Appendix C – Documents Conditioned for Approval Appendix D – Copies of General Terms of Approval Appendix E – Advice from Transport for NSW and NSW Police Appendix F – Photographs of site and surrounds
Report by	Julia Ryl, Senior Planning Assessment Officer
Report date	30 March 2022

RECOMMENDATION That: Development Application No. 8/2021/21158/1 proposing the construction of a seniors housing development (to occur in 15 phases) comprising 206 self-contained dwellings and associated recreational facilities, boundary adjustment, roads, stormwater infrastructure, landscaping and signage, at 97 Kesterton Rise North Rothbury, 107 Kesterton Rise Branxton, and 1864 Wine Country Drive North Rothbury, be determined by way of approval pursuant to Sections 4.16 and 4.17 of the <i>Environmental Planning and Assessment Act 1979</i>, for the reasons contained in this report.

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?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)?	No
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

1. Development Application No. 8/2021/21158/1 seeks consent for the construction of a seniors housing development (to occur in 15 phases) comprising 206 self-contained dwellings, associated recreational facilities, boundary adjustment, roads and stormwater infrastructure, landscaping and entry signage.

The application proposes the following development to occur in 15 phases commencing with the consolidation of 97 Kesterton Rise, (Lot 490 DP 1212110), North Rothbury, and 107 Kesterton Rise (Lot 491 DP 1212110), Branxton, and a boundary adjustment to incorporate 3455m² of 1864 Wine Country Drive (Lot 1776 DP: 1256914) Branxton to form the subject development site.

Phase No.	Detail of Works Proposed
Phase 1	• 6 villas, including retaining walls/fencing and landscaping. • Proposed Villa 17 will be constructed as an interim community building, with outdoor leisure area including 'Pickle Ball' court to be provided on villa sites 18 and 19. • Construction of the main entrance road and fencing along Kesterton Rise. • The establishment of a bushfire APZ along Kesterton Rise. • Electrical substation and master switchboard. • Associated roads and temporary turning heads, earthworks, stormwater and infrastructure. • Landscaping to the full frontage of Kesterton Rise and internal roads immediately adjacent to the villas.
Phase 2	• 23 villas, including retaining walls /fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping. • Construction of a temporary stormwater detention basin.
Phase 3	• 4 villas, including retaining walls/fencing and landscaping. • Associated roads including loop road around the community building, earthworks, stormwater, infrastructure and landscaping. • Community building and bowling green. • Pedestrian connection (to subject site boundary) including path on batter to be completed. • Visitor and staff parking adjoining the community building, loading bay and community bus parking.
Phase 4	• 21 villas, including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 5	• 13 villas, including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 6	• 10 villas, including retaining walls/fencing and landscaping. • Conversion of temporary community facility to a Villa and removal of 'Pickle Ball' court. • Fire truck access to the perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 7	• 18 villas, including retaining walls/fencing and landscaping.

	• Fire truck access to the perimeter. • Landscaping of the batter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 8	• 10 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 9	• 18 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter. • Retaining walls and fences along southern and eastern boundary and future stages 9 -14. • Construction of Community Garden (in Stage 6 area). • Internal pedestrian link. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 10	• 10 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 11	• 8 villas, including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 12	• 12 villas, including retaining walls/fencing and landscaping. • Community Park/Garden (adjacent to villa 55). • Fire truck access to perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 13	• 10 villas (including the conversion of the former 'Pickle Ball' court site to 2 villas), including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 14	• 27 villas, including retaining walls/fencing and landscaping. • Internal pedestrian link. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 15	• 16 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter (south eastern corner). • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.

2. The development application is referred to the Hunter and Central Coast Regional Planning Panel in accordance with Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*.

The proposal has a Capital Investment Value (CIV) of \$55,145,552.00, and therefore exceeds the \$30 million threshold for general development carried out in accordance with Clause 2 Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*.

3. The proposed development is defined as Integrated Development and Nominated Integrated Development, as the following approvals are required:

Approval required	Relevant legislation	Relevant authority	Confirmation that GTA's have been issued
Controlled Activity Approval Section 91	<i>Water Management Act 2000</i>	NRAR	Yes – 13 December 2021
Bush Fire Safety Authority Section 100B	<i>Rural Fires Act 1997</i>	RFS	Yes – 7 February 2022

4. The subject site is located within the Huntlee Urban Release Area (URA). The site is located within the Huntlee Major Project Approval (MP10_0137) area which is identified in the Greater Newcastle Metropolitan Plan 2036. Surrounding development includes major transport infrastructure known as M15 Hunter Expressway and Main Northern Railway to the North. The locality is emerging as a new residential township located between established residential villages of Branxton (north) and North Rothbury (south). To the west of the subject site a new Town Centre is emerging which will provide services to meet the day-to-day needs of the growing population. To the east is located remnant bushland and residential development associated with the urban release area; and to the south is residential development, beyond which lies the Hunter Valley vineyards region.
5. The development is consistent with the provisions of the *Cessnock Local Environmental Plan 2011*, and is a permitted land use in the B4 Mixed Use zone.
6. As the development directly adjoins residential land and the use is permitted within the land use zone, a Site Suitability Certificate for the proposed seniors housing development was not required in accordance with Cl 24(2) of *State Environmental Planning Policy Seniors Housing 2004*.
7. The proposed development was exhibited in accordance with the provisions of Council's adopted Community Participation Plan and the legislative requirements that apply to Nominated Integrated development. The application was initially exhibited between the 29 March 2021 and 28 April 2021. The amended proposal was re-exhibited between 17 November 2021 and 15 December 2021. In response, nil (0) submissions were received over the course of the two (2) public exhibition periods.
8. The Lower Hunter Regional Strategy (2006) identified the regional significance of the site as a major urban release area and noted that the site would provide in excess of 7,000 dwellings.

A Major Project Application MP10_0137 for Huntlee Stage 1 Subdivision and Infrastructure Works was determined by the Planning Assessment Commission (the Commission) via transitional Part 3A under (cf) Section 75J of the *Environmental Planning and Assessment Act 1979*, on the 24 April 2013.

A review of the Huntlee Planning Agreement has been undertaken to ensure the lands proposed to form the current development application under consideration are not implicated.

The land the subject of the development application has been created via Major Project Approval MP10_0137 MOD 9. The details of the relevant history of the Major Project Approval are discussed in greater detail within this report.

The existing Voluntary Planning Agreement between Huntlee and Cessnock Council is not affected by the works proposed by the Development Application.

9. The proposal has been assessed against the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, including site suitability and public interest. It is considered that the application is capable of being supported.

ZONING MAP

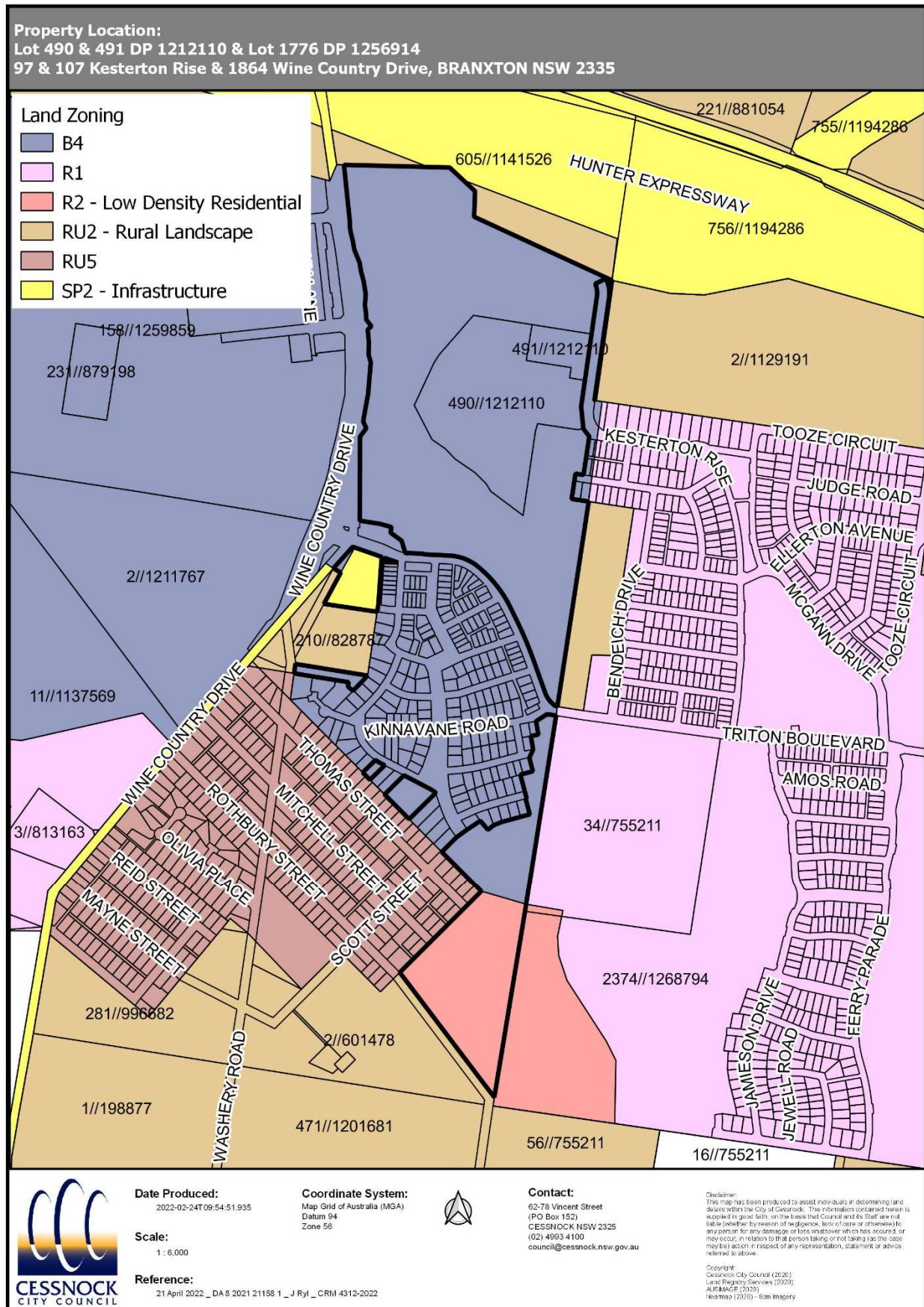


Figure 1: Zoning Map - Cessnock Local Environmental Plan 2011

SITE DESCRIPTION

The subject site is commonly known as 97 Kesterton Rise, North Rothbury; 107 Kesterton Rise, Branxton; and 1864 Wine Country Drive, North Rothbury, and is legally described as Lot 490, DP 1212110; Lot 491 DP 1212110; and Part Lot 1776 DP 1256914, as identified in the following table:

Address	Lot/ DP	Size
97 Kesterton Rise	Lot 490, DP 1212110	9.012 Ha
107 Kesterton Rise	Lot 491, DP 1212110	1.145 Ha
1864 Wine Country Drive	Part Lot 1776, DP 1256914	0.3455Ha
Total		10.503Ha

The subject site is located on the southern side of the Hunter Expressway at the Branxton Interchange and the eastern side of Wine Country Drive.

The subject site is irregular in shape with multiple frontages including a frontage to Kesterton Rise of 211.68 metres; frontages to future public road frontage of 307.05 metres to south east of the site; the northern boundary proposes a depth of 270.77 metres; the proposed southern boundary measures 362.29 metres in length; with the western boundary measuring 238.9 metres in length.

The allotment is encumbered by an easement for electricity and other purposes 3.3m wide, and a bushfire asset protection zone of variable width.

The site is void of structures, and forms part of a new urban release area known as 'Huntlee' which has been approved via Major Project Approval MP10_0137.

The land the subject of the development application was created via Modification 9 to the Major Project Approval MP10_0137.

Whilst there are restrictions noted on the title of the land, these do not prevent consent to the development application as proposed being granted.

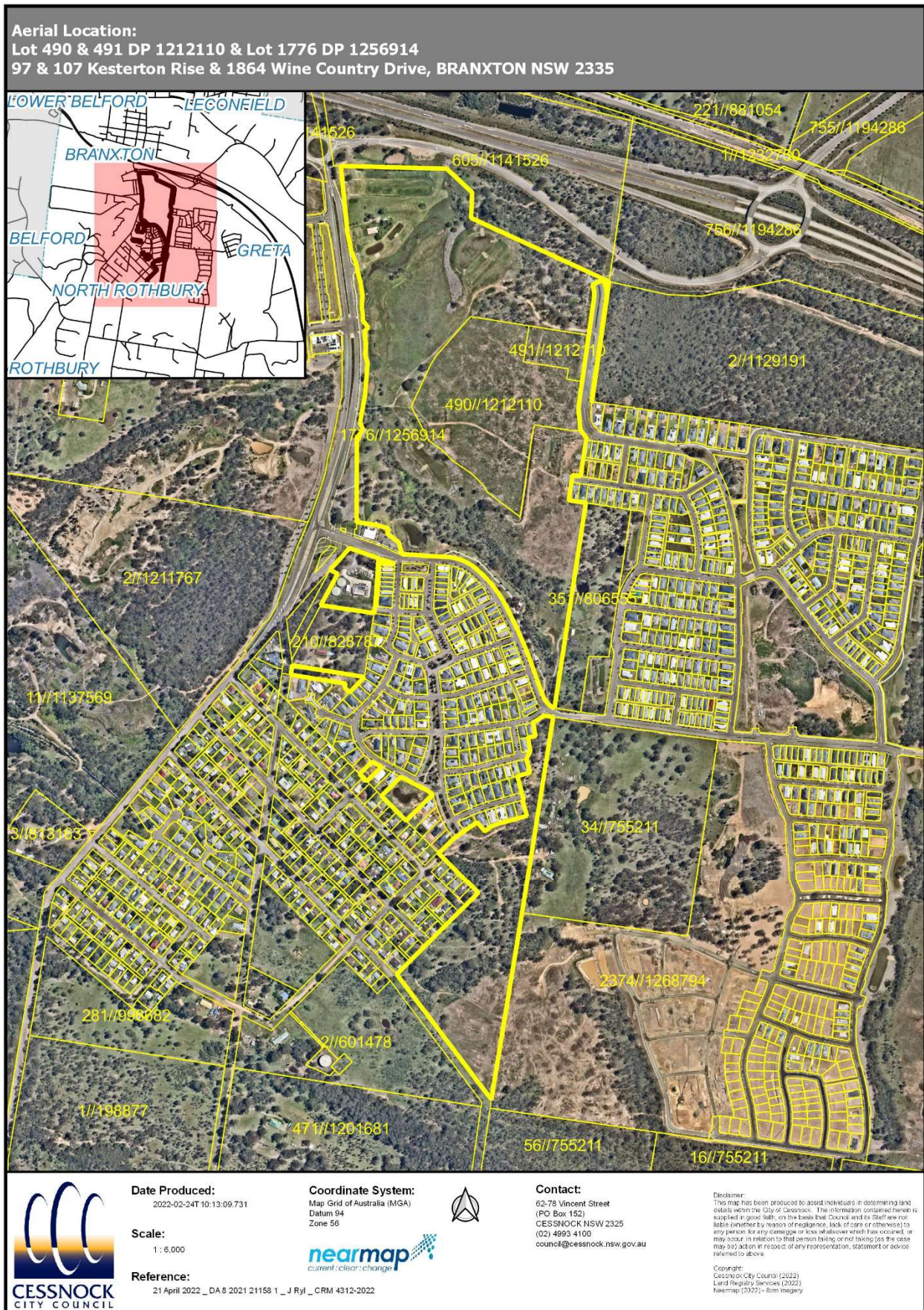


Figure 2: Aerial Photograph of the development sites and surrounds.

LOCALITY

The subject site is located approximately 20km north of the Cessnock Central Business District, and 2km from the Branxton town centre. It is situated within 2km of the boundary between Singleton Council and Cessnock City Council, and is located approximately 500m south-west of the Hunter Expressway and Wine Country Drive interchange.

The subject site is located within the new town Huntlee, which is currently being constructed in accordance with Major Project Approval MP10_0137. The site specifically adjoins land zoned for residential purposes and land which is to be dedicated as parklands and sporting fields. The site itself however is zoned for mixed use development and forms land to be utilised for residential purposes.

The surrounding properties are characterised by:

- Land directly adjoining to the north is undeveloped, however is capable of being developed for a mixed use purpose. Land further north is characterised by a significant transport infrastructure corridor.

It is understood that a subdivision works certificate has been issued for land directly adjoining to the north which includes the construction of a 1.5m wide pedestrian path along the northern site frontage. At the time of writing this report, these works have not been completed and may be subject to amendment.

- To the south and west the land is identified as a riparian corridor. It is proposed as part of the Major Project Approval MP10_0137 for this land to be dedicated to Council as public land. This is to be in the form of a regional park proposed to contain three (3) main areas:
 - A village green with sporting fields, amenities and areas for community gatherings,
 - A civic park with a lake, and
 - A community park with kiosk, playground, cycleway and areas for group gatherings.
- Beyond the land directly adjoining to the south the land is characterised by residential development.
- Wine Country Drive and an emerging commercial centre is located further west of that land directly adjoining the site. Contained within the commercial centre currently is a supermarket, tavern, medical centre, optometrist, child care facility and café.
- To the east the land is characterised by native bushland and residential development.

LOCALITY MAP

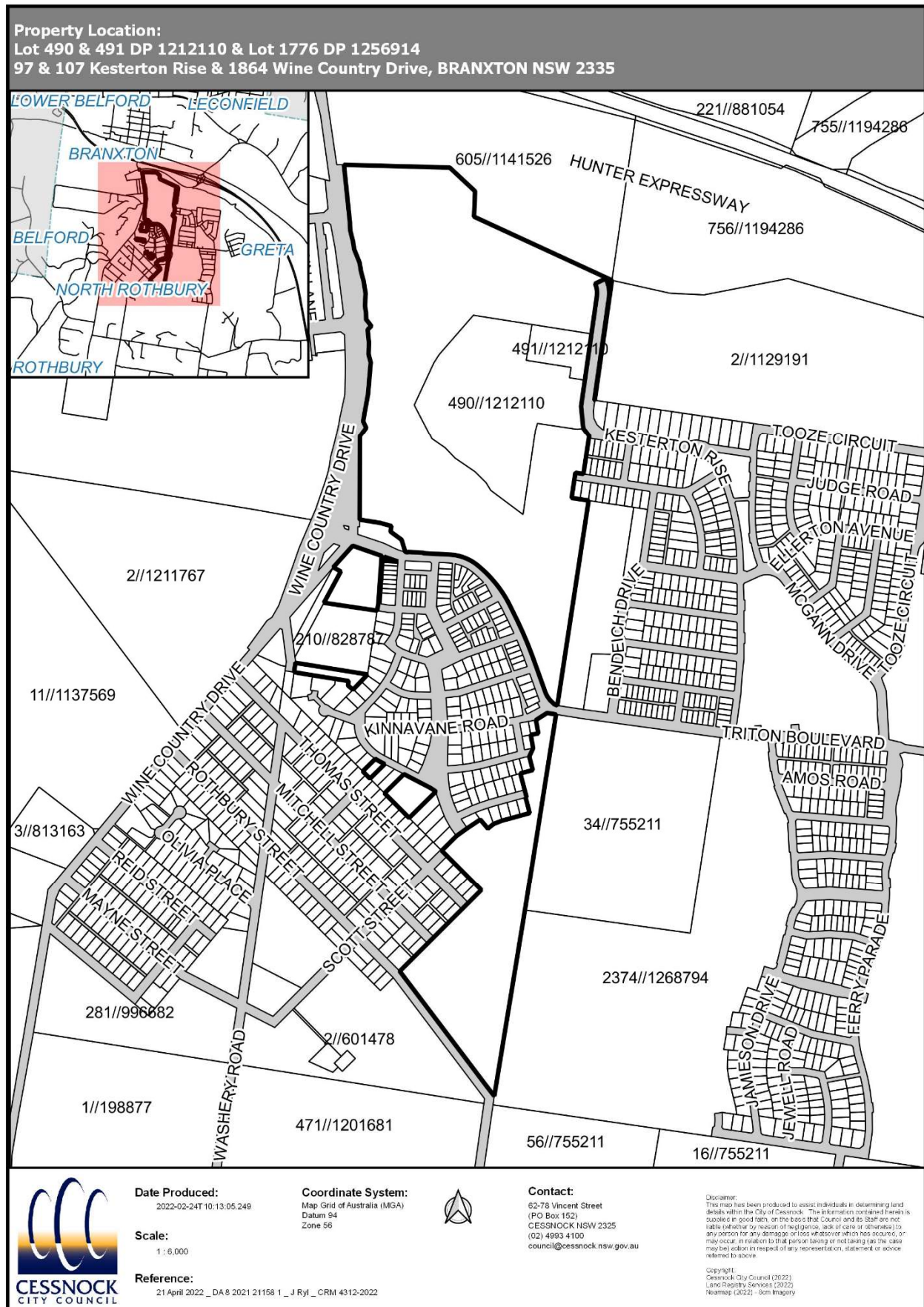


Figure 3: Locality Imagery of the development sites.

HISTORY OF DEVELOPMENT APPLICATION

The history of subject development application, is summarised in the following table.

Date	Action
9 March 2021	Development Application lodged.
15 March 2021	DA referred to internal Council officers.
	Contributions Planner provided response to referral – provided calculation of Development Contributions in accordance with Council's City Wide Infrastructure Contributions Plan 2020. Advised the application is not bound by the Huntlee Planning Agreement as the subject lots have been released from their obligations under the planning agreement.
16 March 2021	Community Planner provided response to referral – recommended community engagement be undertaken and the findings from the community engagement process be detailed in an amended social impact assessment.
18 March 2021	DA referred to external agencies.
19 March 2021	Contact made with Applicant to discuss the status of the Development Application and requirement for information to be submitted addressing community consultation with regard to social impact.
22 March 2021	Vegetation & Civic Spaces Coordinator provided response to referral – the landscaping proposed upon future public open spaces was considered and is suitable.
23 March 2021	Environment and Waste Officer provided response to referral – additional information requested, ensuring that the residential component of the seniors housing community is capable of being serviced by Council's waste collection service. Documents to be submitted demonstrating that Council can safely and efficiently provide a waste service to the resident population within the proposed seniors housing community.
26 March 2021	Environmental Health Officer provided response to referral – additional information requested in relation to: • Food premises (Regulated Premises), • Clarification of services to be provided in proposed beauty salon i.e. skin penetrating procedures such as cuticle cutting etc, and • Contamination. Correspondence from the Applicant received advising that Community Consultation will be undertaken utilising the Huntlee Facebook page to engage with the community to conclude on 28 April 2021.
29 March 2021	Exhibition of the development application commences. Agency decision received from Natural Resources Access Regulator (NRAR). Outcome advised that the documents for the development application were reviewed and NRAR considers that for the purposes of the <i>Water Management Act 2000</i> (WM Act), a controlled activity approval is not required for the proposed works and no further assessment by the agency is necessary.
31 March 2021	Community Planner further considered the information originally submitted with the following additional considerations to be made: • The applicant is to demonstrate that the age and mobility of intended residents have been considered in the planning and operation of the site, • Community facility is to be constructed and provided prior to the first resident occupying the development.
1 April 2021	Traffic Engineer provided response to referral – additional information requested relating to the requirements of shared zones and impacts on stormwater management within the site and further consideration of functionality of intersections.

6 April 2021	Development Application referred to Transport for NSW (TfNSW) for comment in relation to the proposed modifications to the major project approval MP10_0137 and any impact of the proposed development on timing of infrastructure upgrades.
14 April 2021	Development Engineer provided response to referral – additional information requested in relation to: • Stormwater, • Traffic, • Roads, • Access, • Parking, • Retaining structures and masonry walls, and • Soil and water management.
15 April 2021	Comments received from NSW Police Force with regard to consideration of crime prevention through environmental design guidelines. The NSW Police Force concluded in their assessment that the development proposed a low crime risk rating, with Police having no objections to the approval of the development application. Police recommended as part of the development consent that the completion of the Kesterton Rise/Hunter Expressway Link Road access intersection be completed prior to the completion of the proposed development.
30 April 2021	Request for information issued by Council to Applicant. In addition to the matters identified in referral responses, the following was requested to be addressed: • Phasing to be clearly demonstrated on plans and within supporting documents; • Variation in proposed dwelling designs to be provided, including colour schemes, materials and rooflines; • A coloured streetscape plan; • Inclusion of consolidation of Lots 490 & 491 of DP 1212110.
6 May 2021	Correspondence received from Transport for NSW (TfNSW) that referral had been received.
10 May 2021	Comments received from TfNSW. No objection raised to the proposed development as the proposal was assessed as not significantly impacting the nearby classified (State) road network.
11 May 2021	NSW Rural Fire Service (NSW RFS) issues request for further information to be submitted to support the development application.
7 June 2021	Applicant requests extension to submission date for additional information until the 9 July 2021. Council provides written confirmation of extension to due date of additional information.
25 June 2021	Response to NSW RFS request for additional information submitted by Applicant. (Document prepared by MJD Environmental dated 21 June 2021)
13 July 2021	Response to request for information received from Applicant addressing items raised in the preliminary review of the development application. A number of amended documents submitted. The response incorporated consideration of comments received by the applicant from the “Master Developer” – LWP. In addition, the originally proposed caravan parking area was removed, and an additional dwelling proposed, thereby increasing from two-hundred and five (205) to two-hundred and six (206). Subsequent civil and landscape amendments were made.
20 July 2021	NSW RFS issue General Terms of Approval (GTA) for the development proposed. The amended documents submitted are re-referred to Council’s Development Engineer, Environmental Health Officer, Environment and Waste Officer and Community Planner.
21 July 2021	Community Planner assesses the amended information submitted and determines that the application can be supported subject to conditions.
23 July 2021	Correspondence issued to Applicant requesting further clarification / breakdown of works to be undertaken in each of the phases proposed.

28 July 2021	Documentation received outlining proposed phasing of the development and the works proposed in each phase of the development
29 July 2021	Environment and Waste Officer assesses amended information submitted and advises that future information is required to demonstrate that each villa is provided a bin pad of a minimum of 1.7m each wide (for two bins to be displayed), and spaced 500cm away from driveways and 2m away from any trees, garden furniture or any structures.
4 August 2021	1 st Planning Panel Briefing Meeting held. Development Engineer assesses the amended information submitted and determines that the application can be supported subject to conditions. Environmental Health Officer assesses the amended information submitted and determines that the application can be supported subject to conditions.
10 August 2021	Further request for additional information issued by Council to applicant following 1 st Planning Panel Briefing Meeting. • Consideration of timing of services to be provided (clubhouse) to be accessible from first phase; • Clear phasing plans for each proposed phase of the development; • Discussion on draft policies and impact on development proposed; • Additional, interface detail with adjoining lots to the north and west.
18 August 2021	Council arranged and met with the applicant and key stakeholders (via videoconference) to discuss and outline the expected level of information to be prepared in response to the information requested in correspondence issued 10 August 2021, and to discuss the outcomes and key points raised in the Planning Panel briefing held on the 4 August 2021.
1 September 2021	Partial response to Information requested on 10 August 2021 provided by the Applicant. Sample Plans provided for discussion at the Planning Panel meeting to be held on 8 September 2021. Other matters addressed in written correspondence.
7 September 2021	Videoconference held between Council and Applicant to discuss the preliminary works undertaken in preparing the requested information, i.e. to confirm that the proposed plans will provide the detail required for Council assessment purposes.
8 September 2021	2 nd Planning Panel Briefing with Applicant
24 September 2021	Discussion with Applicant confirming the requirements of the request for information.
5 October 2021	Applicant advises that response to information requested on 10 August 2021 to be uploaded to Planning Portal on 11 October 2021.
15 October 2021	Amended information uploaded by the Applicant. The development application is further amended to include; • Boundary adjustment to incorporate 'batter land' into the development site, construction of a 1.5m wide pedestrian footpath on the batter to connect with future adjoining open space, landscaping on batter; • Amended fencing treatments; • Interim use of self-contained dwelling site 17 as an interim community building, and sites 18 and 19 as interim recreational facility; • Staging amended from 16 to 15 stages; • Removal of the display/exhibition self-contained dwellings from the proposed development.
22 October 2021	Request for re-notification of amended application to be undertaken and re-referral to internal officers and external agencies.

3 November 2021	Re-referral of amended development application to Development Engineer, Environmental Health Officer, Environment and Waste Officer, Community Planner, and Vegetation and Open Space Coordinator.
5 November 2021	Environment and Waste Officer requests the applicant to submit plans demonstrating that a bin collection pad, as recommended in the NSW EPA better practice guide for resource recovery in residential development, can be provided to each proposed self-contained dwelling. Application re-referred to NRAR, and NSW RFS
9 November 2021	Environmental Health Officer advises that the proposed modifications do require any additional considerations and the application is supported subject to conditions as per previous referral assessment.
10 November 2021	Application re-referred to NSW Police Force
11 November 2021	3 rd Planning Panel Briefing held. Development Engineer assesses the amended application information submitted and determines that the application can be supported subject to conditions. Community Planner assesses the amended application information submitted and determines that the application can be supported subject to conditions.
17 November 2021	Amended Application advertised for 28 days.
22 November 2021	Vegetation & Civic Spaces Coordinator provided response to referral – the landscaping proposed upon future public open spaces was considered and is suitable.
15 December 2021	Advertising of amended application concludes – nil (0) submissions received.
20 December 2021	Application referred to Council's Principal Recreation & Community Facilities Planner.
10 January 2022	Council's Principal Recreation & Community Facilities Planner raised no objection to the proposed footpath illustrated to be constructed across land proposed adjoining parkland.
13 January 2022	Agency decision received from Natural Resources Access Regulator (NRAR) dated 13 December 2021 in response to re-referral. Outcome advised that the documents for the development application were reviewed and NRAR considers that for the purposes of the <i>Water Management Act 2000</i> (WM Act), a controlled activity approval is not required for the proposed works and no further assessment by the agency is necessary.
21 January 2022	Application re-referred to Council's Environment and Waste Officer.
31 January 2022	Comments received from NSW Police Force dated 2 January 2022 having regard for the amended development application information. The NSW Police Force concluded in their assessment that the development proposed a low crime risk rating, with Police having no objections to the approval of the development application.
1 February 2022	Environment and Waste Officer determines that the application can be supported subject to conditions, in lieu of the applicant submitting requested information as requested on 5 November 2021.
4 February 2022	NSW RFS issues amended GTAs for the proposed development.
31 March 2022	Contributions Planner re-calculated applicable development contributions due to CPI changes since original calculations performed.
11 April 2022	Assessment of development application completed by Assessing Officer.

SITE HISTORY INCLUDING MAJOR PROJECT APPROVAL

Historical Use of the Site

The subject site was historically utilised for agricultural purposes, which was generally limited to grazing.

The site was predominantly characterised by regrowth woodland, following logging associated with the former Ayrfield No. 3 Colliery activities in the 19th and 20th centuries.

Some dwellings existed on the land the subject of the major project approval MP10_0137 associated with the agricultural uses which have since been demolished.

Rezoning

Huntlee was rezoned in December 2010 by the then former Minister for Planning. The decision to rezone the subject land was overturned by the Land and Environment Court following a challenge of the decision on 7 July 2011. Ultimately, the NSW Court of Appeal overturned the Land and Environment Court's decision on 8 December 2011. The rezoning of the Huntlee New Town Site comprises approximately 1,702 hectares for the purpose of a large-scale residential and mixed-use development.

Huntlee Major Project Approval

The Planning Assessment Commission approved Major Project Approval MP10_0137 Stage 1 of Huntlee on the 24 April 2013. Specifically, the approval granted consent to the carrying out of the following:

Subdivision of Stage 1 of the Huntlee New Town site including:

- subdivision to create 1473 residential allotments, 14 super lots, 1 allotment for a primary school; landscaped areas, drainage, public open space and recreation areas;
- associated bulk earthworks; and
- infrastructure including roads, drainage works and utility services provision.

Stage '1' of Huntlee is located entirely within the Cessnock Local Government Area (LGA) and encompasses approximately 355 hectares. After 1500 lots, an additional connection to the north east corner of the village 1 residential area will be provided via a connection to the Hunter Expressway link road near the Branxton interchange.

The original Project Approval has been modified numerous times with the modifications relevant to the creation of the land and operation of the development the subject of the current development application. This is discussed in further detail below.

Major Project Approval – Modification 9

Executive Director – Compliance, Industry and Key Sites approved MP 10_0137 MOD 9 on 13 December 2019. Specifically, the modification approval included the following:

- Extend Stage 1 boundary to increase the town centre and provide a new residential sub-stage 16;
- Provide a new infrastructure lot in the town centre to accommodate future school;
- Increase the total number of residential lots on the site by 83 lots (to 1,626 lots);
- Subdivide town centre superlots to create an additional 23 commercial lots, amend the town centre stage boundaries, and reconfigure town centre roads;
- Reconfigure residential lots in sub-stages 5, 7, 8, 9, 10, 11 and 12;
- Amend the open space plan.

Specifically, the new residential sub-stage 16 comprised an additional 22.41ha and included the creation of 3 superlots and 16 residential lots. This area had been proposed for development as part of Stage 2.

The land proposed for Stage 1 sub-stage 16 was included in the existing biodiversity offsets.

The assessment of MP10_0137 MOD 9 notes that the superlots within sub-stage 16 will be subject to further design refinement either through modifications to the approval or future development application to Council, where the impact of the future uses will be assessed and determined.

Sub-stage 16 as identified on the approved master plan, created the land (Lot 490 and 491 in DP 1212110) the subject of the current development application for a seniors living development.

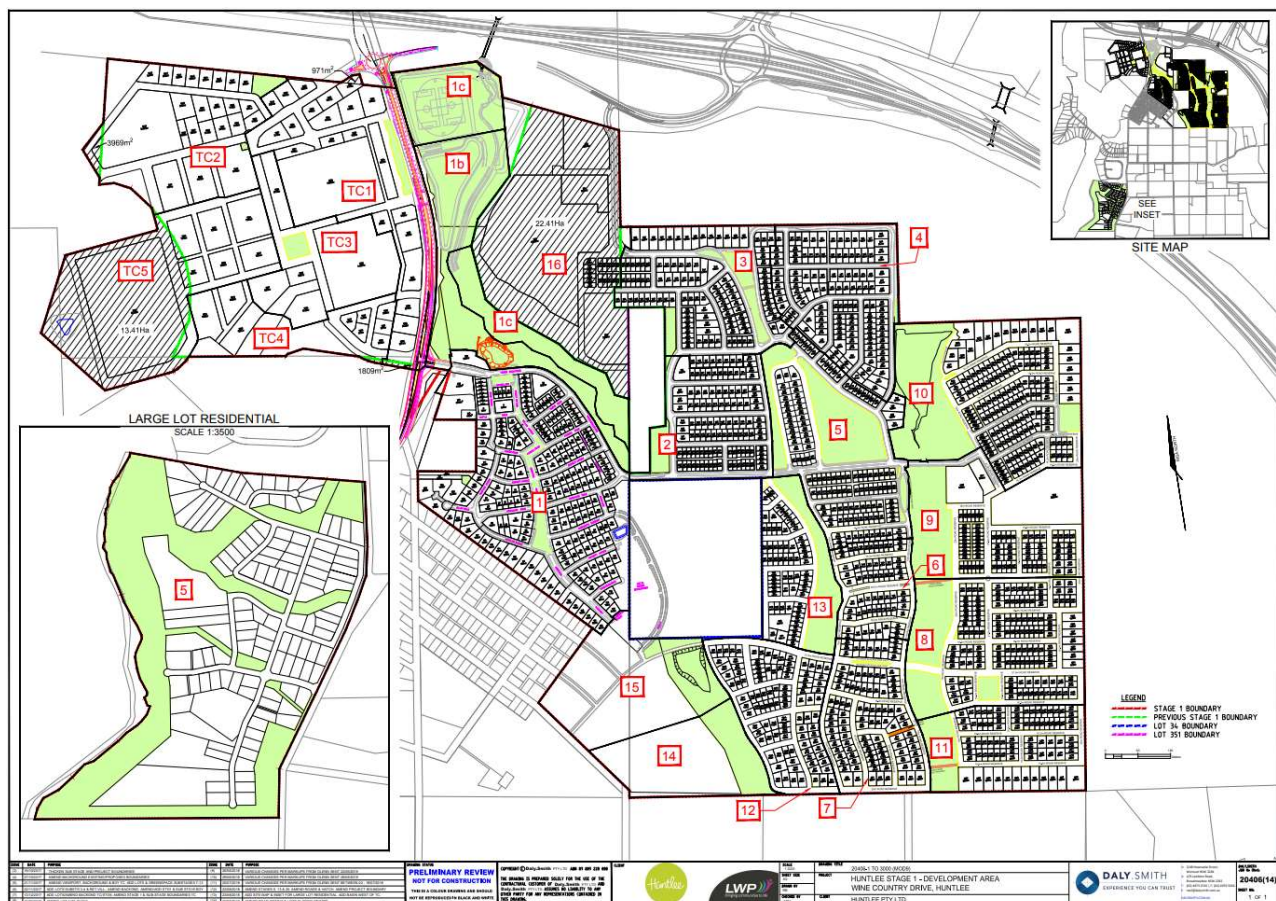


Figure 4: Sub-stage 16 identified on Huntlee Stage 1 - Development Area Plan approved by MOD 9 of MP 10_0137.

Major Project Approval - Modification 10

Executive Director Key Sites and Industry Assessments approved MP 10_0137 MOD 10 on 22 May 2019. Specifically, the modification approval included the following:

- Amend the subdivision layout to create
 - 1,543 residential lots
 - 8 infrastructure and other lots
 - 43 Commercial lots
 - **1,594 total lots**
- Change the delivery of infrastructure by:
 - Delaying the requirement to upgrade the intersection of Wine Country Drive/HEX Link Road (A-1), to change triggers in Condition E7(a)(iii) from 750 dwellings or 1 December 2018 to 1,000 dwellings or 1 June 2020 (whichever occurs first),
 - Amending Condition E7(a)(x) to allow an interim left in left out intersection on the northern HEX Link Road, between the Hunter Expressway and Wine Country Drive.

Major Project Approval – Modification 17

Director Regional Assessments approved MP 10_0137 MOD 17 on 6 October 2021. Specifically, the modification approval included the following:

- Amend Condition E7(a)(iii) to increase the lot threshold for the upgrade for the Wine Country Drive/ Hex Link Road (A-1) intersection from 1,000 dwellings to 1,500 dwellings or December 2023 (shown A)
- Amend Condition E7(a)(viii) to increase the lot threshold for the upgrade for the Wine Country Drive / Village Access 1 (Triton Boulevard) (A-5) from 1,000 dwellings to 1,350 dwellings (shown B)
- Amend Condition E7(a)(x) to allow for an interim intersection for the HEx Link Road / Village 1 North access (A-6) intersection and link road to be constructed prior to June 2022 (shown C)

The specific wording of E7(a)(x) is as follows:

*x.) HEx Link Road / Village 1 North access (A-6) intersection and link road shall be constructed during Stage 1. The intersection shall be a 2 lane circulating roundabout or traffic signals (intersection type to be determined by RMS). Further modelling will be required to provide the best outcome for the future operation of this intersection. The link road shall be one lane in each direction, allowing for a future additional one lane in each direction. (required prior to the subdivision certificate of more than 1500 lots in Village 1). An interim intersection, such as **specifically** a left-in / left-out **is to be constructed prior to June 2022** ~~can be provided prior to 1500 lots with the agreement of RMS,~~ however this will be subject to upgrade to a roundabout or traffic signal controlled intersection prior to the subdivision certificate of more than 1500 lots in Village 1 unless otherwise agreed with RMS.*

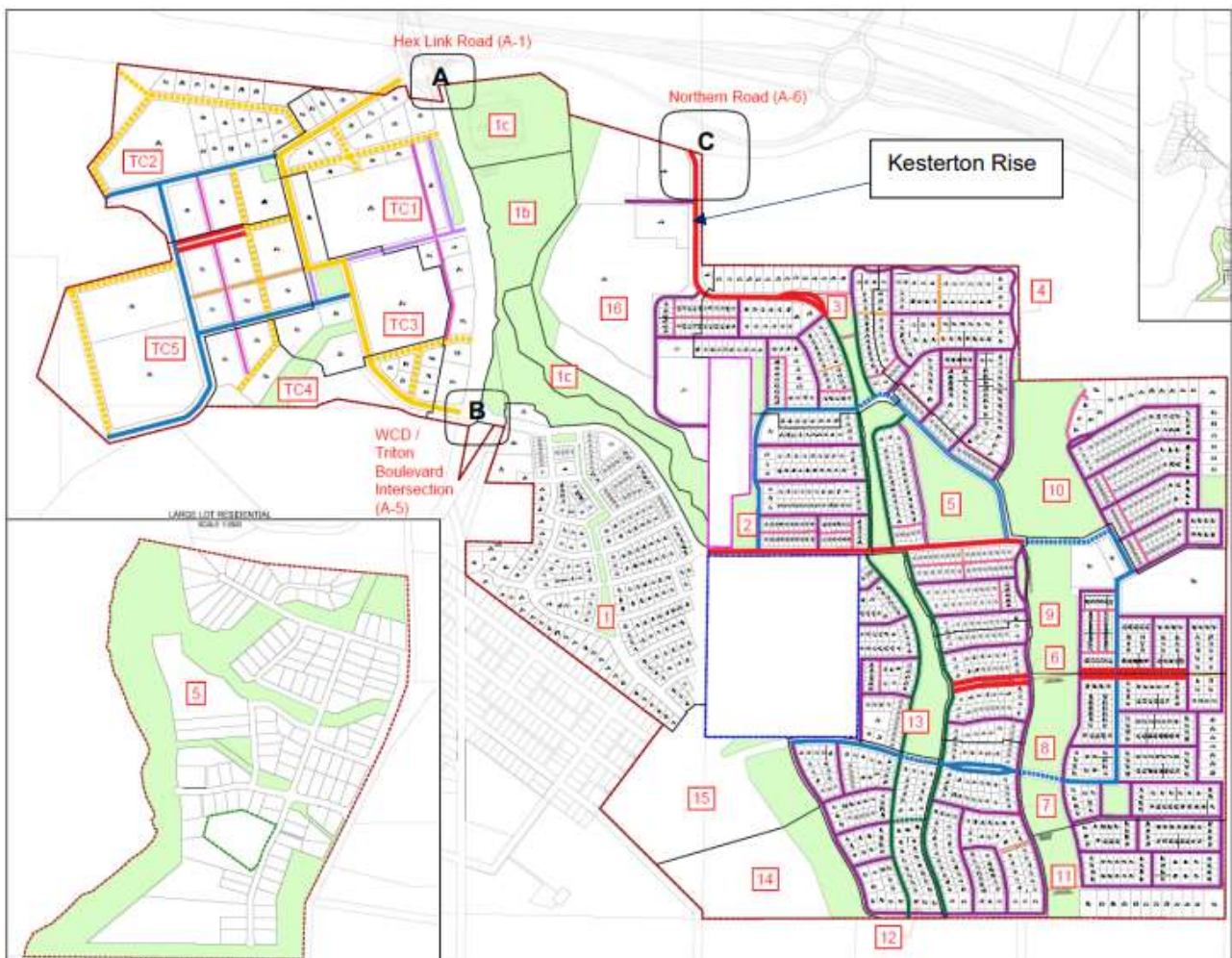


Figure 5: Village North Access Link Road (Kesterton Rise and Hunter Expressway Link Road to be connected).

Adoption of DCP

On 14 March 2018, Council adopted a Development Control Plan (DCP) for the Huntlee site to provide additional site specific controls for future development on the land. The DCP for the site includes an Indicative Layout and Staging Plan.

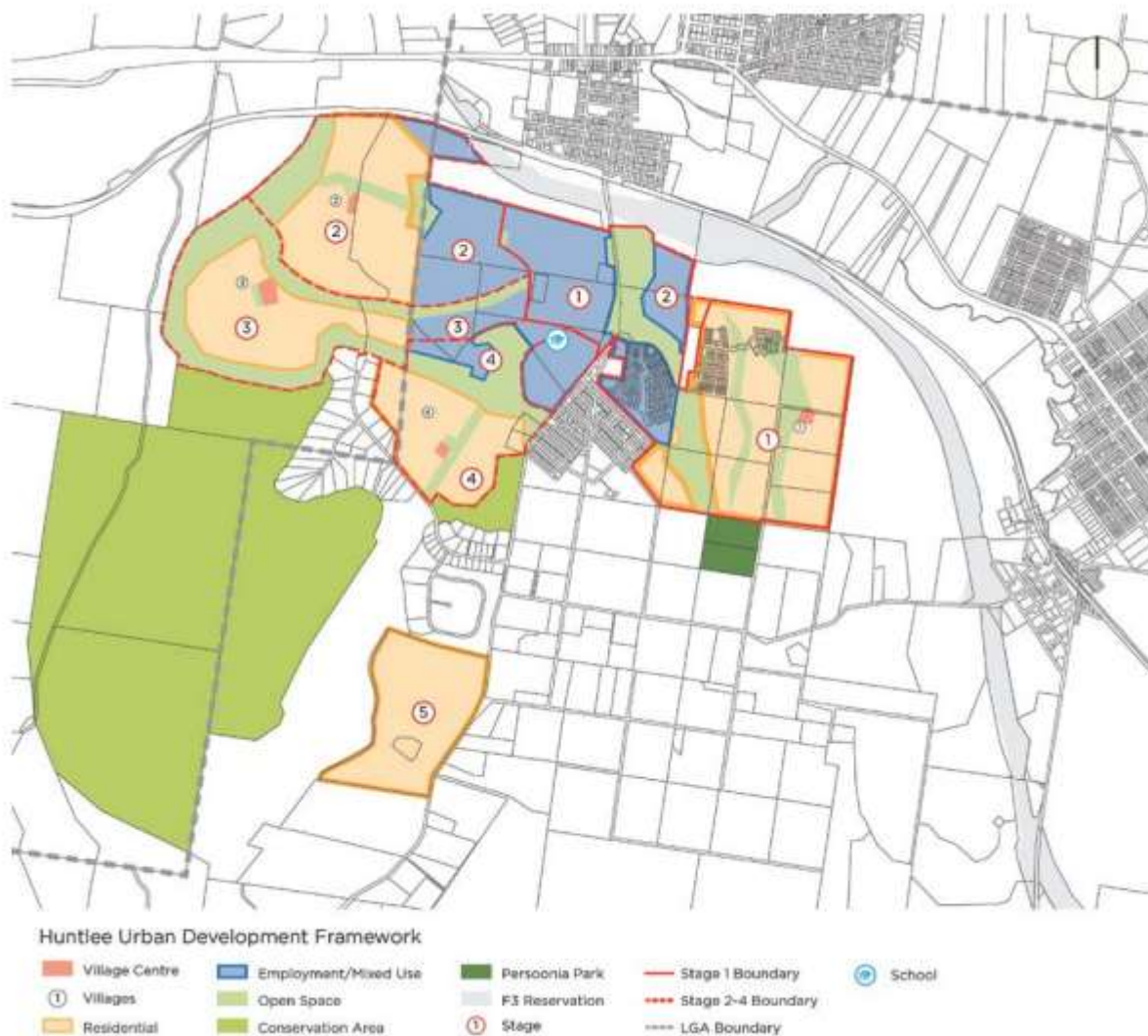


Figure 6: Huntlee Development Control Plan - Indicative Site Layout

Other Development Applications

There have been no Development Applications lodged over the subject land since the lots the subject of the development application (Lot 490 and 491 in DP 1212110) were created by the approval of MP10_0137 MOD 9.

DETAILS OF THE PROPOSED DEVELOPMENT

Summary of Proposal and Staging

Development Application No. 8/2021/21158/1 seeks approval for the construction of a seniors housing development (to occur in 15 phases) comprising 206 self-contained dwellings and associated recreational facilities, boundary adjustment, roads, stormwater infrastructure, landscaping and signage.



Figure 7: Proposed Typical Streetscape elevation within the Seniors Housing Community – typical colours and materials

Self-Contained dwellings

A total of two-hundred and six (206) self-contained seniors housing dwellings are proposed:

- The development proposes a mix of seventeen (17) two (2) bedroom and one-hundred and eighty-nine (189) three (3) bedroom dwellings.
- The development proposes a number of alternate dwelling designs, with façade treatments and designs incorporating elements of the character of the surrounding residential community.
- Each dwelling will be provided with a double garage.
- Each dwelling site contains its own private open space of a minimum of 15m².
- Each dwelling site will be fenced to define the space owned by each resident and privacy and acoustic benefits to the private open spaces provided.

Community Buildings

An interim community building is proposed to be provided to serve the Seniors Housing development until such time as the construction of the long term club house is finalised (completed within Stage 3).

Interim Community Building:

- The interim Community Building will provide an external recreation area in the form of a Pickle Ball court.
- The interim Community Building will provide areas for the resident population in the early stages of the development to congregate and will include an office for the site manager.
- The interim clubhouse and recreation area lots will be converted to self-contained dwelling sites once the Clubhouse is completed and operational.

Community Building (Clubhouse):

- The clubhouse will be located centrally to the site with an approximate area of 1858m² (excluding outdoor decks and Bowling Green) and will be shared by all residents within the village.
- The clubhouse will house the staff that manage the day-to-day operation of the village.
- The clubhouse will also provide the following services and facilities for residents:
 - Indoor lounge and dining areas with bar and café.
 - Outdoor alfresco and barbeques.
 - Small cinema

- Recreation rooms (e.g. craft rooms, library, games room).
- Indoor pool and gym and yoga studio.
- Spa and yoga deck
- Wellness centre and hair/beauty salon.
- Consulting room for visiting health care professionals.
- Resident mail sorting and collection point.
- Bowling green for lawn bowls
- Car parking for community building and community bus to serve the seniors housing community by providing transport to services within Cessnock Central Business District.

More specifically, the development is proposed to be constructed in the following phases:

Phase No.	Detail of Works Proposed
Phase 1	• 6 villas, including retaining walls/fencing and landscaping. • Proposed Villa 17 will be constructed as an interim community building, with outdoor leisure area including 'Pickle Ball' court to be provided on villa sites 18 and 19. • Construction of the main entrance road, signage and fencing along Kesterton Rise. • The APZ along Kesterton Rise is to be established. • Substation and master switchboard. • Associated roads and temporary turning heads, earthworks, stormwater and infrastructure. • Landscaping to the full frontage of Kesterton Rise and internal roads immediately adjacent to the villas. • Consolidation of Lots 490 and 491 in DP 1212110.
Phase 2	• 23 villas, including retaining walls /fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping. • Construction of temporary detention basin.
Phase 3	• 4 villas, including retaining walls/fencing and landscaping. • Associated roads (to complete loop around community building), earthworks, stormwater, infrastructure and landscaping. • Community building and bowling green. • Pedestrian connection (to site boundary) including path on batter to be completed. • Visitor and staff parking adjoining the community building, loading bay and community bus parking.
Phase 4	• 21 villas, including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 5	• 13 villas, including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 6	• 10 villas, including retaining walls/fencing and landscaping. • Conversion of temporary community facility to a Villa and removal of 'Pickle Ball' court. • Fire truck access to the perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 7	• 18 villas, including retaining walls/fencing and landscaping.

	• Fire truck access to the perimeter. • Landscaping of the batter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 8	• 10 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 9	• 18 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter. • Retaining walls and fences along southern and eastern boundary and future stages 9 -14. • Construction of Community Garden (in Stage 6 area). • Internal pedestrian link. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 10	• 10 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 11	• 8 villas, including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 12	• 12 villas, including retaining walls/fencing and landscaping. • Community Park/Garden (adjacent to villa 55). • Fire truck access to perimeter. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 13	• 10 villas (including the conversion of the former 'Pickle Ball' court site to 2 villas), including retaining walls/fencing and landscaping. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 14	• 27 villas, including retaining walls/fencing and landscaping. • Internal pedestrian link. • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping.
Phase 15	• 16 villas, including retaining walls/fencing and landscaping. • Fire truck access to perimeter (south eastern corner). • Associated roads and temporary turning heads, earthworks, stormwater, infrastructure and landscaping. • Boundary adjustment involving the consolidated Lots (as required in Phase 1) and Lot 1776 in DP 1256914 is to be completed and registered.

Prior to the completion of the development, the consolidation of Lots 490 and 491 in DP 1212110 is to be undertaken and the boundary adjustment involving Lot 1776 in DP 1256914 is to be registered.

The proposed development at completion is illustrated in the following plan:



Figure 8: Proposed Seniors Housing Development including 206 homes and Community Facility

PRELIMINARY MATTERS

Below is a discussion of a pertinent preliminary matter in respect of this application:

Proposed boundary adjustment and land to be dedicated to Council in association with existing Voluntary Planning Agreement

Both the Applicant and Council sought legal advice regarding the Voluntary Planning Agreement (VPA) between Huntlee and Council and its relationship with the Major Project Approval MP10_0137, and the proposal for a boundary adjustment for the purpose of a batter and footpath connection.

The principal points to note are:

- The VPA is registered on the title, and applies to, Lot 1776 in DP 1256914 being the land on which the batter and pedestrian pathway is proposed. Lots 490 and 491 in DP 1212110 are not subject to the VPA.
- Based on the survey of the Huntlee Stage 1 Boundary prepared by Daly Smith dated 29/09/21, the land required to be dedicated under the Huntlee VPA does not include the portion of land proposed to be subject to the boundary adjustment and incorporated in the Seniors Living site.
- The Huntlee VPA does not apply to the land to which the boundary adjustment is proposed, much less require that land to be dedicated, therefore the boundary adjustment can be carried out without any need to amend the Huntlee VPA.
- The land subject to the proposed boundary adjustment does not form part of land which has been identified as being dedicated to Council for public benefit under the Huntlee VPA.

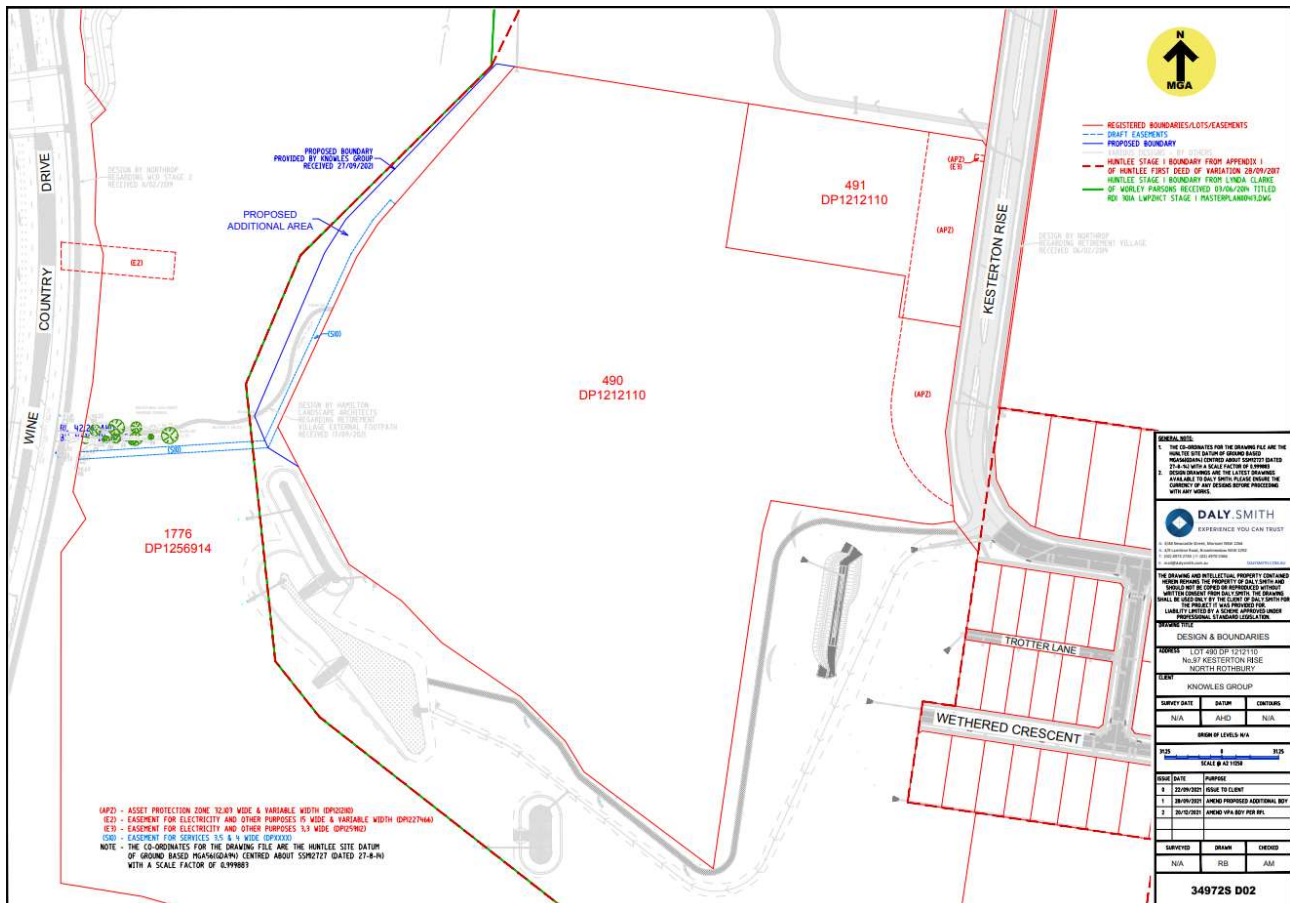


Figure 9: Proposed Boundary Adjustment in relation to Land to be dedicated to Council as proposed by Huntlee Planning Agreement

- The approved landscape masterplan referenced in Condition C9 of the Major Project Approval MP10_0137 sets out a concept only and is not a detailed plan. It is required that

detailed landscape plans be prepared in consultation with Cessnock City Council prior to the issue of the first construction certificate for each sub stage, and are to be generally in accordance with the "Huntlee Landscape Concept Report" Hassell August 2021.

- The proposed footpath connection will be required to be constructed in a timely manner by the conclusion of Stage 3 of the development works to ensure that residents are able to benefit from this connection to the Town Centre.

STRATEGIC CONTEXT

Hunter Regional Plan 2036

The Hunter Regional Plan 2036 released in October 2016, was produced by the NSW Government and sets out strategies and actions for the sustainable growth of Greater Newcastle which represents the Cessnock, Lake Macquarie, Maitland, Newcastle and Port Stephens local government areas. The Regional Plan provides an overarching framework that will guide the preparation of detailed land use plans.

Key priorities of the Hunter Regional Plan 2036 are to strengthen the region's economy, increase resilience to hazards, provide greater housing choices and employment, and provide a biodiversity rich natural environment.

Huntlee has been identified in the Regional Plan as a location for future housing with the completion of the Hunter Expressway, thereby improving connectivity to Greater Newcastle and Upper Hunter area and increasing the attraction for housing in this location.

Greater Newcastle Metropolitan Plan 2036

Whilst the subject site is not specifically mentioned in the Greater Newcastle Metropolitan Plan 2036 (GNMP), Outcome 3: Deliver housing close to jobs and services, applies to the subject development. The plan identifies that demographic household changes are creating the need for a more diverse mix of homes to meet a wide range of lifestyle needs and budgets.

The proposed senior's housing development will provide an alternative lifestyle and mix of housing types for our ageing population.

Local Strategic Planning Statement 2036

The Cessnock Local Strategic Planning Statement 2036 identifies the subject site as an emerging Local Centre. Planning Priorities 1, 2 and 4 reinforce the importance of the site in terms of its role as an emerging Local Centre.

Planning priorities 1, 2 and 4 state:

Planning Priority 1: Our urban areas are compact

Compact residential settlements with higher densities have a range of benefits. With more people living in the same area, infrastructure can be used more efficiently, costs are reduced and the viability of other urban services such as public transport are supported. Creating compact settlements and consolidating growth in existing residential areas increases the affordability of housing, promotes housing diversity and may have other benefits, such as promoting lifestyles that are more active.

Planning Priority 2: Housing is diverse, adaptable and affordable and our urban areas facilitate affordable living.

Another significant influence on housing is the change in age structure. Across Cessnock the median population is expected to remain stable (currently 38); however in centres such as Kurri Kurri and Branxton the median age is currently rising. At different stages of our lives we have different needs and preferences for housing.

Planning Priority 4: Our community is safe, healthy and active.

Our aim is to create liveable communities where all people, regardless of age or ability, are able to lead active, independent, healthy lives and access and interact with their community freely and safely.

The proposed development is considered to be consistent with the strategic plans in terms of providing for higher density residential development in the form of seniors housing, providing diversity in housing stock and promoting a healthy and active lifestyle through recreational connections and facilities.

ASSESSMENT

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 1.7

Section 1.7 of the *Environmental Planning and Assessment Act 1979*, prescribes as follows:

'This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act) and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment'.

Biodiversity Conservation Act 2016

The Huntlee Town Development is certified under clause 34A(4) of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* by the Director Planning and Risk, Office of Environment and Heritage, dated 25 October 2018 as:

- a) The Huntlee New Town Development is part of a relevant planning arrangement for which the biodiversity impacts of the proposed development have been satisfactorily assessed before 25 August 2017, and
- b) Conservation measures to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts have been secured into the future.

The Huntlee New Town Development comprises development on land identified on the *State Environmental Planning Policy (Major Development) 2005 Huntlee New Town Site Land Application Map*.

The relevant planning arrangement is Part 27 of Schedule 3 to the *State Environmental Planning Policy (State Significant Precincts) 2005* as in force immediately before its repeal by the *State Environmental Planning Policy (Major Development) Amendment (Huntlee New Town Site) 2015*.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Section 4.15(1) Evaluation

In determining the Development Application, the consent authority is to take into consideration any relevant matters prescribed within s.4.15 of the *Environmental Planning and Assessment Act 1979*, as are of relevance to the development the subject of the development application:

4.15(1)(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

1. *State Environmental Planning Policy (Planning Systems) 2021*;
2. *State Environmental Planning Policy (Resilience and Hazards) 2021*;
3. *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*;
4. *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*;
5. *State Environmental Planning Policy (Biodiversity and Conservation) 2021*;
6. *State Environmental Planning Policy (Koala Habitat Protection) 2020*;
7. *State Environmental Planning Policy (Industry and Employment) 2021*;
8. *Cessnock Local Environmental Plan 2011*.

The consolidated SEPPs commenced on 1 March 2022.

Most existing provisions contained in previous SEPPs have been transferred into the new consolidated SEPPs as chapters.

Importantly, it is noted that no policy changes have been made. The SEPP consolidation does not change the legal effect of the SEPPs being repealed.

The changes in the consolidated SEPPs do not impact the development assessment process, and all savings and transitional provisions of the repealed SEPPs are still in force despite their repeal, due to sections 5(6) and 30(2)(d) of the *Interpretation Act 1987*.

An assessment of the proposed development under the Environmental Planning Instruments (EPIs) relevant at lodgement of the development application is provided below.

1. STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

As outlined previously, the development is a type of development that is identified as being 'regionally significant' in accordance with Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*.

2. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

The intent of this policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The key provision that relates to this development application is contained in section 4.6.

Section 4.6, in part, states:

4.6 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless—

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

The major project approval MP10_0137 condition C1 requires site remediation and validation to occur prior to the issue of the construction certificate. In its assessment of MP10_0137 MOD 9, it was identified that via a Phase 1 Environmental Site Assessment prepared by RCA Australia (ref13148/402-2), asbestos was identified as being present within the sub-stage 16 location. The Phase 1 Environmental Site Assessment recommended the removal and subsequent validation/clearance of the locations identified as containing asbestos contamination prior to further development of the Huntlee Stage 1 sub-stage 16 site.

The application has been supported by the submission of an Asbestos Inspection and Validation, Huntlee, North Rothbury NSW prepared by RCA Australia, dated 24 February 2020 NSW. The report identifies that it has been prepared as a condition of consent requiring remediation and validation prior to the construction of residential housing.

In conjunction with the assessment of the current application, a Site Audit Report – Huntlee, Part of sub-stage 16, Stage 1 Development Area prepared by Ramboll Australia Pty Ltd dated, July 2021, was submitted. As part of the site audit, the site auditor reviewed all the relevant reports and confirmed that the site is suitable for its proposed use, from a land contamination perspective.

In addition, an Environmental Management Plan prepared by Coffey Environments Pty Ltd, dated 25 September 2013 – Huntlee Stage 1 Worley Parsons Services Pty Ltd, has been developed and includes a procedure for unexpected finds.

Based on the submission of the above certifications, clearances and management plans, it is concluded that the site will be suitable for the proposed use as a seniors housing development having consideration for any potential contamination.

3. **STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004**

In accordance with Schedule 7A, (2)(a), *State Environmental Planning Policy (Housing) 2021 (SEPP Housing)*, as the development application was made, but not yet determined, on or before the commencement date of *SEPP Housing*, the former provisions of a repealed instrument continue to apply.

In consideration of the above, the development application has therefore been assessed against the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. This assessment is summarised below:

Provision	Assessment	Complies
4 Land to which Policy applies (1) General This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if— (a) development for the purpose of any of the following is permitted on the land— (i) dwelling-houses, (ii) residential flat buildings, (iii) hospitals, (iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or (b) the land is being used for the purposes of an existing registered club. (6) Land to which Policy does not apply This Policy does not apply to—	The land is zoned B4 – Mixed Use under CLEP 2011 is land ‘zoned primarily for urban purposes’. Additional permitted uses as contained in Schedule 1 of CLEP 2011 permits development on the subject land for the purpose of dwellings houses in addition to the permitted uses of residential flat buildings and hospitals. Seniors Housing is also permissible with consent in the B4 zone. The land is not described as environmentally sensitive land by virtue of any of the descriptors in Schedule 1. SEPP Seniors Housing is applicable to the subject land.	Yes

(a) land described in Schedule 1 (Environmentally sensitive land)		
10 Seniors housing In this Policy, 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.	The proposed development comprises the construction of 206 self-contained dwellings and community facility.	Yes
13 Self-contained dwellings (1) General term: “self-contained dwelling” In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.	The development proposes the construction of 206 self-contained dwellings, therefore is consistent with the definition of “in-fill self-care housing” as defined in clause 13(2). (2) <i>Example: “in-fill self-care housing”</i> <i>In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.</i>	Yes
18 Restrictions on occupation of seniors housing allowed under this Chapter (1) Development allowed by this Chapter may be carried out for the accommodation of the following only— (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. (2) A consent authority must not consent to a development application made pursuant to this	The proposed conditions of consent include a restriction on the types of people capable of occupying the development. Therefore, the proposal is compatible with those identified in subclause (1) with satisfies the provisions of subclause (2).	Yes

Chapter unless— (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and (b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the <i>Conveyancing Act 1919</i>, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).		
19 Use of seniors housing in commercial zones Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes.	The subject site is zoned B4 – Mixed use in accordance with CLEP 2011. The subject land is identified upon the additional permitted land use map within CLEP 2011 as permitting residential uses upon the subject land. The requirements of Clause 19 are therefore not applicable to the proposed development.	Not Applicable
24 Site Compatibility Certificates required for certain development applications (1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if— (a) the development is proposed to be carried out on any of the following land to which this Policy applies— (i) land that adjoins land zoned primarily for urban purposes, (ii) land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the	Subclause (1)(a)(i) applies to land that land adjoins land primarily for urban purposes. In this case the land is zoned B4 – Mixed Use and is therefore classed as land zoned primarily for an urban purpose. As a result the land is therefore not considered to adjoin land zoned for an urban purpose. Subclause (1)(a)(ii) the land is identified as being reserved for a “special use”. Subclause (1)(a)(iii) the land is not utilised for the purpose of an existing registered club. Seniors Housing is a permissible land use within the B4 – Mixed Use zone in accordance with CLEP 2011. In this instance (1A) confirms that Clause 24 does not apply. In this case it has been determined that a Site	Not Applicable

purposes of hospitals is permitted), (iii) land that is used for the purposes of an existing registered club, or (b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45. (1A) Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument	Compatibility Certificate is not required.	
26 Location and access to facilities (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to— (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner. (2) Access complies with this clause if— (c) in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development— (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the	The operator of the seniors housing development proposes to operate a community bus from within the development site which will be capable of transporting residents to Cessnock CBD which provides access to shops, bank service providers, other retail and commercial services and community facilities. This service will be operated Monday-Friday. The overall average gradient of pathways within the seniors housing development site will comply with those required for the development of seniors housing. The closest bank service providers are located at: • Branxton Post Office (1.3km) • Rutherford (20km), and • Cessnock (20km). The community services and recreation facilities within the vicinity of the site include: • Branxton Community Hall (2km), • Miller Park (2.5km), • Branxton Pool (3km), • Branxton Greta Men's Shed (6km) • Cessnock Centrelink and Medicare (20km), • Maitland Neighbourhood Centre (23km), and • Samaritans Cessnock (20km). The closest bus stops to the site are located on Wine Country Drive (530m) and Triton Blvd (800m) and Branxton Train Station is located 1.6km from the site. The access pathways within the seniors housing development site will achieve a gradient of 1:10 or less.	Yes

distance is accessible by means of a suitable access pathway, and (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive), and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3). (3) For the purposes of subclause (2) (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable— (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time, (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time, (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.	A 12 seater community bus will be provided from Stage 1 of the development. An additional 12 seater bus will be acquired when the resident population demand increases to warrant the need for two buses to meet access to facilities commitments. The operator of the development will charter a larger bus/coach for larger groups for day trips or special occasions. The applicant has in addition amended the development application to include the provision of a footpath to connect the proposed seniors housing development to the Huntlee Town Centre, where a number of the services and facilities required will be accessible. These services will be located in excess of 400m from the development site via the proposed path of travel. As Huntlee is an emerging town centre, it is envisaged that additional services including bank services will be provided within the nearby town centre in the future. The provision of the path is not a requirement to achieve compliance, however supports an active and connected neighbourhood lifestyle. The provision of transport services by the seniors housing operator satisfies the requirement of Clause 26.	
27 Bush Fire Prone land	The land is identified as being bushfire prone, and is classified as Vegetation Category 1 and 3. However, this mapping has not considered the vegetation clearing which has occurred in association with works undertaken in association with the Major Project Approval MP10_0137.	Yes

	The application has been considered by the New South Wales Rural Fire Service (NSW RFS) and the design is deemed to be compliant with the requirements of <i>Planning for Bushfire Protection 2019</i>. Consideration has been given to the capability of the future residents to adequately evacuate the development proposed. Having considered the proposed development application and works required to be undertaken in accordance with the modified Major Project Approval MP10_0137, the construction of Kesterton Rise to the Hunter Expressway Link Road will provide additional access and egress points to the site in the event of an emergency. Notwithstanding, the existing access arrangements and those circulation and temporary accesses proposed for each phase have been considered as being compliant with the requirements of NSW Rural Fire Service (NSW RFS).	
28 Water and Sewer (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage	The application has been supported by the submission of a notice of requirements from the private service provider 'Altogether Huntlee Pty Ltd' confirming that access to reticulated sewer and water services is available. The notice of requirements states that the service provider commits to issuing a Certificate of Compliance upon the satisfaction of the requirements as set out in the notice of requirements. This confirms that the proposed seniors housing development can be connected to reticulated water and that there are adequate facilities for disposal of sewage.	Yes
29 Consent Authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply (2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).	As previously identified, the subject development application did not require a Site Compatibility Certificate to be issued for the development of seniors housing at the site. Therefore the criteria of clause 25 (5) (b) (i), (iii) and (v) apply to the development. Subclause 25 (5) (b) (i) relates to impact on the natural environment and approved land uses in the vicinity of the site. The removal of vegetation and biodiversity values have been considered in the approval of the major project approval MP10_0137, whereby land clearing has been granted approval for the purpose of urban land uses. The civil works undertaken in association with the major project approval MP10_0137 have altered the pre-development natural environment.	Yes

	The adjoining land to the north has not been approved for a specific use however, is zoned B4 - Mixed Use. Therefore, a number of uses may be developed on the site in the future. The impacts of future development on adjoining land will be required to consider the impacts on the seniors housing development. Land to the west is identified as being for recreational purposes, and includes riparian corridor and parklands, which is earmarked to include sporting facilities. Adjoining land to the south is proposed to be developed for additional residential development and the provision of recreational land. The major project approval MP10_0137 has been designed to ensure that the impacts of water quality/ quantity have been adequately designed to be capable of managing these once the land the subject of the major project approval MP10_0137 is fully developed based on 85% impervious for the site. i.e. the infrastructure has been appropriately designed and sized to meet the standards required. Subclause 25 (5) (b) (iii) relates to impacts on services and infrastructure and clause 26 provisions. The proposed seniors housing development will have access to the emerging Huntlee Town Centre where additional services will continue to be developed as the population of the Huntlee urban release area increases. The services available will continue to expand to meet the day-to-day needs of residents, it is not envisaged that the development of the seniors housing will place an unreasonable demand on services. The seniors housing development is proposed to be constructed in Phases and therefore the demand upon local community infrastructure will be gradual. The provision of community facilities onsite including, swimming pool, bowling green, indoor recreation rooms, will also lower the demand for off-site community facilities. In addition, the operator will provide a transport service via the provision of a community bus to transport residents to local centres and on social trips. Infrastructure services have been constructed and are available to the site in accordance with the requirements of the major project approval MP10_0137. These services include, water, sewer, electricity, telecommunications, and stormwater.	
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	Subclause 25 (5) (b) (v) relates to impact of the bulk and scale of the built form and character of the proposed development on existing, approved and future uses in the vicinity of the development. The proposed seniors housing development has been designed to incorporate single storey dwellings; this is complimentary to the existing character of Huntlee which predominantly is comprised of single storey dwelling houses to the east and south of the site. The built form of the proposed seniors housing development compliments that of existing development within the vicinity of the site. Existing housing development within Huntlee utilises a mix of the following materials: face brick, rendered masonry, cladding, Colorbond roofing and roofing tiles. Development throughout Huntlee has been designed to create flat developable blocks with variable lot widths between 14 metres and 20 metres. In some instances this has required benching of land and the construction of retaining walls to create level blocks. The proposed seniors housing development will not appear dissimilar to that of the residential development occurring within the vicinity of the development site. The seniors housing proposes building materials complimentary to those being utilised elsewhere within Huntlee. It is considered that the proposed seniors housing will not impact negatively on existing, approved or future uses within the vicinity of the development. The seniors development has been designed to complement the existing residential development and enable the future development of adjoining land.	
30 Site Analysis To describe pertinent site details inclusive of dimensions, topography, services, existing vegetation, micro climates, location of buildings and structures, views, overshadowing by neighbouring structures.	An analysis of the site has been provided previously in this report. The site is located within a greenfield urban release area. There is no adjoining development which will create overshadowing or privacy concerns. The proposed seniors housing development has been designed to alleviate any future impacts on future development which may occur on adjoining land to the north.	Yes
31 Design of in-fill self-care housing In determining a development application made pursuant to this Chapter to carry out	The application for a seniors housing community has considered and utilised the guidelines of the Seniors Living Policy: Urban Design Guideline for infill Development. The following is noted:	Yes

development for the purpose of in-fill self-care housing, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> published by the Department of Infrastructure, Planning and Natural Resources in March 2004.	<u>Responding to Context</u> •The site has been designed to incorporate features of the surrounding residential subdivision. •Internal roads are proposed which follow the topography the site. •The site is designed to reduce impacts on neighbours. There are no neighbours directly adjoining the site. •The seniors housing community will incorporate landscaping utilising plant species as contained within the area specific Development Control Plan. <u>Site Planning and Design</u> •The inclusion of landscaping which positively contributes to the design outcomes of the development are proposed, with up to 35% of the site provided with landscaping. There is a mix of ground covers, low level plants and substantial trees proposed to be included in the development of the site. •The development includes the provision of 2 and 3 bedroom dwellings with a number of alternate floor plans provided throughout the seniors housing community. •The proposal incorporates an internal road system with scattered visitor parking locations. Each dwelling is proposed to be built with a double garage as a minimum in accordance with the SEPP requirements for car parking. The appearance of these garages is not considered to be visually or physically dominating. <u>Impacts on Streetscape</u> •The subject site has one (1) existing street frontage onto Kesterton Rise. A second frontage will be established with the further development of the subdivision of land associated with the major project approval MP10_0137. •The development of the seniors housing community proposes a mix of attached and detached dwellings. •The development has taken cues from the pattern, style and materials utilised in the surrounding residential subdivision, and incorporated these into the overall design approach for the dwellings and clubhouse.	
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	•The dwellings at the front of the site have been setback due to a bushfire asset protection zone being established in the front setback. The seniors housing development is to be operated as a private development, and the community appeal attracts residents to this form of development. Having these outward facing would diminish the sense of community. •All frontages within the seniors housing community are to be landscaped, thereby softening the appearance of driveways. •The garages are setback a minimum of 1m from the front building façade element. <u>Impacts on Neighbours</u> •There are no directly adjoining neighbours to the proposed seniors housing community. •Consideration has been given in the design of the seniors housing with the designs all being of single storey to ensure that each dwelling is provided with adequate private open space and subsequently reducing the impacts of overshadowing. •As discussed further in this report, the development complies with the requirements as specified by the SEPP. <u>Internal Site Amenity</u> •The seniors housing development proposes shared pedestrian/vehicular access ways. Adequate buffering is provided between dwellings and the internal road ways. •The road ways will be clear of any parked cars as there are ample onsite car parking spaces located throughout the seniors housing site. •Over 70% of the dwellings proposed receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. •A number of Communal Private open spaces are to be provided throughout the seniors housing site offering areas for interaction between residents. •The infrastructure required to service the development will be adequately treated to reduce their prominence.	
32 Design Principles	<i>These are addressed in greater detail in the following clauses 33 – 39.</i>	
33 Neighbourhood Amenity	The site has two main interfaces, being the newly	Yes

and Streetscape	constructed residential area to the east and riparian corridor to the west. The streetscape to the east is characterised predominantly by single storey detached dwellings of weatherboard or rendered walls and predominately pitched Colorbond sheet roofs. Face brick is used sparingly along with tiled roofs. The riparian corridor wraps around the subject site to the west, with the area proposed to be utilised as revitalised public reserve. No, buildings are proposed to be constructed within the riparian zone. The design proposes a curving internal road system accessing the proposed 206 single storey dwellings and community building. The site is affected by a bushfire asset protection zone along its eastern frontage to Kesterton Rise. However, modest tree planting along this frontage will preserve the amenity of the area from the main thoroughfare. Additional, internal landscaping and tree planting is proposed to offset impacts on the amenity of the new neighbourhood. A proposed batter to front the riparian corridor will sensitively harmonise the proposed building platform of the seniors housing development with the adjoining natural elements of the riparian corridor. The overall look of Huntlee takes inspiration from the Hunter Valley Wine region. Home designs have incorporated elements such as verandas, pitched roofs, gables and vertically proportioned awning style windows. The design of the proposed seniors housing development looks to incorporate these design elements to create a cohesive and attractive neighbourhood.	
34 Visual and Acoustic Privacy	The proposed layout and design of the seniors housing development has considered the location and design of windows to limit their placement on side elevations except for where they are required for light and/or ventilation. Double glazing is proposed to all bedroom windows and in circumstances where higher acoustic impacts are associated with the operation of major roads, additional double glazing is proposed to glazing in other rooms of the proposed dwellings. Bedrooms are predominantly located away from driveways and paths, with dwellings being of a mirrored/attached design. Garages are predominantly located away from bedrooms of neighbouring proposed dwellings.	Yes

35 Solar Access and Design for Climate	The proposed development has considered solar access requirements for private open space and living spaces in the middle of winter with the required number of units exceeding the minimum requirements. The development has been designed appropriately on a predominantly north – south and east - west orientation to maximise solar access and design for cross-ventilation. Mechanical ventilation will be included in laundries, bathrooms and kitchen areas. Each dwelling will be provided with insulation and reverse cycle air conditioning.	Yes
36 Stormwater	The stormwater management strategy (flooding, water quality and water quantity) was developed in conjunction with the masterplan of the major project approval MP10_0137. Modification 9 of the major project approval MP10_0137 included the development of the subject land. In association with the assessment of modification 9, an updated Stormwater Management Strategy was developed, whereby a regional online detention basin was proposed for the catchment with water quality basins offset along the riparian corridor. These two detention basins have been constructed and can be seen on the south western boundary of Lot 490 in DP 1212110 and north of the development site. The road network within the site has been designed to direct overland flows through the site into the detention basins. In addition, installation of plumbing for all dwellings is to make provision for connection to Huntlee Stage 1 reticulated alternative water supply.	Yes
37 Crime Prevention	The windows on the front façade will allow the occupants of each dwelling to observe the approaches to each dwelling and the internal road system. Lighting at the front door will enable the identification of individuals at front doors prior to opening the door. The vegetation proposed for the landscaping throughout the site will not create opportunities for potential offenders to conceal themselves. The internal roads will be provided with street lighting to reduce opportunities for concealment of would-be offenders.	Yes

38 Accessibility	Internal roads and pathways will be provided that are clearly marked and illuminated to provide obvious and safe links between the dwellings and community facilities. There will be a path which connects to the town centre, from which there is a level walk to the bus stop and shops beyond.	Yes
39 Waste Management	The application is supported by a Waste Management Plan. Each proposed self-contained dwelling will be serviced by the Council waste collection service including a separate general waste, recycling and green waste service. The community building will be serviced via a commercial waste contractor and separating of waste will be undertaken in accordance with the contract requirements.	Yes
40 Development Standards (2) Site Size: Min. 1,000m ² (3) Site Frontage: Min. 20m (4) Height in zones where residential flat buildings are not permitted	The site will have an area of 105,030m² subject to the boundary adjustment to include land proposed to be utilised for batter fronting Wine Country Drive. The site fronts Kesterton Rise with the frontage measured at 230 metres. Clause 40(4) has no application as the subject land is located within a business zone.	Yes
41 Standards for hostels and self-contained dwellings (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.	The application was supported by a Disability Access report prepared by 3D Access which has assessed the design documentation and advises that the proposal either demonstrates compliance or can readily achieve compliance with the accessibility provisions of the <i>New South Wales (NSW) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (New South Wales Government, 2020). Specific details will be required to be submitted at the construction stage to demonstrate compliance with the requirements of Schedule 3.	Yes

50 Standards which cannot be used to refuse consent for self-contained dwellings: 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 self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds—		
Provision	Assessment	Compliance
(a) Building Height: 8m or less	All proposed buildings associated with the seniors housing development including the community facility building, are to be less than 8m in height. All dwellings are to be constructed as single storey development.	Yes
(b) Density and Scale: FSR 0.5:1 or less	The gross floor area of the development (excluding garage areas as these are required for the provision of car parking) are as follows:	Yes

	Dwelling types A0, A0.S, A1 and A1.S have a dwelling area (excluding garage) of 133.64m². A total of 105 of the proposed dwellings are to be of these dwelling types. The GFA of these is calculated at 14,032.2m². Dwelling types B0, B0.S, B1 and B1.S have a dwelling area (excluding garage) of 132m². A total of 51 of the proposed dwellings are to be these dwelling types. The GFA of these is calculated at 6732m². Dwelling types C0, C0.S, C1 and C1.S have a dwelling area (excluding garage) of 125.13m². A total of 33 of the proposed dwellings are to be these dwelling types. The GFA of these is calculated at 4129.29m². Dwelling types D0 and D0.S have a dwelling area (excluding garage) of 110.29m². A total of 17 of the proposed dwellings are to be these dwelling types. The GFA of these is calculated at 1874.93m². The proposed community facilities comprising community building (excluding voids and plant rooms) 1160m², two (2) garden sheds 12m² (each 6m²) and a maintenance shed 35m². Considering the total land area of the seniors housing development and the gross floor areas calculated; the density has been calculated as 26.6%, which results in a floor space ratio (FSR) of 0.26:1, which is compliant with the provision.	
(c) Landscaped Area: minimum 30% of the area of the site is to be landscaped	A total of approximately 36,000m ² (excluding the area of the bowling green) has been provided as landscaped area within the development site. This equates to 34.5% site coverage with landscaping.	Yes
(d) Deep Soil Planting: 15% of the site area. Two thirds of the deep soil zone should preferably be located at the rear of the site – minimum 3m dimension.	Based on the site area and landscaped areas identified, the requirement for 15% of the site to be planted in accordance with deep soil planting methodologies is achieved. It is preferable but not necessary for two-thirds of the deep soil zone to be located at the rear of the site with a minimum dimension of 3m. The site is proposed to be developed with typical rear yard depths of 2.5 metres. In addition, landscape pockets are proposed in prominent locations along the rear boundaries. The land adjoining to the rear of the site is proposed to be dedicated as public open space including sport fields and parklands. The rear boundary of the development site will be extended to include a landscaped batter.	Yes
(e) Solar Access: 70% of dwellings to receive a	The application is supported by a solar access schedule. The solar access schedule identifies that 100% of the 206	Yes

minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter to living rooms and private open spaces.	proposed dwellings will received a minimum of 3 hours of solar access to their private open space areas in the middle of winter. The solar access schedule identifies that 70.9% of 206 proposed dwellings will receive a minimum of 3 hours solar access to their living rooms in the middle of winter.	
(f) Private Open Space (i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is to be provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor.	Each dwelling will be provided a private open space area of 5m x 5m totalling 25m² which exceeds the 15m² requirement. Each area of private open space is designed to be located directly off an indoor living area. All proposed private open space dimensions as illustrated on the Architectural Staging Plans submitted with the development application, provides at least one area of space meeting the 3m x 3m requirement.	Yes
(g) Repealed		N/A
(h) Parking: 0.5 car spaces for each bedroom where the development is made by a person other than a social housing provider	Each proposed dwelling is to contain two (2) car parking spaces located within an attached garage. The dwellings are proposed to contain a mix of three (3) and two (2) bedroom dwellings, as outlined previously in this report.	Yes

4. STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The aim of the policy is to encourage sustainable residential development and ensure consistency in the implementation of the BASIX scheme throughout the State.

BASIX certificates have been submitted as part of this application. (The application was amended and an additional dwelling has been added to the development proposed). The certificate numbers

are 1175371M and 1231292M and they meet the requirements in regards to water, thermal comfort and energy.

Provided the development is undertaken in accordance with these certificates, it will be consistent with SEPP BASIX.

5. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The Major Project Approval MP10_0137 includes approval for the removal of vegetation in association with Stage 1. Any required clearing is to be undertaken in accordance with the Major Project Approval MP10_0137.

No further assessment of the impacts has been undertaken by Council's Ecologist, given the approval issued in association with the Major Project Approval MP10_0137 granted approval for the clearing of vegetation from the site the subject of Stage 1 of Huntlee.

6. STATE ENVIRONMENTAL PLANNING POLICY - KOALA HABITAT PROTECTION (2020)

The aim of the policy is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. This policy is applicable to the Cessnock LGA.

The Major Project Approval MP10_0137 includes approval for the removal of vegetation in association with Stage 1. Any required clearing is to be undertaken in accordance with the Major Project Approval MP10_0137.

No further assessment of the impacts has been undertaken by Council's Ecologist, given the approval issued in association with the Major Project Approval MP10_0137 granted approval for the clearing of vegetation from the site the subject of Stage 1 of Huntlee.

As a result of the works undertaken in accordance with the major project approval, the site is largely devoid of any vegetation and is not considered to be potential koala habitat.

7. STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

The aim of Chapter 3 of the policy is to ensure that signage is compatible with the desired amenity and visual character of an area and is of a high quality design and finish. This policy is applicable in this instance and consideration of the requirements as specified in Part 3.2, Section 3.4 is required. Specifically, Section 3.6(1) and Schedule 5 of the *SEPP* are relevant. Consideration of these is provided in the following table.

Schedule 5 Assessment Criteria (of SEPP)	Yes	No
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? Comment: The locality is residential in nature with bushland located on the opposite side of the road. The signage is low scale, being located on two (2) feature walls located at the main entrance to the site.	☒	☐



Figure 10: Artists Impression of Proposed Signage

The proposed signage is not dissimilar to entrance signage located at the entrance to modern subdivisions. The signage will be located within a landscaped setting.

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

Comment: Low scale signage has been utilised throughout the development of the residential component of Huntlee. The style is in keeping with the theme of the area.

The proposed signage is simple providing the name of the seniors housing community.

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?

Comment: The proposed signage will not detract from the amenity or visual quality of any environmentally sensitive areas, open space areas or other sensitive areas. The proposed signage is low in scale and size, and is predominantly for identification of the seniors housing community proposed to be established.

3 Views and vistas

Does the proposal obscure or compromise important views?

Comment: No, the proposed signage is low scale, and is to be attached to the proposed masonry wall at the entrance to the development.

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

Comment: No, the height of the proposed signage will not penetrate the skyline when viewed, and is incorporated into the landscaping and entrance features of the development proposed.

Does the proposal respect the viewing rights of other advertisers?

Comment: The signage is proposed to be located at the main entrance to a seniors housing community. The rights of others are not impacted, and the signage is proposed to be centrally located along the main frontage of the land the development is proposed to be erected on.

4 Streetscape, setting and landscape

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

Comment: The development incorporates two appropriately scaled walls with attached signs not dissimilar to those utilised within housing estates. The signage will identify the seniors housing community from the surrounding residential estate which will be operated privately.



Figure 11: Proposed signage size



Figure 12: Proposed graphic size

The signage proposed will be 2.3 metres x 1.2 metres with a graphic sizing of 2.0 metres x 0.8 metres. The sign will be flush wall mounted.

Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Comment: The proposed signage will provide visual interest in the streetscape with the signage to be attached to an otherwise blank masonry wall. Landscaping will also provide additional interest to the streetscape. The signage will be setback approximately 14 metres and will not dominate the streetscape.	☒	☐
Does the proposal reduce clutter by rationalising and simplifying existing advertising? Comment: Not Applicable, there is no existing advertising/signage.		
Does the proposal screen unsightliness? Comment: Not Applicable, the proposal is for entrance signage to a proposed seniors housing development.		
Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Comment: No, the signage is low in scale and will not protrude above buildings or tree canopies within the area.	☐	☒
Does the proposal require ongoing vegetation management? Comment: The proposed entrance signage for the seniors housing development will include landscaping to the streetscape which will provide an attractive streetscape appearance for the development. The development is proposed to operate under a plan of management and the development incorporates areas of landscaping within the site. The maintenance of the landscaping is incorporated into the plan of management for the site. Should the development no longer operate from the site, the signage is to be removed.	☒	☐
5 Siting 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? Comment: The proposed signage is compatible with the characteristics of the proposed development. As previously outlined, the signage is not dissimilar to entrance signage located at the entrance to modern residential subdivisions.	☒	☐
Does the proposal respect important features of the site or building, or both? Comment: The proposed signage is low in scale and proposes to utilise materials which are compatible with the bushfire asset protection zone located within the front setback of the site.	☒	☐

Does the proposal show innovation and imagination in its relationship to the site or building, or both? Comment: The signage is designed to provide identification purposes and opportunities for innovation and imagination are limited within a residential location. The incorporation of the signage into the entrance masonry wall does however reduce the impact of a large blank wall located at the entrance.	☒	☐
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 it is to be displayed? Comment: There are no logos or company names depicted on the graphics presented with the development application.	☐	☐
7 Illumination		
Would illumination result in unacceptable glare? Comment: It is not anticipated that illumination of the signage will result in unacceptable glare, having consideration for the signage elements to be utilised.	☐	☒
Would illumination affect safety for pedestrians, vehicles or aircraft? Comment: The lighting is proposed to be directed at the signage and therefore will not affect the safety of pedestrians, vehicles or aircraft.	☐	☒
Would illumination detract from the amenity of any residence or other form of accommodation? Comment: The lighting will not detract from the amenity of any residence or other form of accommodation.	☐	☒
Can the intensity of the illumination be adjusted, if necessary? Comment: The ability to adjust the illumination, can be undertaken by utilising low watt lighting.	☐	☐
Is the illumination subject to a curfew? Comment: A curfew on the illumination is not considered necessary, having consideration for the low scale nature of the signage proposed and street lighting within the area.	☐	☐
8 Safety		
Would the proposal reduce the safety for any public road? Comment: It is not envisaged that the proposed signage would reduce safety for any public road so long as the signage is securely mounted to the masonry wall.	☐	☒
Would the proposal reduce the safety for pedestrians or bicyclists? Comment: The signage is proposed to be attached to a wall, therefore, safety of pedestrians and bicyclists will not be adversely affected. The signage is to be setback 14 metres from the public footpath and roadway.	☐	☒
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? Comment: No, the signage is to be wall mounted and setback 14 metres from the public roadway and footpath.	☐	☒

8. CESSNOCK LOCAL ENVIRONMENTAL PLAN 2011

8.1 Permissibility

The site is zoned B4 Mixed Use under the *Cessnock Local Environmental Plan 2011 (CLEP2011)*.

The proposed development is categorised as seniors housing under *Cessnock Local Environmental Plan 2011*, which provides the following:

seniors housing means a building or place that is—

- (a) a residential care facility, or
- (b) a hostel within the meaning of *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 5, or
- (c) a group of independent living units, 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.

Note—

Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary.

Seniors Housing is a permissible land use within the B4 Mixed Use zone within *CLEP2011*, with consent.

The other aspects of the development being civil works, earthworks, clearing and associated works, are all considered ancillary to the primary purpose associated with the seniors housing, and are permitted with consent in the relevant zone.

8.2 Zone Objectives

As outlined previously and illustrated in the zoning map contained in this report, the subject site has a B4 Mixed Use zoning.

Clause 2.3(2) of the CLEP requires that *‘the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone’*.

The objectives of the B4 Mixed Use zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposed development is considered consistent with the objectives of the zone, and the following is noted:

- Residential development for the purpose of seniors housing is compatible with the adjoining residential uses and the predominantly single storey scale of the locality.
- Seniors housing development is compatible with being located in close proximity to an emerging commercial centre.
- The development enables the integration of suitable residential development within an accessible location.

- The construction of a pedestrian access to connect the site to the Huntlee Town Centre encourages walking and cycling of future residents, promoting a healthy and active lifestyle.

8.3 Relevant Clauses

8.3.1 Clause 5.21 Flood Planning

In part, Clause 5.21 states as follows:

‘(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding’.*

It is noted that the site is mapped as being flood affected under the provisions of Council's adopted city wide flood study. However, following assessment of the development application and supporting technical modelling and reports submitted in conjunction with the application, it has been determined that the site is not in fact affected by the 1% AEP flood event. Therefore, the provisions of Clause 5.21 are not required to be considered.

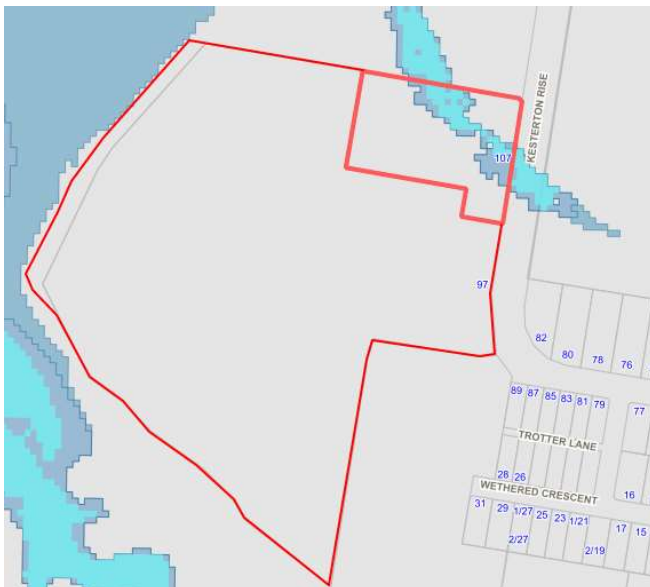


Figure 13: Council's adopted City Wide Flood Study Mapping – area outlined in red including approximate location of proposed boundary adjustment.

Specifically, the north eastern corner on Council's mapping is shown to be flood affected as shown in figure 13 above. Based on information contained within the flood report prepared for the major project approval MP10_0137 for the subdivision which created the land the subject of the development application, the probable maximum flood (PMF) inundation was identified as RL42.5m. The data utilised to inform Council's City Wide Flood Study is based on topography and identified streamlines. This data has not considered the modifications made to the streamline as a result of

the civil works undertaken in association with the subdivision of the land and the construction of the Kesterton Rise road formation.

The application proposes the filling of the site above the PMF and as such, has identified that the site is not flood affected.

Accordingly, it is considered that the proposed development is consistent with the provisions of Clause 5.21.

8.3.2 Clauses 6.1 – 6.3 Urban Release Areas

Part 6 of the CLEP 2011, provides particular controls associated with urban release areas. There are three subsections, which ensure arrangements for state infrastructure contributions; require infrastructure arrangements to be made; and provide for suitable planning policy prior to development.

More specifically, the following is noted:

Clause 6.1 Arrangements for Designated State Public Infrastructure

This clause has the effect of precluding the granting of consent to the subdivision of land within an urban release area until such time as Council receives confirmation from the Director-General that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure.

In part, Clause 6.1 states as follows:

(2) Despite all other provisions, development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the relevant date, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

The subject land is identified as being located within an urban release area created in accordance with *State Environmental Planning Policy (Major Development) Amendment (Huntlee New Town Site) 2015*, subsequently as the land has been created and the development does not propose to create a lot smaller than that of any of the existing lots; the provisions of Clause 6.1 are not applicable to the development proposed as the Special Infrastructure Contribution (SIC) have been levied in association with the Major Project Approval MP10_0137.

Clause 6.2 Public Utility Infrastructure

Prior to granting development consent, the consent authority must be satisfied that essential infrastructure is available or that arrangements have been made to provide the infrastructure.

Correspondence has been received in respect to the availability of infrastructure. The applicant has provided evidence of consultation with utility providers, and has confirmed that the area is capable of being serviced. Therefore, the provisions of this clause have been satisfied.

Clause 6.3 Development Control Plan

This clause has the effect of precluding the granting of consent for development of land within an urban release area unless a development control plan has been prepared for the site.

The development control plan is required to address a range of matters, as outlined in clause 6.3. In this case, a development control plan addressing the relevant matters, has been adopted by Council. Therefore, the provisions of this clause have been satisfied.

8.3.3 Clause 7.2 Earthworks

Clause 7.2 seeks to ensure that any earthworks do not result in an adverse impact on the environment, neighbouring properties or heritage items.

Bulk earthworks are proposed to the entirety of the site. The works are required to be undertaken as part of the development, thus ensuring that the overall average gradient for pathways is compliant with the gradient requirements of *SEPP Seniors*, and to prepare the site for the construction of self-contained dwellings and infrastructure.

Clause 7.2 states as follows:

7.2 Earthworks

- (1) *The objectives of this clause are as follows—*
 - (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
 - (b) *to allow earthworks of a minor nature without requiring a separate development consent.*
- (2) *Development for the purposes of earthworks may be carried out only with development consent unless—*
 - (a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
 - (b) *the earthworks are ancillary to other development for which development consent has been given.*
- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters—*
 - (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
 - (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material and the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*
 - (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) *any measures proposed to minimise or mitigate the impacts referred to in paragraph (g).*

The development proposed includes bulk earthworks to prepare the site for the development of a seniors housing community of two-hundred and six (206) self-contained dwellings and associated infrastructure and facilities.

Construction of retaining walls, batter and benching of the site to create building platforms for development of the self-contained dwellings. The building platforms will require retaining walls between dwellings and along parts of the northern and southern boundaries to a maximum height of 1.7m in one small location along the northern boundary.

In terms of drainage patterns, the finished land level will continue to generally follow the contours of the surrounding area to ensure that overland flows can continue to drain to the west and southwest in order to connect with existing stormwater infrastructure.

The seniors housing development is intended to be constructed and operate for a long period of time, therefore the likely future use or redevelopment of the land is not jeopardised by the extent of

earthworks proposed. It is considered that the works associated with the current development application would not preclude the land from redevelopment in the future.

The subject site has been remediated in terms of any known contamination and is therefore suitable for the development proposed. The bulk earthworks will result in a total cut of 24,000m³ and fill of 33,000m³. The balance will require imported fill of approximately 9,000m³ to be imported to the site, and a condition of consent will be imposed to ensure it is clean material.

A grassed batter is proposed on the western boundary, with retaining proposed on the southern and northern boundaries. Throughout the Huntlee development retaining has been used to create building platforms, and the impact on the amenity of likely future development to the south-east is expected to be minimal as this will frontage will be graded and no retaining proposed. In relation to the land to the north, this is zoned for business purposes, however, this land may be developed for residential purposes subject to consideration of constraints. The retaining wall on the northern boundary will be larger in size (maximum proposed height of 1.7m) however, is not expected to impact negatively on the amenity of the likely development to occur to the north.

The earthworks proposed will not result in a building bulk or scale that is out of character with the surrounding residential development occurring in association with the major project approval.

The source of material to be imported to the site is not known, however a construction management plan will require that truck movements are appropriately managed and material is virgin excavated natural material (VENM).

Previous clearing works have occurred across the development site which have disturbed the top layer of the soil horizon. It is not envisaged that any relics will be unearthed by the earthworks, however if an unexpected find occurs, appropriate steps will be taken to ensure it is not damaged and/or destroyed.

Previous works associated with the construction of infrastructure in accordance with the major project approval have modified a waterway which is mapped as traversing the north eastern corner of the site, with the result being that the watercourse no longer exists. As previously discussed, the two detention basins located within close proximity to the site have been designed and constructed to cater for stormwater from the site once developed. The earthworks have been designed to ensure that overland flows are able to continue to flow towards the nearby riparian corridor. No erosion or siltation is expected to result from the completed development in the nearby waterway.

Earthworks proposed in conjunction with the application are considered to be reasonable provided they are suitably managed, and will not result in any detrimental impact upon the surrounding environment.

4.15(1)(a)(ii) *The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved*

State Environmental Planning Policy (Koala Habitat) 2021

This development application was lodged with Council on 9 March 2021, prior to the commencement of *SEPP (Koala Habitat Protection) 2021* (SEPP KHP), which occurred on 17 March 2021. Part 4, Section 18 contains a savings provision relating to development applications, that if a development application is made, but not finally determined before the commencement of the Policy in relation to land to which the Policy applies, it must be determined as if the Policy had not commenced.

Therefore, SEPP KHP is considered a proposed instrument in the assessment of this application. Under Part 2 of the SEPP, Clause 9 applies and states as follows:

9(1) This clause applies to land to which this Policy applies if the land—

- (a) *is identified on the Koala Development Application Map, and*
- (b) *has an area of at least 1 hectare (including adjoining land within the same ownership), and*
- (c) *does not have an approved koala plan of management applying to the land.*

9(2) *Before a council may grant consent to a development application for consent to carry out development on the land, the council must take into account—*

- (a) the requirements of the Guideline, or*
- (b) information, prepared by a suitably qualified and experienced person in accordance with the Guideline, provided by the applicant to the council demonstrating that—*
 - (i) the land does not include any trees belonging to the feed tree species listed in Schedule 2 for the relevant koala management area, or*
 - (ii) the land is not core koala habitat.*

In accordance with the requirements of Clause 9(1), the SEPP KHP applies to the site.

In accordance with the requirements of Clause 9(2), the site includes trees belonging to the feed tree species listed in Schedule 2 for the relevant koala management area.

In consideration of the above, and the savings provision contained within the SEPP KHP, further assessment under the SEPP KHP is not warranted in this instance as the application must be determined as if the Policy had not commenced.

Housing SEPP

The Housing SEPP has been in force since the 26 November 2021 and resulted in the consolidation of 5 former housing-related policies:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)*
- *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)*
- *State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes) (SEPP 70)*
- *State Environmental Planning Policy No 21 - Caravan Parks*
- *State Environmental Planning Policy No 36 - Manufactured Home Estates*

Of relevance, minor amendments were made to the Housing SEPP on 18 March 2022, addressing minor errors and inconsistencies. Specifically, clarification as to where the seniors housing provisions apply and allowing subdivision of seniors housing in the R2 zone, were made.

In accordance with Schedule 7A, (2)(a), *State Environmental Planning Policy (Housing) 2021 (SEPP Housing)*, as the development application was made, but not yet determined, on or before the commencement date of *SEPP Housing*, the former provisions of a repealed instrument continue to apply. The development application has therefore been assessed for compliance against the requirements of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Environmental Planning and Assessment Regulation 2021

It is noted that the *Environmental Planning and Assessment Regulation 2021* came into force on 1 March 2022.

Notwithstanding the commencement of the *Environmental Planning and Assessment Regulation 2021*, Schedule 6 prescribes relevant savings, transitional and other provisions. In particular, the following savings provision is relevant to consideration of this application:

3 Development applications and applications for complying development certificates
The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.

It is noted that the subject application was lodged prior to 1 March 2022. Therefore, the provisions of the *Environmental Planning and Assessment Regulation 2000* continue to apply, and the application has been assessed with consideration given to these provisions.

4.15(1)(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following is an assessment of the proposal's compliance with the numerical standards in the DCP:

Cessnock Development Control Plan Part C: General Guidelines		
Chapter – C.3: Contaminated Lands	Complies?	Comment
The provisions reflect the requirements of State Environmental Planning Policy 55 (Remediation of Land).	Yes	The suitability of the subject site is adequately addressed. This matter is discussed in other sections of this report.
Chapter – C.4 Land Use Conflict & Buffer Zones	Complies?	Comment
A three category classification system is utilised to assess the likelihood of land use conflict. Category A: Sensitive Land Uses – residential Category B: Land Uses which neither generate significant residual emissions nor warrant specific protection from them. Category C: Land Uses around which a buffer distance for residual emissions is required.	Yes	The proposed development is considered to be a Category A: Sensitive Land Use, in accordance with the three category classification identified within the DCP Chapter. The development proposes a form of residential development with nearby land uses being for residential purposes. Little to no buffer is required between like land uses. Whilst the adjoining land to the west is proposed for parklands and future local sports field, as they do not currently exist, these will be required to give consideration to the seniors housing community in the design and development stages. The site is located within proximity to a major transport link being the Hunter Expressway and is marginally impacted by noise buffer mapping as shown in Figure 6. It is the requirement of the encroaching development to provide an adequate separation distance and/or include additional measures to reduce the impact. The proposed development has incorporated construction methods to reduce the acoustic impacts on the dwellings located along the northern boundary, including double glazing to doors and windows facing the noise source. In addition, solid fencing will be applied along the northern boundary which will act as an



Figure 14: Hunter Expressway Noise Buffer Map in relation to the subject sites.

		additional barrier to the land use conflict source. An alternate ventilation source (air conditioning), is also provided to enable windows to be shut. These mechanisms will assist in ensuring that the dwellings proposed to be located within the noise buffer area, are constructed with adequate insulation and absorption materials to achieve acceptable standards.
Chapter – C.5 Waste Management and Minimisation	Complies?	Comment
5.7.1 Potential for Waste Minimisation	Yes	The application contains a statement in respect of broad principles regarding the intended manner for dealing with waste. A detailed waste management plan, in accordance with the provisions of chapter C.5, has been provided. Further, the Applicant has confirmed that the development is proposed to be serviced by Council for the residential waste collection within the proposed seniors housing development, with a commercial waste contract to be entered into with a private contractor for servicing of the community facility building.
Chapter – C.8 Social Impact Assessment and Crime Prevention Through Environmental Design	Complies?	Comment
To improve development outcomes by the early identification of potential and actual social impacts. To consider the social impacts of planning proposals or development applications in Council's decision making processes.	Yes	The proposed seniors housing development is not envisaged to result in potential or actual social impacts with the development proposing an extension of the adjoining residential community. The development will provide social infrastructure from Stage 1 of the development. The infrastructure proposed to be provided will be increased as the resident population increases within the seniors housing development. An operational plan of management has been developed to demonstrate how the facilities and the community will operate and be managed long term.
Chapter – C.9 Development on Flood Prone Land	Complies?	Comment
The determining authority must be satisfied that the development – (a) Will not affect the safe occupation and efficient evacuation of people in the event of a flood, and (b) Incorporates appropriate measures to manage risk to life in the event of a flood, and (c) Will not adversely affect the environment in the event of flood.	Yes	The works associated with the major project approval have altered the watercourse identified in the north east corner of the subject site. This location is identified on Council's flood mapping as being partially flood prone. Assessment of the application has determined that the subject site is not considered to be effected by flooding in this location as result of the works undertaken in association with the major project approval. The proposed works (fill of the site) will further confirm that the site is not flood affected.

		A flood emergency evacuation procedure is to be developed and incorporated into the operational plan of management.
Part E: Specific Areas		
Chapter – E.17 Huntlee	Complies?	Comment
2 Vision and Character		
The vision and character of Huntlee includes: • prioritising the provision of walkable neighbourhoods with good access to transport, • providing a mixture of lot and housing options, • provision of smaller lots and medium density residential development in the vicinity of the town and village centres, open spaces and recreation areas	Yes	The vision and character of Huntlee supports the development of a seniors housing community within the town. Civil works have commenced in locations identified on the Indicative Layout and Staging Plan as being related to Stage 1. Infrastructure and services are available to the subject site and the site is capable of being developed. The land the subject of the application has been registered and development applications are capable of being considered over the land. No variation to the general arrangement of the Indicative Layout and Staging Plan are proposed. There is no variation to the order of staging with works commenced in all areas identified as Stage 1 on the Indicative Layout and Staging Plan. There are currently approximately 1,000 lots which have been registered for the development of dwellings. The proposal for an additional 206 seniors housing self-contained dwellings will not cause the dwelling limit to be exceeded.
3 Managing the Environment		
Consideration of the following constraints is made in the adopted development control plan; 1. Riparian Corridors 2. Flood and Water Cycle Management 3. Biodiversity 4. Salinity and Soil Management 5. Aboriginal Heritage 6. European Heritage 7. Bushfire Hazard Management 8. Contamination Management 9. Mine Subsidence		1. A proposed pedestrian footpath to be constructed across the riparian corridor to the west of the site is slated to be provided under the major project approval. It is however noted that an interim crossing will utilise an existing crossing which previously provided access to a dwelling located on the land. No further disturbance to the riparian zone will be required to accommodate the interim pedestrian path. 2. All habitable rooms are to have floor levels of a minimum 500mm above 1% AEP. 3. Stormwater management has been assessed to be adequately managed. 4. The development will be required to install and maintain erosion control measures. 5. Consideration of the Aboriginal cultural heritage was undertaken in association with modification 9 of the major project approval which created the subject lots. Amendments to Condition C3 of the major project approval were made at the

		time which included that all recommendations contained within the 'Huntlee Cultural Heritage Assessment', prepared by RPS dated 19 December 2018 are undertaken prior to any construction works to the satisfaction of the certifying authority. The recommendations included: • All surface artefacts be salvaged prior to development works proceeding. • A potential archaeological deposit was also identified and was required to undergo test excavation in accordance with <i>Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010)</i>. As construction of infrastructure to the sites has occurred and clearing has been undertaken across the entirety of the site, it is considered that Condition C3 of MP10_0137 has been satisfactorily addressed in accordance with the condition requirements. 6. There are no European Heritage matters for consideration. The subject land is not identified as containing any European Heritage value. 7. The application proposes a Special Fire Protection Purpose and was required to be referred to the NSW RFS for assessment in accordance with S100B of the Rural Fires Act 1997. The application as proposed has been determined to be satisfactory having consideration to the requirements of Planning for Bushfire Protection 2019 so long as the recommendations contained within the General Terms of Approval are complied with. 8. Contamination has been assessed in detail and the site has been identified as being suitable for the proposed use. 9. The land the subject of the development application is not identified as being located within a declared Mine Subsidence District, therefore these controls do not apply.
17.5 Residential Dwellings		
5.6.4 – Seniors housing		
References the controls for medium density housing contained within Section 5.5.2 of the DCP which will be addressed below. The DCP also requires the consideration of the SEPP Seniors which has been considered and evaluated previously within this report.	Yes	Consideration has been undertaken having regard for <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>. It is noted that the provisions of the SEPP override those controls detailed within the DCP.

		Further consideration of Section 5.5.1 of Development Control Plan provisions relating to Huntlee are provided below.
5.5.1 Multi Dwelling Housing		
1. Multi-dwelling housing is to be located on sites with a minimum street frontage of 30 metres and a minimum depth of 25 metres	Yes	The site has dimensions which exceed a 30 metre frontage and 25 metre depth.
2. Garages and car parking areas are to be located at the rear of the lot with access provided from a lane to activate building facades.	Variation required-considered suitable given the overall site layout.	The provision of garages to the rear of the proposed dwellings is not considered necessary in this instance. The development will be provided with internal private access roads and the development has been designed to ensure that garages will not front the public road network.
3. Multi-dwelling housing sites should incorporate canopy trees within the landscaped area.	Yes	Detailed landscape plans have been provided and these have provided for the inclusion of canopy trees throughout the landscaping of the development site.
4. Multi-dwelling housing is to comply with the controls in Table 9. a. Site Coverage (max) 70% of site area b. Landscaped area (min) 30% of site area c. Private open space (min) 15% of site area d. Front setback (min) 4.5 metres 1m articulation zone e. Corner lots secondary street setback – 3 metres f. Side setback (min) – 1 metre g. Rear setback (min) 4m (excluding garages) h. Car parking spaces: 1-2 bedrooms: up to 2 spaces 3 or more bedrooms: 2 spaces - Visitor parking: 1 space per 5 dwellings - Bicycle parking: 1 space per 2 dwellings		a. The site coverage is compliant with the requirements of <i>SEPP Seniors</i> and the standards required have been applied to the development proposed. b. The landscaped area is compliant with the requirements of <i>SEPP Seniors</i> and the standards required have been applied to the development proposed. c. The private open space is compliant with the requirements of <i>SEPP Seniors</i> and the standards required have been applied to the development proposed. d. The development is setback in excess of 15 metres from the front setback of Kesterton Rise, and complies with the standards contained within <i>SEPP Seniors</i>. e. N/A. f. The rear setback is located in excess of 4 metres from the proposed rear boundary (including boundary adjustment and batter land). h. Car parking complies with standards of <i>SEPP Seniors</i>. However the following additional details are noted: 1-2 and 3 or more bedroom dwellings - each proposed dwelling is provided with an attached garage, with dimensions capable of accommodating the parking of two (2) vehicles. - The development includes a total of fifty-seven (57) car parking spaces scattered throughout the development. The required number of visitor car parking spaces is calculated to be forty-two (42) at a rate of 1 per 5 dwellings. Eighteen (18) of these car parking spaces are located in association with the proposed community clubhouse, seven (7) of which are identified as staff parking. In addition, car parking for the proposed community transport bus has been demonstrated on the submitted

		plans in addition to a community golf cart park and six (6) bicycle spaces. The provision of bicycle parking can be achieved within the supplied garages for each dwelling proposed.
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4.15(1)(a)(iia) The provision of any Planning Agreement that has been entered into under Section 7.4, or any draft Planning Agreement that a developer has offered to enter into under Section 7.4

No such agreement has been proposed as part of the current development application.

The works associated with the Major Project Approval MP10_0137 are subject to a voluntary planning agreement (VPA) between Council and the developer of Huntlee (LWP) in association with the preceding rezoning process in November 2016, the land the subject of the development application has been released from this VPA. In addition, the developer of Huntlee (LWP) has also entered into an agreement with the Department of Planning, Industry and Environment (DPIE) in respect of the Special Infrastructure Contribution (SIC) associated with the Major Project Approval MP10_0137.

4.15(1)(a)(iv) The provisions of the regulations

There are no specific provisions of the regulation that apply to the proposed development.

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 on the locality

As demonstrated by this assessment, the proposed development is likely to have acceptable impacts on both the natural and built environments and will provide positive social and economic outcomes for the locality. The following impacts are of particular relevance:

Traffic impacts

The assessment of the application has included consideration of the traffic impacts associated with the development of two-hundred and six (206) self-contained dwellings for the purpose of seniors housing.

The application was assessed for potential impacts of the increase in traffic movements as a result of the development of the seniors housing community. The approval of the Major Project Approval MP10_0137 Modification 17 brought forward the left-in/left-out intersection of the HEX Link Road and Kesterton Rise. The construction of this connection will provide an alternative access route to the development site, which will reduce the reliance on the Triton Boulevard and Wine Country Drive intersection, and the internal residential streets.

In addition, the Triton Boulevard / Wine Country Drive intersection is required to be upgraded to a signalised intersection when the lot threshold of 1,500 lots is reached, consistent with modification 17 of the major project approval.

The development application has been assessed by both Council and TfNSW, and no objection has been raised to the proposal. In addition, upgrade works required under the Major Project Approval MP10_0137 Modification 17, will ensure that traffic mitigation works are constructed as the size of the overall Huntlee development increases.

Social impact

The proposed seniors housing community is to be developed in a location which is capable of being integrated into the surrounding developing residential community. Whilst the seniors housing community is to be developed to be inward facing as a private community, there are multiple proposed pocket landscaped locations which will enable casual socialisation within the seniors

housing community. The construction of the pathway to connect to the existing public infrastructure will provide opportunity for the residents of the seniors housing community to interact with the wider residential community of Huntlee.

Visual impact

The development is to be constructed containing single storey dwellings, designed to be built with the general topography of the land. The landscaping proposed has been designed to offset significant visual impact of the development overlooking adjoining riparian corridor and future parklands. The landscape plan, specifically the elevations provided at Appendix A, illustrate that the landscaping considers the impact visually of two-hundred and six (206) dwellings on 10.5ha and provides a mechanism for softening the visual impact of this from nearby public places and roads.

Archaeology impact

As discussed in the consideration of the relevant Development Control Plans; Condition C3 as part of Modification 9 of Major Project Approval MP 10_0137, was amended in the major project approval which required that certain recommendations be met prior to construction works being undertaken in association with the subdivision approval. As the subject land has been created and registered, it is anticipated that the undertakings required as per the major project approval have been complied with, particularly with regard to known artefact sites and potential archaeological deposit.

However, it is considered that precautionary principles should be applied, as required by the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*. In the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Noise impacts

It has been assessed that the proposed development of the site for two-hundred and six (206) self-contained dwellings for the purpose of seniors housing is unlikely to result in the generation of unreasonable noise levels once fully constructed.

It is identified that the site is partially affected by a noise buffer in relation to the proximity of the development to Hunter Expressway. Appropriate mechanical ventilation systems are to be installed in each residential dwelling to provide adequate ventilation and cooling of habitable areas in accordance with the requirements of the Building Code of Australia and "Development Near Rail Corridors and Busy Roads – Interim Guideline" (2008), such that all external doors and windows can be closed to attenuate external noise.

Construction noise will be required to meet the industry standards with appropriate conditions to be imposed.

Lighting Impacts

The internal roadways within the seniors housing community will be provided with light poles. The impact of the lighting on the landscape is not expected to result in an unreasonable increase in light spill given the development occurring within the vicinity of the site.

Given the proposed finished levels of the site, and distances from adjoining development, the proposed light poles will ensure that the proposed streets are adequately lit without causing adverse impacts on the surrounding land uses.

Bushfire impacts

The subject site is recognised as being bushfire prone according to Council's mapping. Therefore, consideration has been given to the aims and objectives of *Planning for Bushfire Protection 2019* (the version of *Planning for Bushfire* which was relevant at time of lodgement of the application).

As the development proposes a seniors housing development, the development is considered to be a Special Fire protection Purpose (SFPP) having regard to Clause 100B of the *Rural Fires Act 1997*, and as such, the application was lodged as Integrated Development and subsequently referred to the New South Wales Rural Fire Service for comment.

The development application has demonstrated that compliant turning heads are to be provided at the completion of works for each phase of the development proposed, which is in accordance with the requirements of *Planning for Bushfire Protection 2019*.

The RFS have issued General Terms of Approval in respect of the application. On this basis, it is considered that the proposal meets the aims and objectives of *Planning for Bushfire Protection 2019*.

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

The site is suitably located for the development that is proposed, in that it adjoins an establishing residential area and is closely located to services including, shopping, banking and medical services. The nearby transport infrastructure includes a main road that is located within close proximity to a national road and rail infrastructure. The site is situated within 20km of the Cessnock Central Business District and close to other major centres within the Lower Hunter region. All constraints of the site have been adequately addressed and the site determined to be suitable for the development of a seniors housing community.

In the process of rezoning the site, and granting approval for the subdivision of the site; contamination matters have been adequately addressed to enable the land to be classified as suitable for the land use proposed.

4.15(1)(d) Any submissions made in accordance with this Act or the Regulations

The application was exhibited in accordance with the provisions of Council's Community Participation Plan and the legislative requirements that apply to nominated integrated development.

The application was initially exhibited between the 29 March 2021 and 28 April 2021. The proposal was re-exhibited following amendments to the development application between 17 November 2021 and 15 December 2021. In response, nil (0) submissions were received over the course of the two (2) exhibition periods.

4.15(1)(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act, 1979*, *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments and Council policies.

Based on the above assessment, it is considered that the public interest is served by approval of the application for a seniors housing development.

Section 4.46 (Integrated Development)

The proposed development is defined as Integrated Development and Nominated Integrated Development.

The following table illustrates the various approvals required:

Approval required	Relevant legislation	Relevant authority	Confirmation that GTA's have been issued
Controlled Activity Approval Section 91	<i>Water Management Act 2000</i>	NRAR	Yes – 13 December 2021 - No GTAs.
Bush Fire Safety Authority Section 100B	<i>Rural Fires Act 1997</i>	RFS	Yes – 4 February 2022

Copies of the integrated referral authority responses, including relevant General Terms of Approval (GTA's), are attached to this report.

SECTION 7.11 CONTRIBUTIONS

The 'Cessnock City Wide Infrastructure Contributions Plan 2020', applies to the application.

In the event the application is approved, Section 7.11 Contributions totalling \$902,960.24 would be payable, in accordance with the *Cessnock City Wide Infrastructure Contributions Plan 2020*.

The above rate has been determined under the Branxton-Greta district catchment area and is provided a 50% discount as the development proposes a seniors housing development. A three lot credit has been applied to the calculation of the contributions payable.

INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Development Engineer	The application is supported subject to conditions of consent.
Community Planner	The application is supported subject to conditions of consent.
Environmental Health	The application is supported subject to conditions of consent.
Waste and Sustainability	The application is supported subject to conditions of consent.
Contributions Planner	The application is supported subject to conditions of consent.
Civic Open Spaces (Landscaping)	The application is supported subject to conditions of consent.
Community Parks and Recreation	The application is supported subject to conditions of consent.
Ecologist	The ecological matters have been dealt with in accordance with the assessment and determination of Major Project Approval MP10_0137 and the subsequent modifications of the approval.

EXTERNAL REFERRALS

The Development Application was referred to the following external agencies for comment/concurrence:

Agency	Comment or concurrence?	Outcome
NRAR	Concurrence	GTA's issued on 13 December 2021
Rural Fire Service	Concurrence	GTA's issued on 4 February 2022
TfNSW	Comment	No objection raised
NSW Police	Comment	No objection raised

CONCLUSION

The development proposal provides for the activation of a site which is recognised in a number of strategic plans as a catalyst area for residential growth being within an urban release area of regional significance. There are substantial social and economic benefits associated with the proposed development, including the provision of housing to meet the needs of the community.

The development application has been assessed in accordance with Section 4.16 of the *Environmental Planning and Assessment Act 1979*, and all relevant instruments and policies. Accordingly, Development Application No. 8/2021/21158/1 is recommended for approval subject to conditions of consent.

ENCLOSURES

Appendix A – Development Plans

Appendix B – Proposed Conditions

Appendix C – Documents Conditioned for Approval

Appendix D – Copies of General Terms of Approval

Appendix E – Advice from Transport for NSW and NSW Police

Appendix F – Photographs of site and surrounds