
Report to the Secretary on an application for a Site Compatibility Certificate *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

SITE

The site compatibility certificate (SCC) applies to Lot 14 DP1069003, 80 - 114 Macleay Street, Frederickton (refer to **Figure 1**). The site has been substantially disturbed by previously approved earthworks and already contains a 166 bed residential care facility on the north-eastern corner. This existing facility was approved in 2006 under Kempsey Local Environment Plan (LEP) 1987 (refer to **Figure 2**).

APPLICANT

Dennis Partners, on behalf of Thompson Health Care Pty Ltd

PROPOSAL

The SCC application is for one-hundred sixteen (116) seniors' self-care units and a community centre. The proposal seeks to complement the existing 166 bed residential care facility on the site. The application states that the proposed development will utilise many of the in-house services within the existing facility.

LOCAL GOVERNMENT AREA

Kempsey Shire Council



Figure 1 - Site Context (Source Six Maps)

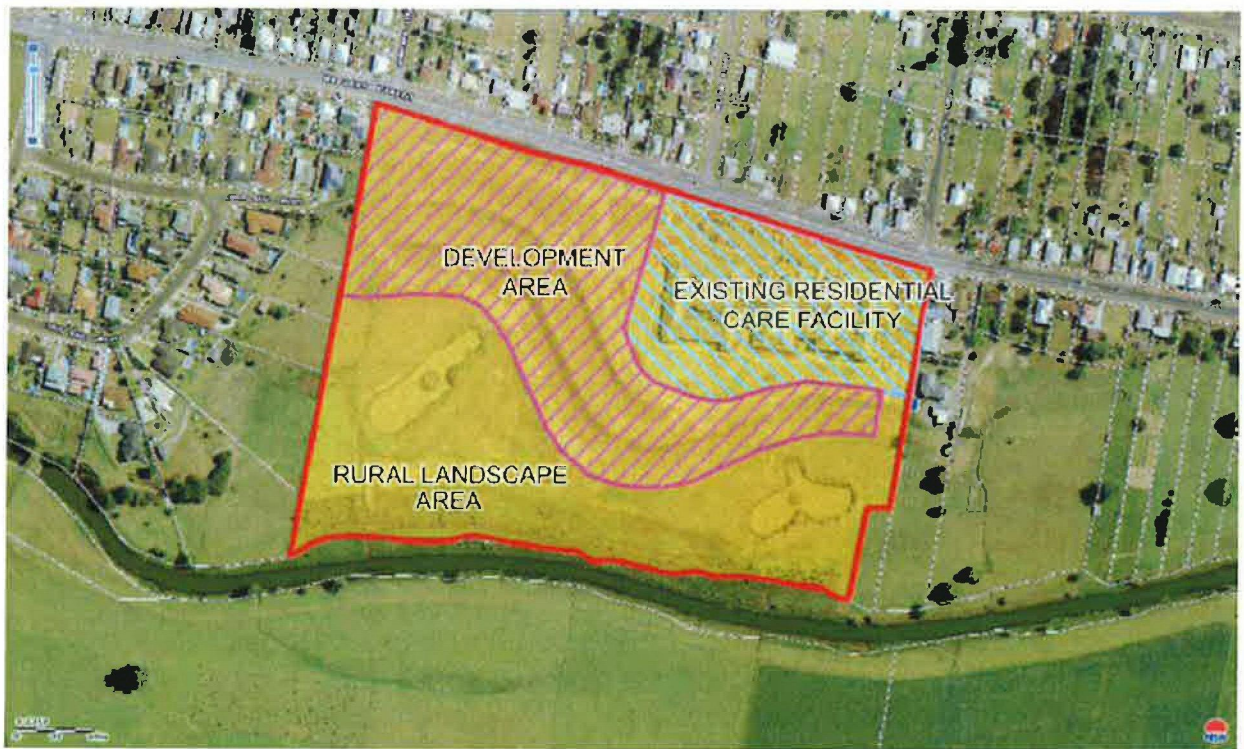


Figure 2 - Proposed Development Footprint (Source Dennis Partners)

PERMISSIBILITY STATEMENT

The site is zoned part RU2 Rural Landscape, part RU1 Primary Production and part RU5 Village under Kempsey Local Environmental Plan 2013 (LEP) (refer to **Figure 3**). The proposal applies only to the RU2 and RU5 zoned portions of the site.

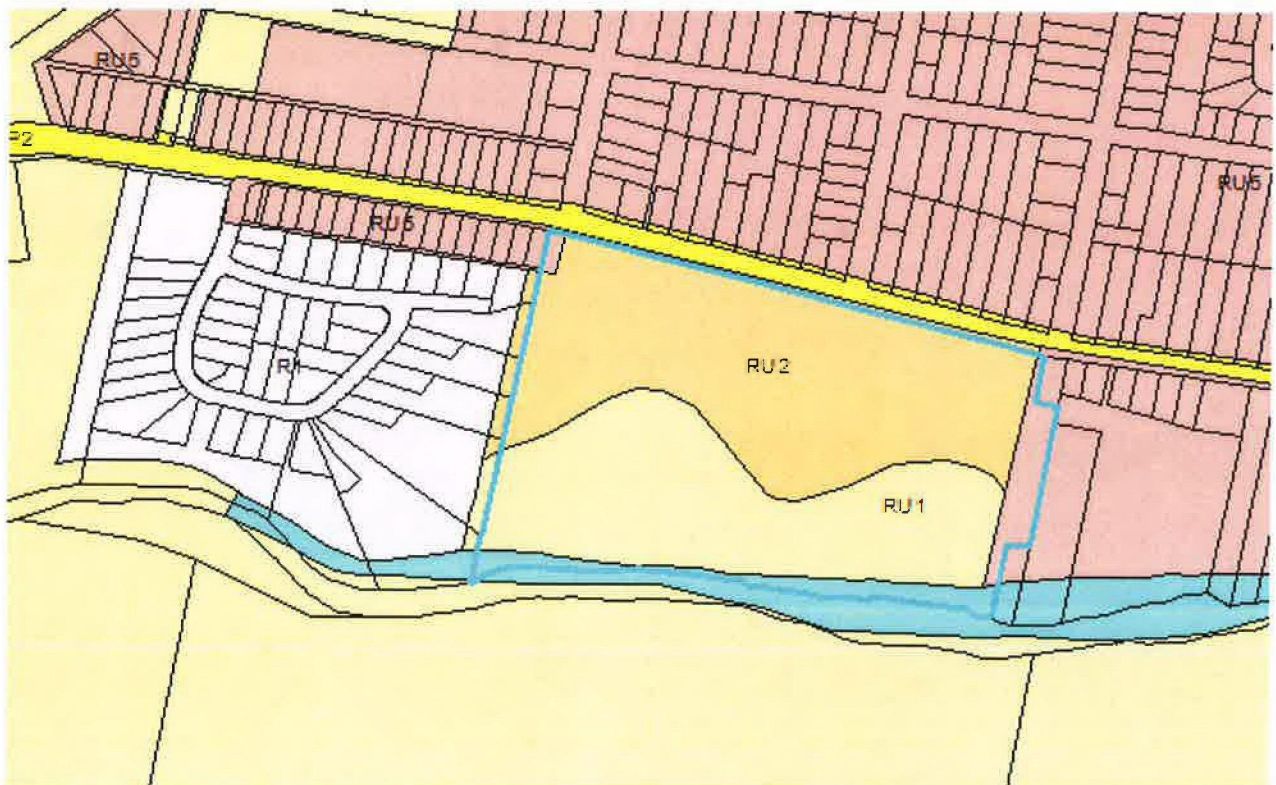


Figure 3 - Land Zoning Map (Source DoPE)

Seniors housing is not a permitted land use within the RU2 zone. Development of the site for seniors housing purposes therefore requires a site compatibility certificate (SCC) under clause 24 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing Policy). The provisions under clause 4 of the Seniors Housing Policy provide that a SCC can be issued for the site because:

- The site adjoins land to the west that is primarily zoned for urban purposes, being R1 General Residential zoned land (refer to **Figure 3** on the previous page) (clause 4(5)(b)); and
- The land to which the SCC applies is not covered by any of the exclusions listed in Schedule 1 of the SEPP.

CLAUSES 24(2) AND 25(5)

The Secretary must not issue a certificate unless the Secretary:

- (a) *has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made; and*
- (b) *is of the opinion that:*
 - i. *the site of the proposed development is suitable for more intensive development; and*
 - ii. *the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).*

COMMENTS FROM COUNCIL

The SCC application was received on 7 December 2016 and the application and supporting information were referred to Kempsey Shire Council on 8 December 2016.

Council provided comments on 25 January 2017 (Tab F), 49 days after being consulted. Despite being outside of the 21 day timeframe the concerns raised by Council have been considered and are summarised below:

- The lower parts of the site are identified as flood affected.
- The information submitted to Council indicated the Village Centre will not be constructed until Stage 3. The Department should therefore be satisfied that access to the required facilities can be provided for Stage 1 and 2.
- The current development application is also seeking to subdivide the site into two allotments, with one lot containing the existing residential care facility and the other lot the proposed residential village.
- Council is satisfied that all other design-level matters can be addressed as part of the development application proposal.

Department Comment

The flood related issues and access to appropriate facilities are not considered matters that should preclude consideration of the site for more intensive purposes. These matters are addressed in this Planning Report under the 'compatibility with the surrounding environment' section below.

Clause 21 of the Seniors Housing Policy and the Minimum Lot Size (MLS) provisions of Kempsey LEP 2013 may result in an inability for development consent to be granted for the proposed subdivision. This is because the site is mapped with a 40 hectare minimum lot size requirement. Council could consider an amendment to the minimum lot size map in the future.

The issue of subdivision is not a consideration for the Secretary under clauses 24(2) and 25(5) of Seniors Housing Policy under which a certificate is issued, but will be considered as part of a future development application.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The Secretary must not issue a certificate unless they are of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2)(a)).

The site of the proposed development is suitable for more intensive development (clause 24(2)(a))

The subject property comprises a total area of 13.62 ha and is located approximately 700m from Frederickton Village centre and 6km from the Kempsey town centre. The use of the land for a seniors living development is considered to be an appropriate use for the site having regard to its proximity and accessibility to a full range of retail, commercial, recreational, health, welfare and educational services and facilities at Kempsey.

Additionally, the land already contains an aged care facility that has been operating on the site for a number of years and the proposed development will be integrated into the existing retirement village (Macleay Valley House). The applicant notes that the retirement village was proposed in 2006 together with the aged care facility, however given the length of time elapsed it is likely that the original consent has lapsed.

The site has no major constraints and its proximity to developed urban land means that it is suitable for more intensive development.

The land is also identified to be suitable for more intensive development under the relevant strategic planning documents. These are discussed below.

Former Mid North Coast Regional Strategy

The Mid North Coast Regional Strategy (MNCRS) was in force at the time that the SCC was lodged.

The Regional Strategy states that the population aged 65 years and over in the region will more than double by 2031. These population changes will impact on the type and availability of dwellings that will be needed in the area. One of the actions in respect to settlement and housing requires councils to plan for a range of housing types of appropriate density, location and suitability that are capable of adapting and responding to the ageing of the population. It is considered a high demand exists from an ageing population for such residential accommodation within the local area and region.

Moreover, the Regional Strategy identifies the site as being a proposed future urban release area, illustrating the propensity of the site for more intensive development. Whilst regionally significant farmland forms part of the subject land, the proposed development, as outlined in the SCC application, does not encroach on this portion of the site.

North Coast Regional Plan

The North Coast Regional Plan was in draft format when the SCC application was submitted. This Regional Plan has now been adopted and predicts that over 90% of the region's population growth will be people aged over 65 years in 2036.

The Regional Plan identifies this land as suitable for more intense development through mapping within the Urban Growth Area.

Kempsey Shire's Local Growth Management Strategy

Kempsey Shire's Local Growth Management Strategy (LGMS) - Residential Component 2010 recognises that a significant portion of residential growth in Frederickton will be provided by Seniors Living to complement the existing nursing home.

The LGMS classifies the RU2 portion of the subject land as a new urban release area suitable for Medium Density rezoning, reaffirming the site as being suitable for more intensive development.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES

The Secretary must not issue a certificate unless they are of the opinion that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the following criteria (clause 25(5)(b)) and clause 24(2)(b)):

- 1. The natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))**

Site Constraints

- *Flooding*

Council has advised the proponent that the 1% AEP flood level is approximately 8m AHD. The application demonstrates that dwellings will be above 8m AHD. The proposal does not include flood studies for the land nor a stormwater management plan however it is anticipated that the proposed development will address flooding in the same manner as the existing retirement village and therefore it is considered that the flood liability of the land does not present an insurmountable impediment to the development of the land for seniors housing. Further assessment of this issue can be considered at development application stage.

- *Acid Sulfate Soils*

A majority of the land is mapped as potentially containing Class 5 acid sulfate soils. Class 3 and Class 4 are present on the subject site however these are primarily contained within the RU1 zoned portion of the land. Kempsey LEP 2013 requires that development consent is required for any works more than 1 metre below the natural ground surface on land mapped as Class 3 and the development application must include an acid sulfate soils management plan. The SCC application does not specifically address this issue however it is considered unlikely to be a major constraint to development. It is expected that the site will need to be filled and therefore the depth below natural ground level of any underground services required for the proposed dwellings will be minimised. It is considered that the Class 3 acid sulfate soil designation is not a significant impediment to the suitability of the site for seniors housing.

- *Native Vegetation*

The application states that the site does not contain any significant native vegetation. The site is predominantly cleared in accordance with a prior development consent. Any potential impact can be addressed at development application stage.

- *Regionally Significant Farmland*

Part of the site is mapped as regionally significant farmland. The proposed development does not encroach on this portion of the site.

- *Bushfire*

The Bushfire Prone Land Map shows the subject site as not being bushfire prone.

As noted above, the subject land is impacted by a limited number of constraints including flooding and acid sulfate soils. It is considered that the constraints would not preclude or substantially constrain the proposed development. The constraints can be readily and practically managed and/or ameliorated at development application stage.

Future development of the land would likely be subject to additional assessment of the following issues at the development application stage:

1. flooding; and
2. acid sulfate soil management.

Existing and approved uses in the vicinity

Frederickton residential area immediately to the west of the land is a mix of detached dwellings and dual occupancies. The remaining land surrounding the development to the north and west is zoned RU5 Village and consists primarily of residential uses, however immediately adjacent the site is a small takeaway food and drink premises and neighbourhood shop. Although there are rural uses to the south of the Macleay River, the surrounding uses are predominantly residential or ancillary to Frederickton rural village. There is limited potential for land use conflict given the proposed and existing use of the site for seniors living.

2. The impact that the proposed development is likely to have on the uses that, in the opinion of the Secretary, are likely to be the future uses of that land (clause 25(5)(b)(ii))

When considering the proximity of the subject land to existing residential land, it is expected that the likely future uses of the site would be for residential purposes. It is also consistent with the identification of the land in Kempsey's LGMS, the former Mid North Coast Regional Strategy and North Coast Regional Plan as a future urban land release area.

It is therefore considered that the likely future uses of the land will be residential in nature, a conclusion which is strengthened by the fact that the SCC application documentation confirms that the subject land already contains a nursing home facility.

3. The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision (clause 25(5)(b)(iii))

Retail, community and medical services

The SCC application states that residents of the proposed development will have access to services and infrastructure in the regional township of Kempsey as required by Clause 26(1) of the Seniors Housing Policy, including shops, banks, service providers, retail shops, commercial services, medical practitioner, community services and recreational facilities.

Transport services

Residents can access the main commercial/shopping area of Kempsey via a public bus transport service (Busways) with pick up and drop off locations adjacent to the development site. The public bus service is available twice- daily Monday to Friday. The application indicates that transport services, location distances and pathway grades comply with Clause 26(2)(c).

In addition to these public transport services, the existing village also operates its own mini-bus service for residents wishing to access Kempsey Town Centre.

Infrastructure Provision

The SCC application provides a traffic and parking assessment as required by Kempsey's LGMS for future urban land release on the site. The traffic and parking assessment concludes that there will be no unsatisfactory traffic impact as a result of the proposed development, the proposed parking provision will be adequate and the proposed vehicle access, internal circulation and servicing arrangements will be suitable. It is therefore not considered a major constraint to development and can be adequately addressed by further assessment at the development application stage.

The SCC application states that water, sewerage, electrical and telecommunication services are existing on site, however will need to be upgraded to provide for the extra demand created by the development. Council has not raised concerns regarding service capacities in the local area. Further assessment of this issue can be considered at development application stage.

4. In the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development (clause 25(5)(b)(iv))

The subject land is not zoned for open space or special uses. The part of the subject land applicable to the SCC application is zoned RU2 Rural Landscape and RU5 Village and therefore this criteria is not applicable to the proposal.

5. Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development (clause 25(5)(b)(v))

The surrounding development predominantly consists of low density residential accommodation and an existing two storey residential care facility (Macleay Valley House).

The SCC application states that the proposed 116 dwellings will be low rise, single and double storey detached dwellings that follow the site's contours and are consistent with the existing surrounding development.

The Kempsey LEP 2013 does not set a floor space ratio for the subject land due to its current rural zone, however under the SEPP a consent authority must not refuse consent to a development if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less. The SCC application indicates a floor space ratio of 0.186:1 which is considered a compatible bulk and scale to the surrounding residential development.

The subject site and surrounding residential zoned land is subject to a building height control of 8.5m. The proposed single and double storey detached dwellings are likely to be consistent with this building height control.

The subject land has a 40ha minimum lot size (MLS) under the Kempsey LEP 2013. This is expected for rural zoned land. However the adjoining R1 and RU5 land have a 500m2 MLS reflective of the surrounding residential development pattern.

It is considered that the proposed development will be consistent with the built form and character of the existing and likely future land uses in the vicinity of the subject site.

6. If the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the *Native Vegetation Act 2003*—the impact that the proposed development is likely to have on the conservation and management of native vegetation (clause 25(5)(b)(vi))

The SCC application states that no clearing of vegetation is required for development of the site for seniors housing. The site was cleared of any significant native vegetation as a result of an existing development approval. It is considered that the site does not contain any significant native vegetation that would preclude the future intensification of the land for seniors housing.

RECOMMENDATION

It is recommended that the Executive Director, Regions, as a delegate of the Secretary:

- **notes** this report;
- **considers** any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the Kempsey Shire Council General Manager within 21 days after the application for the certificate was made as set out in the report;
- **forms the opinion** that the site of the proposed development is suitable for more intensive development;
- **forms the opinion** that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having had regard to the criteria specified in clause 25(5)(b);
- **determines** the application for a Site Compatibility Certificate under clause 25(4)(a) by signing and issuing a certificate (Tab B) for Lot 14 DP1069003, 80-114 Macleay Street, Frederickton; and
- **signs** the letters to the applicant and council advising of this determination (Tabs C and D).



25/1/17

Tamara Prentice
Acting Director Regions, Northern