

**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:** Lot 3411 and Lot 3412 DP 1078978, No. 50 and 50A Burton Road, Mount Hutton

The Site Compatibility Certificate (SCC) application applies to two lots, being land at No. 50 and 50A Burton Road, Mount Hutton. The site is located in the south western part of the Mount Hutton area and covers an area of approximately 2.4 hectares.

The site is currently occupied by two rural residential dwellings, as well as tourist accommodation buildings and a restaurant (which have ceased to operate). The site's surroundings consist of a mixture of low density residential development, rural residential development and seniors housing developments (see Figure 1 below).



Figure 1: Site location (source: Nearmap)

The proposal acts to enable the southern extension of the Eleebana Shore Retirement Village (under construction). The site is bounded by the retirement village to the north and Burton Road to the west. To the east, the site adjoins an environmental living allotment, containing a dwelling, and land to the south is environmental conservation bushland known as Tingira Reserve. Land to the north-west is occupied by another retirement village known as Eleebana Residences.

Under Lake Macquarie Local Environmental Plan 2014 (Lake Macquarie LEP 2014), the site is zoned RU4 Primary Production Small Lots. The existing development standards for the site are height 8.5 metres and minimum lot size of 1 hectare.

Adjoining and surrounding land is zoned R2 Low Density Residential, RU4 Primary Production Small Lots, E4 Environmental Living, E2 Environmental Conservation and pockets of RE1 Public Recreation (see Figure 2 below).

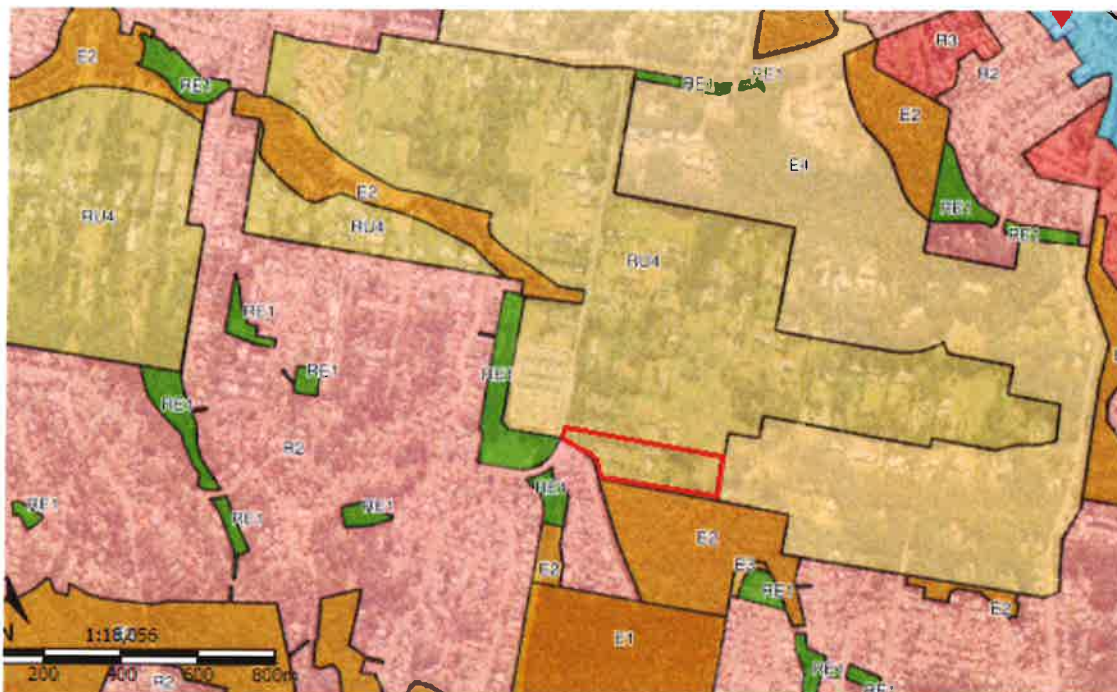


Figure 2: Wider land zoning context (source: NSW Planning Portal). Site outline is approximate.

**APPLICANT:** Coastplan Group Pty Ltd on behalf of Eleebana Shores Retirement Living Pty Ltd.

**PROPOSAL:** To develop the site for seniors housing comprising:

- 39 'serviced self-care housing' units; and
- the units will be in the form of 11 villas, 4 semi-detached dwellings, two (three storey) apartment buildings, containing 24 units, and basement parking.

In this Policy, clause 13 defines 'serviced self-care housing' as;

*"seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care"*

A concept plan indicating the proposed built form and site layout is attached at Tab 1.

**LOCAL GOVERNMENT AREA:** Lake Macquarie City Council.

## **PERMISSIBILITY STATEMENT**

The site is zoned RU4 Primary Production Small Lots under the Lake Macquarie LEP 2014 and seniors housing is a prohibited use in the zone.

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (the Seniors SEPP) applies to land that is zoned primarily for urban purposes



or land that adjoins land zoned primarily for urban purposes, where it satisfies the additional requirements in clause 4 of the Seniors SEPP. In accordance with clause 4, the Seniors SEPP applies to the subject site as it is land that adjoins land for urban purposes and dwelling houses are permitted on the land.



Figure 3: Site Zoning and immediate context. (source: NSW Planning Portal).

Under clause 15 of the Seniors SEPP, the proposed seniors housing development is permissible under the policy, as it applies to the land and because it falls within “the purpose of any form of seniors housing”.

The development also complies with the provision of clause 17 of the Seniors SEPP, where development on land that adjoins land zoned primarily for urban purposes, and is for ‘serviced self-care housing’, must be proposed as a retirement village (within the meaning of the *Retirement Villages Act 1999*).

## SITE COMPATIBILITY CERTIFICATES

A Site Compatibility Certificate is required for the land, under clause 24(1)(a)(i) of the Seniors SEPP, as it is land that adjoins land zoned primarily for urban purpose.

Under clause 24(2) and 25(5) of the Seniors SEPP, a certificate must not be issued unless the Secretary:

- (a) has taken into account any written comments from the Council within 21 days; 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

On 17 January 2017, Lake Macquarie City Council provided comments on the proposal (Tab 2) which are summarised as follows:

### Planning:

- Council will be reviewing rural-residential land to analyse the supply and demand for this type of land.
- Council is reluctant to rezone rural land for residential without strategic review. A future review of rural-residential land will provide greater direction on how this land will be managed in the future.
- The proposal is not consistent with the RU4 Primary Production Small Lots zone and the scale is much more intensive than the zone seeks to allow.
- The character of the larger surrounding area is a mix of rural and residential form and the surrounding area has seen notable change with the development of two new seniors housing development adjoining the site.

### Flooding

- Parts of the land are flood affected and the seniors living development would be classified as a sensitive use.
- A specific engineering report should be undertaken and should detail failsafe means of evacuation or on-site means of safety for occupants and to ascertain the velocities and depths of floodwaters and developable portions of the land.
- All habitable floor levels should be constructed at or above the site-specific Probable Maximum Flood level.



Figure 4: Extract from Lake Macquarie LEP Flood Planning Map

### Creeks and Watercourses

- 50 Burton Road currently contains a constructed pond that appears isolated from surface water flows.
- 50A Burton Road contains a large waterbody that is fed from a watercourse that flows from the parcel of land located to the south of the subject site.
- The proposal incorporates modification to the waterbody and watercourse. Any modification is unlikely to be supported unless sufficient justification can be provided as to detail why modifications are required and demonstration

that potential impacts on water quality, aquatic habitat, and riparian vegetation will be negligible.

#### Flora and Fauna:

- The site contains scattered native trees, including trees along the Burton Road frontage which form part of a 'rehabilitation corridor', as mapped in Council's Native Vegetation and Corridor Map. The native vegetation provides an important linkage between patches of environmental zoned land.
- Native vegetation on the remainder of the site is not characteristic of a threatened community and some has recently been cleared.
- Council supports the development from a flora and fauna perspective providing the 'rehabilitation corridor' along Burton Road is protected from development by retaining existing native trees.



Figure 5: Extract from Council's Native Vegetation and Corridor Map v1 (2011). Rehabilitation corridor shown with pink dashed line. (green = native vegetation in a corridor, yellow = partly cleared native vegetation not in a corridor, blue = water body)

#### Access, traffic and parking:

- Services such as footpaths and cycle connections are currently limited in this area due to the rural character of the area and the area is not a walkable distance from services.
- Bus transport, and a new bus shelter, is located in the vicinity of the site and new footpaths are being built as part of neighbouring developments.
- If approved, footpath connections are recommended to be extended.

#### Architectural

- There is concern over the three storey apartment with the height being 4.5m over the current height limit.
- The height and scale of the proposed apartment buildings are not supported due to the rural residential setting.

#### Bushfire

- It is also acknowledged that the site is subject to bushfire constraints which need to be taken into consideration.

## **SUITABILITY FOR MORE INTENSIVE DEVELOPMENT**

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

### **1. Clause 24(2)(a) -The site of the proposed development is suitable for more intensive development:**

Council has advised that there is increasing pressure for rural land to be used for urban purposes in the area and is reluctant to rezone rural land for residential without strategic review.

Council's comments are noted. However, land surrounding the site has been subject to significant change with the development of adjoining seniors housing to the west and to the north. The intent of the SEPP is to permit, and allow for further investigation of the site's suitability for, seniors living development on land not necessarily strategically identified for residential/urban development. Further, in order to provide a variety of on-site facilities, retirement villages require construction at a relatively large scale and consequently many locate on the urban edge on large allotments.

The site is considered suitable for more intensive development for the following reasons:

- Public transport is readily available from the site;
- A new bus shelter and new footpaths are being built as part of neighbouring senior housing developments providing suitable access to transport connections;
- The site is located within 2km of Mount Hutton Centre and 3km of Warners Bay Centre, with access to services through regular transport connections;
- The retirement village to the north provides existing on-site services that will benefit future residents;
- The site is predominantly cleared, does not contain native vegetation characteristic of ecologically threatened communities and Council supports the proposal providing some native vegetation is retained;
- The proposal responds to site constraints, such as bushfire and flood risk, which can be further addressed at the DA stage;
- The proposal extends an existing seniors housing development in the area and is of a similar scale to the existing development;
- The site is adjacent to urban land, and closes a gap in the existing urban landscape; and
- Although zoned RU4 Primary Production Small Lots, RU4 land in this area is primarily developed as rural residential and this site, as a narrow strip between existing seniors and large lot residential, has limited viability for primary production.

## **COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES**

The Secretary must not issue a certificate unless she is 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)):

**1. Clause 25(5)(b)(i) - 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:**

Vegetation and biodiversity

The site comprises of managed lawns and gardens and does not contain large areas of vegetation. Council advises that the native groundcover has been previously cleared and landscaped and the likelihood of threatened flora occurring is low.

Council identifies that the site contains scattered native trees, including trees along the Burton Road frontage which form part of a 'rehabilitation corridor', providing an important linkage between patches of environmental zoned land. However, Council advises that native vegetation on the remainder of the site is not characteristic of a threatened community and some has recently been cleared. Council supports the proposal subject to retention of native trees in the rehabilitation corridor.

Bushfire

The site is bushfire prone and identified as a 'buffer zone' for neighbouring 'category 1 vegetation' to the south. The proposed building footprints are located to the north of the site, with an asset protection zone responding to the bushfire hazard at the southern boundary and will need to meet the requirements for Planning for Bushfire Protection 2006. Any future DA will be integrated development and require referral to NSW Rural Fire Service to obtain a Bushfire Safety Authority.

Flooding

The site is identified as being subject to flooding impacts from nearby South Creek and is subject to catchment flooding controls.

Property flooding information on Council's website describes Lot 3411 and Lot 3412 DP 1078978 as 'flood control lots - high hazard'. However, this does not preclude the application of the Seniors SEPP as it is not identified as high hazard within an environmental planning instrument.

Council suggests a specific engineering report should be undertaken to ensure a failsafe means of evacuation for occupants and the application of a site specific Probable Maximum Flood level. As such, it is recommended that any compatibility certificate issued for the site should indicate further assessment of flood affectation and management will be required, to ensure adequate consideration of flood risk at development application stage.

Other issues

No identified environmental heritage or known archaeological items have been identified on the site, no contamination information was provided with the application and the area is within the Lake Macquarie Mine Subsidence District.

Council did not raise concerns with any of these matters and they can be further considered at development application stage as required.



### Existing and approved uses of land in the area

The subject site contains existing tourist accommodation, two residential dwellings and a restaurant. The surrounding area consists of a mix of low-density residential development and rural-residential development with some hobby farming (e.g. horse agistment). In the immediate vicinity of the site are two existing seniors housing developments (one established and one nearing completion).

The site is located between Eleebana Shores Retirement Village to the north, additional seniors housing to the north-west and residential development to the south-west and west of the site. The proposal seeks to extend the retirement village further south, which will result in redevelopment of the restaurant and tourist uses on site, whilst retaining two dwelling houses.



Figure 6: Surrounding land uses - colour by land use (Source: Nearmap's land use category)

As shown in Figure 6, the retirement village extension does not seek to encroach on the existing rural-residential landscape to the north of Eleebana Shores Retirement Village. Rather, it seeks to extend urban development south into already fragmented RU4 land. Given the existing seniors housing developments in the locality, and the increasingly urban character of the area, the proposal is considered to be generally consistent with the existing and approved land uses in the vicinity of the development.

Consideration of the proposal's interface and compatibility with rural residential development further to the north discussed in detail under item 2 below.

### **2. Clause 25(5)(b)(ii) - 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:**

The subject site and land to the north is zoned RU4 Primary Production Small Lots. Land to the east is zoned E4 Environmental Living and land to the south is E2



Environmental Conservation. To the west and south-west of the site, surrounding land is zoned R2 Low Density Residential, with pockets of RE1 Public Recreation.

Council has provided advice that it will undertake a strategic review of rural lands in the area as there is increasing pressure on rural land for urban purpose, and at this stage future land uses in the area are uncertain. Council also advises that the proposal is inconsistent with the objectives of the RU4 Primary Production Small Lots zone.

Notwithstanding, it appears that the land zoned RU4 Primary Production Small Lots in the area is primarily used for rural residential purpose (equivalent to R5 Large Lot Residential land) with some ancillary hobby farming activities (e.g. horse agistment). The main intent of the RU4 zone is for commercial primary industry production and agricultural uses that operate on small rural holdings. The zone is not intended as a pseudo-residential zone for rural lifestyle properties.

The subject land is currently alienated and fragmented from similar land uses by the existing retirement village and is not currently used for the zone's intended purpose, instead being predominantly used for rural lifestyle purposes. Further, the character of the surrounding area has undergone considerable change over recent years, with the development of two seniors housing developments directly adjacent to the site.

The proposal's interface with northern rural lifestyle properties is buffered by the existing Eleebana Retirement Village to the north of the site. As such, the proposal will have minimal implications for rural residential lots further north on Burton Road. However, the proposal will create two rural lifestyle lots on the southern boundary, therefore resulting in a direct interface with residue rural residential land to the south and an interface with environmental living properties to the east.

In terms of land use, the proposed seniors housing complements, and is complemented by, the residential land uses in the locality. It is also considered that the proposal will result in minimal land use conflicts.

**3. Clause 25(5)(b)(iii) - 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:**

Location and access to facilities

This proposal seeks to expand an existing retirement village and on site community facilities are provided on site as part of the existing development. The facilities provided on site include a gymnasium, recreation areas, a library, a pool, a restaurant and bar, medical consulting rooms and a general store.

The site is located 2km from Mount Hutton town centre and 3km from Warners Bay town centre, which provide retail, community, medical and transport services. Bus stops are located to the north of the site on Burton Road and within 70 metres. This provides residents with regular transport connections to Lake Macquarie Fair shopping centre in Mount Hutton (route 310 and 320), Warners Bay shopping centre,

Charlestown Square and ongoing services to Newcastle (Regional City) and Charlestown (Regional Centre).

In these circumstances, it is considered that the proposal complies with the requirements of clause 26(2)(c) of the SEPP, in respect of the site's location and access to facilities.

#### Infrastructure

Council has advised that footpaths and cycle connections are currently limited in this area due to the rural character of the area. However, an extension to existing footpaths will provide suitable access to services and facilities, connecting residents to public transport connections.

Given the proximity to seniors development of a similar scale in the vicinity of the site. It is considered that suitable access to water and sewer can be accommodated. However, this is a consideration for Council at DA stage.

- 4. Clause 25(5)(b)(iv) - 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.**

The site is zoned RU4 Primary Production Small Lots, and does not include any public open space.

- 5. Clause 25(5)(b)(v) - 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:**

#### Character

Council has advised that the area has a rural character, however the area has undergone significant change with the recent development of seniors housing adjacent to the site. It is considered that the proposal will not have a detrimental impact on the character of the area. However, specific concern is held over the compatibility of the height of the apartment buildings and this is discussed in detail below.

#### Bulk and scale

The proposal will result in an increased density in comparison with the existing rural residential and rural tourism land use on site. The building footprints are of a greater density than surrounding low density residential land to the south and south west however are similar in scale to adjacent seniors housing development to the north and north-west.

The photos below indicate the local setting, show the existing interface of rural residential and seniors housing development, show existing footpaths and bus shelters, and show the scale of the existing retirement village on the northern boundary (see Figure 4 below).

**Figure 7: Site Photos (source: site visit)**



**Rural residential property and Eleebana Shores Retirement Village interface (from north of the site)**



**Eleebana Shores Retirement Village (existing single storey dwellings and two storey apartments)**



**Access pathway along Burton Road**



**Bus Shelter and nearby seniors housing**





**Subject site (Western Boundary on Burton Road)**



**Subject Site (Southern Boundary Photo 1)**



**Subject Site (Southern Boundary Photo 2)**

Council does not support the height and scale of the proposed apartment buildings, with the height being 4.5m over the current height limit, due to the rural lifestyle setting and low scale development in the area.

The application does not provide elevations to enable detailed assessment of the compatibility of the apartment buildings in the local setting. However, it is considered that two storey development would be more proportionate in the low scale residential and rural residential locality.

This concern is capable of being adequately addressed at DA stage, achieved by the completion of a visual impact assessment or a reduction in the height of the apartment buildings to two storeys.

The site can suitably accommodate an increase in density to enable the southern expansion of the existing Eleebana Shores Retirement Village. The resolution of height concerns does not preclude the issuing of a site compatibility certificate for seniors development to occur on site in principle. It is recommended that a condition be placed on the site compatibility certificate in this regard.

**6. Clause 25(5)(b)(vi) - 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:**

The site is zoned RU4 and the provisions of the Native Vegetation Act apply. The applicant has advised that removal of vegetation adjacent to a boundary fence and dam is a Routine Agricultural Management Activity for smallholdings and therefore does not require approval under the Native Vegetation Act, 2003.

Council supports the development from a flora perspective, providing the 'rehabilitation corridor' along Burton Road is protected from development by retaining existing native trees.

It is considered that Council's conditional support for the proposal would ensure minimal impact on native vegetation.

## **OTHER RELEVANT MATTERS**

### Strategic Planning Context

#### *Hunter Regional Plan 2036*

The following Directions and Priorities of the Regional Plan are considered relevant:

- Direction 14 Protect and connect natural areas
- Direction 20 Revitalise existing communities
- Direction 21 Create a compact settlement
- Direction 22 Promote Housing Diversity

The development proposal is consistent with the regional plan as it:

- maintains vegetation corridors;
- maintains a compact settlement pattern;
- accelerates housing supply, improves housing choice and affordability;
- provides greater housing diversity; and
- provides housing choice to meet the needs of the local community.

### State Planning Policies

The following state policies are applicable to the development:

- SEPP (BASIX) 2004; and
- Seniors SEPP 2004.

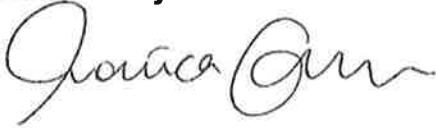
## **CONCLUSION**

Issue of a Site Compatibility Certificate, subject to conditions, is recommended for the following reasons:

- the site is suitable for more intensive use, for the provision of serviced self-care housing units proposed in conjunction with a retirement village, having regard to the criteria set out in clause 25(5)(b) of the SEPP;
- it will provide seniors housing development in the Lake Macquarie City Council area in close proximity to existing seniors housing developments, and located in proximity to existing public transport networks, which provide access to health, retail, banking and other facilities and services; and
- the final scale of development, including height of the apartment buildings, and flood affectation and management issues, can be suitably addressed by the local consent authority at the DA stage.

Report by: Louise Starkey  
Planning Officer, Hunter and Central Coast  
Phone: (02) 4348 5010

**Endorsed by:**



17/2/2017

**Monica Gibson**  
**Director, Hunter and Central Coast**

 26 February 2017  
**Stephen Murray**  
**Executive Director, Regions**  
**Planning Services**