

**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 2, DP 1145348, 107 Haussman Drive, Thornton

The Site Compatibility Certificate (SCC) application applies to land at Lot 2 DP 1145348 107 Haussman Drive, Thornton. The site is approximately 39ha and is bound by Raymond Terrace Road to the north, Thornton residential area to the south, Haussman Drive to the west and undeveloped bushland to the east. The site has a 660m frontage to the Raymond Terrace Road and a 42m frontage to Haussman Drive.

The site was previously used as a clay mine but is no longer operational. The pit depth is a maximum of 12m with steep slopes. Development is proposed in the area of the pit and its batters. The central part of the site has been cleared of vegetation and the boundaries retain remnant vegetation, including some mapped Endangered Ecological Community (EEC). The majority of the site is Bushfire Prone land.

The Maitland Local Environmental Plan 2011 applies and the relevant provisions are:

- the site is zone RU2 Rural Landscape (Figure 1) and seniors housing is prohibited in the zone
- the site is mapped as containing a significant clay resource, triggering cl 13 of the Mining SEPP
- the site is within the Thornton North Urban Release Area.



Figure 1: Site Zoning and immediate context

**APPLICANT:** McCloy Thornton Pty Limited

**PROPOSAL:** The proposed development is for a Retirement Village under the provisions of the *Retirement Villages Act 1999*. The proposal is for 161 serviced self-contained dwellings, including a mix of 1, 2 and 3 bedroom units. The application notes the dwellings will be single storey, however no detailed plans have been provided.

The development will include:

- Removal of existing remnant vegetation where necessary for bushfire protection;
- Site remediation works and earth works in relation to the former clay mine;
- Internal road linked to Haussman Drive and internal walkways;
- Car parking;
- Construction of 161 dwellings; and
- Community and recreation facilities including a community centre, swimming pool, bowling green, tennis court, playground, men's shed and caravan storage.

**LGA:** Maitland

## **PERMISSIBILITY STATEMENT**

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP) applies to land that adjoins land zoned primarily for urban purposes, where it satisfies the requirements of clause 4.

In accordance with clause 4, the Seniors Housing SEPP applies to the subject site as:

- the site adjoins land zoned primarily for urban purposes (clause 4(1)), being land zoned R1 General Residential that is used predominantly for single detached houses. The R1 zone permits a range of urban uses including childcare centres, community facilities, group homes, places of public worship as well as a range of residential typologies including residential flat buildings;
- the land to which the SCC applies is not covered by any of the exclusions listed in Schedule 1 of the SEPP (this is discussed more below) (clause 4(6)).

In relation to the type of seniors housing development that can be approved on land adjoining urban land, the proposal is for serviced self-care housing provided as a retirement village, satisfying the requirements of clause 17 of the Seniors Housing SEPP.

The application identified the proposed development as serviced self-care housing, however it should be noted no detail about the proposed services were provided in the proposal. A condition will be included requiring compliance with clause 42 of the SEPP.

The proposed development requires a site compatibility certificate in accordance with clause 24 as the site adjoins land zoned primarily for urban purposes.

## **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**

On 28 August 2017, Maitland City Council provided comments on the proposal (**Attachment B**) which are summarised here. Council raised no objection to the issuing of a SCC.

### **North Thornton Urban Release Area (URA)**

The land is identified for residential use in the Maitland Urban Settlement Strategy 2012. The land is currently zoned RU2 Rural Landscape, and is within the Urban Release Area boundary of Thornton North.

### **Geotechnical and Contamination**

Additional geotechnical studies should be provided at the development assessment stage. The studies need to address the design for earthworks, site classification and pavement design, as well as delineating the extent, depth and properties of any fill on the site.

### **Pedestrian Access**

The application notes there are bus services within walking distance of the site. However, there are no formed pedestrian pathways. Any future development should demonstrate compliance with clause 26 of the SEPP.

### **Stormwater**

A detailed stormwater management plan is required for development assessment. The report should ensure stormwater quantity and quality is managed on site.

### **Traffic and Road Works**

A detailed traffic impact assessment is required for the site access via Haussman Drive and should address how the access will be integrated with road upgrades on Haussman Drive and Raymond Terrace Road.

### **Vegetation and Bushfire**

The development application and a detailed vegetation assessment should demonstrate that removal of mapped EEC for bushfire mitigation and access is balanced with maintaining the ecological value of the EEC on site.

## **Substation**

The subject land immediately adjoins an electrical substation. Any future development applications would need to address health and safety standards for residential development.

Council advised any future development application for seniors housing on the site should also include the following studies:

- Contamination Report;
- Flora/fauna reports;
- Site and building design details addressing compliance with the design criteria of the Housing for Seniors of People with a Disability SEPP; and
- Bushfire hazard report.

## **COMMENTS FROM DPE DIVISION OF RESOURCES & GEOSCIENCE**

Comments were sought from the Department of Planning and Environment – Division of Resources and Geoscience, Geotechnical Survey (GSNSW) in relation to the compatibility of the proposed development in relation to the significant clay resource on the site. On 29 August 2017, the GSNSW provided comments on the proposal (**Attachment C**) which are summarised as follows:

### **Licencing**

The site was subject to a Private Mining Agreement, Mining Lease 925 and Mineral Owner Lease (5), however these have all lapsed and the operator has no plans mine the site.

### **Resources**

Although the site still has clay resources, the Metford Brickworks, which the mine supplied, closed in 2006.

Given the closure of the brickworks and that the operator no longer plans extraction on site there is limited prospect the site will be used for mining in the future. GSNSW raise no objection to the proposal.

## **SUITABILITY FOR MORE INTENSIVE DEVELOPMENT**

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

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

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

- Council have earmarked the site for future residential development in the Thornton North Master Plan, and have included the site within the Maitland LEP 2011 as part of the Thornton North Urban Release Area;
- the subject site adjoins an existing and expanding urban area;
- bus stops are within 400m of the entrance to the site (bus stops on Raymond Terrace Road and Haussman Drive);
- the site is within 2km of two train stations (Thornton and Metford);



- the site is within 1.5km of the Thornton town centre, which is accessible by bus from the site and includes a supermarket, banking services, medical services, post office and other retail services;
- the site is within 5km of Stockland Greenhills and the East Maitland town centre, which are accessible via local bus networks;
- the site is not in a mine subsidence district; and
- the clay resources are unlikely to be mined and the GSNSW raise no objection to the proposal.

However, there are several issues which will need to be addressed through relevant studies at the development application stage regarding the following:

- there are no footpaths or pedestrian crossings linking the site to nearby bus stops and the proposal should comply with clause 26 of the Seniors Housing SEPP;
- further geotechnical and contamination investigations are required in relation to the fill and landform of the site;
- management of bushfire hazard;
- impact of development on the remnant vegetation, including a patch of an endangered ecological community; and
- Hunter Water should advise of water capacity to service the site and to meet firefighting requirements.

It is considered that these issues can be addressed at the development application stage.

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

The Secretary must not issue a certificate unless the Secretary 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)) 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))**

#### **Environmental Values**

The application notes that the natural landscape of the site has been modified through years of rural, residential and industrial development and the proposal is compatible with the surrounding built environment.

Despite this, Council notes the land contains an Endangered Ecological Community (EEC), and the proposal should balance the ecological values of the EEC with the bushfire mitigation measures.

The area has been significantly disturbed for extractive industries, agriculture and residential development. The proposal will retain some vegetation surrounding the site which would reduce the visual impact from the road. The EEC should be retained where possible.

It is considered that the proposed seniors housing development would be consistent with the existing and proposed uses in the locality. The proposed development should be designed in a way which maximises the retention of the EEC.

## Resources

The GSNSW note the site is identified on Council's Mineral Resource Area Map. This map identifies land that is the location of significant resources of mineral, petroleum or extractive materials for the purposes of clause 13 of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP). In this location, the identified resource is clay for brickmaking and pipes.

Clause 13 of the Mining SEPP applies to an application for consent for development on land in Council's mapped Mineral Resource Area.

### **13 Compatibility of proposed development with mining, petroleum production or extractive industry**

*(1) This clause applies to an application for consent for development on land that is, immediately before the application is determined:*

*(a) in the vicinity of an existing mine, petroleum production facility or extractive industry, or*

*(b) identified on a map (being a map that is approved and signed by the Minister and copies of which are deposited in the head office of the Department and publicly available on the Department's website) as being the location of State or regionally significant resources of minerals, petroleum or extractive materials, or*

*Note. At the commencement of this Policy, no land was identified as referred to in paragraph (b).*

*(c) identified by an environmental planning instrument as being the location of significant resources of minerals, petroleum or extractive materials.*

*(2) Before determining an application to which this clause applies, the consent authority must:*

*(a) consider:*

*(i) the existing uses and approved uses of land in the vicinity of the development, and*

*(ii) whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*

*(iii) any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*

*(b) evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and*

*(c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

Despite this, there is minimal chance of future extraction on the site as all leases have lapsed, the brickworks which the mine serviced has closed and the mine operator has no plans to continue extraction. GSNSW raise no objections to the proposed seniors housing development.

It is considered that the proposed development would not have a negative impact on the extraction potential of the clay resource given GSNSW raise no objection to proposed development and Council have earmarked the site for future residential development in the Thornton North Master Plan.

### **Natural Hazards**

**Bushfire Prone Land** - The site is identified as bushfire prone land category 1 and buffer. The proposal includes the removal of 1.91ha of native vegetation for bushfire buffer. Council advised a detailed bushfire assessment will be required at the development application stage.

**Contamination** - The SCC application did not indicate that the site may be contaminated. Council's LEP mapping identifies the site as having Class 5 Acid Sulphate Soils.

Should the site be developed as seniors housing, both contamination and Acid Sulfate Soils would need to be addressed in the development application.

**Traffic** - The proposed development would result in increased traffic and increase demand for public transport services and shopping centres in the area.

Council raised no objection with regards to impact on the public transport services, the local road network or local commercial centres. However improvements will be required to accommodate vehicle movements into and out of the site.

The proposed development is consistent with the existing and proposed uses for the Thornton North area. The seniors housing is generally consistent with the development type, scale and height of the existing and proposed development, especially to the south.

### **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))**

The applicant notes that the highest and best use for the site is residential which is consistent with the Hunter Regional Plan and Thornton North Master Plan.

It is unlikely the site will be used for extractive industries as the mine was decommissioned, no operations have been proposed and GSNSW raised no objection to the seniors housing proposal.

The current RU2 zone permits a range of uses including agriculture, mining and dwelling houses and has a minimum lot size of 40ha. There is limited opportunity for increased development under the current zoning given the proximity to urban areas and future directions indicated by the Thornton North Master Plan.

It is considered that seniors housing is consistent with the likely residential use of the site and the Thornton North area as identified in local and regional strategies and the Maitland LEP 2011.

### **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))**

### **Location and access to services**

The site is located 1.5km from the Thornton town centre which includes retail, medical and community services. It is acknowledged that the site is located more than 400m to several day to day retail, commercial and medical services, and does not strictly meet the requirement of clause 26(2)(a).

However, the two bus stops are located within 400m of the site entrance and provide regular (two each way, each day) bus services to Thornton and Greenhills. Buses also connect the site to Thornton and Metford Train Stations. It is considered that the proposal complies with the requirements for access to public transport (clause 26(2)(c)).

Should a seniors housing development application be approved, footpaths in accordance with clause 26(3) will be required to provide access from the site to nearby bus stops.

### **Infrastructure**

The application states that existing utilities in the area are sufficient to meet the demand. It is considered that the development can be serviced by existing utilities given the proximity to nearby residential area.

The application should address stormwater and road upgrades as part of the development application.

#### **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))**

NA

#### **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))**

### **Character of the local area**

The surrounding area comprises a mix of residential and large lot rural residential areas. The built form is predominantly single storey, brick or clad dwellings on approximately 600m<sup>2</sup> sized lots. The informal streetscape is formed by 6-7m setbacks, landscaping and regular building separation to break up the built form.

The proposed development will not be denser than the existing adjoining residential development, but will have a different layout and streetscape. Council's DCP and the Seniors Housing SEPP should be used to guide the design.

### **Bulk, Scale, Built form**

The application argues the built form will not have a negative impact on surrounding development as visibility into the site is obscured by vegetation and low topography. Despite this, the proposed development will be consistent with increased urban development identified by the Thornton North Master Plan.

Council did not raise any concerns about the bulk or scale of the proposal.

The adjacent R1 land has no height or FSR controls and has a minimum lot size is 450m<sup>2</sup>.



The proposed dwellings will be one storey which is consistent with the surrounding development.

The application did not include detailed plans for the proposed development. As such, any future design should consider the surrounding bulk, Maitland LEP and DCP, and Seniors Housing SEPP controls, as well as the site constraints. It is considered that design issues can be addressed at the development application stage by the local consent authority.

**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 following is the Department's assessment against Section 3 of the *Consideration of native vegetation under the Seniors Housing SEPP* guidelines:

**Avoidance of land and water degradation**

The Vegetation Report notes the Lower Hunter Spotted Gum – Ironbark Forest EEC is in moderate to good condition. There are pockets of invasive species on the site. The proposed development will clear 1.91ha of vegetation from the site.

Although there appears to be a creek on the eastern portion of the site, most of the site is already cleared. The additional clearing is not anticipated to have a significant impact on the land or water bodies.

**Maintenance of corridors**

The Vegetation Report notes the corridor is of a local significance having a width of between 10m and 70m.

The site is identified in Thornton North Master Plan as future residential, however the southern portion of the site is identified as a vegetation buffer which acts as a corridor for flora and fauna movement. The clearing generally appears to retain the vegetation buffer. However a minimum corridor width of 30m would assist to retain the local corridor scale.

**Vegetation types and values**

The Vegetation Report concludes the vegetation is in moderate to good condition and includes vegetation that is listed as endangered under the *Threatened Species and Communities Act 1995*. The development should seek to limit the area of EEC removed from the site.

**Minimise impact on other conservation areas**

Given the majority of the site has previously been cleared, further reduction through clearing of vegetation is unlikely to have a significant impact on the vegetation, while impacts from the proposed development should be addressed at the development application stage.

The proposed development and associated clearing is not considered to have a significant negative impact as corridors of existing vegetation will be retained, linking to the site to vegetation in the east and north.

## CONCLUSION

- The site is suitable for more intensive use, for the provision of self-care accommodation for seniors, having regard to the criteria set out in clause 25(5)(b) of the SEPP;
- It will provide well located seniors housing development in the Maitland LGA, as the entrance is located within walking distance of existing bus networks, which provide access to health, retail, banking and other facilities and services;
- Council's main concerns regarding bushfire, ecology, geotechnical works, traffic and footpaths can be addressed at the development application stage or through conditions;
- The ultimate scale and design of the development can be resolved when Council considers a future development application; and
- The compatibility certificate conditions and letters to the proponent and Council provide a means for relevant matters to be addressed at the appropriate time.

## RECOMMENDATION

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

- **note** the report (**Attachment A**);
- **consider** the written comments from Maitland Council (**Attachment B**) and the Department of Planning and Environment – Division of Resources and Geoscience, Geotechnical Survey (GSNSW) (**Attachment C**);
- **form the opinion** that the site of the proposed development is suitable for more intensive development;
- **form 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);
- **determine** the application for a site compatibility certificate by issuing a certificate (**Attachment D**) for 107 Haussman Drive, Thornton; and
- **sign** the letters to the applicant and Council advising of this determination (**Attachment E and F**).



2/10/2017  
Monica Gibson  
Director Regions, Hunter



4 October 2017  
Stephen Murray  
Executive Director, Regions  
Planning Services

Approved / ~~Not Approved~~ / Noted

Corrine Manyweathers  
Planning Officer, Hunter  
4345 4404