

**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:** 361 Freemans Drive, Cooranbong (Lot 1 DP 589189).

The site compatibility certificate (SCC) application applies to land at 361 Freemans Drive, Cooranbong (Figure 1). The site has a total area of 2.19ha and is predominantly cleared except for two small pockets of mapped remnant vegetation adjacent to Freemans Drive, which will be retained and incorporated into the seniors housing development.

The site is adjacent to an approved retirement village (D/A1964/2011) comprising 71 serviced self-contained dwellings, which remains under construction. The retirement village was approved under clause 41 of the former Lake Macquarie Local Environmental Plan 2004. Clause 41 permitted retirement villages with consent provided they consisted of at least 70 units and the site was within 400m of residential-zoned land. The site is approximately 2km from the Cooranbong village and 4km from the Morisset town centre.

An inspection of the land was undertaken by the regional team on 12 April 2018.

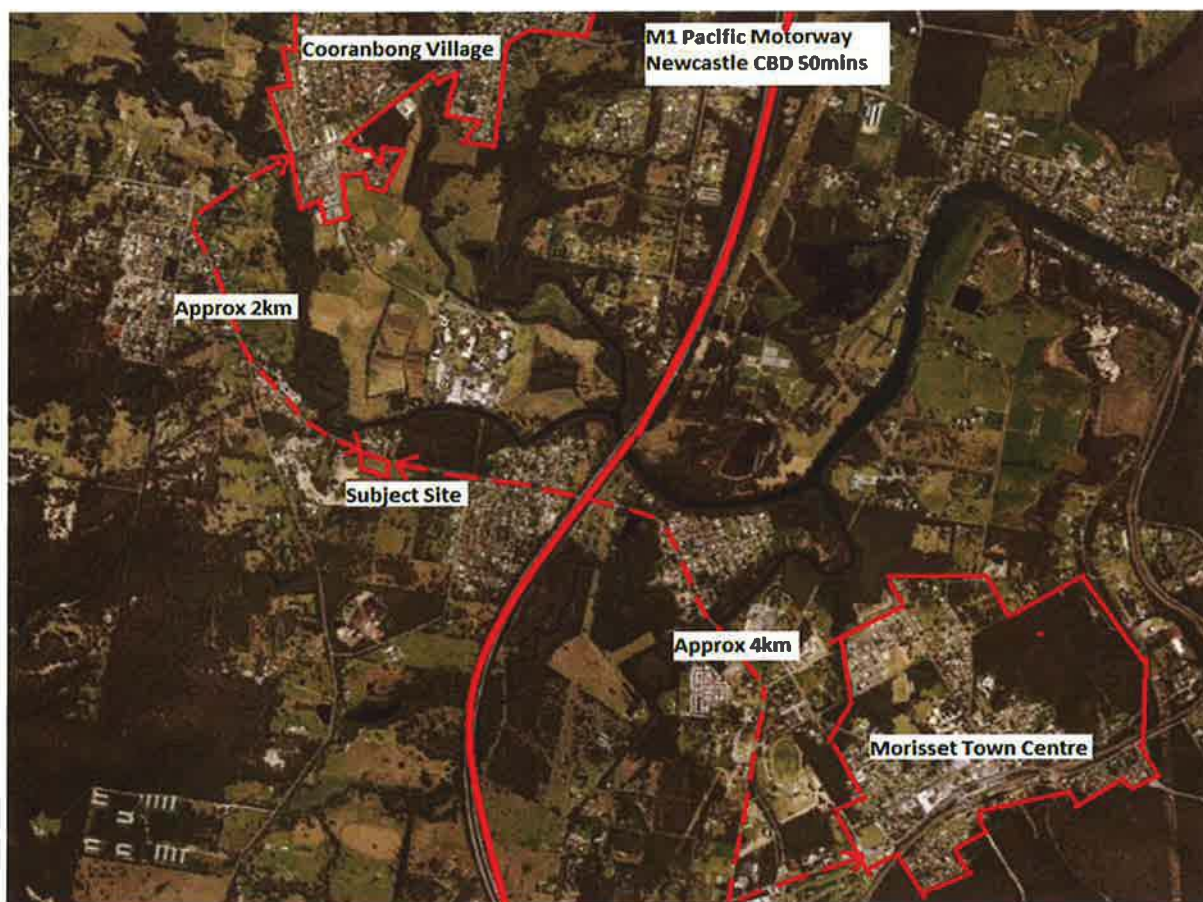


Figure 1: Site locality.

The site is zoned RU2 Rural Landscape under the Lake Macquarie Local Environmental Plan 2014. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) applies to the site because it adjoins land zoned R2 Low Density Residential on the opposite side of Freemans Drive to the north (Figure 2).

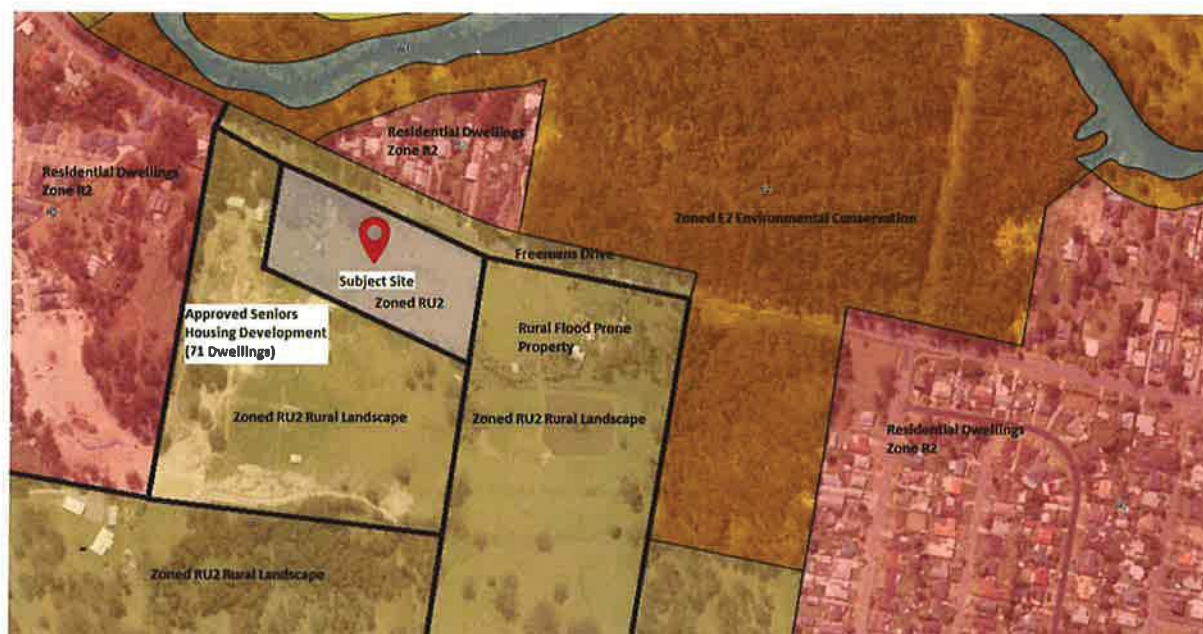


Figure 2: Immediate site context.

**APPLICANT:** Ms Michelle Chapman on behalf of Mr Mathew Hafford – Cooranbong Gardens Aged Care Facility.

**PROPOSAL:** The proposal is for an 87-bed residential high-care facility for aged residents and persons with dementia. The building comprises four wings pivoted around a central entrance and indoor communal space (Figure 3, next page). It incorporates a café, private dining room, hairdresser, theatre, rehabilitation/gym and two consulting rooms for visiting practitioners. All residential rooms and common area are on the upper ground floor and maintenance, service and storage rooms are on the lower ground floor, with vehicle access directly off Freemans Drive. The residential care facility provides 27 parking spaces plus ambulance bay, which is four additional spaces above what is required under clause 48 of the Seniors Housing SEPP.

Lake Macquarie City Council advises that it has received a development application (DA/357/2018) for the seniors housing development. This development application cannot be approved without an SCC being issued.



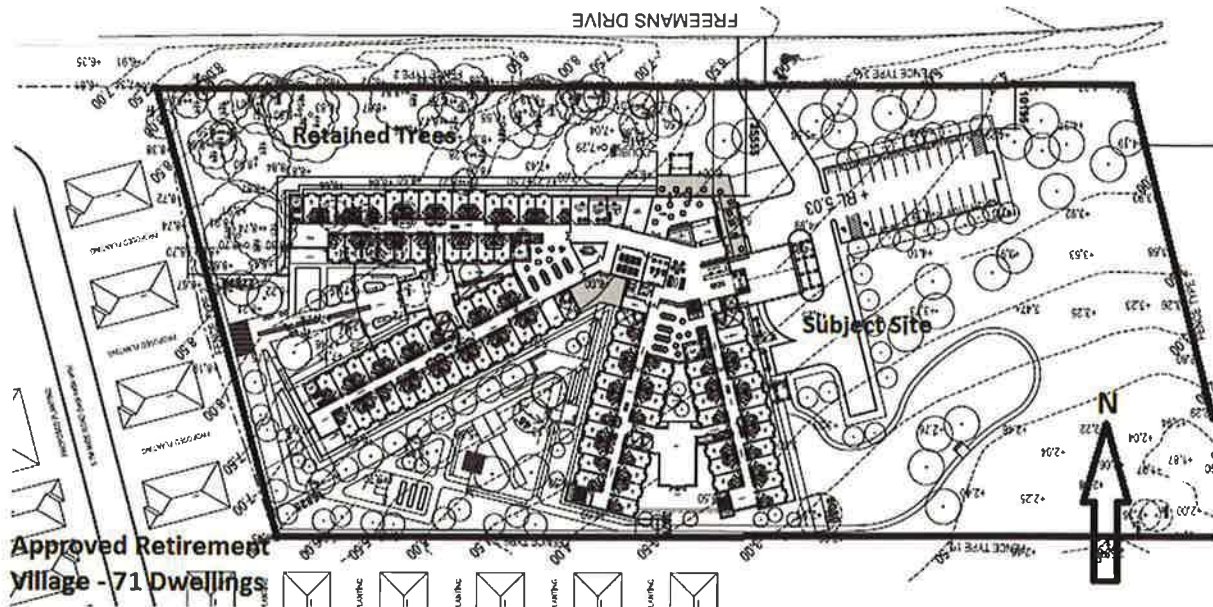


Figure 3: Site plan.

**LGA:** Lake Macquarie City Council

### PERMISSIBILITY STATEMENT

The Seniors Housing 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 Housing SEPP.

The site is zoned RU2 Rural Landscape under the Lake Macquarie Local Environmental Plan 2014. The site adjoins land zoned R2 Low Density Residential on the opposite side of Freeman's Drive to the north (Figure 4).

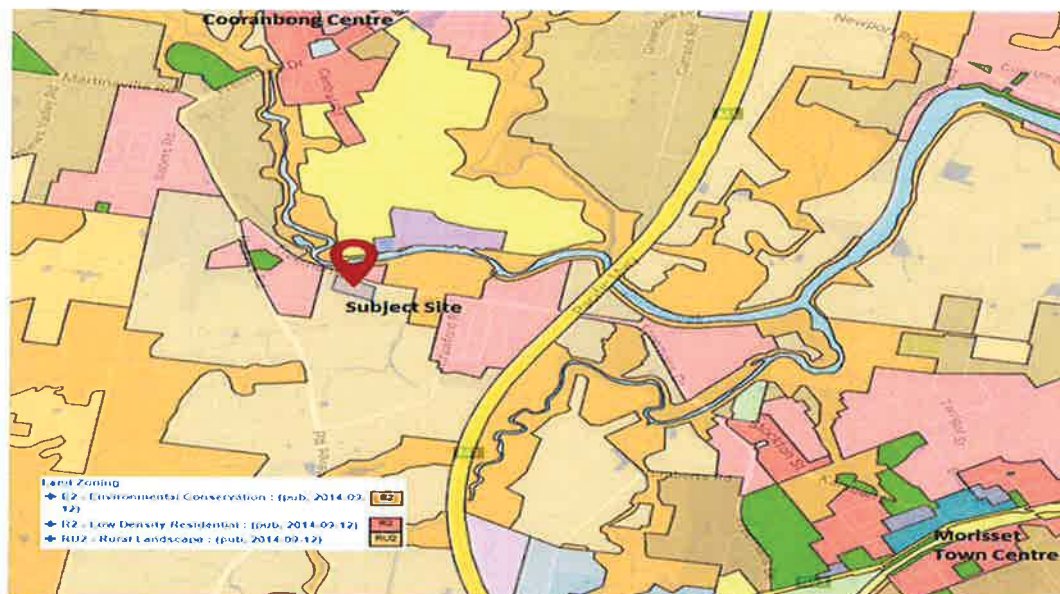


Figure 4: Zoning map.

An SCC can be issued for this site because it satisfies the requirements of clause 4 of the Seniors Housing SEPP. It adjoins land zoned R2 Low Density Residential,

dwelling houses are permissible with consent in the RU2 Rural Landscape zone and the land is not excluded by Schedule 1 (Environmentally sensitive land) of the SEPP.

Schedule 1 only excludes the issue of SCCs on environmentally sensitive land where it is defined in another environmental planning instrument such as coastal protection, conservation, environmental protection, high flooding hazard, water catchment and natural wetland. Council's Development Control Plan (DCP) 2014 identifies the subject site as a Flood Control Lot – High Hazard, but this does not exclude the land.

The type of seniors housing that may be developed on this land is identified in clause 17 of the Seniors Housing SEPP. The proposed development satisfies this requirement by providing a residential care facility.

### **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).

### **COUNCIL COMMENTS**

On 7 March 2018, Council was consulted about the proposed seniors housing development and given 21 days to respond in accordance with the requirements of the Seniors Housing SEPP. The Department gave Council a two-week extension due to delays in allocating the matter to staff to provide comments.

On 12 April 2018, Council provided comments on the proposal (**Attachment B**) and raised the following issues:

- Strategic planning: Council has concerns over the consistency of the proposal with the RU2 zone objectives.

#### Department response

The RU2 Rural Landscape zone contains objectives to encourage sustainable primary industry production, maintain the rural landscape character, provide a range of compatible land uses, and maintain and enhance the natural amenity and ecological values of the land. The northern boundary of the subject site adjoins residential dwellings on the opposite side of Freemans Drive. The southern and western boundaries adjoin an approved retirement village, which was permissible and approved under clause 41 of the former Lake Macquarie LEP 2004.

It is considered that the existing character of the area has evolved from a traditional rural setting through the previous consent for the adjoining retirement village. Detailed consideration of design and streetscape will be undertaken

through future development assessment. The site and surrounding properties are mapped as biophysical strategic agricultural lands; however, the site is considered too small (2.19ha) to support any viable agricultural activity and it is surrounded by residential or seniors housing developments.

- Flooding: The site is identified as a Flood Control Lot – High Hazard. Council advised during prelodgement consultation that habitable floor levels for the site are required to be set at or above the probable maximum flood (PMF) level, which is 8.45m AHD (derived from the Dora Creek Flood Study 2015). This provision does not apply to non-habitable areas (i.e. car parking and services), which are subject to floor levels of 5.03m AHD (500mm above the 100-year AEP flood level).

#### Department response

Council's DCP identifies the subject site as a Flood Control Lot – High Hazard, but this doesn't preclude development of the land. The residential care facility has been designed to comply with Council's flooding requirements contained in its DCP, which requires habitable areas to be located above the PMF level.

- Flora and fauna: Council outlines the potential impacts on flora and fauna. It concludes that the application is unlikely to result in a significant impact on threatened biota listed under the *Biodiversity Conservation Act 2016* and a species impact statement is not required.

#### Department response

The Department agrees with Council's conclusion.

- Creeks and watercourses: The stormwater management plan proposes adequate water quality and quantity controls that meet Council's treatment requirements. No adverse impacts on the watercourse are foreseen.

#### Department response

The Department agrees with Council's conclusion.

- Aboriginal heritage: The site is mapped as a sensitive Aboriginal cultural landscape under the Lake Macquarie LEP 2014. The information submitted to date does not address Council's requirements and does not provide sufficient information to enable the assessment and consideration of the potential impact of the proposal on Aboriginal heritage. Council will require a due diligence/Aboriginal heritage impact assessment to be submitted to enable further assessment and consideration of the potential impact of the proposal on Aboriginal heritage.

#### Department response

This issue will be resolved through the development assessment process.

- Visual impact: The site is located within Scenic Management Zone 11 (hinterland with limited settlement) under the Lake Macquarie Scenic Management Guidelines 2013. The retention of trees is critical in mitigating boundary visual issues and the documentation submitted with the proposal confirms the retention of vegetation. Council supports the extension of the tree canopy along the entire frontage and within proximity to the creek. However, it does not support the management of these areas beneath retained trees as turf. This matter can be resolved via conditions of consent as part of the development application process.



### Department response

The Department agrees with Council's comments. Retaining the existing remnant Dora Creek vegetation along Freemans Drive and providing additional native landscaping improves the development's visual impact and environmental outcomes for the site.

- Building height: Council is undertaking an assessment of the proposed building height variation as specified within the documentation accompanying the SCC application. The building height variation represents a departure of more than 10% so it will need to be reported to a full Council in accordance with the Department's Planning Circular PS-17-006.

### Department response

A height variation of up to 2.8m is required where the site slopes away from Freemans Drive to comply with Council's flooding requirement to provide the habitable floor level above the PMF level. The seniors housing development will appear as predominantly single storey when viewed along Freemans Drive. The two-storey component of the development adjoins the southern boundary, which is being developed as a retirement village owned by the same proponent. Council's assessment of the application will determine whether the height variation is justifiable.

## **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 approximately 2km from the Cooranbong village and 4km from the Morisset town centre. The northern boundary adjoins residential dwellings on the opposite side of Freemans Drive, and its southern and western boundaries adjoin an approved retirement village, which is under construction. The proposed seniors housing development is considered compatible with the evolving residential character of this locality.

The site has a total area of 2.19ha and is predominantly cleared except for two small pockets of mapped remnant vegetation adjacent to Freemans Drive, which will be retained and incorporated into the seniors housing development. The site and surrounding properties are mapped as biophysical strategic agricultural lands; however, the site is considered too small to support any viable agricultural activity and it is surrounded by residential or seniors housing on three of its four property boundaries.

There are no known environmental constraints that would preclude the development of the site for seniors housing. A detailed assessment of the environmental constraints is provided below.

The seniors housing development will be connected to reticulated sewer, water and gas. Electricity and telecommunication networks can also be provided.

Given the nature of the site, the availability of services and infrastructure and the mixed land uses in the surrounding area, the site is considered suitable for more intensive development.

## COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND 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))**

### Ecology

The site is predominantly cleared except for two small pockets of mapped remnant Dora Creek vegetation adjacent to Freemans Drive, which will be retained and incorporated into the seniors housing development. The proposed planting of additional native trees will assist in improving the environmental outcomes for this site.

### Flooding

The eastern half of the site is mapped as flood-prone land (Figure 5) with a 1% AEP flood planning level of 5.03m AHD (4.53m plus 0.5m freeboard).



Figure 5: Flood planning level (1% AEP).

However, the residential care facility has been designed to comply with Council's flooding requirements contained in its DCP (Part 2 Development in Rural Zones Section 2.8 Catchment Flood Management). The DCP categorises residential care facilities as a sensitive land use and requires the minimum floor level to be above the PMF of 8.45m AHD. At the pre-development application meeting, Council advised that the car park and service area of the development did not need to be at the PMF, but are required to be at the 1% AEP flood planning level.

In the 1% AEP flood event, the proposed residential care facility and the adjoining seniors housing development will become isolated from Cooranbong and Morisset. The SCC includes a requirement to develop flood access and community readiness plans for the development.

The residential care facility will be constructed above the PMF to comply with Council's flooding requirements.

#### Biophysical strategic agricultural lands

The site and surrounding properties are mapped as biophysical strategic agricultural lands (Figure 6). The site is considered too small to support any viable agricultural activity. Developing the site as intensive agriculture may result in adverse land use conflicts to adjoining residential or seniors housing developments, therefore the potential loss of land for productive agricultural use is not significant.

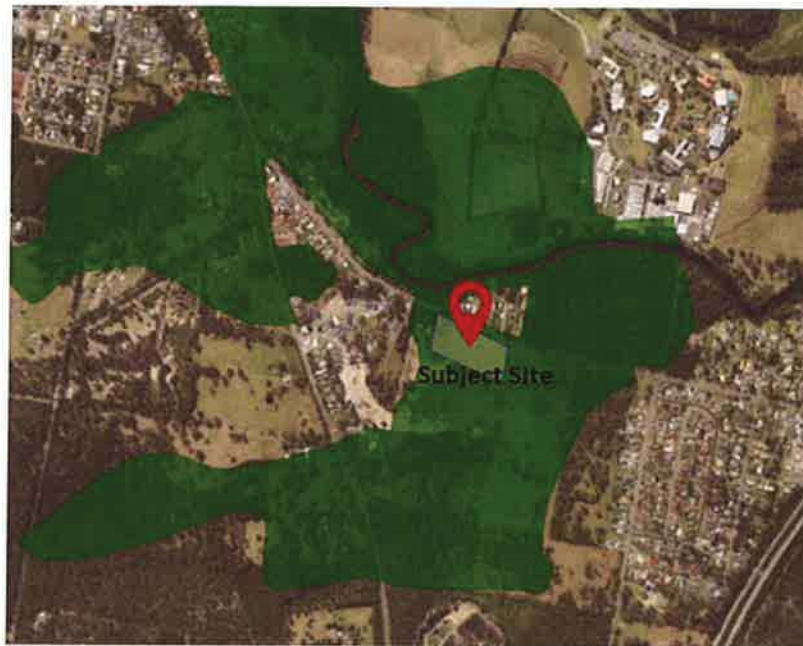


Figure 6: Biophysical strategic agricultural lands.

#### Bushfire

Most of the site is mapped as bushfire vegetation buffer (100m – 30m). The bushfire report concludes that the residential care facility can comply with the acceptable solutions of Planning for Bushfire Protection 2006.

The development application, which has been lodged concurrently with the SCC request, is categorised as a special fire protection purpose and requires a bushfire safety authority certificate from the NSW Rural Fire Service under section 100B of the *Rural Fires Act 1997*.

#### Acid sulfate soils

The site is identified as class 5 on the acid sulfate soils map, with a section of class 3 acid sulfate soils located on adjoining lots to the south-east of the site based on acid sulfate soils planning maps. An acid sulfate soils management plan has been submitted with the development application.

The seniors housing development is considered compatible with the surrounding environment and will address the potential acid sulfate soils through the future management plan.

#### Aboriginal heritage



The site is mapped as a sensitive Aboriginal cultural landscape under the Lake Macquarie LEP 2014. An Aboriginal heritage information management system search was undertaken for the subject site and nearby surrounds to confirm if any listed sites or places of Aboriginal significance exist. No sites or places were identified.

Council advises that it will require a due diligence/Aboriginal heritage impact assessment before the development application is determined. The Department is satisfied that this issue will be adequately resolved through the development assessment process.

#### Other existing and approved uses in the vicinity

The subject site is approximately 2km from the Cooranbong village and 4km from the Morisset town centre. There are several residential estates along Freemans Drive between Cooranbong and Morisset. The southern and western boundaries adjoin an approved retirement village (D/A1964/2011) consisting of 71 serviced self-contained dwellings, which is under construction. The Sanitarium Health Food Estate, the Seventh Day Adventist Avondale Schools and Higher Education College are also nearby on the northern side of Dora Creek.

The proposed seniors housing development is considered compatible with the evolving residential character of this locality.

It is concluded that the proposed residential care facility is suitably located to help meet the demand for aged housing around Cooranbong and Morisset.

## **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 Hunter Regional Plan 2036 recognises the importance of continuing to provide housing diversity, especially for the ageing population, which is expected to continue to congregate around Newcastle and coastal communities. The plan recognises an emerging growth area around Cooranbong, Morisset and Wyee.

The draft Greater Newcastle Metropolitan Plan 2036 identifies priority housing release areas, including Cooranbong to Wyee, where the Greater Newcastle councils and the Department will coordinate the orderly delivery of housing and infrastructure. The proposed residential care facility and adjoining seniors housing development is consistent with the delivery of housing and infrastructure in this corridor.

The subject site is zoned RU2 Rural Landscape under the Lake Macquarie LEP 2014. The RU2 zone permits a range of alternative land uses, such as dual occupancies, freight transport facility, animal boarding and training establishments, rural industries, intensive livestock agriculture, recreational facilities and camping grounds. Developing the site as intensive agriculture or another permissible land use may result in detrimental impacts on the evolving residential character of this locality.

The proposed seniors housing development is consistent with the strategic direction of the Hunter Regional Plan 2036 of providing housing diversity and Council's RU2 Rural Landscape zone objective, which is to provide for a range of compatible land uses. This development is considered unlikely to adversely impact on any future land uses in this area.

- 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 facilities

The subject site is approximately 2km from the Cooranbong village where medical services, including a general medical practice and chemist, post office and several food outlets, are available. Medical services, a supermarket and a variety of retail facilities are available in Morisset approximately 4km away. The residential care facility will provide a café, private dining room, hairdresser, theatre, rehabilitation/gym and two consulting rooms for visiting practitioners.

The statement of environmental effects clarifies that the residential care facility will look after high-care aged residents and persons with dementia. These residents are considered unlikely to access external retail facilities and community services.

Public bus services (Routes 280/281) operate regularly throughout the day along Freemans Drive to Dora Creek and Morisset. Bus stops are located either side of the subject site, at Red Hill Street and Deaves Road approximately 700m away.

The residential care facility complies with the access requirements under the Seniors Housing SEPP by providing private transport for those residents capable of using the external facilities and services. The SCC includes a requirement to reinforce the requirement to provide private transport services.

Infrastructure

The seniors housing development will be connected to reticulated sewer, water and gas. The proponent advises that the development application plans were lodged with Hunter Water, which has now provided its "notice for formal requirements for proposed developments" in respect of the residential care facility. Electricity and telecommunication networks can also be provided to the site.

- 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 site is not zoned open space or special uses. The proposed development will not reduce the provision of land for open space or special uses in this locality.

- 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 one and two-storey residential care facility requires a variation to Council's 8.5m height restriction. A height variation of up to 2.8m is required where the site slopes away from Freemans Drive to comply with Council's flooding requirement to provide the habitable floor level above the PMF level.

The site is on the crest of a hill before it slopes down to flood-prone lands to the east. The development provides a 25m setback from Freemans Drive and a minimum setback of 3.87m to the southern boundary (Figure 3, page 3). The development has a total floor space ratio of 0.19:1 and the eastern part of the site will be landscaped with native trees.

The seniors housing development will appear as predominantly single storey when viewed along Freemans Drive (Figure 7). The two-storey component of the development adjoins the southern boundary, which is being developed as a retirement village owned by the same proponent. The articulated design, proposed boundary setbacks and extensive landscaping should minimise the development's visual impact on adjoining properties. The visual analysis modelling and assessment justifies the built form and height of the residential care facility.



Figure 7: 3D photomontage of the site viewed from the east.

The development's appearance is improved by the built form being broken into different wings and articulated in design and material finishes. Retaining the native vegetation along Freemans Drive and additional native landscaping also improves the development's appearance when viewed from Freemans Drive and surrounding properties.

The proposed seniors housing development in terms of bulk, scale and built form will be sympathetic and compatible with surrounding residential and the adjoining retirement village.

**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 *Native Vegetation Act 2003* was repealed on 24 August 2017 and replaced with the *Biodiversity Conservation Act 2016*. The seniors housing development retains two small pockets of remnant Dora Creek vegetation adjacent to Freemans Drive and proposes additional native landscaping to improve the environmental outcomes for this site.



## CONCLUSION

The Hunter Regional Plan 2036 recognises the percentage of people aged 65 years is projected to increase from 19 per cent to 25 per cent.

The proposed residential care facility complements the adjoining seniors housing development under construction and is considered consistent with the evolving residential character of this locality.

The development's appearance is considered sympathetic and compatible with surrounding residential and the adjoining retirement village. This is achieved by its built form being broken into different wings and articulated in design and material finishes, by retaining the native vegetation along Freemans Drive and providing additional native landscaping.

The seniors housing development is suitably located to help meet the demand for aged housing around Cooranbong and Morisset. It also maximises the use of existing infrastructure and is compatible with the surrounding environment and land uses.

## RECOMMENDATION

It is recommended that the Acting Deputy Secretary as delegate of the Secretary:

- **note** the assessment report (**Attachment A**);
- **consider** the written comments from Lake Macquarie City Council (**Attachment B**);
- **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 C**) for 361 Freeman Drive, Cooranbong; and
- **sign** the letters to the applicant and Council advising of this determination (**Attachments D and E**).



6/6/2018  
Monica Gibson  
Director Regions, Hunter

 21 June 2018  
Stephen Murray  
Acting Deputy Secretary  
Planning Services

Approved / ~~Not Approved~~ / Noted

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