

# Statement of Environmental Effects

**Section 4.55 (2) Modification to  
Approved Seniors Housing DA 2020-387  
at Lot 1 DP 797227, Lot 13 DP 1122688 and  
Lot 14 DP 1122688  
40-54 McFarlanes Road BERRY PARK**



Prepared by Hunter Land Pty Ltd

**JULY 2022**

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# 1. INTRODUCTION

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The following Statement of Environmental Effects has been prepared to assist Maitland Council in the processing of the attached proposed modification to DA 2020-387 to amend the design of the proposed units, the layout of the proposed development, modify the staging plan and construct a new managers residence for the approved Retirement Village at Lot 1 DP 797227, Lot 13 DP 11226878 and Lot 14 DP 1122688, 40-54 McFarlanes Road Berry Park.

The modification also includes amending conditions of consent included in the Schedule of Conditions attached to the Notice of Determination as detailed in this development application.

On 9<sup>th</sup> February 2021, Maitland City Council approved DA 2020/387 – SEPP Seniors Living (Retirement Village) – 95 Self Care Dwellings, Community Centre, Men’s Shed and Associated Infrastructure (Staged) on the subject site.

The conditions included in the Schedule of Conditions attached to the Notice of Determination required the relocation of the emergency access path away from the eastern property boundary and the provision of 15m<sup>2</sup> of private open space for each unit.

To comply with these conditions, the layout and unit design of the proposed Retirement Village was reconsidered and a revised layout and unit design is now proposed.

The proposed development will now be relocated on site to be more centrally located with 94 villas proposed. The modification deletes the up and down units previously approved by Council and replaces those units with single storey villas. The revised layout will ensure adequate solar access and private open space is provided to each unit.

The proposal will also convert the existing managers residence into a site office and a new Managers Dwelling is now proposed on site.

The proposal has been designed to comply with the objectives and requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The proposed modification is considered to be substantially the same development as the development for which consent was originally granted by Council under DA 2020/387, being a Retirement Village.

It is proposed that Council supports this modification.

## 2. THE SITE AND LOCALITY

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The site is known as Lot 13 and 14 DP 1122688 and Lot 1 DP 797227 McFarlanes Road Berry Park and is approximately 30.62ha in size. Only the southern part of the site is proposed to be developed. The subject site comprises three (3) separate allotments that form a rectangular parcel of land with access to the site from McFarlanes Road Berry Park. A dwelling currently exists on site.

The site is generally located within a semi-rural setting to the north of the suburbs of Thornton and Woodberry and south of the Hunter River. Land use to the south and west are transitioning from rural use to urban with low-density residential development expanding the neighbouring suburbs of Chisholm to the west and Thornton to the south (which is part of an urban release area). Land immediately adjacent to the subject site to the southwest is zoned R1 Residential pursuant to Maitland LEP 2011. That land is known as Sophia Waters. Part of Sophia Waters is developed while other parts are currently being developed.

## 3. PROPOSED MODIFICATION

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On 9<sup>th</sup> February 2021, Maitland City Council approved DA 2020/387 – SEPP Seniors Living (Retirement Village) – 95 Self Care Dwellings, Community Centre, Men’s Shed and Associated Infrastructure (Staged).

It is proposed to modify DA 2020/387 as follows:

- Amend layout of the proposed development;
- Amend the design of the proposed units;
- Amend staging plan;
- Convert existing Managers Residence into a site office;
- Construct new Managers Residence; and,
- Amend Conditions of Consent attached to the Notice of Determination.

### **Amendments to layout**

The conditions included in the Schedule of Conditions attached to the Notice of Determination required the relocation of the emergency access path away from the eastern property boundary (Condition 3) and the provision of 15m<sup>2</sup> of private open space for each unit (Condition 18(d)).

To comply with these conditions, the layout and unit design of the proposed Retirement Village was reconsidered and a revised layout and unit design is now proposed.

It is proposed to delete the approved up and down units from the site and replace those units with ninety-four (94) single storey x two (2) bedroom villas. The development will be repositioned to be more centrally located within the site away from the eastern property boundary to increase the building setback from that boundary.

The road layout has been amended to cater for the revised unit design. The revised layout will ensure adequate solar access and private open space is provided to each unit.

### **Unit Design**

It is proposed to delete the up and down units from the site and replace those units with ninety-four (94) single storey x two (2) bedroom units as follows:

- Two type of villas are now proposed on site – Villa type 1 and Villa type 2 as follows:

#### **Villa Type 1**

Living area - 96m<sup>2</sup>,

Garage – 24.5m<sup>2</sup>

Patio – 4.0m<sup>2</sup>

Terrace – 10.2m<sup>2</sup>

#### **Villa Type 2**

Living – 108.7m<sup>2</sup>

Garage – 23.1m<sup>2</sup>

Patio – 3.5m<sup>2</sup>

Terrace – 20.4<sup>2</sup>

Villa type 2 unit will contain 2 terraced areas.

The villas have been designed to allow adequate solar access within each unit. The units will be constructed of weatherboard cladding with a colorbond roof. Each unit will contain 2 bedrooms, living areas, garage and outdoor areas.

- A total of ninety-four (94) units are proposed to be constructed on site consisting of fifty-two (52) villa type 1 units and forty-two (42) villa type 2 units.
- All units are single storey with ground level access.
- All units will have adequate solar access and private open space.

The proposal is a low-density residential development providing an interesting and visually attractive environment. Building materials have been selected to harmonise with the rural character of the site rather than dominate it. The site will be generously landscaped.

The site and all residential units have been designed in accordance with the SEPP (Housing for Seniors or People with a Disability) 2004 and Australian Standards.

### **Community Centre and Mens Shed**

The community centre has been increased slightly in size to cater for a pool area of 170m<sup>2</sup> which has resulted in the reduction in the size of the terraced area originally approved by Council. Minor internal changes are also proposed within the centre.

The mens shed has been increased in size to now include the maintenance shed to contain maintenance equipment for the property on which the Retirement Village sits. Although the footprint of the mens shed has increased in size, this now eliminates the need for an additional shed to be located on site to cater for maintenance equipment thereby reducing site coverage on the land.

### **Waste Collection**

Waste collection area has been relocated as a result of the proposed changes to the layout of the site. The bin storage area will be adequately screened as shown on the plans attached.

### **Staging plan**

As a result of amending the layout and unit design of the Retirement Village, the staging plan for the site is also amended as included in the attached plans.

### **Existing Managers Residence**

The existing dwelling on site was approved to be converted into the Managers Residence. The dwelling is in poor condition and would require significant renovation for it to match the standard of the proposed villas to be constructed on site. The conversion of this dwelling into a managers dwelling will look out of place with the remainder of the site, therefore it is now proposed to transform this dwelling into a site office.

### **Proposed new Managers Residence**

A new Managers Residence is now proposed to be constructed on site. The proposed Managers Residence will include a single level of living area consisting of four (4) bedrooms with a surrounding verandah and a carport. Storage/garages will be located underneath the proposed dwelling as a result of responding to the topography of the site. The dwelling will be 7950mm in height to the ridgeline.

The dwelling will be constructed of horizontal weatherboard cladding, timber balustrade for the surrounding verandah and a colorbond roof. A BASIX certificate is provided for the proposed Managers Dwelling and is included in this development application.

### **Conditions to be modified**

The following conditions are proposed to be modified:

#### Site Planning

3. *The emergency access path shall be relocated a minimum of 5-10m and variable from the eastern property boundary.*

*Prior to the issue of any Construction Certificate, final details of the emergency access path shall be submitted to, and approved by Council. The emergency access path details shall include the final*

*setbacks, long section, and cross sections of the proposed emergency access road including any earthwork measures such as retaining or batters required.*

Comment

It is proposed to delete this condition as there is no need for the emergency access path to be relocated. The purpose of this modification is to amend the proposed layout which has resulted in the relocation of the proposed emergency access road however, its relocation is a consequence of the proposed modification. The condition is therefore unnecessary and becomes obsolete.

The emergency access path is provided for emergencies only. The RFS did not require the emergency access to be relocated and there is no sound planning reason for this condition to be included in the Schedule of Conditions. The condition was not a requirement of the RFS.

It is therefore proposed to delete this condition.

- 18d) *Prior to the issue of a Construction Certificate separate private courtyard facilities for all units with ground level access from the living area of a minimum of 15m<sup>2</sup> shall be provided for each dwelling that is located clear of the covered alfresco area.*

Comment

The unit design has now been amended from up and down units to single storey dwellings.

Clause 50 of the SEPP provides standards that cannot be used to refuse development consent for self-contained dwellings. Clause 50(c) requires a minimum of 30% of the site area to be landscaped. 89.2% of the site will be landscaped.

Clause 50(f) Private Open Space for in-fill self-care housing is not applicable to this proposal as the development is not for infill self-care housing.

The proposal complies with the requirements of Clause 50 of the SEPP and it is not considered necessary that additional consent conditions are included for this proposal for private open space. It is therefore requested that this condition be removed from the Schedule of Conditions attached to the Notice of Determination.

- 18f) *Species with a minimum mature height of 8m shall be planted within the development footprint as street trees and within open space, including adjacent to pedestrian paths. Trees located in proximity of infrastructure including internal roads, service lines and the like shall use appropriate root barrier techniques to minimise the risk of damage. Note: the intent of this condition is to mitigate the impact*

*of the built form by ensuring that the roofline of dwellings sits below vegetation and landscaping on site.*

Comment

It is unreasonable and unnecessary to plant trees 8m in height within the development footprint. An eight (8) metre high tree is an extremely large tree and should not be planted in residential precincts particularly in a Retirement Village for the safety of the residents. It is proposed that the minimum mature height contained within this condition be deleted.

18g) *The use of mature species (minimum 50% of plantings) within the landscape strategy for the site at the time of planting.*

Comment

The site is extremely large and it is unreasonable and unnecessary for a minimum of 50% of plantings be mature species. A landscape plan is provided which allows for generous landscaping of the site. It is requested that this condition be deleted from the conditions of consent.

## **4. STATUTORY PLANNING PROVISIONS**

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### **4.1. SECTION 4.55 AMENDMENT JUSTIFICATION**

It is considered that the modifications to the development can be undertaken via a s4.55 amendment. Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 states:

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*

*it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

*it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

*(c) it has notified the application in accordance with—*



*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

This application is considered to be a s4.55 (2) modification application as the proposed modification is considered to be substantially the same development as the development for which the consent was originally granted.

The changes proposed include amending the staging plan, amending the unit design, amending the proposed layout and modifying the conditions of consent included in the Schedule of Conditions.

The proposed modification is considered a positive outcome and an improvement to the layout originally approved by Council by taking into consideration Council's conditions of consent, the topography of the land and future resident needs.

This Section 4.55(2) application is considered to be relatively minor in nature. There are no new environmental issues created by this amendment. By reducing the height of the proposed dwellings and proposing single storey villas instead of upper and downer dwellings and repositioning these dwellings away from the Eastern property boundary, the impact of this development on adjoining properties is thereby reduced.

This Section 4.55(2) application is therefore appropriately considered to be relatively minor in nature with no new environmental impacts expected to occur as a result of this modification.

With regard to the threshold test of being "substantially the same development", the following is noted:

1. The proposed land use is unchanged.
2. Changes to the layout are proposed to comply with Council's conditions of consent.
3. Changes to the unit design are proposed to comply with Council's conditions of consent and will provide adequate solar access and private courtyard facilities to all units.
4. Changes to the staging of the development are minor and are proposed as a result of the above amendments.
5. Less impacts are expected as a result of the proposed changes.
6. No new impacts are anticipated.

Thus, it is submitted that the development as proposed to be modified will be substantially the same development as the development for which consent was originally granted by Council and is therefore considered to be a section 4.55 (2) amendment to the original DA.

#### **4.2. STATE ENVIRONMENT PLANNING POLICIES**

The new State Environmental Planning Policy (Housing) 2021 (Housing SEPP) has replaced SEPP (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP).

Clause 2(d) of Schedule 7 of the Housing SEPP, Savings and Transitional provisions states:

*2 General savings provision*

*The former provisions of a repealed instrument continue to apply to the following-*

*(a) A development consent granted on or before the commencement date.*

DA2020/387 for the Seniors Housing development was approved on 9th February 2021. Therefore, SEPP (Housing for Seniors and People with a Disability) 2004 applies to this modification.

#### **Chapter 1 - Preliminary**

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 controls the location and design of seniors accommodation across the state of New South Wales.

The original proposal has been assessed in accordance with the SEPP. This application is for a modification only and does not include the site compatibility certificate or site related requirements as those elements of the SEPP are not relevant to this modification.

#### **Part 2 Site-related requirements**

##### **Clause 26 Location and access to facilities**

This application is a modification to DA 2020/387 previously approved by Council. No changes to location and access to facilities is proposed.

##### **Clause 27 Bush Fire Prone land**

Clause 27(1) of the SEPP refers to Bushfire Prone Land. The site is identified as Bushfire Prone Land and a Bushfire Threat Assessment was prepared as part of the original DA for the land and consultation has previously been undertaken with the RFS.

A revised Bushfire Threat Assessment Report has been prepared for the proposed modification and is attached to this application. The report made the following recommendations:

- All proposed buildings will be constructed to the requirements of BAL-12.5.

- APZs are required in accordance with Table 4-1 and Figure 4-1 of this report between the surrounding Grassland vegetation and the proposed dwellings.
- The proposed access internal road is to meet either the performance criteria or acceptable solutions as detailed in Section 6 of this report and Section 4.1.3 (1) of PBP as assessed and approved in the GTAs issued by the RFS for the approved Retirement Village.
- A Bush Fire Emergency Management and Evacuation Plan is prepared.

This proposal complies with the requirements of Planning for Bush Fire Protection 2019 (NSW RFS, 2019), AS3959-2018 Construction of Buildings in Bush Fire prone Areas.

The proposal meets the requirements of SEPP (Housing for Senior or People with a Disability) 2004.

### **Clause 28 Water and Sewer**

Water and Sewerage services to the site are provided by Hunter Water.

### **Part 4 Development standards to be complied with**

#### **Division 1 General**

#### **40 Development standards – minimum sizes and building height**

##### **(1) General**

The consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

##### **(2) Site size**

*The site must be more than 1000m<sup>2</sup> in size.*

The site is 30.62 ha in size.

##### **(3) Site frontage**

*The site frontage must be a minimum width of 20 metres.*

The site frontage is more than 200 metres in length.

##### **(4) Height in zones where residential flat buildings are not permitted**

*The height of all buildings must be 8 metres or less and not exceed 2 storeys. All single storey buildings only in rear 25% of site.*

Height is defined in the SEPP as “the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.”

All buildings on site, including the community centre are less than 8 metres in height and do not exceed 2 storey in accordance with the height definition in the SEPP.

**(5) Development applications to which clause does not apply**

*The above subclauses do not apply to a development application made by the Department of Housing or any other social housing provider.*

This proposal is not made by the Department of Housing or any other social housing provider.

This assessment concludes that the project complies with Part 4 of the SEPP.

**Division 3 Hostels and self-contained dwellings – standards concerning accessibility and useability.**

**41 Standards for hostels and self-contained dwellings**

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.*

**Schedule 3 Standards concerning accessibility and useability for hostels and self-contained dwellings.**

**1. Application of standards in this Part**

Part 1 of the Schedule applies to self-contained dwellings and is summarised as follows.

**2. Siting Standards**

Every pathway on site is under the 1:14 grade (7%) and will provide a continuous path of access to all dwellings and all facilities on the site in accordance with AS 1428.1. The plans comply with the standards and any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

**3. Security**

A detailed lighting plan will be prepared by a suitably qualified consultant to demonstrate compliance with the standard. This lighting plan shall be submitted in conjunction with the application for a Construction Certificate.

**4. Letterboxes**

Plans and specifications detailing compliance with the standard to be submitted with the Construction Certificate Application.

**5. Private Car Accommodation**

Car parking spaces will comply with the requirements for parking for persons with a disability set out in AS 2890 with 5% of the total number of car parking spaces to be designed to enable the width of the spaces to be increased to 3.8 metres. All garages will have a power operated door.

**6. Accessible Entry**

All entries will be designed to meet the requirements of clause 4.3.1 and 4.3.2 of AS 4299. The plans comply with the standards and any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

**7. Interior general**

The plans comply with the standards and any further plans and specification detailing compliance with the standard for internal doorways, corridors and circulation space will be submitted with the Construction Certificate Application.

**8. Bedroom**

All bedrooms are designed to meet the specifications of the SEPP. Any further plans and specification detailing compliance with the standard for bedrooms will be submitted with the Construction Certificate Application.

**9. Bathroom**

Any further plans and specification detailing compliance with the standard for bathrooms will be submitted with the Construction Certificate Application.

**10. Toilet**

All buildings will have single storey access. Any further plans and specification detailing compliance with the standard for toilets will be submitted with the Construction Certificate Application.

**11. Surface Finishes**

All balconies and external paved areas will have slip-resistant surfaces. Any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

**12. Door Hardware**

Door handles and hardware for all doors (including entry doors and other external doors) will be provided in accordance with AS 4299. Any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

**13. Ancillary Items**

Switches and power points will be provided in accordance with AS 4299. Any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

**Part 2 – Additional standards for self-contained dwellings**

**15. Living Room and Dining Room**

The living room and dining room of the proposal will comply with the requirements of the SEPP in terms of circulation space, telephone outlet and suitable illumination. Any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

**16. Kitchen**

The kitchen will comply with the SEPP in terms of circulation space, fitting, handles and general power outlets. Any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

**17. Access to kitchen, main bedroom, bathroom and toilet**

All dwellings on site will have single storey access.

**18. Lifts in multi-storey buildings**

Not applicable

**19. Laundry**

The proposal will meet the requirements for a laundry as contained within the SEPP including circulation space, installation of an automatic washing machine and clothes dryer and slip resistant floor surface. Any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

## **20. Linen Storage**

All units have linen storage as required in the SEPP. Any further plans and specification detailing compliance with the standard will be submitted with the Construction Certificate Application.

## **21. Garbage**

A garbage storage area will be in an accessible location and further details to the location will be submitted with the Construction Certificate Application.

This assessment concludes that the project will comply with Schedule 3 of the SEPP.

### **Part 7 Development standards that cannot be used as grounds to refuse consent**

#### **Division 4 – Self-contained dwellings**

#### **50 Standards that cannot be used to refuse development consent for self-contained dwellings**

Clause 50 refers to standards that cannot be used to refuse development consent for self-contained dwellings and is summarised below:

*(a) Building Height must be below 8 metres*

As discussed above, all buildings on site are less than 8 metres in height.

The proposed building height complies with the SEPP.

*(b) Density and Scale - floor space ratio (FSR) shall not exceed 0.5:1.*

The FSR is 0.03:1 which complies with the SEPP.

*(c) Landscaped area – a minimum of 30% of the site to be landscaped.*

89.2% of the site area is designated for landscaping which far exceeds the requirements of the SEPP.

*(d) Deep Soil Zones*

The proportion of the site that is not developed in terms of building footprints, roads, driveways, pathways or paved areas and is considered a deep soil zone which includes garden beds and lawns is more than 15% of the total site area.

This proposal complies with the requirements of the SEPP.

(e) *Solar Access*

The units have been designed to allow adequate daylight to the main living areas. The SEPP requires that a minimum of 70% of the living rooms and private open spaces of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-Winter. Refer to plans attached.

100% of the dwellings on site will have at least three (3) hours of sunlight to main living areas.

The proposed dwellings meet the minimum solar access requirements of the SEPP.

(f) *Private Open Space for in-fill self-care housing*

Not applicable. Condition 18b is proposed to be deleted as it is no applicable to this DA.

(h) *Parking – 0.5 car spaces are required for each bedroom*

Required car parking for residents: 94 bedrooms x 0.5 spaces per bedroom = 47 spaces

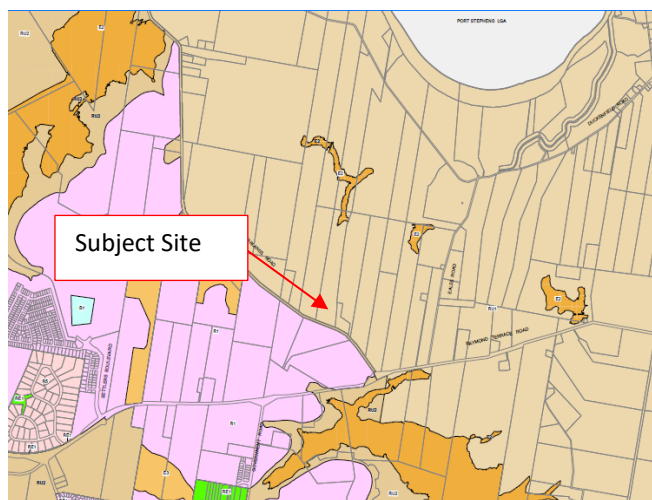
Car parking provided: 113 car parking spaces including parking at Community Centre

The proposal complies with the car parking requirements of the SEPP.

This assessment concludes that the project complies with Division 4 of the SEPP.

#### 4.3. MAITLAND LOCAL ENVIRONMENTAL PLAN 2011

The subject site is zoned RU1 Primary Production and E2 Environmental Conservation pursuant to Maitland LEP 2011. A copy of the zoning map is shown as **Figure 1** below.



**Figure 1: Zoning Map Maitland LEP 2011**



The objectives of the RU1 Primary Production zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The subject site and surrounding lands are not identified as regionally significant agricultural lands. The site is devoid of vegetation, lacks physical constraints and is not suited to regular cultivation.

The site directly adjoins land zoned primarily for urban purposes in accordance with Maitland LEP 2011. The location of the site with respect to the necessary infrastructure and support services makes this land for Seniors Living an appropriate use of the land.

Residential development is occurring directly across the road from the site. The proposed buildings have been designed to have a positive impact on the surrounding area in terms of appearance, scale, bulk and character which responds to the topography of the site and blends with the character of the surrounding area.

The use will not create unreasonable or uneconomic demands for the provision or extension of public amenities or services. All services will be provided on site as part of this development. The proposed modification will not alter the purpose of this development.

No change to the proposed use is proposed as a result of this modification.

The proposed modification meets Council's objectives of the RU1 Primary Production zone pursuant to Maitland Local Environmental Plan 2011.

There are no other provisions of the Maitland LEP 2011 that are applicable or impacted by the proposed modification.

#### **4.4. MAITLAND DEVELOPMENT CONTROL PLAN 2011**

The Maitland Development Control Plan (DCP) 2011 provides all relevant guidelines to enable preparation of a DA for assessment by Council.

The proposed modification is to amend the Seniors Living Facility approved on the site as detailed in this modification application.

The requirements of Maitland DCP 2011 are not relevant to this modification.

## 5. LIKELY IMPACTS OF THE DEVELOPMENT

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This proposal is to modify DA2020/387 by amending the design of the proposed units, the layout of the proposed development, modifying the staging plan and constructing a new managers residence for the approved Retirement Village at Lot 1 DP 797227, Lot 13 DP 11226878 and Lot 14 DP 1122688, 40-54 McFarlanes Road Berry Park.

The modification also includes amending conditions of consent included in the Schedule of Conditions attached to the Notice of Determination as detailed in this development application.

The proposed modification is minor in nature and will have a positive impact in the area by reducing the number of stages proposed and constructing units on site that respond better to the topography of the land resulting in better solar access and private open space for all units.

The proposal will generate an exemplary urban response to the topography of the site and responds to the surrounding area and adjoining development. The proposal provides a scale and amenity commensurate with the surrounding environment.

The proposal will not affect the visual, acoustic, recreational or social amenity of any neighbouring property.

The proposal will not affect any flora or fauna on site as no additional clearing of the site is proposed.

The proposal will not create or permit any adverse impacts on air or microclimate of the area. The development will not create any adverse impacts on the soil, surface water or ground water of the area.

The proposed use will not create any additional adverse noise impacts in the area or adverse impacts from the generation of waste.

The proposal will create a positive impact on the public domain by providing additional residential stock to the local community.

## 6. SUITABILITY OF THE SITE FOR THE PROPOSAL

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The site has been assessed as being suitable for the proposed development for the following reasons:

- This modification proposes to amend the dwelling design and layout to suit the topography of the land to provide better solar access and private open space to all units.
- The amendment entails reducing the number and configuration of stages proposed to construct the seniors living facility approved on the site.
- The proposal was approved by Council on 9<sup>th</sup> February 2021 pursuant to DA2020/387 and the proposed modification is substantially the same development as originally approved being a Retirement Village.

- The site will provide housing facilities to residents over 55 years of age.
- No environmental impacts are anticipated as a result of the proposed amendment.
- The proposal is considered suitable for this site.

It is determined that the site is suitable for development as proposed in this S4.55 (2) application.

## **7. THE PUBLIC INTEREST**

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The proposal is to amend the design of the proposed units, the layout of the proposed development, modify the staging plan and construct a new managers residence for the approved Retirement Village on the site. The modification also includes amending conditions of consent included in the Schedule of Conditions attached to the Notice of Determination as detailed in this development application.

No environmental impacts are anticipated as a result of the proposed modification.

The proposed changes better suit the topography of the site and provide a greater building setback from the eastern property boundary. The proposal will have a positive impact on the locality and is therefore considered to be in the public interest.

## **8. SUMMARY**

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On 9<sup>th</sup> February 2021, Maitland City Council approved DA 2020/387 SEPP Seniors Living (Retirement Village) – 95 Self Care Dwellings, Community Centre, Mens Shed and Associated Infrastructure (Staged).

It is now proposed to amend the design of the proposed units, the layout of the proposed development, modify the staging plan and construct a new managers residence for the approved Retirement Village on the site. The modification also includes amending conditions of consent included in the Schedule of Conditions attached to the Notice of Determination as detailed in this development application.

The changes proposed are compatible with the intent and application of the original consent. The main intent of the s4.55 application is that the proposed changes to which the application modifies is substantially the same development as the development for which the consent was originally granted. Therefore, it is appropriate that the amendments should be undertaken in accordance with Section 4.55 (2) of the Environmental Planning and Assessment Act 1979.

Overall, it is considered that the proposed modification is consistent and substantially the same as the original consent and therefore, warrants the support of Maitland City Council.