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Statement of Environmental Effects

Demolition of proposed Day Respite Facilities

Modification Application DA 08-2335

at

Closebourne Village

365 Morpeth Road, Morpeth

July 2022

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3 INTRODUCTION

3.1 SUMMARY

Site Details	
Address	365 Morpeth Road, Morpeth (Site)
Property Description	Lots 4 DP 270740
Local Government Area	Maitland City Council
Current Use	Retirement Village

General Details	
Applicant	LL RV (Closebourne) Pty Ltd
Proposal	<p>Modification of the Master Plan to delete the reference to the Day Respite Facility on the Concept Plan and Landscaping Masterplan.</p> <p>This Modification is requested so that the Master Plan is consistent with the Development Application lodged for the demolition of the Day Respite Facility buildings.</p>
Application Type	Modification Application
Level of Assessment	Integrated Development
Consent Authority	Maitland City Council
Key Applicable Codes	Maitland LEP 2011 (MLEP) Maitland DCP 2011 (MDCP)

3.2 BACKGROUND

This application has been prepared pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (Act) and seeks to modify Development Consent DA 08-2335 (Master Plan) for the Staged Aged Care and Residential Development relating to Lots 1-7, DP 27070740, Lots 1-13, DP280040 and Lots 1-22, DP 280039 Morpeth Road, Morpeth (Site) to Delete the Day Respite Facility and update Landscaping Masterplan accordingly.

This Modification is requested so that the Master Plan is consistent with the Development Application lodged for the demolition of the Day Respite Facility buildings.

The Master Plan was approved by Maitland Council on 14 July 2009 and broadly provides for a range of land uses including;

- Nursing home, high care and dementia, plus day respite care, in and around the Closebourne House area, surrounded by curtilage open space;
- Retirement living, including reuse of Morpeth, village open space, adaptive reuse of Robinson House and Principal Lodge, with up to 277 dwellings; and
- Residential lots (14 residential lots and 21 farmlet lots, in two locations).

The Master Plan has been modified over the years with the most recent Modification approved on 22 February 2022 to increase the number of villas in the Oval Precinct to 14.

This is the current version of the Master Plan.

The purpose of this SEE is to describe the proposal, review the relevant planning requirements relating to it and provide an assessment of the proposed development in terms of the Criteria prescribed under the Act.

3.3 SITE DESCRIPTION & LOCALITY

The overall Site consists of approximately 40Ha of land, comprising a number of lots, bounded by Morpeth Road to the north, Tank Street to the east and rural residential development and dwelling houses to the south and west.

The Site is listed on the NSW State Heritage Register (Item 00375) and includes Closebourne House, Morpeth House and the landscape setting.

The Site is currently being developed and used as a Retirement Village, Residential Lots and Farmlets in accordance with Master Plan (DA08-2335) that was approved on 14 July 2009.

Location maps showing the Site in a regional and local context are set out below in the following Figures.

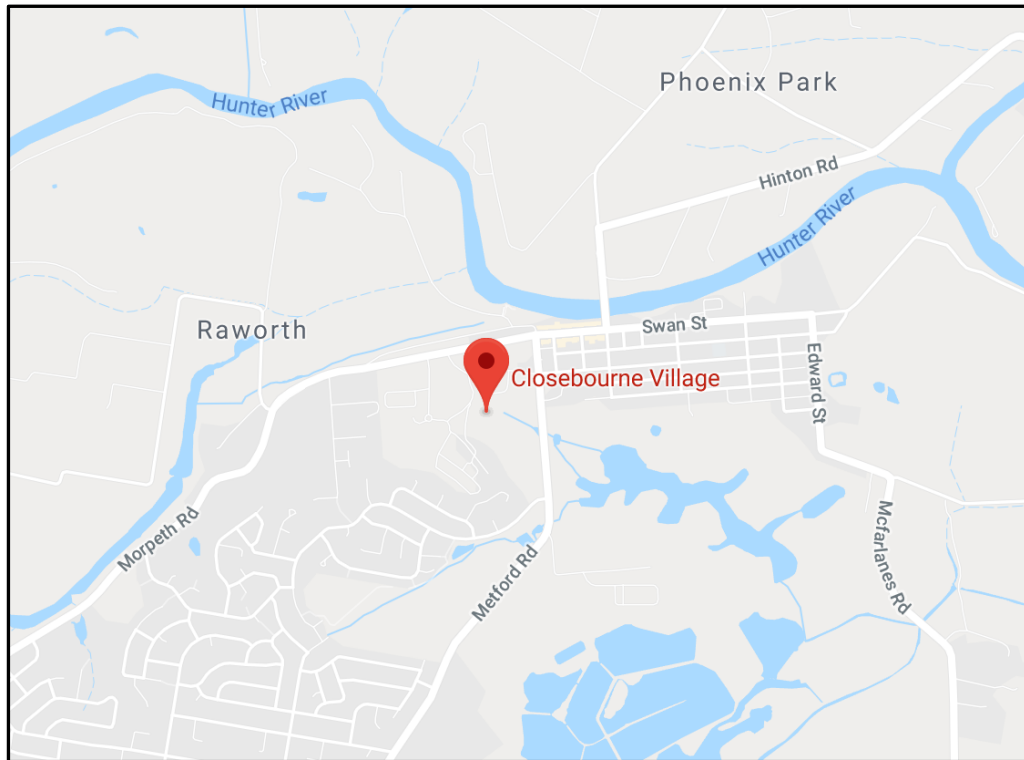


Figure 1 - Regional Context Map

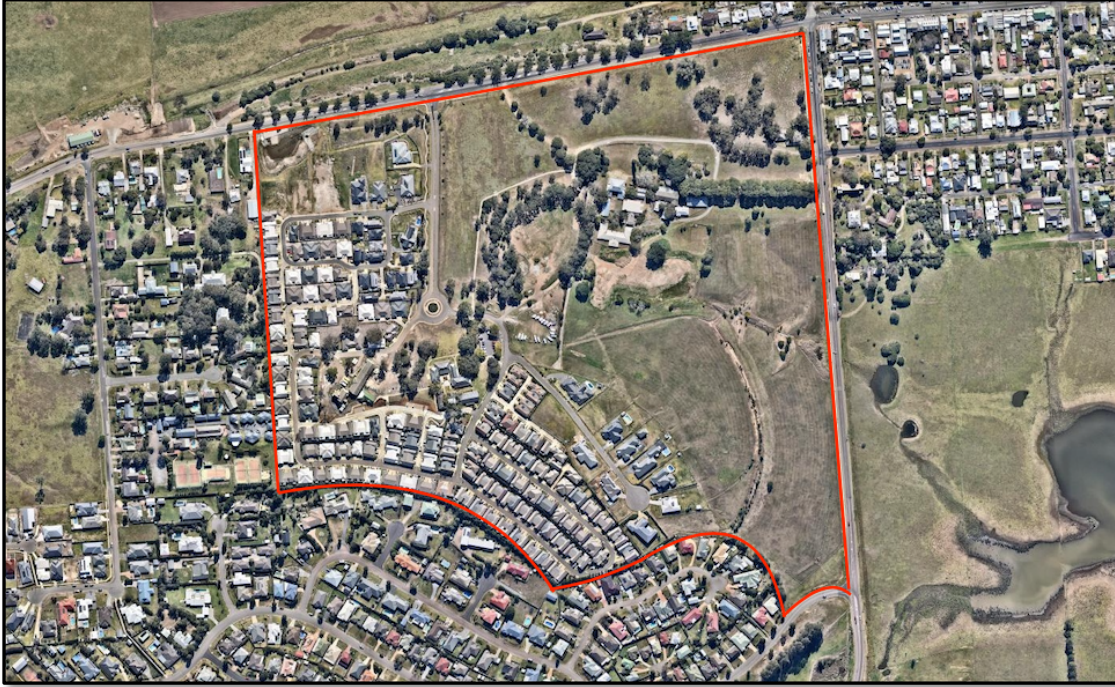


Figure 2 - Aerial Photograph of the entire Site (edged in red)

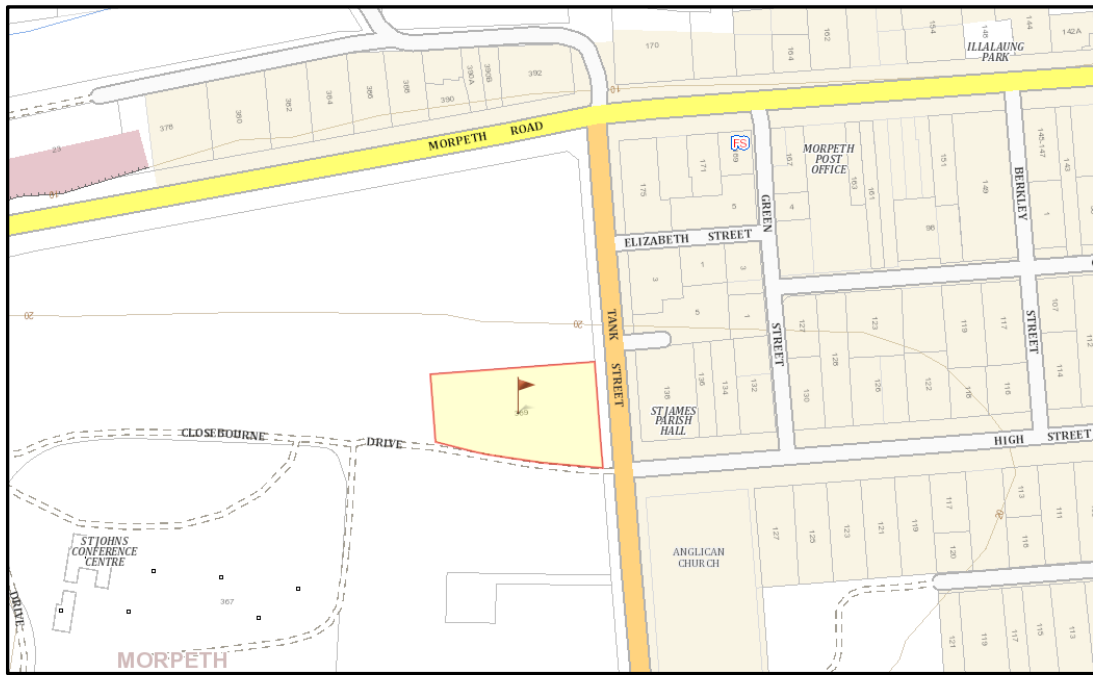


Figure 3 – Location of Day Respite Facility Buildings



Figure 4 - Aerial of Day Respite Facility Buildings

The proposed amendments subject to this Application are located on the Lot 4 DP 270740.

The buildings are located adjacent to Tank Street, on the western side of its intersection with High Street.

At the time of approval of the Master Plan, the buildings were planned to be used as a Respite Facility associated with the high care nursing home approved in the Closebourne House Precinct.

However, the model of care has changed, and the buildings are no longer appropriate for this use and they are in very poor condition, suffering from termite damage and vandalism.

As such a development application has been lodged to demolish these buildings and, pending approval of this application, the Concept Plan needs to be modified to remove the buildings from the relevant plans.

At the pre-lodgement meeting on 1 July 2022, there was discussion regarding the role of the path to the south of the buildings.

This path is a path shown on both the current approved Master Plan and current Approved Landscape Master Plan and this application proposes no change to the path and, as such, it is not part of this application.

We note that there is a Condition of Consent that prohibits Tank Street being used for vehicular access and that the path is not included in the Temporary Events Consent as part of the Traffic Management Plan.

4 LEGISLATIVE FRAMEWORK

Section 4.55 of the Act relates to the modification of consents stating:

(1A) Modifications involving minimal environmental impact

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—

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), 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 any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.

Clause 100 of the Environmental Planning and Assessment Regulation 2021 (Regs) establishes several requirements relevant to this application. These relevant requirements are as follows:

- (1) A modification application must contain the following information—*
- (a) the name and address of the applicant,*
 - (b) a description of the development that will be carried out under the development consent,*
 - (c) the address and folio identifier of the land on which the development will be carried out,*
 - (d) a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved,*
 - (e) whether the modification is intended to—*
 - (i) merely correct a minor error, misdescription or miscalculation, or*
 - (ii) have another effect specified in the modification application,*
 - (f) a description of the expected impacts of the modification,*
 - (g) an undertaking that the modified development will remain substantially the same as the development originally approved,*
 - (h) for a modification application that is accompanied by a biodiversity development assessment report — the biodiversity credits information,*
 - (i) if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,*

This SEE and Application specifically addresses the requirements of the Act and Regs.

5 DESCRIPTION OF THE PROPOSED MODIFICATIONS

The Master Plan approved the buildings to be used for “Day Respite Facility”. However, given it is proposed to demolish these buildings, the proposed modification to the development consent proposes to delete the reference to the Day Respite Facility on the Concept Plan and Landscaping Masterplan.

This Modification is requested so that the Master Plan is consistent with the Development Application lodged for the demolition of the Day Respite Facility buildings. Extracts from the current approved plans and the proposed plans are included in the following Figures.

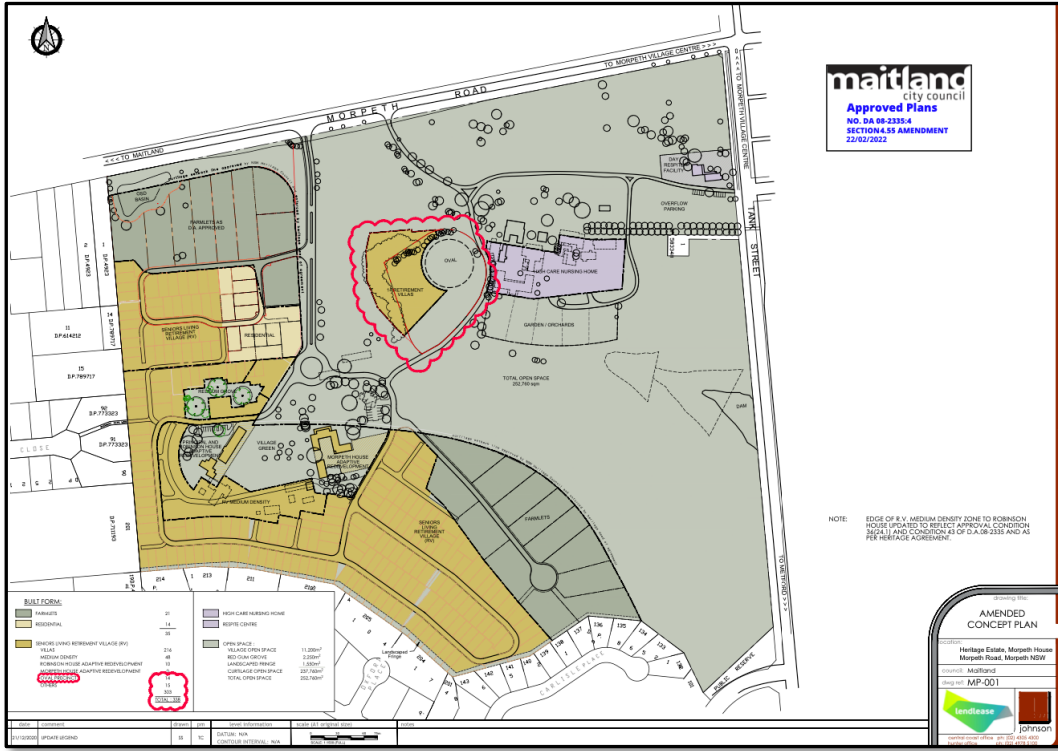


Figure 5 - Extract from the current Master Plan

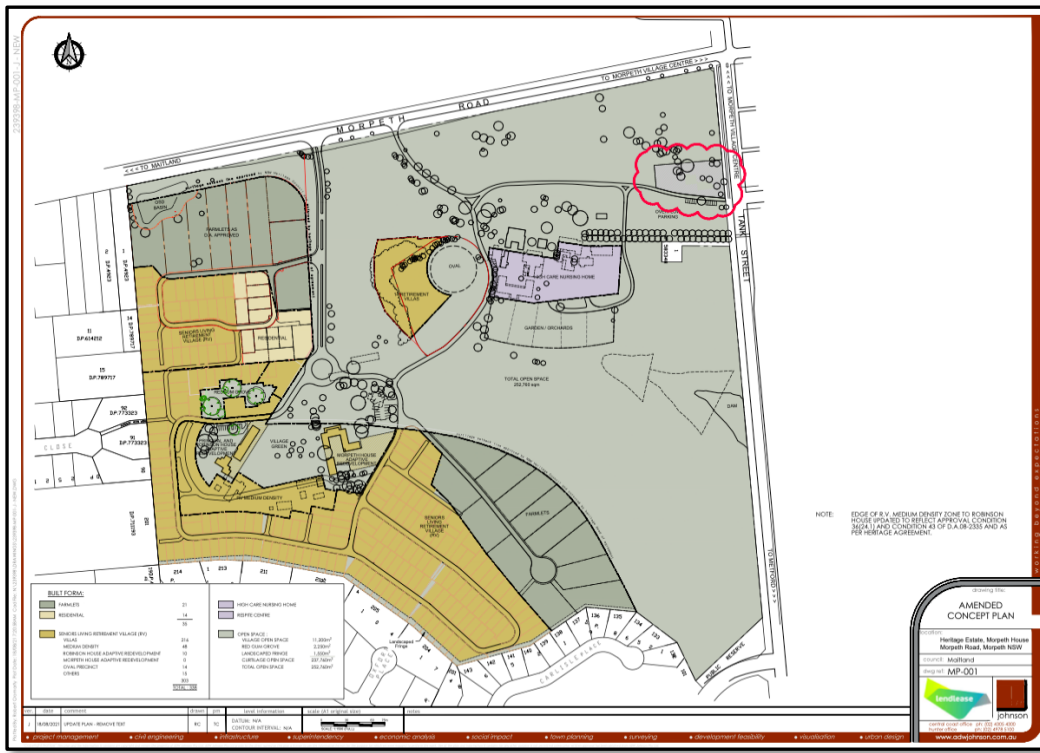


Figure 6 - Extract from Proposed Master Plan

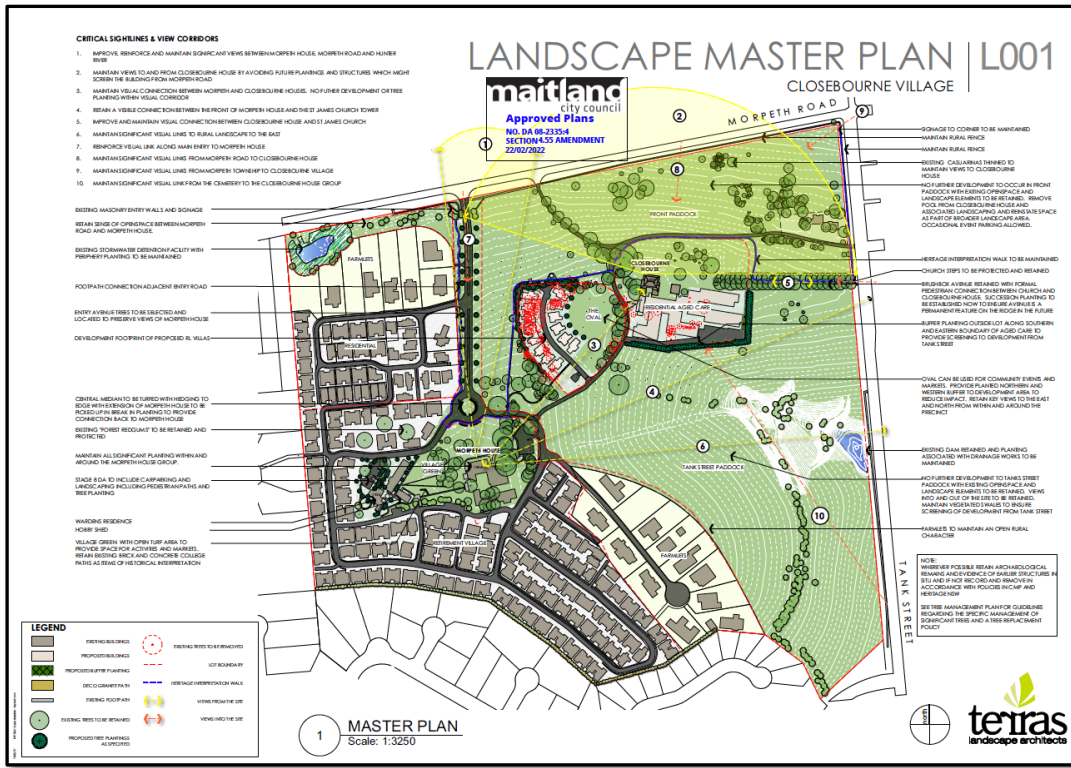


Figure 7 - Approved Landscape Master Plan

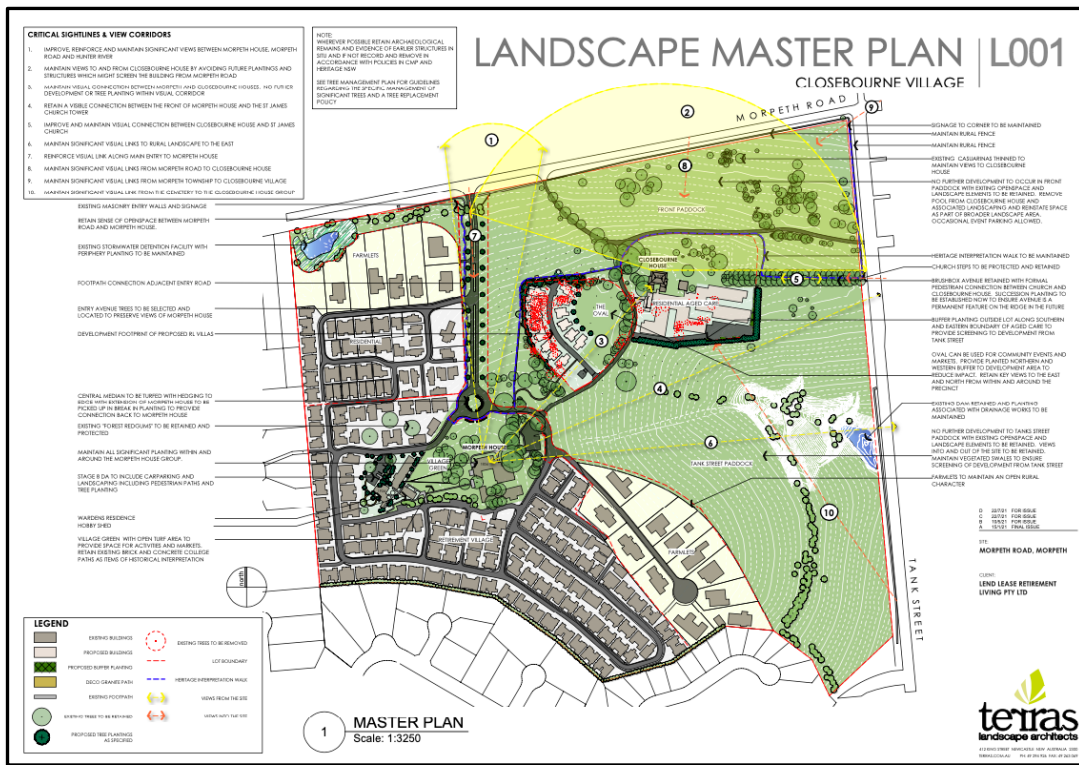


Figure 8 - Extract from updated Landscape Master Plan

6 EFFECT OF MODIFICATION

The proposed modification will delete the reference to the Day Respite Facility and buildings shown on the approved Concept Plan and Landscape Master Plan.

7 DESCRIPTION AND ASSESSMENT OF IMPACTS

Section 4.55 (1A) of the EP&A Act states that a consent authority may modify a development consent if "*it is satisfied that the proposed modification is of minimal environmental impact*". Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

Compliance with Environmental Planning Instruments

The consistency of DA 08-2335 with the relevant legislation, environmental planning instruments, policies and guidelines was considered as part of the original Development Application. The proposed modification does not greatly change the original assessment against the relevant plans, policies and guidelines; however the following is noted:

- The proposal will not adversely impact on the heritage significance of the NSW State Heritage Register (item number 00375) Morpeth House; and
- The proposal will comply with Council requirements and Australian Standards in relation to demolition.

Considering the above, it is considered that the proposal is consistent with the Master Plan approval.

Traffic and Transport

Vehicular access to the overall Site remains unchanged and the proposal will result in less traffic in this section of the Site.

As such the proposal will not result in any adverse traffic impacts within the Morpeth Heritage Estate or the surrounding road network.

Heritage

The Site contains several local and state heritage items:

- The Closebourne Estate is listed on the State Heritage Register (State Heritage Item 00375).
- The Morpeth House, Closebourne House, adjoining chapels and Diocesan Registry group is of State Heritage Significance and is listed in Schedule 5 Environmental Heritage of the MLEP 2011 (Item 201).
- The Closebourne House and adjoining Chapel and Diocesan Registry (former) is of State Heritage Significance and is listed in Schedule 5 Environmental Heritage of the MLEP 2011 (Item 202).
- The Former Diocesan Registry is of state heritage significance and is listed in Schedule 5 Environmental Heritage of the MLEP 2011 (Item 203).

A Heritage Impact Statement has been prepared by Placemark Consultants and accompanies the concurrent Development Application for the demolition and this assesses and supports the Application.

Archaeology

Previous studies have not identified any specific archaeological potential for the precinct and there is no excavation proposed.

However, as with all previous Stages, it is recommended that all work should be subject to archaeological management and monitoring to protect any potential archaeological resources that may be uncovered.

Assessment Conclusion: Minimal Environmental Impact

In summary, Council can be satisfied that the proposed modifications will have minimal heritage and general amenity impacts.

It is considered that the consent authority can assess and determine the application under Section 4.55(1A) on the basis that the proposed modification will clearly have minimal environmental impact within the Site and on the surrounding area.

8 SUBSTANTIALLY THE SAME DEVELOPMENT

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development 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 the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- continues to relate to the approved land uses in the Morpeth House Heritage Estate Master Plan;
- will not have an adverse impact on existing traffic within the Closebourne Village Estate or the surrounding local road network and the approved major road accesses remain unchanged; and
- will not give rise to any adverse environmental impacts.

9 VARIATIONS TO CONDITIONS OF CONSENT

Only minor changes to the conditions are required to facilitate the proposed modifications.

These are shown below with words to be deleted shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

APPROVED PLANS AND DOCUMENTATIONS

- 1 The development shall be carried out in accordance with the stamped approved plans and documentation and any amendment arising through conditions of consent or as shown in red colour on the plans.

Plan Description	Sheet No.	Rev No.	Revision Date	Prepared by: (Consultant)
Amended Concept Plan Heritage Estate, Morpeth House Morpeth Road, Morpeth NSW	MP-001 MP-001	H J	21 December 2021 18 August 2021	ADW Johnson
Landscape Master Plan	L001	D	10 May 2021 22 July 2021	Terras Terras

10 CONCLUSION

The proposed modification proposes to delete the reference to the Day Respite Facility Buildings on the Concept Plan and Landscaping Masterplan.

This Modification is requested so that the Master Plan is consistent with the Development Application lodged for the demolition of the Day Respite Facility buildings.

These proposed modifications will enhance the approved development by facilitating more open space in a key view corridor and improving the rural outlook.

It will not have no impacts on the surrounding land uses.

In accordance with section 4.55(1A) of the EP&A Act, the Council may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- the development, as proposed to be modified, is substantially the same development as development for which the consent (DA 08-2335) was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.



Craig McGaffin
Town Planner – BTP
Lawyer - Dip Law

