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Statement of Environmental Effects

Modification Application DA 08-2335

at

Closebourne Village

365 Morpeth Road, Morpeth

May 2021

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3 INTRODUCTION

3.1 SUMMARY

Site Details	
Address	365 Morpeth Road, Morpeth (Site)
Property Description	Lots 2 & 7 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;</p> <ul style="list-style-type: none"> - Amend the boundary of the Oval Precinct; - Change the notation on the Oval Precinct from "Retirement Village Community Facilities and 3 x Units relating to Retirement Village" to "14 independent living units" and - Update Landscaping Masterplan. <p>This Modification is requested so that the Master Plan is consistent with the Development Application lodged for 14 independent living units and subdivision at this location and to update the Master Plan to reflect the overall progression and development of the project on the Site.</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 increase the number of retirement villas in this location from 3 to 14, adjust the boundary of the Oval Precinct and to update the Landscape Master Plan.

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 since been modified on 26 April 2017, as follows:

- DA 08-02335 MOD 1 – Modification to delete the requirement for external works from the Master Plan relating to Tank Street and alter the mix of retirement villas and residential lots/farmlets was approved by Maitland Council on the 26 April 2017.

The purpose of this SEE is to describe the proposed development and review the relevant planning requirements relating to the proposal. It provides 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)

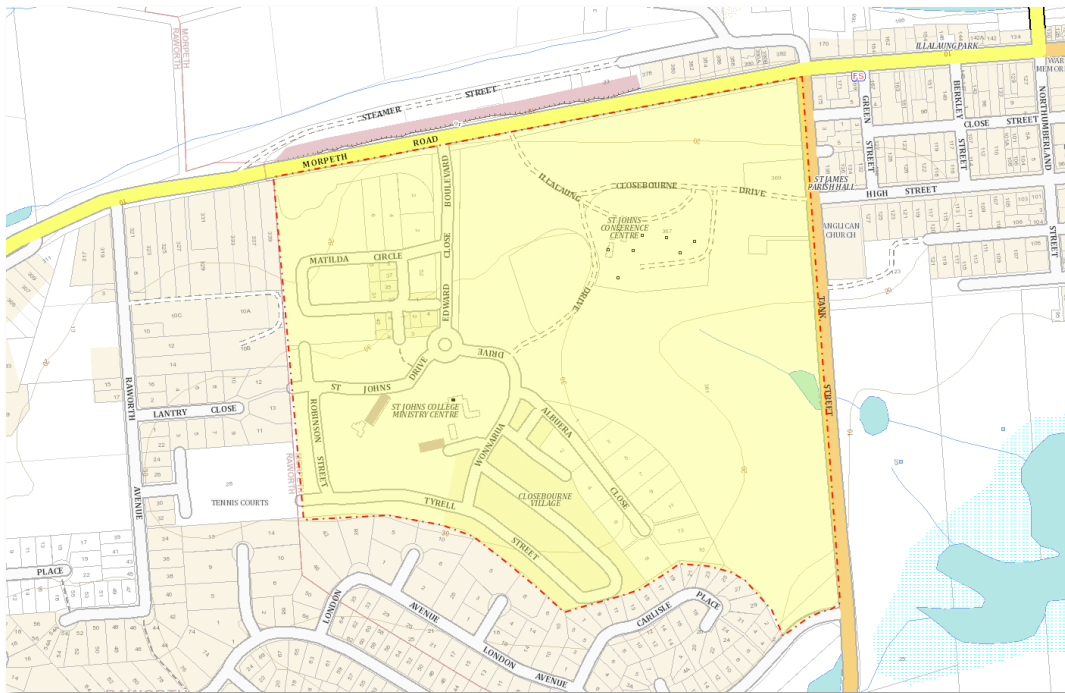


Figure 3 - Subject Site

The proposed amendments subject to this Application are located on the Ovals Precinct with is legally described as part Lot 2 and Part Lot 7 DP 270740,

The Oval Precinct is centrally located within the Site and is accessed via a network of internal roads. The entrance and egress to the internal road network is via Morpeth Road. The internal roads provide vehicular access to the precincts within the Closebourne Village Estate Vehicle access to the Oval Precinct is via Illalaung Drive.

The Precinct is largely cleared with the perimeter being surrounded by a stand of trees to the north, east and west of the oval.

As illustrated on the Survey Plan included with this DA, the topography varies across the Site with the highest points being RL 31 in the centre of the oval, and the low point of RL 25 in the south-eastern corner of the Site.

The Precinct is located within walking distance to bus stops that are serviced by 185 route, travelling to Maitland, Morpeth and Raworth.

The Oval Precinct is shown on the Figure below.



Figure 4 - Aerial of the Oval Precinct

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 115 of the Environmental Planning and Assessment Regulation 2000 (Regs) establishes several requirements relevant to this application. These are as follows:

115 Application for modification of development consent

- (1) An application for modification of a development consent 4.55 (1), (1A) or (2) or 4.56 (1) of the Act must contain the following information:*
 - (d) a description of the proposed modification to the development consent,*
 - (e) a statement that indicates either:*
 - (i) that the modification is merely intended to correct a minor error, misdescription or miscalculation, or*
 - (ii) that the modification is intended to have some other effect, as specified in the statement,*
 - (f) a description of the expected impacts of the modification,*
 - (g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,*

- (3) In addition, if an application for the modification of a development consent under section 4.55(2) or section 4.56(1) of the Act relates to residential apartment development and the development application was required to be accompanied by a design verification from a qualified designer under clause 50(1A), the application must be accompanied by a statement by a qualified designer.*

- (6) An application for the modification of a development consent under section 4.55(1A) or (2) of the Act, if it relates to development for which the development application was required to be accompanied by a BASIX certificate or BASIX certificates, or if it relates to BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 2A of Schedule 1 for it to be so accompanied), must also be accompanied by the appropriate BASIX certificate or BASIX certificates.*

This SEE has been structured to specifically address the requirements of the Act and Regs.

5 DESCRIPTION OF THE PROPOSED MODIFICATIONS - CL.115(D)

The Master Plan approved the Oval Precinct for "RV community facilities and 3x units relating to the RVs".

The proposed modification to the development consent proposes to;

- change the notation on the Oval Precinct from "Retirement Village Community Facilities and 3 x Units relating to Retirement Village" to "14 independent living units" and updating the Landscape Master Plan" and adjust the boundary of the oval precinct; and
- Update Landscaping Masterplan.

Extracts from the current approved plans and the proposed plans are included in the following Figures.

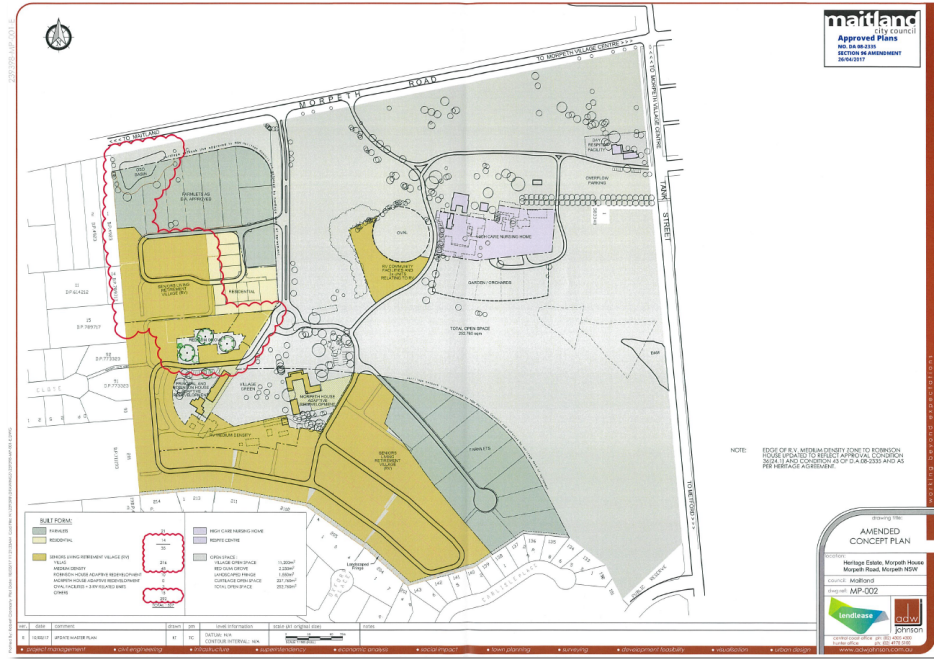


Figure 5 - Extract from the current Master



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 – CL.115(E)

The proposed modification will increase the size of the Oval Precinct, increase the number of approved independent living units on the Site by 11 and update the Landscape Master Plan to reflect the development of the Site.

7 DESCRIPTION AND ASSESSMENT OF IMPACTS – CL.115(F)

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 proposed use independent living units is consistent with the approved land use as seniors housing under the Master Plan.
- The proposed 14 independent living units will increase the supply of independent seniors living units within the Morpeth House Heritage Estate.
- The proposed 14 independent living units have been designed and located within the Oval Precinct to be integrated with the approved Master Plan and State Heritage Items.
- The proposal will not adversely impact on the heritage significance of the NSW State Heritage Register (item number 00375) Morpeth House.

- The proposal will comply with Australian Standards, Seniors Living SEPP and shall employ Crime Prevention Through Environmental Design (CPTED) principles in all elements of the design.
- The increase in the total independent living units from 244 to 255 will not have an adverse impact on traffic. In particular, the approved major road entrances or entrance and egress points remain unchanged.

In light of the above, it is considered that the proposal is consistent with the Master Plan approval.

Density

The net increase of 11 independent units results in only a marginal increase in density from 244 to 255 independent living units within the Morpeth House Heritage Estate.

Traffic and Transport

Vehicular access to the 14 independent living units will be provided from the internal roads that accessed from the main entrance located on Morpeth Road to the north.

The traffic generation from the 14 independent living units will not result in any adverse traffic impacts within the Morpeth Heritage Estate or the surrounding road network.

Heritage

The Site contains a number of 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 independent living units and this assesses and supports the Application.

Landscaping and Tree Removal

The proposed landscape design has the ability to incorporate the heritage significance and embellish the oval and surrounding areas and results in a significant increase in the number of trees.

The assessment of the trees and impacts are considered and assessed within the Arborist Report that accompanies the DA for the Villas and subdivision.

Archaeology

Previous studies have not identified any specific archaeological potential for the precinct, however, as with all previous Stages, it is recommended that all excavation should be subject to archaeological planning, 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 is able to 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 – CL.115(G)

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;
- results in a net increase of 11 independent living units marginally increasing the overall independent living units from 244 to 255 independent living units, (noting that 3 independent living units are already approved) representing a 4.5% increase in the total number of independent living units for 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 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-002 MP-001	E F	10.3.17 21.12.20	ADW Johnson
Landscape Plan			Nov-08	Oculus Terras

10 CONCLUSION

The proposed modification proposes to;

- change the notation on the Oval Precinct from "Retirement Village Community Facilities and 3 x Units relating to Retirement Village" to "14 independent living units" and updating the Landscape Master Plan" and adjust the boundary of the oval precinct; and
- update Landscaping Masterplan.

These proposed modifications will not substantially alter the visual appearance of the approved development or result in any significant changes to the impact of the development on surrounding land users.

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
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BTP Dip Law

