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| DATE OF DETERMINATION | 23 August 2019 |
| PANEL MEMBERS | Alison McCabe (Chair), Renata Brooks, Mark Grayson, David Brown and Michael Mantei |
| APOLOGIES | Pam Allan |
| DECLARATIONS OF INTEREST | Renata Brooks noted her membership of the Board of the NSW Biodiversity Conservation Trust did not create a conflict of duties. |

Papers circulated electronically between 16 August 2019 and 23 August 2019.

MATTER DETERMINED

2018STH015 – Wollongong – DA-2018/557 at 4 Lindsay Evans Place Dapto – seniors living development (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard (height of buildings)

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Wollongong Local Environmental Plan 2009 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 (development standard) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (development standard) of the LEP and the objectives for development in the R2 zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

1. The proposed development has merit and will make a valuable contribution to the local community.
2. The impacts of the proposed development generally, including impacts during the construction phase, have been properly assessed and are considered acceptable.
3. The design of the development and transport arrangements between the site and Dapto Town Centre will ensure that satisfy the requirements of clause 26 of SEPP (HSPD) 2004 and the residents of the proposed development will have access to the necessary services and facilities.

4. Appropriate conditions have been added or amended to secure ongoing access of residents to services and facilities, maximise the benefits of landscaping and tree retention without compromising bushfire protection, and improve external appearance of the residential aged care building.

CONDITIONS

The development application was approved subject to the conditions in the supplementary council assessment report received from Wollongong City Council on 14 August 2019 with the addition of the following conditions:

Restrictions on Title:

- (i). Public positive covenant and/restriction on use – transport, access to services, occupants and other matters

A public positive covenant and/or restriction on use (as appropriate) shall be created on the title of the land incorporating all of the requirements and obligations set out in condition below.

The terms of the public positive covenant and/or restriction on use are to be prepared to Council's standard requirements, at the applicant's expense, and are to be endorsed by Council prior to lodgement with NSW Land Registry Services.

Wollongong City Council shall be nominated as the party to release, vary or modify the covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim/final Occupation Certificate.

Reason: to ensure that the statutory requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 are met.






- Requirements for Transport:

- (ii). For the life of the development and at all times, the development is to be operated as follows:
 - a) A bus to be available for use by both the residents of the Residential Aged Care Facility and the Serviced Self Care Housing units, with a capacity of at least 12 seats and having wheelchair access.
 - b) The bus is to drop off and pick up passengers at the following locations from which access to the required services and facilities (as nominated below) at a minimum are available:
 - i. Dapto Square, Princes Highway, Dapto – From Dapto Square access is provided to the adjoining Dapto Mall and Dapto Town Centre which will provide residents with a wide range of shops, bank service providers and other retail and commercial services that residents may reasonably require,
 - ii. Ribbonwood Centre, Princes Highway, Dapto, which is a council operated facility providing residents with access to a range of community services and recreation facilities,
 - iii. Dapto Square, Princes Highway, Dapto which is located directly opposite the Dapto Medical Centre and which contains the practice of a number of general medical practitioners.
 - c) The bus is to be available both to and from the development the above services and facilities at least once each day from Monday to Friday (both days inclusive).
 - d) The bus must have a driver and an appropriately qualified assistant/helper if assistance is required by any resident.
 - e) The bus is to be separate and in addition to any bus required or utilised for day trips or the like.
 - f) The costs of providing and operating the bus shall be borne by the owner of the land.

CONSIDERATION OF COMMUNITY VIEWS

The Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel notes that issues of concern included:

- Traffic impacts on local road network
- Traffic safety
- Construction impacts
- Removal of vegetation and landscape outcomes
- Access requirements to services
- Impact of bushfire requirements on tree retention and landscape outcomes

| PANEL MEMBERS | |
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|  Alison McCabe (Chair) |  Renata Brooks |
|  Mark Grayson |  David Brown |
|  Michael Mantei | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | 2018STH015 – Wollongong – DA-2018/557 |
| 2 | PROPOSED DEVELOPMENT | Demolition of existing 45 bed residential aged care facility and construction of new 111 bed residential aged care facility and conversion of existing 44 hostel bed facility to 22 serviced self-care dwellings with community /ancillary spaces, reconfiguration of and additional car parking and associated landscaping and infrastructure works plus tree removals. |
| 3 | STREET ADDRESS | 4 Lindsay Evans Place Dapto |
| 4 | APPLICANT/OWNER | Anglican Community Services c/o Minto Planning Services |
| 5 | TYPE OF REGIONAL DEVELOPMENT | General development over \$30 million |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> NSW Biodiversity Conservation Act 2016 Commonwealth Environmental Protection and Biodiversity Act 1999 State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Wollongong Local Environmental Plan 2009 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Wollongong City-Wide Development Control Plan 2018 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Council assessment report: 17 May 2019 Clause 4.6 Exception Request – Building height Written submissions during public exhibition: two (2) Supplementary council assessment report: 29 May 2019 Verbal submissions at the public meeting on 31 May 2019: <ul style="list-style-type: none"> In support – Professor Edward Blakely In objection – John Wilson Council assessment officer – Vivian Lee – SDPO On behalf of the applicant – Dean Cotter, Andrew Minto, Steve Hopper, Richard Abbott, Nicholas Bray and Paul Vezgoff. Supplementary Council assessment report: 14 August 2019 Council memorandum: 19 August 2019 |

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| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> • Site inspection and briefing: 29 October 2018 • Final briefing to discuss council's recommendation, 31 May 2019, 10.30am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Renata Brooks, Mark Grayson, David Brown and Michael Mantei ○ <u>Council assessment staff</u>: Jessica Saunders, Vivian Lee, John Wood, Andrew Heaven, Mark Riordan, Lauren Wilson • Public determination meeting: 31 May 2019 • Papers were circulated electronically between 16 August 2019 and 23 August 2019 |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the supplementary council assessment report |