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REVIEW OF ENVIRONMENTAL FACTORS

Proposed Dual Occupancy Development

at

44 Cadaga Road, Gateshead NSW 2290

August 2023





Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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1 Executive Summary

The subject site is located at 44 Cadaga Road, Gateshead, and is legally described as Lot 499 in Deposited Plan 224374.

The proposed development is described as follows:

Construction of a dual occupancy development comprising 2 x 4 bedroom dwellings with attached single garages, associated tree removal, landscaping and fencing, and the creation of an easement to drain water over Lot 498 in Deposited Plan 224374.

The proposed activity is permitted on the site under the applicable local environmental planning instrument and can therefore be carried out by the NSW Land and Housing Corporation (LAHC) without consent under the provisions of Chapter 2, Part 2, Division 6 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP), as it does not exceed 9 metres in height, does not result in more than 60 dwellings on the site, and provides parking in accordance with the provisions of the Housing SEPP (accessible area).

The removal of trees on the site is covered in the definition of consent under Section 6 of the Housing SEPP. It has therefore been assessed under the provisions of the Housing SEPP and Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as part of the proposed activity.

A Review of Environmental Factors (REF) has been undertaken of the proposed development activity under Part 5 of the EP&A Act and Section 171 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation).

The REF has identified and considers the following:

- from an analysis of the potential environmental impacts associated with the proposed activity, it has been determined that the preparation of an Environmental Impact Statement is not required;
- from a review of the potential environmental impacts resulting from the proposed activity it has been determined that, subject to implementation of mitigation measures to be incorporated as identified requirements, the activity will not have any significant adverse impact on the environment;
- the proposed activity will not have any effect on matters of national significance and its approval under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* is not required;
- the design of the proposed activity has adequately taken into account design principles and better practices set out in the *Seniors Living Policy: Urban Design Guidelines for Infill Development* and taken into consideration the *Good Design for Social Housing* and the *Land and Housing Corporation Design Requirements* as specified in the Housing SEPP;
- the site planning and design of the proposed activity adequately address the applicable local environmental planning and development controls of Lake Macquarie City Council;
- a BASIX certificate, NatHERS certificate and stamped plans have been obtained for the proposed activity demonstrating compliance with the State Government's environmental sustainability targets;
- Subsidence Advisory NSW (formerly the Mine Subsidence Board) were notified of the proposed activity under section 2.15 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*. The Subsidence Advisory NSW granted approval for the development subject to conditions on 20 March 2023;
- there are no other separate approvals, authorisations or notifications required in relation to the proposed activity prior to determination under Part 5 of the EP&A Act or under any other Acts; and
- Lake Macquarie City Council and occupiers of adjoining land were notified of the proposed activity under the provisions of the Housing SEPP on 21 April 2023. A response was received from Council

dated 15 May 2023. Comments on the response are provided in Section 7.1 of this REF. Two submissions were received from occupiers of adjoining land. Comments on the submissions are provided in Section 7.2 of this REF.

The proposed activity, when carried out in accordance with the environmental mitigation measures outlined in the REF, will not result in any significant and long-term negative impacts on the environment and can proceed subject to the implementation of the Identified Requirements of determination contained in the ***Activity Determination***.

2 Introduction

2.1 Background

This Review of Environmental Factors (REF) under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) relates to the proposed construction of a dual occupancy development comprising 2 x 4 bedroom dwellings with attached single garages, associated tree removal, landscaping and fencing at 44 Cadaga Road, Gateshead. The proposal includes discharge of stormwater to a proposed interallotment drainage easement through adjoining land at 46 Cadaga Road (Lot 498 DP 224374).

The subject activity will be carried out by, or on behalf of, the NSW Land and Housing Corporation (LAHC) which is the determining authority and proponent of the activity under Part 5 of the EP&A Act. The registered owner of the subject land is the NSW Land and Housing Corporation.

This REF has been prepared by Barker Ryan Stewart on behalf of LAHC in satisfaction of the provisions of Part 5 of the EP&A Act and relevant provisions of Part 8 of the *Environmental Planning & Assessment Regulation 2021* (EP&A Regulation).

A Statement of Compliance accompanying this REF certifies that in accordance with the requirements of Part 5 of the EP&A Act, all matters affecting or likely to affect the environment by reason of the proposed activity have been taken into account to the fullest extent possible and the activity will not have a significant impact on the environment.

2.2 Purpose of this Review of Environmental Factors (REF)

The purpose of this REF is to assist LAHC to fulfil its obligations as a determining authority for the proposed activity in accordance with Part 5 of the EP&A Act and Section 171 of the EP&A Regulation by:

- describing the existing environment;
- describing the proposed activity;
- analysing the potential impacts of the activity on the environment;
- identifying measures to mitigate those impacts;
- analysing whether the activity, with the mitigating measures in place, will have a significant impact on the environment; and
- recommending identified requirements to ensure the mitigating measures are implemented if the activity were to proceed.

2.3 Assessment Methodology

The following methodology was applied in undertaking this REF for the proposed development activity under Part 5 of the EP&A Act:

- a Section 10.7 Planning Certificate was obtained for the lot which comprises the site. The zoning was confirmed against the current applicable environmental planning instrument, which is the *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014);

- it was determined that dual occupancies are 'permitted with consent' in the R2 zone pursuant to the LMLEP 2014, and can be carried out 'without consent' under the provisions of the Housing SEPP;
- a desktop analysis and investigation of the site and surrounds were undertaken based on site clearance information provided by the Land and Housing Corporation, along with a site visit, to determine the suitability of the site for the proposed development activity, particularly taking into account the existing site conditions, constraints and local context;
- relevant local planning controls and State and Commonwealth Government legislation were considered in the environmental assessment of the proposed development activity;
- an environmental impact analysis was undertaken to determine if an Environmental Impact Statement was required;
- potential environmental impacts identified in the analysis and measures to mitigate these impacts were subsequently discussed in the Review of Environmental Factors; and
- Identified Requirements incorporating the mitigation measures for undertaking the proposed development activity were identified for inclusion in the recommendation for approval of the activity.

3 Existing Environment

3.1 Site Locality

The site is located in the City of Lake Macquarie local government area (LGA). It comprises one residential allotment, legally described as Lot 499 in Deposited Plan 224374 and known as 44 Cadaga Road, Gateshead. A location plan is provided at Figure 1.

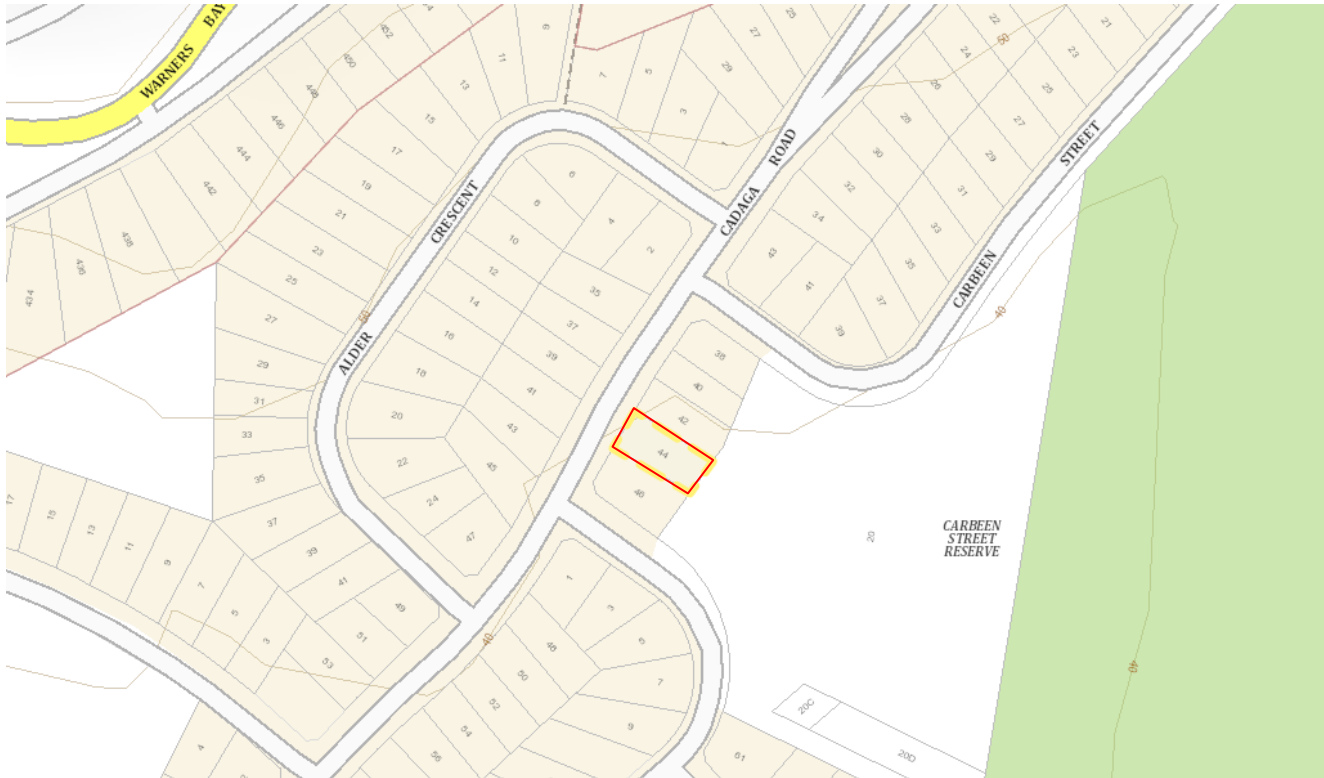


Figure 1: Location Plan (Source: SIX Maps, April 2021)

3.2 Site Characteristics

The site has an area of 543.8m². It has a frontage to Cadaga Road of 16.459m, side (north eastern) boundary of 36.575m, side (south western) boundary of 34.188m and a rear (south eastern) boundary of 14.63m (refer to the submitted Detail Survey Plan in **Appendix D**).

The site falls approximately 2.6m from the front boundary at Cadaga Road toward the rear (south eastern) boundary.

The site is currently vacant. A previous dwelling and associated structures have been demolished and removed from the subject site (refer to photograph at Figure 2). The site contains an existing driveway and kerb crossing that will be removed as part of this proposal. This infrastructure was used in association with the previous residential dwelling on the site.



Figure 2: Development site – 44 Cadaga Road (Source – BRS May 2023)

The site is not within a flood planning area and is not subject to flood related development controls.

An arboricultural impact assessment observed five trees and one weed species located within the site and the adjoining property close to its boundary with the subject site (*Appendix J*). These trees are generally located within the front and rear setbacks of the site.

Water, sewer, electricity, gas and telephone facilities are available to the site (refer to the submitted Detail Survey for the location of available services at *Appendix D*). Water, electricity, gas and telephone services are located along the road alignment of Cadaga Road. A sewer line is located along the rear boundary of the site.

There are no encumbrances on title, section 10.7 certificate or indicated on the Detail Survey Plan.

3.3 Neighbouring Development and Locality

The site is located within an established residential area which is characterised by older style single storey detached dwelling houses of weatherboard construction with tiled roofs, interspersed with more recent 2-storey dwelling houses, dual occupancy and seniors housing developments (refer to photographs at Figure 6 to Figure 10).

The property immediately to the north (42 Cadaga Road) contains a single-storey weatherboard clad dwelling with tile roof (refer to photograph at Figure 3). The property to the south (46 Cadaga Road) is currently vacant (refer to photograph at Figure 4). It is noted that stormwater drainage for the proposed development will be connected to the existing stormwater drainage network in Mallee Street via a proposed interallotment stormwater drainage easement traversing the rear of 46 Cadaga Road. Adjoining the rear of the site is an area of public open space identified as Carbeen Street Reserve (refer to photograph at Figure 5).



Figure 3: Adjoining development – 42 Cadaga Road (Source – BRS May 2023)



Figure 4: Adjoining property – 46 Cadaga Road (Source – BRS May 2023)



Figure 5: Carbeen Street Reserve to the rear of the development site (Source – BRS May 2023)



Figure 6: More recent dual occupancy development at 1 Coral Crescent (south west of the site) (Source – BRS May 2023)



Figure 7: More recent dual occupancy development at 57 Cadaga Road (south west of the site) (Source – BRS May 2023)



Figure 8: More recent 2 storey seniors housing at 20 Hickory Road (south west of the site) (Source – BRS May 2023)



Figure 9: More recent 2 storey seniors housing at 20 Hickory Road (south west of the site) (Source – BRS May 2023)



Figure 10: More recent two storey development at 25-29 Cadaga Road (north east of the site) (Source – BRS May 2023)

Access to Services – Shops and Transport

There are numerous bus stops located on Cadaga Road, two of which are approximately 40-60m walking distance north of the site (refer to Figure 11 and Figure 12). These stops are serviced by Newcastle Transport Route 28 - Mount Hutton to Newcastle West via Broadmeadow & Newcastle Interchange. This service connects Mount Hutton to Newcastle West via Windale, Gateshead, Charlestown, Highfields, Adamstown Heights, Adamstown, Broadmeadow and Hamilton, and provides access to train stations, major shopping centres and local centres in these areas.

As per the provisions of the Housing SEPP, an 'accessible area' includes land within 400m walking distance of a bus stop used by a regular bus service, that has at least 1 bus per hour servicing the bus stop between 6am and 9pm each day from Monday to Friday, and 8am to 6pm on each Saturday and Sunday. The Newcastle Transport Route 28 service runs 7 days per week, from 5:30am to approximately 10pm Monday to Friday, 7am to 8.30pm on Saturdays and 7am to 6.30pm on Sunday and public holidays. This service stops hourly and more frequently during morning and afternoon peak times on weekdays, and therefore satisfies the frequency requirements of the Housing SEPP.

Surrounding land use is predominantly residential, with other land uses including open space, educational establishments and commercial development. The site directly adjoins Carbeen Street Reserve to the south west. Carbeen Street Reserve contains public open space, Phoenix Charlestown Baseball Club and various sporting facilities. Another reserve is located within 200m walking distance to the west of the site. Lakeside School is located approximately 550m south west of the site. Lakeside School caters for children aged Kindergarten to Year 12. Further, St Pauls Primary School, St Mary's Catholic School, a childcare centre and preschool are located approximately 1.5km south east of the site. Lake Macquarie Fair is approximately 3km south of the site and contains a number of services including a large supermarket, food outlets, retail stores and medical services. Lake Macquarie Fair is accessible via the abovementioned Route 28 bus.



Figure 11: Bus Stops located on Cadaga Road north of the site (Source: BRS May 2023)



Figure 12: Locality Aerial Image and location of bus services (Source: Nearmap, 2023)

4 Project Description

4.1 Description of Proposed Activity

The proposed activity is described as follows:

Removal of Trees

Five trees and one weed specimen were considered as part of the Arboricultural Impact Assessment undertaken for the site (refer to **Appendix J**). Four trees and one weed specimen are located within the site and one tree within the neighbouring property at 46 Cadaga Road. Of the 5 trees located within the site and adjacent allotment, the proposal is for the removal of 4 trees. A large Crepe Myrtle (*Lagerstromia indica*) is proposed to be retained within the neighbouring property to the south west. The weed specimen, identified as Tree 3 in the Arboricultural Impact Assessment, is recommended to be removed independent of the proposed development.

The tree removal within the site boundaries is recommended primarily to accommodate the proposed development or the individual specimens are recommended for removal as they are not considered to be significant or worthy of retention (refer to submitted Arboricultural Impact Assessment in *Appendix J*).

More appropriate tree plantings, including trees capable of reaching mature heights of up to 8m, will be provided as part of the proposed landscaping plan to compensate for the loss of these trees (refer to submitted Landscape Plan in *Appendix B*).

Proposed Development

The proposed 2 storey dual occupancy development will contain 2 x 4 bedroom dwellings. Individual driveways are proposed for each dwelling, providing access to a single garage space with stacked parking.

Each dwelling has been designed in accordance with Silver Level liveable housing design guidelines.

The proposed housing represents a contemporary, high quality design. The use of face brick and fibre cement cladding for external walls and Colorbond metal roofing is consistent with the existing and developing character of the Gateshead suburb. Both of the proposed dwellings will address the street, with living areas and living area windows facing the street for passive surveillance.

Minor cut and fill is proposed to provide a level building platform. This level of cut and fill is within Council's DCP standards. Small retaining walls are proposed to assist with the stability within the front setback and along the southern boundary, as shown on the Cut & Fill and Retaining Walls Site Plan (refer to *Appendix A*).

A variety of new landscape plantings are proposed to offset the proposed tree removal and enhance the appearance of the site. New plantings will consist of a mixture of new trees, shrubs and groundcovers, which will enhance landscaped setbacks and contribute to the streetscape.

Each dwelling will be provided with its own enclosed private open space area directly accessible from living areas at the rear of the dwellings. A covered, paved patio area will be directly accessible from the internal living areas and will provide an outlook to the adjoining public reserve.

A total of 4 car parking spaces will be provided on the site. Each dwelling includes a single garage space with a stacked parking space provided in the driveway in front of the garage.

Stormwater will be collected via a series of stormwater pits and grated drains on the site draining to the existing local stormwater drainage infrastructure in Mallee Street via a proposed 1.0m wide easement over the adjacent vacant lot (Lot 498) to the south west (refer to *Appendix C*). The proposed easement for drainage will run along the rear (south eastern) boundary of the site and Lot 498. The proposed pipe and easement through Lot 498 does not impact on the vacant site nor impact on the future development of this site. Roof water will be collected from downpipes and connected to rainwater tanks for recycling, with overflow connected to existing stormwater infrastructure via the proposed interallotment drainage line.

A new 1.8m high Colorbond fence with 300mm lattice screening is proposed along the side and rear boundaries of the site. A 1.2m high steel picket fence will be provided across the front of the development site and along the side boundaries forward of the building alignment. The front fence will be set back 1m from the front boundary to allow for the provision of landscaping along the street frontage.

Figure 13 to Figure 16 include extracts from the architectural plans illustrating the proposed development.

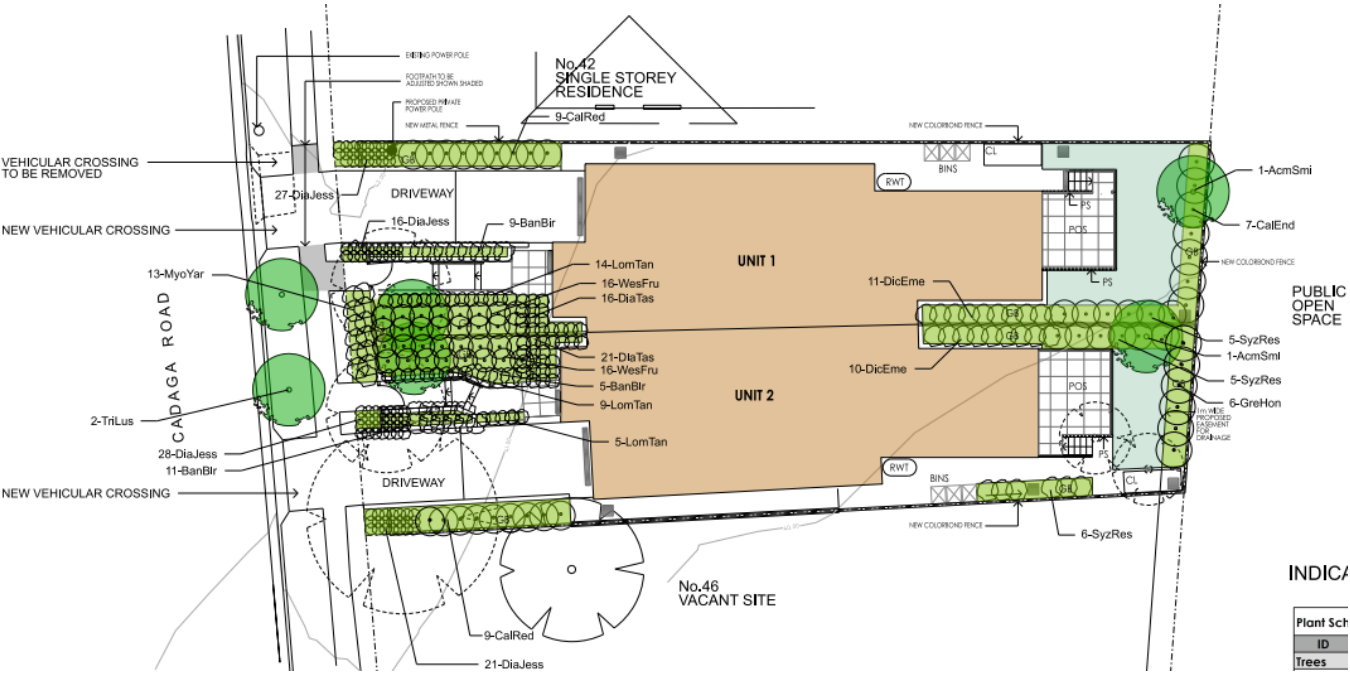


Figure 13: Extract from Notification Plans – Site/Landscape Plan (Source: ZMP Architects & Heritage Consultants, dated 05.04.2023)

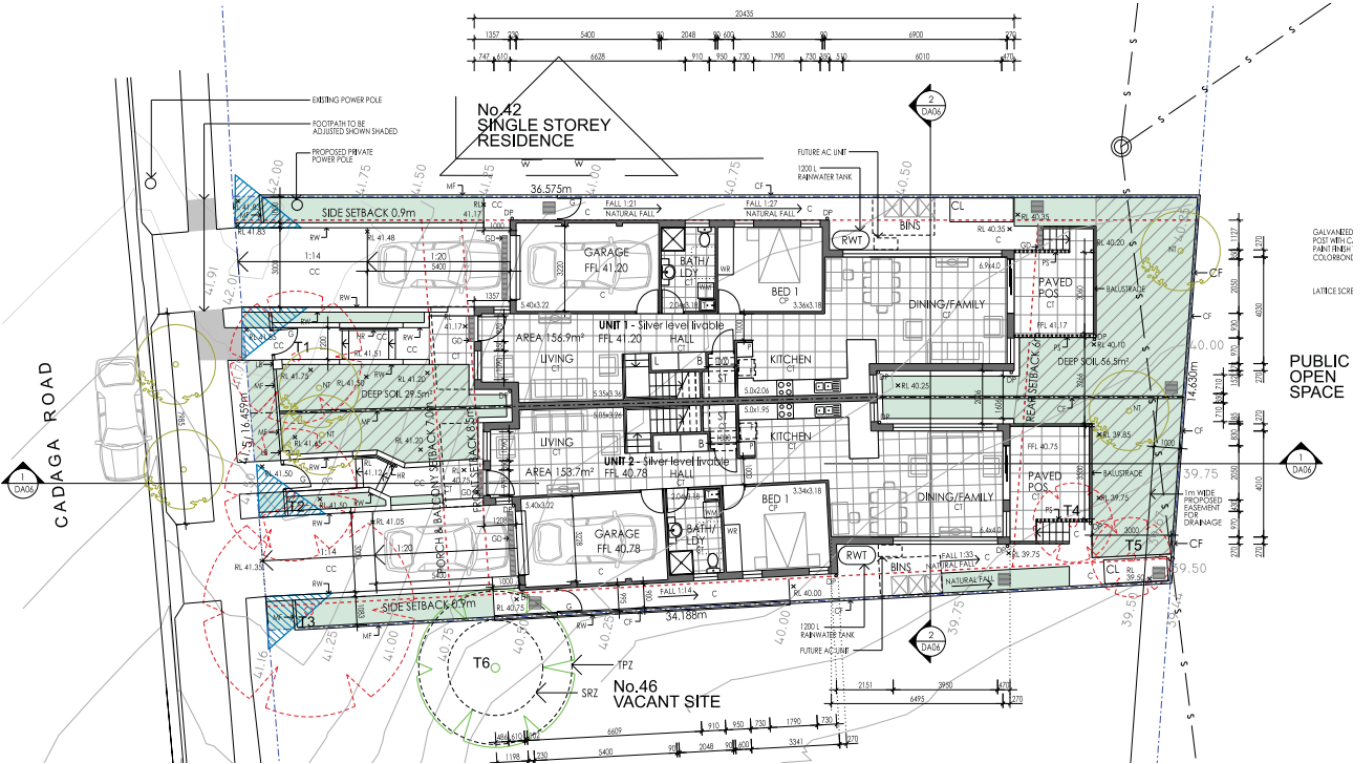


Figure 14: Extract from Architectural Plans – Ground Floor Plan (Source: ZMP Architects & Heritage Consultants, dated 05.04.2023)

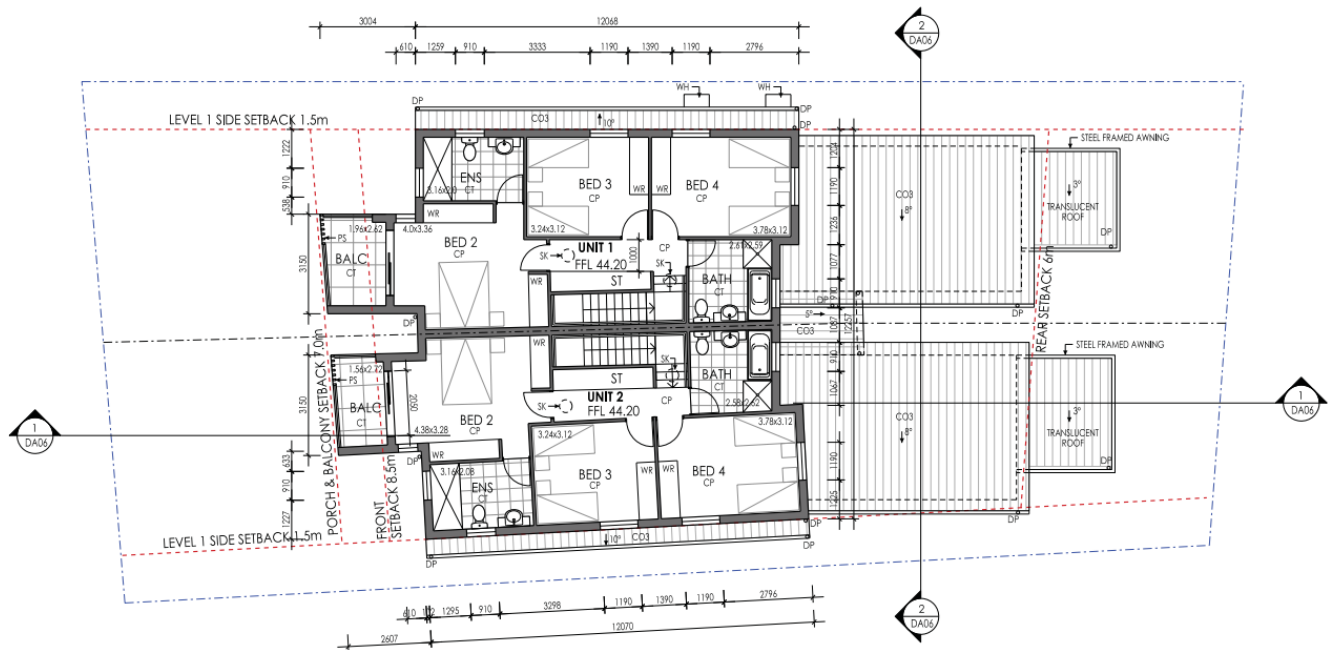


Figure 15: Extract from Architectural Plans – First Floor Plan (Source: ZMP Architects & Heritage Consultants, dated 05.04.2023)



Figure 16: Extract from Notification Plans – Cadaga Road Streetscape Perspective (Source: ZMP Architects & Heritage Consultants, dated 05.04.2023)

4.2 Supporting information

This REF is based on the following plans, drawings, specialist reports and supporting information for the project:

| Title / Name: | Drawing No. / Document Ref | Revision / Issue: | Date [dd.mm.yyyy]: | Prepared by: |
|--|----------------------------|-------------------|--------------------|---------------------------------------|
| Architectural – Appendix A | | | | |
| Cover Page | DA 01 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Site Analysis & Demolition Plan, Streetscape, Block Analysis | DA02 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Site/Ground Floor Plan & Fence Details | DA03 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| First Floor Plan & Roof Plan | DA04 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Elevations | DA05 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Sections | DA06 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Finishes Schedule | DA07 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Cut/Fill and Retaining Walls Site Plan | DA08 | A | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Shadowing June 21 st 9.00am | A100 | - | 03.04.2023 | Cad Draft P/L |
| Shadowing June 21 st 10.00am | A101 | - | 03.04.2023 | Cad Draft P/L |
| Shadowing June 21 st 11.00am | A102 | - | 03.04.2023 | Cad Draft P/L |
| Shadowing June 21 st 12.00pm | A103 | - | 03.04.2023 | Cad Draft P/L |
| Shadowing June 21 st 1.00pm | A104 | - | 03.04.2023 | Cad Draft P/L |
| Shadowing June 21 st 2.00pm | A105 | - | 03.04.2023 | Cad Draft P/L |
| Shadowing June 21 st 3.00pm | A106 | - | 03.04.2023 | Cad Draft P/L |
| 3D Sun Views June 21 st 9.00am | A107 | - | 03.04.2023 | Cad Draft P/L |
| 3D Sun Views June 21 st 10.00am | A108 | - | 03.04.2023 | Cad Draft P/L |
| 3D Sun Views June 21 st 11.00am | A109 | - | 03.04.2023 | Cad Draft P/L |
| 3D Sun Views June 21 st 12.00pm | A110 | - | 03.04.2023 | Cad Draft P/L |
| 3D Sun Views June 21 st 1.00pm | A111 | - | 03.04.2023 | Cad Draft P/L |

| Title / Name: | Drawing No. / Document Ref | Revision / Issue: | Date [dd.mm.yyyy]: | Prepared by: |
|---|----------------------------|-------------------|--------------------|---------------------------------------|
| 3D Sun Views June 21 st 2.00pm | A112 | - | 03.04.2023 | Cad Draft P/L |
| 3D Sun Views June 21 st 3.00pm | A113 | - | 03.04.2023 | Cad Draft P/L |
| Landscape – Appendix B | | | | |
| Landscape Plan | LA 1 of 2 | C | 03.04.2023 | Greenland Design Pty Ltd |
| Landscape Details and Specification | LA 2 of 2 | C | 03.04.2023 | Greenland Design Pty Ltd |
| Civil Plans – Appendix C | | | | |
| Notes & Legend | C001 | 1 | 05.04.2023 | JN Responsive Engineering |
| Typical Details | C050 | 1 | 05.04.2023 | JN Responsive Engineering |
| Ground Stormwater Plan | C200 | 1 | 05.04.2023 | JN Responsive Engineering |
| Roof Stormwater Plan | C300 | 1 | 05.04.2023 | JN Responsive Engineering |
| Driveway Layout Plan | C400 | 1 | 05.04.2023 | JN Responsive Engineering |
| Notes Legend & Details | ESM1 | 1 | 05.04.2023 | JN Responsive Engineering |
| ESM Plan | ESM2 | 1 | 05.04.2023 | JN Responsive Engineering |
| Notification Plans – Appendix E | | | | |
| Notification Cover | N01 | 1 | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Site/Landscape Plan | N02 | 1 | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Development Data | N03 | 1 | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Elevations | N04 | 1 | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Finishes Schedule | N05 | 1 | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Shadow Diagrams | N06 | 1 | 05.04.2023 | ZMP Architects & Heritage Consultants |
| Survey Plan – Appendix D | | | | |
| Detail Survey | S1 of 1 | 1 | 23.02.2022 | RPS Australia East Pty Ltd |
| BASIX & NatHERS Certificates – Appendix K & Appendix M | | | | |
| BASIX Certificate | 1381125M_02 | - | 05.04.2023 | Building Sustainability |
| NatHERS Certificate | 0008544120 | - | 05.04.2023 | Building Sustainability |
| Specialist Reports | | | | |
| Arboricultural Impact Assessment and Tree | 8548.1 A | 1 | 04.04.2023 | REDGUM Horticultural |

| Title / Name: | Drawing No. / Document Ref | Revision / Issue: | Date [dd.mm.yyyy]: | Prepared by: |
|--|----------------------------|-------------------|--------------------|---------------------------------------|
| Management Plan – Appendix J | | | | |
| Access Report - Appendix H | 22334 | B | 06.04.2023 | Vista Access Architects |
| Subsidence Advisory NSW Notice of Determination – Appendix R | TBA23-00624 | - | 20.03.2023 | Subsidence Advisory NSW |
| Geotechnical Investigation - Appendix O | 22/0631 | - | March 2022 | STS Geotechnics Pty Ltd |
| Traffic and Parking Impact Assessment - Appendix S | 22-160 | - | April 2023 | Stanbury Traffic Planning |
| Waste Management Plan – Appendix Q | - | - | 03.03.2023 | ZMP Architects & Heritage Consultants |
| Flood Advice – Appendix T | N0221035-CLTR.02A | - | 27.02.2023 | JN Responsive Engineering |

Design compliance certificates – Appendix L

Architect's Certificate of Building Design Compliance – ZMP Architects & Heritage Consultants dated 13.04.2023

Certificate of Landscape Documentation Compliance – Greenland Design dated 03.04.2023

Certificate of Civil Documentation Compliance – JN Responsive Engineering dated 05.04.2023

Seniors Living Policy Urban Design Guidelines – Appendix N

Seniors Living Policy Urban Design Guidelines checklist, prepared by ZMP Architects & Heritage Consultants dated 21.06.2023

Section 10.7 Planning Certificate – Appendix F

Planning Certificate, Certificate No 157558, 44 Cadaga Road, Gateshead – Issued by Lake Macquarie City Council dated 02.03.2023

Title and Deposited Plan – Appendix P

Title Search, Folio: 499/224374, Search date 06.05.2021 First Schedule: New South Wales Land and Housing Corporation

Deposited Plan 224374 Search Date 06.05.2021

AHIMS – Appendix I

AHIMS Search Result, 44 Cadaga Road, Gateshead – 200m search buffer, dated 14.04.2023

5 Zoning and Permissibility

The site is zoned R2 Low Density Residential under *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014). Dual occupancies are permissible with consent in the R2 zone under the provisions of LMLEP 2014. A copy of the Section 10.7(2) & (5) Planning Certificate (No 157558) dated 2 March 2023 is provided in *Appendix F*.

Section 42 of the Housing SEPP permits residential development that may be carried out 'with consent' to be carried out by LAHC as 'development without consent' subject to the provisions set out under that section.

Table 3 in subsection 6.5.1 of this REF demonstrates compliance with the relevant provisions of section 42 of the SEPP.

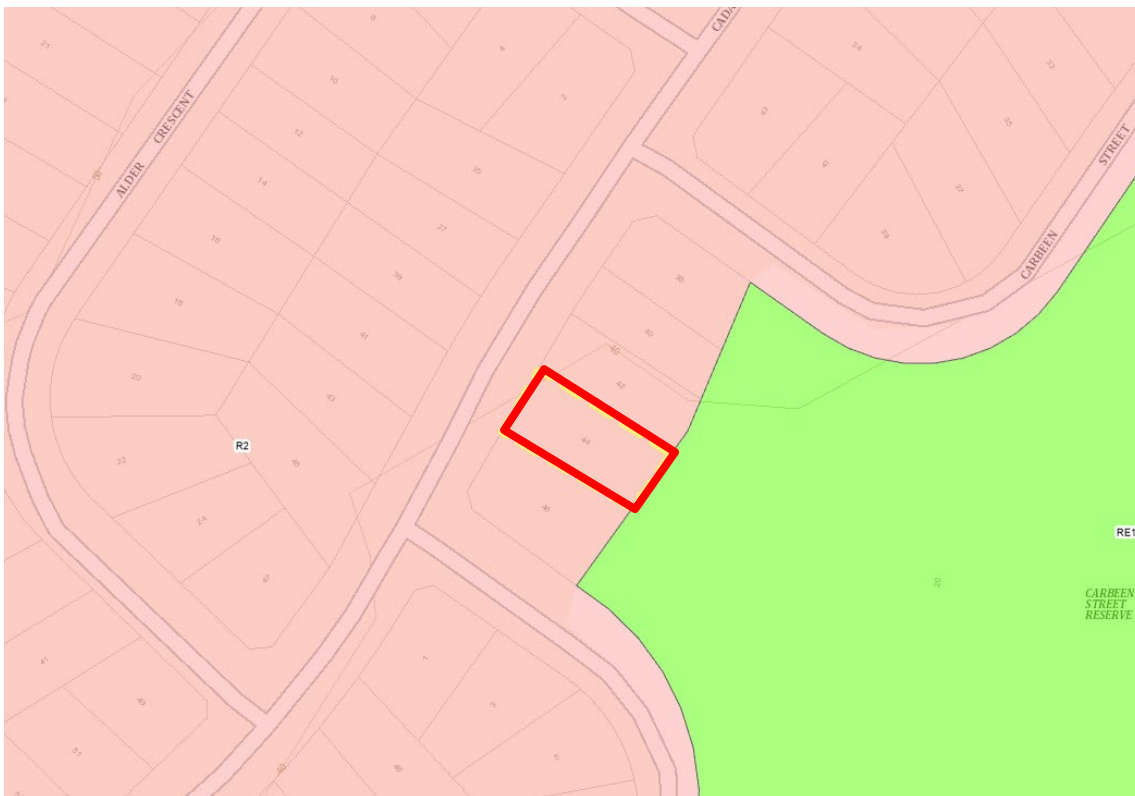


Figure 17: Land zoning map (Source: eSpatial Viewer 2023)

The relevant objectives of the R2 zone, as set out in LMLEP 2014 are:

- To provide for the housing needs of the community within a low density residential environment.
- To encourage development that is sympathetic to the scenic, aesthetic and cultural heritage qualities of the built and natural environment.

The proposed development provides housing that meets the identified needs of the community and will be consistent with the objectives.

6 Planning and Design Framework

6.1 Environmental Planning and Assessment Act 1979

6.1.1 Duty to consider environmental impact [Section 5.5]

For the purpose of attaining the objects of the EP&A Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of the Act or the provisions of any other Act or of any instrument made under the EP&A Act or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

This REF addresses the above provisions of Section 5.5 of the EP&A Act. **Table 1** below demonstrates the effect of the proposed development activity on the matters listed for consideration in subsection 3 of Section 5.5.

Table 1 Compliance with subsection 3 of Section 5.5 of the EP&A Act 1979

| Matters for consideration under sub-section 3 of Section 5.5 of the EP&A Act | |
|--|---|
| Matter for consideration | Effect of Activity |
| <p><i>Sub-section 3</i></p> <p>Without limiting subsection (1), a determining authority shall consider the effect of an activity on any wilderness area (within the meaning of the <i>Wilderness Act 1987</i>) in the locality in which the activity is intended to be carried on.</p> | <p>No effect, as there is no wilderness area (within the meaning of the <i>Wilderness Act 1987</i>) in the locality in which the activity is intended to be carried on.</p> |

6.2 Biodiversity Conservation Act 2016 (BC Act)

Part 7 of the BC Act sets out the test for determining whether a proposed development or activity is likely to significantly affect threatened species, ecological communities or their habitats. For the purposes of Part 5 of the EP&A Act, an activity is to be regarded as an activity likely to significantly affect the environment if it is likely to significantly affect threatened species.

Based on the criteria set out in Section 7.3 of the BC Act, the proposed activity is unlikely to affect threatened species, ecological communities or their habitats and therefore no further assessment is necessary. This is because the land is not known to comprise critical habitat, contain threatened species, endangered ecological communities or constitute habitat of threatened species or ecological communities. The proposed activity will neither be a key threatening process and the land is not part of or in the vicinity of any declared area of outstanding biodiversity value, as shown on the Biodiversity Values Map, published by NSW Planning and Environment.

6.3 Other Acts

No other State or Commonwealth Acts are applicable to the proposed activity.

6.4 Environmental Planning and Assessment Regulation 2021

6.4.1 Factors that must be taken into account concerning the impact of an activity on the environment [Section 171]

For the purposes of Part 5 of the EP&A Act, the factors in **Table 2** and **Table 3** below are to be taken into account when consideration is being given to the likely impact of an activity on the environment. The tables and comments made in this section of the REF are not mutually exclusive and are to be read in conjunction with the other sections of the REF dealing with the environmental impacts of the proposed development activity.

Table 2 Environmental Planning and Assessment Regulation 2021 Section 171

| Factors to be taken into account concerning the impact of an activity on the environment. | Comment |
|--|---|
| Is the activity of a kind for which specific guidelines are in force? If so the factors to be taken into account when considering the likely impact of the activity on the environment are those referred to in the guidelines. | No specific guidelines. This does not include guidelines such as the Seniors Living Urban Design Guidelines, that are in force under other legislation or instruments. |
| Is the activity of any other kind for which general guidelines are in force? If so the factors to be taken into account when considering the likely impact of the activity on the environment are those referred to in those guidelines. | Yes - Department of Planning and Environment issued "Guidelines for Division 5.1 assessments" made under Section 170 of the EPA regulation 2021. |

Table 3 Factors to be taken into account concerning the impact of an activity on the environment

| Guidelines for Division 5.1 assessments require the following environmental factors to be taken into account: | Relevant? | Impact | | |
|---|-----------|-----------|-------|----------------------|
| | Yes/NA | Temporary | Minor | Significant [Note 1] |
| (a) environmental impact on the community | Y | x | x | |
| (b) transformation of a locality; | Y | | x | |
| (c) environmental impact on the ecosystems of the locality; | Y | | x | |
| (d) reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality; | Y | x | x | |
| (e) effect on a locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations; | N/A | | | |
| (f) impact on the habitat of protected animals (within the meaning of Biodiversity Conservation Act 2016); | N/A | | | |
| (g) endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air; | N/A | | | |
| (h) long-term effects on the environment; | Y | | x | |
| (i) degradation of the quality of the environment; | Y | x | x | |
| (j) risk to the safety of the environment; | N/A | | | |
| (k) reduction in the range of beneficial uses of the environment; | N/A | | | |
| (l) pollution of the environment; | Y | x | x | |

| Guidelines for Division 5.1 assessments require the following environmental factors to be taken into account: | Relevant? | Impact | | |
|--|--------------------------------|-----------|-------|----------------------|
| | Yes/NA | Temporary | Minor | Significant [Note 1] |
| (m) environmental problems associated with the disposal of waste; | Y | | x | |
| (n) increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply; | Y | | x | |
| (o) cumulative environmental effect with other existing or likely future activities. | Y | | x | |
| (p) impact on coastal processes and coastal hazards, including those under projected climate change conditions. [Note 2] | N/A | | | |
| (q) applicable local strategic planning statements, regional strategic plans or district strategic plans made under the Act, Division 3.1, | Y – discussed in Section 6.4.2 | | x | |
| (r) other relevant environmental factors. | Y – discussed in Section 8 | x | x | |

Note 1: A ‘significant’ impact triggers the preparation of an Environmental Impact Statement.

Note 2: The *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* provides guidance on considering projected climate change conditions such as sea level rise.

The proposed housing development is not expected to generate any significant or long- term impacts on the environment. The short term impacts, during construction, will be offset by positive social outcomes in the long term social benefits of providing affordable housing that meets the needs of the community. The applicable Local Strategic Planning Statement (LSPS) and Community Strategic Plan are considered below at Section 6.4.2 of this report.

6.4.2 Strategic Planning Framework

Hunter Regional Plan 2041

The Hunter Regional Plan 2041 came into effect in December 2022. It is a 20 year plan that identifies 9 objectives for the Hunter Region, focused around the following four principles:

- Growth
- Community
- Resilience
- Equity

Of note is Objective 5 which is ‘Plan for ‘nimble neighbourhoods’, diverse housing and sequenced development’. This objective endeavours to provide residents with housing choice, independence and affordability to match the specific needs of different communities.

The Plan identifies that the Lake Macquarie LGA will require an additional 20,250 dwellings over the 20 year period. The plan states ‘these targets can be met through a diversity of housing types, including attached dwellings, dual occupancies and multi-dwelling housing, organised and clustered to support walking, cycling and public transport in 15-minute neighbourhoods.’

This proposal, which will expand the supply of affordable housing with 2 new social, infill housing units in close proximity to services, is consistent with the objectives of the Regional Plan.

Lake Macquarie Local Strategic Planning Statement

The Lake Macquarie Local Strategic Planning Statement was adopted by Lake Macquarie City Council in March 2020. It is a 20 year plan that identifies 7 Planning Priorities for the LGA.

The proposed development aligns with a number of Council's Planning Priorities, notably Priority 2 – '*A City to Call Home – Where Diverse Housing Options Cater to Everyone's Needs*'. The proposed development will contribute 2 dwellings to the affordable housing supply in the Lake Macquarie City LGA. It is diversifying the residential uses in the Gateshead area by providing Silver Level livable dwellings to accommodate the varying population in a locality that is well serviced by existing public transport options. The proposed development aligns with the following Principles under Planning Priority 2 –

- work with industry to deliver future housing growth through infill development in and around centres and train stations and new housing in Growth Areas;
- work with industry and government agencies to ensure future housing is well serviced with health services, education, active transport infrastructure and public transport;
- implement policy to facilitate the supply of diverse housing that is sustainable, affordable and caters for a variety of life stages, lifestyles, demographics, and enables social inclusiveness; and
- ensure future residential housing is located with access to jobs, shopping, services, community facilities, and public spaces by a range of transport modes and maintains important local conservation areas.

Further, the subject site is located within the North East Growth Area. The Planning Statement identifies that this area has potential for significant growth.

The proposed dual occupancy development is consistent with the objectives of the Lake Macquarie Local Strategic Planning Statement, and will contribute to diverse and affordable housing options in this location.

Lake Mac 2032 Community Strategic Plan

The Lake Mac 2032 Community Strategic Plan is a 10 year plan which outlines key strategic priorities and objectives, and strategies to achieve the community's desired outcomes for the future.

The plan outlines seven values derived from an extensive community engagement process, to guide the future direction for Lake Macquarie City's community. Under the seven themes there are key objectives and subsequent strategies for Council to facilitate in partnership with the community, government agencies and business.

The seven values are focused around:

- Unique Landscape
- Lifestyle and Wellbeing
- Mobility and Accessibility
- Diverse Economy
- Connected Communities
- Creativity

- Shared Decision Making

The Strategic Plan identifies that the population of Lake Macquarie City is expected to grow by 28,000 people over a 15 year period and identifies the challenge of housing affordability and availability in response to the increased demand for housing options. The proposed development aligns with the value of ‘Diverse Economy’ and notably the following delivery program strategy –

- Plan for the changing housing needs of the city as it grows.

The proposal will provide additional affordable housing that increases the diversity and choice for the community within the Gateshead and wider Lake Macquarie area.

6.5 State Environmental Planning Policy (Housing) 2021

6.5.1 Development without Consent

Section 42 of the Housing SEPP permits certain development that may be carried out ‘with consent’ to be carried out by LAHC as ‘development without consent’ subject to the provisions set out under that section.

Table 4 below demonstrates compliance with the relevant provisions of sections 42 and 43 of the Housing SEPP.

Table 4 Compliance with relevant provisions under Chapter 2, Part 2, Division 6 of the Housing SEPP for ‘residential development without consent’ carried out by LAHC

| Provision | Compliance |
|--|--|
| 42 Development may be carried out without consent (1) This Division applies to residential development if - | |
| (a) the development is permitted with consent on the land under another environmental planning instrument, and | Dual Occupancy development is permissible with consent on land zoned R2 Low Density under the LMLEP 2014. |
| (b) all buildings will have a height of not more than 9m, and | The proposed building will have a maximum height of 8.2m. |
| (c) the development will result in 60 dwellings or less on a single site, and | The development proposes 2 dwellings on a single site. |
| (d) for development on land in an accessible area – the development will result in at least the following parking spaces – (i) for each dwelling containing 1 bedroom – 0.4 parking spaces (ii) for each dwelling containing 2 bedrooms – 0.5 parking spaces (iii) for each dwelling containing at least 3 bedrooms – 1 parking space, and | The site is in an accessible area. The development proposes 2 x 4 bedroom dwellings. 2 parking spaces are required. 4 at grade, onsite parking spaces are provided in the form of a single garage and single stacked parking space for each dwelling. The development therefore complies with this provision. |
| (e) for development on land that is not in an accessible area – the development will result in at least the following parking spaces – (i) for each dwelling containing 1 bedroom – 0.5 parking spaces (ii) for each dwelling containing 2 bedrooms – 1 parking space (iii) for each dwelling containing at least 3 bedrooms – 1.5 parking space, and | Not applicable. The site is in an accessible area. |

| Provision | Compliance |
|---|--|
| (2) This Division applies to the following development if the development is permitted on the land under another environmental planning instrument — | |
| (a) the demolition of buildings and associated structures if the building or structure is on land – (i) that is non-heritage land, and (ii) that is not identified in an environmental planning instrument as being within a heritage conservation area, | Not applicable. The development does not include demolition works. |
| (b) the subdivision of land and subdivision works. Note – Section 32 prohibits the subdivision of a boarding house. | Not applicable. The development does not propose subdivision of land or subdivision works. |
| (3) This Division does not apply to – (a) development to which this Part, Division 5 applies, or (b) development that is part of a project, or part of a stage of a project, that the Minister determined under the Act, former section 75P to be subject to the Act, Part 4. | Not applicable. Division 5, <i>Residential flat buildings – social housing providers, public authorities and joint ventures</i> does not apply in this instance; and the development is not part of a project that has been determined under former Section 75P of the Act to be subject to Part 4 of the Act. |
| (4) Development to which this Division applies may be carried out by or on behalf of a relevant authority without development consent. | The development will be carried out by or on behalf of LAHC. |
| (5) <i>State environmental planning policy (Transport and Infrastructure) 2021</i> , sections 2.15 and 2.17 apply to the development and, in the application of the sections - | The subject site is located within the Lake Macquarie Mine Subsidence District and is therefore classified as a specified development under section 2.15 of SEPP (Transport and Infrastructure) 2021. Written notice of the intention to carry out the proposed development was provided to the Mine Subsidence Board (now known as Subsidence Advisory NSW) on 21 April 2023. Comments on the response are provided in Section 7.3 of this REF. |
| (a) a reference in section 2.15 to “this Chapter” is taken to be a reference to this section, and | Noted. |
| (b) a reference in the sections to a public authority is taken to be a reference to the relevant authority. | Noted. |
| (6) In this section- Former section 75P means the Act, section 75P, as in force immediately before its repeal by the Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011. Residential development has the same meaning as in the Housing Act 2001, section 8. | Noted. |
| 43 Requirements for carrying out residential development - | |
| (1) Before carrying out development under this Division, the Land and Housing Corporation must- | |
| (a) request the council nominate a person or persons who must, in the council’s opinion, be notified of the development, and | Advice was sought from Lake Macquarie City Council regarding additional persons or properties that should be notified of the development via emails sent to Council on 06 and 31 March 2023. Council provided a response on 31 March and 03 April 2023, advising no additional properties were required to be notified. |

| Provision | Compliance |
|---|---|
| (b) give written notice of the intention to carry out the development to – (i) the council, and (ii) the person or persons nominated by the council, and (iii) the occupiers of adjoining land, and | A letter notifying Lake Macquarie City Council of the proposed development activity was sent by LAHC on 21 April 2023. Letters notifying landowners and occupiers of adjoining land of the proposed development activity were sent by LAHC on the same date. |
| (c) take into account the responses to the notice that are received within 21 days after the notice is given, and | Council responded to LAHC's notification by letter dated 15 May 2023. Comments on the response are provided in Section 7.1 of this REF. Two (2) submissions were received from adjoining occupiers. Comments on the submissions are provided in Section 7.2 of this REF. |
| (d) take into account the relevant provisions of the <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> , published by the Department in March 2004, and | Refer to checklist in Appendix N and Section 6.5.2 of this REF, which indicate that the design of the development is consistent with the relevant provisions of the <i>Seniors Living Policy: Urban Design Guidelines for Infill Development</i> , with the exception of the minor variations discussed in Section 6.5.2 of this report. In these cases, suitable alternatives are proposed. |
| (e) if the relevant authority is the Aboriginal Housing Office – consider the relevant provisions of the <i>Aboriginal Housing Design Guidelines</i> , published by the Aboriginal Housing Office in January 2020, and | Not applicable. |
| (f) If the relevant authority is the Land and Housing Corporation – consider the relevant provisions of – (i) <i>Good Design for Social Housing</i> , published by the Land and Housing Corporation in September 2020, and (ii) <i>Land and Housing Corporation Design Requirements</i> , published by the Land and Housing Corporation in February 2023, and | Refer to Sections 6.5.3 and 6.5.4 of this report and the Architect's Statement and Certificate of Building Design Compliance in Appendix L which indicate that the design requirements have been considered. |
| (g) if the development is for the purposes of manor houses or multi dwelling housing (terraces) – consider the relevant provisions of the Codes SEPP, Part 3B. | Not applicable. The proposed development is not for the purposes of manor houses or multi dwelling housing (terraces). |
| (2) In this section, a reference to the council is a reference to the council for the land on which the development is proposed to be located. | Noted. |

6.5.2 Seniors Living Policy: Urban Design Guidelines for Infill Development

An assessment of the design of the activity against the *Seniors Living Policy: Urban Design Guidelines for Infill Development* is provided at **Appendix D**. The design has followed the Guidelines, except in relation to the following justifiable departures outlined in **Table 5**.

Table 5 Seniors Living Urban Design Guidelines departures

| Guideline Requirement | Response |
|--|---|
| <p>2.07 Retain trees and planting on the street and in front setbacks to minimise the impact of new development on the streetscape</p> <p>2.08 Retain trees and planting at the rear of the lot to minimise the impact of new development on neighbours and maintain the pattern of mid block deep-soil planting</p> | <p>The removal of 4 existing trees within the site is proposed as part of the development. Tree removal within the site boundaries is recommended primarily to accommodate the proposed development or the individual species are recommended for removal as they are not considered to be significant or worthy of retention. More appropriate tree plantings, including trees capable of reaching mature heights of 5m - 8m, will be provided within the front and rear setback as part of the proposed landscaping scheme to compensate for the loss of these trees.</p> |
| 3.06 Setback upper levels behind the front building façade? | <p>The first floor of the development is not setback behind the front building façade for construction purposes. The projection of balconies and entrances provides different setback planes. Further, a mix of materials and finishes allow for a varied façade that will work well within the streetscape.</p> |
| 3.27 Vary the driveway surface material to break it up into a series of smaller spaces? (eg to delineate individual dwellings) | <p>Driveways are short in length. Variation of surface material is therefore not considered necessary.</p> |
| 4.05 Incorporate second stories within the roof space and provide dormer windows? | <p>Second storeys within roof spaces are not a characteristic in the locality. The proposed second storey complies with height and setback requirements and does not give rise to any adverse streetscape or amenity impacts.</p> |
| 5.13 & 5.15 Use communal car courts rather than individual garages? | <p>The proposed development is for a dual occupancy. Each dwelling is provided a single garage space with stacked parking. A communal carport is not considered appropriate for a development of this type or scale.</p> |
| 5.17 Providing some dwellings without any car parking for residents without cars? | <p>Each dwelling is provided a single garage space with stacked parking. Parking is provided as required by the Housing SEPP and per Lake Macquarie DCP.</p> |
| 5.28 Provide private open space areas that retain existing vegetation where practical? | <p>Two existing trees (Trees 4 & 5) are located at the rear of the site, however their location conflicts with the proposed paved patio of Unit 2 and stormwater drainage infrastructure, respectively. Landscaping of each private open space, including trees capable of reaching a mature height of up to 5m, will be provided in more suitable locations as part of the proposed landscaping scheme to compensate for the loss of these trees.</p> |

6.5.3 Good Design for Social Housing

An assessment of the proposed development against the *Good Design for Social Housing* document, published in September 2020, demonstrates that the proposed development has adequately considered the goals and principles, as outlined in **Table 6** below.

Table 6 Good Design for Social Housing – Relevant Goals & Principles

| Goals | Principles | Comment - <i>Discussion on how the design responds to the principles:</i> |
|------------------|---|---|
| <i>Wellbeing</i> | <p>Healthy environments</p> <p>Good for tenants</p> <p>Quality homes</p> | <p>The proposed development provides a safe and secure form of housing. The dwellings incorporate good solar access, cross ventilation and landscaped open spaces to support the physical and mental health and wellbeing of residents. Entries to the dwellings have been designed to ensure residents have privacy while providing opportunities for casual surveillance through the placement of windows and minimising areas of concealment. The proposal has been designed with landscaped outdoor living spaces to enhance the amenity of the site for the future residents. The design incorporates sustainability principles to promote energy efficiency for high levels of amenity for future residents and is compliant with BASIX water and energy efficiency requirements (<i>Appendix K</i>).</p> |
| <i>Belonging</i> | <p>Mixed tenure</p> <p>Good shared and public spaces</p> <p>Contribute to local character</p> | <p>The development has identified front entrances, and attractively designed landscaping along the street frontage that will contribute to the streetscape and defines public and private spaces. The development is small in scale which minimises the resident density. The building design and landscaping integrates with the surrounding residential neighbourhood. The design is consistent with emerging residential developments of a 2 storey scale in the area.</p> |

| Goals | Principles | Comment - <i>Discussion on how the design responds to the principles:</i> |
|---------------|---|---|
| Value | Whole of lifecycle approach Sustainability and resilience Make every dollar count | The redevelopment is an efficient and economical use of existing serviced land. It will provide a new dual occupancy development which has been designed to be fit-for-purpose, and incorporates sustainable design elements. This includes the use of durable materials to ensure longevity and a design that provides solar amenity to private open space and living spaces, and cross ventilation opportunities. The landscaping scheme has been designed for climate and provides a mix of native and drought-tolerant species. The development meets BASIX requirements for building sustainability. A rainwater tank is provided for each dwelling to assist with sustainability and on-site water retention and reuse. |
| Collaboration | A good partner Place making Continuous improvement | The proposal is of a scale and character that assists with place making, by ensuring integration with the surrounding development. Collaboration with a number of stakeholders has been undertaken during the design and assessment process, with the development shaped by input from a range of consultants and stakeholders. |

6.5.4 Land and Housing Corporation Design Requirements

An assessment of the proposed development against the *Land and Housing Corporation Design Requirements* document has been undertaken and generally deemed to achieve compliance, refer to Certificate of Compliance from the Architect in **Appendix L**. The proposed development provides a 6.7 Star NatHERS rating as an average across the development, with Unit 1 achieving a 7.4 Star rating and Unit 2 achieving a 6 Star rating. Further detail will be incorporated in the construction documentation.

6.6 Other State Environmental Planning Policies

Table 7 below outlines applicability of, and compliance with, other State Environmental Planning Policies (SEPPs).

Table 7 Compliance with other applicable State Environmental Planning Policies

| State Environmental Planning Policy | Applicability |
|--|--|
| SEPP (Building Sustainability Index: BASIX) 2004 | A BASIX Certificate has been obtained for the development proposal, as required under the SEPP (refer to <i>Appendix K</i>). |
| SEPP (Transport and Infrastructure) 2021 | <p>The site is not located in close proximity to a Classified Road, rail infrastructure or electricity infrastructure, nor is the proposed development defined as traffic generating development.</p> <p>Section 2.15 of the SEPP identifies when consultation with authorities other than councils is required for the purpose of specified development.</p> <p>The subject site is located a Mine Subsidence District and is therefore classified as a specified development under section 2.15 of the SEPP. Written notice of the intention to carry out the proposed development was provided to the Subsidence Advisory NSW (SA NSW). Comments on the response are provided in Section 7.3 of this REF.</p> |
| SEPP (Biodiversity and Conservation) 2021 | <p>Clause 2.6(1) of this SEPP requires a permit from Council for clearing of vegetation required under the policy. Notwithstanding, Clause 6 of Housing SEPP specifies that development permitted without consent may be carried out without another consent or a licence, permission, approval or authorisation otherwise required under another environmental planning instrument. This means the proposed removal of trees within the site can be included within the REF scope and does not require a permit from Council.</p> |
| SEPP (Resilience and Hazards) 2021 | <p>Chapter 4 of this SEPP requires consideration of land contamination. The s10.7 Planning Certificate identifies the site as being affected by a policy that restricts development of the land because of the likelihood of contamination (refer to <i>Appendix F</i>). However, the site has not been identified as being subject to any matters arising from the Contaminated Land Management Act.</p> <p>The site is located within a developed residential area of Gateshead. Given the long-term previous land use of the site for residential purposes since c1960s (Layout Plan 42/2867), and the highly disturbed nature of the site, it is unlikely that the subject land is affected by contamination. The site is not within close proximity to land contaminating activities and adjoins residential development and public open space. The development of the site for residential purposes is therefore considered suitable and further investigation is not considered warranted.</p> <p>Notwithstanding the above, a recommended Identified Requirement (No 16) requires implementation of management measures in the event of contamination during construction works.</p> |

6.7 Local Planning Controls

6.7.1 Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

Compliance with the relevant provisions / development standards set out in the LMLEP 2014 is demonstrated in **Table 8** below.

Table 8 Lake Macquarie Local Environmental Plan 2014

| Relevant Provisions / Development Standards | | | |
|---|----------------------------------|--|--|
| Clause | Provision / Development Standard | Required | Provided |
| 4.3 | Height of Buildings | The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map (8.5 metres) | Maximum building height (measured in accordance with the LEP definition) is 8.2 metres. |
| 7.2 | Earthworks | Development consent is required unless the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given | The subject earthworks are related to the proposed dual occupancy and development can proceed on a 'without consent' basis. |
| 7.21 | Essential services | Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required – (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access. | Existing essential services are available to the subject site. The proposed development incorporates stormwater drainage and suitable vehicular access as demonstrated in the civil stormwater drainage plans and architectural plans (<i>Appendix C</i> and <i>Appendix A</i> , respectively). |



6.7.2 Lake Macquarie Development Control Plan 2014

Lake Macquarie Development Control Plan 2014 (LMDCP 2014) contains specific development controls for dual occupancy development which are addressed in **Table 9**.

Table 9 Lake Macquarie Development Control Plan 2014

Compliance with setback controls for dual occupancy development

Part 9 – Specific Land Uses – Dual Occupancy

| Clause | Requirement | Proposed |
|-----------------------|--|--|
| 6.1 Site Requirements | <p>A minimum site area of 500m² is required for Dual Occupancy developments</p> <p>A minimum lot width of 12m measured at the building line is required for Dual Occupancy development.</p> <p>Each proposed dwelling must have a minimum building envelope of 200m² located above 2m AHD without the need for filling, and must have adequate flood-free access.</p> | <p>Complies</p> <p>The site comprises an area of 543.8m².</p> <p>Complies</p> <p>The subject site has a width of approximately 16.5m at the building line.</p> <p>Complies</p> |
| 6.2 Site Coverage | The maximum site coverage for Dual Occupancy developments, including ancillary development, must not exceed 55%. (299.09sqm) | <p>Complies</p> <p>The total site coverage of the development is 270.2sqm, which equates to 49.7%.</p> |
| 6.3 Streetscape | <p>Dual Occupancy design should provide individual identity for each dwelling within an overall design character as indicated in Figure 5 of Part 9 – Specific Land Uses – Dual Occupancy.</p>  <p>Figure 5 - Indicative design for attached side by side dual occupancy dwellings showing individual identity of each dwelling within an overall character</p> | <p>Complies</p> <p>The design of the proposed development is consistent with Figure 5 of Part 9 – Specific Land Uses – Dual Occupancy. Each dwelling has an individual identity within the overall character of the development through the use of different door fixtures and window elements.</p>  |
| 6.4 Setbacks | <p>Where there are existing adjoining residential buildings within 40 metres,</p> <p>i. the front setback must be consistent with the established setbacks or,</p> <p>ii. where adjoining building setbacks vary by more than three metres, the front setback must be the same distance as one or other of the adjoining buildings, or:</p> <p>iii. where adjoining buildings vary in setback, development must locate between their setbacks.</p> | <p>Complies</p> <p>The development proposes a front setback of 8.5m which is consistent with prevailing setbacks in the street, which generally range between 7.0-8.5m.</p> |
| 6.5 Landscape Area | For Dual Occupancy developments, the minimum landscaped area must be 50% | Non-Compliant |

Compliance with setback controls for dual occupancy development

| | | |
|----------------------------------|---|--|
| | <p>of the total lot area minus 100m². The landscaped area must have a minimum width of 1.5 metres to be included in the landscaped area calculations. (171.9m²).</p> <p>25% of the area forward of the building line must be landscaped (38.2m²).</p> <p>A street tree is to be provided along each street frontage</p> | <p>The development proposes a total of 126m² landscaped area, 98.8m² of which meets the minimum 1.5m width requirement of LMDCP2014. This represents a non-compliance of 73.1m². The non-compliance is considered acceptable as it does not result in any unacceptable adverse impacts (refer to discussion below). Complies The development proposes 52.27m² landscaping within the front setback.</p> <p>Complies Two street trees are proposed along Cadaga Road.</p> |
| 6.6 Principal Private Open Space | <p>Dual occupancy development must include private open space for each dwelling that:</p> <p>i. has a minimum area of 16m² that is free of any storage areas, retaining walls, fencing, supports, tanks, structures or landscape planting, and</p> <p>ii. has a minimum dimension of three metres, and</p> <p>iii. has a grade less than 1:50</p> | <p>Complies The following is proposed for each dwelling: Unit 1 56.1m² Unit 2 50.3m² Complies Private open space for each unit has a minimum dimension of at least 3m Complies Level, paved private open space area is provided. Natural ground level in rear yard.</p> |
| 6.7 Driveway Design | <p>Where on street parking is currently available in front of the development, the proposed driveways are located so that at least one space remains.</p> <p>A minimum of 1m wide landscape area must be provided between a driveway and a boundary fence. The landscape area should be free of retaining walls and extend for the full length of the driveway.</p> | <p>Complies Individual driveways are proposed for each dwelling and are spaced approximately 7.9m apart which allows adequate space for an on street parking space.</p> <p>Complies Min 1m wide landscaped strip provided between driveway and fence.</p> |
| 6.8 Operational Waste Management | <p>i. Waste storage area(s) a. Dual properties may share a set of 240 litre bins (with maybe an upsized 360 litre recycling bin), so suitable shared storage space must be available; but the owner may pay for an additional set of bins, so space option must also be available for each property to store their</p> | <p>Complies The proposed development complies with the Lake Macquarie Waste Management Guidelines. Refer to Waste Management Plan for further details. Adequate bin storage area is provided to the side of each dwelling and adequate length of kerbside is available for bin collection.</p> |

Compliance with setback controls for dual occupancy development

| | | |
|--|--|--|
| | <p>own set of 240 litre bins, with an optional 360 litre recycling bin each;</p> <p>b. A minimum space for waste bin storage must be allocated per dwelling (in addition to minimum space allocations for other purposes) with minimum internal dimensions of each storage area as follows:</p> <ul style="list-style-type: none"> • Where each dwelling's set of 240 litre bins are to be stored on in each individual dwelling's yard, either 1905mm x 1560mm or 1410mm x 2340mm at each dwelling; or • Where two dwellings' individual bins (two sets of 240 litre bins) are to be stored in a shared area accessible to both dwellings, for 240 litre bins, 1905mm x 2340mm; or • Where two dwellings' shared 240 litre bins (one set of bins) are to be stored in a shared area accessible to both dwellings, either 1905mm x 1560mm or 1410mm x 2340mm. <p>ii. Waste collection point(s) a. At least 3.5 metres length per dwelling of unobstructed position on safe kerbside must be available for bin collection; and for bulk waste collection space up to 2 square metres needs to be designated on the kerbside.</p> | |
|--|--|--|

Part 3 – Development within Residential Zones

| Clause | Requirement | Proposed |
|---------------------------|---|---|
| 2.4 Mine Subsidence | <p>Where an application is made for the construction of a structure or building within a Mine Subsidence District, written concurrence must be obtained from the Mine Subsidence Board.</p> <p>Written concurrence should be obtained prior to the application being submitted to Council.</p> <p>Written concurrence from the Mine Subsidence Board is not required for certain works that have deemed approval under the Mine Subsidence Board's publication 'A Guide for Council Staff'.</p> | <p>Complies</p> <p>The subject site is located within the Lake Macquarie Mine Subsidence District.</p> <p>Written notice of the intention to carry out the proposed development was provided to the Subsidence Advisory NSW. The Subsidence Advisory NSW granted approval for the development subject to conditions on 20 March 2023.</p> |
| 2.7 Stormwater Management | A Site Stormwater Drainage Plan must be submitted for all single dwelling houses and dual occupancy development proposals. The Site Stormwater Drainage Plan must be | <p>Complies</p> <p>Stormwater management for the site has been designed in accordance with LMDCP2014, Drainage Design Handbook 2013 and Water Cycle Management Guidelines 2013. Refer to</p> |

| Compliance with setback controls for dual occupancy development | | |
|---|--|---|
| | <p>prepared in accordance with Council's Water Cycle Management Guidelines. On-site measures must be implemented to maintain water quality, and to minimise the volume of stormwater run-off and the rate at which stormwater leaves the site.</p> <p>A maximum of 10% of run-off from built impermeable surfaces may be discharged directly to the drainage system. The remaining 90% of run-off must be captured for reuse, or managed through infiltration and retention measures prior to being discharged to the drainage system.</p> <p>Stormwater management systems should be visually unobtrusive and integrated within site landscaping, car parks or building structures.</p> | <p>Civil Plans contained in Appendix C for further details and Design Compliance Certificate in Appendix L.</p> |
| 3.3 Side Setback | <p>In the R2 and R3 zones, side setbacks must be a minimum of 900mm for building height up to 4.5 metres.</p> <p>In the R2 and R3 zones, side setbacks must be a minimum of 1.5 metres for building height over 4.5 metres but less than three storeys</p> | <p>Complies</p> <p>The development proposes the following:</p> <ul style="list-style-type: none"> - 0.9m for ground floor northern side (Unit 1) - 0.995m for ground floor southern side (Unit 2) - 1.5m for second storey over 4.5m in height |
| 3.4 Rear Setback | <p>In the R2 and R3 zones, rear setbacks must be a minimum of three metres for buildings up to 4.5 metres in height.</p> <p>In the R2 and R3 zones, rear setbacks must be a minimum of six metres for buildings over 4.5 metres in height, but less than three storeys</p> | <p>Complies</p> <p>The development proposes a minimum rear setback of 3m to the roofed, paved private open spaces.</p> <p>Complies</p> <p>The development proposes a minimum rear setback of approximately 6.5m to elements of the building over 4.5m in height.</p> |
| 4.11 Parking | <p>One undercover space and 1 space as single file parking per dwelling of the dual occupancy.</p> | <p>Complies</p> <p>Individual driveways are proposed for each unit providing access to a single garage space with stacked parking located in front of the garage.</p> |
| 3.10 Solar Access | <p>At a minimum, three hours of sunlight must be available between 9am and 3pm on June 21, to at least 50% of:</p> <ol style="list-style-type: none"> Habitable rooms, and The required area of private open space of each development, and The required area of private open space of adjoining developments. | <p>Complies</p> <p>The Seniors Living Policy Checklist and View from Sun diagrams indicate that the living areas and private open space of each dwelling will receive 3 hours of sunlight between 9am and 3pm (21 June) (refer to Appendix N and Appendix A, respectively).</p> |

Compliance with setback controls for dual occupancy development

| | | |
|-------------|--|---|
| 3.7 Garages | <p>Garages and sheds must be setback a minimum of one metre from the front building line.</p> <p>Where garages and carports address the street, openings must not exceed six metres or 50% of the building width, whichever is the lesser.</p> | <p>Complies</p> <p>The following setback is proposed for each garage:</p> <p>Unit 1 1.35m from building line</p> <p>Unit 2 1.2m from building line</p> <p>Complies</p> <p>The proposed development has a building width of 14m. Garage openings comprise a total width of 4.8m, which equates to 34% of the building width.</p> |
| 3.8 Roofs | For all other development the roof must not exceed 3m in height. | <p>Complies</p> <p>The roof of the proposed development will be 0.97m in height.</p> |

Non-Compliance with Landscaped Area

The development proposes a total landscaped area of 126m², of which 98.8m² has a minimum width of 1.5m as required by the LMDCP 2014. In accordance with LMDCP 2014, the required landscaped area for the site is 171.9m², that is 50% of the total lot area minus 100m². This translates to a shortfall of 73.1m² of landscaped area with a minimum width of 1.5m. In this instance, the proposed non-compliance is considered to be acceptable as the development will still achieve the objectives of the landscaped area controls and will not result in any adverse effects on the development, adjoining development or environment based on the following justifications.

Whilst the development does not achieve the landscaped area as stipulated by the LMDCP 2014, the development has been designed to comply with the site coverage objectives and controls set out by the DCP. It achieves adequate stormwater management, generous provision of private open space and provides a variety of landscape planting.

Landscaping for the site has been thoughtfully considered to best achieve residential amenity for the site and surrounds, and proposes a mix of native trees, shrubs and ground covers. Planting within the front setback has been designed to enhance the streetscape by providing a landscaping strip along the site frontage, as well as adjacent to driveways and pathways. The front landscaped area will include new trees capable of reaching a mature height of 5m. Proposed planting within the rear setback has been designed to enhance residential amenity and privacy for residents and adjoining residential development. It will also provide an opportunity for contiguous planting areas with neighbouring properties. In addition, the site adjoins public open space to the rear, which provides a landscaped outlook for the proposed development.

The development has been designed to minimise the impacts of stormwater runoff. Stormwater design, including on site stormwater retention, has been provided to meet the requirements of Lake Macquarie City Council. Hard surfaces have been minimised where possible.

As demonstrated above, the proposed non-compliance with the provisions of the LMDCP 2014 for landscaped area does not result in any adverse social or environmental impacts, and is therefore considered acceptable.

7 Notification, Consultation and Consideration of Responses

7.1 Council Notification

In accordance with section 43 of the Housing SEPP, Lake Macquarie City Council was notified of the development by letter dated 21 April 2023. The notification response period formally closed on 16 May 2023 and Council responded to the notification by letter dated 15 May 2023 (refer to *Appendix G*).

In the letter, Council provided advice that ‘the development is generally consistent with Lake Macquarie Local Environmental Plan 2014 and Development Control Plan 2014’. Council also recommended conditions of consent to maintain compliance with various required approvals and legislation. These conditions address matters such as compliance with the BCA, BASIX, hours of construction, erosion and sedimentation control measures, landscape works and management of waste. These matters are generally covered by standard Identified Requirements in the *Activity Determination*. Comments provided in response to Council’s recommended conditions are contained in *Appendix G*.

It is noted that several of the proposed conditions do not relate to Crown Development, such as obtaining a Construction Certificate, Occupation Certificate and approvals under the Roads Act 1993. Also, payment of contributions under s7.11 of the EP&A Act are only applicable to development for which development consent is sought and therefore do not apply to development without consent under Part 5 of the EP&A Act.

Additional Identified Requirements are recommended in the *Activity Determination* to address the following conditions provided by Council:

- **Development Street Addressing** (Identified Requirement No 61)

Application shall be made to Council to obtain addressing for the development in accordance with the guidelines in the NSW Address Policy and User Manual. Application is made by emailing an approved site plan, floor plan(s) and contact details to Data and Knowledge Management at enar@lakemac.nsw.gov.au.

- **Interallotment Drainage Easement** (Identified Requirement No 62)

An interallotment drainage easement 1 metre wide over the adjoining downstream property, Lot 498 DP 224374 shall be created for the benefit of the subject property at no cost to Council.

The easement shall be registered on the title of the lots benefited and burdened by the easement under Section 88B of the Conveyancing Act 1919 as amended, and a copy of the registered Section 88B Instrument shall be provided to Council.

*It is noted that Council’s recommended condition refers to the provision of a 2 metre wide drainage easement, however the requirement has been amended to reflect the provision of a 1 metre wide easement as shown on the civil stormwater drainage plans (refer to *Appendix G*).*

- **Concrete Footpath** (Identified Requirement No 63)

A design plan for concrete footpaths 1.2 metres wide along the full length of the street frontage shall be submitted. Concrete foot paving shall be constructed in accordance with Lake Macquarie City Council standard drawing EGSD-301 which is available from Council’s website.

- **Removal, Management and Transportation of Fill** (Identified Requirement No 64)

All excavated fill material that shall be removed from the site shall only be distributed to:

- a) A NSW Office of Environment and Heritage licensed waste disposal facility. A copy of the receipts from the waste disposal facility shall be kept and shall be provided to the NSW Land and Housing Corporation, or authorised officer of Council upon request; or
- b) A site which has a current development consent for the importation of fill material. A copy of the current development consent for the site to which the material is proposed to be distributed shall be provided to the NSW Land and Housing Corporation, or authorised officer upon request.

All removed excavated material shall be transported and disposed of in accordance with the NSW Department of Planning and Environment guidelines applicable at the time of removal.

It is noted that Council's recommended condition refers to the issuing of an Occupation Certificate, which is not applicable to Crown Development.

- **Landscape works** (in the public domain) (Identified Requirement No 65)

The turf species used on all roadway landscapes and any other approved locations on public land shall be couch. This turf species shall be specified on all landscape concept and construction documentation.

- **Street Trees** (Identified Requirement No 66)

All street trees shall be grown to AS2303:2015 with the landscape consultant sighting documentation from the nursery supplier confirming this and all street trees shall be maintained once planted by the proponent for 52 weeks.

Street trees are to be planted as per Council standard drawing LSD-PLA-02 and LSD-SPEC-01. Prior to installation, Council's Asset Management – Natural Areas section shall be contacted to inspect the trees and installation detail. Phone 4921 0333.

The Landscape contractor shall remove all pot stakes, labels and wire/rubber/plastic tags from every street tree with only tree stakes as detailed.

It is noted that Council's recommended condition refers to a maintenance period of 104 weeks, however this has been amended to be consistent with the terms of LAHC's post-completion maintenance contract.

- **Excavation and Retaining** (Identified Requirement No 67)

Only retaining walls indicated on the approved plans shall be constructed.

No additional excavation/fill shall occur outside the area as shown on the approved plans.

No fill or retaining walls shall be located within any drainage easement located upon the subject property.

Retaining walls, footings and associated drainage works shall be located wholly within the subject property boundaries and shall be connected to the existing stormwater system or other approved stormwater system on the subject property.

- **Erosion and Sediment Controls** (Identified Requirement No 68)

Should any sediment from the site be deposited outside the site, such as, from vehicle tyres or a broken bag, it shall be removed from the road or gutter immediately.

- **Landscape Works** (Identified Requirement No 69)

At the completion of landscape works, the consulting landscape architect who prepared the documentation shall submit to the NSW Land and Housing Corporation a Landscape Compliance Report. This report shall certify shrub and tree species, pot size, and planting densities and landscape area set out comply with approved documentation and practical completion of the landscaping works

has occurred. This report shall certify any required street trees are planted specifically as per the nominated locations on the approved documentation and these Identified Requirements, and have edging constructed as per the Lake Macquarie City Council Landscape Standard Drawings March 2019.

7.2 Notification of Occupiers of Adjoining Land and Other Persons

Under section 43(1)(b) of the Housing SEPP, Lake Macquarie City Council was requested to nominate any other persons who should, in the Council’s opinion, be notified of the development.

Advice was sought from Council regarding additional persons or property that should be notified of the development via emails dated 06 and 31 March 2023. Council provided email responses on 31 March and 3 April 2023 advising that Council would require adjoining land owners to be notified, and providing property owner details as requested by LAHC. Figure 18 illustrates the properties in which the occupiers and landowners were notified of the development.



Figure 18: Map of Properties Notified of the Proposed Development (Source: LAHC, April 2023)

Under section 43(1)(b) of Housing SEPP, occupiers and owners of adjoining land, as identified in the above map, were notified of the proposed development activity by letter dated 21 April 2023. A sample of the notification letter is provided at **Appendix G**.

The notification period formally closed on 16 May 2023. Two verbal submissions were received during the notification period. The matters raised in the submissions are discussed in **Table 10**.

Table 10 Issues raised by adjoining owners / neighbours

| Issues raised | LAHC Response |
|---|--|
| Expressed positive feedback on the attractiveness of the development. | Acknowledged. No further consideration required. |
| Potential overlooking from upstairs windows | Upper floor windows are to bedrooms and bathrooms only and are therefore not anticipated to result in any adverse privacy impacts to adjoining properties. |

| Issues raised | LAHC Response |
|---|---|
| Raised whether construction of this development could occur concurrently with redevelopment on the corner site to reduce the period of construction noise | Construction of the subject development and potential redevelopment of the adjoining vacant site at 46 Cadaga Road would be subject to funding and therefore the timing of construction is not yet known. |

7.3 Notification of Specified Public Authorities

The development is 'residential development' under section 42 of the Housing SEPP. As required by section 42(5) of the Housing SEPP, consideration has been given to the need to notify the 'specified public authorities' identified in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.15 and 2.17. The development is located in an area that triggers the requirement to notify public authorities other than Council.

The subject site is located within a Mine Subsidence District and is therefore classified as a specified development under section 2.15 of SEPP (Transport and Infrastructure) 2021.

Written notice of the intention to carry out the proposed development was provided to the Mine Subsidence Board (now Subsidence Advisory NSW, SA NSW) by letter dated 21 April 2023. SA NSW provided a response by email on 26 April 2023, making reference to the conditional approval of the development issued previously by SA NSW on 20 March 2023 (refer to **Appendix R**).

8 Review of Environmental Factors

For the purposes of Part 5 of the EP&A Act, the factors detailed in the table in Section 6.4.1 are to be taken into account when consideration is being given to the likely impact of an activity on the environment. In addition to these prescribed factors, the following is a review of additional environmental factors that are considered relevant to this activity. This review of additional environmental factors examines the significance of these likely environmental impacts of the proposal and the measures required to mitigate any adverse impacts to the environment.

8.1 Neighbourhood Character

The site is located within an established residential area. The dominant form of development in the locality is older style detached, single-storey, weatherboard dwelling houses. These dwellings tend to sit within lightly landscaped and turfed allotments and have predominately tiled, pitched roofs. It is anticipated that the proposed development may act as a catalyst for more contemporary 2 storey development in this area of Gateshead, while maintaining the low density scale of the neighbourhood character. Of the 2-storey dwellings, dual occupancy and seniors housing developments interspersed throughout the locality, these dwellings take a more contemporary form and introduce new design features to the area, including rendered finishes and muted grey, brown and white tones. The 2-storey design, siting, layout and landscape setting of the proposed development aligns with that of emerging development in the locality.

Mitigation Measures

No mitigation measures are required, as the design of the proposed development is sympathetic to the neighbourhood character, providing a low density scale with setbacks to neighbouring development. Suitable design treatments, including fencing, landscaping and a considered planting mix ensure the proposal will generate benefits to neighbourhood character.

8.2 Bulk and Density

The proposed development is consistent with the emerging development in the locality of Gateshead. The 2-storey building incorporates appropriate setbacks distinguished by articulation features, external finishes and materials to reduce the visual bulk of the development. The development has been designed with suitable façade articulation and roof form to minimise bulk and scale.

The proposal incorporates a maximum height of 8.2m which is consistent with a low-density residential area. The 2-storey built form is sympathetic to the surrounding context and is an appropriate response to the desired future character envisaged for the R2 Low Density Residential zone, which encourages a variety of housing types and densities, including dual occupancy development. Further, the development proposes single storey built form at the rear of each dwelling, reducing the visual bulk and scale of the development experienced by adjoining occupiers.

The proposed development is considered to have a suitable site coverage, be generously setback from all boundaries and will provide expansive deep soil areas, which will all minimise its perceived bulk. The proposal will suitably increase housing density which is consistent with State and regional strategies and the development controls applying to the site.

Mitigation Measures

None required.

8.3 Streetscape

The architectural style of the proposed development activity is compatible with the evolving form and treatment of residential development in the surrounding locality. The street façade is divided into a number of distinct elements, complemented by substantial landscaping, resulting in a finer grained streetscape appearance.

Given the strong articulation and modulation along the front façade and improved landscaping proposed within the street setback, the proposed development will make a positive contribution to the streetscape of Cadaga Road. The proposed development will provide a new contemporary residential development within a currently vacant residential block.

The built form has been designed to address the street frontage through incorporation of street facing windows and doors, improving casual surveillance of the street.

Mitigation Measures

None required.

8.4 Visual Impact

The proposed development will generate some short-term visual impacts on the surrounding area during construction, with a long-term positive visual impact associated with the establishment of new dwellings in an existing suburban residential context.

The proposed development will make a positive contribution to the residential streetscape through construction of new contemporary dwellings that respond to the site context and neighbourhood character. Articulation, diverse mix of materials and a neutral colour palette will assist with the overall aesthetic of the development.

Landscaping proposed in the Cadaga Road setback including new, native canopy trees with a height of approximately 5m will soften the visual impact of dwellings when viewed from the public domain. Furthermore, two new street trees with a height of approximately 8m are proposed along Cadaga Road, which will provide additional canopy and shade to pedestrians and improve the aesthetic quality of the streetscape. The rear and side setbacks will also be heavily landscaped with shrubs, ground covers and two mature trees adding to the long-term visual amenity of the development.

Mitigation Measures

None required.

8.5 Privacy

A high level of internal and external privacy is maintained by the proposed development activity through a range of measures including careful and considered site landscaping, new boundary fencing, adequate site setbacks and strategic placement of windows so as to avoid direct overlooking of neighbouring properties. In particular:

- the proposed dwellings have been designed in accordance with the requirements of the *National Construction Code* for sound and impact transmission so that acceptable noise levels between dwellings and adjoining properties are achieved;

- visual and acoustic privacy within the development and to adjacent neighbours is provided and maintained through the strategic use of privacy screens, considered window locations including high sill windows, and screen planting;
- extensive front setback and landscaping within the site will assist in the provision of adequate privacy for residents;
- side and rear setbacks are compliant with LMDCP 2014. Planting is used within the side and rear setbacks providing privacy for adjoining dwellings;
- proposed 1.2m high fencing within the front setback delineates between private and public space, providing increased privacy to residents;
- proposed 1.8m Colorbond fencing with additional privacy screening to a combined height of 2.1m will mitigate unacceptable overlooking to and from adjoining properties;
- first floor balconies are provided to each unit to enable passive surveillance of the street without compromising the privacy of the internal bedrooms associated with these balconies. Further, balconies have been oriented to the front of the site, and as such will not directly overlook the windows or private open space at adjacent properties;
- principal, paved private open spaces are set back from neighbouring properties, with privacy screens and landscaping provided to ensure privacy;
- the development has been designed in response to the topography of the land further reducing any potential overlooking or adverse privacy impacts; and
- the development proposes single storey built form at the rear of each dwelling, reducing any potential overlooking of adjoining dwellings.

Mitigation Measures

None required.

8.6 Solar Access

The design and siting of the proposed development will provide adequate daylight access to the living areas and private open spaces of the proposed dwellings.

The sun diagrams indicate that living areas and private open space for each dwelling will receive 3 hours of sunlight between 9am and 3pm in midwinter. Both private open spaces are oriented to receive adequate solar access. Further, the paved principal private open space area for each dwelling will be provided with a translucent roof to maximise solar access while providing weather protection.

Mitigation Measures

None required.

8.7 Overshadowing

Given the orientation of the site, the proposed development will not generate shadow impacts to the adjoining property to the north at 42 Cadaga Road between 9am and 3pm June 21st, as shown on the shadow diagrams in **Appendix A**. It should be noted that adjoining land to the south of the site (46 Cadaga Road) is currently vacant and land to the east of the site is public open space.

The property at 46 Cadaga Road will be impacted by shadows cast by the development, however as it is currently a vacant block, there will be no immediate adverse impacts resulting from overshadowing. Any future development at 46 Cadaga Road will likely be impacted by overshadowing from the proposed development, particularly between the hours of 9am and 12pm. Between the hours of 12pm and 3pm shadows cast by the proposed development on 44 Cadaga Road are mostly contained within the northern portion of this lot. It is therefore anticipated that any future development at 46 Cadaga Road should be capable of receiving 3 hours of sunlight at the mid-winter solstice between 9.00 am and 3.00 pm should it be appropriately designed and sited on the lot with consideration of the location of private open space and orientation of living areas.

Mitigation Measures

None required.

8.8 Traffic & Parking

A total of 4 on-site car parking spaces will be provided on the site. Each dwelling will incorporate a single garage space with a stacked space provided in the driveway. The provision of on-site car parking exceeds the parking requirements set out in the Housing SEPP for developments carried out by LAHC by 2 spaces. Unrestricted on-street parking is also available on Cadaga Road.

The Traffic and Parking Assessment Report prepared by Stanbury Traffic Planning (*Appendix S*) indicates that the development will generate up to 2 vehicle movements to and from the subject site during peak hours. These vehicle movements are primarily likely to comprise egress movements during the morning peak period and ingress movements during the evening peak period, associated with normal journey to and from work patterns of residential development. The projected traffic activity as a consequence of the development proposal is not expected to result in any unreasonable impacts on the existing operational performance of the surrounding local road network. Further, the development will not have any unacceptable implications in terms of road network capacity as traffic demands within the surrounding local road network are reasonably low with spare capacity.

The Traffic and Parking Assessment Report examined the adequacy of the proposed internal driveways and parking arrangement. Vehicular access to the off-street vehicle parking is proposed via two separate ingress / egress driveways connecting with Cadaga Road in the south-western and north-western corners of the site. The assessment confirmed that the design is suitable based on an assessment of the projected vehicle movements. Vehicles will be required to access or egress the driveways via a reverse manoeuvre to/from Cadaga Road, which is not uncommon for dwellings in a residential area. The proposed site access and internal manoeuvring is accordingly considered to be satisfactory.

Mitigation Measures

It is recommended that the portion of the existing northern boundary fence that encroaches on the sight distance triangle required for the proposed northern driveway be removed or replaced in order to provide visibility in accordance with Clause 3.2.4(b) of AS2890.1:2004 to assist in the accommodation of the subject development in a safe and efficient manner (refer to Identified Requirement No. 60).

8.9 Flora and Fauna

An Arboricultural Impact Assessment and Tree Management Plan has been prepared for the site by Redgum Horticultural (**Appendix J**). The report considers five trees and one weed specimen. Four trees and the weed specimen are located within the site and one tree is located within a neighbouring property (46 Cadaga Road).

The report recommends the removal of 4 existing trees within the site that are either located within the proposed development footprint or that would be impacted by an unavoidable major encroachment on roots and crown for viability and stability. The weed specimen, identified as Tree 3, is recommended to be removed independent of the proposed development. The report recommends the retention of 1 existing tree within neighbouring property 46 Cadaga Road (Tree 6).

Appropriate replacement planting is proposed, as indicated on the landscape plan and details. The new plantings will provide replacement tree cover on the site and increase the variety of species, including flowering trees, which will provide additional habitat for fauna in the long-term.

There will be no significant impact on native fauna as a result of the proposed development, given that compensatory planting is proposed.

Mitigation Measures

The tree nominated to be retained is to be protected in accordance with the recommendations and General Tree Protection Specification contained within the Arboricultural Impact Assessment (refer **Appendix J** and Identified Requirement No.32).

8.10 Heritage (European / Indigenous)

No heritage items are identified in Lake Macquarie City Council's Section 10.7(2) & (5) Planning Certificate located on or in the vicinity of the site.

8.10.1 Aboriginal Heritage

An Aboriginal Heritage Information Management System (AHIMS) search, dated 14 April 2023 (**Appendix I**) did not find any record of Aboriginal Sites or Places on the site or in the surrounding locality and the site is considered to be disturbed land. Consideration of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, determines that no additional investigation is warranted. Discovery of cultural material during development activities cannot be ruled out, however, an identified requirement has been applied should any Aboriginal relics be discovered on the site during excavation/construction.

8.10.2 Other Cultural Heritage

No cultural heritage items have been identified in the Section 10.7(2) & (5) Planning Certificate and the likelihood of any heritage relics being discovered during excavation / construction is considered to be minimal given the disturbed nature of the site.

Furthermore, a search of the Department of Climate Change, Energy, the Environment and Water's Australian Heritage Database and the Heritage NSW's State Heritage Inventory revealed the site does not contain, nor is it in the immediate vicinity of, any Commonwealth, Local or State Heritage Items and it is not located within a heritage conservation area.

Mitigation Measures

Standard Identified Requirements (Nos. 42 and 43) have been applied should any cultural heritage relics be discovered on the site during excavation / construction.

8.11 Soils / Contamination / Acid Sulfate Soils / Salinity

8.11.1 Geotechnical

A Geotechnical Investigation, prepared by STS Geotechnics indicates the following:

- The subsurface conditions generally consist of topsoil overlying silty clays. The topsoil is present from the surface to a depth of 0.3 to 0.4 metres. Stiff, becoming very stiff with depth, silty clay underlies the topsoil to depths of drilling, 3 metres.
- Groundwater was not observed during drilling works.

The site is identified in the Section 10.7(2) & (5) Planning Certificate as being affected by a policy that restricts the development of the land because of the likelihood of land slip or subsidence.

The site is identified on Lake Macquarie City Council's geotechnical areas map as being within the 'Geo 6' geotech zone. Council's Geotechnical Slope Stability Guidelines state that development in the Geo 6 zone consisting of less than 3 storeys and less than 1,000m² gross floor area do not require submission of a Slope Stability Assessment.

As stated previously, the site is located in a Mine Subsidence District. Subsidence Advisory NSW issued a conditional approval for the development on 20 March 2023 (refer to **Appendix R**). Documentation is to be provided to Subsidence Advisory to meet the conditions listed in Schedule 2 of the determination.

Mitigation Measures

The requirements of the Mine Subsidence Board (now Subsidence Advisory NSW) must be incorporated into design of the foundations (refer **Appendix R** and refer to Identified Requirements No. 70-75).

Construction methods are to be carried out in accordance with the recommendations contained within the Geotechnical Investigation (refer **Appendix O**).

8.11.2 Contamination

According to Council's Section 10.7(2) & (5) Planning Certificate, the land is affected by a policy restriction relating to contaminated land.

The site is located within a developed residential area of Gateshead. Through a desktop analysis, LAHC have been able to confirm through a review of the historical layout plan for the area (42/2867), that the area was developed for residential purposes c1960s. The site is not within close proximity to land contaminating activities and adjoins residential development and public open space. As such, given the long-term prior use of the land for residential purposes, the highly disturbed nature of the site and given that the Section 10.7 Planning Certificate indicates the site has not been identified as being subject to any matters arising from the Contaminated Land Management Act, it is unlikely that the subject land is affected by contamination. The development of the site for residential purposes is therefore considered suitable and further investigation is not considered warranted.

Mitigation Measures

A standard identified requirement (No. 16) has been recommended to cover the possibility of discovering site contamination during demolition / construction works.

8.11.3 Acid Sulfate Soils

According to Council's Section 10.7(2) & (5) Planning Certificate, the land is identified as being affected by a policy that restricts the development of the land because of the likelihood of Acid Sulfate Soils. However, the site is not identified on the LMLEP 2014 Acid Sulfate Soils map, nor is it located in close proximity to any land identified as potential acid sulfate soils.

Mitigation Measures

No mitigation measures are required.

8.11.4 Salinity

Council's Section 10.7(2) & (5) Planning Certificate indicates that the site is not affected by salinity. Furthermore, the results of onsite soil testing undertaken in the Geotechnical Investigation prepared by STS Geotechnics Pty Ltd, are consistent with the presence of non-saline soils.

Mitigation Measures

No mitigation measures are required.

8.12 Drainage / Flood Prone Land / Hydrology/ Water Quality

8.12.1 Drainage

Stormwater drainage for the proposed development has been designed in accordance with Council's requirements. Stormwater will be collected via a series of stormwater pits and grated drains on the site draining to the existing local stormwater infrastructure via a proposed interallotment easement. The proposed easement for drainage will run along the south eastern boundary of the site and within Lot 498 (vacant land) to connect into the existing stormwater drainage network in Mallee Street. Roof water will be collected from downpipes and connected to rainwater tanks for reuse, with overflow connected to existing stormwater infrastructure via the proposed easement. The proposed pipe and easement through Lot 498 does not impact on the vacant site nor impact on the future development of this site.

8.12.2 Flood Prone Land

The Section 10.7(2) & (5) Planning Certificate issued by Council for the subject site indicates that the land is not subject to flood related development controls. Further, flood advice prepared by JN Responsive Engineering (*Appendix T*) confirms that the site is not affected by flood controls, does not appear on Lake Macquarie City Council's 'Flood Control Lots' map and that the site is not affected by or near any significant flood depths in the 1% AEP storm event under the Jewells Wetland Flood Study.

8.12.3 Hydrology and Water Quality

The proposed development has been designed to have no adverse impact on the hydrology or water quality within the local area.

Mitigation Measures

Identified Requirements (Nos. 5-8, 13 & 59) have been recommended to ensure that stormwater drainage is managed in accordance with legislative requirements.

8.13 Bushfire Prone Land

The Section 10.7(2) & (5) Planning Certificate issued by Lake Macquarie City Council for the subject site advises that the land is not bushfire prone.

Mitigation Measures

No mitigation measures are required.

8.14 Noise and Vibration

During Construction

Construction hours will be limited to Monday to Saturday 7am to 5pm with no work on Sundays or Public Holidays. During construction typical noise levels associated with building works will be generated. The construction hours are consistent with the hours prescribed for Complying Development.

During Occupation

Noise generated when the proposed buildings are completed and occupied will be entirely in keeping with their residential surroundings. No major plant or equipment, which would generate unacceptable noise during occupation, will be installed in the proposed development.

Buildings will be constructed to comply with the deemed-to-comply provisions of the *National Construction Code* with respect to noise transmission. Buildings are to be designed and constructed to achieve internal noise level design targets.

Mitigation Measures

Construction noise will be controlled to within acceptable limits, by restricting the hours of construction to be consistent with the requirements for complying development.

Buildings will be constructed to comply with the deemed-to-comply provisions of the *National Construction Code* and EPA criteria with respect to noise transmission.

Appropriate standard identified requirements (Nos. 2, 45 & 47) have been applied to ensure compliance with the above mitigation measures.

8.15 Air Quality

Temporary and localised air quality impacts including dust, smoke, grit, odours, and fumes might be generated during the clearing and excavation of the site and construction of the proposed development.

Mitigation Measures

Appropriate standard Identified Requirements (Nos. 48, 51 & 52) have been applied that will satisfactorily mitigate any potential or adverse impacts on air quality.

8.16 Waste Minimisation

The following waste minimisation and management measures have been identified and are to be considered in conjunction with the specific details, including the estimated quantities of waste, provided in the final waste management plan to be prepared by the building contractor.

During Construction

Construction materials must be stored wholly within the site prior to removal for recycling or disposal. Construction materials waste must be removed from the site to the Awaba Waste Management Facility or other approved waste management facility or shall be reused as follows:

- concrete, bricks, blocks and pavers to be reused on site as bedding under concrete or aggregate for drainage;
- full tiles shall be retained on site as spares;
- timber, plasterboard and plaster shall be reused on site for smaller works; and
- cardboard boxes/paper shall be used for short term storage of other materials on site.

During Occupation

General and non-recyclable waste will be disposed of in Council's standard waste storage bins located in the garbage storage areas and placed on the street kerb by residents for weekly collection by Council's waste services.

Recyclables including bottles, containers, paper and cardboard will be disposed of in Council's standard recycling bins to be located in the garbage storage areas and placed on the street kerb by residents for collection by Council's waste services.

Lake Macquarie City Council offer a bulky waste collection service. Bulky waste will be collected and recycled via Council contractor or disposed of at Awaba Waste Management Facility.

The Awaba Waste Management Facility contains a Community Recycling Centre where problem wastes can be disposed of. Further, any sharps can be delivered to chemists for disposal and batteries to library recycling stations.

Mitigation Measures

Standard Identified Requirement (No. 53) is recommended to ensure construction waste is appropriately managed and disposed of.

A standard Identified Requirement (No. 33) is recommended to require the preparation of a final waste management plan for the construction and occupation phases of the development.

8.17 Resource Use & Availability

The proposed activity will not result in any discernable depletion or degradation of natural resources. The proposal has been designed to meet water and energy efficiency targets as demonstrated by the BASIX certificate for the proposal.

The recycling and reuse of materials during construction and on-going occupation of the proposed development will reduce the consumption of natural resources.

The proposed development will provide contemporary housing that is fit for purpose and will satisfy current State Government environmental sustainability requirements, particularly through improved energy and water efficiency. These factors will ensure reduced depletion and degradation of natural resources in the long term.

Mitigation Measures

No additional mitigation measures are required.

8.18 Community / Social Effects

The proposed development will have a number of positive community and social effects, including:

- achieving the objective of the EP&A Act to promote the delivery and maintenance of affordable housing;
- assisting LAHC in meeting its significant, long-standing and continually-growing demand for social housing in the City of Lake Macquarie LGA and surrounding area wherein the expected waiting time for a 4 bedroom dwelling is 5-10 years, as at 30 June 2022 (NN02 Lake Macquarie/East);
- assisting LAHC in improving the amenity of accommodation for its tenants, by providing new, more appropriate housing aligning with demand for social housing;
- improving the environmental sustainability of housing, particularly through improved energy and water efficiency; and
- providing silver level livable housing on the site.

Mitigation Measures

No mitigation measures are required.

8.19 Economic Impact

The proposed development is likely to contribute to a range of economic benefits in the City of Lake Macquarie LGA and surrounding areas through:

- more efficient use of land resources, existing infrastructure and existing services;
- local sourcing of construction materials where possible;
- the local sourcing of tradesmen and other construction-related professionals, where possible;
- on-going consumption from new/ additional households;
- the reduced maintenance costs of the newer housing; and
- savings associated with improved energy and water efficiency.

Mitigation Measures

No mitigation measures are required.

8.20 Cumulative Impact Assessment

The proposed activity is not likely to have singular or cumulative environmental impacts which would result in unacceptable adverse effects for the following reasons:

- the proposed activity will not result in any adverse cumulative impact when considered in conjunction with any other proposals or developments in the area;
- there will be no synergistic effects of individual project impacts from the proposed activity when considered in combination; and
- there are no known environmental stresses in the area of the proposed activity that would be increased.

Mitigation Measures

No mitigation measures are required.

9 Conclusion

9.1 Summary of Key Issues Raised in Assessment

The proposed activity, given its scale, location and design, will be sympathetic with its residential environment. Following a review of the site constraints, it has been determined that the subject land does not contain any significant environmental hazards and that there are no key issues that have been identified that require further assessment.

The proposed activity has been considered in terms of the provisions of Section 5.5 of the EP&A Act and Section 171 of the EP&A Regulation. Following an analysis of the potential impacts associated with the proposed activity it was determined that an environmental impact statement is not required.

As demonstrated in this REF, the proposed activity is consistent with the relevant objectives and standards set out in the Housing SEPP, LMLEP 2014, and the design principles and better practices set out in the relevant guidelines.

In addition, and as demonstrated by the environmental impact analysis and assessment undertaken in this REF, the proposed activity will have environmental impacts that can be mitigated to an acceptable level in accordance with current applicable standards, will have a number of positive environmental effects in terms of the built environment and will deliver a range of social and economic benefits.

The proposed development will enable LAHC to meet the increasing demand for 4 bedroom dwellings in the local area. Therefore, the proposed development is clearly in the public interest.

9.2 Recommendation

Given the above review of environmental factors, it is recommended that LAHC proceed with the proposed activity subject to the implementation of the Identified Requirements listed in the *Activity Determination* accompanying this REF.

APPENDIX A – ARCHITECTURAL PLANS

APPENDIX B – LANDSCAPE PLANS

APPENDIX C – CIVIL PLANS

APPENDIX D – SURVEY PLAN

APPENDIX E – NOTIFICATION PLANS

APPENDIX F – S.10.7 PLANNING CERTIFICATE

APPENDIX G – NOTIFICATION

APPENDIX H – ACCESS REPORT

APPENDIX I – AHIMS

APPENDIX J – ARBORIST REPORT

APPENDIX K – BASIX CERTIFICATE

APPENDIX L – DESIGN COMPLIANCE CERTIFICATES

APPENDIX M – NatHERS CERTIFICATE

APPENDIX N – SENIORS LIVING POLICY CHECKLIST

APPENDIX O – GEOTECHNICAL INVESTIGATION

APPENDIX P – TITLE SEARCH AND DP

APPENDIX Q – WASTE MANAGEMENT PLAN

APPENDIX R – SUBSIDENCE ADVISORY APPROVAL

APPENDIX S – TRAFFIC REPORT

APPENDIX T – FLOOD ASSESSMENT