

<b>JRPP No:</b>	2009STH018
<b>DA No:</b>	DA-2009/1592
<b>PROPOSED DEVELOPMENT:</b>	<p>Demolition of existing facilities; aged care facility, independent living units, community facilities including hall, commercial premises and cafe, consulting rooms, piazza area and associated administration, services and car parking areas</p> <p>The proposal is integrated development requiring approval under Part 3 of the Water Management Act from the NSW Office of Water</p>
<b>APPLICANT:</b>	Warrigal Care
<b>REPORT BY:</b>	<p>Theresa Whittaker, Senior Development Project Officer, Wollongong City Council</p> <p>(02) 4227 7481</p>

## Assessment Report and Recommendation

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### EXECUTIVE SUMMARY

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#### Reason for consideration by Joint Regional Planning Panel

The JRPP is the determining authority pursuant to State Environmental Planning Policy (Major Development) 2005 as (i) the proposed development has a capital investment value of more than \$10 million and (ii) the subject site is located within the coastal zone and the proposed building has a height of more than 13m.

#### Proposal

The proposed development comprises the following:-

- § Demolition of existing structures;
- § Construction of an integrated multi-storey aged care and seniors living development incorporating an aged care facility housing 120 beds, 36 independent living units for seniors, communal facilities including a hall and plaza; associated administration areas/offices;
- § Retail spaces which will service both the occupants of the development, their visitors and the general public. The applicant intends that the commercial spaces will accommodate uses such as a small general store, pharmacy, hairdresser, book/gift shop and health consulting rooms. Two business centres are also proposed (which may be used for service providers such as financial advisers or law firms) along with consulting rooms from which doctors and other health care professionals can operate;
- § Roof top garden and landscaping works around the site.
- § Car parking for 91 vehicles located at ground level with access /egress to/from Beach Street.

The proposal is described in greater detail in the assessment report.

The development will be operated by Warrigal Care, a not-for-profit aged care provider with a mandate for the provision of affordable aged care and seniors accommodation.

## Permissibility

In the current 3(d) zoning under WLEP 1990, dwelling houses and residential flat buildings are permissible with consent. As such, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies to the land and allows a seniors housing development to be undertaken.

The retail spaces are defined as 'shops' for the purposes of WLEP 1990. These can only be approved after advertising and satisfying Clause 11 of WLEP 1990. The applicant has not addressed Clause 11 in its submission. Accordingly Clause 11 is not satisfied and the shops are prohibited.

## Consultation

Neighbour notification and advertising has been carried out in accordance with the requirements of the Act and Regulation and Council's Notification Policy. Consultation with the RTA and internal divisions of Council has also occurred.

## Main Issues

- Consistency with Clause 11 of Wollongong Local Environmental Plan (WLEP) 1990 for the retail spaces. The applicant has not addressed Clause 11 in its submission. Clause 11 is not satisfied and the shops are prohibited;
- Non-compliance with the objectives of the 3(d) Commercial Services zone and the potential economic impact arising from the loss of a large site zoned for showroom/bulky goods purposes;
- Compliance with SEPP (Housing for Seniors or People with a Disability) 2004 in relation to whether a site compatibility certificate is required and compliance with numerous other provisions;
- Building height – the height of the independent living unit component of the building significantly departs from the 11m height control provided within Illawarra Regional Environmental Plan No.1. Details of the ceiling level of the aged care facility have not been provided to confirm that the height of this component of the building is compliant. The building is also significantly taller than the 9m height limit provided for in Wollongong Local Environmental Plan (WLEP) 2009 for this area. This current height control reflects the desired future character of the area;
- Potential impact on a threatened frog species and its habitat and impact on an endangered ecological plant community within/adjacent to the site and other significant tree species. Further information has been requested from the applicant in this regard but has not been provided;
- There are concerns raised by the RTA and Council's Traffic Section in relation to pedestrian safety, access for service vehicles, location of the western driveway,
- Flooding and stormwater issues. Some amendments to the plans are required to address these issues.

## RECOMMENDATION

It is recommended that Development Application 2009/1592 be refused pursuant to Section 80 of the Environmental Planning & Assessment Act, 1979, for the reasons outlined in Section 15 of this report.

## ASSESSMENT REPORT

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### 1 Background

The development history of the various allotments within the subject site is as follows:-

**Lots A, B, C DP 401196**

<i>DA</i>	<i>Description</i>	<i>Decision</i>
<u>DA1985/370</u>	New storage building	
<u>DA1982/50</u>	Extensions to power house	
<u>DA 1977/460</u>	Storage building	
<u>DA-1970/8</u>	Drawing office	
<u>various Das between 1950 - 1970</u>		

**Lot 38 DP 19969**

<i>DA</i>	<i>Description</i>	<i>Decision</i>
<u>BC 2000/30</u>	Dwelling	
<u>BA 1957/826</u>	Garage	

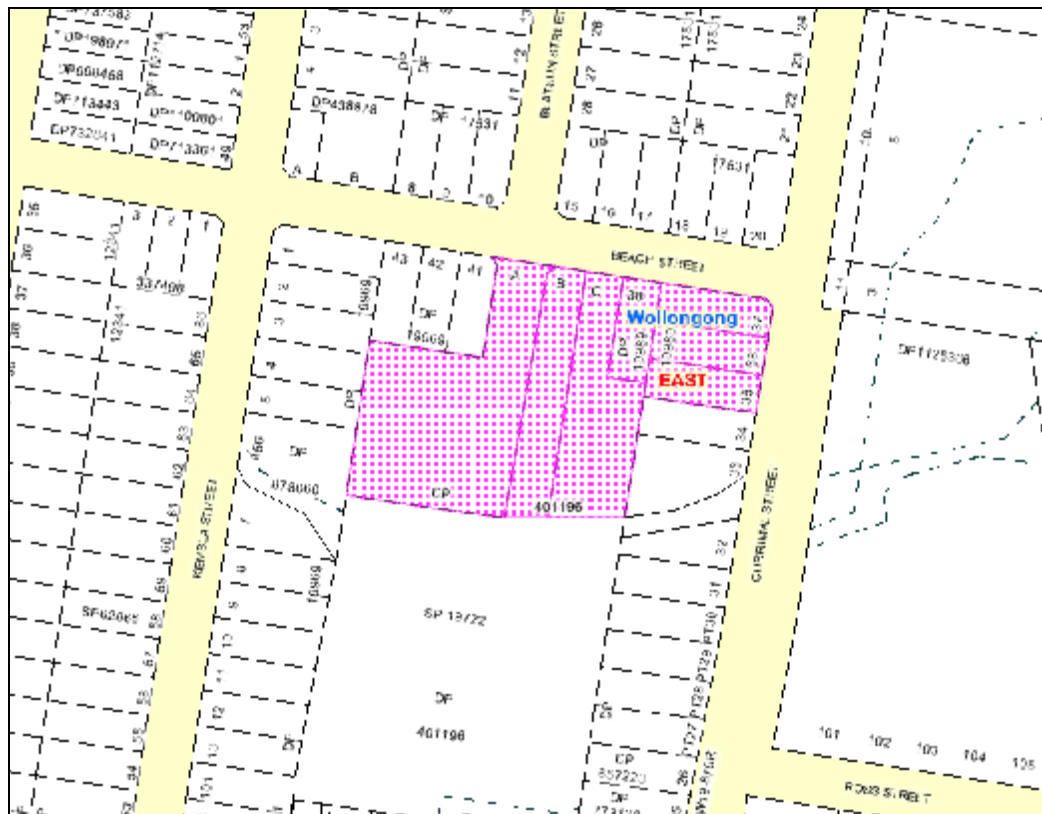
**Lots 35, 36 & 37 DP 19969**

<i>DA</i>	<i>Description</i>	<i>Decision</i>
<u>BA1963/1692</u>	Service station	
<u>BA1967/685</u>	Conversion of industrial building into dwelling	
<u>DA 1966/420</u>	Conversion store room to private function room	
<u>DA-1972/425</u>	Service station	
<u>DA1974/434</u>	Office equipment service centre	
<u>DA1975/130</u>	Use of industrial building for automotive repairs	
<u>DA1983/281</u>	Use of existing building for showroom, warehousing and offices	
<u>DA1984/652</u>	Lots 34 – 37 – chemical supply company, car detailing and rust proofing services	
<u>DA1999/522</u>	Use of premises for function room and restaurant	

The property has does not have any outstanding customer service actions.

**2 Site description**

The site is legally described as Lots 35, 36, 37 & 38 DP 19969 and Lots A, B & C DP 401196, which are known as 208-212 Corrimal Street and 1 & 25 Beach Street, Wollongong. The applicant has prepared a plan of consolidation of the allotments however this has not yet been registered. The site is located on the southern corner of the intersection of Beach and Corrimal Streets Wollongong, as identified on the map below:-



**Figure 1: Locality Plan**

The site has a frontage of 111.44m to Beach Street which forms its northern boundary, and a frontage of 42.67m to Corrimal Street, which forms its eastern boundary. The overall site area is 11,475m<sup>2</sup>. The site is relatively flat with a slight fall from the north-east corner towards a tributary of Gurungaty waterways which forms a large part of the southern boundary of the site.

The site is currently occupied by a number of older style commercial and light industrial buildings, some of which are vacant /unoccupied. The development history applicable to each of the allotment is listed above. The applicant indicates that the lots are currently occupied by the current structures and/or uses:-

- § Lot A – industrial use consisting of 8 structures (mostly sheds) and an open hardstand area. The site is currently unoccupied.
- § Lot B – industrial use consisting of half of a warehouse and a large yard. Currently occupied by Wollongong Waterproofing and a timber joinery workshop
- § Lot C – as above for Lot B.
- § Lot 38 – residential property currently unoccupied.
- § Lots 36 & 37 – three level building occupied by residential and commercial tenants
- § Lot 35 – single storey structure occupied by a commercial use.

Council records list the site as being affected by the following constraints:

- Land contamination – two preliminary contamination assessments have identified the presence of underground storage tanks and other sources of potential contamination (refer to further discussion below);
- Presence of hazardous materials – a hazardous materials survey was undertaken which identified the presence of asbestos, lead, PCBs and synthetic mineral fibre;
- acid sulphate soils;
- flooding;
- road widening proposals along the Corrimal Street frontage of the site;
- the site has been filled.

These constraints are discussed in further detail below.

There are a number of trees located within the site, including those located near the southern boundary of the site adjacent to the watercourse.



Figure 2: Aerial photograph

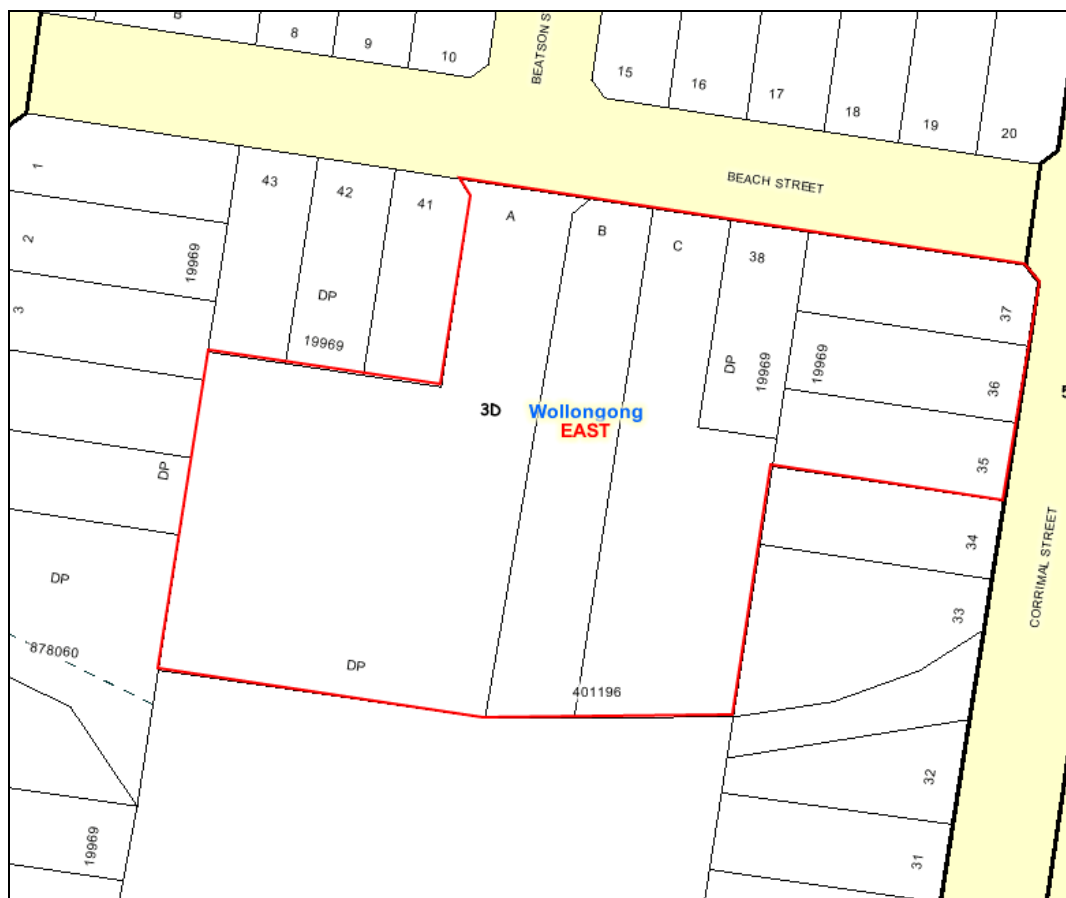
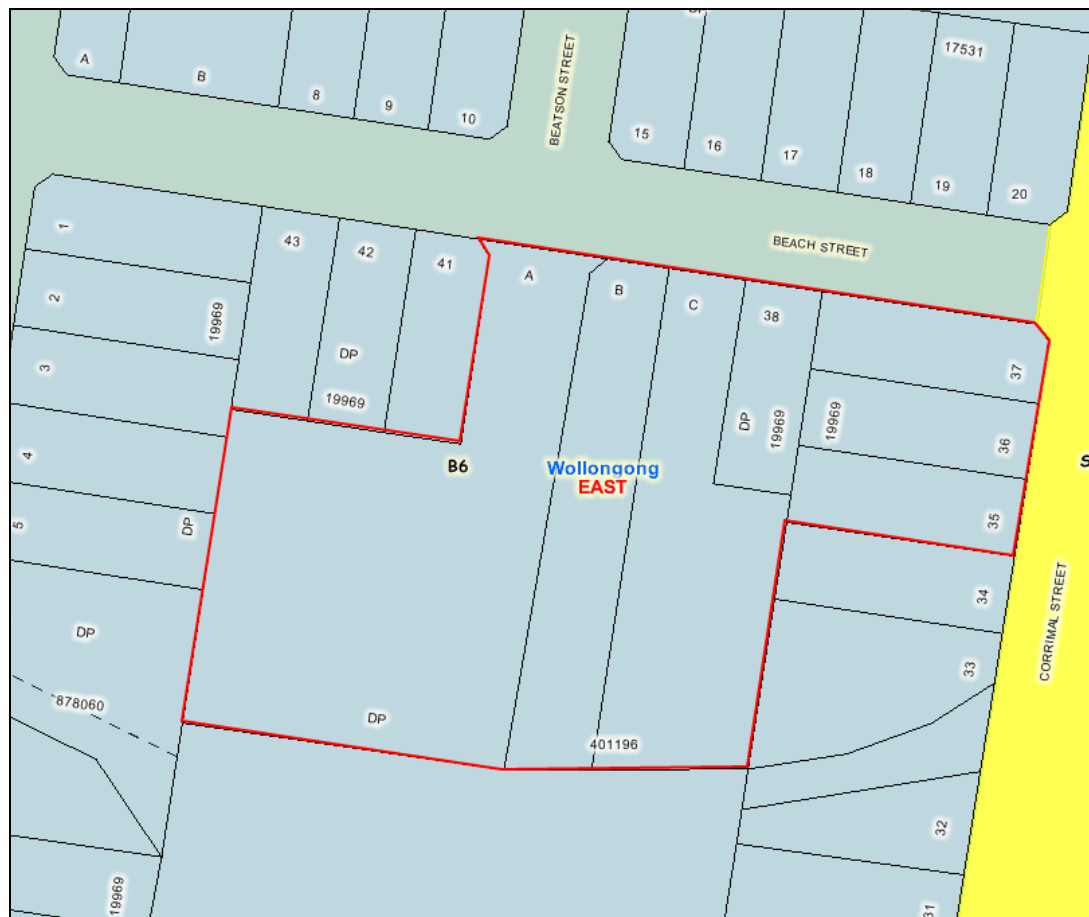


Figure 3: WLEP 1990 zoning map



**Figure 4: DWLEP 2009 zoning map**

### 3 Proposal

#### Components

This development application seeks consent for the following:

- § Demolition of existing structures;
- § Construction of an integrated multi-storey aged care and seniors living development incorporating an aged care facility housing 120 beds, 36 independent living units for seniors, communal facilities including a hall and plaza; associated administration areas/offices;
- § Retail spaces which will service both the occupants of the development, their visitors and the general public. The applicant intends that the commercial spaces will accommodate uses such as a small general store, pharmacy, hairdresser, book/gift shop and health consulting rooms. Two business centres are also proposed (which may be used for service providers such as financial advisers or law firms) along with consulting rooms from which doctors and other health care professionals can operate;
- § Roof top garden and landscaping works around the site.
- § Car parking for 91 vehicles located at ground level with access /egress to/from Beach Street.

#### Layout

The public outdoor areas, commercial, retail and community facilities and the independent living units are located within the north-eastern corner of the site. The north-eastern section of the site located at the corner of Corrimal and Beach Streets is seen by the applicant to be the major pedestrian access point into the development. 2 retail spaces and car parking areas are provided at ground floor level along with some storage and services. The main pedestrian entry is located on the Beach Street frontage of the site, with ramps and stairs providing access to the first floor ('podium level') retail spaces, public outdoor areas,

consulting rooms, business centres, office areas and the community hall. To the rear of these areas is the aged care facility (ACF) which contains 120 beds over 2 levels. A combination of low, high and dementia care beds are proposed to be provided within the ACF. Each bedroom will have an ensuite. Activity, lounge and dining areas are also provided.

The independent level units are to be located in the north-eastern section of the site above the retail and service areas. 36 units of varying sizes are to be provided over 6 floors.

Vehicular access will be provided from Beach Street. The driveway located adjacent to the western boundary of the site will provide access to the loading dock/central waste collection point and provides egress from the car park and drop off area. The eastern-most driveway will provide the primary entry point for vehicles.

The buildings have been setback a minimum of 10m from the top of the bank of the watercourse which abuts the southern boundary of the site. Flood storage areas have been provided at ground floor level around the car parking area.

#### Building setbacks, form & heights

The building form expands over much of the site, with setbacks as follows:

##### *Aged care facility (southern) wing*

Southern boundary – min 6.35m

Eastern boundary – min 5.05m

Western boundary – min 10.675m

Northern boundary (abutting residential dwellings) - 5.9m

##### *Front wing (independent living units, front section of ACF, retail/recreation/communal area)*

Southern boundary – min 4.79m

Eastern boundary – min 2.686m to awning; 4.2m to building

Western boundary – min 1.85m to loading dock and driveway

Northern boundary – 880mm to awning and ramps on Beach Street frontage; 6.7m to building

The ground floor of the development is occupied primarily by car parking, service areas and two retail spaces. The first floor of the northern wing is occupied by retail spaces, outdoor areas, consulting rooms, office/administration areas and a hall. The southern wing is attached to the front building with a hallway.

The southern wing is of two storey construction (above the car park level) and contains the aged care facility. The northern wing features a 6 storey tower containing the independent living units located above a two storey podium housing the retail spaces, consulting rooms, outdoor areas, etc. The tower is located in the north-eastern section of the site.

The aged care facility (southern wing) has an overall height of 15.1m measured from ground level to the upper-most part of the roof.

The tower housing the independent living units has an overall height of 30.35m measured from natural ground level to the uppermost part of the lift core. The maximum height of this tower to the remainder of the roof (ie excluding the lift cores) is approximately 27m (28m to the top of a parapet). It is noted however that the plans indicate that a future plant room may be required on the roof. The height of this structure has not been identified.

The ceiling height of either building is not identified on the plans.

#### Building materials and finishes

- Independent living units tower – precast concrete panels, aluminium framed glazing, external operable louvred screens;
- Podium level – precast concrete panels, aluminium framed glazing, vertical operable louvred sunscreens;

- Aged care facility – hardwood timber panelling, aluminium framed glazing, vertical and horizontal operable louvred sunscreens.

The architect contends that the development has been designed to incorporate sustainable design practices and strategies. The independent living units each have external operable louvred sunscreens fixed to some of their windows and balcony areas on the northern, enabling occupants to alter light and wind penetration into their units as well as acting as privacy screens. These louvers are also used to some extent on the aged care facility building. Most of the independent living units have northern orientation; most with dual aspect allowing cross ventilation. The development also incorporates water sensitive urban design principles including rainwater collection and reuse. The building is to be constructed and finished with sustainable building products.

The applicant has not provided a colour schedule.

#### Management/Operation

The facility will be operated by Warrigal Care, a not-for-profit aged care provider. The development will replace the Warrigal Care Coniston Nursing Home and provide new facilities and accommodation for the 62 residents which currently reside there.

Warrigal Care will provide a community bus for use by residents.

The following support services are also proposed to be provided by the operator:-

- § Three (3) meals per day provided either within the resident's dwelling or on a communal basis;
- § Personal care by registered nurse, 24/7;
- § Home nursing visits
- § Assistance with housework
- § Activities coordinator
- § Hairdresser, podiatrist
- § Garden/ground maintenance
- § Medical general practitioner on call
- § Laundry services provided on site for the aged care facility



#### 4 Environmental Planning and Assessment Act 1979

In determining a development application, the consent authority must take into consideration matters referred to in section 79C(1) of the EP&A Act 1979 as are of relevance to the development. The following table summarises the relevant matters of consideration under section 79C(1) and the significant matters are discussed in further detail further in the report.

Section 79C(1) of the Environmental Planning and Assessment Act 1979	
(a)(i) any environmental planning instrument	<p><u>State Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>• SEPP (Major Development) 2005</li> <li>• SEPP No. 65 - Design Quality of Residential Flat Development</li> <li>• SEPP No. 55 – Remediation of Land</li> <li>• SEPP No. 71 – Coastal Protection</li> <li>• SEPP (Infrastructure) 2007</li> <li>• SEPP (Building Sustainability Index: BASIX) 2004</li> <li>• SEPP (Housing for Seniors or People with a Disability) 2004</li> </ul> <p><u>Regional Environmental Planning Policies/Deemed SEPPs</u></p> <ul style="list-style-type: none"> <li>• Illawarra Regional Environmental Plan No.1, 1986 (Deemed SEPP)</li> </ul> <p><u>Local Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>• Wollongong Local Environmental Plan (WLEP) 1990</li> </ul> <p><i>Detailed assessment is provided below the table</i></p>
(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority	<ul style="list-style-type: none"> <li>• Draft Wollongong Local Environmental Plan (DWLEP) 2009</li> </ul> <p><i>Detailed assessment is provided below the table</i></p>
(a)(iii) any development control plan	<ul style="list-style-type: none"> <li>• Wollongong Section 94A Development Contributions Plan 2009</li> <li>• DCP 54 – Managing Flood Risk</li> <li>• DCP 49 – Residential Development</li> <li>• DCP 6 – Commercial and Industrial Development</li> </ul> <p><i>Detailed assessment is provided below the table</i></p>
(a)(iiia) Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F	
There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.	
(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)	
Clause 92 of the Environmental Planning & Assessment Regulation 2000 prescribes the following matters for consideration:-	

Section 79C(1) of the Environmental Planning and Assessment Act 1979

- AS 2601-1991: The Demolition of Structures
- In the case of land to which the Government Coastal Policy applies, the NSW Coastal Policy 1997

The proposed development involves demolition and as such the provisions of AS 2601-1991 apply. Any demolition works will be required to be carried out in accordance with AS2601-1991. This can be conditioned if consent is granted.

The site is located within the NSW Coastal zone however the NSW Coastal Policy 1997 only applies to the seaward part of the LGA.

## Section 79C(1) of the Environmental Planning and Assessment Act 1979

## b) the likely impacts of development

Context and Setting:

Surrounding uses include a combination of light industrial, commercial and residential uses. Land to the east is occupied by Wollongong golf course and a seniors housing complex ('Links Seaside').

The subject site (and land to the north, south and west) is zoned 3(d) Commercial Services, the objectives of which are primarily to cater for large scale sale rooms or showrooms trading in bulky goods and small scale services. The proposed development is not considered to be consistent with the objectives of the zone, specifically as it does not provide for this type of use, and will result in the removal of a large area of land suitably zoned for bulky goods sale rooms or showrooms. There is a known demand for such land in the Wollongong city area. Further, retail premises (shops) are proposed within the development which can only be approved after advertising and satisfying Clause 11 of WLEP 1990. All retail activity should be concentrated within the city centre retail core. The proposed shops, whilst they may serve residents of the development, this alone is unlikely to be sustainable, it is therefore envisaged that they will draw customers from a broader trade area and as such may compete to some extent with retail activities in the core.

The proposed buildings are taller than surrounding development. The independent living unit tower is significantly taller than all surrounding development, with the exception of the seniors housing development located on the eastern side of Corrimal Street. The IREP provides for a height control of 11m for the area, while the proposed tower has an overall height of approximately 27m (noting that ceiling levels have not been provided to accurately determine height to uppermost ceiling). Under the provisions of draft Wollongong LEP 2009, a 9m height limit is proposed for the area. The tower far exceeds this limit which reflects the desired future character of the area. It is noted also that Council's Stormwater Section has advised that the ground floor levels will need to be raised to 3.8m AHD to address flooding issues within the site. The impacts on the design cannot be determined at this stage but are likely to be adverse.

The building lines proposed are considered to be generally acceptable. The building is setback 4.2m from Corrimal Street. Most other buildings fronting Corrimal Street are setback from the street, with access available from Corrimal Street to a car parking area located within the front setback. There are no setbacks identified for the Corrimal Street frontage in any DCPs including DCP 2009. Buildings located on the southern side of Beach Street are generally setback from the street frontage. The proposed building is setback from this frontage, though the awning and access ramps for the podium level extend to within approximately 1.0m of the boundary. The awning over the drop-off area similarly extends to within 1.0m of the boundary. This is considered to be generally acceptable having regard to the nature of other land uses which could be placed on the site and the lack of setback controls within DCP 2009.

Most of the buildings within the street are of an older style, of predominantly brick and fibro construction. The proposed development in contrast will be a contemporary building featuring modern building materials. The materials proposed are considered to be generally reasonable.

The proposed position of the loading dock and waste collection point adjacent to a residential dwelling may result in adverse amenity impacts on this dwelling. There may also be privacy impacts on this and other dwellings due to the position and height of the aged care facility and the extent of windows and balconies along its northern elevation.

## Section 79C(1) of the Environmental Planning and Assessment Act 1979

Access, Transport and Traffic:

Vehicular access to the development is proposed to be gained from Beach Street which is a local road. This connects with Corrimal Street which is a north-south arterial road. Left turn only is available out of Beach Street

Council's Traffic Section has raised concerns in relation to the location of the western driveway.

Servicing

The loading dock and waste collection areas are located on the western side of the building adjacent to the administration areas and entry to the ACF. Access is available from a separate driveway though it is possible that use of this driveway for servicing may conflict with vehicles exiting the main car park. The plans indicate that vehicles exiting the main car park will leave via the western-most driveway. It is noted that onsite manoeuvring for service vehicles does not appear to be available, meaning that service vehicles and garbage trucks will have to reverse onto the street, conflicting with vehicles on Beach Street and those leaving the site. This is not acceptable.

Car parking

The proposed development makes provision for 91 car spaces within the site.

Car parking requirements for the aged care facility and independent living units are provided by SEPP (Housing for Seniors etc) 2004 while car parking requirements for the retail spaces, business centres and consulting rooms are detailed in DCP 6. An assessment of the required car parking is detailed below.

Public Transport

The applicant has identified that Corrimal Street is serviced by Premier Illawarra buses which pass the site every 20-30 minutes. These provide access to Shellharbour to the south and the CBD and Wollongong railway station to the north and north-west. The nearest bus stop is located approximately 250m from the subject site. Wollongong Railway station is located 1.5km from the site, while Coniston Railway Station is 1.7km away. A local taxi service operates in the area also. Additionally, the facility operator proposes to provide a community bus for use by the residents. Access to facilities and services is a matter for consideration under SEPP (Housing for Seniors etc) and is addressed below.

Public Domain:

The proposed building lines are considered to be reasonably acceptable having regard to the pattern of existing development fronting both Beach and Corrimal Streets. The street frontage height of the buildings is also generally reasonable, with the exception of the independent living unit building which is tall and bulky. The orientation of this element of the building (ie long facade oriented to the north and south), exacerbates its visual impact in the streetscape. The height of the tower may also have an effect on wind conditions on the footpath. This issue has not been considered by the applicant.

Street tree planting and streetscape works are proposed within the Corrimal and Beach Street frontages of the site.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are likely to be adequate to service the proposal, however SEPP (Housing for Seniors etc) 2004 requires that written evidence be provided that adequate water and sewerage services are available. This written evidence has not been provided. Refer to the discussion below.

It is expected that reticulated power and telecommunications are available to the land and can be augmented to support the development.

Heritage:

There are no heritage items or heritage conservation areas located within proximity of the site.

## Section 79C(1) of the Environmental Planning and Assessment Act 1979

Water:

Supply - the applicant has indicated that the site is presently serviced by Sydney Water and existing services can be extended to meet the requirements of the proposed development. No written evidence has been provided in relation to this issue as required by SEPP (Housing for Seniors etc).

Water consumption – the proposed development is expected to consume large quantities of water. Roof water will be collected and reused onsite for garden irrigation and toilet flushing. The BASIX certificates lodged with the development application indicate that the development (both units and all common areas) will be fitted with water efficient appliances and fixtures.

Stormwater – stormwater will be collected and reused. Overflow will be directed to the flood storage area located in the south-western section of the site.

Construction impacts – soil and water management controls will be required to be implemented during construction if consent is granted. This should mitigate any construction related water impacts. The NSW Office of Water has provided its integrated conditions of consent to mitigate construction impacts on the watercourse abutting the southern boundary of the site.

Impact on watercourse – the architectural plans provide for the buildings to be setback from the watercourse, however the stormwater drainage design indicates considerable excavation works and structures within proximity of the watercourse. Council's Environment Division has raised concerns in relation to the direct and indirect impacts of the proposed development on wetland vegetation and frog species.

Soils:

Preliminary site investigations have indicated the presence of contaminated soils and sources of contamination which will be required to be removed prior to construction commencing. Hazardous materials were also discovered within the property which will require removal. If the JRPP were of a mind to approve this proposal, conditions of consent should be imposed to address these issues.

Conditions can also be imposed, should consent be granted, to ensure the implementation of soil and water controls during construction.

A considerable quantity of soil will be removed from the property to create the compensatory flood storage illustrated on the plans. The soil on site is known to be acid sulphate soil. The applicant has not provided an acid sulphate soils assessment and as such, it is not known how acid sulphate soils will be managed.

Air and Microclimate:

The proposal is not expected to have any negative impact on air quality. It is not known whether the tower may influence wind patterns, particularly whether this may affect pedestrian comfort. Given that the tower is suspended above a podium level by supporting columns and awnings are provided on both the Beach Street and Corrimal Street frontages of the building below the tower, wind effects on the pedestrian footpath may not be great, however this issue should be explored in greater detail. A wind effects report has been requested but not provided.

Flora and Fauna:

The proposal involves the removal of numerous trees. Further information has been requested from Council's Environment Division in relation to this issue.

Council's Environment Division has advised that an endangered ecological community (EEC) (Swamp Oak Forest) occurs on the banks of the neighbouring watercourse (Gurungaty waterway). The waterway is also known to provide habitat for the endangered Green and Golden Bell Frog. The direct and indirect impacts of the proposed development on this community and habitat are unknown and have not been adequately addressed by the applicant. It is noted that significant excavation works are required to be undertaken adjacent to the watercourse. A section 5A assessment is required to be carried out in relation to both the EEC and the Green & Golden Bell Frog.

## Section 79C(1) of the Environmental Planning and Assessment Act 1979

Waste Collection & Servicing:

The loading dock and waste storage and collection area is located adjacent to the western boundary of the site on ground floor, with access from the western-most driveway on Beach Street. The applicant has provided an operational waste management plan which outlines the types of waste likely to be generated, the likely volumes and the waste stream which identifies how waste will be managed. Waste will be stored in the central waste collection area and will be collected by private contractor.

Concerns have been raised in relation to vehicular manoeuvring for the loading dock and waste collection area. Concerns are also raised in relation to the position of the driveway.

The amenity impacts of the loading dock/waste collection area on the adjoining residential dwelling are likely to be adverse. The operation of the loading dock and waste collection area may also affect the amenity of the aged care facility, particularly those rooms located in the north-western portion of the site.

Construction Waste

A preliminary waste and environmental management plan has been lodged with the application which details what waste is expected to be generated and how this will be managed. Uncontaminated material is to be recycled or reused where possible.

If the JRPP is of a mind to approve this proposal, a condition should be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction. Conditions should also be imposed, if consent is granted, requiring compliance with the preliminary waste management plan.

Energy:

The proposed development is expected to consume large quantities of energy. The BASIX certificate lodged with the DA identifies the range of measures to be implemented to reduce energy usage.

Noise and vibration:

Construction is likely to generate significant noise and vibration impacts over an extended time. This issue is addressed below.

Once construction is complete, the proposed development is unlikely to generate significant noise, other than vehicles associated with deliveries, servicing or waste collection. The site is subject to road noise which is addressed below.

Natural hazards:

The site is flood prone. This issue has been considered by Council's Stormwater Section and some concerns have been raised requiring amendments to the plans.

Technological hazards:

Council records indicate that the site has been filled previously.

Further, Council records indicate that the site is known to be contaminated. Preliminary contamination investigations have been undertaken. The findings and recommendations of these investigations are outlined below.

Council records indicate that the site is affected by acid sulphate soils which will need to be appropriately treated during excavation and construction. The applicant has not provided an acid sulphate soils assessment.

A hazardous materials survey has identified the presence of numerous hazardous materials within the site including lead, PCBs, asbestos, etc. Refer to further discussion below.

## Section 79C(1) of the Environmental Planning and Assessment Act 1979

Safety, Security and Crime Prevention:

Council's SCAT has reviewed the proposal and has raised no concerns. It is noted however that there is minimal surveillance of the car parking area including entries to the lift lobbies which should be given further consideration as this may offer an opportunity for criminal or antisocial behaviour.

Use of the site by staff, visitors and residents will increase general surveillance of the street and the general area.

Social Impact:

The LGA is known to have an above average retired population. The Wollongong City Housing Strategy 2005 identified that there was 83.5 aged care places per 1,000 persons aged 70+ within the Illawarra region in 2005, while the target for 2010/2011 is 108 operational places per 1000 persons aged 70+.

The applicant has identified a shortage of aged care housing within the area. This development will go somewhere towards meeting the current shortage in aged care housing provision in the LGA. The development will provide an additional 58 beds within the aged care facility (noting that 62 residents will be moved from the Coniston nursing home) and up to 72 independent living spaces.

Co-location of aged care facilities, which is encouraged by the NSW Government, will provide an opportunity for existing residents to move across the proposed facility with minimal disruption as dependency levels increase. As such, the proposed facility will enable local residents the opportunity to 'age in place' which is a positive social outcome.

The site is 1.2km from the Crown Street mall. It is not within a walkable distance of facilities and services and as such occupants will rely on cars, public transport or the community bus. It is well placed with regard to some recreation facilities and the beach however pedestrian safety issues may not be able to be satisfactorily resolved. It is well placed within the region in terms of accessibility for family members/visitors and as a day respite facility.

Economic Impact:

The proposal will result in the creation of numerous employment opportunities, both during construction and once the facility is operational. The applicant indicates that the facility will employ 190 people. It is noted that the Warrigal Care nursing home at Coniston will be closed and the residents of that facility moved into this development if approved. It is unclear whether some, if not all, of the staff from that facility will be relocated to this development.

The development will result in the loss of a large area of suitably zoned land for large scale showroom development. The site has an area of more than 11,000sqm and is relatively flat. It has frontage to Beach Street and is currently zoned 3(d), the first objective of which is to cater for large scale showroom development. Under the provisions of WLEP 2009, the site is zoned B6 Enterprise Corridor, in which limited housing development will be permitted. The proposal is contrary to the zone objectives and may have an adverse economic impact.

Site Design and Internal Design:

Changes to the design will be required to address flooding concerns. This may in turn impact on building heights.

The internal layout and design of the proposed facility is not acceptable. Firstly, the height of the independent living units building is unacceptable and the proposal may have significant noise and privacy impacts on neighbouring dwellings. The position of the loading dock may impact on the amenity of the aged care facility (those bedrooms living/dining areas located on the northern side of the building) and flooding concerns will require changes to the design. Following consideration of the issues raised in this report by the applicant, the proposal may require substantial redesign. The impacts of such a redesign cannot be envisaged.

## Section 79C(1) of the Environmental Planning and Assessment Act 1979

Construction Impacts:

Construction impacts are likely to be significant and will extend over a number of months. Noise, vibration, dust generation and other impacts which will potentially impact upon the amenity of nearby residents can be mitigated through appropriate management. If approved, conditions should be imposed in relation to these issues.

Soil and water impacts during construction can also be minimised through the use of appropriate soil and water management. Conditions should also be imposed in relation to these issues if consent is granted.

The site is known to contain contaminated soils and hazardous materials have been identified within the existing buildings which are to be demolished. Careful handling of such materials will be required. An acid sulphate soils management plan is required but has not been provided.

If approved, a condition will be attached to any consent granted that WorkCover be contacted for any demolition or use of any crane, hoist, plant or scaffolding.

Cumulative Impacts:

Approval of the proposed development could potentially establish a precedent for the approval of other similar unacceptable developments.

## c) the suitability of the site for development

Does the proposal fit in the locality?

The height of the building housing the independent living units is significantly taller than the height controls relevant to the area and departs significantly from the prevailing building height character of the area.

The proposed land use is contrary to the objectives of the 3(d) Commercial Services zone under WLEP 1990. Further, the proposal would be prohibited in the B6 zone under WLEP 2009.

On these bases, the site is not considered to be suitable for the proposed development.

Are the site attributes conducive to development?

The site is subject to a number of natural and man-made hazards. These are:-

- Contamination/hazardous building materials – soil contamination from previous land uses. Removal of sources of contaminants will be required and remediation works will need to be completed during construction. Site auditing will be required to ensure satisfactory remediation. The site was also found to contain numerous hazardous building materials which will also need to be removed.
- Flooding – the site is known to be within a medium and high risk flood precinct. Amended plans are required to be provided addressing some flooding and stormwater issues.
- Acid sulphate soils – an acid sulphate soils management plan is required to be provided to address this issue.
- Road noise – the site is subject to traffic noise. This issue has not been given adequate consideration by the applicant.

## d) any submissions made in accordance with this Act or the regulations

The application was notified in accordance with Council “Development Assessment and Compliance Notification Policy”. At the conclusion of the notification period, there was one (1) submission received which is discussed in Section 13.1 of this report.



## Section 79C(1) of the Environmental Planning and Assessment Act 1979

Submissions from public authorities

Council consulted with the RTA, the NSW Department of Planning and the NSW Department of Environment, Climate Change and Water in relation to the proposed development. The comments received from these public authorities are outlined in Section 13 below.

e) the public interest

The proposed development is not in the public interest.

## 5 Relevant State Environmental Planning Policies

### **5.1 SEPP (Major Development) 2005**

Part 3 of the Major Development SEPP applies to regional development and provides that certain types of development must be determined by a regional panel.

The proposed development has a capital investment value of more than \$10 million (Clause 13B(1)(a)). Further, the land is located within the coastal zone and the proposed building has a height of more than 13m (Clause 13C(b) of the SEPP). Accordingly the proposal must be determined by the Joint Regional Planning Panel.

### **5.2 SEPP No. 55 – Remediation of Land**

SEPP 55 requires that, when assessing a development application, the consent authority must give consideration to whether the land to which the development application relates is contaminated. If so, consideration must be given to whether the land is suitable (in either its contaminated state or after remediation), for the purpose for which the development is proposed to be carried out.

The SEPP requires the consent authority to consider a preliminary investigation of the land as there may have been previous land uses which may have resulted in contamination.

Two preliminary contamination assessments were provided with the development application which identified the presence of four disused underground storage tanks and other sources of potential contamination. A hazardous material survey was also undertaken which identified the presence of asbestos, lead, PCBs and synthetic mineral fibre on the site.

The reports concluded that the proposed change in land use and future development can be rendered suitable subject to the removal of the underground storage tanks, their associated structures and any impacted soils. Further investigation will be required underneath the existing buildings once these are removed. All hazardous materials identified should be removed prior to construction commencing if Council is of a mind to approve the development.

This issue has been considered by Council's Environment Division who has provided comments which are outlined below.

### **5.3 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

The application is subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65). The proposed independent living units building constitutes a residential flat building pursuant to SEPP 65, as it complies with the following SEPP 65 definition:

***residential flat building means a building that comprises or includes:***

***(a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and***

***(b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.***

Clause 50 of the Environmental Planning and Assessment Regulation 2000 states:

*(1A) A development application that relates to a residential flat development, and that is made on or after 1 December 2003, must be accompanied by a design verification from a qualified designer, being a statement in which the qualified designer verifies:*

*(a) that he or she designed, or directed the design, of the residential flat development, and*

*(b) that the design quality principles set out in Part 2 of State Environmental Planning Policy No 65- Design Quality of Residential Flat Development are achieved for the residential flat development.*

Having regard to the failure to provide a Design Verification Statement in accordance with clause 50 of the Environmental Planning and Assessment Regulation 2000, Council cannot grant consent to the development.

The SEPP requires that applications address the NSW Residential Flat Design Code. The relevant provisions of the Residential Flat Design Code are:

<b>SEPP 65 – Residential Flat Design Code</b>		
	<b>Required</b>	<b>Comment</b>
<b>PART 1.0 LOCAL CONTEXT</b>		
<b>Residential Flat Building Type</b>	Suitable for site context	Residential Flat Building (tower apartment)
<b>Amalgamation and Subdivision</b>	Encouraged	Amalgamation required. Currently 7 allotments.
<b>Building Envelopes Height</b>	Test height against FSR to ensure good fit.	Maximum ceiling height approximately 27m, ridge height 30.45m. No height limit in WLEP 1990. The exhibited draft WLEP 2009 set the height limit (natural to ridge) to 11m, though this has been reduced to 9m in the gazetted instrument. IREP 1 provides a ceiling height limit of 11m.
<b>Building Envelopes – Building Depth</b>	In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18 metres must demonstrate how satisfactory daylighting and natural ventilation are to be achieved.	The building depth is maximum 16.5 metres (north-south). Satisfactory daylight access available to all units.
<b>Building Envelopes – Building Separation</b>	Up to four storeys/12 metres <ul style="list-style-type: none"> <li>- 12 metres between habitable rooms/balconies</li> <li>- 9 metres between habitable/balconies and non-habitable rooms</li> <li>- 6 metres between non-habitable rooms</li> </ul> Five to eight storeys: <ul style="list-style-type: none"> <li>- 18m between habitable</li> </ul>	Eight storey building. Independent living units are over 6 levels.  One building only on site (no internal separation required due to layout of balconies). Separation to <b>buildings</b> on adjoining properties:  27 Beach Street (west) - 54m

<b>SEPP 65 – Residential Flat Design Code</b>		
	<b>Required</b>	<b>Comment</b>
	rooms/balconies - 13m between habitable rooms/balconies and non-habitable rooms - 9m between non-habitable rooms	214 Corrimal Street (south) - 10.1m  It is noted that the independent living unit building commences at the second floor of the building. The neighbouring building to the south is a warehouse/bulky goods outlet selling doors.
<b>Street Setbacks</b>	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.  Relate setbacks to the area's street hierarchy.  Identify the quality, type and use of gardens and landscaped areas facing the street.	South side of Beach Street has varying setbacks. Front setback is considered to be acceptable.  Setbacks to Corrimal Street frontage are highly variable. Closest buildings to the south are setback some distance from the street frontage with car parking provided in front of the buildings. Corrimal Street setback is considered to be generally appropriate.
<b>Side + Rear Setbacks</b>	Test side and rear setback with building separation, open space and deep soil zone requirements.  Test side and rear setbacks for overshadowing of other parts of the development and/or adjoining properties, and of private open space	Side setbacks  West – 48.95m  East – 4.5m  South - 9.89m  Setbacks are generally reasonable, though concerns are raised in relation to impacts of the proposal on the amenity of the neighbouring residential dwellings fronting Beach Street.
<b>Floor Space Ratio</b>	Test the desired built form outcome against FSR to ensure consistency with other building envelope controls	Maximum permitted WLEP 1990 & DWLEP 2009 is 0.5:1. SEPP (Housing for Seniors etc) permits 0.5:1 bonus subject to criteria being met, therefore maximum 1.0:1 is permitted. GFA calculations to be provided to check compliance.
<b>PART 2.0 SITE DESIGN</b>		
<b>Deep Soil Zones</b>	A minimum of 25% of the open space area of the site should be a deep soil zone; more is desirable.	Proposed deep soil zone (DSZ) is approx 3840m <sup>2</sup> (33%) provided to the rear of the aged care facility. Total proposed open space area for the site = >4000m <sup>2</sup> inclusive of DSZ

<b>SEPP 65 – Residential Flat Design Code</b>		
	<b>Required</b>	<b>Comment</b>
<b>Fences and Walls</b>	<p>Compatible with existing street character.</p> <p>Delineate public and private domain.</p> <p>Select durable materials.</p> <p>Enhance open spaces by incorporating planter boxes, seats, BBQs etc.</p>	Detail of fence height and colour not provided.
<b>Landscape Design</b>	<p>Improve amenity of open space.</p> <p>Contribute to streetscape character and public domain.</p> <p>Improve energy efficiency &amp; solar efficiency of dwellings and private open spaces.</p> <p>Landscape to contribute to site's characteristics.</p> <p>Contribute to water and stormwater efficiency.</p> <p>Provide sufficient depth of soil above slabs to enable growth of mature trees.</p> <p>Minimise maintenance.</p>	Landscape plan provided. Council's landscape officer has no objection generally, though further information is required in relation to some of the trees proposed for removal.
<b>Open Space</b>	<p>The area of communal open space (includes landscaping) should generally be at least between 25 and 30 percent of the site area. Larger sites and brownfield sites may have potential for more than 30 percent.</p> <p>Where developments are unable to achieve the recommended communal open space, such as those in dense urban areas, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.</p> <p>The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as a podium or car park, is 25m<sup>2</sup>; the minimum preferred dimension in one direction is 4 metres</p>	<p>Site area = 11,475m<sup>2</sup></p> <p>25% of site = 2868.75m<sup>2</sup></p> <p>DSZ/landscaped area will act as a flood storage area rather than communal open space. Courtyard area will service the aged care facility more so than residents occupying the independent living units. Occupants of the independent living units will have access to the roof-top garden area which will be planted with vegetable gardens. The applicant has not identified whether the roof top garden will satisfy communal open space requirements. There are a number of seats to be provided on the roof, however no shade structures or trees are proposed.</p> <p>POS (balconies) provided = approx 3.0m x 2.0m on north side of most units (some units have larger balconies) and some have an additional 3.8m x 1.8m balcony</p>

<b>SEPP 65 – Residential Flat Design Code</b>		
	<b>Required</b>	<b>Comment</b>
		on the southern side.
<b>Orientation</b>	<p>Plan the site to optimise solar access by:</p> <ul style="list-style-type: none"> <li>§ positioning and orienting buildings to maximise north facing walls where possible</li> <li>§ providing adequate separation within the development and to adjacent buildings</li> </ul> <p>Select building types or layouts which respond to the streetscape while optimising solar access. Where streets are to be edged and defined by buildings, design solutions include:</p> <ul style="list-style-type: none"> <li>§ align buildings to the street on east-west streets</li> <li>§ use courtyards, L-shaped configurations and increased setbacks to northern (side) boundaries on north-south streets.</li> <li>§ Optimise solar access to living spaces and associated private open spaces by orienting them to the north.</li> <li>§ Detail building elements to modify environmental conditions, as required, to maximise sun access in winter and sun shading in summer.</li> </ul>	<p>The land faces north, with proposed long building elevations facing the north and south.</p> <p>Proposed separation distances are adequate in relation to recommended building separation.</p> <p>Building faces north-south, suitable for cross ventilation and solar access. Balconies on northern side will receive sufficient solar access.</p> <p>Louvres on windows will offer shading when required.</p>
<b>Planting on Structures</b>	Recommended plant sizes are provided for varying situations.	Roof top vegetable gardens proposed. Council's landscape officer has reviewed the landscape plan and has no objection in relation to this aspect of the landscaping works.
<b>Stormwater Management</b>	Reduce impact of stormwater disposal on infrastructure by retaining it on the site.	<p>Stormwater plan provided however is not satisfactory in relation to a number of matters.</p> <p>Stormwater design provides for rainwater collection and reuse.</p>
<b>Safety</b>	Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings	Crime prevention report submitted with DA. No concerns were raised by the SCAT however there appear to be concealment opportunities and minimal surveillance available of the car park.
<b>Visual Privacy</b>	Refer to Building Separation standards	No loss of privacy for residents on adjoining properties expected from

<b>SEPP 65 – Residential Flat Design Code</b>		
	<b>Required</b>	<b>Comment</b>
		<p>independent living unit building.</p> <p>Privacy impacts for residents of the building are acceptable. Generally, balconies do not directly look into each other and privacy walls/terrace separate balconies.</p> <p>Balconies are roofed to limit overlooking.</p>
<b>Building Entry</b>	Provide as direct a physical and visual connection as possible between street and building entry.	<p>Proposed building entry is located within the lobby area on the podium level.</p> <p>Pedestrian access to the car parking level is only available via central lifts/fire stairs.</p>
<b>Parking</b>	Refer to DCP 49 and SEPP (Housing for Seniors etc) 2004, which requires required car parking rates for both the aged care facility and the independent living units	Proposal provides for 91 car parking spaces.
<b>Pedestrian Access</b>	<p>Identify the access requirements from the street or car parking area to the apartment entrance.</p> <p>Follow the accessibility standard set out in AS1428 (part 1 and 2), as a minimum</p> <p>Provide barrier free access to at least 20 percent of dwellings in the development</p>	<p>Pedestrian access from Beach and Corrimal Street is via ramps or stairs to the podium level.</p> <p>Pedestrian access between car parking level and the rest of the building is via fire stairs/lifts.</p> <p>Barrier free access appears to be available to all units.</p>
<b>Vehicle Access</b>	<p>Generally limit the width of driveways to a maximum of 6 metres</p> <p>Locate vehicle entries away from main pedestrian entries and on secondary street frontages</p>	<p>Proposed driveway width 6.55 metres.</p> <p>Vehicular access separate from pedestrian access points.</p>
<b>PART 3.0 BUILDING DESIGN</b>		
<b>Apartment Layout</b>	<p>Single aspect apartments should be limited in depth to 8 metres from a window</p> <p>The back of a kitchen should be no more than 8 metres from a window</p> <p>The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts</p>	<p>2 apartments on each level are single aspect apartments. Each have a depth of 9.0m which does not comply.</p> <p>Kitchens comply</p> <p>N/A</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	Buildings not meeting the minimum standards listed above, must demonstrate how satisfactory daylighting and natural ventilation should be achieved, particularly in relation to habitable rooms (see Daylight Access and Natural Ventilation)	
<b>Apartment Mix</b>	<p>Provide a variety of apartment types between studio-, one-two-, three- and three plus-bedroom apartments, particularly in large apartment buildings. Variety may not be possible in small apartment buildings, for example, up to six units.</p> <p>Refine the appropriate apartment mix for a location by:</p> <ul style="list-style-type: none"> <li>§ Considering population trends in the future as well as present market demands</li> <li>§ Noting the apartments' location in relation to public transport, public facilities, employment areas, schools and universities</li> <li>§ Locate a mix of one- and three bedroom apartments on the ground level where accessibility is more easily achieved for disabled, elderly people or families with children.</li> <li>§ Optimise the number of accessible and adaptable apartments and cater for a wide range of occupants. Australian Standards are only a minimum.</li> <li>§ Investigate the possibility of flexible apartment configurations, which support change in the future (see Flexibility).</li> </ul>	<p>The proposed apartment mix:</p> <p>Total 36 units:-</p> <p>4 x 1 bedroom</p> <p>28 x 2 bedroom</p> <p>4 x 3 bedroom</p> <p>Mix is considered to be appropriate</p> <p>All apartments accessible via lift.</p> <p>No units identified as adaptable, though requirements of SEPP (Housing for Seniors etc) may apply</p> <p>4 x 1 bedroom apartments are identified as affordable.</p>
<b>Balconies</b>	<p>Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context - noise, wind - cannot be satisfactorily mitigated with design solutions.</p> <p>Require scale plans of balcony with furniture layout to confirm adequate, usable space when an alternate balcony</p>	All units comply.

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	depth is proposed.	
<b>Ceiling Heights</b>	<p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired.</p> <ul style="list-style-type: none"> <li>-in mixed use buildings: 3.3m minimum for ground floor retail or commercial and for first floor residential, retail or commercial to promote future flexibility of use</li> <li>-in residential flat buildings in mixed use areas: 3.3m minimum for ground floor to promote future flexibility of use</li> <li>-in residential flat buildings or other residential floors in mixed use buildings:</li> </ul> <p>in general, 2.7m minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</p> <ul style="list-style-type: none"> <li>-for two storey units 2.4m minimum for second storey if 50 percent or more of the apartment has 2.7m minimum ceiling heights</li> <li>-for two-storey units with a two-storey void space, 2.4 metre minimum ceiling heights</li> <li>-attic spaces, 1.5 metre minimum wall height at edge of room with a 30 degree minimum ceiling slope.</li> </ul> <p>Developments which seek to vary the recommended ceiling heights must demonstrate that apartments will receive satisfactory daylight (eg. shallow apartments with large amount of window area).</p>	Ceiling heights 2.7m to all rooms.
<b>Flexibility</b>	<p>Provide robust configurations which use multiple entries and circulation cores, especially in buildings with 15m+ length</p> <p>Provide apartment layouts which</p>	<p>2 circulation cores are proposed.</p> <p>All units are physically accessed via lifts.</p> <p>Ground floor (podium) uses could be</p>



<b>SEPP 65 – Residential Flat Design Code</b>		
	<b>Required</b>	<b>Comment</b>
	<p>accommodate changing use of rooms</p> <p>Use structural systems which support a degree of future change in building use</p> <p>Promote accessibility and adaptability.</p>	varied in future
<b>Ground Floor Apartments</b>	<p>Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</p> <p>Provide ground floor apartments with access to private open space, preferably as a terrace or garden.</p>	No ground floor apartments proposed.
<b>Internal Circulation</b>	<p>In general, where units are arranged off a double loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed:</p> <ul style="list-style-type: none"> <li>• For adaptive re-use buildings</li> <li>• Where developments can demonstrate the achievement of the desired streetscape character and entry response</li> <li>• Where developments can demonstrate a high level of amenity for common lobbies, corridors and units (cross over, dual aspect apartments)</li> </ul>	Lift services maximum 3 units on each floor.
<b>Mixed Use</b>	<p>Complementary uses</p> <p>Consider building depth and form in relation to each uses requirements for servicing and amenity</p> <p>Design legible circulation systems which ensure safety</p> <p>Ensure building positively contributes to public domain</p> <p>Address acoustic requirements</p> <p>Recognise ownership/lease patterns and</p>	<p>Commercial/retail uses proposed on the podium level. Applicant states that uses will be complementary to the seniors housing, though specific uses are not yet known.</p> <p>Retail/commercial spaces will utilise common loading zone/waste collection area.</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	separate requirements for BCA assessment	
<b>Storage</b>	<p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <p>§ studio apartments 6m<sup>3</sup></p> <p>§ one-bedroom apartments 6m<sup>3</sup> (x 4) (24)</p> <p>§ two-bedroom apartments 8m<sup>3</sup> (x 28) (224)</p> <p>§ three-plus bedroom apartments 10m<sup>3</sup> (x 4)(40)</p> <p>TOTAL storage required: 114m<sup>3</sup> + 112m<sup>3</sup> + 30m<sup>3</sup> = 288m<sup>3</sup></p>	No storage areas indicated on the plans, either within the units or within the car parking area.
<b>Acoustic Privacy</b>	<p>Use site and building layout to maximise potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings.</p> <p>Arrange apartments within a development to minimise noise transition between flats.</p> <p>Design internal apartment layout to separate noisier spaces from quieter spaces.</p> <p>Resolve conflicts between noise, outlook and views.</p> <p>Reduce noise transmission from common corridors or outside the building by providing seals at entry doors.</p>	<p>Suitable separation distances provided</p> <p>Like areas within units abut.</p> <p>As above.</p> <p>Details of entry seals are not provided.</p>
<b>Daylight Access</b>	<p>Living Rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter. In dense urban areas a minimum of two hours may be acceptable</p> <p>Limit the number of single aspect apartments with a southerly aspect (SW-SE) to a maximum of 10 percent of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see</p>	<p>All balconies located on the northern side of the building will receive sufficient solar access</p> <p>No single aspect units have a southerly aspect</p>

SEPP 65 – Residential Flat Design Code		
	Required	Comment
	<p>Orientation and Energy Efficiency).</p> <p>See Apartment Layout for additional rules of thumb.</p>	
<b>Natural Ventilation</b>	<p>Building depths, which support natural ventilation typically range from 10 to 18 metres.</p> <p>60% of residential units should be naturally cross-ventilated.</p> <p>25% percent of kitchens within a development should have access to natural ventilation.</p> <p>Developments, which seek to vary from the minimum standards, must demonstrate how natural ventilation can be satisfactorily be achieved, particularly in relation to habitable rooms.</p>	<p>Building depth variable – 9-16.2m</p> <p>66% are cross-ventilated</p> <p>All kitchens are naturally ventilated</p>
<b>Awnings and Signage</b>	<p><i>Objectives:</i></p> <p>Provide shelter for public streets</p> <p>Ensure signage is in keeping with desired streetscape character and with scale, detail and design of the development.</p>	<p>Signage is not proposed as part of the application though advertising signs in conjunction with the retail/commercial spaces are expected in the future.</p> <p>No awnings are proposed over the footpath which is acceptable as there are no other awnings over the road reserve in this area.</p>
<b>Facades</b>	<p>Consider the relationship between the whole building form and the façade and/or building elements.</p> <p>Compose facades with appropriate scale, rhythm and proportion, which respond to the building's use and the desired contextual character.</p>	<p>Design is reasonable though the southern elevation of the independent living units tower is bulky and uninteresting.</p> <p>External finishes appear to be of a high standard. No details of finishing colours have been provided.</p>
<b>Roof Design</b>	<p>Relate roof design to the desired built form.</p> <p>Design the roof to relate to the size and scale of the building, the building elevations and three dimensional building form.</p> <p>Design roofs to respond to the orientation of the site, eg. by using eaves and skillion roofs to respond to sun</p>	<p>The proposed roof is essentially flat with lift overruns. Plans nominate a future plant room which is not detailed.</p>

<b>SEPP 65 – Residential Flat Design Code</b>		
	<b>Required</b>	<b>Comment</b>
	<p>access.</p> <p>Minimise visual intrusiveness of service elements by integrating them into the design of the roof.</p> <p>Support use of roofs for quality open space in denser urban areas.</p>	<p>Service elements are not incorporated into the roof design. Lift overruns are required in order to access roof-top garden area, a number of hot water systems are also proposed to be placed on the rooftop.</p> <p>Roof top garden areas will be provided, however these are vegetable gardens only and are unlikely to be visible from any public places.</p>
<b>Energy Efficiency</b>	<p>Incorporate passive solar design techniques to optimise heat storage in winter and heat transfer in summer.</p> <p>Improve the control of mechanical space heating and cooling.</p> <p>Provide or plan for future installation of photovoltaic panels.</p> <p>Improve efficiency of hot water systems.</p> <p>Reduce reliance on artificial lighting.</p> <p>Maximise efficiency of household appliances.</p>	<p>BASIX certificate submitted in relation to the independent living units.</p> <p>Units designed to maximise natural ventilation and daylight access – depth and orientation towards the north. This will assist in reducing energy usage.</p>
<b>Maintenance</b>	<p>Design windows to enable cleaning from inside the building, where possible.</p> <p>Select manually operated systems, such as blinds, sunshades, pergolas and curtains in preference to mechanical systems.</p> <p>Incorporate and integrate building maintenance systems into the design of the building form, roof, and façade.</p> <p>Select appropriate landscape elements and vegetation and provide appropriate irrigation systems.</p> <p>For developments with communal open space, provide a garden maintenance and storage area, which is efficient and convenient to use and is connected to water and drainage.</p>	<p>Some external windows will not be accessible from inside the building and will therefore require professional cleaning.</p> <p>Plans indicate that louvre screens are operable; it is assumed that this means they are manually operated</p> <p>Grounds maintenance staff will be employed by the operator. Landscape plan provided – Council's Landscape Officer is satisfied generally with planting, subject to some changes being made.</p> <p>Storage areas for garden equipment and the like not detailed on the plans, though storage areas are proposed within the car park.</p>
<b>Waste</b>	Supply waste management plans as part of	Operational waste management plan has

SEPP 65 – Residential Flat Design Code		
	Required	Comment
<b>Management</b>	the development application submission as per the NSW Waste Board	been provided.
<b>Water Conservation</b>	Rainwater is not to be collected from roofs coated with lead or bitumen based paints, or from asbestos-cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	Roofing materials – metal deck roof sheeting.  BASIX certificate makes provision for rainwater collection and reuse on site.

#### **5.4 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)**

SEPP 71 applies to land located within the coastal zone. This includes the subject land. Clause 8 of the SEPP requires that consideration be given to a number of matters including the aims of the policy:-

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

The matters for consideration are the following:

Matters for consideration	Comment
<p>a) the aims of this Policy set out in clause 2,</p>	<p>The proposed development is not considered to be consistent with aims (e), (g) or (k) set out in clause 2 of the SEPP:</p> <p><i>(e) to ensure that the visual amenity of the coast is protected, and</i></p> <p><i>(g) to protect and preserve native coastal vegetation, and</i></p> <p><i>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</i></p> <p>The height of the independent living units building will impact on the visual amenity of the area. The height is significantly greater than that permitted under the current and future height controls for the area. Also, the proposal may have an adverse impact on native coastal vegetation located adjacent to the southern boundary of the site.</p>
<p>(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</p>	<p>The proposal will not affect access to the coastal foreshore. It is noted that there are no existing pedestrian crossings on Corrimal Street allowing pedestrians to safely cross Corrimal Street to access foreshore areas or the cycle/footway on the eastern side of Corrimal Street.</p>
<p>(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</p>	<p>The site is not located such that it could be used to provide opportunities for public access to the foreshore.</p>

Matters for consideration	Comment
(d) the suitability of development given its type, location and design and its relationship with the surrounding area,	<p>The proposed development is not consistent with the objectives of the 3(d) zone as addressed below in relation to WLEP 1990.</p> <p>This type of development is not one which is contemplated by the plans relating to this locality.</p> <p>The height of the building is inconsistent with relevant planning controls and those proposed in dWLEP 2009.</p> <p>The proposed loading dock/waste collection area and the balconies on the northern side of the aged care facility may adversely impact upon the amenity of neighbouring dwellings.</p>
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	<p>The proposal will not overshadow the coastal foreshore or result in any loss of views to the foreshore. The tower component may partly obstruct escarpment views currently available from the seniors living development on the eastern side of Corrimal Street however it is not expected that this impact would be unreasonable.</p>
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	<p>The proposed independent living units tower is quite high in relation to nearby development and draft WLEP 2009 seeks to impose a height limit of 9m. The height of the tower element is significantly greater than that permitted in current and future controls. However, the height of the proposed development is similar to the height of the nearby 'Links Seaside' development on the eastern side of Corrimal Street. These two buildings would not improve the scenic qualities of this section of the coast when viewed from the foreshore or ocean.</p>

Matters for consideration	Comment
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	The proposed development, specifically the excavation works proposed adjacent to the southern boundary of the site, are likely to impact on an endangered ecological community and potential habitat for the endangered Green & Golden Bell Frog. Section 5A assessments will be required to identify the potential direct and indirect impacts of the proposed development on these.
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	The proposed excavation works adjacent to the watercourse abutting the southern boundary may impact on fish or marine vegetation and their habitats. This issue has been considered by the NSW Office of Water.
(i) existing wildlife corridors and the impact of development on these corridors,	The watercourse adjacent to the southern boundary is likely to act as a corridor for the movement of aquatic birdlife, fish and amphibians. Concerns have been raised by Council's Environment Division in relation to impacts on vegetation adjacent to the watercourse and potential impacts on the habitat for the Green & Golden Bell Frog which is known to inhabit the watercourse.
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	The proposal will not impact on any coastal processes or hazards, however the site is flood prone and may be subject to impacts if sea levels are to rise as a result of human-induced climate change. Further information and amended plans are required to address some flooding related concerns.
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	The proposal will not result in any conflicts between land and water based coastal activities.
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	The proposal will not impact on any items of cultural importance.



Matters for consideration	Comment
(m) likely impacts of development on the water quality of coastal waterbodies,	A watercourse is located adjacent to the southern boundary of the site. The development is setback a minimum distance of 10m from the top of the bank of the watercourse however excavation and construction works are proposed within close proximity of the watercourse. These works will potentially impact on the watercourse, though controls could be implemented during construction to ensure no significant adverse impacts on water quality. General Terms of Approval have been issued by the NSW Office of Water.
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	No items of heritage, archaeological or historic significance are affected by the proposal.
(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	Not applicable.
(p) only in cases in which a development application in relation to proposed development is determined:	
(i) the cumulative impacts of the proposed development on the environment, and	Further information is required in relation to impacts of the development on Green & Golden Bell Frog habitat and the EEC located adjacent to the southern boundary of the site.
(ii) measures to ensure that water and energy usage by the proposed development is efficient.	The proposal will not result in excessive energy or water usage. The proposed development does incorporate some sustainable design elements which have been outlined elsewhere within this report.

### 5.5 SEPP (Infrastructure) 2007

The following provisions are relevant to the proposed development:-

#### Clause 101 - Development with frontage to classified road

The development site has frontage to Corrimal Street which is a classified road. Accordingly consideration must be given to this clause.

Clause 101(2) states that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

- (i) the design of the vehicular access to the land, or
  - (ii) the emission of smoke or dust from the development, or
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

Comment:- in relation to (a), vehicular access and egress is provided from Beach Street rather than Corrimal Street. Existing crossings onto Corrimal Street are proposed to be closed which is a positive outcome of the development. In relation to (b), there is unlikely to be any impact on the safety, efficiency and ongoing operation of Corrimal Street as a result of approval of the proposed development. There have been concerns raised by the RTA and Council's Traffic Section in relation to the location of the Beach Street access point which may result in conflicts with the intersection of Beatson & Beach Streets. Further, vehicular manoeuvring for service vehicles is not acceptable. Beach Street is not a classified road for the purposes of this clause.

In relation to (c), the proposed development is likely to be sensitive to both traffic noise and vehicular emissions. The applicant has not addressed this issue in the Statement of Environmental Effects.

#### Clause 104 – Traffic Generating Development

Column 1 of Schedule 3 to the SEPP does not specifically identify seniors housing or an aged care facility, however the independent living units are similar to a residential flat or apartment building and the aged care facility is somewhat similar to a hospital so the capacities identified within the SEPP for these uses have been applied in this instance. The proposed vehicular access point on Beach Street is within 90m of a classified road, the development provides car parking for more than 50 vehicles and the aged care facility houses 120 beds. Accordingly it is considered that the proposed development is traffic generating development for the purposes of the SEPP.

The application has been referred to the RTA for comment in accordance with this clause.

As per clause 104(3)(b), Council must take into consideration:-

- (i) any submission that the RTA provides, and
- (ii) the accessibility of the site concerned, including:
  - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
  - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- (iii) any potential traffic safety, road congestion or parking implications of the development.

The RTA's comments on the proposed development are provided below in Section 13. Concerns have been raised in relation to a number of issues but not traffic generation. Further concerns have been expressed by Council's Traffic Section.

#### **5.6 SEPP (Building Sustainability Index: BASIX) 2004**

The applicant has provided a BASIX certificate in relation to the 36 independent living units. The certificate outlines the commitments to be incorporated into the design to achieve the water and energy targets established by the NSW Government.

#### **5.7 SEPP (Housing for Seniors or People with a Disability) 2004**

##### Chapter 1 Preliminary

Clause 4 Land to which policy applies – The SEPP applies to land that is zoned primarily for urban purposes, where certain development (including residential flat building or dwelling houses) are permitted. The relevant 3(d) Commercial Services zone allows both residential flat buildings and dwelling houses. The SEPP accordingly applies to the land.

Clause 5 Relationship with environmental planning instruments – This clause confirms that the SEPP overrides any provision (except for demolition of a heritage item) in an environmental planning instrument eg. LEP.

## Chapter 2 Key Concepts

Chapter 2 defines the key concepts used in the SEPP provides the following relevant definitions:

**Seniors housing** - is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- (a) a residential care facility, or
  - (b) a hostel, or
  - (c) a group of self-contained dwellings, or
  - (d) a combination of these,
- but does not include a hospital.

**Residential care facility** is residential accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and
  - (b) personal care or nursing care, or both, and
  - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,
- not being a dwelling, hostel, hospital or psychiatric facility.

A **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

**Serviced self-care housing** is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.

The proposed development comprises a residential care facility and self contained dwellings (services are also available) for the purposes of the SEPP.

## Chapter 3 Development for Seniors Housing

This Chapter allows any form of seniors housing to be carried out despite the provisions of any other environmental planning instrument if the development is carried out in accordance with the SEPP.

### Part 1 General

Clause 18 of the SEPP provides that development permitted by Chapter 3 can only provide accommodation for (a) seniors or people who have a disability, (b) people who live within the same household with seniors or people who have a disability, or (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy. Conditions must be imposed by the consent authority in relation to this matter.

Clause 19 does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes. The proposed development does not provide any residential accommodation on the ground floor adjacent to the street frontages of the site.

### Part 1A – Site Compatibility Certificates

Clause 24 requires that a consent authority must not grant consent to certain seniors' housing developments unless a site compatibility certificate has been issued by the Director-General. Clause 24(1)(b) requires a site compatibility certificate for developments which involve buildings having a floor space ratio that would require the consent authority to grant consent under Clause 45. The applicant has sought to use Clause 45 to obtain a floor space bonus. Clause 24(1A) states that the requirement for the site compatibility certificate does not apply in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument. It is noted that *seniors housing* is specifically defined within WLEP 1990:-

**“Seniors housing** means residential accommodation that is, or is intended to be, used permanently by seniors or people with a disability consisting of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

but does not include a hospital.”

The aged care facility is a *residential care facility* for the purposes of this definition, and the independent living units are *self contained dwellings* for the purposes of this definition. In the 3(d) zone, seniors housing is neither permitted with consent or development that can be approved after advertising and satisfying clause 11. The 4<sup>th</sup> category of development in the zoning table is prohibited development which is “Any development not included in items 2, 3 or 4.” Accordingly *seniors housing* is prohibited in the zone. As such, it is considered that a site compatibility certificate is required as per Clause 24 of the SEPP.

The applicant has not addressed Clause 24 in its submission, nor has it provided a site compatibility certificate from the Director-General.

As per clause 24(2) a consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that:-

- (a) the site of the proposed development is suitable for more intensive development, and
- (b) development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25(5)(b).

#### Part 2 Site-related requirements

Clause 26 relates to the location and access to facilities. Written evidence must be provided that residents of the proposed development will have access that complies with subclause (2) to:

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) the practice of a general medical practitioner.

Subclause (2) provides that access complies with this clause if:

- (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:
  - (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
  - (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
  - (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or
- (c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:
  - (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
  - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
  - (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),
 and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

The Wollongong LGA is not located within the Sydney Statistical Division.

The applicant's response to this clause is to indicate that some services will be provided on site, while others are available nearby and can be accessed by either public transport or the community bus to be provided by the operator. The plans illustrate seven (7) retail spaces and 2 business centres which the applicant indicates may be occupied by uses such as a hairdresser, doctors' rooms, medical specialists, physiotherapists, podiatrists, etc. General reference is also made within the SEE to "access to conveniences such as newspapers, food items, pharmacy, book shop, hairdresser and gifts...." The specific uses of each of the commercial premises/retail spaces are not identified nor are there details provided of the operators, hours of operation, etc. The applicant has indicated that a medical general practitioner will be available on call. No written evidence of any arrangements has been provided.

The SEE indicates that a community bus will be provided however no details of the proposed service have been provided (eg. where the bus will be kept, how it will operate, its hours of operation, routes, etc). A bus stop for the local bus service is located within 250m of the site and the applicant has indicated that there is a grade of no more than 1:14 along the length of the access path to the bus stop.

It is considered that further information should be provided in relation to the community bus to demonstrate that Clause 26 is complied with.

Clause 28 requires written evidence that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage. Subclause (2) states that, if the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. The applicant has stated that services will be provided by Sydney Water. No written evidence has been provided (in the form of correspondence from Sydney Water or the like) demonstrating that provision can be made for the housing to be connected to the reticulated water and sewerage system. Clause 28 has not been satisfied.

Clause 29 requires that the consent authority consider certain site compatibility criteria for DAs to which Clause 24 does not apply. It is contended that Clause 24 applies, however the applicant has not addressed this issue.

### Part 3 Design Requirements

#### *Division 1 General*

Clause 30 requires the consent authority to consider a site analysis prepared by the applicant in accordance with the clause. The site analysis must contain information about the site and its surrounds; and be accompanied by a written statement (supported by plans including drawings of sections and elevations) explaining how the design of the proposed development has regard to the site analysis, and explaining how the design of the proposed development has regard to the design principles set out in Division 2.

The applicant has provided some comments in relation to certain aspects of the site analysis within the SEE and the accompanying social impact assessment (SIA) report. The SIA addresses the design principles set out in Division 2.

The following information about a site is to be identified in a site analysis:

Details		Provided for on site analysis?
Site dimensions	Width and length	Provided on site plans
Topography	Spot levels; contour North point Natural drainage Contaminated soils or filled areas	Survey plan provided North point detailed on all plans Not specifically identified Not identified on site analysis
Services	Easements Connections for drainage and utility services	Not identified on site analysis; no easements illustrated on survey plan

		No connection for drainage or services illustrated on either site analysis or survey plan
Existing vegetation	Location, height, spread of trees; species	Not identified on site analysis or survey plan
Microclimates	Orientation Prevailing winds	Yes Yes
Location of	Buildings and other structures  Heritage features and items including archaeology Fences Property boundaries  Pedestrian and vehicle access	Yes – aerial photograph of site provided on site analysis No heritage features  Fences not identified Lot boundaries not identified on site analysis Yes
Views to and from the site		Views to steelworks, the ocean, escarpment all noted on site analysis
Overshadowing by neighbouring structures		Shadow diagrams indicate that neighbouring buildings will not overshadow subject site.

The following information about the surrounds of a site must be identified in a site analysis:

Details		Provided for on site analysis?
Neighbouring buildings	Location  Height  Use Balconies on adjacent properties Pedestrian and vehicle access to adjacent properties	Yes No but is shown on streetscape elevations. Some floor levels identified on survey plan Yes Yes Yes, using aerial photo
Privacy	Adjoining private open spaces Living room windows overlooking site Location of any facing doors and/or windows	Not identified Not identified  Not identified
Walls built to the site boundaries	Location Height Materials	Not identified
Difference in levels	Between the site and adjacent properties at their boundaries	Some spot levels provided on survey plan
Views and solar access enjoyed by neighbouring properties		Some escarpment views may be obtained across the site from the seniors living development located on the eastern side of Corrimal Street Adjoining dwellings face north and west – solar access will not be affected
Major trees		Not identified
Street frontage features	Poles Trees Kerb crossovers Bus stops Other services	Not identified Not identified Not identified Not identified Not identified

Built form & character of nearby development	Architectural character Front fencing Garden styles	Basic building forms and heights plotted on streetscape elevations. No other details provided.
Heritage features		N/A
Direction & distance to local facilities	Local shops Schools Public transport Recreation & community facilities	Addressed within SIA
Public open space	Location Use	Addressed within SIA
Adjoining bushland or environmentally sensitive land		N/A
Sources of nuisance	Flight paths Noisy roads or significant noise sources Polluting operations	N/A Corrimal Street (arterial road) is a significant noise source Applicant states there are no nearby polluting operations
Adjoining land uses and activities		Some uses identified on survey plan

As demonstrated in the above table, the site analysis is inadequate. Clause 30 is not satisfied.

Clause 32 Design of residential development states that the consent authority must not consent to seniors housing unless it is satisfied that the development demonstrates that adequate regard has been given to the principles set out in Division 2, ie clauses 33-39. These principles are:-

Principle	Requirement	Proposal Compliance?
<b>Neighbourhood amenity and streetscape</b>	(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area,	<p>The applicant refers to seniors living developments approved on the eastern side of Corrimal Street and says that these have transformed the streetscape and character of the area into one more in line with a city. The applicant contends that this development will contribute to this character.</p> <p>The development is located on the western side of Corrimal Street where the current applicable height limit is 11m under IREP 1 and will be 9m under WLEP 2009. These height limits indicate the desired future height character of the area. The proposed ILU tower is significantly taller than both height limits. The ACF building appears to be just under the 11m ceiling height limit though the uppermost ceiling RL has not been provided. All other development in the immediate area is below the height limit.</p>

		<p>The length of the taller building and its orientation towards the north/south exacerbates its visual impact – main views from public areas are obtained from the north or south from pedestrians and vehicles travelling along Corrimal Street.</p> <p>It is noted also that the proposed development would not be permissible in the B6 zone under WLEP 2009 and SEPP (Housing for Seniors etc) would not apply to the land.</p>
	(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan,	None in the area.
	<p>(c) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours</p>	<p>The land is not zoned residential however dwelling-houses and residential flats are permitted in the 3(d) zone and some existing dwellings are located to the west and north of the site.</p> <p>The building setbacks proposed are considered to be generally reasonable, though the loading dock/waste collection area may have an impact on the neighbouring dwelling.</p> <p>The tower building is located in such a way that it will not overshadow the neighbouring dwellings to the west. It will overshadow some of the commercial buildings to the south as well as the seniors living complex on the eastern side of Corrimal Street to some extent in the afternoon during winter.</p> <p>The street frontage height on the Beach Street frontage appears to be reasonably consistent with the street frontage heights of neighbouring buildings with the exception of the independent living units building. The higher elements are set back further from the street. The street frontage height on the Corrimal Street frontage is 8 storeys,</p>



		<p>which is not consistent with neighbouring development on the western side of Corrimal Street. The height limit under WLEP 2009 for this area is 9m.</p> <p>The southern wall of part of the building will abut a neighbouring building. No adverse impact is envisaged.</p>
	(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line,	There is no consistent front building line on the Beach Street frontage of the site. The front building is setback 6.605m from the front boundary, while the awning and access ramps extend to within approx 1m of the front boundary. This is considered to be appropriate. The setback on the Corrimal Street frontage of the site is 4.2m, with an awning extending to within 2.7m. There is no consistent building line on the western side of Corrimal Street. There are no applicable building setbacks in either DCP 6 or DCP 2009.
	(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape,	Proposal provides minimal landscaping to the Beach Street frontage of the development. There is no significant street tree planting in Beach Street.
	(f) retain, wherever reasonable, major existing trees	Most of the trees within the property are proposed to be removed. Council's Environment & Landscaping Divisions have raised concerns in relation to this issue.
	(g) be designed so that no building is constructed in a riparian zone	Complies. There is however construction work proposed within close proximity of the watercourse which may have some impacts.
<b>Visual &amp; acoustic privacy</b>	<p>The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p> <p>(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p>	<p>The buildings are setbacks from the adjoining residential dwellings though the loading dock/waste collection area may impact on the amenity of the neighbouring dwelling to the west.</p> <p>Landscaping is used adjacent to</p>

	(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	<p>the boundaries which abut dwellings to provide some privacy screening. The location of the balconies on the northern side of the aged care facility may result in overlooking of the neighbouring dwellings fronting Beach Street.</p> <p>Bedrooms are located away from noise sources generally, though traffic noise from Corrimal Street may have an impact on the independent living units. Some of the bedrooms within the aged care facility will also be subject to noise from the loading dock/waste collection area.</p>
<b>Solar access &amp; design for climate</b>	<p>The proposed development should:</p> <p>(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>There will be some internal overshadowing of the ACF from the ILU tower. During winter, the courtyard areas of the ACF will be in full shade.</p> <p>Adequate solar access will be available to neighbouring dwellings.</p> <p>The ILU tower is not very deep – the units are designed such that living areas are orientated towards the north. Some degree of cross ventilation will be available.</p>
<b>Stormwater</b>	<p>The proposed development should:</p> <p>(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and</p> <p>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	<p>Stormwater management has been considered by Council's Stormwater Section; comments are provided below.</p> <p>Water harvesting and reuse is proposed.</p>
<b>Crime prevention</b>	<p>The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:</p> <p>(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and</p> <p>(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and</p>	<p>ILUs are accessed via central lobbies. Lobby areas appear to be lockable to prevent unauthorised access.</p> <p>Placement of retail areas and offices will provide surveillance of the main approaches to the building. Minimal surveillance of the basement car park is available and no secure car parking or</p>

	(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	storage areas have been provided for residents.
<b>Accessibility</b>	The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	Pedestrian routes out of the site appear to be clear and readily visible. Concerns have been raised by the RTA in relation to pedestrian safety.
<b>Waste Management</b>	The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Central waste collection areas provided. Operational waste management plan provided.

#### Part 4 Development Standards

##### *Division 1 General*

##### Clause 40 - minimum sizes and building height

<b>Clause 40 – Minimum sizes and building height</b>				
<b>cl</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
40(2)	<b>Allotment size</b>	Minimum 1000m <sup>2</sup>	Consolidated lot area – 11,475m <sup>2</sup>	Yes
40(3)	<b>Frontage</b>	Minimum 20 metres at building line	>20m	Yes
40(4)(a)	<b>Building height</b> "height" in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point. "ground level" means the level of the site before development is carried out pursuant to this Policy	In zones where residential flat buildings are not permitted, maximum height 8 metres	NA	-
40(4)(b)		In zones where residential flat buildings are not permitted, maximum 2 storeys where adjacent to the allotment boundary	NA	-
40(4)(c)		In zones where residential flat buildings are not permitted, maximum 1 storey in rear 25% of site	NA	-

##### *Division 2 Residential care facilities—standards concerning accessibility and useability*

Compliance with the Commonwealth aged care accreditation standards and the Building Code of Australia.

##### *Division 3 Hostels and self-contained dwellings—standards concerning accessibility and useability*

##### Clause 41 - standards for hostels and self-contained dwellings

Consent must not be granted for self contained dwelling unless the development complies with the standards specified in Schedule 3 (standards concerning accessibility and useability for hostels and self-contained dwellings). It is noted that Clause 41(2) states that

“(2) Despite the provisions of clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15–20 of Schedule 3, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.”

The applicant has not demonstrated that the operator is a social housing provider for the purposes of the SEPP and has not otherwise addressed these provisions on either the plans or within the SEE.

The proposal's compliance with these controls is outlined below:-

	Requirement	Proposal Compliance?
<b>(2)Siting Standards Wheelchair access</b>	(1) If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.	Site gradient is less than 1:10; appears to comply. This issue can be conditioned if the JRPP is of a mind to grant consent to the proposal.
	(2) If the whole of the site does not have a gradient of less than 1:10: (a) the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and (b) the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.	N/A
	<b>(3) Common areas</b> Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.	Appears to comply, though there has not been an access report provided demonstrating this.
<b>(3) Security</b>	Pathway lighting: (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and (b) must provide at least 20 lux at ground level.	No pedestrian lighting detailed.
<b>(4) Letterboxes</b>	Letterboxes: (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and (b) must be lockable, and (c) must be located together in a central location adjacent to the street entry or, in the case of self-contained dwellings, must be located together in one or more central locations adjacent to the street entry.	Not identified on plans.
<b>(5) Private Car</b>	If car parking (not being car parking for employees) is provided:	Car park dimensions not

<b>Accommodation</b>	(a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and (b) 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.	detailed.
<b>(6) Accessible Entry</b>	Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.	Not identified on plans; not mentioned in SEE
<b>(7) Interior: general</b>	(1) Internal doorways must have a minimum clear opening that complies with AS 1428.1. (2) Internal corridors must have a minimum unobstructed width of 1,000 millimetres. (3) Circulation space at approaches to internal doorways must comply with AS 1428.1.	Not identified.
<b>(8) Bedroom</b>	At least one bedroom within each dwelling must have: (a) an area sufficient to accommodate a wardrobe and a bed sized as follows: (i) in the case of a dwelling in a hostel—a single-size bed, (ii) in the case of a self-contained dwelling—a queen-size bed, and (b) a clear area for the bed of at least: (i) 1,200 millimetres wide at the foot of the bed, and (ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and (c) 2 double general power outlets on the wall where the head of the bed is likely to be, and (d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and (e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and (f) wiring to allow a potential illumination level of at least 300 lux.	Applicant has not provided a larger scale floor plan of the ILUs to determine compliance with these requirements.
<b>(9) Bathroom</b>	(1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1: (a) a slip-resistant floor surface, (b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1, (c) a shower that complies with AS 1428.1,	All ILUs are on a single floor. Details of bathrooms not provided.

	<p>except that the following must be accommodated either immediately or in the future:</p> <ul style="list-style-type: none"> <li>(i) a grab rail,</li> <li>(ii) portable shower head,</li> <li>(iii) folding seat,</li> <li>(d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,</li> <li>(e) a double general power outlet beside the mirror.</li> </ul> <p>(2) Subclause (1) (c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.</p>	
<b>(10) Toilet</b>	A dwelling must have at least one toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.	Bathroom available. Details to confirm compliance with AS4299 not provided.
<b>(11) Surface Finishes</b>	Balconies and external paved areas must have slip-resistant surfaces.	Not detailed.
<b>(12) Door hardware</b>	Door handles and hardware for all doors (including entry doors and other external doors) must be provided in accordance with AS 4299.	Not detailed.
<b>(13) Ancillary items</b>	Switches and power points must be provided in accordance with AS 4299.	Not detailed.
<b>Part 2 Additional standards for self-contained dwellings</b>		
<b>(15) Living room and dining room</b>	<p>(1) A living room in a self-contained dwelling must have:</p> <ul style="list-style-type: none"> <li>(a) a circulation space in accordance with clause 4.7.1 of AS 4299, and</li> <li>(b) a telephone adjacent to a general power outlet.</li> </ul> <p>(2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.</p>	Plans not detailed to confirm compliance.
<b>(16) Kitchen</b>	<p>A kitchen in a self-contained dwelling must have:</p> <ul style="list-style-type: none"> <li>(a) a circulation space in accordance with clause 4.5.2 of AS 4299, and</li> <li>(b) a circulation space at door approaches that complies with AS 1428.1, and</li> <li>(c) the following fittings in accordance with the relevant subclauses of clause 4.5 of AS 4299: <ul style="list-style-type: none"> <li>(i) benches that include at least one work surface at least 800 millimetres in length that comply with clause 4.5.5 (a),</li> <li>(ii) a tap set (see clause 4.5.6),</li> <li>(iii) cooktops (see clause 4.5.7), except that an isolating switch must be included,</li> <li>(iv) an oven (see clause 4.5.8), and</li> <li>(d) "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and</li> <li>(e) general power outlets:</li> </ul> </li> </ul>	Plans not detailed to confirm compliance.

	(i) at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and (ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.	
<b>(17) Access to kitchen, main bedroom, bathroom and toilet</b>	In a multi-storey self-contained dwelling, the kitchen, main bedroom, bathroom and toilet must be located on the entry level.	N/A. All units are on a single floor only.
<b>(18) Lifts in multi-storey buildings</b>	In a multi-storey building containing separate self-contained dwellings on different storeys, lift access must be provided to dwellings above the ground level of the building by way of a lift complying with clause E3.6 of the <i>Building Code of Australia</i> .	Lift access is provided. Compliance with E3.6 of the BCA is not detailed but could be conditioned if the JRPP is of a mind to approve the development.
<b>(19) Laundry</b>	A self-contained dwelling must have a laundry that has: (a) a circulation space at door approaches that complies with AS 1428.1, and (b) provision for the installation of an automatic washing machine and a clothes dryer, and (c) a clear space in front of appliances of at least 1,300 millimetres, and (d) a slip-resistant floor surface, and (e) an accessible path of travel to any clothes line provided in relation to the dwelling.	No laundries are identified on the floor plans. Laundry for the ACF is provided in the carpark, but no identification of laundry facilities for ILUs on plans.  Note:- laundries are referred to in the BASIX certificate.
<b>(20) Storage for linen</b>	A self-contained dwelling must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299.	Not identified on plans.
<b>(21) Garbage</b>	A garbage storage area must be provided in an accessible location.	The traffic impact assessment indicates that each level of the development will have a rubbish chute and a common rubbish collection/storage area located on the basement level. These are not depicted on the floor plans.

Insufficient information has been provided to demonstrate that the proposed self-contained dwellings comply with the above controls. Accordingly consent cannot be granted pursuant to Clause 41 of the SEPP.

#### Part 6 Development for Vertical Villages

##### Clause 45 vertical villages

Clause 45(1) states that this clause applies to land to which the policy applies on which development for the purposes of residential flat buildings is permitted.

Clause 45(2) provides that, subject to subclause (6), a consent authority may grant consent to a seniors housing development involving buildings having a FSR that exceeds the FSR permitted under another environmental planning instrument by a bonus of 0.5 added to the gross floor area (GFA) component of that FSR. The applicant seeks to make use of this clause. It is noted that Clause 12 of WLEP 1990

provides for a maximum FSR of 0.5:1 in relation to the 3(d) zone. A maximum FSR of 1:1 can therefore be achieved on the site if Clause 45 is satisfied.

Clause 45(4) provides that, in calculating the GFA for the purposes of subclause (2), the floor space used to deliver on-site support services (other than any floor space used to deliver communal or residents' living areas) is to be excluded. Clause 45(5) states that if the area of the floor space referred to in subclause (4) is greater than 50% of the gross floor area, then the area that may be excluded under subclause (4) is limited to an area that does not exceed 50% of the gross floor area.

The definition of gross floor area provided by the SEPP is as follows:-

**gross floor area** means the sum of the areas of each floor of a building, where the area of each floor is taken to be the area within the outer face of the external enclosing walls (as measured at a height of 1,400 millimetres above each floor level):

- (a) excluding columns, fin walls, sun control devices and any elements, projections or works outside the general lines of the outer face of the external wall, and
- (b) excluding cooling towers, machinery and plant rooms, ancillary storage space and vertical air conditioning ducts, and
- (c) excluding car parking needed to meet any requirements of this Policy or the council of the local government area concerned and any internal access to such parking, and
- (d) including in the case of in-fill self-care housing any car parking (other than for visitors) in excess of 1 per dwelling that is provided at ground level, and
- (e) excluding space for the loading and unloading of goods, and
- (f) in the case of a residential care facility—excluding any floor space below ground level that is used for service activities provided by the facility.

On the basis of the SEPP's definition of gross floor area and the exclusions outlined in Clause 45(4), the following components of the development are to be excluded from the gross floor area calculations (in addition to that outlined in items (a) to (e) above):- the laundry, ACF kitchen and servery (dining rooms are in combination with living areas which are not excluded). It is noted that the service area on the ground floor is not below ground level and has been included in the GFA calculations.

The applicant indicates that the FSR of the proposed development has been calculated at 1:1. A preliminary check of the applicant's GFA calculations indicates that the figures cited on the plans may be inaccurate. The applicant was asked to provide further detailed calculations of the GFA to ensure compliance with Clause 45(2) however this has not been received.

Clause 45(6) states that consent can only be granted to a DA using Clause 45(2) if

- (a) the consent authority is satisfied, on written evidence, that:
  - (i) the proposed development will deliver on-site support services for its residents, and
  - (ii) at least 10% of the dwellings for the accommodation of residents in the proposed development will be affordable places, and
- (b) the applicant identifies, to the satisfaction of the consent authority, which of the dwellings for the accommodation of residents in the proposed development will be set aside as affordable places.

For the purposes of this Clause, on-site support services are defined as:

**on-site support services**, in relation to residents of seniors housing, means:

- (a) 3 meals a day provided on a communal basis or to a resident's dwelling, and
- (b) personal care, and
- (c) home nursing visits, and
- (d) assistance with housework.

In relation to Clause 45(6)(a)(i), the applicant indicates that the development will deliver on site support services for its residents including:-

- three (3) meals a day provided on a communal basis or in a resident's dwelling
- personal care (registered nurse 24 hours a day, 7 days a week)
- home nursing visits



- assistance with housework
- activities co-ordinator
- hairdresser, podiatrist
- property services – gardens, ground maintenance
- medical general practitioner on call
- in house laundry service

A statement has been prepared by Warrigal Care which was lodged with the application. This statement states that:-

“The proposed development will deliver on-site support services for our residents including kitchen and meals, laundry, hairdresser, consulting GPs, personal care, maintenance and 24 hour emergency call assistance. At least 10% of the Independent Living Units will be offered as affordable accommodation with a number of 1 bedroom units available for this purpose.”

It is considered that Clause 45(6)(a)(i) is satisfied by the proposal.

In relation to Clause 45(6)(a)(ii), affordable places are defined as:-

**“affordable place**, in relation to seniors housing, means a dwelling for the accommodation of a resident:

(a) whose gross household income falls within the following ranges of percentages of the median household income for the time being for the Sydney Statistical Division according to the Australian Bureau of Statistics:

Very low income household	less than 50%
Low income household	50% or more but less than 80%
Moderate income household	80–120%

(b) who is to pay rent that does not exceed a benchmark of 30% of the resident’s actual household income.”

In relation to clause 45(6)(a)(ii), the applicant has stated that 10% of the dwellings will be affordable places for the purposes of the SEPP. As per the statement above, Warrigal Care states that “At least 10% of the Independent Living Units will be offered as affordable accommodation with a number of 1 bedroom units available for this purpose.” The SIA states that, “The proposed development will provide 10% of the dwellings for the accommodation of residents as affordable places with a number of 1 bedroom units available for this purpose.” It is assumed that the four (4) one bedroom units will be set aside for this purpose. Clause 45(6)(a)(ii) is considered to be satisfied.

Clause 45(7) provides that consent cannot be refused to a development using Clause 45(2) if it does not comply with a standard referred to in clause 40 (4) (a), 48 (a), 49 (a) or 50 (a). These standards are as follows:-

- Clause 40(4) - height in zones where residential flat buildings are not permitted – N/A. Residential flat buildings are permitted with consent in the 3(d) zone under WLEP 1990.
- Clause 48 - standards that cannot be used to refuse development consent for residential care facilities. Clause 48(a) provides a height limit of 8m or less.
- Clause 49 - standards that cannot be used to refuse development consent for hostels – N/A as the proposal does not involve a hostel.
- Clause 50 – standards that cannot be used to refuse development consent for self-contained dwellings – Clause 50(a) provides a building height of 8m in the case of development for the purposes of a self-contained dwelling.

Clause 45(8) provides that consent may be granted as per Clause 45(2) subject to a condition that requires the creation of a restrictive or positive covenant on land concerning the continued provision of the affordable places identified in the application. This could be conditioned if the JRPP is of a mind to approve the development.

Clause 45(9) provides that consent may be granted as per Clause 45(2) subject to a condition that requires the affordable places identified in the DA to be owned and managed by an organisation providing

community housing that is registered for the time being with the Office of Community Housing. This could be conditioned if the JRPP is of a mind to approve the development.

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

***Division 1 General***

**Clause 46 Inter-relationship of Part with design principles in Part 3**

Clause 46(1) states that nothing in this Part permits the granting of consent to a DA made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.

**Clause 48 - Standards that cannot be used to refuse development consent for residential care facilities**

Clause	Requirement	Proposal	Complies
48(a)	Buildings are no greater than 8 metres in height	All greater than 8m	No
48(b)	Floor space ratio is less than 1:1	Applicant states that the FSR is 1:1 though further information is required to confirm this	Further information is required to determine compliance
48(c)	Minimum landscaped area of 25sqm per residential care facility bed (120 x 25) = min 3000sqm	>3000sqm	Yes
48(d)	Minimum parking for residents and visitors:-  (i) 1 parking space for each 10 beds in the residential care facility; and (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and  (iii) 1 parking space suitable for an ambulance.	12 spaces required for the ACF (based on bed numbers)  Applicant states 11 staff spaces required (ie assume 22 staff on at any one time). The applicant does not identify how many staff will be on duty at any one time  Ambulance drop off area noted.	Not known. Staff numbers are required to determine parking requirements

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

Clause	Requirement	Proposal	Complies
50(a)	Buildings are no less than 8 metres in height	All greater than 8m	No
50(b)	Floor space ratio is less than 0.5:1	1:1	No, but seeking to use Clause 45(2)

50(c)	Minimum landscaped area: in the case of a DA made by a social housing provider—a minimum 35sqm of landscaped area per dwelling (1260m <sup>2</sup> ), or (ii) in any other case—a minimum of 30% of the area of the site is to be landscaped (3442.5m <sup>2</sup> ).	Not known whether Warrigal Care is a social housing provider for the purposes of the SEPP. The total landscaped area within the site exceeds 4200sqm in any case.	Yes
50(d)	Minimum deep soil zones of 15% of the area of the site (1722sqm)  Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres	The area to the rear of the ACF building would constitute a deep soil zone. The area of this DSZ is approximately 3840sqm.	Yes
50(e)	Minimum solar access: living rooms and private open spaces to a minimum of 70% of the dwellings to receive a minimum of 3 hours sunlight between 9am and 3pm in mid-winter	All self contained dwellings will achieve sufficient solar access	Yes
50(f)	Private open space for in-fill self-care housing	Proposed dwellings are not infill self-care housing	N/A
50(h)	Minimum parking required:- (i) 0.5 car spaces for each bedroom (where the DA is made by a person other than a social housing provider), or (ii) 1 car space per 5 dwellings (where DA is made by, or is made by a person jointly with, a social housing provider).	Not known whether Warrigal Care is a social housing provider for the purposes of the SEPP.  Number of bedrooms = 72; required car parking = 36  Total car parking provided within the site = 91 spaces	Adequate car parking available for the ILUs.

## 6 Wollongong IREP 1, 1986

The aim of this plan is to maximise the opportunities for the people of the region and the State to meet their individual and community economic and social needs with particular reference to the way in which these needs are related to the allocation, availability, accessibility and management of the region's land resources.

Part 7 of the IREP relates to living areas however there are no applicable provisions relevant to the proposal.

Part 17 off the IREP applies to high rise buildings. The objectives of this part relating to high rise buildings are set out in Clause 138 and are:-

- (a) *to enhance the amenity and design quality of the Wollongong urban centre and of buildings within that centre, and*
- (b) *to preserve the landscape quality of coastal and foreshore land by encouraging the erection of buildings which are designed in harmony with that landscape.*

The proposed development will not enhance the amenity or design quality of the Wollongong urban centre, nor does it preserve the landscape quality of the coast.

Clause 139(2) states that the consent authority must not consent to a development application to erect a building or to alter an existing building by increasing its height, where the building after erection or alteration will have a height of more than 11 metres, without the concurrence of the Director. It is noted that the IREP defines height as follows:-

**“height**, in relation to a building which has ceilings, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.”

**Ground level** is defined as natural ground level.

The independent living units building has a height of approximately 27m. The upper-most ceiling levels of the aged care facility building are not identified on the plans, though the building appears to be just under 11m in height.

Clause 139(3) states that in deciding whether to grant concurrence to a DA in respect of a development with a height exceeding 11 metres, the Director shall take into consideration:

- (a) the height, scale, bulk and density of the proposed building,
- (b) the external appearance and materials used on the exterior of the proposed building,
- (c) the relationship of the proposed building to the streetscape or landscape,
- (d) the effect of the proposed building on public amenity, including pedestrian amenity,
- (e) the effect of the proposed building on wind patterns and wind velocity in public places,
- (f) the effect of the proposed building on overshadowing of public places,
- (g) the effect of the proposed building on views from public places,
- (h) the effect of the proposed building on any item of the environmental heritage in the vicinity, and
- (i) the effect of reflections from the exterior of the proposed building on roads, public places and buildings in the vicinity.

In response to Clause 139, the applicant has provided a SEPP 1 objection. Clause 139 does not provide a development standard to which SEPP 1 applies.

The applicant contends that in the context of other structures located along Corrimal Street, this building is not out of scale or character. Further, the applicant notes that the pattern of development over time within the Corrimal Street precinct will change with buildings up to 24.0m and 48.0m being permitted from Glebe Street north (one block north (240m) of the site).

It is considered that the proposed independent living unit building is uncharacteristically high for the locality. While the ‘Links Seaside’ development on the eastern side of Corrimal Street is a taller building with a similar height to that proposed, the applicable height limit in the area is 11m under IREP 1 and all other buildings in the vicinity of the site appear to be below this height limit. Further, draft WLEP 2009 at the time of exhibition provided for a height limit of 11m for the site and surrounding land. This was reduced to 9m in the final plan (refer to extract from the Height of Buildings map below). The height controls contained within WLEP 2009 in part define the desired future character of the precinct. If approved, the development will be significantly taller than future development in the area which is not appropriate. Approval of the development may establish an undesirable precedent which is not in the public interest.



Figure 5: Extract from Height of Buildings Map, Wollongong Local Environmental Plan 2009.

## 7 Wollongong Local Environmental Plan 1990

### Zoning

The site is zoned 3(d) Commercial Services pursuant to WLEP 1990. The following uses are permitted with consent in the 3(d) zone:

*Development for the purpose of: advertisements; brothels; bulky goods sales rooms or showrooms; camp or caravan sites; car parks; child care centres; commercial premises; community facilities; cottage industries; dual occupancies; dwelling-houses; ecotourism; educational establishments; granny flats; health consulting rooms; high-tech industries; home employment; leisure areas; licensed premises; light industrial retail outlets; light industries; motels; recreation areas; recreation facilities; registered clubs; residential flats; restaurants; restricted premises; service stations; serviced apartments; transport terminals; truck or heavy machinery sale yards; utility installations; warehouses.*

The following types of development can be granted consent only after advertising and satisfying clause 11:- *Development for the purpose of: boarding-houses; helicopter landing sites; hospitals; industries (other than light industries); institutions; places of worship; shops.*

All other development is prohibited.

### Definitions & Permissibility

The proposed development involves an aged care facility, independent living units and associated facilities; consulting rooms and retail spaces. It would appear that the predominant use would be defined for the purposes of WLEP 1990 as 'seniors housing', which is defined as follows:-

**"seniors housing** means residential accommodation that is, or is intended to be, used permanently by seniors or people with a disability consisting of:

- (a) a residential care facility, or
- (b) a hostel, or

- (c) a group of self-contained dwellings, or
- (d) a combination of these,  
but does not include a hospital.”

The zoning table does not list *seniors housing* as a use which is permitted with consent or after satisfying Clause 11. Accordingly, the use is considered to be prohibited in the zone. It is noted that SEPP (Housing for Seniors or People with a Disability) 2004 permits seniors housing on the land as the land is zoned for urban purposes and dwelling-houses and residential flat buildings are permitted with consent in the 3(d) zone.

The business centres, consulting rooms and retail spaces would be defined either as *commercial premises* or *shops*.

“**Commercial premises** means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause.”

“**shop** means a building or place used for the purpose of selling by retail or hiring or display for the purpose of selling or hiring items (whether goods or materials), but does not include a bulky goods sales room or showroom.”

Commercial premises are permitted with consent, however shops can only be granted consent after advertising and satisfying Clause 11. The applicant has not addressed Clause 11 in relation to the ‘shops’ (retail spaces) and argues that as SEPP (Housing for Seniors etc) requires the provision of onsite support facilities and access to shops, bank service providers and other retail and commercial services. On this basis, the applicant contends that the retail spaces should be considered to be part of a mixed use development primarily constituting a seniors housing development.

In the SEE, it is stated that the proposed retail spaces will cater for not only residents and guests of the development but also to the general public. Further, the retail spaces are shown on the plans as directly fronting the street (in some cases) and as being accessible through public areas (in all cases). They are not retail spaces that are intended to exclusively or solely serve the needs of residents or guests of the residential and aged accommodation. As such, the retail spaces will operate or will be capable of being operated separately and independently of the residential and aged accommodation. Accordingly the retail spaces are considered to be separately defined as shops which may only be carried out with consent granted after advertising and satisfying Clause 11 of WLEP 1990. The applicant has not addressed this issue. Clause 11 is not satisfied and as such the shops are prohibited.

#### Clause 9 – Zone objectives

The objectives of the zone are as follows:

- (a) *to allow for large scale sale rooms or showrooms trading in bulky goods and small scale services, which are not establishments normally found in a business area, to locate close to business areas, and*
- (b) *to allow some diversity of activities that will not prejudice achievement of the objective referred to in paragraph (a) or significantly detract from the character of the locality or the operation of any existing or proposed development in the locality.*

The proposed development is inconsistent with the above objectives as it (i), in relation to objective (a), does not allow for large scale sale rooms or showrooms trading in bulky goods and small scale services and (ii), in relation to objective (b), may provide for a diversity of activities however this would prejudice the achievement of objective (a) as approval of the proposed development will remove more than 11,000sqm of land suitable for large scale sale rooms or showrooms trading in bulky goods and small scale services from the land stock available for such purposes. Further, the proposed development will significantly detract from the character of the locality.

Clause 9(3) of WLEP 1990 provides that,

*Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.*

It is noted however that Clause 15 of SEPP (Housing for Seniors or People with a Disability) 2004 provides as follows:-

***This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy:***

- (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing and***
- (b) development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing***

Further, Clause 5(3) of the SEPP provides

- “(3) If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency.”

Clause 9(3) is a provision that mandates that consent be refused unless the consent authority is of the opinion that the carrying out of the development is consistent with the objectives of the 3(d) zone. However, this cannot operate concurrently with Clause 15 of the SEPP if the development is carried out in accordance with the SEPP. It follows that whilst Council is required to consider Clause 9(3) of WLEP 1990 in its assessment of the proposal, it will by the operation of Section 36(1)(a) of the Act and Clause 5(3) of the SEPP, have the discretion to grant consent notwithstanding that it is not of the opinion that the carrying out of the development is consistent with the objectives of the zone. The proposed development does not comply with SEPP (Housing for Seniors or People with a Disability) 2004 in full and as such, Clause 15 of the SEPP does not prevail. As such, Clause 9(3) of WLEP 1990 mandates that consent cannot be granted as the development is contrary to the objectives of the 3(d) zone.

#### Clause 12 - Floor space ratios

Clause 12 provides for a maximum floor space ratio of 0.5:1 in the 3(d) zone. Clause 45 of SEPP (Housing for Seniors or People with a Disability) 2004 provides for floor space ratio bonus of 0.5:1 in certain circumstances. The applicant seeks to take up this bonus. Refer to discussion in Section 5.7 above.

#### Clause 26 - Development in flood prone land

Clause 26 states that Council may refuse consent to the carrying out of any development on flood prone land where, in its opinion, the development may:

- (a) be inconsistent with any interim flood policy adopted by the Council in accordance with the principles contained in the Manual entitled ***Floodplain Development Manual*** dated December 1986 (Reference No PWD 86010) and published by the NSW Public Works Department or any floodplain risk management plan adopted by the Council in accordance with the Manual entitled ***Floodplain Management Manual*** dated 2001 (as published by the NSW Government), or
- (b) detrimentally increase the potential effect of floods on other land or land uses, or
- (c) result, to a substantial degree, in an increased risk to human life, or
- (d) be likely to result in additional economic and social cost which could not reasonably be managed by potentially affected persons and the general community, or
- (e) adversely affect the environment of the floodplain by causing avoidable erosion, saltation, unnecessary destruction of river bank vegetation, or a reduction in the stability of the river bank.

(2) For the purposes of this clause, the Council may take into consideration the nature of flood hazards, the necessity and the capacity to evacuate persons, and the consequence and suitability of any proposed development.

Council's Stormwater Section has undertaken an assessment of the proposed development having regard to this clause and the requirements of DCP 54. Further information and amended plans are required to address a number of concerns, as outlined in Section 13.3 below.

#### Clause 30 - Services

Clause 30 states that Council shall not consent to the carrying out of development on any land unless:

- (a) a water supply and facilities for the removal or disposal of sewage and facilities for drainage are available to that land, or
- (b) arrangements satisfactory to the Council have been made for the provision of that supply and those facilities.



The applicant has stated that water and sewer services are available to the land however has not provided written evidence of such as required by SEPP (Housing for Seniors or People with a Disability) 2004. A drainage concept plan was provided with the proposal which has been assessed by Council's Stormwater Section. The drainage design is not satisfactory

#### Clause 32 - Consideration of certain applications

Clause 32 (1) states that:-

"The Council shall, in respect of an application to carry out development on land within view of any waterway or adjacent to any main road, railway, public reserve or land zoned as open space, take into consideration the probable aesthetic appearance of the proposed building or work on that land when used for the proposed purpose and viewed from that waterway, main road, railway, public reserve or land zoned for open space."

The site is located adjacent to a main road and the proposed development will be readily visible from Corrimal Street, the Wollongong Golf Course, the foreshore reserve and other public areas within the locality. The proposed development will have an unreasonable visual appearance due to its height. The height of the independent living unit tower is out of character with the prevailing building heights in the immediate vicinity. In this regard, it is noted that IREP 1 provides for a maximum building height of 11m. Further, the gazettal of WLEP 2009 introduced a height limit of 9m. At the time of exhibition of the draft LEP, it provided for a maximum height of 11m. The overall height of the proposed tower is approximately 30.35m high. The applicant has not provided a RL for the uppermost ceiling, though the ceiling height of the building is estimated to be approximately 27m. The independent living unit building is orientated towards the north and south, so the long face of the building faces towards the city centre and to the south. Being the main classified road providing access to the city centre from the south, Corrimal Street carries significant volumes of traffic. The building would be readily visible from Corrimal Street and from other public areas including the golf course and foreshore reserve. The southern elevation of the building in particular is bulky and uninteresting. The aesthetic appearance of the building will not be acceptable.



**Figure 6: More recent aerial photograph of the site showing the position of the 'Links Seaside' development in relation to the subject site.**

Clause 32(2) states that Council shall, in respect of an application to carry out development likely to cause increased vehicular traffic on any road in the vicinity of that development, take into consideration:



- (a) whether adequate vehicular exits from and entrances to the sites have been provided so that vehicles using those exits and entrances will not endanger persons using those roads,
- (b) provision of space on the site or on land adjoining the site, other than a public road, for the parking or standing of such number of vehicles as the Council may determine, and
- (c) (Repealed)
- (d) whether adequate space has been provided within the site of the building or development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers.

In relation to (a), concerns have been raised by Council's Traffic Section in relation to the proposed location of the western-most driveway. In relation to (b), there appears to be sufficient car parking provided within the site. In relation to (d), concerns have been raised in relation to vehicular manoeuvring for loading and service vehicles. Refer to Section 13.3 below. These issues have not been resolved.

## 8 Draft Wollongong Local Environmental Plan 2009

At the time of lodgement of the DA, draft WLEP 2009 had been exhibited but not notified. Notification of the LEP took place on 26 February 2010. Clause 1.8A provides the following savings provision in relation to pending development applications:-

*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

### Zoning

The site is zoned B6 Enterprise Corridor pursuant to this plan. At the time of exhibition, dwelling-houses, residential flat buildings or any other type of residential development (other than *shop top housing*) were prohibited in the B6 zone. The Plan as made also prohibits these developments.

### Clause 1.4 – Definitions

The development involves a number of components with differing possible definitions under draft WLEP 2009.

The retail/commercial spaces on the lower levels would be best defined as either *business premises*, *office premises*, *neighbourhood shop*, *retail premises*, *kiosk* or *shop*, depending on the nature of their future uses. If a café were to occupy one of the spaces in future, it would be defined as a *food and drink premises*.

***Business premises*** means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
  - (b) a service is provided directly to members of the public on a regular basis,
- and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

***Food and drink premises*** - means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.

***Kiosk*** - means retail premises used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like (gross floor area must not exceed 30 square metres).

***Neighbourhood shop*** - means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises. (The retail floor area must not exceed 100 square metres).

***Office premises*** - means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or

place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**Retail premises** - means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

**Shop** - means retail premises that sell groceries, personal care products, clothing, music, homewares, stationery, electrical goods or other items of general merchandise, and may include a neighbourhood shop, but does not include food and drink premises or restricted premises.

The remainder of the development (comprising the aged care facility and the independent living units, would be defined as **seniors housing**

**Seniors housing**- means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation, but does not include a hospital.

**Residential care facility** means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hospital or psychiatric facility.

#### Clause 2.3B – Zone objectives and land use table

The objectives of the B6 zone at the time of exhibition were:-

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses) and residential uses (but only as part of a mixed use development).
- To maintain the economic strength of centres by limiting retailing activity.
- To encourage activities which will contribute to the economic and employment growth of the City of Wollongong.
- To allow some diversity of activities which will not:
  - (i) Significantly detract from the operation of existing or proposed development,
  - (ii) Significantly detract from the amenity of nearby residents,
  - (iii) Have an adverse impact upon the efficient operation of the surrounding road system

The proposed development is essentially a mixed use development comprising a combination of residential and retail activities. The retail areas and commercial suites within the development provide opportunities for businesses to locate along this section of Corrimal Street, and as such, the development is consistent with the first zone objective.

The proposal involves a range of employment uses (the retail spaces, aged care facility, commercial suites) and residential uses. The applicant indicates that the seniors housing and aged care facility will create around 190 employment opportunities. The proposal is consistent with the second zone objective.

The zone seeks to limit retailing to bulky goods premises, landscape and garden supplies, take away food and drink premises, timber and building supplies and vehicle sales. All other retail premises are prohibited in the zone. The proposed retail spaces would be prohibited and are inconsistent with the third zone objective.

The proposal will create a number of job opportunities. The proposal is not inconsistent with the fourth zone objective.

The proposed development is unlikely to detract from the operation of existing development. It could potentially detract from future development, however how and to what extent cannot be determined at this time. The proposal may detract somewhat from the amenity of nearby residents through overlooking and noise impacts. The development may have an adverse impact upon the efficient operation of the surrounding road system. The proposal is therefore inconsistent with the fifth zone objective.

In terms of permissibility, of the above relevant definitions, the following components of the development would be permissible with consent in the B6 zone:-

- business premises
- office premises,
- take away food or drink premises (but not a café)

All other components of the proposed development would be prohibited under the provisions of the LEP. Further, it is noted that SEPP (Housing for Seniors or People with a Disability) 2004 would not apply to the site as per Clause 4 of the SEPP.

It is noted that at its meeting on 28 July 2009, Council considered a report outlining the submissions received in relation to the draft LEP, including one from the applicant requesting that a seniors living development be included as an additional permitted use on the site. The proposal put to Council at that time included 140-160 aged care places, 50-70 independent living units and support facilities including a café, medical support, personal care services and open outdoor plaza. Council resolved to require further information from the applicant prior to determining whether to prepare and exhibit a planning proposal. Further comments are provided by Council's Strategic Planning Section (below) in relation to this issue.

The LEP provides the following development standards relevant to the proposal:-

Clause 4.3 set a maximum building height of 11m at the time of exhibition of the draft LEP. It is noted that the maximum building height permitted under the provisions of the notified LEP is 9m.

Clause 4.4 – sets a maximum floor space ratio of 0.5:1.

The LEP provides the following miscellaneous provisions relevant to the proposal:-

Clause 5.5 applies to development within the coastal zone and requires that consideration be given to numerous issues. The consent authority must consider the following (Clause 5.5(2)):-

- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
  - (i) maintaining existing public access and, where possible, improving that access, and
  - (ii) identifying opportunities for new public access, and
- (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
  - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
  - (ii) the location, and
  - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
- (c) the impact of the proposed development on the amenity of the coastal foreshore including:
  - (i) any significant overshadowing of the coastal foreshore, and
  - (ii) any loss of views from a public place to the coastal foreshore, and
- (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
- (e) how biodiversity and ecosystems, including:
  - (i) native coastal vegetation and existing wildlife corridors, and
  - (ii) rock platforms, and
  - (iii) water quality of coastal waterbodies, and
  - (iv) native fauna and native flora, and their habitats,
 can be conserved, and

- (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
  - (i) on the proposed development, and
  - (ii) arising from the proposed development, and
- (g) the cumulative impacts of the proposed development and other development on the coastal catchment.

The above matters have been considered under the heading 'SEPP 71 – Coastal Protection' above.

Further, Clause 5.5(3) states that consent must not be granted unless the consent authority is satisfied that:-

- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
- (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
- (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

Council can be satisfied of these matters. The proposal will not have any impact on access to the public foreshore, will not dispose effluent to a non-reticulated system and will not discharge untreated stormwater into the sea or a watercourse.

Clause 6.1 requires that the consent authority not grant consent unless a water supply and facilities for the removal or disposal of sewage and facilities for drainage are available to the land; and adequate local and regional infrastructure is available to service the development and future residents. This issue has been considered above in relation to SEPP (Housing for Seniors or People with a Disability) 2004.

Clause 6.3 relates to development on flood prone lands. It states that the consent authority must not grant consent to a development unless it is satisfied that the development:-

- (a) adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, or
- (b) significantly alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain, or
- (c) affect the safe occupation of the land to which this clause applies, or
- (d) significantly detrimentally affect the floodplain environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, or
- (e) be likely to result in unsustainable social and economic costs to the community as a consequence of flooding, or (f) be incompatible with the flow conveyance function of the floodway, or
- (g) cause or increase a flood hazard in the floodway.

An assessment of the proposal in light of the above issues has been undertaken by Council's Stormwater Section. Some concerns have been raised in relation to this issue which are outlined in Section 13.3 below.

Clause 6.4 relates to riparian lands. The watercourse appears to abut the southern boundary of the site.

Clause 6.4(3) states that,

*Despite any other provision of this Plan, development consent must not be granted for development on land to which this clause applies unless the consent authority has considered the impact of the proposed development on the land and any opportunities for rehabilitation of aquatic and riparian vegetation and habitat on that land.*

The proposal involves work within the vicinity of the bank of the watercourse. The proposal was referred to the NSW Office of Water as it is integrated development requiring a Controlled Activity Approval under the Water Management Act 2000. General Terms of Approval have been issued by the Office. Council's Environment Section has raised concerns in relation to impacts of the proposed development on vegetation located adjacent to the watercourse and have also raised concerns regarding possible impact on the habitat of the Green & Golden Bell Frog.

Clause 6.5 relates to acid sulphate soils. Council's records indicate that the whole site is affected by Class 3 acid sulphate soils. Consent is required for works more than 1 metre below the natural ground surface. The proposed development involves significant excavation work to provide for flood storage within the site. This involves excavation to a depth of approximately 1.35m at the worst case. Development consent must not be granted under this clause for the carrying out of works unless:

- (a) an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority, and
- (b) a copy of the plan and a copy of the development application have been provided to the Director-General of the Department of Environment and Climate Change and the consent authority has considered any comments of the Director-General made within 21 days after those copies were provided to the Director-General.

The applicant has not provided an acid sulphate soils management plan.

Clause 6.6 relates to earthworks and requires the consent authority to consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
- (b) the effect of the proposed development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or of the soil to be excavated, or both,
- (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material or the destination of any excavated material,
- (f) the likelihood of disturbing Aboriginal objects or other relics,
- (g) proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

As mentioned above, the proposal involves excavation to create flood storage areas within the site. The material to be removed is likely to be acid sulphate soils and may be contaminated, as addressed elsewhere within this report. If approved, conditions could be imposed to manage impacts on drainage patterns and soil stability.

## 9 Wollongong Section 94A Development Contributions Plan 2009

A Section 94A levy of 1% of the cost of carrying out the proposed development will apply if consent is granted to the development. It is noted that Clause 9 of the Plan identifies a number of exemptions from the levy, which includes 9(f) "seniors living development under SEPP Seniors Housing 2004 by a social housing provider". The applicant has not identified that Warrigal Care is a social housing provider for the purposes of the Plan. As such, it is considered that the levy will apply. The applicant has identified that the estimated cost of construction of the development is \$51.095 million.

Clause 13 of the Plan requires that a detailed cost estimate report be provided with a development application where the cost of carrying out the development is \$1,000,000 or more. The detailed cost estimate report must be in accordance with Schedule 2 of the Plan. Clause 14 prescribes that this cost estimate must be prepared by (where the proposed development cost is \$10,000,000 or more) a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors. A detailed cost estimate report has not been provided as required by the Plan.

## 10 DCP 54 – Managing Flood Risk

The proposed development has been assessed with regard to DCP 54 by Council's Stormwater Section, whose comments are outlined below in Section 11.

## 11 DCP 6 – Commercial and Industrial Development

Development Control Plan No 6 - Commercial and Industrial Development applies to the development.

Part 2 of DCP 6 comprises information as to the range of permissible uses within each zone.

Part 3 contains the development standards which have been addressed below as they apply to the development.

Part 4 sets the context within which development is set and will be taken into account when assessing applications which have been addressed below as they apply to the development.

### Part 3 – Development Standards Commercial Development

	Controls	Compliance?
Design	<ul style="list-style-type: none"> <li>Materials to be specified in an application.</li> <li>Major buildings to be designed by qualified architects</li> <li>Reflectivity of less than 10% for glazing</li> <li>Awning to be provided along length of street frontage</li> </ul>	<ul style="list-style-type: none"> <li>Materials have been identified on the plans</li> <li>Proposal has been designed by a qualified architect</li> <li>Can be conditioned</li> <li>Awning provided to part of Beach Street frontage, does not extend over the footpath</li> </ul>
Site Areas	N/A	N/A
Site Coverage	Maximum site coverage 70%	Proposal appears to comply
Floor Space	Maximum FSR in 3(d) zone – 0.5:1	Proposed FSR 1:1, allowed using Clause 45 of SEPP (Housing for Seniors or People with a Disability) 2004
Transfer of development rights	N/A	N/A
Setbacks	Where a building abuts a residential zone, residential setback controls should apply	Setbacks to side boundaries are considered to be appropriate.
Higher buildings	No longer applicable	N/A
Pedestrian paving	N/A	N/A
Landscaping	Buildings and car parks to be integrated into landscaping proposals. Trees to be incorporated wherever possible; 50% cover for car parks	Landscape proposal submitted which is satisfactory
Advertising structures	Require consent	No signage proposed. Separate consent will be required for any signage if this proposal is approved.

### Planning for traffic

	Controls	Compliance?
Site Access	<ul style="list-style-type: none"> <li>Access arrangements to be to the satisfaction of Council and the RTA</li> <li>Traffic study to be provided with the DA</li> <li>Separate entry/exit required</li> <li>Should be more than 6m from the prolongation of the</li> </ul>	<ul style="list-style-type: none"> <li>RTA &amp; Council's Traffic Section have raised concerns in relation to vehicular manoeuvring – refer to Section 13 below</li> <li>Traffic study was provided</li> <li>Concerns are raised in relation to the location of the access points in relation to</li> </ul>

	<p>property line and any intersecting street; any intersection; a break in the median strip; etc</p> <ul style="list-style-type: none"> <li>• Not be closer than 1.5m to the boundaries</li> <li>• Sited with regard to sight lines</li> <li>• Level; max grade 1 in 20</li> </ul>	<p>the nearby intersection of Beach and Beatson Streets.</p> <ul style="list-style-type: none"> <li>• Access driveway adjacent to western boundary is setback 1850mm from side boundary</li> <li>• Sight lines are acceptable</li> <li>• No concerns with regard to grade</li> </ul>
Parking rates	<ul style="list-style-type: none"> <li>• Offices/professional suites - 1 per 40m<sup>2</sup></li> <li>• Shops - 1 per 25m<sup>2</sup></li> <li>• Nursing home - 1 space per 4 beds (note: SEPP (Housing...) requires 1 space per 10 beds)</li> </ul>	<ul style="list-style-type: none"> <li>• 500sqm proposed = 13 spaces required</li> <li>• Retail floor area 500sqm - 20 spaces required</li> <li>• N/A. refer to SEPP (Housing for Seniors or People with a Disability) 2004) assessment above - 67 spaces required</li> </ul> <p>Total car parking required = 100</p> <p>Total parking provided = 91*</p> <p><b>No - Applicant has sought an 80% reduction in car parking and has provided justification for this below</b></p>
Onsite circulation	Vehicles should manoeuvre on site and leave in a forward direction	Manoeuvring does not comply with AS2890
Dimensions	Minimum dimensions required to be complied with	Car parking and manoeuvring areas are required to comply with AS 2890.1 and AS 2890.2.

**Variation:**

“In a similar manner to the traffic generation calculations adopted, the parking requirements were completed using a sensitivity assessment. For the purposes of this assessment, 80% of the retail/professional suite/visitor car parking component is proposed. This is considered to be a conservative approach, particularly given that it is an aged care/independent living development, with a large portion of the uses being directly related to the demand generated by the elderly that reside within the building. Furthermore, there is likely to be a substantial ‘walk-in’ catchment for the retail uses from the local employees and residents that reside within the area.”

Comment: the car parking provision and applicant’s request for a reduction have been considered by Council’s Traffic Section and no concerns have been raised.

Land constraints

Constraint	Comment
Flood	The site is flood prone. Flooding has been considered by Council's Stormwater Section – refer to comments provided in Section 13 below.
Landslip	Council's Geotechnical Engineer has reviewed the proposed development and has recommended conditions for imposition if consent is granted.
Archaeology	N/A
Soil and Water	Council records list the site as acid sulphate soil affected. Excavation works are proposed and the applicant should provide an acid sulphate soils management plan.

## 12 DCP 49 – Residential Development

Development Control Plan No. 49 - Residential Development applies to all forms of residential development.

Section 6 sets out general requirements for all types of residential development and Section 13 addresses residential flat building development. The proposal has been assessed with regard to the relevant controls within these sections, as summarised in the following table:-

**Section 6 - Requirements for All Residential Development**

<b>DCP 49 Part 6 - Requirements for all Residential Development</b>				
Part	Matter	Required	Proposed	Complies
6.1	<b>Stormwater Drainage</b>	Drainage to the street or adjoining land with easement.	Stormwater proposed to be disposed off on towards watercourse to the south. Rainwater collection and reuse also proposed. Concerns raised by stormwater engineer need to be addressed.	Stormwater section has raised concerns
6.2	<b>Flooding</b>	Submission of a flood study is required where land is suspected to be affected by flooding.	All allotments are identified as flood affected and the applicant's flood study identifies all of the site as being within either a high or medium flood risk precinct. A flood study was submitted with the DA.  Some concerns have been raised by Council's Stormwater Section in relation to floor levels and the like.	Unresolved
6.3	<b>Land Cut and Fill</b>	Maximum 600mm cut and fill, however greater excavation for basements or garages is permitted.	More than 1m of excavation required to provide compensatory flood storage areas within the site.	No, but required
6.4	<b>Retaining Walls</b>	Retaining walls of any height on flood affected land require consent.	Council's geotechnical engineer and stormwater engineer have reviewed the proposal.	Yes
6.5	<b>Erosion and Sediment Control</b>	Runoff and erosion controls must be implemented to prevent sediment entering	Recommend standard condition sediment and erosion control is applied if consent is granted.	Yes



<b>DCP 49 Part 6 - Requirements for all Residential Development</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
		stormwater drains.		
6.6	<b>Fences</b>	Dividing fences maximum 1.8 metres.  Front fences within the building line maximum 1.2 metres.  Fences to be timber, metal lightweight materials or masonry.  Fences within a floodway must be 'security/permeable/open style safety fences'.	Applicant has not identified fencing as part of the proposal	Unresolved
6.7	<b>View Corridors</b>	View sharing measures must be considered.  3m strip down side of boundary	No unreasonable loss of views will occur as a result of approval of the proposed development.	Yes
6.8	<b>Energy Efficiency</b>	BASIX certificate is required.	BASIX certificate submitted.	Yes
6.9	<b>Services</b>	Applicants shall confirm service requirements as part of design planning. Developments must be connected to reticulated sewerage, where possible.	Evidence of availability of electricity and reticulated water and sewerage required to satisfy SEPP (Housing for Seniors etc) 2004	Unresolved
6.10	<b>Swimming Pools</b>	Setbacks – minimum 900mm from boundary  Hours of filter operation	No pool is proposed.	N/A
6.11	<b>Visual Privacy and Amenity</b>	Separate buildings  Stagger windows and balconies  Use fixed screen devices such as louvres or fins  Provide obscure glass or windows with sill height minimum 1.7m  Screening by landscaping	Proposed side and rear setbacks exceed minimum requirements. The proposed ACF may overlook the neighbouring dwellings to the north fronting Beach Street.      Some landscape screening to boundaries proposed.	Yes and no
6.12	<b>Acoustic Privacy</b>	Site buildings away from significant external noise source.	External noise from Corrimal Street may impact on acoustic amenity. Noise from loading dock may affect occupants of the ACF	No
6.13	<b>Setbacks from Existing Trees</b>	Provide adequate setbacks.	Existing trees are proposed to be removed.	N/A

<b>DCP 49 Part 6 - Requirements for all Residential Development</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
6.14	<b>Threatened Species Assessment</b>	Submission of a Flora and Fauna Report where impact on native vegetation or threatened species is likely.	Impact on EEC and threatened frog species is likely. Section 5A assessment required.	Unresolved
6.15	<b>Tree Protection</b>	Require tree retention	Concerns raised by Council's Landscape officer in relation to tree removal.	Unresolved
6.16	<b>Bushfire Protection</b>	Prepare bushfire risk assessment and design building in accordance with <i>'Planning for Bushfire Protection'</i> and Australian Standards.	The land is not identified as bushfire prone.	N/A
6.17	<b>Developer Contributions</b>	Contributions payable where more than one dwelling is proposed.	Contributions are payable – refer <i>'Wollongong Section 94A Development Contributions Plan'</i> (2009)	Yes
6.18	<b>Waste Management</b>	Details required of proposed waste storage/collection.	Detailed waste management plan provided	Yes
6.19	<b>Letterboxes</b>	Letterboxes grouped in one location near main entrance.	Letterboxes not identified	Unresolved

Part 13 relates to residential apartment buildings. The independent living units building is a residential apartment building for the purposes of the DCP.

#### **Part 13 - Requirements for Residential Apartment Buildings**

<b>DCP 49 Part 13 – Residential Apartment Buildings</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
13.1	<b>Minimum allotment standards</b>	Minimum site width 24m	Site width 111.4m to Beach Street	Yes
13.2	<b>Density</b>	Floor space ratio and building height and setback controls.	The proposed floor space (1:1) exceeds permissible FSR 0.5:1. However, bonus 0.5:1 FSR is permitted subject to certain criteria Clause 45 of SEPP (Seniors) 2004. The proposed height exceeds the height provided in draft WLEP 2009 and the 11m height limit contained within Clause 139 of IREP 1.  The proposed front setback is considered to be acceptable, noting no applicable setbacks	No - height is excessive
13.3	<b>Building height</b>	No height controls applicable to the site	11m height limit in IREP 1 – height of ILU building is approx 30.4m	N/A
13.4	<b>Front setbacks</b>	Minimum 4.0 metres OR same distance as one or other adjoining buildings	Front setback appears to be appropriate having regard to the setback provided to neighbouring	Yes

<b>DCP 49 Part 13 – Residential Apartment Buildings</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
		OR average of setbacks of two adjoining buildings	dwelling fronting Beach Street	
13.5	<b>Side and rear setbacks / Building separation</b>	Buildings 5-8 storeys (up to 25m): Minimum side and rear setbacks 9m where habitable room or balcony faces boundary; 4.5m where non-habitable room/blank wall faces side or rear boundary.	West: 48.95m to the ILU building Rear: 9.89m to southern boundary	Yes
13.6	<b>Basements</b>	Maximum 1.2m height of roof of podium above natural or finished ground.	No basement proposed due to flooding constraints	N/A
13.7	<b>Built form/Street address</b>	SEPP 65 Design Verification Statement is required.  Building entry not greater than 1.2m above natural ground.  Ensure entrances can accommodate movement of furniture.	SEPP 65 design verification statement not provided – applicant failed to provide.  Building entry is 2.25m above footpath level – pedestrian ramps (1:20 grade) and stairs provide access to podium level. Podium level may need to be lifted to address floor level concerns raised by Council's Stormwater Section.  Pedestrian entry 1.5 metres wide. Deliveries of larger furniture possible from car park via lifts.	No
13.8	<b>Driveways</b>	Locate driveways having regard to services.  Driveways minimum 6m from intersection with perpendicular road.  Maximum driveway width 6m.	Council's Traffic Engineer is not satisfied with the position of the western most driveway. Main driveway width is 6.55m – no concerns raised in relation to this matter.	Unresolved
13.9	<b>Car Parking</b>	Ensure visitor parking is located close to entrances and access driveways.  Clearly define visitor and resident spaces.  Provide intercom if visitor parking is in secure basement.  Parking rates outside urban consolidation area: 1 space/unit 0-70m <sup>2</sup> (4	Visitor parking is sited adjacent to main entrance to aged care facility. Visitor and resident spaces not clearly marked; this can however be conditioned if consent is granted      Total of 91 car spaces are proposed to be provided within the site to cater for the proposed	Yes

<b>DCP 49 Part 13 – Residential Apartment Buildings</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
		<p>units proposed = 4 spaces)</p> <p>1.5 spaces/unit 71-109m<sup>2</sup> (28 x 2 bedroom units proposed = 42 spaces)</p> <p>2 spaces/unit &gt;110m<sup>2</sup> (4 x 3 bedroom units proposed = 8 spaces)</p> <p>PLUS any size unit requires 0.2 visitor spaces = 7.2 spaces</p> <p><b>Total required = 61.2 spaces (63)</b></p> <p>Also, 1 bicycle rail per 10 dwellings is required ie. 4 bicycle spaces.</p>	<p>development.</p> <p>It is noted that SEPP (housing for Seniors etc) requires 0.5 car spaces for each bedroom within the development. The SEPP would prevail over the DCP in this case.</p> <p>Bicycle rail proposed adjacent to the Beach Street frontage of the site.</p>	
13.10	<b>Landscaping</b>	<p>Minimum 30% of site area (ie. 3442.5m<sup>2</sup>) must be landscaped.</p> <p>Landscaped area minimum 1.5m wide.</p> <p>Retain mature trees.</p> <p>Minimum 1.5m boundary landscaping strip.</p>	<p>Approximate landscaping is &gt;4000m<sup>2</sup>. No calculations are provided by applicant. Area appears to be adequate.</p> <p>Minimum 1.5m boundary strip provided.</p>	Yes
13.11	<b>Deep soil planting</b>	<p>Minimum 50% of landscaped area (ie. 15% of site area or 1721.25m<sup>2</sup>) where deep soil zone is not located at rear. No controls where it is at rear.</p>	<p>Wide DSZ proposed adjacent to rear boundary. Area approx 3750m<sup>2</sup></p>	Yes
13.12	<b>Communal open space</b>	<p>Where more than 10 dwellings, 5m<sup>2</sup> of communal open space per unit is required ie. 180m<sup>2</sup>.</p> <p>Communal space must be accessible and within reasonable distance from units.</p> <p>Combined use of maximum 33% of DSZ for communal open space is permitted, but</p>	<p>SEE does not identify communal open space area. Roof top garden area may satisfy this requirement</p> <p>No shade trees provided</p>	To be identified by the applicant

<b>DCP 49 Part 13 – Residential Apartment Buildings</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
		this shared area must contain shade trees.		
13.13	<b>Private open space</b>	<p>Courtyard/terrace of ground level apartments minimum 25m<sup>2</sup> and width 2 metres.</p> <p>Primary POS of minimum 70% of apartments (ie. 25 apartments) minimum 3 hours of direct sunlight between 9am-3pm on 21 June.</p> <p>Courtyards must not extend forward of the building setback by more than 900mm.</p> <p>POS to be direct extension of living areas.</p> <p>Avoid locating balconies where they address side setbacks.</p> <p>Balconies minimum 12m<sup>2</sup> and minimum depth 2.4 metres.</p>	<p>No ground level apartments</p> <p>All balconies have sufficient solar access</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Area not identified by applicant</p>	Unresolved – further information is required
13.14	<b>Overshadowing</b>	Adjacent residential buildings and their public spaces must receive minimum 3 hours of direct sunlight between 9am and 3pm on 21 June.	Adjoining properties solar access complies.	Yes
13.15	<b>Adaptable housing</b>	<p>Minimum 10% of dwellings (ie. 4) are to be designed to be capable of adaptation for disabled or elderly residents, in accordance with AS 4299-1995.</p> <p>Where possible, adaptable units are to be located on the ground floor. If on higher floors, must be accessible by a lift which goes through to basement parking.</p>	<p>No adaptable units are identified by the applicant</p> <p>Lifts service all units in the building.</p>	Unresolved
13.16	<b>Apartment mix and</b>	In buildings where of more than 10 apartments,	<p>4 x 1-bedroom units are proposed.</p> <p>Apartment layout repeated across</p>	Yes

<b>DCP 49 Part 13 – Residential Apartment Buildings</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
	<b>layout</b>	<p>minimum 10% of apartments (ie. 4) must be studio or 1-bedroom apartments.</p> <p>Consider locating 1 and 3 bedroom units on ground floor, which may suit elderly, disabled or families with children.</p> <p>Consider providing apartment style mix eg. 1 and 2 level apartments.</p> <p>Consider opportunities for home office/dual key apartments.</p> <p>Minimum ceiling heights 2.7 habitable rooms, 2.25m non habitable rooms.</p>	<p>storeys.</p> <p>Ceiling heights all 2.7m</p>	
13.17	<b>Solar access</b>	<p>Maximise northern living areas</p> <p>Maximise dual aspect apartments.</p> <p>Shading devices should be used for western elevation openings.</p>	<p>Living areas and balconies orientated to the north</p> <p>Some units have dual aspect</p> <p>Louvres to be implemented</p>	Yes
13.18	<b>Natural ventilation</b>	<p>Building depth 10-18 metres. Dwellings should be maximum 21 metres in depth when measured from balcony.</p> <p>Minimum 60% of apartments (ie. 21 apartments) shall be naturally cross-ventilated.</p> <p>Minimum 25% kitchens must have access to natural ventilation. Back of kitchen no greater than 8 metres from a window.</p> <p>Single aspect apartments must be no greater than 8m in depth from a window.</p>	<p>Building depth variable – single aspect units are 9m deep; dual aspect units are 14.4m deep (17m inclusive of balcony)</p> <p>66% are cross-ventilated</p> <p>All kitchens appear to be naturally ventilated</p> <p>Single aspect units 9m max from windows</p>	<p>Yes</p> <p>No</p>
13.19	<b>Safety and security</b>	Casual surveillance of entries and driveways.	Minimal surveillance of car parking area and lobbies provided.	No

<b>DCP 49 Part 13 – Residential Apartment Buildings</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
		<p>Avoid creating blind corners in pathways, stairwells, hallways and car parks.</p> <p>Easily identifiable entries.</p> <p>Maximum 8 apartments from a single lift or corridor, per floor.</p> <p>Adequate lighting pedestrian areas, parking areas and building entries.</p> <p>Avoid dark alcoves which may conceal intruders.</p>	<p>Entries not readily identifiable.</p> <p>3 apartments serviced by each lift</p> <p>Lighting not identified.</p>	
13.20	<b>Storage</b>	<p>Provide secure storage area in basement at rate of:</p> <p>1 bedroom units: 3m<sup>2</sup> / 6m<sup>3</sup> (x 4)</p> <p>2 bedroom units: 4m<sup>2</sup> / 8m<sup>3</sup> (x 28)</p> <p>3 bedroom units: 5m<sup>2</sup> / 10m<sup>3</sup> (x 4)</p> <p>TOTAL storage required: 24m<sup>3</sup> + 224m<sup>3</sup> + 40m<sup>3</sup> = 288m<sup>3</sup></p>	<p>No storage areas identified by the applicant</p> <p>Note: SEPP 65 does not require storage to be located in basement (internal to unit is okay).</p>	No
13.21	<b>Waste management</b>	<p>Minimum storage required:-</p> <p>Waste: 80 litres per week per dwelling</p> <p>Recycling: 80 litres per week per dwelling</p>	<p>Common garbage storage area provided within the development to service the independent living units, the aged care facility and the retail and commercial spaces. Operational waste management plan supplied details how general and recyclable waste will be managed. The plans states that 1.5m<sup>3</sup> waste storage will be available for the independent living units.</p>	Yes
13.22	<b>Site facilities</b>	<p>Letterboxes at central point, preferably in a wall.</p> <p>Locate satellite dishes, airconditioning units etc away from street frontage, not visible over roof and setback from</p>	<p>Letterbox location not identified</p> <p>Not identified</p>	No

<b>DCP 49 Part 13 – Residential Apartment Buildings</b>				
<b>Part</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
		edge of building. All units are to have open-air clothes drying facilities or 3.5 star dryers.	No laundries or drying areas identified	
13.23	<b>Fire Brigade servicing</b>	All parts of the dwelling must be located maximum 60 metres from a fire hydrant.	Location of fire hydrant is not shown on the site plan	No

No site-specific controls apply to the subject land.

### 13 Consultation

#### 13.1 Notification Policy

The application was notified in accordance with Council's Development Assessment and Compliance Notification Policy. A notice was placed in the local newspaper on 13 January 2010. The notification period commenced on 6 January 2010 and concluded on 15 February 2010. At the conclusion of the notification period, there was one (1) submission received which raised the following (summarised) issues:-

1. The proponent made no attempt to consult with neighbouring property owners
2. Information is sought in relation to the following matters:
  - Safety procedures for surrounding residents during removal of hazardous materials;
  - Traffic impacts in Beach and Beatson Streets;
  - Further explanation is required in relation to the SEE statement that proposal will have no adverse impacts on privacy, amenity or overshadowing;
  - Further information is required in relation to the future uses of the commercial spaces and their permissibility under the LEP;
  - Details of the flood prone nature of the site and its impact upon the proposed development;
  - No pedestrian facility is considered necessary by the applicant- why?
  - Significant height variation is proposed. What is Council's view on this variation?
  - What discussions has there been with Council in relation to flooding issues and permissibility of the development in the B6 zone?
  - Does Council consider that the car parking arrangements are satisfactory?
3. Setback from the balcony of the podium and level 2 does not comply with the 6m setback for this property

#### 13.2 Referral to Independent Hearing and Assessment Panel (IHAP)

The application has been assessed against Council's IHAP Charter selection criteria and does not require referral to IHAP. Pursuant to Clause 13B of SEPP (Major Development) 2005, the determining authority for this development is the Joint Regional Planning Panel.

#### 13.3 Internal consultation

##### Geotechnical Engineer

The following comments were provided in relation to the proposed development:-

"I refer to your note dated 23 December 09 requesting a review of geotechnical information submitted in support of this development application. The reports dated 22 July 05 and 28 May 07 by Douglas



Partners have been reviewed in conjunction with a site inspection and comparison with known geotechnical information for the general area. It is noted that these reports are preliminary environmental assessments for separate sections of the development site and although they contain some geotechnical information they are not geotechnical reports. The report dated 22 July 05 makes reference to a geotechnical report dated 29 July 05 by the same company but this report has not been sighted. It is also noted that the site contains varying depths of fill over soft saturated natural soils for which there is a high possibility of encountering acid sulphate soil conditions. The ground conditions are quite poor from a load bearing perspective and therefore will require geotechnical assessment in order to select appropriate foundation systems and then completion of the structural designs of footings."

### Stormwater

The following comments were provided in relation to the proposed development:-

"This application has been assessed with respect to stormwater and flooding, and found to be unsatisfactory in its current form. However, further consideration will be given to this application subject to the following items being satisfactorily addressed:

- The floor level of the proposed areas shown on the ground floor of the architectural plan (i.e. staff area, laundry, kitchen, services, boiler room, storage and retail) shall be set at a minimum of RL 3.8m AHD (100 year ARI plus 0.5m freeboard).
- The development proposal indicates a potential increase in flood affectation to adjoining properties in Beach Street (i.e. No. 27-31 Beach Street) due to the proposed boundary wall, which is unacceptable. This item shall be clearly addressed on the amended plans and documentation.
- The provision for security fencing to the subfloor/car park area shall be clearly indicated on amended plans and documentation.
- Clearly demonstrate on an amended plan how the surface runoff from the tributary area (i.e. the full area draining to the OSD post development) is conveyed to the OSD facility for all rainfall events up to and including a 1 in 100 year ARI."

### Landscaping

The following comments were provided in relation to the proposed development:-

The following items were noted by the Environment Officer:

Four trees were assessed and all were recommended for removal.

- Tree 1 is a specimen of *Eucalyptus nicholii*. This species is listed as Vulnerable under the NSW TSC Act and the Federal EPBC Act. Although this species is not native to the area and not growing in a natural environment, a Sec 5a Assessment of Significance is required before approval can be given for its removal. The SULE assessment should be 1c.
- Tree 2 is mis-identified. It is actually a *Corymbia calophylla*.
- Tree 3 is mis-identified: it is a *Melaleuca linariifolia*. The SULE assessment could also be 2d.
- Tree 4 is a *Syagrus romanzoffiana* and is located in the back, rather than the front corner. This is a weed species and should have a SULE rating of 4e.
- There are a number of trees and large shrubs which occur on the site which require consideration, according to Council's TMO: The tree requiring special consideration is a large Sandpaper Fig *Ficus coronata*, which is growing in the front garden bed of the existing industrial building. This tree has a SULE rating of 1b and provides habitat for native fauna.
- Other tree and large shrubs which should have been described in the Tree Study include: *Callistemon salignus*, *Lagunaria patersonii*, *Cordyline australis*, *Pittosporum undulatum*, *Camellia sasanqua* and *Rothmannia globosa*.

In addition to these trees, there is riparian vegetation (mainly consisting of *Casuarina spp*) that is located on the southern site boundary that has not been identified.

Please request that all the trees be identified and the landscape, drainage and site plans reflect these trees to be retained/removed. In addition that the plans include tree protection fence locations for the trees that will be retained."

Environment – Vegetation

The following comments were provided in relation to the proposed development:-

The arborist report has been reviewed and there were a lot more trees than 4 as stated in the report. Please request applicant for an amended arborist report prepared as per Council's Guidelines. Gary's comments are:

Four trees were assessed and all were recommended for removal.

Tree 1 is a specimen of *Eucalyptus nicholii*. This species is listed as Vulnerable under the NSW TSC Act and the Federal EPBC Act. Although this species is not native to the area and not growing in a natural environment, a Sec 5a Assessment of Significance is required before approval can be given for its removal. The SULE assessment should be 1c.

Tree 2 is mis-identified. It is actually a *Corymbia calophylla*.

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There are a number of trees and large shrubs which occur on the site which require consideration, according to Council's TMO: The tree requiring special consideration is a large Sandpaper Fig *Ficus coronata*, which is growing in the front garden bed of the existing industrial building. This tree has a SULE rating of 1b and provides habitat for native fauna.

Other tree and large shrubs which should have been described in the Tree Study include: *Callistemon salignus*, *Lagunaria patersonii*, *Cordyline australis*, *Pittosporum undulatum*, *Camellia sasanqua* and *Rothmannia globosa*."

Page 39 includes a recommended plant species list:

- The list is an eclectic combination of native and exotic species. The native species in this list are not typical species for coastal flood-plain vegetation.
- *Koeleruteria paniculata* is an Environmental Weed and should not be included in the planting list.
- Only plant species which are listed in the Determination for Swamp Oak Forest should be planted within the 10m buffer area adjacent to the existing stand of Swamp Oak Forest.

Page 40 includes mention of the EPA Act 1979, but does not include any discussion of the occurrence of an Endangered Ecological Community (Swamp Oak Forest) on the banks of the Gurungaty Waterway:

- A Section 5A assessment of significance should have been carried out, in order to determine whether there would be indirect impacts on this community as a result of the proposed development;
- A Section 5A assessment of significance should also have been carried out, in order to determine whether there would be direct or indirect impacts on the population of Green and Golden Bell-frogs which has been recorded in the Gurungaty Waterway to the immediate east of Corrimal Street; and
- In "performance of proposal", the statement is made that "...furthermore the proposal will require a small amount of work to be undertaken within the waterway...". This work would also have to be considered in the Section 5A assessments of significance for Swamp Oak Forest and Green and Golden Bell-frog.

Page 65, 5.1.11 has a short paragraph entitled "Flora and Fauna" which states that "...the proposal will result in the removal of 4 trees that have not been identified as worthy of retention".

- It is obvious that more than 4 trees will require removal. It should be demonstrated that no components of the Swamp Oak Forest will require removal to allow the construction of a headwall and outlet pipe within the waterway.
- No fauna species are discussed in this paragraph.

### Environment – Other Issues

The following comments were provided in relation to land contamination and the hazardous materials survey undertaken:-

“I looked at DP's Preliminary Site Investigation (Stage 1) report. The consultant's findings were:

- There are underground storage tanks (USTs) on the site.
- Could not assess whole site due the building envelope.
- Could not collect subsurface soil samples due to the presence of USTs.
- The limited soil samples collected has indicated very low contaminants risk.
- One groundwater sample has zinc exceeding the guidelines. However, they concluded that the values are normal in urban environment.

It is recommended that:-

- Further soil and water sampling beneath the buildings and subsoil after the removal of USTs. This is a Stage 2-3 investigation.
- Any excavated material that requires off site disposal needs waste classification prior to the disposal.
- The additional work was beyond the scope of Stage 1 investigation. Until the existing buildings and USTs are removed Stage 2 & 3 cannot be undertaken.
- Include conditions relating to demolition, excavation, construction, site Contamination remediation work, and submission of a Site Contamination Validation Report prepared by independent DECCW accredited auditor prior to occupation.”

### SCAT

No concerns were raised in relation to the proposed development.

### Health

The following comments were provided in relation to the proposed development:-

“Plans do not contain sufficient detail to make an adequate assessment against the requirements of the Food Safety Standards and AS4674-2004.

In order to condition the proposal appropriately, detailed fit out plans for all food preparation, storage and servery areas of the aged care facility must be submitted by the applicant for assessment.

The plans must include locations and construction details of:

- all fixtures, fittings and equipment associated with food preparation, handling and storage,
- floor, coving, walls and ceilings,
- equipment, floor and hand washing facilities,
- storage areas (food, equipment, staff belongings etc)
- ventilation and lighting,
- sewage, wastewater and garbage disposal

and reflect the requirements of AS4674-2004.

Elevations and sections should be included where appropriate.

The above detail must also be provided for any retail space designated for use as a café. Alternatively, separate development consent must be obtained for the use of the café.”

It is noted that if the development were to be approved, a condition could be imposed requiring that separate development consent be obtained for the future use and fitout of the retail spaces and the food preparation areas within the aged care facility.

### Traffic

The following comments were provided in relation to the proposed development:-

“In addition to the points raised by the RTA, the following issues are to be addressed:-

- The location of the western driveway does not comply with AS2890.1. This was raised in the pre-lodgement meeting as being an issue that needs to be addressed.
- Bicycle parking shall be provided in accordance with Austroads part 14.
- The applicant shall provide all internal and access dimensions on the site plan. Including but not limited to widths between internal facilities, access width and parking space widths and depths. All aspects of the car park are to comply with AS2890.1 – Parking Facilities Part 1: Off-Street Car Parking.
- There are minor issues (being volumes) with the sidra models submitted. Given the spare capacity and low volume generated as a result of the proposal it is considered that the models submitted show low impacts to the network/intersections and are therefore acceptable.”

### Strategic Planning

The following comments were provided in relation to the proposed development:-

#### **“Consistency with Zone Objectives –**

The objectives of 3D Commercial Services zone are:

- (a) *to allow for large scale rooms or showrooms trading in bulky and small scale services, which are not establishments normally found in a business area, to locate close to business areas, and*
- (b) *to allow some diversity of activities that will not prejudice achievement of the objectives referred to in paragraph (a) or significantly detract from the character of the locality or the operation of any existing or proposed development in the locality.*

The development proposed for this site is located in the centre of a 3(d) Commercial Services precinct (future B6 Enterprise Corridor zone). The residential component is inconsistent with objective (a) and furthermore may potentially hinder the future operations of services which would normally be located and operate within a 3(d) zone. This development is therefore inconsistent with both objective (a) and (b) of the 3(d) Commercial services zone.

### **Heights**

The development application seeks a significant variation from the height limits specified in the Illawarra Regional Environmental Plan. Such a significant height variation for the development is out of character for the locality, particularly on a site specific basis.

Furthermore, it should be noted that the heights under the draft Wollongong Local Environmental Plan 2009 are proposed to be 9m which is less than that currently allowable under the IREP.

### **Submission to the draft WLEP 2009**

Watkinson Apperley made a submission to the draft LEP requesting that an additional use be permitted in the B6 zone for Seniors Living to enable 140-160 aged care places, 50-70 independent living units and support facilities.

The proposal was not supported as part of the draft WLEP 2009 because further investigation was required to justify the change to the zone.

It should be noted that the South Wollongong precinct was identified in the report as being subject to a future review. This review would have been completed as part of a Planning Proposal however no further information has been received in support of the change to the zone.

It was noted as part of the original review that the site has significant flooding issues that would hinder sensitive developments such as seniors living. This would need to be investigated further by Council's Floodplain Engineers.”

### 13.4 External consultation

#### Department of Planning

No response has been provided.

RTA

The following comments were provided by the RTA in relation to the proposed development:-

“The RTA has been working with Wollongong City Council to develop a strategy for Corrimal Street (MR581). The objective of the strategy is to identify the future needs of the corridor with respect to all road users, identify infrastructure upgrades required and ensure that there is sufficient land available to achieve these upgrades. In this regard, the RTA has commenced the design of the corridor from Bourke to Swan with a primary focus of identifying the extent of widening that will be required for this scheme. Once the extent of widening has been identified, the RTA intends to seek the rezoning of the land required for road widening from the existing zoning to SP2-Infrastructure.

As part of this strategy, the RTA has consistently maintained that the southern section of Corrimal Street, between Bank Street and Swan Street, would be two lanes in either direction with a central median preventing right turns and fencing on the medium to corral pedestrians to safe crossing locations in regards to accesses and junction treatments within this section, the RTA provides the following comments:-

- The RTA has previously advised that it would not object to traffic signals at Bank Street. In this regards the RTA notes that Council has previously obtained developer contributions towards this facility. The signals are shown in Wollongong City Council’s Access and Movement Strategy however the RTA is not aware of any timeframe to construct these signals.
- The RTA has previously advised both Council and the Wollongong Golf Club of its desire to close the existing accesses on Corrimal Street based on road safety concerns. The RTA maintains this position and is keen to remove these access points.
- The RTA has concerns with the existing junction treatment at Ross Street and understands that there is a condition of consent for the seniors living development “Links Seaside” on Ross Street requiring the junction of Corrimal Street and Ross Street to be restricted to left in/left out.

However, the RTA is concerned that the subject seniors living development will introduce elderly pedestrian desire lines across Corrimal Street. Specifically, the RTA is concerned with the east west desire line that will be created from a seniors living development as residents seek to access the beach and surrounding development such as the Links Seaside Development and Wollongong Golf Club. Whilst the roundabout at the intersection of Corrimal Street and Swan Street operates well in terms of traffic efficiency and provides a u-turn facility that is particularly useful for east to northbound vehicles, the RTA considers that it is not the most appropriate facility to cater for elderly pedestrian movements. Therefore the RTA considers that the proponent should identify suitable infrastructure to address this pedestrian desire line.

The RTA supports the closure of the existing accesses to the Corrimal Street from the subject development.

- Access for service/delivery vehicles is not acceptable (turning paths should provide a clearance to kerbs).
  - The width of the western access is less than required for an 8.8m service vehicle even when turning from the northern side of Beach Street.
  - The service vehicle is unable to manoeuvre within the driveway width to reverse into the loading dock.
  - The service vehicle manoeuvring would have to occur within the ambulance and resident/visitor drop-off area.
- The dimensions of the parking spaces and aisle widths are not shown on the drawing.

The RTA will recommence its detailed assessment once the above issues are addressed.”

NSW Office of Water

The NSW Office of Water has issued its General Terms of Approval in respect of the proposed development.

## 14 Conclusion

As detailed in this report, the proposed development has been assessed with regard to the relevant matters for consideration prescribed by Section 79C of the Environmental Planning & Assessment Act, 1979. The proposal has been assessed against the applicable provisions contained within relevant Environmental Planning Instruments and Development Control Plans and the social, economic and environmental impacts of the proposal have been examined.

While the proposal may give rise to some social and economic benefits for the city, on balance the development should not be supported for a number of reasons. Principally, the development is contrary to a number of provisions of both the current and proposed planning controls for the site and fails to comply with the provisions of SEPP (Housing for Seniors or People with a Disability) 2004. It does not comply with the aims and provisions of SEPP 71 in relation to the coastal zone and proposes a significant height variation which to date has not been supported by the Department of Planning and should not be approved due to its adverse visual impact and potential to establish an undesirable precedent.

There are a number of shortcomings in the application in terms of the information required to undertake a proper assessment of a number of matters including potential impact on an endangered ecological community and a threatened species which is known to inhabit the neighbouring watercourse. Vehicular access, manoeuvring and pedestrian safety issues remain unresolved, amongst other matters.

It should be noted that the applicant was advised of the development application's shortcomings and was invited to withdraw the application. This offer has not been taken up and as such the application should now be determined.

## 15 Recommendation

It is recommended that the Joint Regional Planning Panel determine Development Application 2009/1592 by refusing consent for the following reasons:-

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the proposed development does not comply with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in the following regards:-
  - A site compatibility certificate has not been issued by the Director-General in relation to the proposed development as required by Clause 24(2) of the SEPP;
  - Insufficient information has been provided to demonstrate that Clause 26 of the SEPP is complied with;
  - Clauses 28 and 30 have not been satisfied;
  - Insufficient regard has been given to the design principles contained within Division 2 of Part 3 of the SEPP, specifically those outlined in clauses 33, 34 and 37 in relation to neighbourhood amenity and streetscape, visual and acoustic privacy, accessibility and crime prevention. As such, pursuant to Clause 32 of the SEPP, consent cannot be granted;
  - Insufficient information has been provided to demonstrate compliance with the standards for self-contained dwellings contained in Schedule 3 of the SEPP. Consequently, consent cannot be granted pursuant to Clause 41(1) of the SEPP.
2. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the consent authority is not satisfied (pursuant to Clause 101(2)(c) of State Environmental Planning Policy (Infrastructure) 2007) that the development is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.
3. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the NSW Roads and Traffic Authority (RTA) has raised concerns in relation to the proposed development, particularly in regards to pedestrian safety and access for service/delivery vehicles. The consent authority, taking into consideration the submission of the RTA pursuant to Clause 104(3)(b) of SEPP (Infrastructure) 2007, is not satisfied of the traffic impacts of the proposed development.

4. Pursuant to Clause 50(1A) of the Environmental Planning & Assessment Regulation 2000, consent cannot be granted as the development application was not accompanied by a design verification from a qualified designer verifying that he or she directed the design and that the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development (SEPP 65) are achieved for the residential flat development (being the independent living units building).
5. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the consent authority must give consideration to the Residential Flat Design Code in accordance with the provisions of Clause 30(2) of State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development (SEPP 65). The proposed development does not comply with the provisions contained in Part 3 of the Residential Flat Design Code in relation to apartment layout and storage.
6. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the proposed development is contrary to aims (e), (g) and (k) of State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) set out in Clause 2. Further, the proposal is unsatisfactory when considered in light of the matters for consideration listed by Clause 8 of SEPP 71, particularly in relation to the following:-
  - (d) the suitability of development given its type, location and design and its relationship with the surrounding area,
  - (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,
  - (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.
7. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, consent cannot be granted pursuant to Clause 139(2) of Illawarra Regional Environmental Plan No.1 (IREP 1) as the concurrence of the Director-General has not been obtained in relation to the height of the building. Further, the proposed development is contrary to the objectives outlined in Clause 138 of IREP 1.
8. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, the proposed development is not consistent with the objectives of the 3(d) Commercial Services zone under the provisions of Wollongong Local Environmental Plan 1990 (WLEP 1990). Consequently, consent cannot be granted pursuant to Clause 9(3) of WLEP 1990.
9. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, the proposed retail spaces do not comply with Clause 11 of WLEP 1990 and as such, are prohibited in the 3(d) Commercial Services zone.
10. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, the proposed development is not satisfactory with regards to the matters contained within Clause 32(1) or 32(2) of WLEP 1990. Specifically, the aesthetic appearance of the development is not acceptable and the proposal is not satisfactory with regard to vehicular access and manoeuvring for loading and service vehicles.
11. Pursuant to Section 79C(1)(a)(ii) of the Environmental Planning & Assessment Act 1979, the proposed development is not consistent with the provisions of Wollongong Local Environmental Plan 2009 in the following regards:-
  - The proposed development is prohibited in the B6 Enterprise Corridor zone and SEPP (Housing for Seniors or People with a Disability) 2004 does not apply to the land;
  - The height of the independent living units building exceeds the maximum building height permitted pursuant to Clause 4.3 of the LEP;
  - The whole site is classified as containing acid sulphate soils. An acid sulphate soils management plan has not been provided as required by Clause 6.5 of the LEP.
12. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development does not comply with the provisions of Development Control Plan No.49 in the following regards:-

- Clauses 6.1 and 6.2 in relation to stormwater drainage and flooding;
  - Clause 6.6 in relation to fencing;
  - Clauses 6.11 and 6.12 in relation to visual privacy, amenity and acoustic privacy;
  - Clause 6.14 in relation to threatened species assessment;
  - Clause 6.19 in relation to letterboxes;
  - Clause 13.7 in relation to built form;
  - Clause 13.8 in relation to driveways;
  - Clause 13.13 in relation to private open space dimensions;
  - Clause 13.15 in relation to adaptable housing;
  - Clause 13.19 in relation to safety and security;
  - Clause 13.20 in relation to storage;
  - Clause 13.22 in relation to site facilities;
  - Clause 13.23 in relation to fire brigade servicing.
13. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will have unacceptable traffic impacts. Firstly, vehicular manoeuvring for service vehicles does not comply with relevant standards which is likely to lead to conflicts with vehicles on Beach Street and those leaving the site. Secondly, the location of the western driveway does not comply with AS2890.1 which is likely to have road safety implications.
  14. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development has not been satisfactorily designed with regard to flooding and stormwater management.
  15. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the site is classified as containing acid sulphate soils. The proposal involves significant excavation works, including within close proximity to a watercourse. The applicant has not provided an acid sulphate soils assessment and as such, it is not known how acid sulphate soils will be managed.
  16. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development has not been designed having regard to pedestrian safety. Specifically, the development is likely to create unsafe pedestrian desire lines across Corrimal Street and there is no proposal to provide suitable infrastructure to address this issue.
  17. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed independent living units building may affect the pedestrian environment on the footpath of Corrimal Street through adverse wind effects. A wind effects report has not been supplied in this regard.
  18. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development may have an unacceptable impact on the threatened species Green & Golden Bell Frog which is known to inhabit the nearby watercourse known as Gurungaty waterway. An assessment has not been undertaken by the applicant in accordance with Section 5A of the Environmental Planning & Assessment Act 1979.
  19. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development may have unacceptable impacts on the endangered ecological community Swamp Oak Forest which occurs within the southern portion of the site and within the nearby watercourse known as Gurungaty waterway. An assessment has not been undertaken by the applicant in accordance with Section 5A of the Environmental Planning & Assessment Act 1979.
  20. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development is likely to have unacceptable impacts on a number of trees located within the site. The arborist report submitted with the development application is inadequate in this regard, inaccurately identifying the number of trees to be removed and the species of several trees, including some significant trees which may have conservation significance.
  21. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will have an unacceptable visual impact having regard to the height, bulk and design of the proposed independent living units building.



22. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will have unacceptable impacts on the privacy and amenity of neighbouring residential dwellings. The position of the proposed loading dock/waste collection area and the balconies and windows on the northern side of the aged care facility will have adverse amenity impacts through noise transmission and direct overlooking respectively.
23. Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development has not been designed having regard to all of the principles of crime prevention through environmental design. Specifically, the design of the car parking area and lift lobby areas may create opportunities for criminal or antisocial behaviour due to the lack of surveillance available and the concealment opportunities created within the car park layout.
24. Pursuant to Section 79C(1)(c) of the Environmental Planning & Assessment Act 1979, the land is not suitable for the proposed development having regard to the following matters:-
  - Flooding constraints;
  - The existence of an endangered ecological community (Swamp Oak Forest); within the southern part of the site and adjacent to the watercourse located near the southern boundary of the site;
  - The existence of potential habitat for the threatened species Green and Golden Bell Frog within the watercourse located adjacent to the southern boundary of the site;
  - The current and proposed zoning of the site under the provisions of WLEP 1990 and WLEP 2009;
  - The position of the land in relation to recreation and other facilities which may only be accessed by crossing a classified road which carries significant volumes of traffic and which does not have infrastructure to ensure the safe crossing of pedestrians.
25. Pursuant to Section 79C(1)(e) of the Environmental Planning & Assessment Act, 1979, having regard to all of the above reasons for refusal, the proposed development is contrary to the public interest.

## ATTACHMENTS

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1. Aerial Photograph
2. Zoning Map
3. Plans
4. Submission of Objection