

<b>JRPP No.</b>	2009STH019
<b>DA No:</b>	DA-2009/1664
<b>Proposal</b>	Alterations and additions to Cordeaux Lodge Hostel and Marco Polo Nursing Home comprising of 35 new beds, long day care centre for children and new administration facilities over three stages
<b>Property</b>	Lot 1212, DP 1136137 and Lot 10, DP 790497 No 68-70 Waples Road Unanderra
<b>Applicant</b>	Marco Polo Aged Care Services Limited
<b>Responsible Team</b>	City Wide Planning (Nicole Ashton)

## EXECUTIVE SUMMARY

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### Reason for Consideration by JRPP

The proposal is referred to JRPP as the value of the works is \$14.142 million. Part 3 of the Major Development SEPP applies to regional development and provides that where development has a capital investment value of more than \$10 million, it must be determined by a regional panel.

### Proposal

The proposal is for the alterations and additions to Cordeaux Lodge Hostel and Marco Polo Nursing Home comprising of 35 new beds, a long day care centre for children and new administration facilities over five identified stages.

### Site Description

The site has an area of approximately 1.7313 hectares. Charcoal Creek runs along the north western boundary of the site, and thus the site has a high, medium and low flood risk affectation (noting that this is not identified within an EPI). The riparian corridor associated with this creek presents as a bushfire risk, being identified as Vegetation Category 2. The site is therefore also considered to be bushfire prone.

The site is surrounded to the north, east and south by the UnitingCare Farmborough Grove Retirement Village. Adjoining to the west is Cedars Christian College and on the opposite side of Waples Road to the west is the Farmborough Aged Care Centre, also run by UnitingCare.

The existing development has a right of access over the adjoining property, and also provides easements for sewage and electricity which benefit the adjoining UnitingCare property.

### Permissibility

The land is zoned 2(a) Low Density Residential under Wollongong Local Environmental Plan 1990, and the zoning proposed as R2 Low Density Residential under draft Wollongong Local Environmental Plan 2009. Gazettal of Wollongong Local Environmental Plan 2009 has resulted in the R2 zone being applied to the subject property. Seniors housing is permissible in both of these zones.

Further, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 applies to the land and the proposed development.

## Consultation

The proposed development was placed on notification from 4 January 2010 to 16 February 2010. Council received seven submissions in relation to the proposal, all of which detailed objections to various aspects of the development.

The application was referred to NSW Office of Water, who provided General Terms of Approval, and the Rural Fire Service who have provided a Bushfire Safety Authority for the proposed development.

## Main Issues

- Objections received relate to: impacts on adjoining aged housing including construction noise impacts, parking/traffic issues, loss of views, amenity and solar access

## RECOMMENDATION

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It is recommended that Development Application-2009/1664 be approved, pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, subject to the imposition of conditions of consent contained within Attachment 4 to this report.

## ASSESSMENT REPORT

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### 1 Background

The subject site was previously run in a joint venture between Uniting Care and Marco Polo aged Care Service Ltd and following subdivision in 2009, full ownership of the nursing home and Cordeaux Lodge were taken over by Marco Polo.

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

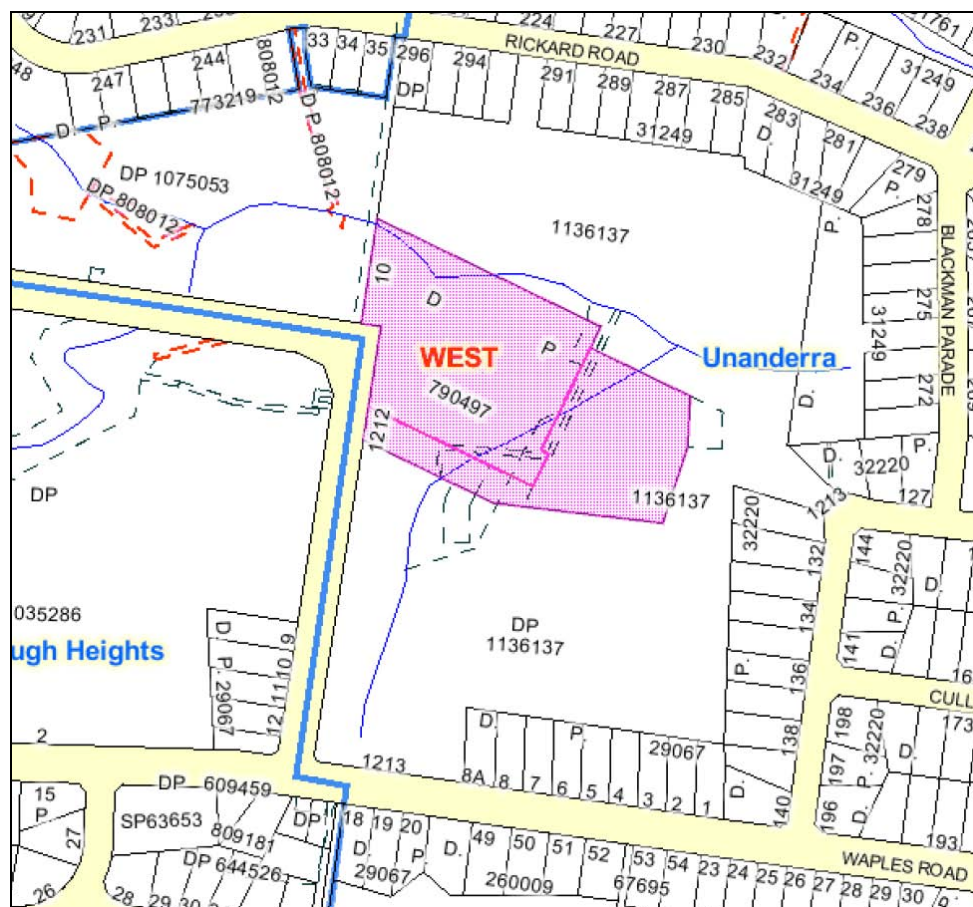
<b>68 Waples Road Unanderra</b>		
<i>DA</i>	<i>Description</i>	<i>Decision</i>
<u>DA-1969/295</u>	Sports Area	Approved
<u>DA-1980/59</u>	On Lots 1 & 292 - (Stage 5) Of Retirement Village Consisting Of 21 Units	Approved
<u>DA-1980/59</u>	On Lots 1 & 292 - (Stage 1) Retirement Village	Approved
<u>DA-1981/1105</u>	Lot 1 & 292 - Substation	Approved
<u>DA-1998/644</u>	Additions To Hostel For Aged Care	Approved
<u>DA-1998/644/A</u>	Additions To Hostel And Aged Care	Approved
<u>DA-2008/1026</u>	Two lot subdivision - boundary adjustment	Approved

<b>70 Waples Road Unanderra</b>		
<i>DA</i>	<i>Description</i>	<i>Decision</i>
<u>DA-1986/366</u>	Filling Of Site & 80 Bed Nursing Home	Approved
<u>DA-1986/460</u>	Stage 3 Of Retirement Village (9 Dwellings)	Approved
<u>DA-2001/649</u>	Integrated Development Application - Extension To Nursing Home To Add Four Wards - Permit Under 3 A Of The Rivers And Foreshores Improvement Act,1948 From D.L.W.C.	Approved
<u>DA-1991/494</u>	Hostel For Aged People	Approved
<u>DA-1998/644</u>	Additions To Hostel For Aged Care	Approved
<u>DA-1998/644/A</u>	Additions To Hostel And Aged Care	Approved

There are no outstanding customer service actions relating to this property.

## 2 Site Description

The site is described as Lot 10 DP 790497 and Lot 1212 DP 1136137, and is known as No 68-70 Waples Road Unanderra containing Marco Polo Nursing Home and Cordeaux Lodge. The site, shown below, is located toward the eastern, lower end of Waples Road:



**Figure 1: Locality Plan**

The site has an area of approximately 1.7313 hectares. Charcoal Creek runs along the north western boundary of the site, and the site is noted as having a high, medium and low flood risk affectation. The riparian corridor associated with this creek presents as a bushfire risk, being identified as Vegetation Category 2. The site is therefore also considered to be bushfire prone.

The site is surrounded to the north, east and south by the UnitingCare Farmborough Grove Retirement Village. Adjoining to the west is Cedars Christian College and on the opposite side of Waples Road to the west is the Farmborough Aged Care Centre, also run by UnitingCare.

The subject allotment is constrained by a right of access benefitting the adjoining UnitingCare property, and is also affected by easements for sewage, drainage and electricity purposes which also benefit the adjoining UnitingCare property. The subject lot itself benefits from an easement for a right of carriageway and parking over the adjoining UnitingCare property.

### **3 Proposal**

The proposal is for the alterations and additions to Cordeaux Lodge Hostel and Marco Polo Nursing Home comprising of 35 new beds, a long day care centre for children and new administration facilities over five identified stages.

In detail, the development involves the following components:

1. The construction of two new wings attached to Cordeaux Lodge, providing:
  - 35 new beds and the 11 beds that will be lost as part of the upgrade of the existing nursing home (a total of 46 rooms)
  - One of the new wings will support a dementia ward, with an associated dementia garden
  - New entry foyer, offices and support/services rooms
  - A childcare facility for 39 children, principally to provide care for the children of staff
  - Basement parking and reconfigured above ground parking, increasing spaces on site by 35 spaces
2. The upgrading of the Marco Polo Nursing Home, which will include:
  - Conversion of all 10 x 4 bed wards into 2 and 1 bed wards (this requires relocation of 11 of the beds to Cordeaux Lodge works as detailed above)
  - Provide new office space, staff amenities and resident recreation facilities

At the completion of the works, 170 residents will be accommodated in the residential aged care facility, and 96 of these will be low care.

A proposed child care centre is included in the new development works. The child care centre is intended to provide child care primarily for the staff of the facility, and is viewed by the applicant as being a critical component in staff retention. The applicant states that no fewer than 50% of the places available in the child care centre will be utilised by staff, but expects this number to be higher with preference given to the placement of children of staff. Results obtained through a staff survey indicated that 27 of the proposed 39 child care spaces could be filled by children or grandchildren of staff. The applicant intends to offer the childcare services initially to the staff of Marco Polo, and then to the staff of the adjoining Farmborough Nursing Home, and to staff of Villa Maria at Unanderra and Wollongong Nursing Home at Figtree.

The proposal is classified as an “Integrated Development” since it is a “Special Fire Protection Purpose Development” for the purposes of the Rural Fires Act 1997 and hence, the concurrence is required from the NSW Rural Fire Service (RFS). The development also proposes works requiring a “Controlled Activity” Approval from the NSW Office of Water, under section 91 of the Water Management Act 2000.

### **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.

<b>Section 79C(1) of the Environmental Planning and Assessment Act 1979</b>
<b>(a)(i) any environmental planning instrument</b>
<p><u>State Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>• SEPP (Major Development) 2005</li> <li>• SEPP (Housing for Seniors or People with a Disability) 2004</li> <li>• Illawarra REP No. 1 1986 (deemed SEPP 1 July 2009)</li> </ul> <p><u>Local Environmental Planning Policies</u></p> <ul style="list-style-type: none"> <li>• Wollongong Local Environmental Plan 1990</li> <li>• Wollongong Local Environmental Plan 2009</li> </ul>
<b>(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</b>
<ul style="list-style-type: none"> <li>• Draft Wollongong Local Environmental Plan 2009</li> </ul>
<b>(a)(iii) any development control plan</b>
<ul style="list-style-type: none"> <li>• Wollongong Section 94A Development Contributions Plan 2009</li> <li>• DCP 54 – Managing Flood Risk</li> <li>• Wollongong City Child Care Centres DCP 2006</li> </ul>
<b>(a)(iv) 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</b>
There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.
<b>(a)(v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)</b>
<p>Clause 92 :</p> <p>The application involves demolition and as such the provisions of AS 2601-1991: The Demolition of Structures applies.</p> <p>The site is not located on land to which the Government Coastal Policy applies.</p>
<b>(b) the likely impacts of development</b>
<p><u>Context and Setting</u></p> <p>The proposed development is in context with the surrounding development. The proposal is an addition to an existing aged care facility located within an area that already supports various models of aged care, including self contained units and another nursing home.</p> <p>The proposed use of the site for a childcare centre is permissible with consent and it is noted that a similar use occurs on an adjoining site, being the Cedars Christian College. The College provides for the education of children ranging from preschool to Year 12.</p> <p>The existing nursing home and lodge are one and two storey constructions. The additions, which are located toward the eastern end of the existing building, are two storeys in height with a substantial pitched roof. The proposal does represent an intensification, particularly to the eastern end of the site, however this is supported by the standards in the SEPP (Housing for Seniors or People with a Disability) 2004.</p> <p>The adjoining allotment is characterised by low density self care retirement units which benefit from generous open spaces surrounding the units, and between the units and the existing Marco Polo Nursing Home and Cordeaux Lodge. The continuity of open space between these sites has historical context in</p>

that both properties were previously owned by UnitingCare. The proposed development will reduce the areas of open space that currently exist between the existing development on the subject site and the adjoining self care units, particularly as part of the proposal is to be constructed along the common boundary between these properties.

#### Access, Transport and Traffic

The existing development already benefits from a shuttle service, which allows the residents ready access to services and facilities. This service is to continue with the proposed development. There is also public transport in the form of a bus service within 30 metres of the entrance to the proposed development, accessible over a grade of approximately 1 in 15.

In accordance with SEPP (Housing for Seniors or People with a Disability) 2004 and Council's Development Control Plan No 6, the proposed development requires 59 parking spaces for both the aged care and child care centre. The applicant has provided 78 parking spaces for visitors and staff of both the aged care and childcare facilities on the subject site to Council's satisfaction.

Vehicular access to the site will be via the existing driveway servicing the site. This driveway is currently utilised by both the existing Marco Polo Nursing Home and Cordeaux Lodge developments, and also by the residents, visitors and employees of the adjoining UnitingCare self care units, as permitted by the terms of the right of carriageway that exist on the subject site. It is noted that there may be some traffic and parking conflicts during the construction phase of the development, particularly given the abovementioned terms of the right of carriageways.

In this regard, the applicant has provided a Traffic and Site Management Plan detailing parking areas available during construction, and the use of a Traffic Control Officer who will direct traffic. Restrictions are also proposed for the deliveries to the site to minimise traffic conflicts with school starting and finishing times and to ensure traffic congestion in the vicinity of the site is minimised.

The proposed development was referred to Council's Traffic Section. Their comments are detailed in Section 12.2 of this report.

#### Public Domain

The proposed development will have little impact on the public domain as the majority of the proposed development occurs away from the public domain, toward the rear 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, and SEPP (Housing for Seniors or People with a Disability) 2004 requires that written evidence be provided that adequate water and sewerage services are available. This written evidence has been provided by Sydney Water.

Reticulated power and telecommunications are available to the land and it is anticipated that these can be extended to support the proposed development.

#### Heritage

There are no heritage items or heritage conservation areas that will be impacted by the proposal.

#### Other land resources

The proposal will not affect other land resource.

#### Water

The proposal is located adjacent to Charcoal Creek, and the application was referred to Council's Stormwater Section for their consideration of flooding and upstream/downstream impacts of the proposal. Council is satisfied with the proposal in this respect, and the relevant Stormwater comments are contained in Section 12.2 of this report.

The application was also referred to the NSW Office of Water as Integrated Development. There are works being proposed in the riparian zone of Charcoal Creek. The NSW Office of Water has provided General Terms of Approval in relation to the development. An erosion and sediment control plan is also

required as part of these Terms.

#### Soils

There is no indication that the site is affected by contamination or acid sulfate soils. As stated above, an erosion and sediment control plan is required as part of the General Terms of Approval issued by the NSW Office of Water, and similarly, conditions will also be imposed on any consent issued requiring the implementation of soil and water controls during the construction of the proposal.

The site has previously been filled above its natural levels and it is noted that some excavated material, which is largely fill material, associated with construction of the basement level will be reused on site. This soil will be used to backfill around and conceal the basement in order to maintain a two storey appearance for the building.

#### Air and Microclimate

Whilst the proposal is not expected to have any negative impact on air quality following completion of construction, there may be some short term impacts arising during the construction phase of the development. Dust barriers are proposed to be provided to construction fencing, and suitable dust suppression measures will be required to be implemented during construction of the proposed development.

#### Flora and Fauna

There are several individuals of *Eucalyptus scoparia* and *Eucalyptus nicholii* which are proposed for removal. These are threatened species under the Threatened Species Conservation Act 1995. They occur in other parts of NSW (*E. nicholii* on the granite belt of the New England tablelands and *E. scoparia* in a small mountainous part of the Queensland/NSW border), and are not native to the Illawarra area. There is no requirement contained within Wollongong Council Policies to require a section 5a assessment for removal of these trees, and as such, one was not requested.

Of the 59 trees (some of these identified as “groups” of trees) identified in the arborist report by Landscapes by Lenice, dated 9 December 2009, removal of approximately 43 trees (some of which are “groups” of trees) was initially proposed across the site, either due to impacts by the building footprint or unsuitability for retention. Council’s Landscape Section gave consideration to the proposed tree removal and has indicated 39 of the identified trees are permitted to be removed. Further requirements for the compensatory planting of 11 trees, with a 200 litre pot size, will be required as part of any consent issued.

The retention of trees on the site and subsequent compensatory planting requirements are partially constrained by the conditions issued with the Bush Fire Safety Authority by the Rural Fire Service. In this regard, the Rural Fire Service requires that all of Lot 1212 and that part of Lot 10 that is north of the development to a 10 metre watercourse buffer be treated as an Inner Protection Area.

The applicant has provided a Vegetation Management Plan which takes into consideration the Bush Fire Safety Authority and proposes regeneration of the Riparian Zone, within and outside the Inner Protection Area, and the Riparian Buffer Zone. The regeneration works include weed removal, retention of existing trees and shrubs where possible, stabilisation of slopes, the encouragement of the natural regeneration of indigenous species and ongoing maintenance of the site. It is noted that the Plan recommends the planting of both fire resistant and locally indigenous species.

#### Waste

Suitable arrangements are in place for waste storage and disposal. The existing waste collection area, for both recyclable and non recyclable waste, currently servicing the facility is proposed to be expanded to meet the needs of the completed development.

Appropriate measures will be required for management of construction waste during this phase of the development should it be supported.

#### Energy

Given the nature of the facility, the proposed development is expected to require significant quantities of energy for its daily operations. Although the applicant has not provided detail in relation to the minimisation of energy consumption, the proposal will be required to comply with Section J Energy

Efficiency of the Building Code of Australia.

#### Noise and Vibration

Construction is likely to generate considerable noise and vibration impacts over the staging of the proposed development. The Traffic and Site Management Plan submitted in support of the application indicates that works creating noise will be carried out during the hours of 9am to 12pm and 1pm to 4pm, and all construction works restricted to Monday to Friday.

Once construction is complete, the proposed development is unlikely to generate significant noise, other than vehicles associated with deliveries, servicing or waste collection.

#### Natural Hazards

The site is identified as being by bush fire prone land. A Bush fire Safety Authority has been issued by the Rural Fire Service with respect to the proposed development.

The land is also flood prone, identified as having a low, medium and high flood risk. Council's Stormwater Section has assessed the proposal and provided comments in relation to these matters.

#### Technological Hazards

There are no technological hazards that present particular risks to people or property associated with the development. The building will be required to comply with the Building Code of Australia (BCA) – the BCA gives consideration to the proposed inhabitants of the building, and the construction and measures required to address any specific risk arising.

#### Safety, Security and Crime Prevention

The proposal was referred to Council's Safe Community Action Team (SCAT) which had no safety concerns in relation to the development.

The building is occupied over the entire 24 hour period by staff who provide observation to both internal and external areas on the site. General observation is possible to both the car park and approaches to the entry doors. The existing facility has a security system in place which will be extended to incorporate the proposed development.

#### Social Impact

The LGA is known to have an above average retired population. The Wollongong City Housing Strategy 2005 identified that there were 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 service provider, Marco Polo Aged Care Services Limited, provides accommodation and services for the aged, including people from language backgrounds other than English, and particularly for those with an Italian heritage. This development aims to allow "aging in place" and the care to be provided ranges from low to high care, with an emphasis on a "home-like" facility that allows residents "every day" choices. It is considered that the proposal will have a positive social impact.

There are existing community facilities focussing on aged care surrounding the proposal and the proposed development is appropriate in this regard.

#### Economic Impact

The proposal will result in the creation of various employment opportunities, primarily during construction phase of the development. Although the number of staff associated with the aged care facility will not be increasing, an additional seven staff will be required to operate the childcare centre once the centre is operational. The applicant indicates that the facility will employ 73 people in total, and also contends that the child care centre is an integral component of this development to ensure the retention of these staff.

The proposal will also contribute to the economies of scale that allow smaller businesses such as cafes and the provision of ancillary services within the aged care facilities in the area to continue to operate.

#### Site Design and Internal Design

The location of the existing buildings on site result in some hindrance to the ability of the development to



achieve an optimum orientation for the purposes of solar access and cross ventilation. Even so, the applicant has attempted to maximise solar access to rooms where possible and has sited buildings to achieve good cross ventilation. The presence of existing buildings on the site has in turn been utilised to minimise the impacts of strong winds across the site.

Charcoal Creek provides a natural break between this development and the adjoining to the north and allows the facility to direct recreational spaces towards this feature. Recreational spaces are further enhanced through the use of internal courtyards and balconies.

The proposed development will be constructed over an existing easement which contains a drainage line. This easement benefits the adjoining site owned by UnitingCare, and as such Council requested the applicant to seek and obtain permission from UnitingCare for the construction works over the pipe. UnitingCare has provided that permission subject to conditions, and any consent issued will contain a requirement that the conditional permission be complied with.

#### Construction

The development is proposed to be staged to ensure minimum inconvenience to the residents of the facility. During construction, on site traffic management controls, designated parking areas, the coordination and staggering of deliveries, restrictions on the hours on noise creating construction works and the provision of a secure boundary fence are all proposed in order to minimise the impacts of the development during this phase on both the occupants and staff of the facility, and the adjoining residents and their visitors.

#### Cumulative Impacts

It is not anticipated that there will be ongoing cumulative impacts arising from the proposed development. The applicant's submission indicates that the developer is cognisant of the difficulties and potential impacts arising from major construction. Appropriate conditions are also included in the draft conditions of consent to ensure the construction activity does not adversely affect occupants of surrounding residential dwellings and residents within the facility itself. (Refer to Conditions 6, 7, 11, 51, 53, 54, 55, 56, 59, 64, 65, 68, 69 and 70 held at Attachment 4 to this report).

### **(c) the suitability of the site for development**

#### Does the proposal fit in the locality?

The proposal represents an intensification of an existing approved use on the site, in addition to a new child care centre use that is proposed and primarily intended to support the employees of the facility. The site is located within an area that provides aged care services on two other independent sites, one site which is adjoining the proposed development, and the other directly opposite on Waples Road. A school adjoins another boundary of the subject site.

The structures being proposed on site result in a substantial increase in density over the site, however the height has been limited to two storeys, similar to part of that existing building, and the proposal is compliant with the development controls set by SEPP (Housing for Seniors or People with a Disability) 2004.

The proposal is reasonable and appropriate for the locality.

#### Are the site attributes conducive to development?

The site is subject to a number of constraints that occur mainly as a result of the presence of Charcoal Creek along the northern boundary of the site. These include a low, medium and high flood risk to parts of the site, and the vegetation within the riparian zone presenting as a bush fire risk. The applicant has sufficiently addressed both of these issues to Council and the Rural Fire Service's satisfaction..

### **(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 were seven (7) submissions

received which is discussed in Section 12.1 of this report.

#### Submissions from public authorities

Council consulted with the Rural Fire Service 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, both of which had no objection to the proposed development.

#### **(e) The public interest**

The proposal assists in addressing the shortage of aged care places within the Illawarra, particularly for those with non English speaking backgrounds. The development is an enhancement to an existing facility and services, and already provides the infrastructure for support of the same within an appropriate setting. It is considered that the proposal is in the public interest.

## **5 State Environmental Planning Policies**

### **5.1 State Environmental Planning Policy (Major Development) 2005**

[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. In accordance with Clause 13F of the Major Development SEPP, the proposal must be determined by the Joint Regional Planning Panel.

### **5.2 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004**

[SEPP (Housing for Seniors or People with a Disability) 2004]

#### Chapter 1 Preliminary

Clause 4 Land to which policy applies – SEPP (Housing for Seniors or People with a Disability) 2004 applies to land that is zoned primarily for urban purposes, where certain development (including residential flat building or dwelling houses) are permitted. The 2(a) Low Density Residential Zoning under Wollongong Local Environmental Plan 1990 allows both residential flat buildings and dwelling houses.

As detailed in Schedule 1 of SEPP (Housing for Seniors or People with a Disability) 2004, the Policy does not apply to environmentally sensitive land which includes land identified by another environmental planning instrument as having a high flooding hazard. The subject site is noted on Council records as having a low, medium and high flood risk affectation, however this information is not contained within an environmental planning instrument.

SEPP (Housing for Seniors or People with a Disability) 2004 accordingly applies to the land.

Clause 5 Relationship with environmental planning instruments – This clause confirms that SEPP (Housing for Seniors or People with a Disability) 2004 overrides any provision (except for demolition of a heritage item) in an environmental planning instrument such as an LEP

Clause 7 Suspension of certain agreements and covenants – there are no known covenants or agreements that impose restrictions on the development.

#### Chapter 2 Key Concepts

Chapter 2 defines the key concepts used in SEPP (Housing for Seniors or People with a Disability) 2004. The development is for the alterations and additions to a facility that provides residential care to people within the meaning of the Aged Care Act 1997. The occupants are considered to be seniors for the purposes of SEPP (Housing for Seniors or People with a Disability) 2004.

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.

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

#### Part 1 General

Clause 16 identifies development allowed by this Chapter as requiring development consent.

Clause 18 of SEPP (Housing for Seniors or People with a Disability) 2004 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.

#### 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 existing facility is greater than 400 metres from the services and facilities required by Clause 26, however a public transport service is available to the residents of the facility by way of a Premier Illawarra bus service. The bus stop is located approximately 40 metres from the driveway of the facility, accessible at grades of less than 1:14. This bus service provides access to the Wollongong, Unanderra and Figtree where accessibility to the required services and facilities is available. Further, the Marco Polo also owns and operates two buses for the outings of residents. One of these buses acts as a service every Tuesday to shuttle residents to a shopping centre located at Figtree. Although no mention is made by the applicant of the daily operation of such a service, the shuttle bus augments the existing daily services provided through public transport.

Clause 27 requires the consent authority to be satisfied that the development complies with the requirements of Planning for Bush Fire Protection 2006. The consent authority must also take into consideration the general location of the proposed development, the means of access to and egress from the general location and other relevant matters.

In this regard, Council is satisfied that the local road network is capable of providing a safe egress from the site during an emergency and that it has the capacity to do so when considering the surrounding populations including the nearby developments such as the adjoining school and the nursing home located opposite on Waples Road. There is also sufficient adequacy of access for emergency vehicles.

Consultation with the Rural Fire Service is also required by this Clause. The Rural Fire Service has issued a Bush Fire Safety Authority, subject to conditions which generally ensure compliance with Planning for Bush Fire Protection, for the proposed development.

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. Written evidence has been provided in the form of a Feasibility Report from Sydney Water demonstrating that provision can be made for the extended facility to be connected to the reticulated water and sewerage system.

Clause 29 requires that the consent authority consider certain site compatibility criteria for DAs to which Clause 24 does not apply. These criteria are discussed below:

SEPP requirement	Proposal	Comment
25(5)(b)(i) development is compatible with the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development	The proposal is located within an area that currently supports two other seniors living developments and a school. The site is affected by bush fire prone land and also has flood affectations, as well as a potentially conflicting requirement for the maintenance	The proposal is compatible with surrounding land uses and will result in an improvement to the natural environment through the implementation of the Vegetation Management Plan. The existing land uses within proximity of the development involve the provision of aged

	of a riparian corridor.	care services and an educational facility. In this regard, it is considered that the additions to the existing aged care facility are a compatible form of development when considered against that which is existing.
25(5)(b)(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly retail, community, medical and transport services having regard to the location and access requirements set out in Clause 26) and any proposed financial arrangements for infrastructure	Access is readily available to a public transport bus service in accordance with the requirements of Clause 26, and Marco Polo also provides residents with a shuttle service to a large shopping centre in an adjoining suburb. Visiting health professionals also provide some services to residents on site.	Complies
25(5)(b)(v) without limiting other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.	The proposal is consistent with that which currently exists on the site, and is consistent in character with development in the vicinity. There is some minor overshadowing onto the adjoining site however this is considered to within acceptable guidelines. The subject site and the adjoining site previously operated under the one ownership and this is reflected in the layout of the existing buildings, infrastructure and landscaping. The increase in floor area being proposed will have some impact on the openness that currently exists between the sites with the proposed additions to occupy a large landscaped area that currently provides a large open space area between the developments. The applicant appears to be aware of this impact and has endeavoured to provide landscaping to minimise the impact of the built form.	Complies

### 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 Statement of Environmental Effects. The Statement 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 analysis
Topography	Spot levels; contour North point Natural drainage Contaminated soils or filled areas	Survey plan provided North point detailed on all plans Indicated on site analysis Identified on site analysis
Services	Easements Connections for drainage and utility services	Identified on survey Illustrated on drainage plans
Existing vegetation	Location, height, spread of trees; species	Identified on both site analysis and survey plan
Microclimates	Orientation Prevailing winds	Indicated on site analysis
Location of	Buildings and other structures  Heritage features and items including archaeology Fences Property boundaries  Pedestrian and vehicle access	Indicated on site analysis  No heritage features Fences not identified Indicated on site analysis  Indicated on site analysis
Views to and from the site		Indicated on site analysis
Overshadowing by neighbouring structures		Shadow diagrams provided separately

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	All indicated on site analysis
Privacy	Adjoining private open spaces Living room windows overlooking site Location of any facing doors and/or windows	All indicated on site analysis
Walls built to the site boundaries	Location Height Materials	Retaining walls indicated on site plan
Difference in levels	Between the site and adjacent properties at their boundaries	Contours and finished building levels provided on site analysis; site levels shown on landscape plan
Views and solar access enjoyed		Indicated on site analysis

by neighbouring properties		
Major trees		Indicated on site analysis
Street frontage features	Poles Trees Kerb crossovers Bus stops Other services	All indicated on site analysis
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	All indicated on site analysis
Public open space	Location Use	Detail not provided
Adjoining bushland or environmentally sensitive land		Indicated on site analysis
Sources of nuisance	Flight paths Noisy roads or significant noise sources Polluting operations	None identified
Adjoining land uses and activities		All indicated on site analysis

It is considered that the information provided in the Site Analysis and Statement of Environmental Effects generally satisfies Clause 30, with those items not shown directly on the Site Analysis provided for elsewhere in the development application submission.

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,	The applicant has recognised the residential character of existing buildings on the site and on adjoining sites, and sought to replicate this in the design of the additions to the facility.
	(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.
	(c) maintain reasonable neighbourhood amenity and appropriate residential character by:	The building setbacks proposed are considered to be generally reasonable. In utilising the existing open space on the site to support the additions, the relationship with the adjoining development will be altered by built form where now the existing open space provides a garden environment linking the sites. In terms of expanding the existing facility, this is almost
	(i) providing building setbacks to reduce bulk and overshadowing, and	
	(ii) using building form and siting that relates to the site's land form, and	
	(iii) adopting building heights at the street frontage that are compatible in scale with	

	adjacent development, and	unavoidable without moving away from the one and two storey character of the existing buildings on site.
	(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours	
	(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 change proposed to the existing front building of the development.
	(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape,	As the additions to the existing facility occur at the rear of the site, there is no landscaping proposed that will affect the streetscape.
	(f) retain, wherever reasonable, major existing trees	A large number of trees are proposed for removal. This has been considered by Council's Landscape Section as being satisfactory subject to the provision of compensatory plantings.
	(g) be designed so that no building is constructed in a riparian zone	There are no new building works proposed within the riparian zone, however revegetation of this area is proposed and supported.
<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>(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>	<p>Plant areas for the proposed development are provided in three locations – one at the northern end of the basement car park, another on the northern side of the building above the existing café area and the remaining being adjacent to the garbage and recycling store. Noise attenuation screens are proposed around all mechanical plant areas and it is considered that these areas are suitably located to minimise impacts on the adjoining property.</p> <p>There are potential overlooking impacts arising mainly from the first floor windows on the eastern side of the proposed development. These windows are generally provided to bedrooms, which have a narrow balcony with brick balustrading. The effect of the solid balustrading would be to block downward views from both the balconies and from within the rooms, instead promoting views outwards and across the vista. The limited width of the balconies also restricts their functionality and does not promote their extended use.</p>



<p><b>Solar access &amp; design for climate</b></p>	<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>Shadow diagrams were provided in support of the proposal which indicate an increase in the effect of overshadowing from the proposed development over the adjoining property to south as shown for mid winter. The adjoining property consists of self care units owned by UnitingCare. There are no specifically defined private open space areas for individual units within the affected properties. Whilst this makes it difficult to definitively state that overshadowing to private open space is not unreasonable, it can also be considered that the ability of occupants to relocate their “private open space” is not constrained on any given day thus enabling them to maximise their ability to take advantage of solar access.</p> <p>In assessing the impact of overshadowing on the living areas of these adjoining units it is considered that they should receive a minimum of three hours of sunlight between the hours of 9am and 3pm on June 21. The plans indicate that this is achieved for all adjoining units. As such, the proposal is acceptable in this respect.</p> <p>The location of the existing buildings on site impact on the ability of the development to achieve an optimum orientation for the purposes of solar access and cross ventilation. However, the applicant has attempted to maximise solar access to rooms where possible and has sited buildings to achieve good cross ventilation. The presence of the existing buildings on the site has in turn been utilised to minimise the impacts of strong winds across the site.</p>
<p><b>Stormwater</b></p>	<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</p>	<p>Stormwater management has been considered by Council’s Stormwater Section; comments are provided below.</p>

	<p>minimising paved areas, and</p> <p>(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</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>(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	<p>There is an existing security system in place that will be extended to the additional development on site. The nature of the use of the site results in staff being on site over a 24 hour period, enabling observation throughout the day and night. The buildings have been designed to allow observation of the carpark area and approaches to entry.</p>
<b>Accessibility</b>	<p>The proposed development should:</p> <p>(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and</p> <p>(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>Pedestrian routes out of the site are easily discerned. The car park area provides parking for both staff and visitors and pedestrian safety incorporated into the design of the same.</p>
<b>Waste Management</b>	<p>The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>The existing waste collection and management system will be expanded to service the greater development. The existing system appears to include provision for the sorting and recycling of waste.</p>

#### Part 4 Development Standards

##### *Division 1 General*

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

<b>Clause 40 – Minimum sizes and building height</b>				
<b>Clause</b>	<b>Matter</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
40(2)	<b>Allotment size</b>	Minimum 1000m <sup>2</sup>	17313 m <sup>2</sup>	Yes
40(3)	<b>Frontage</b>	Minimum 20 metres at building line	Approx 69m	Yes
40(4)	<b>Building height in zones where residential flat buildings are not permitted</b>	N/A as residential flat buildings permissible in the zone	N/A	-

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

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

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 buildings are less than 8 metres in height.	Yes
48(b)	Floor space ratio is less than 1:1	Applicant states that the FSR is 0.35:1	Yes
48(c)	Minimum landscaped area of 25sqm per residential care facility bed (170 x 25) = min 4250sqm	8090sqm provided	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.	49 spaces required for aged care facility; 11 spaces required by DCP for child care centre <b>Total</b> required to be provided: 60 spaces <b>Number provided:</b> 83 Ambulance parking provided	Yes

## 1.1 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.

There are no specific provisions that relate to the proposed development, however the proposal is generally consistent with the objectives of the IREP.

## 6 Wollongong Local Environmental Plan 1990

The site is zoned 2(a) - (Low Density Residential Zone) pursuant to WLEP 1990. That part of the application proposing alterations and additions to the aged care facility are primarily dealt with under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. It is noted that seniors housing is permissible within the 2(a) zone.

The proposed child care centre will be considered under Wollongong Local Environmental Plan 1990 (WLEP 1990). The proposal falls within the definition of a 'child care centre' provided below and is permissible in this zone with development consent.

#### Clause 6 – Definitions

Child care centre is defined as “*a building or place which is used (whether or not for profit) for the purpose of educating, minding or caring for children (whether or not any of the children are related to the owner or operator), but only if the following conditions are satisfied:*

- (a) the children number 6 or more,*
- (b) the children are under 6 years of age,*
- (c) the building or place does not provide residential care for any of the children (other than those related to the owner or operator)”*

#### Clause 9 – Zone objectives and development control table

The objectives of the zone are as follows:

- (a) to provide land primarily for detached housing with gardens in an environment free from commercial and unsympathetic activities and buildings, and*
- (b) to allow some diversity of activities and housing types provided:*
  - (i) densities, scale and height are comparable to those of detached housing, and*
  - (ii) there is little increase in traffic generation, and*
  - (iii) there will be no significant detracting from the character of the locality or the amenity*

The existence of the child care centre will have little impact on the amenity of the surrounding area. Its proposed location within the facility makes it an inconspicuous form of development and the routines of its daily activities are not dissimilar to the existing development on the site. There is good separation between the child care centre and surrounding residential development, and overall it is considered that the child care centre is not contrary to the objectives of the 2a zone in this instance.

#### Clause 12. Floor space ratios

The permissible floor space ratio for development in the 2(a) zone under WLEP 1190 is 0.30:1. However a residential care facility under SEPP (Housing for Seniors or People with a Disability) 2004 is permitted to achieve a floor space ratio of 1:1.

The floor space ratio of the development is considered to comply, for the following reasons:

- the provisions of the SEPP prevail over the LEP;
- the child care centre is considered to be largely an ancillary use to the residential aged care facility, as greater than 50% of its usage will be by employees of the facility;
- there are no detrimental impacts arising from the size and location of the proposed child care centre, as it is contained within the middle of the proposed development and separated from adjoining development by the Creek and is essentially an “infill” construction between two existing parts of the facility.

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

The land is identified as being flood prone. Council's Stormwater Section has undertaken an assessment of the proposed development having regard to this clause and the requirements of DCP 54, and the proposal was found to be satisfactory.

#### Clause 30. Services

Water supply and sewage removal services are currently provided to the site and can be augmented to service the development as proposed, as detailed by the Feasibility Report from Sydney Water.

#### Clause 32. Consideration of certain applications

The proposed development is within view of Charcoal Creek, however this is not a waterway that is capable of being used for recreational purposes generally and is located over private land, being the subject and northern adjoining sites. The appearance of the proposal from Charcoal Creek is satisfactory, and the remediation works to the riparian zone being proposed as part of the development will result in an increase in the amenity of the area for both the subject and adjoining sites.

The increased vehicular traffic associated with the development, including access to the site, parking and manoeuvring have been addressed in the Traffic Impact Assessment provided in support of the application. This has been considered by Council's Traffic Section who have no objection to the proposed development.

#### Clause 34. Tree preservation

Any further tree removal proposed outside the parameters of the development application will require a Tree Management Order from Council.

#### Clause 40 Suspension of certain laws etc.

This clause permits suspension of any agreement, covenant or instrument that may restrict the proposed development.

### **7 Wollongong Local Environmental Plan 2009**

Wollongong Local Environmental Plan 2009 (WLEP 2009) came into effect on 26 February 2010. However, this plan was an exhibited draft at the time the application was lodged and WLEP 2009 contains a savings provision as outlined at clause 1.8A below:

“1.8A Savings provision relating to 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.”

Accordingly this development application has only been considered against the draft WLEP 2009 and not the gazetted instrument, in accordance with the requirements of Section 79(C) of the EP&A Act 1979.

### **8 Draft Wollongong Local Environmental Plan 2009**

The site is proposed to be zoned R2 Low Density Residential pursuant to this plan and the proposed child care centres are a permissible form of development, with development consent.

#### Clause 1.4 – Definitions

A child care centre is defined as a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,  
but does not include:
  - (c) a building or place used for home-based child care, or
  - (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
  - (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
  - (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
  - (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or

- (h) a service that is concerned primarily with the provision of:
  - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
  - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

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

The objectives of the zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The child care centre is considered to meet the second objective of the zone.

#### Clause 4.3 Height of buildings

The height restriction applying to this land under draft WLEP 2009 is 9 metres.

#### Clause 4.4 Floor Space Ratio

The permissible floor space ratio for this site under draft WLEP 2009 is 0.5:1.

## **9 Development Control Plan No. 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 12.2.

## **10 Wollongong City Child Care Centres DCP 2006**

The proposed development has been assessed with regard to Wollongong City Child Care Centres DCP 2006 by Council's Community Services (Children Services) Section, whose found the proposal to be satisfactory.

## **11 Wollongong Section 94A Development Contributions Plan 2009**

The proposal has been assessed against this plan and a contribution fee of \$141 420 applies to the proposal.

## **12 Consultation**

### **12.1 Notification Policy**

The application was notified in accordance with Council "Development Assessment and Compliance Notification Policy". Seven submissions were received and the main issues identified in the submissions are discussed below:

#### Issue No 1: Construction impacts arising from proposed development, including noise, dust, traffic, parking

The proposal represents major construction works and as such it is anticipated that there will be some short term impacts such as those raised in submissions during the construction phase of the development. A brief construction management plan has been provided with the application that indicates the majority of these issues have been given consideration.

A condition of consent is recommended to be imposed which requires the submission of a detailed site management, pedestrian and traffic management plan for the separate approval of the Principal Certifying Authority, prior to the release of the Construction Certificate. (Refer to Draft Condition No. 11 at

Attachment 4 to this report). This condition will ensure that the development is carried out in a manner to address any potential adverse amenity impacts upon surrounding residential development in the locality.

It is noted that it is in the developer's best interests to minimise any adverse construction impacts as the existing occupants of the facility will be on site during the construction of the development, and this population can be seen as being more sensitive than most to the impacts surrounding noise, dust and traffic generation.

#### Issue No 2: Overshadowing caused by excessive height of proposal/ accuracy of shadow diagrams

The shadow diagrams are considered to be an accurate representation of those that will occur on completion of the proposed development. The diagrams indicate an increase in the effect of overshadowing from the proposed development over the adjoining property to south as shown for mid winter. The adjoining property consists of self care units owned by UnitingCare. There are no specifically defined private open space areas for individual units within the affected properties. Whilst this makes it difficult to definitively state that overshadowing to private open space is not unreasonable, it can also be considered that the ability of occupants to relocate their "private open space" is unfettered on any given day thus enabling them to maximise their ability to take advantage of solar access.

The impact of overshadowing on the built form however is able to be assessed. Using widely adopted solar access principles, the living areas of these adjoining units should receive a minimum of three hours of sunlight between the hours of 9am and 3pm, mid winter on June 21. In consideration of both the site analysis plan and shadow diagrams, it appears that this is achieved for all adjoining units. As such, it is considered that as the height of the proposed building meets the requirements of the SEPP and is consistent with the existing structure, that design features by way of hip roofs have been utilised to minimise the overshadowing and that the amount of overshadowing being proposed by the development meets general principles for solar access, the proposal is acceptable in this respect.

#### Issue No 3: Traffic and parking issues arising after completion of development

A Traffic Impact Assessment, which included consideration of parking related matters, has been provided with the application. Whilst the number of beds within facility is increasing, the applicant contends that the number of staff for the aged care facility will remain static, whilst an additional seven staff members are required for the child care centre. SEPP (Housing for Seniors or People with a Disability) 2004 and Wollongong City Child Care Centres DCP 2006 contain development standards and controls requiring the provision of an appropriate number of car parking spaces for the completed facility – these numbers have been provided for within the subject site. As the parking requirement is fully catered for on the subject site, any withdrawal of parking rights by UnitingCare that currently exist over the adjoining lot will not adversely impact the completed development.

The Traffic Impact Assessment indicates that any increases in traffic occurring as a result of the development are within the environmental capacity of Waples Road, which already has appropriate road design and speed limits to cater for the existing aged care and school facilities in the immediate vicinity of the proposed development.

Council's Traffic Section has considered both traffic and parking issues in its assessment of the proposal, as detailed below in Section 12.2.

#### Issue No 4: Negative impact caused by the removal of over 50 trees

It is acknowledged that there will be significant tree removal in association with the proposed development. This is largely resulting from trees that are currently located within the proposed building footprint and therefore cannot be retained, and the requirements of the Rural Fire Service for treatment of parts of the site as in Inner Protection Area. Council's Landscape Section considered these issues, and in doing so, has required that any consent issued require compensatory planting on the site of appropriate trees with large pot size to ensure their establishment. In addition, there will be further plantings around the site in order to minimise the impacts of the built form in the form of screen planting and boundary landscape beds. The proposal meets the requirements for landscaped area as contained within SEPP (aged Care). The implementation of the Vegetation Management Plan will also enhance the riparian corridor and its ability to attract native fauna.

#### Issue No 5: Proposal an overdevelopment of the site

The proposed development meets the development standards contained within the SEPP (aged care) for building density, scale and height and therefore these grounds cannot be used to refuse development consent under this SEPP.

Issue No 6: Maintenance of rights of carriageway for adjoining property over Marco Polo land

The plans indicate that the existing points of access between the land owned by Marco Polo and that owned by UnitingCare will remain.

Issue No 7: Easement for right of carriageway and parking and ability to release such easement

The number of car parking spaces required to be provided in association with the proposed development have been catered for on the subject site. As such, any release of the easement for right of carriageway and parking will have no impact on the parking requirements for the proposed development.

Issue No 8: Maintenance of existing electrical and stormwater services that are contained within registered easements

The applicant has indicated that as connections to the stormwater system are down flow from the UnitingCare site, interruptions to this service should be avoided. In addition, the electricity substation servicing the Marco Polo site is located on the UnitingCare site and any modifications to electricity on the Marco Polo site should not affect the UnitingCare site. Appropriate conditions of consent have been imposed in the Draft Conditions held at Attachment 4 to this report.

Issue No 9: Request for provision of construction management plan

As stated previously, a brief construction management plan has been provided in support of the development application and is considered to be acceptable in its current form. Condition No. 11 in the draft conditions of consent at Attachment 4 to this report requires a detailed site management, pedestrian and traffic management plan to be submitted and approved by the Principal Certifying Authority, prior to the release of the Construction Certificate.

Issue No 10: Car parking on site, including underground parking and the proximity of this to the site boundary

The number of car parking spaces proposed to be provided on site meets the requirements for parking for the development. It is acknowledged that staff access into the basement car park may occur as late in the evening 11pm and as early in the mornings as 5.45am during shift changeover. Traffic calming devices are to be provided at the top of the car park ramp which should reduce engine noise from vehicles accelerating up the ramp and the basement car park is provided for the use of staff who will become familiar with the use of ramp, again keeping engine noise to a minimum.

Issue No 11: Potential overlooking impacts

There are potential overlooking impacts arising mainly from the first floor windows on the eastern side of the proposed development. These windows are generally provided to bedrooms, which have a narrow balcony with brick balustrading. The effect of the solid balustrading would be to block downward views from both the balconies and from within the rooms, instead promoting views outwards and across the vista. The limited width of the balconies also restricts their functionality and does not promote their extended use.

Issue No 12: Noise impacts from air conditioners/car park mechanical ventilation

Plant areas for the proposed development are provided in three locations – one at the northern end of the basement car park, another on the northern side of the building above the existing café area and the remaining being adjacent to the garbage and recycling store. Noise attenuation screens are proposed around all mechanical plant areas and it is considered that these areas are suitably located to minimise impacts on the adjoining property.

Issue No 13: Cut and fill associated with underground car park and its impacts on stormwater

The fill associated with the basement car park and creation of the secure dementia courtyard occurs within the boundaries of the subject site. An existing overland flow path is maintained adjacent to and generally within the boundary of the subject site. The overland flow path discharges to Charcoal Creek.



#### Issue No 14: Nursing home not an ideal environment for child care centre

The proposed child care centre has been assessed against Council's Wollongong City Child Care Centres DCP 2006. The safety and well being of children accessing the child care centre has been given consideration and subject to some minor modifications to the proposal, is considered to be acceptable. The applicant contends that the child care centre will contribute to the aged care facility through the addition of life and vibrancy within the facility and acoustic impacts presented by the child care centre have also been given consideration and found to be acceptable.

#### Issue No 15: Loss of view

There will be an impact on views from the units within the complex. However, the development's impact upon views does not warrant refusal of the application given the existence of a two storey building on the eastern portion of the Marco Polo site together with the existing vegetation on the site, which filter and screen views from the site already. The building height also complies with the SEPP (aged care) and as such height cannot be used to refuse development consent.

#### Issue No 16: Impact of proposal on property values of adjoining development

This is not a matter for consideration under Section 79(C) of the Environmental Planning and Assessment Act 1979.

### 12.2 Internal Consultation

#### Stormwater

This application has been assessed with respect to stormwater and flooding, and found to be satisfactory in its current form. The information received from the upslope owner in relation to granting permission for the applicant to construct over the drainage easement was reviewed and considered satisfactory.

The responsibility of complying with the requirements imposed by KFW dated 27 May 2010 lies with the applicant. In this respect a condition should be included in the development consent making reference to the written agreement (and specific conditions by KFW) between the two parties.

Conditions of consent relating to stormwater have been recommended.

#### Landscaping

In review of the amended landscape plans issue 19.4.10 it was noted there has been a significant reduction in the number of proposed trees to be planted on the site. It was noted that the landscape plan has a note stating "Bushfire constraints limit tree planting. Proposed canopies shall not be closer than 5m to buildings." In this regard I have modified the compensatory planting conditions to increase the pot size of the proposed new tree planting to compensate for the large number of trees that are proposed for removal. Additional conditions of consent have also been recommended in relation to this application.

The proposal is satisfactory.

#### Traffic

The Traffic Section has no objections to the proposal, and has recommended appropriate conditions for inclusion on any consent issued.

#### Environment

Council's Environment Section reviewed the proposed development and its associated amended information. The proposal is considered to be satisfactory and no conditions of consent have been recommended.

#### SCAT

There were no safety concerns arising from the Safe Community Action Team's consideration of the proposal.

### Community services

Community Services reviewed the proposal, particularly with respect to the proposed child care centre. Various concerns were raised during the assessment process. These have subsequently been addressed and Community Services has no objection to approval of the development subject to the application of recommended conditions of consent.

### 12.3 External Consultation

#### RFS

The Rural Fire Service issued a Bushfire Safety Authority, subject to conditions, under section 100B of the Rural Fires Act 1997. The applicant subsequently amended the Bushfire Risk Assessment to reflect those conditions contained within the Bushfire Safety Authority. The Rural Fire Service reviewed the amended Bushfire Risk Assessment and advised that no further changes to the Bushfire Safety Authority were required.

#### Department of Environment and Climate Change and Water

The NSW Office of Water initially issued General Terms of Approval (GTAs) for “works” requiring a Controlled Activity Approval under the Water Management Act 2000. Following a review of the Bushfire Safety Authority issued by the Rural Fire Service, the applicant amended the Vegetation Management Plan and Riparian Zone Landscape Plan. As these amendments resulted in additional works within the riparian zone, the amendments were referred to the NSW Office of Water for their consideration. The NSW Office of Water has advised that amended General Terms of Approval are not required.

## 13 Conclusion

This application has been assessed having regard to the “Matters for Consideration” under Section 79C(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 1990, Draft Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies. It is considered that there will be some minor impacts arising from the development, particularly affecting the adjoining UnitingCare property, the majority of which will occur throughout the (limited) construction period. However on balance, the proposed development has merit and will provide additional and much needed aged care services to the area. It is for these reasons and those discussed in greater detail within this report, that the proposed development can be seen to be in the public interest. It is therefore recommended that Development Application DA-2009/1664 be supported subject to appropriate conditions of consent.

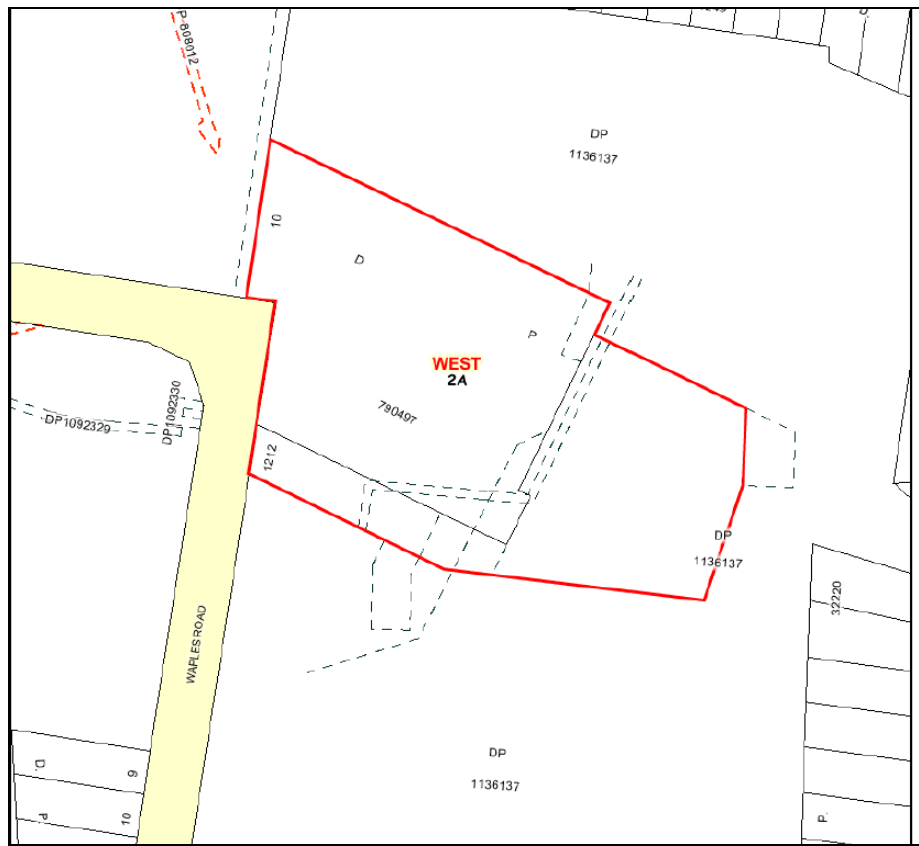
## ATTACHMENTS

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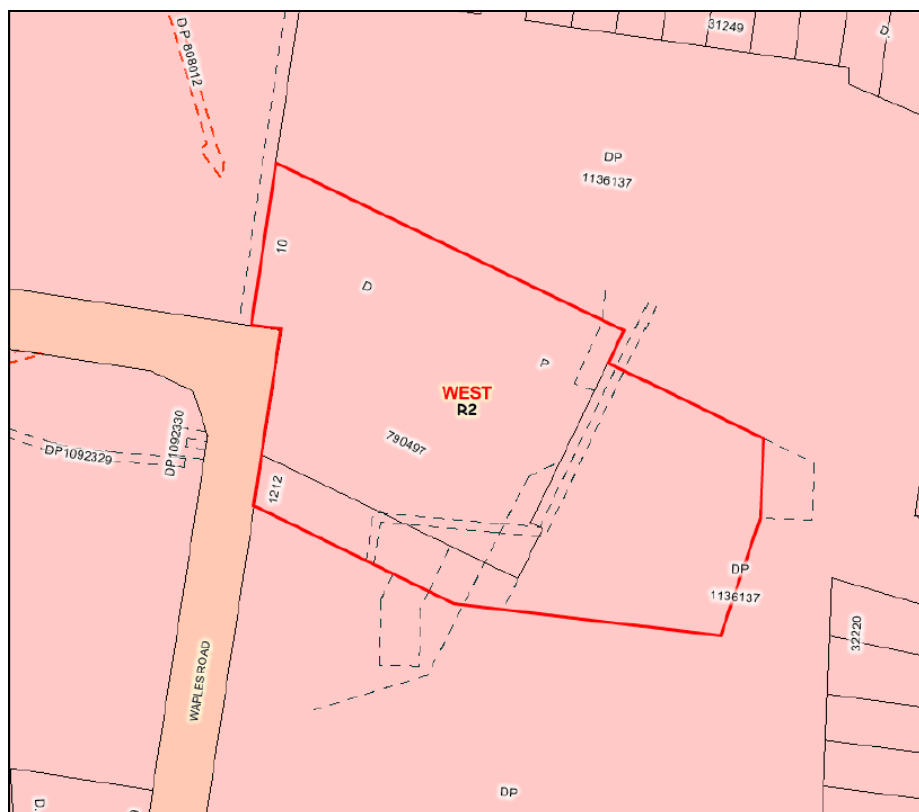
- 1 Aerial Photograph
- 2 Zoning Map
- 3 Plans
- 4 Draft Conditions/Reasons for Refusal



## ATTACHMENT 2 – Zoning Maps



Wollongong Local Environmental Plan 1990



Draft Wollongong Local Environmental Plan 2009



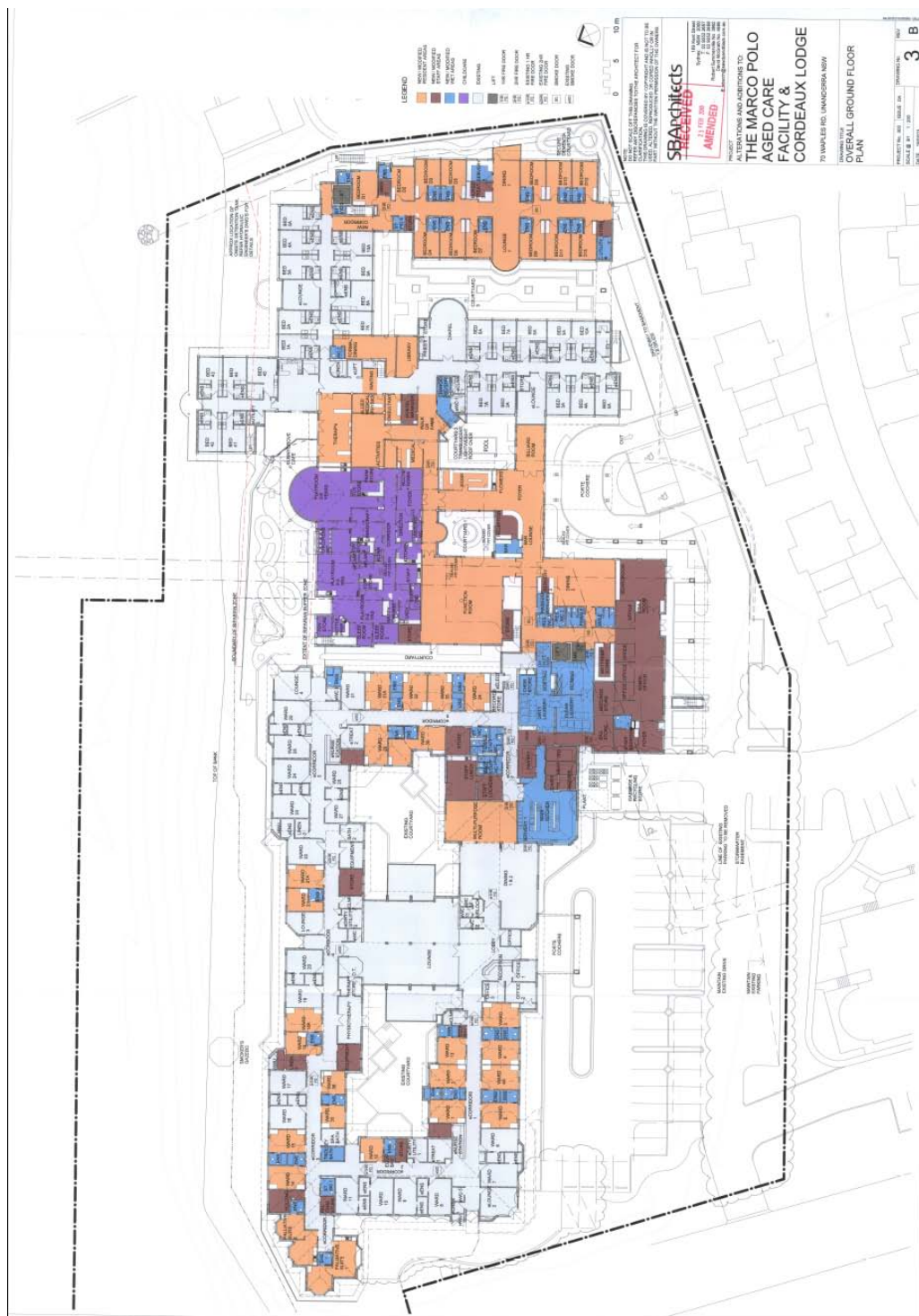
## Site Analysis



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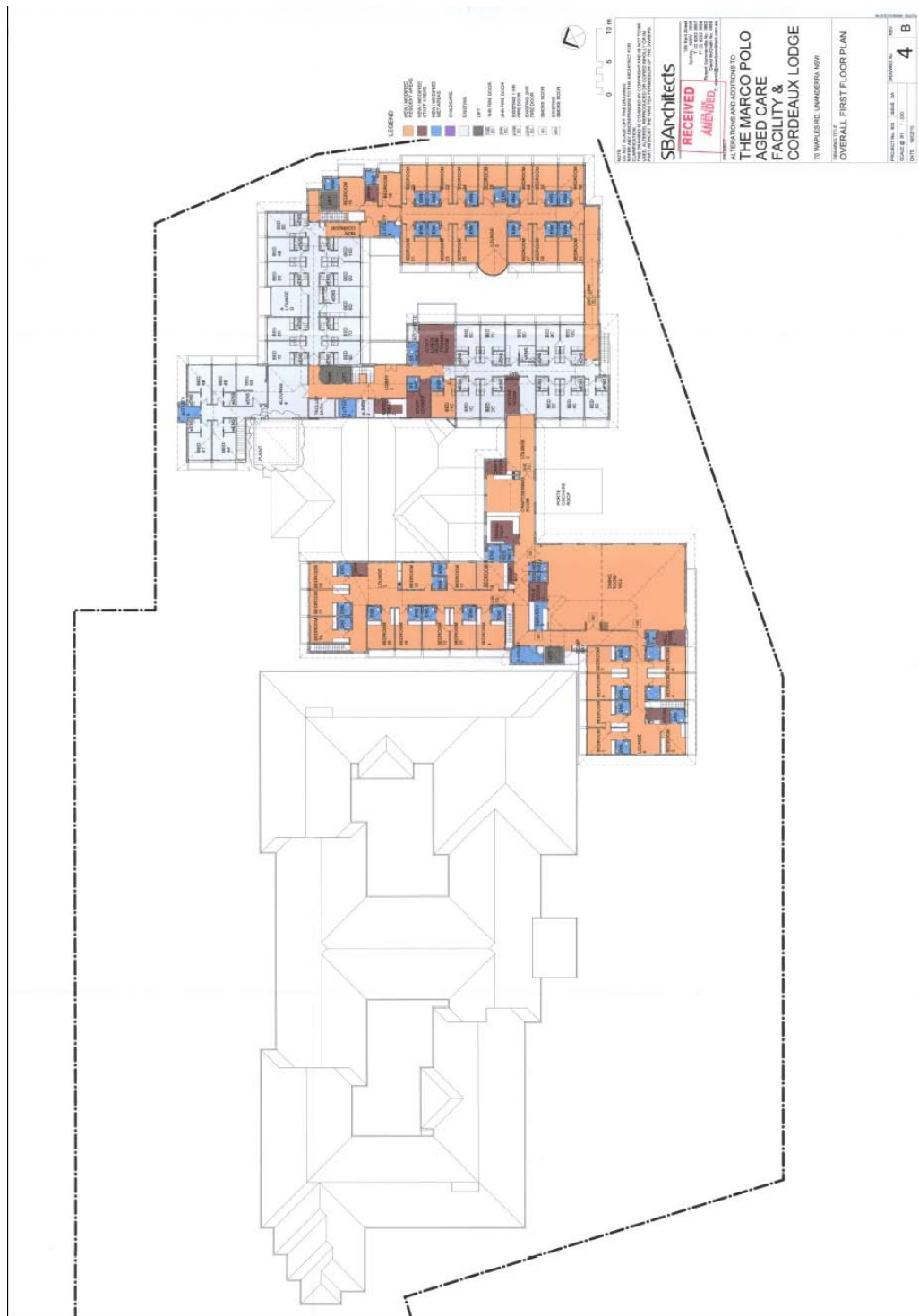






## Ground Floor Plan





### First Floor Plan



## ATTACHMENT 4 – Draft Conditions

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### DRAFT CONDITIONS FOR DA-2009/1664

- An approval must be obtained pursuant to Part 3 s.91 of the Water Management Act 2000 from the Department of Water and Energy prior to building work commencing.  
Conditions which the Department of Water and Energy requires to be imposed as part of this Integrated Development Consent are attached to the consent.
- A Bush Fire Safety Authority from the NSW Rural Fire Service is attached to this consent pursuant to section 100B of the Rural Fires Act 1997.

### General Matters

1) **Construction Certificate**

A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including compliance with all relevant conditions of Development Consent and the Building Code of Australia.

**Note:** The submission to Council of two (2) copies of all stamped Construction Certificate plans and supporting documentation is required within **two (2)** days from the date of issue of the Construction Certificate, in the event that the Construction Certificate is not issued by Council.

2) **Occupation Certificate**

A final Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

3) **Building Work - Compliance with the Building Code of Australia**

All building work must be carried out in compliance with the provisions of the Building Code of Australia.

4) **Approval to Operate a Child Care Centre – NSW Department of Community Services**

This consent does not authorise the use or operation of the premises as a Child Care Centre, except where the operator and all employees are in possession of a current valid license from the NSW Department of Community Services.

5) **Disability Discrimination Act 1992**

This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.

6) **Agreement for construction over drainage easement**

The applicant shall comply with the conditions imposed by KF Williams in their correspondence dated 27 May 2010 that relate to the agreement dated 1 June 2010 from UnitingCare Ageing for the carrying out of building works over the easement for drainage.

7) **Maintenance of Access to Adjoining Properties**

Access to all properties not the subject of this approval must be maintained at all times and any alteration to access to such properties, temporary or permanent, must not be commenced until such time as written evidence is submitted to Council or the Principal Certifying Authority indicating agreement by the affected property owners.

**Prior to the Issue of the Construction Certificate**

8) **Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice of Requirements must be submitted to the Principal Certifying Authority prior to issue of the construction certificate.

9) **Integral Energy Requirements**

The submission of documentary evidence from Integral Energy to the Principal Certifying Authority is required confirming that satisfactory arrangements have been made with Integral Energy for the provision of electricity supplies to the development, prior to the release of the Construction Certificate.

**Note:** Applications should be made to Customer Connections – South Coast, Integral Energy PO Box 6366, Blacktown 2148.

- 10) The arrangements and costs associated with any adjustment to a public utility service shall be borne by the applicant/developer. Any adjustment, deletion and/or creation of public utility easements associated with the approved works are the responsibility of the applicant/developer. The submission of documentary evidence to the Principal Certifying Authority which confirms that satisfactory arrangements have been put in place regarding any adjustment to such services is required prior to the release of the Construction Certificate.

11) **Site Management, Pedestrian and Traffic Management**

The submission a Site Management, Pedestrian and Traffic Management Plan to the Principal Certifying Authority is required, prior to the issue of the construction certificate. This plan shall address what measures will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and shall be in compliance with the requirements of the latest versions of Australian Standard AS1742 - Traffic Control Devices for Works on Roads and the RTA Traffic Control at Worksites Manual.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:

- a) proposed ingress and egress points for vehicles to/from the construction site;
- b) proposed protection of pedestrians, adjacent to the construction site;
- c) proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- e) proposed method of loading and unloading excavation machines, building materials formwork and the erection of any part of the structure within the site;

- f) proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period;
- g) proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed where works are in progress in any road reserve and shall be in accordance the latest versions of the NSW Roads and Traffic Authority's Specification - "Traffic Control at Work Sites Manual" and the Australian Standard AS1742. – "Manual of Uniform Traffic Control Devices" and accompanying field handbooks (SAA HB81);
- h) proposed method of support of any excavation, adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering;
- i) proposed measures to be implemented, in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the roadway; and
- j) proposed methods to be used to control dust and noise during the construction phase.

The approved plan shall be implemented, prior to the commencement of any works upon the construction site.

- 12) In order to maximise visibility in the basement carpark, the ceiling shall be painted white. This requirement shall be reflected on the Construction Certificate plans.

13) **Accessing and operation of child care centre**

The following alterations are required to the plans in relation to the accessing and operation of the child care centre:

- (i) A wall with secure door shall be constructed between the foyer and lounge/bar area to ensure that these areas are clearly and securely separated;
- (ii) fencing from around the 0-2 transition area shall be removed from the plan to ensure a safe and stimulating play environment is achieved.

These amendments shall be shown on plan prior the issue of the Construction Certificate.

14) **Scour Protection**

All stormwater outlets and overland flow paths must incorporate appropriate scour/erosion protection measures. The final details of the proposed scour protection measures shall be reflected on Construction Certificate plans.

15) **Basement Pump**

A pump system is to be installed in the event of stormwater from prolonged/extreme storm events entering the basement. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

16) **Existing/Proposed Levels**

Existing and proposed levels to Australian Height Datum (AHD), including floor, ground, grate, pipe inverts and pavement levels shall be shown on the detailed drainage design. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

17) **On-Site Detention – Design Criteria**

The on-site stormwater detention facility must incorporate minimum 900mm square lockable grates for access and maintenance purposes, provision for step irons where required, provision for safety, debris control screen and a suitably graded invert to prevent ponding (i.e. no sump). Also, details of the orifice plate including diameter of orifice and method of fixing shall be provided. These requirements shall be reflected on the Construction Certificate plans.

18) **On-Site Detention - Identification**

Details shall be provided of a corrosion resistant identification plaque for location on or close to the on-site detention (OSD) facility. The plaque shall include the following information:

- The structure is an OSD facility, being part of the stormwater drainage network, and is not to be tampered with.

- identification number [DA-2009/1664]
- any specialist maintenance requirements.

19) **Orifice/Weir Calculations**

Orifice and weir calculations for the on-site detention facility must be provided to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

20) **Overland Flow Path Swale**

Details of the overland flow path swales located along the southern and eastern sides of the site shall be provided with the detailed drainage design. Note the swales must be capable of catering for the 1 in 100 year storm event flows from the contributing upslope catchment area. The swales shall be free of any vegetation and/or structures that are likely to impede the overland flow. The swales shall also be designed with smooth transitions at changes in direction to minimise hydraulic losses. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.

21) **Depth and location of services**

The depth and location of all services (ie gas, stormwater, water supply, sewer, electricity, telephone, etc) must be ascertained and reflected on the Construction Certificate plans and supporting documentation.

22) **Overflow paths**

Overflow paths must be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events must be incorporated in the design. Overflow paths must also be provided in low points and depressions. This requirement shall be reflected on the Construction Certificate plans prior to the release of the Construction Certificate.

23) **Alterations to pits and pipelines**

Details of the proposed alterations to existing pits, proposed pits and the connecting pipeline to the existing drainage system shall be provided in conjunction with the detailed drainage design for the site. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

24) **Provision of on-site detention**

The developer must provide on-site detention storage for stormwater runoff from the development. The Site Storage Requirement (SSR) and Permissible Site Discharge (PSD) values for the site must be designed in accordance with the requirements for On-Site Stormwater Detention as found in Chapter E14 of the Wollongong DCP 2009. Details of the detention facility and SSR/PSD values must be submitted with the Construction Certificate application.

25) **Pier and Beam Footings Adjacent to any Drainage Easement**

Buildings and structures (including brick fences) adjacent to easements shall be supported on pier and beam footings outside the easement. The base of the piers shall be a minimum 900 mm below ground level and shall extend below the invert level of the drainage pipelines within the easement. Structural engineers details are required detailing the size and levels of the existing drainage pipelines and the design levels for the base of the piers adjacent to the easement.

26) **On-Site Detention – Structural Design**

The on-site detention facility must be designed to withstand loadings occurring from any combination of hydrostatic, earth, traffic and buoyancy forces. Details must be provided demonstrating these requirements have been achieved prior to the issue of the Construction Certificate.

27) **On-Site Detention - Maintenance Schedule**

A maintenance schedule for the on-site stormwater detention system must be submitted with the Construction Certificate plans for the proposed development. The maintenance schedule must be in accordance with the requirements for On-Site Stormwater Detention as found in Chapter E14 of the Wollongong DCP 2009.

- 28) **Traffic**  
The following requirements shall be reflected on the plans prior to the issue of the construction certificate:
- (i) Speed calming facilities are to be provided in accordance with AS2890.1.
  - (ii) The curved section of the ramp shall comply with AS2890.1.
- 29) **Car parking and Access**  
The development shall make provision for a total of 61 car parking spaces. This requirement shall be reflected on the Construction Certificate plans. The approved car parking spaces shall be maintained to the satisfaction of Council at all times.
- 30) **Parking dimensions**  
The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with Australian Standard AS2890.1 (2004), except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.
- 31) **Parking for people with a disability**  
Each disabled person's parking space shall comply with AS2890.6. This requirement shall be reflected on the Construction Certificate plans.
- 32) **Designated manoeuvring area**  
The designated manoeuvring area shall be kept clear for that purpose at all times. The designated manoeuvring area shall be shown on the Construction Certificate plans.
- 33) **Vehicular flow signage**  
The provision of suitable barriers, line-marking and painted signage delineating vehicular flow movements within the car parking areas. These details shall be reflected on the Construction Certificate plans.
- 34) **Parking separation from landscaping**  
The car parking areas and internal access roads shall be separated from the landscaped bays by means of a kerb or concrete dwarf wall. All kerbs required to act as wheel stops shall have a maximum height of 100 mm above ground. These details shall be reflected on the Construction Certificate plans.
- 35) **Ramps for internal parking areas**  
Ramps for internal parking areas shall be designed in accordance with AS2890.1 - Parking Facilities - Off Street Car Parking. This requirement shall be reflected on the Construction Certificate plans.
- 36) **Parking headroom height**  
A minimum 2.2 metres headroom height throughout the car parking and manoeuvring area. This requirement shall be reflected on the Construction Certificate plans.
- 37) **Gradients of ramps and access driveways**  
Gradients of ramps and access driveways shall be provided in accordance with Australian Standard AS2890.1 - Off Street Car Parking. This requirement shall be reflected on the Construction Certificate plans.
- 38) **Structures adjacent to driveways**  
Any proposed structures adjacent to the driveway shall comply with the requirements of the latest version of Australian / New Zealand Standard AS/NZ 2890.1 to provide for adequate sight distance. This includes, but is not limited to, structures such as signs, letterboxes, retaining walls, dense planting etc. This requirement shall be reflected on the Construction Certificate plans.

- 39) **Tree removal**  
Permission is granted to remove the following trees as numbered and described in arborist report prepared by Landscape by Lenice dated 9 December 2009:  
Tree 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 25, 27, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57.  
No further tree removal is permitted without prior written permission from council.
- 40) **Existing trees to be retained**  
The following trees as numbered and described in arborist report prepared by Landscape by Lenice dated 9 December 2009 must be retained and protected:  
Tree 1, 2, 3, 4, 5, 17, 18, 19, 20, 21, 22, 23, 24, 26, 28, 30, 31, 42, 58, 59.
- 41) **Final landscape plan requirements**  
The submission of a final Landscape Plan to the Principal Certifying Authority, prior to the release of the Construction Certificate. The final Landscape Plan shall address the following requirements:
- a) a schedule of proposed planting, including botanic name, common name, expected mature height and staking requirements as well as number of plants and pot sizes;
  - b) the location of all proposed and existing overhead and underground service lines. The location of such service lines shall be clear of the dripline of existing and proposed trees; and
  - c) any proposed hard surface under the canopy of an existing trees shall be permeable and must be laid such that the finished surface levels match the existing level. Permeable paving is to be installed in accordance with the manufacturer's recommendations.
- The completion of the landscaping works as per the final approved Landscape Plan is required, prior to the issue of Occupation Certificate or commencement of the development.
- 42) **Provision of taps/irrigation system**  
The provision of common tap(s) and/or an irrigation system is required to guarantee that all landscape works are adequately watered. The location of common taps and/or irrigation system must be indicated on the Landscape Plan for the Construction Certificate, as detailed in the Wollongong City Council Landscape Technical Policy No 98/4. This requirement shall be reflected on the Landscape Plan prior to the release of the Construction Certificate.
- 43) **Certification for landscape and drainage design**  
The submission of certification from a suitably qualified and experienced landscape designer and drainage consultant to the Principal Certifying Authority prior to the release of the Construction Certificate, confirming that the landscape plan and the drainage plan are compatible.
- 44) **Landscape maintenance program**  
The implementation of a landscape maintenance program in accordance with the approved Landscape Plan for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Landscape Plan to the Principal Certifying Authority prior to release of the Construction Certificate.
- 45) **Tree Protection and Management**  
The existing trees are to be retained upon the subject property and any trees on adjoining properties shall not be impacted upon during the excavation or construction phases of the development. This will require the installation and maintenance of appropriate tree protection measures, including (but not necessarily limited to) the following:
- a) Installation of Tree Protection Fencing - Protective fencing shall be 1.8 metre cyclone chainmesh fence, with posts and portable concrete footings. Details and location of protective fencing must be indicated on the architectural and engineering plans to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.



- b) **Mulch Tree Protection Zone:** Areas within a Tree Protection Zone are to be mulched with minimum 75 mm thick 100% recycled hardwood chip/leaf litter mulch.
  - c) **Irrigate:** Areas within the Tree Protection Zone are to be regularly watered in accordance with the arborist's recommendations.
- 46) All site offices must be located on-site plan and are to be located in already cleared areas outside the canopy of any existing trees to be retained. Details of the location of the site offices shall be submitted to the Principal Certifying Authority, prior to release of the Construction Certificate.
- 47) **Water efficient/water saving devices**  
Water efficient/water saving devices shall be fitted to all new plumbing fixtures within the proposed development, except where they are required for the provision of essential fire safety measures. Details shall be provided on plan prior the issue of the construction certificate.

## Section 94A Levy Contribution

- 48) The following Section 94A Levy Contribution is required towards the provision of public amenities and services in accordance with the Wollongong City Council Section 94A Development Contributions Plan.

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Wollongong City Council Section 94A Development Contributions Plan, a contribution of **\$141,420.00** shall be paid to Council prior to the release of any associated Construction Certificate.

The amount to be paid will be adjusted at the time of actual payment, in accordance with the provisions of the Wollongong City Council Section 94A Development Contributions Plan. The Consumer Price Index All Group Index Number for Sydney at the time of the development application determination is 155.6.

The following formula for indexing contributions is to be used:

Contribution at time of payment = **\$C x (CP2/CP1)**

Where

**\$C** is the original contribution as set out in the Consent

**CP1** is the Consumer Price Index (all groups index for Sydney) used in the proceeding indexation calculation

**CP2** is the Consumer Price Index (all groups index for Sydney) at the time of indexation

Details of CP1 and CP2 can be found in the Australian Bureau of Statistics website Catalog No 6401.0 - Consumer Price Index, Australia.

A copy of the Wollongong City Council Section 94A Development Contributions Plan and accompanying Fact Sheet may be inspected or obtained from the Wollongong City Council Administration Building, 41 Burelli Street, Wollongong during business hours or on Council's web site at [www.wollongong.nsw.gov.au](http://www.wollongong.nsw.gov.au).

*(Reason: To provide high quality and diverse public amenities and services to meet the expectations of the existing and new residents of Wollongong City Council).*

## Prior to the Commencement of Works

- 49) **Appointment of Principal Certifying Authority**  
Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:
- a) Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment. irrespective of whether Council or an accredited private certifier is appointed (if Council is nominated as the PCA please use the attached form) and

- b) notify Council in writing (on the attached form) of their intention to commence the erection of the building (at least two days notice is required).

The Principal Certifying Authority must determine when inspections and compliance certificates are required.

50) **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifying Authority. No building work is to commence until the fence is erected.

51) **Demolition Works**

The demolition of any existing structure shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the NSW WorkCover Authority.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifying Authority. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

52) **Consultation with NSW WorkCover Authority**

Prior to any work commencing on the site it is the responsibility of the owner to contact NSW WorkCover Authority in writing in respect to any demolition or use of any crane, hoist, plant or scaffolding.

53) **Site Management, Pedestrian and Traffic Management (Where Works are Proposed in or from a Public Road Reserve)**

The submission, as part of an application for a permit under Section 138 of the Roads Act 1993, of a Site Management, Pedestrian and Traffic Management Plan to Council's Manager Regulation and Enforcement for approval is required, prior to works commencing on the site. This plan shall address what measures will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and shall be in compliance with the requirements of the latest versions of Australian Standard AS1742 - Traffic Control Devices for Works on Roads and the RTA Traffic Control at Worksites Manual.

This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development. This plan shall include the following aspects:

- a) proposed ingress and egress points for vehicles to/from the construction site;
- b) proposed protection of pedestrians, adjacent to the construction site;
- c) proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d) proposed measures to be implemented for the protection of all roads and footpath areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- e) proposed method of loading and unloading excavation machines, building materials formwork and the erection of any part of the structure within the site;
- f) proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period;
- g) proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed where works are in progress in any road reserve and shall be in accordance the latest versions of the NSW Roads and Traffic Authority's Specification - "Traffic Control at Work Sites Manual"

and the Australian Standard AS1742. – “Manual of Uniform Traffic Control Devices” and accompanying field handbooks (SAA HB81);

- h) proposed method of support of any excavation, adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering; and
- i) proposed measures to be implemented, in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the roadway.

The approved plan shall be implemented, prior to the commencement of any works upon the construction site.

**Note:** Any proposed works or placement of plant and equipment and/or materials within any road reserve will require the separate approval of Council, prior to the commencement of such works, pursuant to the provisions of the Roads Act 1993.

54) **Sign – Supervisor Contact Details**

Before commencement of any work, a sign must be erected in a prominent, visible position:

- a) stating that unauthorised entry to the work site is not permitted;
- b) showing the name, address and telephone number of the Principal Certifying Authority for the work; and
- c) showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

55) **Waste Management**

The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and reusable materials.

56) **Site Management Program – Sediment and Erosion Control Measures**

A site management program incorporating all sediment and erosion control measures (eg cleaning of sediment traps, fences, basins and maintenance of vegetative cover) is to be initiated prior to the commencement of any demolition, excavation or construction works and maintained throughout the demolition, excavation and construction phases of the development.

57) **Supervising Arborist – Tree Inspection and Installation of Tree Protection Measures**

Prior to the commencement of any demolition, excavation or construction works, the supervising arborist must certify in writing that tree protection measures have been inspected and installed in accordance with the arborist’s recommendations and relevant conditions of this consent.

58) **Tree Retention Exclusion Fence**

The erection of a suitable fence around the tree dripline areas is required for all trees required to be retained within the site, prior to the commencement of any works, in order to preclude vehicular/pedestrian access impacts on such trees. Alternatively, the developer may implement one of the following options:

- a) Ensure that a minimum 350 mm layer of mulch is placed and maintained along the access route under the canopy of the tree for the entire period of construction; or
- b) provide wooden slats to be secured over the mulch where the gradient or frequency of access prevents maintenance of the 350 mm depth of mulch.

Certification from an arborist that the above conditions have been complied with shall be submitted to the Principal Certifying Authority prior to the commencement of construction.

## During Demolition, Excavation or Construction

59) **Restricted Hours of Work (not domestic residential scale)**

The developer must not carry out any work other than emergency procedures to control dust or sediment laden runoff outside the hours of 7.00 am to 5.00 pm, Monday to Friday without the prior written consent of the Principal Certifying Authority and Council.

Works creating noise shall be restricted to 9am to 12pm and 1pm to 4pm, Monday to Friday.

No work is permitted on public holidays, Saturdays or Sundays.

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a) the variation in hours required;
- b) the reason for that variation;
- c) the type of work and machinery to be used.

**Note:** The developer is advised that other legislation may control the activities for which Council has granted consent including but not limited to the Protection of the Environment Operations Act 1997. Developers must note that EPA Environmental Noise manual restricts use of power tools (electronic or pneumatic) to between the hours of 7.00 am to 5.00 pm Mondays to Fridays and 8.00 am to 4.00 pm on Saturdays.

60) **Pipe Connection**

All pipe connections to existing pits and pipelines must be in accordance with good engineering practice. The developer must ensure that the condition of the pit/pipeline is not compromised and that the service life of the pit/pipeline is not reduced as a result of the connection.

61) **No Adverse Run-off Impacts on Adjoining Properties**

The design of the development shall ensure there are no adverse effects to adjoining properties or upon the land as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection for buildings against the ingress of surface run-off.

62) **Re-direction or Treatment of Stormwater Run-off**

Allowance must be made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other property.

63) **Redundant Crossings**

Any existing vehicular crossings rendered unnecessary by this development must be removed and the footpath and normal kerbing and guttering must be restored. This work shall be carried out by a Council recognised concrete contractor at the developer's expense.

64) **Temporary Road Closure(s)**

If a road closure is required an approval must be obtained from City of Wollongong Traffic Committee and Wollongong City Council.

**Note:** It may take up to 6 weeks for approval. An application for approval must include a Traffic Control Plan prepared by a suitably qualified person which is to include the date and times of closure and any other relevant information. The traffic control plan shall satisfy the requirements of the latest versions of Australian Standard AS1742 – Traffic Control Devices for Works on Roads and the RTA Traffic Control at Worksites Manual.

65) **Prior approval from Council for any works in Road Reserve**

Approval, under Section 138 of the Roads Act must be obtained from Wollongong City Council's Regulation and Enforcement Division prior to any works commencing or any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of this development. A traffic control plan prepared and implemented by a suitably qualified person must be submitted for approval and the appropriate fees paid, a minimum of five working days prior to the expected implementation. The traffic control plan shall satisfy the requirements of the latest versions of Australian Standard AS1742 – Traffic Control Devices for Works on Roads and the RTA Traffic Control at Worksites Manual.

**Note:** This includes temporary road closures for the delivery of materials, plant and equipment, concrete pours etc.

- 66) **Branch Pruning in accordance with Australian Standard**  
Any branch pruning which has been given approval, must be carried out by a qualified arborist in accordance with Australian Standard AS373 (1996).
- 67) **Copy of Consent to be in Possession of Person carrying out Tree Removal**  
The applicant/developer must ensure that any person carrying out tree removal/vegetation clearance is in possession of this development consent and/or the approved landscape plan, in respect to the trees/vegetation which have/has been given approval to be removed in accordance with this consent.
- 68) **Dust Suppression Measures**  
Activities occurring during the construction phase of the development must be carried out in a manner that will minimise the generation of dust.
- 69) All sealed surfaces intended to carry vehicular traffic must be managed with the aim of preventing windblown dust emissions.
- 70) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on adjoining allotment of land, the person causing the excavation to be made:
- a) must preserve and protect the adjoining building from damage; and
  - b) if necessary, must underpin and support the building in an approved manner; and
  - c) must, at least seven (7) days before excavation below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation.

## **Prior to the Issue of the Occupation Certificate**

- 71) **Drainage**  
The developer must obtain a certificate of Hydraulic Compliance (using Council's M19 form) from a suitably qualified civil engineer, to confirm that all stormwater drainage and on-site detention works have been constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a Registered Surveyor must be submitted. These plans and certification must satisfy all the stormwater requirements as stated in Chapter E14 of the Wollongong DCP 2009. This information must be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.
- 72) **Restriction on use – On-site Detention System**  
The applicant must create a restriction on use under the Conveyancing Act 1919 over the on-site detention system. The following terms must be included in an appropriate instrument created under the Conveyancing Act 1919 for approval of Council:
- “The registered proprietor of the lot burdened must not make or permit or suffer the making of any alterations to any on-site stormwater detention system on the lot(s) burdened without the prior consent in writing of the authority benefited. The expression ‘on-site stormwater detention system’ shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures.
- Name of the authority having the power to release, vary or modify the restriction referred to is Wollongong City Council.”
- The instrument, showing the restriction, must be submitted to the Principal Certifying Authority for endorsement prior to the issue of the final Occupation Certificate and the use of the development.

- 73) **Positive Covenant – On-Site Detention Maintenance Schedule**  
A positive covenant shall be created under the Conveyancing Act 1919, requiring the property owner(s) to undertake maintenance in accordance with the Construction Certificate approved On-Site Stormwater Detention System and Maintenance Schedule (application number to be referenced).
- The instrument, showing the positive covenant must be submitted to the Principal Certifying Authority for endorsement prior to the issue of the final Occupation Certificate and the use of the development.
- 74) **On-Site Detention – Structural Certification**  
The submission of a certificate from a suitably qualified practising civil and/or structural engineer to the Principal Certifying Authority is required prior to the issue of the final Occupation Certificate. This certification is required to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans.
- 75) The developer must make compensatory provision for the trees required to be removed as a result of the development. In this regard, eleven (11) 200 litre container mature plant stock shall be placed in appropriate locations within the property boundary of the site. The suggested species are *Acmena smithii*, *Elaeocarpus reticulatus*, *Syzygium australe*, *Gordonia axillaris*, *Lagerstroemia natchez* 'Indian Summer'.

### **Operational Phases of the Development/Use of the Site**

- 76) **Hours of operation – child care centre**  
The hours of operation for the development shall be restricted to 6am to 7pm, Monday to Friday. Any alteration to the approved hours of operation will require separate Council approval.
- 77) **Age group and occupant capacities – child care centre**  
The child care centre is permitted to provide care for 39 children between 0 and 6 years of age only. Each of the age groups is restricted to the following numbers:
- 0-2 years: 8 children
  - 2-3 years: 14 children
  - 3-6 years: 17 children