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| JRPP No: | 2010HCC042 |
| DA No: | 1231/2010 |
| PROPOSED DEVELOPMENT: | 2 x 3 Storey Residential Flat Buildings comprising 32 Self-Care, Seniors Housing Units |
| DESCRIPTION OF LAND: | Lot 78 DP 9304, No 15 Kitchener Road, Long Jetty |
| SITE AREA: | 3,566 m ² |
| ZONING: | 2(d) High Density Residential |
| EXISTING USE: | Vacant |
| ESTIMATED VALUE: | \$6,524,000 |
| APPLICANT: | Housing NSW |
| OWNER: | Department of Housing |

Assessment Report and Recommendation

SUMMARY

A development application has been received for 2 x 3 storey residential flat buildings containing 32 self-care seniors housing units at No 15 Kitchener Road, Long Jetty. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

PRECIS

- A development application has been received from Housing NSW under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for the construction of infill self-care housing comprising 32 self-contained dwellings over three (3) storeys.
- The proposal is referred to the Joint Regional Planning Panel (JRPP) for determination pursuant to clause 13C of State Environmental Planning Policy (Major Development) 2005, given it relates to Crown Development with a capital investment of more than \$5 million.
- The site is zoned 2(d) High Density Residential Zone pursuant to Wyong Local Environmental Plan 1991 (WLEP). The proposal is defined under the LEP as 'housing for older persons or people with a disability' and is permissible within the 2(d) zone subject to development consent. Notwithstanding the landuse table within the LEP, the application has been made under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, which permits the development, subject to development consent.
- The application was publically notified from 27 October 2010 to 11 November 2010 and seven (7) submissions objecting to the proposal were received.

- The application has been referred to the Central Coast Design Review Panel in accordance with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development and received favourable comment.

RECOMMENDATION

- 1 *That the Joint Regional Planning Panel grant consent to DA/1231/2010, subject to the conditions contained in Appendix A.***
- 2 *That those who made written submissions be advised of Council's decision.***

INTRODUCTION

Site and Locality

The subject site comprises a single parcel of land, being Lot 78 in DP 9304, known as No 15-17 Kitchener Road, Long Jetty. The site has an area of 3,566m², and is irregular in shape with a frontage of approximately 20.15m to Kitchener Road and a rear boundary of approximately 47.3m. The parcel of land is elongated with side boundaries of approximately 100m. Timber paling fences are located along the side boundaries with a colourbond fence along the rear boundary. The site previously contained five (5) single storey residential buildings, each containing five (5) individual bedsits. These buildings have now been demolished and the site is currently vacant.

The site is generally flat, ranging from RL26.3 to RL25.9 and comprises sandy soils. It is proposed raise the level of the carpark and other hardstand areas to RL26.22 to improve the fall to Kitchener Road for stormwater runoff. A number of trees remain on the site, although the majority have been found to have only moderate retention value and are proposed to be removed. Vehicular access is from Kitchener Road, together with reticulated water and sewer services. Kitchener Road is sealed, although the majority of the street does not contain any kerb, guttering or footpaths. Bus stops are located approximately 145 metres and 185 metres from the site on Toowoyn Bay Road and Watkins Street, respectively. Footpaths would be required to be constructed between the bus stops and the site to facilitate pedestrian movement.

Long Jetty has a range of older housing stock, comprising single and two (2) storey dwelling houses, as well as a range of newer developments consisting of generally two (2) and three (3) storey townhouse and unit developments. The site is located within the 2(d) High Density Residential Zone and Development Control Plan 2005 Chapter 60 identifies a 12 metre height limit for the site (although no height control in WLEP). Properties located to the north east and south west of the site are also within the 2(d) High Density Residential Zone. Land to the rear of the site and on the opposite side of Kitchener Road is zoned 2(c) Medium Density Residential, which has a three (3) storey height limit. Despite the medium to high density residential zoning, a number of the adjacent properties remain as single dwellings. However, a three (3) storey residential flat building is located immediately to the north east of the site and Council has granted development consent for the construction of a residential flat development comprising seven (7) buildings up to 10 storeys in height with 217 residential units on the adjoining property to the south-west. That site currently contains three (3) dwelling houses (as a result of lot consolidations), although the primary use is that of a timber yard. A three (3) storey motel, which steps down to two (2) storeys at the street frontage is located directly opposite the subject site.

The site is approximately 600 metres from the public foreshore of Tuggerah Lake and approximately 900 metres from local beaches. Jubilee Park and associated sporting facilities are located approximately 160 metres to the north east of the site.

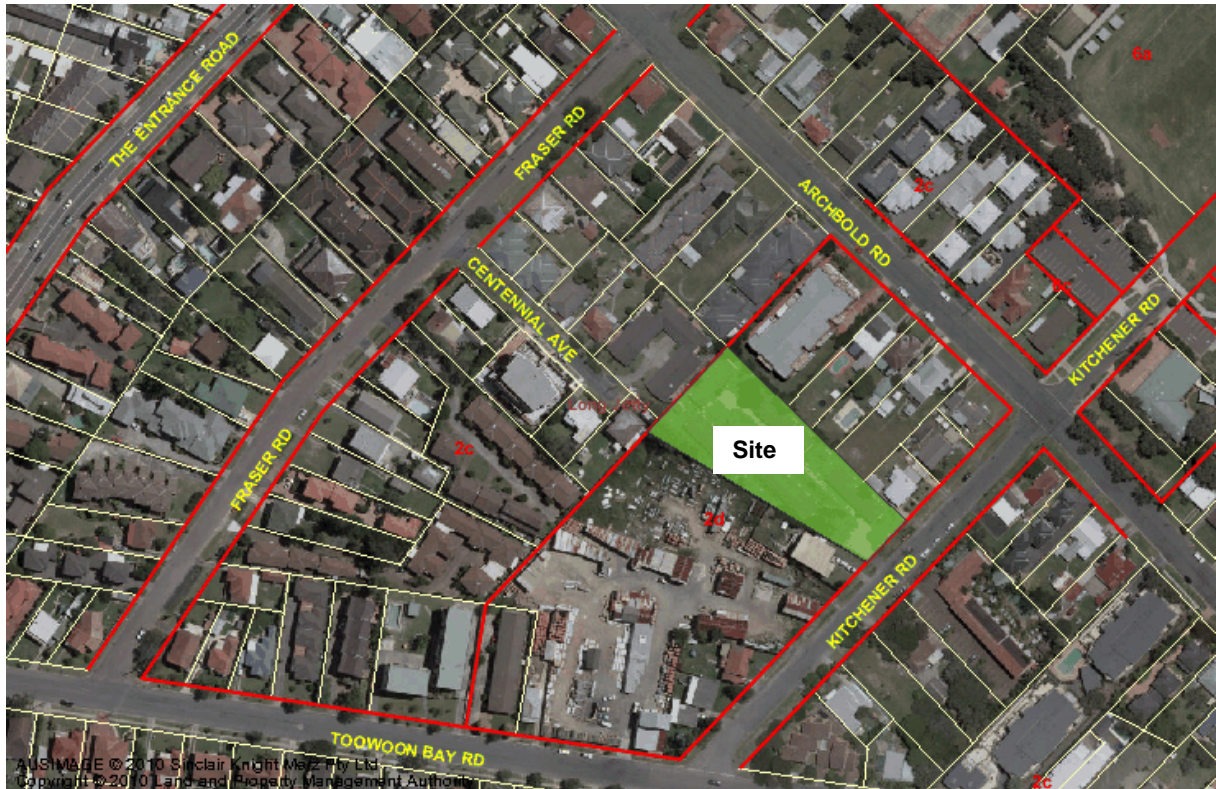


Figure 1: Aerial Photograph

Project Description

This application seeks consent for the development of infill self-care housing comprising self-contained dwellings under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The proposed development has a capital investment value of \$6.5 million and includes two (2) x three storey buildings with the front building stepping down to two storeys at the street frontage. Block A and Block B are linked together by a partially covered communal open space. The two buildings have a gross floor area (GFA) of 2869m² and comprise a total of 32 dwellings including:

- 23 x one-bedroom dwellings, and
- 9 x two bedroom dwellings.

The proposal incorporates five (5) adaptable dwellings, including three (3) x one-bedroom and two (2) x two-bedroom dwellings, which represents 15% of the total number of dwellings. Disabled access is provided to all dwellings via two (2) lifts, which service each building. Subdivision of the development is not proposed under this development application.

A total of twenty-two (22) at grade carparking spaces are provided on site. Five (5) disabled carparking spaces have been nominated closest to the lifts and the adaptable dwellings. The disabled carparking spaces are proposed to be covered by a carport with all other carparking being open. Access to the carpark is from the existing cross over located on Kitchener Road. Pedestrian access is also provided from Kitchener Road to the site and is located adjacent to the driveway.

The building features conventional skillion roof forms and is proposed to be constructed using a variety of materials including two (2) examples of face brick, prefinished metal wall

cladding and roof sheeting and a combination of open vertical balusters and solid fibre cement panels for balconies. Detailed plans, elevations and a schedule of finishes are included in Appendix B.

Referrals

The application has been referred within Council to:

- Development Engineer
- Senior Health and Building Surveyor
- Trade Waste Supervisor
- Arborist and Landscape Design Assessment Officer

The application has also been referred to the Central Coast Design Review Panel in accordance with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Building.

The issues raised in the referral process are discussed in the report and where relevant, reflected in the conditions of consent.

Summary

During the assessment of the application, the applicant was requested to address several issues that had been identified in relation to the design as well as concerns that had been raised through the public notification process. The key issues raised in relation to the proposal included:

- Ensuring compliance with the provisions of *Seniors Living Policy: Urban design Guideline for Infill Development (as required by SEPP (Housing for Seniors or people with a Disability))*
- Maintaining privacy to adjoining properties; and
- Improving landscaping within the development

Additional information and agreement to various conditions of consent has been received from the applicant to address a number of the concerns previously raised.

HISTORY

A preliminary application was lodged with Council in December 2009 for the subject development. This involved an initial assessment by Council as well as a referral to the Central Coast Design Review Panel (SEPP 65 Panel).

PERMISSIBILITY

The site is zoned 2(d) High Density Residential Zone pursuant to WLEP. The proposal is defined under the LEP as 'housing for older persons or people with a disability' and is permissible within the 2(d) zone subject to development consent. Notwithstanding the provisions of WLEP, the application has been made under the provisions of SEPP (Housing for Seniors or People with a Disability), which also permits the development subject to development consent, and is the prevailing environmental planning instrument in this instance.

In accordance with SEPP (Housing for Seniors or People with a Disability), the proposal is for self-contained dwellings, and more specifically 'in-fill self-care housing', which is defined as follows:

Seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

An assessment of the proposal against the site-related requirements, design guidelines and development standards has been undertaken as required by the SEPP and is discussed further in the report.



Figure 2: LEP Zone Extract

RELEVANT STATE/COUNCIL POLICIES AND PLANS

The application has been assessed against the relevant provisions of the following environmental planning instruments, plans and policies:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy No 71 – Coastal Protection
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Wyong Local Environmental Plan 1991
- Wyong Development Control Plan 2005
 - Chapter 14 – Tree Management
 - Chapter 60 - The Entrance
 - Chapter 61 - Carparking
 - Chapter 64 – Multiple Dwelling Residential Development
 - Chapter 69 – Waste Management
 - Chapter 67 – Engineering Requirements for Development

- Wyong Council Landscape Guidelines L1
- The Entrance Peninsula Planning Strategy
- The Entrance 94 Contribution Plan and Shire Wide Contributions Plan

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to Ecologically Sustainable Development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of the assessment of the application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

Sustainable Building Design – A BASIX Certificate has been submitted with the application which meets targets for water efficiency, thermal comfort and energy efficiency.

Reduced Car Dependence – The proposed development is within walking distance to bus stops and new footpaths are proposed to facilitate access from the development site to the bus stops. The development also incorporates storage for up to 10 motorised scooters.

Rising Sea Level – The site is located within the coastal zone although is elevated above the 1% AEP flood level and any predicted sea level rise due to climate change.

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements and Council's policies, the assessment has identified the following key issues, which are elaborated upon for Council's information.

THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES (s79C(1)(a)(i-iv):

(a)(i) the provisions of any environmental planning instrument

State Environmental Planning Policy (Major Development) 2005

A Crown development that has a capital investment value of more than \$5 million, falls within Part 3 Regional Development of SEPP (Major Development) 2005. Consequently, the Hunter Central Coast Joint Regional Planning Panel (JRPP) has the function of determining the development application.

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

The purpose of this SEPP is to encourage the provision of housing, which meets the needs of seniors or people with a disability. The policy aims to encourage the provision of housing that will:

- Increase the supply and diversity of residences that meet the needs of seniors or people with a disability;
- Make efficient use of existing infrastructure and services; and
- Be of good design.

Details which summarise the standards contained within the Seniors SEPP are included in Appendix C. Following assessment of the application, it is concluded that the proposed development satisfies the requirements of the Seniors SEPP, although the following aspects warrant further discussion as detailed below:

Clause 26 – Location and access to facilities

The Seniors SEPP requires that access, meeting particular standards is available 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.

The Central Coast, including the whole of the Wyong Local Government Area is located within the Sydney Statistical Division and therefore access to the above services is compliant with the SEPP if:

- There is a public transport service available within 400 metres of the site; and
- The public transport service will take residents to within 400 metres of the necessary services and facilities; and
- The public transport service operates at least once between 8am and 12pm and at least once between 12pm and 6pm each day from Monday to Friday.

Bus stops are located approximately 145 metres and 185 metres from the site on Toowoong Bay Road and Watkins Street. Red Bus Services operate regular bus services linking The Entrance to Wyong on weekdays and on weekends. Route 25 stops at Toowoong Bay Road and Watkins Street and can take residents to main centres including The Entrance, Bay Village (Bateau Bay), Mingara Recreation Club, Westfield Tuggerah, Tuggerah Railway Station, Wyong Town Centre and Wyong Railway Station. These places provide key facilities such as supermarkets, retail outlets, banks and medical practitioners as well as recreation facilities and train stations. A copy of the bus services map and an extract of the timetable is provided in Appendix D.

The gradient of the route to the bus stops is relatively flat, to slightly sloping and satisfies the gradient requirements of the SEPP as demonstrated by the Route and Long Section to Bus Stops plan included in Appendix D. However, there is currently no continuous 'suitable access pathway', as defined in the SEPP and therefore it is proposed to construct a concrete footpath between the bus stops and the site. This requirement is reflected in the conditions of consent.

Clause 31 - Design of in-fill self-care housing

In determining a development application for in-fill self-care housing, the provisions of the *Seniors Living Policy: Urban Design Guideline for Infill Development* published by the Department of Infrastructure, Planning and Natural Resources in March 2004 must be taken into consideration. The Architect has prepared an assessment of the proposal against the provisions of the Urban Design Guideline for Infill Development, which is included in Appendix E.

The Guideline specifically addresses the following five areas:

1. Context
2. Site Planning and Design
3. Impacts on Streetscape
4. Impact on Neighbours
5. Internal Site Amenity

The table in Appendix E indicates that there are some areas of non-compliance with the *Seniors Living Policy: Urban Design Guideline for Infill Development*, including locating the bulk of the development toward the front of the site; utilising semi pervious materials for driveways, paths and courtyards; and setting the upper storeys behind the front, side and rear building lines. However, despite this, the development is generally consistent with the Urban Design Guideline, and overall represents a good quality residential flat development for the purpose of seniors housing (also see comments made by the Design Review Panel under SEPP 65).

Clause 34 – Visual and acoustic privacy

Acoustic privacy has been addressed by ensuring that bedrooms are located away from driveways, parking areas and other common areas. However, the issue of maintaining visual privacy to adjoining properties has been raised both through the assessment of the application and in public submissions.

In particular, the proposed balconies along the north-eastern boundary are orientated toward the rear yards of a number of single dwellings along Archbold Road, which adjoin the subject site. While the proposed balconies have the potential to create overlooking of adjoining properties, the buildings, including living areas and balconies have been orientated toward the north to maximise natural sunlight. As the location and orientation of the balconies is considered appropriate for the site and high density zoning, additional measures such as building and window separation, fixed privacy screens and landscaping have been incorporated to reduce overlooking.

Clause 35 – Solar access and design for climate

This clause seeks to ensure that adequate daylight is available to the main living areas and areas of private open space of neighbouring properties and that site planning, dwelling design and landscaping reduces energy use and makes use of natural ventilation, solar heating and lighting for any new dwellings. Concerns in relation to overshadowing have also been raised in the public submissions.

Shadow diagrams have been submitted to demonstrate the impact of the proposed development on adjoining properties. The shadow diagrams indicate that two units on the adjoining property to the north west will receive little direct sunlight during winter to their private open space. However, these units are currently overshadowed due to their courtyards being located on the south eastern side of their building and to some extent by an existing three storey building. The shadow diagrams indicate that overshadowing of

adjoining properties as a result of the proposed development is minimal. A copy of the shadow diagrams submitted with the application are included in Appendix B.

In terms of building design, the proposed development has been designed to maximise solar access and cross ventilation for the dwellings. The majority of the dwellings are orientated to the north and all dwellings have been designed to have cross ventilation reducing the reliance on artificial heating and cooling. The proposal also includes roof mounted solar panels (photovoltaic system) for an alternative energy supply (minimum 6 peak kW).

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

The SEPP lists certain standards that if complied with, cannot be used as grounds to refuse development consent for self-contained dwellings (see Appendix C). The proposed development complies with the standards with the exception of building height; density and scale; and landscaped areas. However, as the subject site is located within a high density residential zone, the proposed development does comply with the guidelines set by Wyong Shire Development Control Plan for these design aspects:

| | SEPP | DCP | Proposed |
|-------------------|--|--------------------------------------|-----------------------------|
| Building Height | 8 m | 12 m | 8.8 m |
| Density and Scale | FSR 0.5:1 | FSR 1.5:1 | 0.8:1 |
| Landscaped Areas | 35m ² per dwelling = 1120m ² | 25% of site area = 892m ² | 30.5% or 1088m ² |

Whilst, the development does not comply with the standards for height, density and scale under the Seniors SEPP, the development does comply with Council's requirements for these standards and is in keeping with the zone objectives of providing higher density housing. The proposed height, density and landscaped area do not have a detrimental impact on the overall design are considered to be satisfactory given the local context and zoning. It is also noted that the Seniors SEPP does not prevent the granting of consent for a development that does not comply with the standards listed in this clause.

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

The development application was referred to the Central Coast Design Review Panel (the Panel) in accordance with SEPP 65 and was considered at their meeting on 10 November 2010. A copy of the minutes from that meeting together with a summary of the design principles of SEPP 65 are included as Appendix F.

In summary, the Panel acknowledged that the proposed development was acceptable in term of its context; scale; density; resource, energy and water efficiency; social dimensions and aesthetics. However, the Panel recommended that redesign negotiations be undertaken with Council to achieve the following:

- Minimise the height and bulk of the lift towers;

Response: The applicant has advised that the design was amended following the pre-DA comments and the height and bulk of the lift towers have been minimised as far as possible.

- Provide a minimal width strip for planting adjacent to the side boundary for the length of the carpark;

Response: The applicant has advised that the provision of a landscaping strip adjacent to spaces 15 to 22 is constrained by the need to comply with Housing NSW Design Requirements for driveway widths. Reduction of the driveway width may

impact on car turning circles and access for vehicles. Council's development Engineer has advised that an additional 500mm for landscaping could be achieved by reducing the aisle width of the carpark.

- Provide greater variety of small trees within the landscape design;

Response: The applicant has advised that they agree to a condition of consent being placed on the DA to address this issue.

- Replace the proposed planting within the front setback to incorporate trees and lower shrubs and ground cover species;

Response: The applicant has advised that they agree to a condition of consent being placed on the DA to address this issue.

- Retain an existing Water Gum at the rear of the property;

Response: The applicant has advised that they agree to a condition of consent being placed on the DA to address this issue, subject to confirmation from a qualified arborist that retention of the tree is possible.

- Replace all boundary fencing and incorporate lattice to increase height of fencing;

Response: The applicant has advised that boundary fences are proposed to be replaced with 1.8m high fences and that wire runners to train plants upwards on the boundary fences is supported. However the inclusion of lattice is not supported as this presents an ongoing maintenance and is not characteristic of the area.

- Provide weather protection over all windows;

Response: The applicant has advised that they agree to a condition of consent being placed on the DA to address this issue.

- Provide seating, barbeque and table facilities within the communal open space;

Response: The applicant has agreed to bench seating in the communal area being required by a condition of consent. Other amenity items present ongoing maintenance issues and are not consistent with Housing NSW policy.

- Ensure balconies facing side boundaries are treated with fixed and sliding privacy screens to protect visual privacy of adjoining properties;

Response: The applicant has agreed to a condition of consent to require fixed and sliding privacy screens on balconies facing side boundaries.

While the applicant has not agreed to make all of the changes recommended by the Panel, it is not considered that those issues warrant refusal of the development application.

State Environmental Planning Policy No 71 – Coastal Protection

SEPP 71 – Coastal Protection applies to the development as the site is located within a coastal protection zone, being approximately 600 metres from a coastal lake and approximately 900 metres from the coastline. In accordance with Clause 7, the proposal has been assessed against the matters for consideration outlined under Clause 8 and found to be satisfactory (see Appendix G). The proposal has also been considered under Part 4 of the

SEPP relating to public access, effluent disposal and treatment of stormwater and is consistent with the requirements identified under this part.

State Environmental Planning Policy (Building Sustainability Index:BASIX) 2004

The proposed development is a 'BASIX affected development' as defined within the Regulations and consequently, a BASIX Certificate has been submitted with the development application. The BASIX Certificate identifies compliance with water, thermal comfort and energy targets.

Wyong Local Environmental Plan 1991

Clause 15 - Acid Sulphate Soils

The LEP requires special assessment to be given to certain development on land being subject to actual or potential acid sulphate soils. The site is identified as Class 5 (within 500m of Class 3 land) on the Acid Sulphate Soils Planning Map. For Class 5 land, any works that are likely to lower the water table in an adjacent Class 1, 2, 3 or 4 land to any point below 1 metre AHD, require more detailed assessment. There are no works proposed that are likely to lower the water table and therefore no further assessment is required.

Clause 28 – Tree Management

This clause requires development consent to be granted for the removal of trees or native vegetation. As a number of trees are proposed to be removed, an Arborists report has been submitted. The proposed tree removal is discussed further in the report.

Clause 29 - Services

This clause requires all new development to have an adequate water supply and facilities for the removal or disposal of sewage and drainage. Water, sewer and stormwater connections are all available within Kitchener Road. Monetary contributions for both water supply and sewerage are applicable to the development in accordance with the Water Management Act 2000.

(a)(ii) the provisions of any draft environmental planning instrument

There are no draft environmental planning instruments applicable to the application.

(a)(iii) any development control plans

Wyong Development Control Plan 2005

Chapter 14 – Tree Management

In accordance with DCP Chapter 14 – an Arborist's report has been submitted to assess the quality and suitability of retaining trees. The Arborist's Report identified 17 trees on the site, although found that the existing trees did not have a high retention value and did not include any threatened species. It is proposed to retain three (3) trees within the landscape design as well as proposing substantial tree planting along the northern, southern and western boundaries. Street tree planting is also incorporated as per Council's policy, although Council's Tree Assessment and Landscape Design Officer has recommended some minor changes to the species selection including the replacement of *Cupaniopsis anacardioides* (Tuckeroo) as a street tree with the faster growing *Waterhousia floribunda* (Weeping Lilly

Pilly). These changes to the landscape design can be addressed through conditions of consent.

Chapter 60 - The Entrance

DCP Chapter 60 contains both quantitative and qualitative controls for development. While the quantitative controls are replicated in DCP Chapter 64 (discussed in detail below), Chapter 60 identifies various land use precincts, each of which have their own development principles. The subject site is located within Precinct 7: Residential South. This Precinct contains land primarily zoned for medium and high density residential development with a wide variety of low density housing currently present. A considerable amount of the existing housing stock is of an age and construction type that has redevelopment potential. The DCP states that the intention of the precinct is to maintain the existing residential character of the area with redevelopment to be a mix of housing types primarily 1-3 storeys in height.

The DCP specifically identifies land fronting Kitchener Road as having added development potential, with a 12 metre (four (4) storeys) height limit applying. The DCP requires the building form to be compatible with surrounding development with a gradual progression of heights. The DCP recommends that higher components should be located towards the centre of the site or well setback from boundaries and that consideration is given in the design to minimising the impacts on privacy (overlooking) and overshadowing of adjoining properties. The proposed design complies with the intent of the DCP by proposing a three storey development that is compatible with nearby development and minimises overshadowing.

Chapter 64 – Multiple Dwelling Residential Development

DCP Chapter 64 contains both objectives and prescriptive design requirements that apply to all multiple dwelling residential developments within Wyong Shire. A table identifying the level of compliance with this DCP is included as Attachment H. As a result of the assessment, the proposed development has been found to be generally consistent with the DCP, although the following areas of non-compliance are proposed:

- Setbacks

For low-rise residential flat buildings (up to 3 storeys high), the DCP requires a front setback of 7.5 metres and minimum side setbacks of 1.5 m, 3 m and 4.5 m as the height of the building increases. While the development application indicates compliance with these side setback requirements, for development that is subject to SEPP 65 – Design Quality of Residential Flat Development, 6 metre side and rear setbacks are applicable.

The proposed development incorporates a 7.365 metre front setback (1.84% variation), which is considered acceptable, particularly given that the front of the building has been stepped down to be only two storeys high at the street frontage. A 1.5 metre variation (25% variation) is proposed for the south western side setback over each level. As contained within the DCP, the objectives of the setback/building lines provisions are as follows:

- To maintain existing streetscapes.
- To protect the privacy and solar access of adjacent properties.
- To ensure the visual focus of a development is the dwelling, not the garage.
- To maximise building separation to provide visual and acoustic privacy.

Having regard to the above, the proposed variation is located toward the rear of the site, and therefore the impact on the streetscape and visual focus of the building would be negligible. However, the potential impact on solar access and privacy are more relevant in considering

the proposed variation. The adjoining site that would be affected is used as a timber yard, although a large residential flat development has been approved on the site.

The proposed variation applies to three (3) units located in the south western corner of the site over a length of 11 metres. Each of these units has two (2) bedroom windows and a bathroom window facing the boundary, which are less likely to result in acoustic privacy issues as opposed to living areas or balconies. High level windows are also proposed for the bathrooms and one (1) of the bedrooms within each unit, which helps maintain visual privacy for future residents.

In terms of overshadowing, the approved floor plan for the adjoining site has been superimposed over the shadow diagrams submitted with the subject application. This indicates that the adjoining property would be affected by overshadowing in the morning (9am, June 22) regardless of the proposed setback variation although from Midday onwards, both the private and communal open space areas of the proposed development would still receive adequate direct sunlight. As such, the proposed variation to the side setback would have a negligible impact on the solar access of the adjacent property and can therefore be supported.

- Carparking

A total of twenty-two (22) carparking spaces are proposed compared to the forty (40) spaces that would be required in order to comply with the DCP. However, the Seniors SEPP contains specific requirements for carparking, which the proposed development meets. Pursuant to Clause 50 of the SEPP, the number of carparking spaces proposed is acceptable, and lack of carparking cannot be used as a reason to refuse the application.

- Private and Communal Open Space

The DCP requires a balcony with a minimum area of 10 m² to be provided as private open space for each unit. However, SEPP(Housing for Seniors or People with a Disability) also contains specific requirements for private open space, which the proposed development meets by providing 10 m² for each 2 bedroom dwelling and 6 m² for each 1 bedroom dwelling. Pursuant to Clause 50 of the SEPP, the DCP provisions cannot be enforced.

- Car Wash Facilities

The DCP requires car washing facilities to be provided on site, by way of a paved area having minimum dimensions of 5 m x 2.7 m, directly accessible from the driveway. The car washing area is to be located and designed to drain to a grassed or landscaped area located within a common area and sufficient in size to absorb wastewater from car washing. While no carparking area has been identified on the plans, there is sufficient area to accommodate this facility. A condition of consent to provide car washing facilities has been recommended, although not agreed to by the Applicant.

Chapter 69 – Waste Management

A Waste Management Plan for the construction and ongoing use of the building has been submitted in accordance with the DCP.

Chapter 67 – Engineering Requirements for Development

The proposed civil works including kerb, guttering, footpaths, stormwater drainage and on-site detention need to be undertaken in accordance with Council's DCP Chapter 67 or equivalent standards used by Crown authorities. Compliance with relevant standards can be included in the recommended conditions of consent.

(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

There are no planning agreements applicable to the application.

(a)(iv) any matters prescribed by the regulations

The Regulations require consideration of the following:

- The Government Coastal Policy, being *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*; and
- in the case of a development application for the demolition of a building, the provisions of AS 2601.

As included in the Regulations, Wyong Local Government Area is only affected by the seaward part of the Government Coastal Policy, being the area extending 3 nautical miles seaward from the open coast high water mark. As such, it is not applicable to the proposed development. The development does not propose any demolition work.

THE LIKELY IMPACTS OF THE DEVELOPMENT (s79C(1)(b)):

The relationship to the regional and local context and setting

The subject site comprises a single, irregular shaped parcel of land with an area of 3,566m², located within an existing residential area. Long Jetty has been identified for medium to high density housing and has been zoned accordingly, including the 2(d) High Density Residential Zone and the 2(c) Medium Density Residential Zone. The proposed development is for a three (3) storey residential flat development which is of a similar height to adjacent new development. The streetscape, boundary treatments and building design would be significantly improved as a result of the proposed development and the proposal would not impact on any significant views or vistas and would have little impact on adjacent properties in terms of overshadowing.

However, Long Jetty is still transitioning from dwelling-houses to medium and high density development and therefore there will be a diverse range of buildings as the character of the area changes. In terms of the desired future character, the site is located within Precinct 14 of The Entrance Peninsula Planning Strategy, which was adopted by Council in July 2009. The Planning Strategy identifies Precinct 14 as being a predominantly medium density residential neighbourhood providing high levels of amenity and convenience for its residents.

One of the primary recommendations of the strategy is to change Council's planning controls by rezoning the existing 2(d) (High Density Residential) zoned land, bounded by Toowoona Bay, Kitchener and Archbold Roads, to 2(c) (Medium Density Residential), to be consistent with the low to medium density residential character of the surrounding vicinity. This would restrict development to 3 storeys, which is consistent with the proposed development.

The access, transport and traffic management measures

The proposed development fronts Kitchener Road, which is classed as a minor local road. Kerb and guttering, associated drainage, half road construction and foot paving for the full

frontage of the development is required. These works can form conditions of consent, together with the requirements for a construction and traffic management plan.

Footpaving is also proposed to be constructed from the site to the bus stops in Toowoyn Bay Road and Watkins Street. This construction would require the road and kerb and guttering to be designed to ensure the correct level for the footpaving is achievable. The footpaving would necessitate the construction of a pedestrian refuge in Toowoyn Bay Road and pram ramps in accordance with DCP 2005 Chapter 67. A formalised bus shelter and concrete apron should also be installed at the Watkins Street bus stop site together with a concrete apron from the existing bus shelter to the kerb at the bus stop in Toowoyn Bay Road. Conditions of consent to provide these facilities have been included, although have not been agreed to by the Applicant.

The internal carpark and access is to be designed and constructed in accordance with AS2890.1. Due to the number of units and carparking spaces, the internal access is to be a minimum of 5.5m wide with an additional 300mm either side where kerb higher than 150mm is proposed. This can be addressed via conditions of consent.

A number of public submissions raised concern over the lack of carparking provided within the development and the condition of Kitchener Road to accommodate more vehicles. As discussed previously in the report, the 22 carparking spaces proposed exceeds the number of spaces required under Clause 50 of the SEPP and in accordance with the SEPP, Council cannot enforce a greater number of spaces to be provided. In terms of the condition of Kitchener Road, the developer would be required to construct kerb and guttering, associated drainage, half road construction and footpaving for the full frontage of the development.

The impact on the public domain (recreation, public open space, pedestrian links)

The proposed development will improve pedestrian and public transport links by providing footpaths between the development site and the bus stops in Toowoyn Bay Road and Watkins Street.

The impact on utilities supply

The demands of the development have been assessed against the availability and capacity of the water supply and the requirements for servicing by the sewerage system. A condition has been included requiring the applicant to obtain a Section 306 Certificate of Compliance under the Water Management Act 2000 for water and sewer servicing requirements for the development. The applicant will be required to liaise separately with other service providers prior to the commencement of work and this is reflected in the conditions.

The effect on heritage significance

There are no items of heritage significant in the vicinity of the development.

Any effect on other land resources

The site does not contain any valuable land resources such as minerals and extractive resources, agricultural land or being within a water supply catchment.

Any impact on the conservation of water

Water Conservation

Water conservation strategies proposed include 3 to 4 star taps and showerheads and a 10,000 litre rainwater tank to be connected to landscaping areas, toilets and laundries. The

proposed development meets the necessary water conservation targets and a BASIX Certificate has been issued.

Stormwater Drainage

It is proposed to direct stormwater flows from the development to Kitchener Road. Kitchener Road does not currently have kerb and guttering, although this will be required to be constructed as part of the development. To ensure the proposed drainage continues to function with the installation of kerb and guttering, the applicant will need to provide piped drainage to the existing pit at the intersection of Archbold Road. Transition within the table drain will need to be provided towards Toowoyn Bay Road. On-site detention has also been identified as being required at a minimum size of 45.8m³.

A number of the public submissions raised local drainage and stormwater management as an area of concern. Subject to the implementation of the stormwater management plan as proposed, there should be additional impact on adjoining properties as a result of the development.

Any effect on the conservation of soils or acid sulphate soils

A Geotechnical Investigation was undertaken for the site by SMEC Testing Services Pty Ltd in June 2009. The subsurface conditions consist of fill and sands overlying silty sand, clayey sands/sandy clays and silty clays. The groundwater was measured at depths of 4.2 and 5.2. The Geotechnical Investigation report was prepared on the basis that the development would include a level of basement carparking, although this is not the case. As such, the depth and extent of excavation referred to in the report may not be warranted. In this regard, laboratory testing for acid sulphate soils indicated that the site materials measured indicator concentrations greater than the action criteria at a depth of 6 metres. Consequently, if excavation to a depth of 6 metres or more is required, then an Acid Sulphate Soils Management Plan would need to be prepared.

Any effect on quality of air and microclimate conditions

There is minimal potential for any air pollution, odour, fumes or other air quality impacts associated with the development on the site.

Any effect on the flora and fauna

The site contains a number of trees, including Paperbark, Umbrella Tree, Hakea, Water Gum, Bottle Brush, Lily Pilly, Macadamia and Cocos Palms, although does not include any threatened species or habitat for threatened species. While none of the trees on site have been identified as having a high retention value, it is proposed to retain three (3) trees for incorporation into the landscape design adjacent to the carparking area.

The provision of waste facilities

A waste storage area that will accommodate a bulk bin for general waste and a number of recycling bins is proposed to be located adjacent to the carparking area.

Whether the development will be energy efficient

The application has been accompanied by a BASIX Certificate which indicates compliance with the thermal comfort and energy targets. As part of the BASIX commitments, an alternative electricity supply, being a 6kW photovoltaic system is proposed to be mounted on the roof of building B.

Whether the development will cause noise and vibration

Short term impacts are likely during the construction period, although construction will need to comply with the *Interim Construction Noise Guideline* published by the Department of Environment and Climate Change in 2009. There are not expected to be long term impacts as a result of the residential development.

A number of public submissions raised concerns over potential noise issues resulting from future residents and anti-social behaviour. As the future behaviour of residents cannot be controlled through the development assessment process, any noise complaints would need to be dealt with at the time by the Council or the local police in accordance with the Protection of the Environment Operations Act 1997.

Any risks from natural hazards (flooding, tidal inundation, bushfire, subsidence, slip etc)

The site is not subject to any known natural hazards, including flooding, tidal inundation, mine subsidence, slip or bushfire.

Any risks from technological hazards

There are no known technological hazards in the vicinity of the site.

Whether the development provides safety, security and crime prevention

The building has been designed having regard to the principles of Crime Prevention Through Environmental Design (CPTED) and incorporates the following design principles:

Surveillance

- The design proposes a two storey element orientated to Kitchener Road. This provides surveillance of the entry as well as Kitchener Road.
- Dwellings have been designed to overlook the common areas including the carpark and walkway.
- Entries front onto the walkways and carparking area.
- Pedestrian pathways will be appropriately lit.

Access control

- The access for pedestrians and vehicles is clearly defined with the use of materials, landscaping and signage.
- The pedestrian access and vehicular access are differentiated through the use of different materials.

Territorial reinforcement

- The common areas are separately defined from private space and public space by fences and landscaping.

- Communal open space is provided for the development and located centrally between the two buildings.

Space management

- The development is by Housing NSW and measures will be implemented for the maintenance of the buildings and the site.

In accordance with Council's Crime Risk Assessment Protocol, a referral to the NSW Police was not required, although a condition of consent is recommended to ensure measures are implemented.

Any social impact in the locality

The proposed development will contribute to the diversity of dwelling types within the Long Jetty area. The Central Coast Regional Strategy notes the need to accommodate a significant increase in the number of seniors living in coastal locations and the proposed development provides single level living, which will be able to cater to this demand.

Concerns over anti-social behaviour from public housing residents were raised in a number of the public submissions. In this regard, it is noted that the site has previously been used by the Department of Housing to provide accommodation in the form of 25 bedsits. The applicant has also noted that the type of accommodation to be provided on the site will be for seniors and people with a disability and is unlikely to create an increase in anti social behaviour in the area.

Any economic impact in the locality

The proposed development is unlikely to have any long term economic impact. A number of jobs would be created during the construction period.

A number of public submissions raised concern in relation to the proposed public housing development reducing property values. However, as mentioned previously, the subject site has been owned by the Department of Housing for a number of years and used for public housing, until the buildings were recently demolished. Therefore, it is unlikely that there would be a significant impact on property prices as a result of the proposed redevelopment of the site.

Any impact of site design and internal design

Site Design

A number of the public submissions raised concern over the site design and the siting of the building along the north eastern boundary. The main focus of these objections was that the north east facing balconies would impact on the privacy of adjoining properties, in particular, the back yards of a number of single dwellings that adjoin the site. Instead, it was suggested that the buildings be located along the south western boundary, which would increase the separation between the proposed balconies and the existing dwellings. The issues raised in the public submissions were provided to the applicant for consideration.

The Department of Housing has advised that the design has been carefully considered and that locating the building along the southern boundary would create substantial overshadowing impacts on the property to the south. Privacy and overlooking impacts can be addressed by privacy screens to upper level balconies where necessary. Consideration also has to be given to the land use zoning and the future character of the area, which is to

redevelop single dwellings to accommodate medium density housing. As such, the proposed site design is reasonable.

Internal Design

Concerns were also raised in the public submissions about the development being three (3) storeys in height and the suitability of that for seniors in terms of access and evacuations. One of the issues raised was that no lifts had been provided. However, as shown on the plans, disabled access is provided to all dwellings via two (2) lifts, which service each building, and the development incorporates five (5) adaptable dwellings, including three (3) x one-bedroom and two (2) x two-bedroom dwellings, which are suitable for wheelchairs.

Any impacts of construction activities (construction site management, protection measures)

A construction and traffic management plan would be required to be prepared prior to the commencement of any work that would impact on the local road or footpath areas.

Any cumulative impacts

Issues raised in public submissions indicate that there are currently drainage issues in the local area, which cause extended periods of water logging. The increased hardstand area and changes in ground levels has the potential to compound the existing situation. However, subject to the implementation of the Stormwater Management Plan, which will include on-site detention and direct runoff to the street, there are not expected to be any cumulative impacts resulting from the development.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT (s79C(1)(c)):

The site is a large, relatively flat parcel of land within an existing residential precinct. Being zoned 2(d) High Density Residential Development, the site is suitably zoned for the proposed development of thirty-two (32) units. The site is not flood affected or bushfire prone and there are no known site constraints which suggest that the site is unsuitable for the development.

The site has previously been used by the NSW Department of Housing to provide residential accommodation and is suited to seniors housing based on the level topography of the site and its surroundings and its close proximity to parks and bus stops.

ANY SUBMISSION MADE IN ACCORDANCE WITH THIS ACT OR REGULATIONS (s79C(1)(d)):

Any submission from the public

Notice of the development application was placed in the local newspaper and letters posted to nearby property owners in accordance with DCP 2005 Chapter 70-Notification of Development Proposals. The application was advertised between 27 October 2010 and 11 November 2010 with seven (7) submissions objecting to the development being received. The issues raised in the submissions have been addressed in the assessment of the application pursuant to the heads of consideration contained within Section 79C of the Environmental Planning and Assessment Act 1979. A summary of the collective issues raised is provided below, with details of each individual submission included as Appendix I.

- Potential increase in anti-social behaviour (see *social impact in the locality*).
- Potential increase in noise (see *noise and vibration*).
- Increase in vehicles parked on street (see *access, transport and traffic management measures*).
- Increased traffic in Kitchener Road and concerns that the condition of the road will deteriorate (see *access, transport and traffic management measures*).
- Potential impact on property values (see *economic impact in the locality*).
- Privacy concerns and overlooking from balconies (see *SEPP Seniors - clause 34 visual and acoustic privacy, SEPP 65 and DCP 64*).
- Consider reversing design (i.e. building along southern boundary and parking and driveway along northern boundary so balconies do not look into backyards of adjoining properties (see *site design and internal design*).
- Increased stormwater runoff (see *any impact on the conservation of water*).
- Overshadowing concerns (see *SEPP Seniors Clause 35 – Solar access and design for climate and DCP 60 and 64*).
- Concerns about the design (external appearance) and should consider locating balconies so they look over common open space areas (see *SEPP 65 discussion and SEPP Seniors - clause 34 visual and acoustic privacy*).
- Concerns over ability to evacuate elderly residents from a three storey building (see *site design and internal design*).

Any submission from public authorities

Crown Developments

Section 89 of the EP&A Act states that:

(1) A consent authority (other than the Minister) must not:

- (a) refuse its consent to a Crown development application, except with the approval of the Minister, or*
- (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister.*

As the development application is recommended for approval subject to conditions, consultation has been undertaken with the applicant in relation to the proposed conditions of consent. Agreement on the majority of the conditions has been reached, although the following remain in dispute (areas of dispute included in **bold red**):

Condition 26(c) and (e)

The provision at no cost to Council of concrete paving from the proposed development to the nearest bus stops in Toowoyn Bay Road and Watkins Street. The footpath design is to be 1.2 metres wide for full length of the proposed footpaving works. All details are to be in accordance with Council's Development Control Plan 2005, Chapter 67 - Engineering Requirements for Development and AS1428. The design plans must be approved by the Roads Authority prior to commencement of Construction and shall include:-

- a. The design of the road and kerb and gutter, for the full length of the proposed footpaving adjacent to roadway that is not formalised with kerb and guttering, to ensure the correct level for the footpaving is achievable.
- b. Pram ramps adjacent and opposite the proposed development.
- c. **The construction of a pedestrian refuge in Toowoyn Bay Road and pram ramps for both sides on Toowoyn Bay Road in accordance with DCP 2005 Chapter 67.**

- d. Existing pram ramp openings in the kerb returns in Toowoan Bay Road shall be restored to existing kerb and gutter formation.
- e. **A formalised bus shelter and concrete apron shall be installed at the Watkins Street bus stop site.**
- f. A concrete apron from the bus shelter to the kerb shall be installed in the bus stop in Toowoan Bay Road
- g. Adjustment of services as required by the relevant service authorities.
- h. Where the footpath crosses existing vehicle footpath and gutter crossings it shall be designed and constructed in accordance with Council's footpath and gutter crossing requirements as identified in DCP 2005 Chapter 67. Transitions 1m either side of the footpath and gutter crossing shall also be required.
- i. Tree removal or lopping as may be necessary to facilitate the footpaving construction are to be approved by Council's Tree Preservation Officer prior to any works commencing.
- j. The splay on the north east corner of Toowoan Bay Road and Kitchener Road shall be identified and considered as part of the design.

Applicant's Response: *Housing NSW agrees to provide pram ramps for both sides of Toowoan Bay Road in accordance with DCP 2005 Chapter 67.*

The provision of the pedestrian refuge on Toowoan Bay Road is not agreed to as Housing NSW does not believe the pedestrian refuge is necessary for the provision of 'a suitable access pathway' in accordance with SEPP Seniors and is not the responsibility of Housing NSW. There is no demonstrated evidence that the need for the pedestrian refuge arises specifically from the proposed development.

The provision of the pedestrian refuge on Toowoan Bay Road is not agreed to as Housing NSW does not believe the provision of a bus shelter is necessary for the provision of 'a suitable access pathway' in accordance with SEPP Seniors and is not the responsibility of Housing NSW. There is no demonstrated evidence that the need for the bus shelter arises specifically from the proposed development.

Housing NSW has also stated that they would be prepared to discuss funding for the public facilities (i.e. pedestrian refuges and the bus shelter) with Council outside of the conditions of consent.

Reason for Condition: The pedestrian refuge is required to improve the safety of future residents crossing Toowoan Bay Road to access the bus stop in Watkins Street. By providing a footpath to the bus stop, seniors or people with a disability are being encouraged to walk to the bus stop and therefore traffic safety measures should also be provided. The bus shelter would provide weather protection and seating for residents using the bus stop.

Condition 40(b)

The design of the carparking and access road in accordance with AS2890.1 and AS/NZS 2890.6. The design, compliant with AS/NZS2890.1 and AS/NZS 2890.6, is to be submitted to the Principal Certifying Authority prior to construction and shall include:-

- a. A minimum access width of 5.5m with an additional 300mm either side where kerb higher than 150mm is proposed, to allow for the passing of vehicles.
- b. **Provision for a car wash bay, having minimum dimensions of 5m x 2.7m, directly accessible from the driveway. The car washing area is to be located and designed to drain to a grassed or landscaped area located within a common area and sufficient in size to absorb wastewater from**

car washing. The car washing space may be provided within an existing carparking space.

Applicant's Response: *From experience, Housing NSW considers that by providing carwash facilities (i.e. tap) to developments will encourage the misuse of water and the tap may be vandalised. Deletion of this proposed condition is therefore requested.*

Reason for Condition: The provision of car washing facilities is a requirement of Council's DCP Chapter 64 – Multiple Dwelling Residential Development and provides a practical facility for future residents. The tap could be connected to a rainwater tank to assist in minimising the misuse of water and on-going water usage costs.

The proposed conditions, as recommended by Council (and including the above conditions) are included in Appendix A.

THE PUBLIC INTEREST (s79C(1)(e)):

Any Federal, State and Local Government interests and community interests

No further issues identified.

OTHER MATTERS FOR CONSIDERATION

The Entrance Section 94 Contributions Plan and Shire Wide Contributions Plan

The site falls within the area for Section 94 Contributions Plan No 3 - The Entrance District and the Shire Wide Contributions Plan. However, in accordance with a Ministerial Direction issued on 14 September 2007, Council must not impose contributions for public amenities or public services in relation to a development consent granted to a social housing provider for development subject to SEPP (Seniors Living) 2004 (now SEPP (Housing for Seniors or People with a Disability)). As such, no Section 94 contributions are applicable to the proposed development.

Non Issue of Construction Certificate

The development application involves construction by the Crown and pursuant to the requirements of the EP&A Act, a Construction Certificate is not required for the development. The building is however required to comply with the states adopted building laws in this case, the Building Code of Australia (BCA). The plans accompanying the development application indicate that the development is capable of complying with the requirements of the BCA, although compliance is to be determined by the principle building contractor or a building certifier acting on behalf of the Crown. Council's standard conditions of consent have been modified to remove any reference to the need for a Construction Certificate.

CONCLUSION

The proposed residential flat development containing 32 self-care seniors housing units has been assessed against the various environmental planning instruments and adequately addresses their requirements. A number of conditions of consent have been recommended in order to reduce the impact of the development, including the provision of privacy screens; additional landscaping and tree retention; and the construction of pedestrian pathways external to the site. Subject to conditions, the proposal is acceptable against the relevant considerations under section 79C and is recommended for approval.

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| <i>Appendix A</i> | <i>Draft Conditions of Consent</i> |
| <i>Appendix B</i> | <i>Architectural Plans, Finishes and Shadow Diagrams</i> |
| <i>Appendix C</i> | <i>SEPP (Housing for Seniors or People with a Disability) 2004 Compliance Table</i> |
| <i>Appendix D</i> | <i>Public Transport Map, Time Table and Access Plan</i> |
| <i>Appendix E</i> | <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i> |
| <i>Appendix F</i> | <i>SEPP 65 Design Review Panel Minutes and Assessment</i> |
| <i>Appendix G</i> | <i>SEPP 71 – Coastal Protection Assessment</i> |
| <i>Appendix H</i> | <i>DCP 2005 Chapter 64 Compliance Table</i> |
| <i>Appendix I</i> | <i>Summary of Public Submissions</i> |