

JRPP No.	2011HCC004
DA No.	DA/2233/2010
Proposed Development	Retirement Village
Address	Lot 1 DP 377679 & Lot 784 DP 533494, 153 and 153A Marmong Street Marmong Point
Applicant	Empowered Living Support Services Limited
Owner	Empowered Living Support Services Limited
Lodged	22 December 2010
Value	\$15 million
Approval Body	Mine Subsidence Board Rural Fire Service
Consent Authority	Joint Regional Planning Panel
Referral Agencies	Energy Australia and NSW Police
Exhibition	5 January to 21 February 2010 26 June to 23 July 2012
Submissions	48 (approximately) – initial notification 11 - final notification
Report By	Elizabeth Lambert

Précis

The development proposal is for the construction of a Retirement Village comprising of 94, two storey, self contained, two and three bedroom dwellings, a community centre, swimming pool, bowling green, bocles court, caravan and boat parking area, children's play area, recreation areas, maintenance shed, and associated roadworks, revegetation, and landscaping. The proposal includes 47 residential buildings with all dwellings being single level in an "up and over" style development. The development is proposed to be undertaken in five stages.

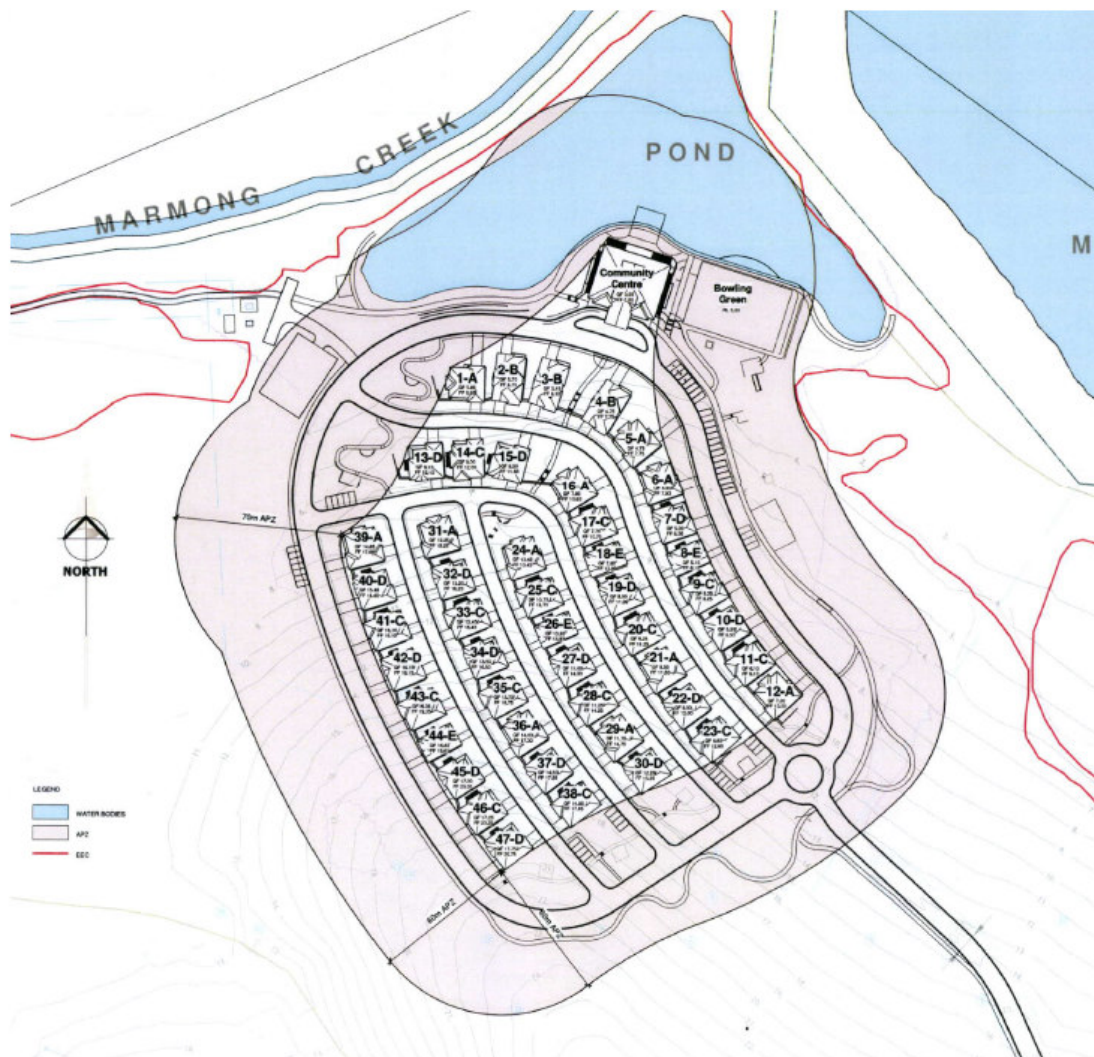


Figure 1: Overall site plan of development

The development is over two parcels of land, with a total area of approximately 33 hectares, which presently accommodates Hunter Water Corporation (HWC) infrastructure including a disused maturation pond and wastewater pumping station. The site was previously used as a Waste Water Treatment Works, and contains extensive areas of uncontrolled fill and some soil contamination, which is proposed for remediation as part of this development. The development proposes the retention of the maturation pond (in the form of a rehabilitated man-made water feature to add to the amenity of the development) and the other HWC facilities on the land. Easements exist over the land to allow for the retention of these facilities. The two lots will be amalgamated. The lot is an irregular shaped parcel, roughly pentagonal, with a 15m wide battle-axe access to the development from Marmong Street Marmong Point. The proposed development has a gross floor area (GFA) of approximately 20,000m² with the remainder of the site being for access and landscaping purposes.

The development is Integrated Development in relation to the Rural Fires Act 1997 and the Mine Subsidence Compensation Act 1961.

The land is zoned 10 Investigation, 7(2) Conservation (Secondary), 2(1) Residential and a small portion of 7(1) Conservation (Primary). No works are proposed on the land zoned 7(1) therefore this area of the site has not been considered in detail. The development is permissible on the site pursuant to Clause 41 – ‘Development for the purpose of Retirement Villages’ of the Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004).



Figure 2: Zoning plan LMLEP 2004

Clause 41 provides the opportunity for the development of retirement village accommodation for aged persons in appropriate locations where the land satisfies specific criteria.

Location

The site is located in an existing urban setting in close proximity to public transport and to Woodrising and Toronto commercial districts, as well as smaller commercial areas of Marmong Point, Fennell Bay and Teralba (refer Figure 3 below).



Figure 3: Aerial photo of site and locality

Marmong Creek runs adjacent to the site's north – western boundary. The Creek joins Lake Macquarie approximately 600m further north west of the site. A tributary of Marmong Creek runs along a section of the site's western boundary, and two small ephemeral streams run west from the site's southern boundary towards this tributary.

The site has a varying topography with the bulk of the works occurring on the areas of the site that have been heavily disturbed by previous occupation of the land. The site is primarily to the rear of existing residential development. Approximately two thirds of the site is heavily vegetated predominantly with native species, and contains two Endangered Ecological Communities (EEC's) located on the northern portion of the site. The locations of the EEC's are shown in Figure 4 below. A SEPP 14 wetland is located to the north east of the site, no works are proposed within the wetland areas and the development will not affect the wetland.

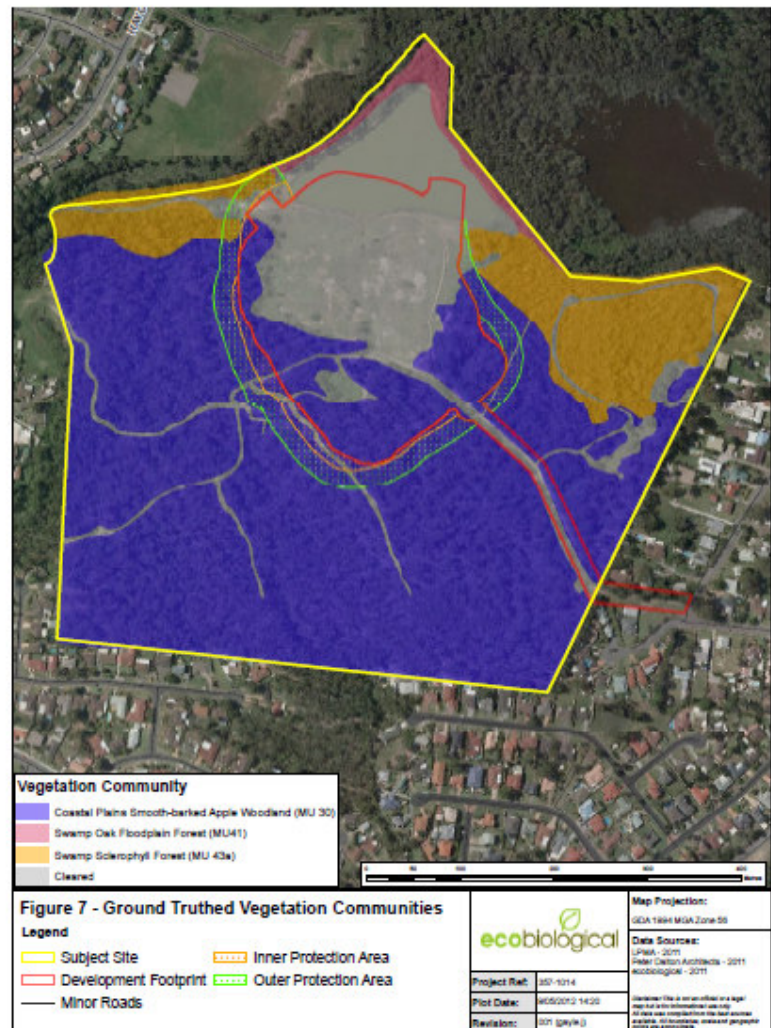


Figure 4: Plan from SEE showing the location of the vegetation communities

The surrounding areas are characterised by low density older housing stock. Lake Macquarie is located to the east of the site and provides significant amenity for the locality. Service areas and facilities are located within proximity to the site and are included at Woodrising Shopping Centre, Marmong Point, Fennel Bay, Teralba, Toronto, Speers Point and Boolaroo. Facilities in the immediate facility include shops and commercial undertakings at Woodrising, Lake Macquarie Art Gallery and restaurant, Marmong Point Marina, churches, foreshore areas, parks and other open space areas.

The Assessment

This report provides an assessment of the justification presented in the application against all relevant State and Local planning legislation and policy.

Section 79C: Potential Matters for Consideration

79C(1)(a)(i) the provisions of any Environment Planning Instrument (EPI)

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

The application has been supported by a BASIX certificate for the development. If the application were to be approved, an appropriate condition of consent would be applicable to ensure the development complies with the BASIX certificate.

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

Not applicable – The development application has been lodged against Clause 41 of the LM LEP 2004, hence the SEPP (Housing for Seniors or People with a Disability) 2004 does not apply.

The development however, has been assessed against the provisions/standards of the SEPP (Housing for Seniors or People with a Disability) 2004 as a design and assessment tool due to the absence of specific merit controls applying to Clause 41.

Provisions considered under SEPP (Housing for Seniors or People with a Disability) 2004

Chapter 1 – Preliminary

Clause 4 – Land to which Policy applies

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

(a) development for the purpose of any of the following is permitted on the land:

- (i) dwelling-houses,*
- (ii) residential flat buildings,*
- (iii) hospitals,*
- (iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or*

(b) the land is being used for the purposes of an existing registered club.

The subject site is land that adjoins land zoned primarily for urban purposes. It is zoned principally for environmental uses and investigative purposes dwelling houses are permissible on the land with the consent of Council.

Chapter 2 – Key Concepts

Clause 10 – Seniors Housing

In this Policy, **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.

The development is residential accommodation that is, or is intended to be, used permanently for seniors consisting of (c) a group of self-contained dwellings.

If the application were to be approved, an appropriate condition of consent in this regard would be applicable restricting the use of the premises for seniors.

Clause 11 – Residential Care Facilities

Not applicable

Clause 12 – Hostels

Not applicable

Clause 13 - Self-Contained Dwellings

(1) General term: “self-contained dwelling”

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

(2) Example: “in-fill self-care housing”

In this Policy, **in-fill self-care housing** is 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.

(3) Example: “serviced self-care housing”

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

The development meets the definition of ‘General term - self-contained dwelling’.

Chapter 3 – Development for Seniors Housing

Part 1 General

Clause 15 – What Chapter Does

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

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

The proposed development is on land that adjoins land zoned primarily for urban purposes however, the development does not consist of a hostel, a residential care facility or serviced self-care housing. The development is considered to meet the definition of self-contained dwellings therefore, the development does not meet clause 15 as described.

Clause 16 – Development Consent Required

Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.

As a result of non-compliance with Clause 15, this Chapter does not allow the proposed development under this Policy however; another environmental planning instrument allows the development with consent.

The development application has been lodged against Clause 41 of the LMLEP 2004, hence the SEPP (Housing for Seniors or People with a Disability) 2004 does not apply.

Clause 17 – Development on Land Adjoining Land Zoned Primarily for Urban Purposes

A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

- (a) a hostel,*
- (b) residential care facility,*
- (c) serviced self-care housing.*

The SEPP requires development on land adjoining land zoned primarily for urban purposes being limited to either a hostel, serviced self-care housing or a residential care facility. As outlined, the development is contrary to this clause however is permitted based on Clause 41 of the LMLEP 2004.

Clause 18 – Restrictions on Occupation of Seniors Housing

Development allowed by this Chapter may be carried out for the accommodation of the following only:

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.*

Given that the development is applied for under Clause 41 of the LMLEP 2004, the development is only for those over 55 not people with a disability therefore a condition will be applied, if development consent is granted, restricting those who may occupy the development to:

- people aged 55 years and over;
- people who live within the same household with people aged 55 years and over, or
- staff employed to assist in the administration of and provision of services to housing provided under this consent.

Part 1A – Site Compatibility Certificates

Clause 24 – Site Compatibility Certificates Required

This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if:

- (a) the development is proposed to be carried out on any of the following land to which this Policy applies:*
 - (i) land that adjoins land zoned primarily for urban purposes,*
 - (ii) land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),*
 - (iii) land that is used for the purposes of an existing registered club, or*
- (b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.*

This clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.

The development is permitted on the basis of Clause 41 of the LMLEP 2004 and as such a site compatibility certificate is not required.

Part 2 – Site Related Requirements

Clause 26 – Location and Access to Facilities

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, 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.*

- (2) *Access complies with this clause if:*
- (a) *not applicable*
 - (b) *not applicable*
 - (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.*

An assessment of the development determined that the site is within 400m of a transport service at the Woodrising Shopping Centre, the gradient of the pathway will be required to comply with disability access. Satisfactory compliance with the requirements of Clause 26 is demonstrated in the application.

Clause 27 – Bush Fire Prone Land

A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006T.

The development application has been assessed by the NSW RFS as Integrated Development in relation to Section 100B of the Rural Fires Act, 1997. The NSW Rural Fire Service granted its general terms of approval, as follows:

NSW Rural Fire Service General Terms of Approval

Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the property around the building shall be managed as follows as outlined within section 4.1.3 and Appendix 5 of "Planning for Bush Fire Protection 2006" and the NSW Rural Fire Service's document "Standards for asset protection zones":
 - north east for a distance of 40 metres as an inner protection area and 20 metres as an outer protection area;
 - north west for a distance of 50 metres as an inner protection area and 20 metres as an outer protection area;
 - south for a distance of 40 metres as an inner protection area and 20 metres as an outer protection area;
 - south west for a distance of 40 metres as an inner protection area and 20 metres as an outer protection area;
 - west for a distance of 50 metres as an inner protection area and 20 metres as an outer protection area;
 - and east for a distance of 40 metres as an inner protection area and 20 metres as an outer protection area.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this the following conditions shall apply:

2. Water, electricity and gas are to comply with section s4.1.3 and 4.2.7 of "Planning for Bush Fire Protection 2006" .

Access

The intent of measures for property access is to provide safe access to / from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

3. The existing Hunter Water access which comprises a 28 metre right of way will have an 8 metre sealed roadway with the remaining 20 metres managed providing suitable space for crews to work with equipment about the vehicle.
4. The access road will be managed as an APZ.
5. The proposed development will have a perimeter road providing access throughout the development site and easy access for emergency services to all the surrounding vegetation.

6. The whole development site including the perimeter road and access road will be provided with hydrants in accordance with AS 2419.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

7. A Bush Fire Emergency Evacuation Plan is to be prepared in accordance with the NSW Rural Fire Service document "Guide for Developing a Bush Fire Emergency Evacuation Plan".

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bushfire attack. To achieve this, the following conditions shall apply:

8. New construction to the residential buildings and community centres shall comply with Section 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 Addendum Appendix 3 of "Planning for Bush Fire Protection 2006".

Landscaping

9. Landscaping to the site is to comply with principles of Appendix 5 of "Planning for Bush Fire Protection 2006".

Clause 28 – Water and Sewer

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.

The development application and associated plans are endorsed by the Hunter Water Corporation with regard to extending water and sewer reticulation to serve the development.

An appropriate condition of consent would be applicable to ensure compliance in this regard is achieved with the development.

Clause 29 – Consent Authority to consider certain Site Compatibility Criteria for Development Applications to which Clause 24 does not apply.

This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.

A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).

Clause 25 - Application for site compatibility certificate

- (5)(b) *is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:*
 - (i) *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,*

- (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 provision,*
- (v) *without limiting any 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,*

An assessment determined satisfactory compliance with the requirements of Clause 29 and is evidenced throughout this report.

Part 3 - Design Requirements

Clause 30 – Site Analysis

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.

Site analysis information was submitted and deemed adequate for assessment purposes.

Clause 31 – Design of In-fill Self-Care Housing

Not applicable as the application is not for infill self-care housing.

Clause 32 – Design of Residential Development

A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.

Division 2 – Design Principles

Clause 33 – Neighbourhood Amenity and Streetscape

The proposed development should:

- (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, and*

The development as proposed seeks to achieve a transition between the proposal and the surrounding urban development and landscape.

- (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, and*

The developed nature of the surrounding areas and the past activities undertaken on site over a long period of time, namely the Hunter Water Corporation sewerage work activities, reduces the likelihood of there being material of archaeological significance on site. These activities have resulted in the site being significantly disturbed and altered from its likely

original condition. Therefore, the site is considered to have limited historical, social, or cultural significance for Aboriginal groups. A condition of consent will be imposed requiring stop works in the unlikely event that Aboriginal relics are uncovered.

- (c) *maintain reasonable neighbourhood amenity and appropriate residential character by:*
 - (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*
 - (iv) *considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*

The development is considered in context with development in the locality. Proposed building setbacks, embellished with landscaping will adequately reduce the building mass, bulk and scale including offsite impacts of overshadowing. The building siting will relate to the site's landform and building heights are compatible in scale to surrounding development. The setbacks of the proposed development from surrounding existing residential development, off site, are considerable (in excess of 200m). The development proposes the retention of most of the existing vegetation within this setback area, aside from that required for the asset protection zones required for the development by NSW Rural Fire Service. In this regard, dwellings and other community buildings have not been located close to adjoining residential boundaries.

The vehicular access to the development is proposed from Marmong Street. The drive access is 8m wide. The first 100m of the drive access is between two existing residential properties. The width of this part of the land is approximately 20m wide, which enables an appropriate setback to the side boundaries of the existing residential development to the north and south of this access handle from Marmong Street. It is considered that the acoustic and landscape treatments mitigate the impacts of this driveway to the development.

- (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, and*

A front building line for the development will not be observed as the development is accessed via a battle-axe driveway and will not be observed from the existing streets.

- (e) *Embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*

Proposed planting is consistent with surrounding vegetation, however the development will also provide its own landscape theme.

- (f) *Retain, wherever reasonable, major existing trees, and*

Existing trees wherever possible are being maintained.

- (g) *Be designed so that no building is constructed in a riparian zone.*

The riparian zone will be protected and no dwellings or community buildings will be constructed within the zone.

Clause 34 – Visual & Acoustic Privacy

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents.

The generous setback of the proposed dwellings to existing residential development is in excess of 200m, in this regard; the development will not have any visual privacy impacts on existing residential development.

The vehicular access to the development will be via a battle-axe handle from Marmong Street. The access handle is approximately 100m long and is located between several existing dwelling lots on Marmong Street and Kylie Close. A sound attenuation wall is proposed between the vehicle access and the adjoining residential lots. The sound attenuation wall is proposed to be constructed of materials that do not intrude on surrounding bushland such as Perspex panels, which will provide visual access beyond the wall. The wall will be located 1.5m from the road edge and will be 1.8m high. Significant planting will be carried out behind the sound attenuation barrier to provide visual screening for surrounding residents. In addition, an avenue of street trees, *Corymbia maculata* will be planted at the entry to the development to provide a defined avenue and integration with the surrounding bushland.

In general, the proposed development will have some acoustic impact on surrounding development though not considered inappropriate from a residential development perspective.

Clause 35 – Solar Access & Design for Climate

The proposed development should:

- (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*
- (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.*

The development has no impact in this regard to the living areas and private open space of neighbouring development.

A BASIX certificate has been issued for the proposed development. Conditions of consent will require compliance with the BASIX certificate.

Clause 36 – Stormwater

The proposed development should:

- (a) *control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) *include, where practical, on-site stormwater detention or re-use for second quality water uses.*

This matter has been addressed in further detail in this assessment, please refer to Chief Development Engineer's comment under Sections 2.5.3 & 2.5.4 of DCP1 under 79(1)(a)(iii).

Clause 37 – Crime Prevention

The proposed development should provide personal property security for residents and visitors and encourage crime prevention

This matter has been addressed in further detail in this assessment, please refer to comment under Section 2.7.9 of DCP1 under 79(1)(a)(iii).

Clause 38 – Accessibility

The proposed development should:

- (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and*
- (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

The development proposes a private bus to operate solely for the residents for planned outings. This requirement satisfies the accessibility requirements of the SEPP. If the application were to be approved, an appropriate condition of consent in this regard would be applicable.

A public bus operates along Marmong Street in the morning and afternoon. Public bus services operate from Woodrising Shopping Centre with morning and afternoon services. Pedestrian access to Woodrising Shopping Centre will be facilitated by a requirement to construct a concrete footpath from the development to the shopping centre.

Access to and around the development is satisfactory.

Generally, the services/facilities provided on-site are adequate, attractive and safe as determined by the Disability Access Audit, Social Impact Statement and Landscape Architect comments.

Clause 39 – Waste Management

The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

The development proposes waste and re-cycling facilities for each dwelling and the community buildings. Garbage will be collected from the individual dwellings as well as from the community centre via a private collection service.

Part 4 - Development Standards to be Complied With

Division 1 – General

Clause 40 – Development Standards – Minimum Sizes and Building Heights

(1) General

A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

(2) Site size

The size of the site must be at least 1 000 square metres.

The site has an area of approximately 33 hectares, thus exceeding the 1000m² minimum required.

(3) *Site frontage*

The site frontage must be at least 20 metres wide measured at the building line.

The site has a frontage of approximately 19m, at Marmong Street, however this is the access handle to the development and is not the building line, the building line is further into the site, where the site has a width of greater than 400m, thus exceeding the 20m minimum width.

(4) *Height in zones where residential flat buildings are not permitted*

If the development is proposed in a residential zone where residential flat buildings are not permitted:

- (a) the height of all buildings in the proposed development must be 8metres or less, and*
- (b) a building that is adjacent to a boundary of the site must not be more than 2 storeys in height, and.*
- (c) a building located in the rear 25% area of the site must not exceed 1 storey in height.*

The site is not a residential zone where residential flat buildings are prohibited; therefore, compliance with this clause is not required.

Division 2 – Residential Care Facilities – Standards Concerning Access & Useability

Not applicable

Division 3 - Self Contained Dwellings - Standards Concerning Access & Useability

Clause 41 – Standards for self-contained dwellings

A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.

The proposed development complies with the standards specified in Schedule 3 of this Policy.

Schedule 3 Standards Concerning Accessibility and Useability for Hostels and Self-Contained Dwellings

Part 1 - Standards applying to hostels and self-contained dwellings

- (1) The standards set out in this Part apply to any seniors housing that consists of hostels or self-contained dwellings.*
- (2) Despite the provisions of clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15–20 of Schedule 3, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.*

Consideration of the standards applicable to self-contained dwellings would result in the imposition of conditions to respond to the following in the event of approval being granted.

- 2. *Siting Standards:* The site has a gradient of 10% or less and therefore 100% of the units and common areas can achieve wheel chair access. The development shall

comply with the continuous path to an adjoining public road, internal road, or driveway. Common area will be provided in accordance with AS1428.1 such that a person using a wheelchair can use common areas and common facilities associated with the development.

3. *Security:* Pathway lighting will be required to be designed and located so as to avoid glare for pedestrians and adjacent dwellings and will be provided at least 20lux at ground level. The requirements are achieved with the development.
4. *Letterboxes:* Letterboxes that comply with this clause will be provided.
5. *Private Car Accommodation:* All car parking spaces comply with the requirements for parking for persons with a disability set out in AS 2890. Garages are capable of providing power operated roller doors.
6. *Accessible Entry:* Council's Community Planner (Aging and Disability) to ensure that accessible entry requirements are achieved with the development has assessed the application.
7. *Interior:* Council's Community Planner (Aging and Disability) to ensure that the interior layout requirements are achieved with the development has assessed the application.
8. *Bedroom:* Council's Community Planner (Aging and Disability) to ensure that the bedroom requirements are achieved with the development has assessed the application.
9. *Bathroom:* Council's Community Planner (Aging and Disability) to ensure that bathroom requirements are achieved with the development has assessed the application.
10. *Toilet:* Council's Community Planner (Aging and Disability) to ensure that toilet requirements are achieved with the development has assessed the application.
11. *Surface Finishes:* Council's Community Planner (Aging and Disability) to ensure that surface finish requirements are achieved with the development has assessed the application.
12. *Door Hardware:* Council's Community Planner (Aging and Disability) to ensure that door hardware requirements are achieved with the development has assessed the application.
13. *Ancillary Items:* Council's Community Planner (Aging and Disability) to ensure that ancillary such as switches and power point requirements are achieved with the development has assessed the application.

Part 2 - Additional Standards for self-contained dwellings

14. *The standards set out in this Part apply in addition to the standards set out in Part 1 to any seniors housing consisting of self-contained dwellings.*
15. *Living room and dining room:* Council's Community Planner (Aging and Disability) to ensure that living and dining room requirements are achieved with the development has assessed the application.
16. *Kitchen:* Council's Community Planner (Aging and Disability) to ensure that kitchen requirements are achieved with the development has assessed the application.
17. *Access to kitchen, main bedroom, bathroom and toilet:* Each dwelling is not multi-level. The dwellings are "up and overs" with a single dwelling accessed solely on one level.

18. *Lifts in multi-storey buildings:* While the dwellings are located in multi storey buildings, access to each dwelling is directly via the common road way, lift access is not required to access the dwellings.
19. *Laundry:* Council's Community Planner (Aging and Disability) to ensure that laundry requirements are achieved with the development has assessed the application.
20. *Storage for Linen:* Council's Community Planner (Aging and Disability) to ensure that storage for linen requirements are achieved with the development has assessed the application.
21. *Garbage:* Council's Community Planner (Aging and Disability) to ensure that garbage requirements are achieved with the development has assessed the application.

A condition of consent will be applied which ensures compliance with this clause of the SEPP, even though the development is not proposed under the SEPP, it is considered, in lieu of other specified standards, that the standards nominated in this clause are appropriate for self care housing for seniors in a retirement village as is proposed.

Part 5 - Development on land adjoining land zoned primarily for urban purposes

Clause 42 & 43 – Serviced Self-care housing and Transport services

Not applicable

Clause 44 – Availability of facilities and services

A consent authority must be satisfied that any facility or service provided as a part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage.

The application is for a staged development in five stages. The facilities and services provided as part of the proposed development (community centre, swimming pool, Bowling Green, community garden, visitor parking, recreation areas, and the like) will be available to residents when the housing is ready for occupation appropriately proportioned according to the number of residents in each stage.

This development consists of five stages, as follows:

Stage 1 shall consist of:

- sewer, power and water connection for the site;
- earthworks associated with this stage of the development;
- construction of units 13 to 23;
- a temporary community centre;
- construction of roads and footpaths to service buildings from Marmong Street;
- construction of footpath to Woodrising Shopping Centre;
- visitor parking located within the stage boundaries;
- landscaping and recreation areas surrounding Stage 1 works and the entrance to the site, and
- the APZ to the whole of the development.

Stage 2 shall commence after completion of Stage 1 or at the same time as Stage 1 and shall consist of:

- earthworks associated with this stage of the development;
- construction of units 24 to 31 and
- associated infrastructure and landscaping.

Stage 3 shall commence after completion of Stage 2 or at the same time as Stage 2 and will consist of:

- earthworks associated with this stage of the development;
- construction of units 1 to 12;
- construction of permanent community centre and bowling green;
- conversion of temporary community centre to an independent living unit, and
- associated infrastructure and landscaping.

Stage 4 shall commence after completion of Stage 3 or at the same time as Stage 3 and shall consist of:

- earthworks associated with this stage of the development;
- construction of units 31 to 38, and
- associated landscaping and infrastructure.

Stage 5 shall commence after completion of Stage 4 or at the same time as Stage 4 and shall consist of:

- earthworks associated with this stage of the development;
- construction of units 39 to 47, and
- remaining landscaping and infrastructure.

A condition of consent would be applicable to ensure compliance with this staging is achieved.

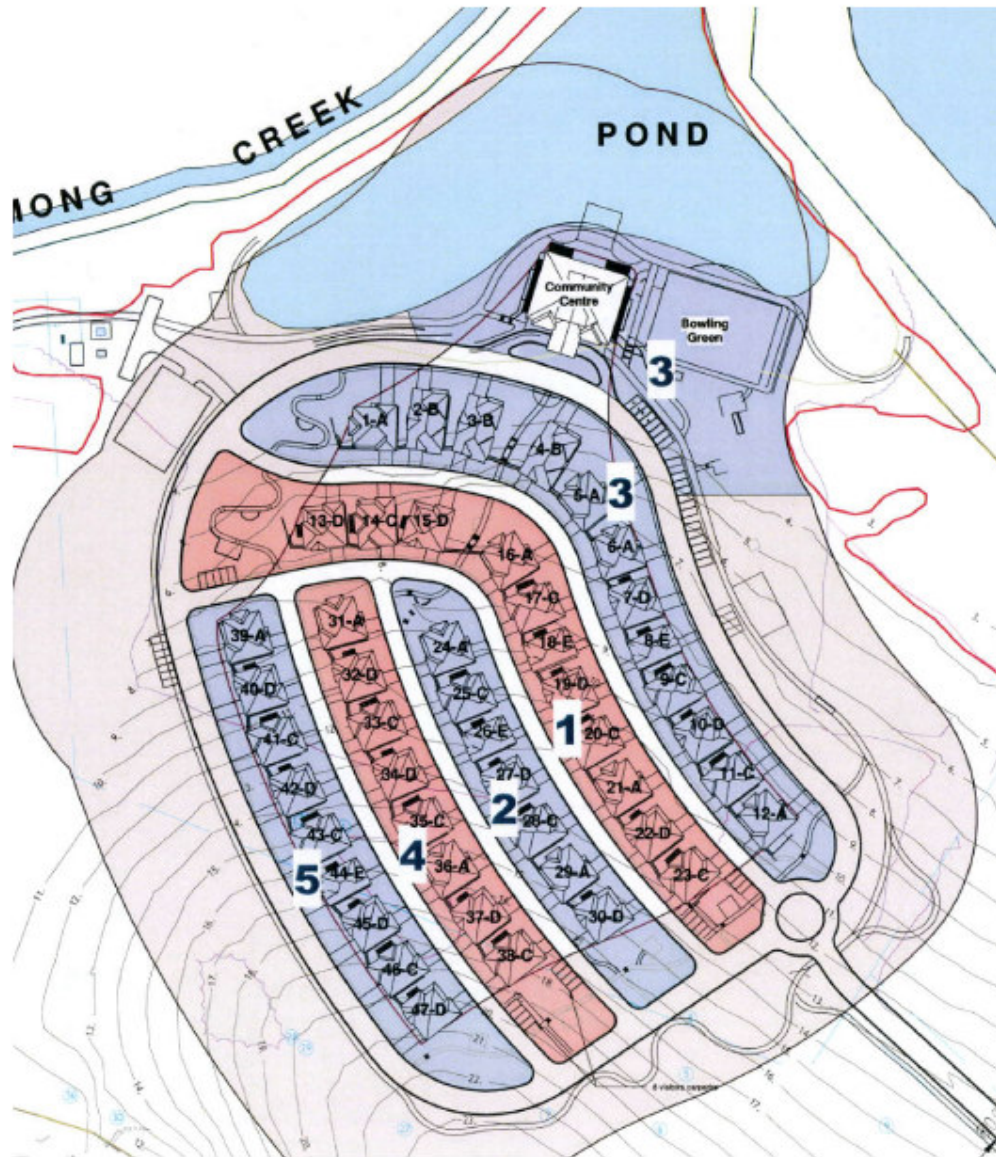


Figure 5: Staging Plan

Part 6 – Development for Vertical Villages

Clause 45 – Vertical Villages

Not applicable

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

(1) *Nothing in this Part permits the granting of consent to a development application 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.*

Note. *It is considered possible to achieve good design and achieve density ratios set out in Division 2. Good design is critical to meriting these density ratios.*

(2) *For the avoidance of doubt, nothing in this Part limits the matters to which the Director-General may have regard in refusing to issue a site compatibility certificate.*

The proposed development is considered to meet the principles set out in Division 2 of Part 3, as previously responded to in this report.

Clause 47 - Part does not apply to certain Development Applications relating to Heritage Affected Land

Not applicable

Division 2 Residential Care Facilities

Clause 48 - Standards that cannot be used to Refuse Development Consent for Residential Care Facilities

Not applicable

Division 3 – Hostels

Clause 49 - Standards that cannot be used to Refuse Development Consent for Hostels

Not applicable

Division 4 – Self Contained Dwellings

Clause 50 –Standards that cannot be used to refuse Development Consent for Self-Contained Dwellings

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds.

- (a) *Building Height:* Several dwellings and the community centre exceed 8m height (from natural ground level). It is not proposed to refuse the application therefore, the application is not intended to be refused for the development exceeding a height of 8m.
- (b) *Density and Scale:* The density and scale of the buildings when expressed as a floor space ratio is less than 0.5:1. The site has an area of 33 hectares and the proposed development will have a gross floor area of approximately 20,000² resulting in a FSR of significantly less than 0.5:1 (approximately 0.06:1).

- (c) *Landscaped area:* A minimum of 30% of the site is to be landscaped, which equates to 33,000m². Significantly, greater than 30% of the site will be formally landscaped or existing bushland vegetation maintained and rehabilitated to form a natural landscape buffer between the existing dwellings and the development footprint.
- (d) *Deep Soil Zones:* A minimum of 15% of the site (being not built on, paved or sealed) is to be a deep soil zone (DSZ) having minimum dimensions of 3 metres. Two thirds of the DSZ is to be preferably located at the rear, and 10% of the total site area to be a single block of DSZ located at the rear. All landscaped areas will be deep soil zones and therefore compliance in this regard is achieved.
- (e) *Solar Access:* 70% of the dwellings will receive a minimum of three hours direct sunlight between 9am and 3pm to the living rooms and private open spaces. Dwellings have been positioned on site such that main living areas benefit from north to north easterly aspect to achieve good levels of solar access during mid winter. Patios and balconies are attached to the main living areas, which have also been positioned to benefit from a north the north easterly aspect and often wrap around dwellings to orientate towards street frontages.



Figure 6: Typical building layout with regard solar access

- (f) *Private Open Space for in-fill self-care housing* – not applicable.
- (g) *Repealed*
- (h) *Parking:* at least 0.5 car spaces for each bedroom have been provided within the development. The development provides for 263 bedrooms, therefore a minimum of 132 parking spaces are required. The development provides 222 parking spaces.

Chapter 4 - Miscellaneous

Not applicable

The proposed development is considered to meet all design requirements under the SEPP (Housing for Seniors or People with a Disability) 2004.

State Environmental Planning Policy (SEPP) (Infrastructure) 2007

Ausgrid have provided the following response under Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007:

The assessment and evaluation of environmental impacts for new development consent (or where a development consent is modified) is undertaken in accordance with requirements of Section 79C of the Environmental Planning and Assessment Act 1979. One of the obligations upon consent authorities, such as local councils, is to consider the suitability of the site for the development, which can include a consideration of whether the proposal is compatible with the surrounding land uses and the existing environment.

In this regard, Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid's infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

Please note the following information in relation to the construction of the development:

Supply of Electricity

An initial assessment of the existing electricity network infrastructure adjacent to the development site suggests that it may not be able to support the expected electrical load of the development. Therefore, a substation may be required on-site, either a pad mount kiosk or chamber depending on the final electrical load and site conditions. Easements will be required over any substations and associated Ausgrid underground cables. Details of the substation type and location will be determined prior to the design stage of the project. To enable the planning of this work to proceed, the Electrical Contractor/Consultant must submit an 'Application of Connection'.

Proximity to Existing Network Assets

There are existing overhead electricity network assets in the Northern area of the site, adjacent to the development. Workcover Document 8290 – Work Near Overhead Powerlines outlines the minimum safety separation requirements between these mains / poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid document, Structures Near Powerlines. Structural features of the development including, windows and balconies will affect the "as constructed" minimum safety separation requirements.

The existing overhead mains may require relocating should the minimum safety clearances be compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It was identified that the “as constructed” minimum clearances do not appear to encroach the minimum clearances. It is recommended that the developer contact Ausgrid on (02) 4951 9539 to discuss compliance issues regarding the relevant Workcover Document 8290 – Work Near Overhead Powerlines and to confirm the as constructed clearances.

Method of Electricity Connection

The method of connection will be in line with Ausgrid's ES10 – 'Requirements for Electricity Connection to Developments'. It is expected the development be connected to our existing electricity network using underground cable.

Conduit Installation

The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

Existing Electricity Easements

A title search of the development site should be completed to check for existing electricity easements. If easements are present, Ausgrid must assess the proposed activity within the easement.

The above matters will be included as a condition of consent as part of any approval.

State Environmental Planning Policy (SEPP) 71 - Coastal Protection

This application has been assessed having regard to the aims of the SEPP. It is not expected that the proposed development will have adverse impact on achieving the aims of the SEPP.

In addition, the application has had regard to the matters for consideration in Clause 8 of the SEPP, as follows:

- (a) the aims of this Policy set out in clause 2,*
- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats*

- (i) existing wildlife corridors and the impact of development on these corridors,*
- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) likely impacts of development on the water quality of coastal waterbodies,*
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) only in cases in which a development application in relation to proposed development is determined:*
 - (i) the cumulative impacts of the proposed development on the environment, and*
 - (ii) measures to ensure that water and energy usage by the proposed development is efficient.*

The application has been assessed against these matters for consideration. The application will generally comply with the aims of the SEPP and the other matters for consideration under Clause 8 of the SEPP.

Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004)

Clause 15 General Controls for Land within Zones

The LMLEP2004 does not separately define a Retirement Village or similar however the development has been lodged pursuant to Clause 41 – ‘Development for the purposes of Retirement Villages’ and is permissible with consent.

Clause 16 Development Consent – matters for consideration

(a) Lifestyle 2020 Vision, Values and Aims

In considering this application the consent authority must have regard to the following vision, values and aims of the Lifestyle 2020 Strategy as expressed in Part 2 of the LMLEP2004 as follows:

Vision

The vision for land to which this strategy is:

- *a place where the environment is protected and enhanced.*
- *a place where the scenic, ecological, recreational and commercial values and opportunities of the Lake and coastline are promoted and protected.*
- *a place with a prosperous economy and a supportive attitude to balanced economic growth, managed in a way to enhance quality of life and satisfy the employment and environmental aims of the community.*
- *a place that recognises encourages and develops its diverse cultural life and talents and protects and promotes its heritage.*
- *a place that encourages community spirit, promotes a fulfilling lifestyle, enhances health and social well being, encourages lifestyle choices and has opportunities to encourage participation in sport and recreation.*
- *a place that promotes equal access to all services and facilities and enables all citizens to contribute to an participate in the City's economic and social development.*

Values

The 4 core values of the strategy are sustainability, equity, efficiency and liveability.

Aims

The aims of the strategy are to:

- (a) provide the community with realistic expectations about the future development patterns for land in Lake Macquarie City, while retaining flexibility for land use decision making in the longer term, and*
- (b) reinforce and strengthen centres so that a wide range of commercial and community services may be provided in a timely and accessible manner, and*
- (c) provide local employment opportunities for residents and promote economic development consistent with the City's natural, locational and community resources, and*
- (d) guide the development of urban communities that are compact, distinct and diverse and include a range of housing types and activities, and*

- (e) *achieve a strong sense of positive community identity, through the development of local communities that are safe and liveable and offer a diversity of uses, economic opportunities and ready access to services, and*
- (f) *develop an attractive urban setting for the City which reflects its physical and natural environment, and visual character, and*
- (g) *manage the City's natural environment so that its ecological functions and biological diversity are conserved and enhanced, and contribute to the City's overall well being, and*
- (h) *manage the City's heritage and economic resources in a way that protects the value of these resources and enhances the City's character, and*
- (i) *integrate land use with the efficient provision of public and private movement systems.*

The proposal has addressed and satisfied the vision, values and aims of the Strategy in this development through the provision of aged housing with appropriate services, access, and facilities in proximity to public transport and urban core services and by minimising adverse impacts on the existing and adjacent environment.

The 2020 Strategy provides the following description of the Green System map, for Remnant Vegetation:

These areas typically contain widespread vegetation communities, and are terrestrial and arboreal fauna habitats. The vegetation communities, and are terrestrial and arboreal fauna habitats. The vegetation communities found in these areas are more widely found throughout the City. Remnant Vegetation parcels are often of a size necessary to provide viable habitat and may support threatened flora and fauna through complementing High Value Habitat areas.

These lands also exhibit scenic values that are identifiable with the character of the City and hence form an important visual function. These areas occur throughout the City and typically include:

- *highly visible forested ridge lines.*
- *undulating hills characteristic of the eastern side of the City.*
- *foothills, mountains and ranges characteristic of the western side of the City.*

It is intended to manage the Remnant Vegetation element of the Green System so that important flora and fauna habitat is retained, recreation opportunities are provided and distinctive and significant landscape features of the City are maintained.

This locality is currently characterised by residential land uses, whereas the subject site contains remnant vegetation, including some threatened species. The flora and fauna issues have been considered throughout this report. The area for development has been largely contained to that area of the site, which is already disturbed due to previous use of the site for Hunter Water Corporation operational activities.

The proposal provides for a housing type, which exists in the broader locality, but not within the immediate environment of the subject land. The proposal is characterised by generous building setbacks, which enables a considerable landscape buffer to the surrounding properties, which would greatly minimise the visual presence of the development to the surrounding residential lots. As a result, the development, whilst residential in nature will not be largely visible from public places including Marmong Street and the Woodrising Shopping Centre, will not adversely detract from the visual setting nor unreasonably affect the amenity of surrounding landowners. The locality would retain its character as a pleasant locality characterised by low scale buildings in an open and treed landscape.

Whilst the site lies within the 'Remnant Vegetation' area identified in the 2020 Strategy, the area to be developed is largely cleared and devoid of natural vegetation, as such the proposal will provide a compatible relationship to the nearby properties and provides an appropriate use of the disturbed areas of the site.

(b) Objectives of Zone

Council has previously sought legal advice to confirm the development was required to consider the objectives of the zone. Council's legal advice advised as follows:

Clause 41 does not include any provision that specifically overrides or excludes any other provision of the LMLEP 2004

Clause 16 of the LMLEP 2004 provides as follows:

Consent must not be granted for development unless the consent authority:

- (a) has had regard to the vision, values and aims of the Lifestyle 2020 Strategy expressed in Part 2, and*
- (b) is satisfied that such of the development is as proposed to be carried out within a zone is consistent with the relevant objectives for the zone, as set out in the Table to clause 15.*

The relevant underlying object of the EP&A Act 1979 is to promote the orderly and economic use and development of land. I am of the opinion that this object can only be met where the LMLEP 2004 is interpreted in such a manner that cl.41 does not override or exclude the application of cl.16.

However, having said that, the objectives of the relevant zone must be read and applied within the context of development permissible by reason of cl.41. Such an approach is reflected in the inclusion of the word "relevant" in cl.16(b).

As a result, the development has been considered against the objectives of the zone.

The land is zoned predominantly 7(2) Conservation (Secondary), other land zonings include 10 Investigation, 7(1) Conservation (Primary) and 2(1) Residential.

The land, where the majority of the development will occur, is zoned 10 Investigation. The objectives of the 10 zone are to:

- (a) provide land for future development and / or conservation; and*

Planning Comment:

The proposal comprises a retirement village within a rural/urban setting. The development would provide residents the opportunity to enjoy elements of a rural lifestyle particularly with the vistas afforded within and external to the site. The dwellings would be sited in an extensive landscaped setting with generous passive recreation areas to be retained and/or provided. The landscape area will result in a significant area of the site being set aside to support its visual integration into the existing landscape, with a mix of formal and natural landscape outcomes.

The development provides for development and conservation of the subject site with a good balance between the retention and embellishment of existing natural bushland areas and a larger scale retirement village development on the site.

- (b) ensure that land in this zone is thoroughly assessed to identify and substantiate future use, and*

Planning Comment:

The development proposal has been supported by substantial studies, which have been thoroughly assessed against Council's LEP, DCP and state legislation. The development is considered compatible with the immediate environment and has enabled the redevelopment of the disturbed areas of the site and the retention and embellishment of the existing bushland on the site.

- (c) *provide for limited development of the land and allow that development only where it can be proved not to prejudice or have the potential to prejudice future protection or use of the land, and*

Planning Comment:

The footprint of the development is limited having regarded the site constraints. The development does not prejudice nor does it have the potential to prejudice future protection or use of the land. The development proposes extensive vegetated buffers to remain around the principle development footprint, that represents both a retention of the existing ecological attributes of the site and a further embellishment of the landscape that in many respects will afford a higher landscape setting than currently exists and support the environment within this area adjoining the SEPP 14 wetland, existing man-made dam, the creek and adjoining residential areas.

The development provides a water management plan including improved stormwater management, improved water quality, reduced off site stormwater impacts, and improved flood mitigation for the catchment.

- (d) *ensure that land is released in a strategic and efficient manner consistent with the Lifestyle 2020 Strategy, and*

Planning Comment:

The site is centrally located to the CBD's of Toronto and Glendale. These areas include all relevant infrastructure and associated services and therefore the site is well located to take advantage of reasonably easy access to these centres. In addition, several smaller commercial areas exist within proximity to the site, including Woodrising, Fennel Bay, Marmong Point, Teralba, Speers Point and Boolaroo.

The site is an infill site that will provide for appropriate development of land in a timely and strategic manner.

- (e) *require comprehensive local environmental studies to substantiate the capability and suitability of land in this zone proposed for rezoning, and*

Planning Comment:

It is not proposed to rezone the land, as the development is permissible within the zone.

- (f) *provide for sustainable water cycle management.*

Planning Comment:

The development supports sustainable water cycle management as determined in the assessment report.

No works are proposed over that part of the land zoned 7(1); therefore this zoning is not considered further in this assessment. A condition of consent is proposed to reinforce that no works are to occur on the land zoned 7(1).

Access to the development is over land zoned 7(2) Conservation (Secondary) and 2(1) Residential. The access is in the form of vehicular from Marmong Street to the development

and pedestrian access from Marmong Street to the Woodrising Shopping Centre. The 7(2) zone objectives are to:

- (a) *protect, conserve and enhance land that is environmentally important; and*

Planning Comment:

The development respects the land zoned 7(2) and has generally attempted to restrict the development to that part of the site that is zoned 10 and relevantly to that part of the site that is already significantly disturbed. The development proposes the rehabilitation of the remaining bushland on site, outside of the asset protection zones.

- (b) *protect, manage and enhance corridors to facilitate species movement, dispersal and interchange of genetic material, and*

Planning Comment:

The development proposes the protection, management and enhancing of corridors which will facilitate species movement, dispersal and interchange of genetic material. Council's Development Planner (Flora and Fauna) has reviewed the application and supports the development subject to conditions of consent.

- (c) *enable development where it can be demonstrated that the development will not compromise the ecological, hydrological, scenic or scientific attributes of the land or adjacent land in zone 7(1), and*

Planning Comment:

7(1) zoned land is to the north of the development area, no works are proposed within this area. The development will not compromise the ecological, hydrological, scenic or scientific attributes of the land or adjacent 7(1) zoned land. This is evidenced through the ecological study, stormwater reports, landscaping report and other supporting documentation submitted with the application.

- (d) *ensure that the development proposals result in rehabilitation and conservation of environmentally important land, and*

Planning Comment:

As stated previously the development proposes the rehabilitation of the remaining 7(2) and 7(1) zoned land on the site. Significant areas of rubbish dumping, illegal clearing, under-scrubbing, weed infestation and track proliferation are visible on the land zoned 7(2). The development will result in greater management of the site to ensure that these activities, which are presently undermining the integrity of the conservation zoned lands, do not occur unmanaged.

- (e) *provide for sustainable water cycle management.*

Planning Comment:

The development supports sustainable water cycle management as determined in the assessment report.

The 2(1) zone objectives are to:

- (a) *permit development of neighbourhoods of low-density housing, and*

Planning Comment:

The development is residential in nature. The density of the development would be considered low density housing, given the size of the site, number of dwellings proposed and footprint of the development. The development is not high rise development and is not high density housing.

- (b) *provide for general stores, community service activities or development that includes home businesses whilst maintaining and enhancing the residential amenity of the surrounding areas, and*

Planning Comment:

The development does not propose a general store, however other community type facilities are proposed for residents and their visitors, including a community centre, swimming pool, community garden, children's play area, recreation areas and the like.

The provision of these facilities does not detract from the residential amenity of the site. The development will not generally be visible from surround streets. The development will be visible from the rear yards of some adjoining dwelling lots, however the development will present with a residential nature and feel. The development will not provide for home businesses however, this is provided for elsewhere in this locality.

- (c) *ensure that housing development respects the character of surrounding development and is of good quality design, and*

Planning Comment:

The development is of good quality design. The development has significant setbacks to adjoining residential development; this will respect the character of the surrounding development through provision of a buffer the existing adjoining development from the development. The landscape treatment for the development has had regard to the surrounding development especially in terms of adopting a mix of native and exotic species, this treatment will assist in blending the development with the residential and bushland outlook of the site.

- (d) *provide for sustainable water cycle management.*

Planning Comment:

The development supports sustainable water cycle management as determined in the assessment report.

Clause 17 - Provision of essential infrastructure

The site has available water, sewer, electricity, and telecommunication facilities adequate to service the development. Ausgrid have advised that a kiosk or substation will be required for the development. The development has provided an appropriate location for this facility.

Clause 18 - 21

Not applicable.

Clause 22 Foreshore building lines

The site has a foreshore building line applicable to it. The foreshore building line for this property is 36m. The development does not propose any building within the 36 metre foreshore building line area.

Clause 23

Not applicable.

Clause 24 Subdivision

The application proposes the consolidation of two parcels of land to which the development relates. Lot 1 (which is split zoned 10 and 7(2)) and Lot 784, which is zoned 2(1), will be required to be consolidated as part of this development. The resultant lots will comply with this clause and schedule 2.

Clause 25 – 28

Not applicable

Clause 29 Building heights

Building heights will exceed 8m from natural ground level. Overall, the buildings will not be viewed external to the site. The development of the site has involved the appropriate reshaping of the land to provide for disability access across the site. The areas where the dwellings and community buildings will exceed 8 metres in height are in context with the development. That is the scale of the community building, which exceeds 8m height, is appropriate given its location on the man-made lake existing within the site. The development height is appropriate to the site's attributes.

Clause 30 Control of pollution

The proposed Retirement Village, and the nature of its use/operation, will not give rise to excessive noise or air pollution. If the application were to be approved, an appropriate condition of consent in relation to the control of pollution would be applicable.

Clause 31 Erosion and sediment control

Council's Erosion and Sediment Control Officer has provided comment on this matter. This matter is addressed in further detail in the internal referral section of this report.

The area of soil surface exposure is greater than 2500m². In this regard, Council has considered a soil and water management plan which complies with the construction guidelines adopted by Council. In addition, conditions of consent are proposed to prevent and minimise the effects of erosion and sediment.

Clause 32 Flood prone land

The land is noted as being low lying land. Council's Flood Prone Land Officer has provided comment on the development, which has been previously addressed in this report. It is considered that the application has adequately addressed that part of the site that is potentially flood prone land. Buildings, including dwellings and community buildings are to be constructed clear of the flood planning heights including allowance for sea level rise.

Please refer to comment under Section 2.1.7 of DCP 1 under 79(1)(a)(iii).

Clause 33 Bush fire considerations

The land is zoned bush fire prone.

The development is integrated development in terms of the Rural Fires Act. In this regard, the development has been referred to NSW RFS. NSW RFS have provided comment, which has been addressed previously in this report.

Clause 34 Trees and native vegetation

The development proposes the removal of several trees. Council's Development Planner (Flora and Fauna) has commented on the proposal, this matter has been discussed in the internal referral section of this report.

Clause 35 Acid sulfate soils

The initial geotechnical reports submitted with the application have determined that the area of works will not be affected by acid sulfate soils.

Clauses 36 - 37

Not applicable.

Clause 38 Advertising Structures and Signs

Development consent will be sought for any advertising structure that is not exempt development.

An identification entry wall for the village is proposed at the entry to the development. The entry wall is considered appropriate and in keeping with the existing and proposed future streetscape, the wall will integrate with the proposed landscaping and will provide an appropriate entry feature of the development to provide clear identification of the village entry.

Clauses 39 - 40

Not applicable.

Clause 41 Development for the purpose of Retirement Villages

The development has been lodged against Clause 41 of LM LEP 2004. Clause 41 states:

- (1) *This clause aims to maintain the opportunity for the development of retirement village style accommodation for aged persons in appropriate locations where the land satisfies the criteria specified in subclause (5).*

Planning Comment: The development is for retirement village style accommodation.

- (2) *This clause applies to:*

- (a) *land within Zone 2 (1), and*
(b) *land that is not within Zone 2 (1), 7 (1), 7 (4), 8 or 9, but part or all of which immediately adjoins, or is within 400 metres of, land within Zone 2 (1).*

Planning Comment: The development site is zoned 7(2) Conservation (Secondary), 10 Investigation and 2(1) Residential. That part of the land not zoned 2(1) is within 400 metres of land zoned 2(1) Residential under LM LEP 2004.

- (3) *In this clause:*

retirement village *means a complex containing residential premises that are predominantly or exclusively occupied, or intended to be predominantly or exclusively occupied, by persons aged 55 years or older, which provides access to meals, cleaning, emergency assistance, and a transport service for residents.*

Planning Comment: The development application has been lodged as a 'Retirement Village'. The statement of environmental effects details that the proposal fits within the definition of Retirement Village under Clause 41(3) of the LM LEP 2004. A condition of

consent will apply restricting use of the premises to persons predominantly aged 55 years or older.

- (4) *Nothing in this plan prevents a person, with development consent, from carrying out development on any land to which this clause applies for the purpose of a retirement village.*

Planning Comment: Previous legal advice from the City Solicitor identified that consideration of the zone objectives is applicable and not overridden by Clause 41.

- (5) *Despite subclause (4), consent may be granted to development for the purpose of a retirement village only if the consent authority is satisfied that:*

- (a) *the land on which the development will be carried out is of sufficient size to accommodate a minimum 70 unit retirement village development, and*

Planning Comment: The development proposal consists of 94 units. The application demonstrates that more than 70 units can be accommodated on the land. The applicant has designed the development more sympathetically to integrate the proposal with the existing landscape/character and has therefore proposed a reduction in dwellings that would otherwise be possible on the site.

- (b) *the land has frontage to a formed public road servicing nearby urban areas, and*

Planning Comment: The development site fronts Marmong Street, a formed and sealed public road in Marmong Point, which services residential zoned land to the south, north and east.

- (c) *the development is able to be serviced with reticulated water, sewerage and electricity, and*

Planning Comment: The development is able to be serviced by reticulated water, sewerage and electricity, as evidenced by correspondence by HWC and Energy Australia. If the application were to be approved, an appropriate condition of consent in relation to supply of reticulated water, sewerage and electricity would be applicable.

- (d) *at least 70% of the proposed development area comprises land with a slope of less than 20% grade.*

Planning Comment: The site has areas of slope, as well as areas that are significantly less slope. The application states that greater than 90% of the site has a gradient of less than 20%.

Clauses 42 - 42A

Not applicable.

Part 6: Heritage Provisions

The development complies with the objective of this Part. The development is not contrary to the protection and conservation of archaeological sites and places of Aboriginal, natural or European cultural significance. The development will not alter the remaining fabric, relics, settings or views of heritage items. The site is not within a heritage conservation area.

The site is not located within proximity to any heritage item, heritage conservation area, cemetery or burial ground, or any place of known or potential Aboriginal significance. In this regard, no further consideration of this Part is required.

Council's Heritage Planner has commented on the application and although acknowledges that the site is not identified by Council's Sensitive Aboriginal Cultural Landscape mapping has advised a condition of consent in the unlikely event that Aboriginal relics are discovered during excavation or construction works.

Clause 55 - 56

Not applicable.

Clause 59 Acquisition of coastal land

The land is not zoned for acquisition as coastal land.

Clause 60 Development on land adjoining Zones 5, 7(1), 7(4) and 8

The site does not adjoin land zoned 5, 7(4) or 8.

The site adjoins land zone 7(1). The development is consistent with the effective conservation of the land within the 7(1) zone. The 7(1) zone will be adequately protected from any adverse impacts, including stormwater run-off, erosion and sedimentation, pollution, weed infestation, feral or domestic animals, chemicals, nutrients and the like. This matter has been addressed throughout this assessment and further addressed through proposed conditions of consent.

Clauses 61 - 62

Not applicable.

Part 8: Middle Camp Site

Not applicable.

Part 9: Nords Wharf Site

Not applicable.

79C(1)(a)(ii) the provisions of any draft EPI

Draft Lake Macquarie Local Environmental Plan 2012 (dLMLEP 2012) was on public exhibition until 24 December 2012. DLMLEP 2012 proposes RU6 - Transition, E2 – Environmental Conservation and R2 - Low Density Residential, zones over the land. The development would not be permissible as the existing Clause 41 – Retirement Villages is not replicated in dLMLEP 2012. A similar clause in dLMLEP 2012 (clause 7.13 – Use of Land for Seniors Housing) does not permit the development due to the clause only applying to land zoned RU2 – Rural Landscape, E3 – Environmental Management and E4 Environmental Living. The proposed zoning of the land would not permit a development under clause 7.13.

Reporting of exhibition to the Council has not occurred at this stage. The adoption of this plan is not expected in the first half of 2013; in this regard, the plan is neither imminent nor certain and should therefore not be given determining weight.

79C(1)(a)(iii) the provisions of any Development Control Plan (DCP)

Development Control Plan No. 1 – Principles of Development

Section 1.8 – Development Notification Requirements

As required by the EPA Regulation 2000, relevant government departments were notified, being:

Energy Australia;
Mine Subsidence Board;
NSW Police, and
NSW Rural Fire Service

Energy Australia advised it has no objections on 4 December 2012.

The Mine Subsidence Board General Terms of Approval were received on 31 January 2013.

The NSW Police advised it has no objections on 23 March 2011.

The NSW Rural Fire Service General Terms of Approval were received on 4 February 2013.

Adjoining and adjacent neighbours were notified of the proposal in accordance with the DCP. Eleven submissions were received to the most recent notification period. The objections are addressed within section 79C(1)(d) of this report.

Section 2.1 – Environmental Responsibility and Land Capability

2.1.1 – Ecological Values and 2.1.2 – Ecological Corridors

Council's Development Planner (Flora and Fauna) has reviewed the additional information provided by City Plan Services (31 October 2012) and Ecobiological (5 October 2012) with regard to Council officers previous flora fauna referral comments of the 30 July 2012. It is acknowledged that effort has been made to reduce the footprint of the development and therefore the impact of the development on the ecological values of and corridors on the site from that originally submitted.

Background

Significant habitat identified on or near the site includes:

- 28 hectares of native vegetation including:
 - 3.9 hectares of the endangered ecological community (EEC) swamp sclerophyll forest on coastal floodplains;
 - 0.6 hectares of the EEC Swamp Oak Forest on Coastal Floodplains;
 - 21.7 hectares of coastal plains smooth bark apple woodland that is also recognised as regionally significant fauna habitat; and
 - Remaining areas of regrowth / exotic / cleared vegetation;
- 323 clumps of the threatened plant *Tetratheca juncea*;
- known threatened species habitat for the grey-headed flying fox, squirrel glider, little bent-wing bat, eastern bent – wing bat and the large-footed myotis and potential habitat for a further 19 threatened flora and fauna species;
- 29 trees with habitat hollows, and
- SEPP 14 wetland 857, associated watercourse and buffering vegetation.

Impacts associated with the proposal include:

- Removal of 3.5 hectares of coastal plains smooth bark apple woodland. Coastal plains smooth-barked apple woodland is a regionally significant habitat (LHCCREMS, 2003) that on this site provides habitat to known threatened species such as the squirrel glider and threatened micro bats ;
- Indirectly impact EEC buffers by proposing APZ management measures within them;
- Removal of 17 of the 323 clumps of *Tetratheca juncea* identified on site and indirectly impact an additional 19 *Tetratheca juncea* clumps by proposing APZ management measures immediately around them; and
- Remove three trees containing habitat hollows.

To ameliorate this impact the application proposes:

- Retention and management of approximately 24.5 hectares of remaining vegetation on site under a Property Vegetation Plan (PVP) administered under the Native Vegetation Act. This would include closure and rehabilitation of some tracks and bushland fringe areas; and
- Retention of 26 trees with habitat hollows and replacement of the three trees with habitat hollows on a 1:1 basis;
- Retention of more than 75% of the *Tetratheca juncea* population, and
- Retention of all EEC vegetation.

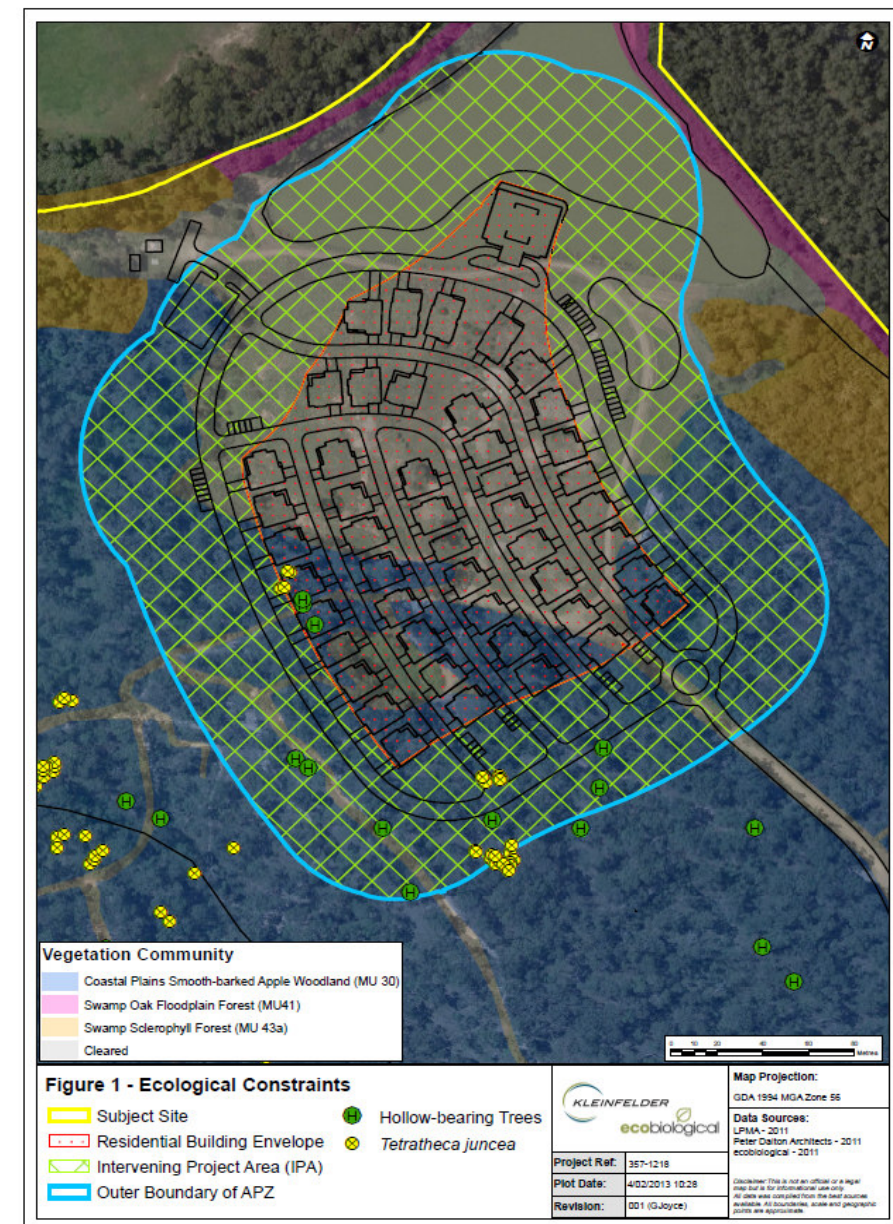
The above amelioration meets offset ratios required under both the NSW Biodiversity Banking and Offset Scheme Methodology and the Biometric Tool administered by the CMA to meet Property Vegetation Plan requirements.

7(2) Conservation Zone Objective

The majority of vegetation on site has been zoned Conservation (Secondary). The objectives of this zone include to:

- (a) - protect, conserve and enhance land that is environmentally important; and*
- (c) - enable development where it can be demonstrated that the development will not compromise the ecological, hydrological, scenic or scientific attributes of the land or adjacent land in Zone (1).*

The proposal will impact approximately 3.5 hectares of native vegetation that has been zoned 7(2) Conservation (Secondary) including direct impact to 3 habitat trees and 17 clumps of *Tetratheca juncea* and indirect impact to an additional 19 clumps of *Tetratheca juncea*. The vegetation to be impacted is also recognised as regionally significant habitat by LHCCREMS (2003) and would provide foraging habitat to threatened species detected on site including the threatened squirrel glider and micro bats.



Not to scale

Figure 7: Ecological Constraints

It is acknowledged that the application retains and proposes enhancement of the remaining 24.5 hectares of similar habitat that is also zoned 7(2) Conservation (Secondary). It is also acknowledged that this habitat includes 26 habitat hollows and 287 clumps of *Tetratheca juncea*. While the 3.5 hectares of regionally significant habitat that is to be removed has taken a number of years to establish and that the proposed rehabilitation and management of the remaining vegetation is likely to take considerable time and effort to equate to or improve on this impact, given the overriding public benefit of the development with the provision of much needed seniors accommodation the removal and rehabilitation of the vegetation is supported.

The proposed Roll Kerb & Gutter along the main access road and the associated eastern bio retention swales may potentially affect hydrological flows to the EEC, in this regard a condition of consent has been proposed to mitigate this potential impact to ensure stormwater management mimics existing hydrological flows on site.

Conditions of consent have been proposed regarding the retention of trees and native vegetation, hollow bearing tree removal, the vegetation management plan and its implementation, and the Native Vegetation Act. In addition, a condition requiring an 88B Restriction as to User is recommended on any consent to ensure native vegetation within the offset area is protected in perpetuity and that VMP is implemented.

2.1.3 Scenic Values

The site is located within a largely residential setting, surrounded by vegetated hillsides. Higher density residential development is located to the west and south, with larger lot residential to the east of the site.

The area is not classified as a visually significant natural landscape within the LMCC Scenic Guidelines – Appendix 3: Significant Features, Viewpoints and Ridgelines Maps.

The proposed dwellings will be of quality built form, which will contribute favourably to the context of the area. The dwellings will be single storey, however due to the slope of the land the one dwelling will be located on top of another, with pedestrian and vehicle access from the respective streets. The dwellings and community buildings are of a suitable scale. The character of the development represents a good urban design consisting of appropriate site planning, articulated building forms and roof treatments and generous complementary landscaping to ensure its compatibility and appropriate relationship to the surrounding residential development. Ample setbacks to existing development adjoining the site will assist in buffering the development from existing residential development in the locality.

Visual access to the development area of the site is limited to motorists travelling along Marmong Street and generally any public areas surrounding the site. Proposed vegetation along the accessway will provide adequate entry treatment for the development and will integrate the entry with surrounding residential development. Exposure of the site will not be unreasonably intensified.

The western area of the site consists of a riparian zone. As no dwellings are proposed within this area, the retention of the majority of trees is possible, which will assist in reducing the impact of the development. Weed removal and supplementary tree and understorey plantings are proposed which shall rehabilitate this area further. The landscaping plan shows the extent of works within this area which will assist in softening the impact to the adjoining residential development to the west.

A 30m wide riparian zone and landscape buffer will be provided along the creek boundary, where the built footprint is closest to the creek, which will assist in reducing the impact of the development to the creek.

The development will be suitably screened to the surrounding area. The impact of the development will be mitigated by the design, colour and materials proposed for the dwellings and the significant landscape buffers along the boundaries of the site.

Overall, the proposal is considered sympathetic to the landscape appreciation of Marmong Point, as the development will not easily be seen from the public road.

2.1.4 Tree Preservation and Management

A review of the application, including the Flora and Fauna Report, Visual Impact Statement and Landscaping documentation by Council's Development Planner – Flora & Fauna and

Council's Landscape Architect, determined that the development was considered satisfactory, provided conditions of consent are imposed to ensure adequate measures are implemented for tree preservation and management.

Refer to the above comments under Section 2.1.1, 2.1.2 and 2.1.3 of DCP 1 under 79(1)(a)(iii).

2.1.5 Bushfire Risk

The application has been considered by the NSW Rural Fire Service as integrated development under section 91 of the Act. General Terms of Approval provided by NSW RFS will be included as conditions of consent.

2.1.6 Water Bodies, Waterways and Wetlands

The proposed development is located adjacent to a former sewerage treatment plant maturation pond. A SEPP 14 Wetland is located downstream of the site.

A report has been submitted that indicates that the maturation pond has been remediated to a standard that would be suitable for the development.

The stormwater management plan for the development is satisfactory and should ensure there is no impact on water quality in the creek and wetland downstream of the site.

2.1.7 Flood Management

Council's Senior Sustainability Officer (Natural Disaster Management) has commented on the proposal and advised:

The subject land may be partly affected by flooding, in this regard, the proposed development has been assessed against Council's flood planning levels.

A Flood Study prepared by consultant Worley Parsons supports the application. The study identifies the 100 year and PMF flood levels at the site, taking into account predicted sea level rise to the year 2100. The 100 year flood level at the year 2100 is calculated to be 2.55m AHD and the year 2100 PMF is 3.63m AHD.

The finished floor level of the lowest units is 4.75m AHD, which is above the PMF level. The floor level of the ground floor of the proposed Community Building is 3.15m AHD, which equates to over half a metre higher than the 100 year flood level predicted for year 2100 and is therefore satisfactory.

Appropriate conditions of consent in this regard would be applicable.

2.1.9 Sloping Land and Soils

The part of the site that is to be developed is located partly within a T3 and T5 geotechnical zone. Douglas Partners Pty Ltd has prepared a Geotechnical Report for the site with a supplementary report prepared on 12 October 2012.

The report identifies that there will be filling placed on the site up to a depth of 8.9 metres near the southern perimeter road. There will also be a maximum cut of approximately 5 metres. Typically there will be cut and fill over the site to a depth of around 1.5 metres. The design for the development involves a total volume of cut of 51,000 cubic metres and filling of 91,000 cubic metres. 40,000 cubic metres of fill will have to be imported onto the site. The importation of this fill may involve up to 4,000 truck movements in each direction and has the potential to damage the adjoining road system, as these roads are not designed for this level of truck movement. A condition should be imposed requiring a Dilapidation Survey on the council road system and the repair of any damage to the road system.

It is proposed to reclaim the southern section of the existing maturation pond for the community building and bowling green. Fill levels will be in the order of 2m, which will be battered near the bowling green and a retaining wall will be required adjoining the perimeter road. Douglas Partners has identified several construction techniques to reclaim this area of the pond. The application advises that the final construction technique will be determined after detailed geotechnical investigation, Council considers this response is satisfactory.

The Douglas Partners report indicates that there is a low or low to medium risk of slope instability over the site other than where the pond is to be reclaimed, where the risk is identified as medium. From a slope stability perspective the site is suitable for development other than the proposed filling batters adjoining the reclamation. A condition should be imposed that requires the site works to be approved by a Geotechnical Engineer and for the works to ensure that the risk of slope stability is reduced to a level that is suitable for residential development.

In general, the level of cut and fill proposed for the site is considerable; however, this is balanced by the public benefit from the development.

2.1.10 Acid Sulfate Soils

Douglas Partners have undertaken a preliminary investigation for Acid Sulphate Soils. No Acid Sulphate Soils were identified in the area proposed for development.

2.1.11 Erosion Prevention and Sediment Control

An amended soil and water management plan has been submitted in support of this development. The SWMP is considered to adequately address the site conditions and demonstrates that reasonable and practicable control measures will be carried out to prevent or minimise the effects of erosion and sediment. Conditions of consent will apply regarding compliance with the plan.

2.1.12 Mine Subsidence

The Mine Subsidence Board has no objection to the proposal and provided General Terms of Approval to be imposed on any development consent issued.

2.1.13 Contaminated Land

Council's Environmental Officer has commented on the application and advised:

Contamination in the form of hydrocarbons, heavy metals, and asbestos has been detected in uncontrolled fill material, which extends across the area of proposed development. The contamination was found to exceed the adopted criteria for residential land use with access to soil, in various locations across the development.

Due to the extent and depth of fill material containing the contamination, the application proposes to manage the fill material onsite including contaminated fill material. The onsite management of contaminated fill material is proposed to be in the form of excavation and re-compaction of the fill material and containment in the form of building foundations, pavements and a 0.5m clean soil capping layer in areas of landscaping.

A Remediation Action Plan (RAP) has been prepared by Douglas Partners for the management of contaminated soils during remediation and construction stages of the development. The RAP has been reviewed by an EPA accredited auditor. The ongoing long-term management of capped contaminated soils will be subject to the requirements of an Environmental Management Plan to be prepared by the contaminated land consultant and provided to Council.

The following consent conditions are recommended to address land contamination issues associated with the development:

Contaminated Land Remediation and Site Audit Statement

The site shall be remediated under the guidance and supervision of the Contaminated Land Consultant and in accordance with the Remediation Action Plan (RAP) prepared by Douglas Partners project number 39870.03, dated 17 April 2012. The responsibilities, procedures, and management plans detailed in the RAP shall be complied with throughout the remediation process and construction of the development.

Prior to the issue of an occupation certificate the site shall be validated and an Environmental Management Plan (EMP) prepared by the Contaminated Land Consultant. The EMP shall be reviewed and approved by a NSW EPA Accredited Site Auditor and a copy submitted to Council.

A Site Audit Statement shall be prepared by the Site Auditor and shall be provided to Council clearly indicating that the site is suitable for the intended use. Any conditions included in the Site Audit Statement shall form part of Council's consent.

Section 88B notation

A Section 88B notation shall be placed on the land title, indicating that an Environmental Management Plan is in place for the on-going management of contaminants.

2.1.14 Energy Efficiency

A BASIX certificate for the development has supported the application. The development meets the minimum targets for water consumption, energy consumption and thermal comfort.

2.1.15 Noise and Vibration

Council's Environmental Management Officer has provided comment on the development and advised:

The acoustic assessment report prepared by Hunter Acoustics and dated 21 November 2012, has identified potential noise disturbance at nearby residential premises from the use and operation of the proposed development, and construction and vibration during development. Potential impacts on residents within the proposed development have also been identified. The following conditions are recommended to ensure the recommendations contained in the report are implemented and noise is reasonably managed:

Acoustic Certification

Council has reviewed, considered and relied on the information provided in the acoustic report prepared by Hunter Acoustics reference number 7987-702.2 dated 21 November 2012 when assessing this development.

The applicant shall ensure that the recommendations contained in this acoustic report are incorporated into the design and construction of the development.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure compliance with any acoustic conditions and that no other noise nuisance is created to the neighbourhood. This is to include the potential noise impact to residents of the development from all mechanical plant and equipment.

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, a certificate shall be provided to the Principal Certifying Authority from a suitably qualified acoustic consultant certifying that the works have been completed in accordance with their requirements and the development or proposed use is capable of operating in accordance with the design criteria.

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify that the development is operating in accordance with the approved acoustic report.

Noise and Vibration - Construction Sites

A Noise Management Plan (NMP) shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer and in accordance with the NSW EPA publications "Interim Construction Noise Guideline" July 2009 and, "Assessing Vibration – a technical guideline" 2006.

The NMP shall be complied with at all times during the demolition and construction period and shall identify potential impacts from noise and vibration, mitigation measures to control noise, noise monitoring techniques and reporting methods, and a complaints handling system.

Construction Time Restrictions:

Monday to Friday, 7.00am to 6.00pm.

Saturday, 8:00am to 1:00pm.

No construction work to take place on Sundays or Public Holidays.

Operational times may be amended with the written advice of Council's General Manager or delegate.

2.1.16 Air Quality and Odour

Council's Environmental Management Officer has reviewed the application and provided the following advice:

The applicant has been requested provide a statement from Hunter Water Corporation (HWC) confirming odour assessment levels predicted by Advitech, could be achieved at the pump station. Instead, an additional odour impact assessment report was provided, prepared by Advitech and dated 29 October 2012. The report has not included a statement from the HWC but has referred to personal conversations with HWC and HWC's contractors in relation to reduced odour generation.

HWC has provided information to Council (D02730755 & subsequent discussions with Paul McKoy 4/12/12) that the predicted assessment levels used in the odour impact report may not be relied on to prevent adverse impacts on the residents of the proposed development and has requested the applicant provide additional odour control to the Marmong Point Waste Pump Station. HWC has advised:

Hunter Water advises that we cannot confirm that the system operates as described in the report resulting in a "50% reduction to the 2006-2009 average values provided by the Hunter Water Corporation due to the recent installation of a chemical dosing system designed to reduce odours from the pump station."

Hunter Water recommends following to provide adequate odour control for the development:

- *Gas tight well covers are to be installed on the wet well of the Marmong Point Waste Water Pump Station. Details may be found in HWC standard drawings SCP810 to SCP814 available at <http://www.hunterwater.com.au/Building-and-Development/Drawings-Plans-Specifications/Standard-Drawings/Sewerage-Pumping-Stations.aspx>.*
- *Install a 6m high (minimum) sewer vent with McBerns vent filter and whirlybird.*

Therefore, it is recommended that the following condition be placed on any consent, with regard odour impacts:

Odour Control at the Marmong Point Wastewater Pump Station

Prior to the issue of an Occupation Certificate for stage one, the Applicant shall comply with the requirements of the Hunter Water Corporation for the modification of the wet well covers and vent system at the Marmong Point Wastewater Pump Station to control the impact of odours on residents within the development.

The proposed development is not itself an offensive contributor to air quality and odour.

2.1.17 Demolition and Construction Waste Management

A Demolition and Construction Waste Management Plan will be provided prior to construction.

A condition of consent would be applicable in relation to the control of demolition and construction waste management.

Section 2.2 – Social Impact

Australia is currently experiencing the biggest generational shift that has been seen for over 60 years. By 2031, the Lake Macquarie LGA, population aged >70 years is estimated to be approximately 45,000 people (double to existing), which means approximately 4,000 high care and low care beds (combined), an increase of 2,000 beds from where we are today, will be required.

As part of a Council's Seniors Housing Research Project, recent community consultations have taken place. Participants of these workshops discussed the difficulty in acquiring independent living units on the eastern side of the lake where the majority of services are located and public transport is available.

The amended Statement of Environmental Effects (SEE) and the accompanying Social Impact Assessment (SIA) prepared by Worley Parsons, dated 2 November 2010 have been reviewed by Council's Social Planner. The SIA submitted with this amended proposal, is the same as that supplied with the original proposal.

The conclusion of the SIA is supported, and it is believed that the proposal would have overall social benefits as it would help to satisfy the demand for aged persons' housing in Lake Macquarie.

A diversity of housing options has been provided (two bedroom units, two bedroom and study units / three bedroom units, as well as single and double car garages). I also note that

the maintenance shed has been deleted, and a community garden and van and boat storage area will be provided instead.

The original proposal also identified that the whole complex was to be built in one stage, with all of the community facilities provided before occupation of any of the dwellings. The amended proposal identifies that the village will be staged, with the community facilities provided at various stages, with a temporary community facility provided prior to first occupation of the village, with the permanent community facility provided at stage 3. These arrangements for the staging of community facilities are satisfactory.

The SIA identifies a number of mitigation and amelioration measures in Section 8. These should be included as conditions of consent. In particular, these measures identify that the community bus should operate more frequently than a minimum of once per day, it is agreed that the frequency should be increased.

The social benefits of the proposal are considered to outweigh any negative impacts generated by the proposal. The measures identified by the proposal and within the SIA will help mitigate the negative social impacts.

This proposal contributes to satisfying demand for this form of housing.

Appropriate conditions of consent, in this regard would be imposed.

Section 2.3 – Economic Impact

The proposal would have positive economic impacts for the City.

Section 2.4 – Heritage

2.4.1 European Heritage Items

The site is not located within proximity to any item of European heritage significance.

2.4.2 Catherine Hill Bay Heritage Conservation Area

The site is not located within the Catherine Hill Bay Heritage Conservation area.

2.4.3 Aboriginal Heritage Items

Council's Heritage Planner has commented on the application and although acknowledges that the site is not identified by Council's Sensitive Aboriginal Cultural Landscape mapping has advised a condition of consent in the unlikely event that Aboriginal relics are discovered during excavation or construction works.

Excavation – Aboriginal Relics

Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the NSW Office of Environment and Heritage shall be informed in accordance with Section 89A of the National Parks and Wildlife Act, 1974.

2.4.1 European Heritage Items

The development will not adversely affect any natural heritage item.

Section 2.5 – Stormwater Management, Infrastructure and On-site Services

2.5.1 Essential Infrastructure

The site has available to it the required infrastructure necessary to support the development.

Ausgrid have advised that a substation may be required on site, either a pad-mount kiosk or chamber depending on the final electrical load and site conditions. Easements will be required over any substations and associated Ausgrid underground cables.

Hunter Water Corporation have advised that development is clear of the sewer main and that a section 50 application will be required for the development. Hunter Water Corporation has several easements over this site as the land was previously owned by them as part of their corporate operations. The easements over the site protect Hunter Water Corporation assets, in this regard, Hunter Water Corporation have provided consent to the development and the relocation of some easements to accommodate the development.

2.5.2 On-Site Wastewater Treatment

The development does not require on-site wastewater treatment.

2.5.3 Stormwater Management (Drainage System Design) and 2.5.4 On-Site Stormwater Harvesting (Source Controls)

The applicant's Civil Engineering consultant has provided additional information. Council's Principal Development Engineer has advised that the additional information addresses the requirements for stormwater management and Stormwater Harvesting, conditions of consent will apply in this regard.

A suitable Stormwater Management Plan prepared by ADW Johnson has been submitted with the application. The plan includes water harvesting, water quality facilities and site discharge index requirements in accordance with Lake Macquarie DCP1. The report indicates that gross pollutant traps and three vegetated swales will be constructed for the development to form part of the water quality treatment. This treatment train should ensure that the development maintains the existing stormwater quality outcomes.

The application is supported by a Flood Study prepared by Worley Parsons. The study identifies the 100 year and PMF levels on the site taking into account predicted sea level rise to 2100. The 100 year flood level at 2100 is 2.55m AHD and the 2100 PMF is 3.63m AHD.

The finished floor level of the lowest units is 4.75m AHD, which is above the PMF level. The floor level of the ground floor of the Community Building is 3.15m AHD, this is over half a metre higher than the 100 year flood level predicted for 2100 and is satisfactory.

2.5.5 Operational Waste Management

An Operational Waste Management Plan will be required to be provided prior to issue of the first construction certificate for the development.

The applicant has advised a commercial waste collector will collect waste collection for the development from a centralised waste bin store area. The design of the bin enclosure and the internal driveway to the bin enclosure allows for commercial waste collection vehicles. Individual dwellings/units will be required to have two half sized bins, one for general waste and the other for recyclable waste. Management of the post-development will collect these

individual bins and empty them into the centralised bin for collection by the commercial contractor.

Conditions of consent are proposed regarding operational waste management.

Section 2.6 – Transport, Parking, Access and Servicing

2.6.1 Movement System

This section is not applicable to this development.

2.6.2 Traffic Generating Development

This section is not applicable to this development.

2.6.3 Road Design

Significant amounts of imported fill will be required to accommodate the development. A Traffic Management Report (prepared by ADW Johnson dated October 2012) has supported the application. The development is a staged development and importation of fill will be in line with the fill required for the nominated stage. The total amount of fill required for the development will be approximately 40,000m³. The importation of other construction materials will be required, however the frequency of these importation activities is not considered significant.

Importation of fill will be required for the completion of parts of stages 1, 3, 4 and 5. It is expected that the majority of fill will be that the majority of the required fill will be required during the construction of stage 3, with approximately 60% of the total fill required,

It is proposed to transport the fill to the site using truck and dog combination to reduce the number of truck movements. Approximately 1500 truckloads will be delivered to the site over the duration of the development. The number of truckloads per day will be limited to 30, that is 1800m³ of fill per day.

It is expected that fill will be delivered to the site for approximately 50 days (not continuous days). The delivery frequency is expected to spike during the construction of stage 3 due to the volume of fill required, with 30 working days. Fill during this period will be delivered at a rate of approximately 4 loads per hour.

Depending on the availability of fill the delivery may be staggered through a longer period, which will reduce the frequency of deliveries.

Each stage of the development is expected to occur between 9 and 12 months apart, therefore a time of year cannot be specified for fill deliveries. Fill deliveries will occur between 7:00am and 6:00pm Monday to Friday and 7:00am to 1:00pm Saturdays, with no construction works on Sundays, at night-time or on public holidays. Fill deliveries during school term must also be restricted to exclude the peak school periods of 8:00am – 9:30am and 2:30pm – 4:00pm as there are three schools located in the immediate vicinity on the proposed traffic route.

A traffic control plan will be required to be prepared prior to commencement of works on site and prior to the issue of a construction certificate. The traffic control plan shall be prepared as part of the Construction Management Plan (CMP). The traffic control plan shall be prepared to meet the requirements of the Roads and Maritime Services (RMS) "Roads and Traffic Authority - Traffic Control at Work Sites" manual June 2010.

The CMP shall specify operational details to minimise any potential impact to adjoining or adjacent properties. The CMP shall include, but not be limited to, details to show how the construction process will be managed for both the on-site and external areas, showing the expected timeframes for each building phase.

Inclusive of the plan, the following matters relevant to construction shall be addressed:

- (a) construction vehicles, access and parking;
- (b) traffic management and traffic control;
- (c) primary vehicle routes;
- (d) specific details on the transportation of fill;
- (e) potential road closures;
- (f) control of vehicles, pedestrians and cyclists at the site access;
- (g) safety of road users;
- (h) parking associated with employees, contractors and site personnel, which is to be contained within the site;
- (i) access to and from the work site;
- (j) delivery and storage of equipment and materials;
- (k) hours of work;
- (l) timing of works;
- (m) acoustic management and timetabling measures;
- (n) vibration management;
- (o) dust management procedures;
- (p) waste management infrastructure;
- (q) erosion and sedimentation management controls; and,
- (r) hoardings and pedestrian management.

The CMP shall include a Vehicle Movement Plan and Traffic Control Plan. It shall be prepared with the intention of minimising impact on the operation of the road network during construction.

A monthly update/newsletter to residents living within the vicinity of the construction works shall be provided. The update/newsletter shall include, as a minimum, updates on the progress of the construction, future timetabling of works on-site, a record of any complaints received to the construction works and actions taken by the development/applicant to remedy. The update/newsletter shall also inform residents of the inspection regime of the proposed development.

All construction car parking associated with the development shall be located within the boundaries of the site.

The maximum number of truck loads of fill per day shall be limited to 30, that is 1800m³ of fill per day. Fill deliveries shall only occur between 7:00am and 6:00pm Monday to Friday and 8:00am to 1:00pm Saturdays, with no deliveries on Sundays, at night-time or on public holidays.

In addition Council's Asset Management section have advised that due to the number of truck movements a dilapidation survey of the road routes will be required, prior to the commencement of works.

2.6.4 Pedestrian and Cycle Paths

The applicant is proposing to provide pedestrian and cycle access to the shopping centre and to the vehicular entrance to the development. Whilst footpaving along High Street Marmong Point, to facilitate access to the foreshore reserve and the bus route along George Street, is desirable, the constraints on the verge make its provision unreasonable. In addition, the low traffic volumes on High Street mean that walking on the road is a reasonable alternative.

2.6.5 Public Transport

The development will gain access to the public road system via Marmong Street, near the intersection with High Street. Marmong Street is 10m wide with sealed pavement and kerb & gutter. This street and surrounding public road system is considered adequate to support the development proposed.

The site is serviced by public transport from the Marmong Street side, however the proposed access through the site to the Woodrising Shopping Centre will provide access to the public transport servicing this area as well. In addition, a private bus service for planned outings is proposed as part of the on-site services.

2.6.6 Vehicle Parking Provision

In accordance with the Vehicle Parking Table the development is defined as 'Housing for people aged over 55 years or people with disabilities or People with Disabilities (SEPP (Housing for Seniors or People with a Disability) 2004. Clause 50(h) of the SEPP requires a minimum of 0.5 spaces per bedroom. The development provides for 263 bedrooms, therefore a minimum of 132 parking spaces are required. The development provides 222 parking spaces.

	Rate	Required (On-Site)	Provided	Complies
Dwellings				
19 x 2 bedrooms	0.5/bedroom	19	52	Yes
75 x 3 bedrooms	0.5/bedroom	113	128	Yes
Visitor				
94 x dwellings	Not required	-	46	Yes
TOTAL		132	226	Yes

Visitor parking is not required under the SEPP however the development provides 46 visitor spaces separate to the dwelling unit car parking. Stack parking is also available in most of the driveways to the dwellings.

The development demonstrates compliance with car parking requirements.

2.6.7 Car Parking Areas and Structures / 2.6.8 Vehicle Access

Council's Chief Development Engineer has advised that the internal road system and car parking areas for the development appear adequate for the development and comply with DCP 1 requirements including AS 2890.1. Provision has been made for disabled parking spaces.

Council's Chief Development Engineer has advised that the proposed access and sight distances to the proposed development from Marmong Street meet the minimum sight distance requirements.

Council's Asset Management section have raised no objection to the proposed development, regarding the location of the driveway.

2.6.9 Access to Bushfire Risk Areas

The General Terms of Approval provided by the NSW Rural Fire Service have addressed access to bushfire risk areas adequately.

2.6.10 Servicing Areas

The development will be required to facilitate delivery vehicles, removalists and waste collection vehicles. The development is to ensure sufficient turning area be provided within the site to allow all vehicles to exit in a forward direction (inclusive of parking facilities for the private mini bus, and designated areas for service/delivery vehicles).

Council's Chief Subdivision Engineer advises that the proposed development is satisfactory in this regard.

2.6.11 On-Site Bicycle Facilities

No formal onsite bicycle facilities will be provided as part of the development. Ad hoc parking facilities will exist within the private open space and garaging of the individual dwellings. Pedestrian paths are proposed throughout the development, which connect from Marmong Street to Woodrising Shopping Centre.

2.6.12 Non-Discriminatory Access and Use

Council's Community Planner (Ageing & Disabilities Services) has reviewed the application. The development has provided for non-discriminatory access over the site. Due to the large footprint of the development in terms of access around and through the village, the application states that a service will be available where by less mobile members of this village will be able to access the community buildings and the like from their homes. Full details will be provided in the detailed plan of management, which will be conditioned as part of any consent.

Provision of a bus stop and shelter on both sides of Marmong Street as close to the village entry as possible, shall be provided. The design and construction of the bus stop and shelter should comply with the requirements of the Commonwealth Disability Standards for Public Transport.

Provision of a shuttle bus service to assist residents to access Glendale, Toronto, Fassifern Station, and Woodrising shall be provided. A minimum of two services departing the village should be offered before 12:00pm, and one service departing after 12:00pm. Return services must also be provided. A minimum nine seat vehicle is to provide these services. Proposed details of services and ways in which residents can have input into determining the times and frequency of services is to be provided to Council in a draft management plan for the operation of the village prior to issue of a construction certificate. A bus, separate to the shuttle service, is to be provided at least once a week for the residents to go on outings, details are to be provided to Council in the draft management plan for Council's approval.

The drop off / pick up places shall be nominated on the Construction Certificate plans. Seating compliant with AS 1428.2 shall be provided in these areas.

Disability parking, complying with AS 2890.6 has been provided in close proximity to the community centre and pool building. The internal design of the community facilities is satisfactory, details demonstrating compliance with AS 1428.1 shall be provided at Construction Certificate stage.

Provision of seating at the half way point along the internal path from the units to Marmong Street and along the footpath to Woodrising Shopping Centre should be provided, this seating must comply with AS 1428.2, and it should be completely clear of the pathway so that it does not cause an obstruction.

Pathways are proposed throughout the village, the pathways are to comply with AS1428. Seating along the pathways shall also comply with AS1428. Lighting of all pathways is to be adequate for nighttime use, and shall be in accordance with the relevant Australian Standard.

The internal design of the dwellings is satisfactory. Details of compliance with AS 4299 to be demonstrated in documentation at Construction Certificate stage.

Internal design of community facilities is satisfactory, details demonstrating compliance with AS 1428.1 to be provided at Construction Certificate stage.

Overall the development adequately provides for non-discriminatory access and use within private and public areas.

Management Plan

A management plan is required to guide the operation of the village. Council's Disability Access Planner prior to issue of a construction certificate must approve a draft plan. This plan should include details of the transport shuttle service, the community facilities and vehicle/s, and support services available to residents within the village such as meals and housekeeping. The plan also needs to detail how residents will have input into determining service levels. The provision of a management plan will be required as a condition of consent on any consent issued for the development.

Section 2.7 – Streetscape and the Public Realm

2.7.1 Streetscape and Local Character

The amended development proposal has included 94 dwellings, a community building (including pool, library, meeting rooms, activity rooms, gymnasium, mailroom and cinema), parking area for caravans and boats, community garden, bowling green, putting green, children's playground and boules court. The development is accessed via approximately a 300m long driveway, along a battleaxe connection to the main development on site. In this regard, the development is setback over 300m from Marmong Street. Only filtered views of the development may be visible from public areas.

From the street, the development will have a defined entryway with signage that will establish the character of the village. Entry walls are proposed in the form of sound attenuation barriers along the first 80m (approximately) of the access entryway. The sound attenuation barriers, will be adjacent to the nearest residential premises and will reduce traffic noise from the development at the point closest to these adjoining dwellings. The sound attenuation barriers will blend with the landscape theme and will be further enhance through the planting of an avenue of trees to integrate with the surrounding bushland.

A sculptural element will be provided at the Marmong Street entry point. Timber posts will line the entry road, leading up to the main entry signage. The entry treatment of the village will provide a refreshing strongly landscaped access to the development. The landscape theme seeks to reinforce the natural setting of the development using natural colours, materials and planting that will assist in visually integrating the development with its surrounds.

At the point where the entry road meets with the internal perimeter road a village entry feature is proposed. The proposed entry feature will establish the landscape character of the village and will be inspired by the natural features of the site. The entry feature will include stainless steel lettering, Corten steel, timber posts, decomposed granite, boulders and water feature, framed by decorative planting.



Figure 8: Internal Entry feature

Pedestrian walkways will be provided through out the development, commencing with a 1.8m wide path at the Marmong Street entry. The pedestrian pathway will lead residents and visitors to the community spaces, primarily the community building and facilities on this pathway. The path then meanders around the existing lake in a westerly direction to connect with the Woodrising Shopping Centre. Several other pathways link various areas of the village with the community spaces, providing residents and visitors appealing and interesting places to walk.

Carparking has been provided in five locations around the site; in addition, many of the dwellings have the ability for stack parking within the driveways of the respective dwellings. To break up the carparking areas, suitable landscaping is proposed around and amongst the parking bays. This landscaping will also provide shade for vehicles.

Each dwelling is provided with a paved courtyard. Garden areas will be planted to enhance the streetscape setting and to differentiate between public and private space. Planting between dwellings will be structured to provide privacy and an attractive outlook for residents. A timber screen between dwellings will provide privacy in courtyard areas while a 1.2m high black pool fence will allow visual surveillance to be maintained. Small deciduous trees are proposed for gardens adjoining the north, east and west facing courtyards where

there is an adequate planting space; this will allow solar access in winter and shade in summer providing for good year round use.

The street trees selected are a mix of Australian natives and exotics. Native species selected for the development are well suited to the local conditions and will provide good visual integration with surrounding areas of bushland. The exotic species selected for the development will provide flowering trees for seasonal colour; provide a feature to highlight entries, at the termination of views and to contrast against the backdrop of native vegetation. The exotic species selected are not classified as environmental weeds and will not pose a risk of invading adjoining bushland areas. The internal streetscape has been embellished with landscaping and pleasant open space areas with seating to be provided for passive recreation.

An electrical sub-station will be provided internal to the site, with two positions being nominated. This substation will be screened from any main entry point to help reduce the impact.

Overall, it is considered an acceptable integration of the development with the native bush and the adjoining residential areas.

2.7.2 Landscape

A landscape plan and landscaping documentation has been provided as part of the development. Due to the sensitive location of the site and need to integrate the development with surrounding development and the native bushland, the proposed landscaping is paramount to achieving a highly desirable outcome. Council's Landscape Architect has provided comment on the landscaping and is satisfied that the development will be adequately landscaped to assist in mitigating any potential impacts of the development. Overall, the landscape outcomes are considered to be acceptable and achieve a category 3 design outcome.

The following objectives have been considered when assessing the application from a landscape/streetscape perspective:

- Minimisation of the impact of the development on local amenity and existing landscape character
- Ensure proposed development provides opportunities for creating appropriate open space areas for recreation and planting
- Ensure opportunities for street tree and canopy tree planting throughout the subject site
- Minimisation of the impact of the development on existing vegetation where relevant.

The landscaping has been designed to provide a safe, functional and attractive environment that encourages physical activity and social engagement. The design has been driven by key principles specific to seniors living and principles that are specific to the site that respond to its unique qualities and environmental attributes.

The revised amended development in terms of development coverage is now less dense and further public open space within pedestrian access zones has increased and therefore aesthetically enhances the development form a streetscape and landscape perspective. Removing further units has also contributed to relocating amenities/recreation spaces to the north while utilising pedestrian movement more centrally than previously proposed but confining it to the area defined as "External Open Space" to the eastern aspect of the site.



Figure 9: Landscape Plan

Benefits have been identified for lowering the unit numbers on the site and thus reducing site coverage and the issues about density of the proposed development.

In addition, concern was initially raised about external pedestrian movement across the site and how the public move through the site having regard to both the residential and public use components. As a consideration Council considered it may be feasible to relocate the pedestrian pathway to the north eastern aspect of the main entry road to encourage pedestrian footfall more to move towards the public open space side (eastern aspect of the site) rather than directly encourage movement through (internal entry node sheet 4 of 16) via the residential street immediately 'west' adjacent to street abutting 'external public space'.

However, sheet 13 of 16 reflects that pedestrian movement will generally be encouraged towards the eastern aspect of the site (public area) upon arrival at the internal entry node by a pedestrian crossing that connects to pathways along the public area road running along the eastern aspect of the development. This is satisfactory.

Planting in the residential areas is proposed to be a mix of deciduous exotic tree species to assist in passive solar climatic control of the dwellings and streetscape. High canopy trees are proposed to maintain physical and visual access, particularly when accompanied by low level shrub and groundcover planting. Street tree planting is proposed to create an identifiable theme for each street. One of the desired development outcomes is to provide a sensitive transition between adjoining residential development, and vegetated backdrop of the ridgelines. The use of both native and exotic species will assist in providing this integration.

Planting on the entry and perimeter roads is proposed as endemic tree species that are proven in urban environments and that will provide a transition between the residential precincts and the surrounding natural landscape.

Planting in the open space areas is proposed to consist of predominantly endemic tree species to provide habitat and visual integration. Exotic trees are proposed for nodal identification and in high use areas to encourage year round use.

A theme is proposed to be developed through appropriate material selection and repetition. In this regard, timber and steel will be utilised sensitively in site signage and furniture. Concrete pathways are proposed to be treated with shot blast treatments to reduce glare and enhance visual integration.

Conditions of consent will be imposed to ensure compliance with the category 3 design report.

2.7.3 Public Open Space

The proposed development does not propose any public open spaces within the development site, although the development does allow for general pedestrian access from Marmong Street to the Woodrising Shopping Centre. This access will not be dedicated to Council but will enable local residents' access from the Marmong area to the Woodrising Shopping Centre. Section 94 contributions will be applied to the development in accordance with Council's Section 94 contribution plan toward the provision of open space. Section 94 contributions will be payable for open space acquisition, open space embellishment, community buildings, community land, drainage, study recoupment and the like in accordance with Council's Section 94 Contribution Plan for the Toronto Catchment.

2.7.4 Pedestrian Networks and Places

The development proposes appropriate internal pedestrian networks and places. The proposed internal pedestrian network links all the dwellings/units with Marmong Street, onsite open spaces, community building, bowling green and the Woodrising Shopping Centre.

The development proposes the construction of a pedestrian pathway to link the development to the Woodrising Shopping Centre. The application states that the pathway will be able to be used by the local residents of Marmong Point to access the shopping centre. As residents presently use this site as a shortcut to the Woodrising shopping area the provision of a formal path will provide the residents of Marmong Point a more useable pedestrian access than the informal pedestrian path they currently use.

Landscaping of the development seeks to provide shade and bench seats for the amenity of residents throughout the site. Pathways will comply with AS1428.

2.7.5 Light, Glare and Reflection

Light from the development and public lighting will not result in obtrusive light, glare, and / or reflection.

2.7.6 Views

The development will not unreasonably affect or intentionally obstruct views from areas of high public usage or from existing or future private development.

2.7.7 Signs

Signage within the development is considered within the landscape theme for the proposal.

Entry signage is proposed at the Marmong Street entry to the development. More significant entry signage is proposed at the intersection of the entry road with the perimeter road of the development. The entry signage will be incorporated into a village entry treatment, which establishes the landscape theme for the development.

The location, size, and configuration of the signage positively contribute to the amenity of the development and streetscape and is an integral part of the landscape plan.

2.7.8 Fences

Fencing for varying purposes is proposed as part of the development.

A sound attenuation fence is proposed along the entry to the development, nearest the adjoining dwellings. The sound attenuation wall is proposed to be located 1.5m from the property boundaries along the battle-axe handle of the development. The fence will be constructed of materials that compliment surrounding bushland such as Perspex panels to ensure visual security of the areas. The fence will be 1.8m high, and a dense landscape strip will be planted between the adjoining residences and the fencing.

Fencing between the dwelling houses will consist of black powder coated open style (steel tubular pool type) fencing 1.2m high as well as some timber fencing. The open style fencing will continue along the top of the retaining walls between dwellings. Significant landscaping will be incorporated to mitigate the impact of fencing. Tall screening shrubs will be used to soften the fencing on the retaining walls. Hedging plants will be used in other areas to define courtyard areas and delineate property boundaries, where solid fencing is not required.

The proposed fencing is of a type that complements the proposed streetscape and surrounding public spaces and promotes safety and security of both the residents of the development as well as users of the surrounding public spaces including the road.

2.7.9 Safety and Security

A Crime Prevention Through Environmental Design (CPTED) report by CHD Partners (Michael Huggett) dated July 2010 has been submitted with the application. Council's Crime and Safety officer has advised that the report is satisfactory for the development can be supported with the inclusion of conditions of consent that require the adoption of the recommendations of the CPTED report.

The design and layout of the individual structures comply with CPTED principles.

CPTED is based upon the principle of designing out crime by making the chances of being caught in the act of crime; outweigh the benefits of the criminal activity. The four broad principles for assessment are Surveillance, Access Control, Territorial Reinforcement and Space Management (further information is available upon request).

Based upon the NSW Bureau of Crime Statistics and Research (BOCSAR) report for the Lake Macquarie local government area crimes of increased risk, near the stated application suggest the following criminal activity:

- Break and Enter non Dwelling
- Malicious Damage to Property
- Graffiti
- Steal from Dwelling

The following recommendations take into consideration the BOCSAR report and CPTED principles:

Concern	Crime/ Safety issue	CPTED Principle
Only one entry for a large proposed village may present as a concern for emergency vehicle access. A second entry to the village is recommended.	Personal Safety	Space Management and Access Control
The alignment of the independent building structures is consistent with CPTED Surveillance and Territorial Reinforcement principles.	Break and Enter, Steal from Dwelling	Surveillance and Territorial Reinforcement
All vegetation along the sides of the 2-metre main pathways, are to be stepped from lowest to highest and should not exceed 600mm in height.	Assaults Concealment and Entrapment	Surveillance, Space Management
The proposed boulevard of plane trees in permeable paving is to have low-level limbs and branches removed to a height of 1800mm to improve sightlines and reduce the risk of concealment	Assaults Concealment and Entrapment	Surveillance & Space Management
Bollard style lighting controlled by daylight sensors is to be provided along all pedestrian walkways.	Assaults Concealment, Entrapment and Malicious Damage	Surveillance & Space management
Signage to enhance way finding is to be implemented prior to occupation certificate.	Personal safety and Motor Vehicle Accidents	Space Management & Territorial Reinforcement
A quality digital CCTV system is to be fitted to the pool and activities areas. The system is to be monitored whilst ever the pool is open. This system is to be fitted prior to the issuing of a occupation certificate.	Personal Injury & Drowning	Space Management
Raised pedestrian crossing points are to be appropriately signposted particularly where internal walkways cross road intersections.	Pedestrian Safety	Space Management and Access Control
The pedestrian crossing at the main entry point is to be appropriately marked as a pedestrian crossing.	Pedestrian Safety	Surveillance, Space Management and Access Control
Where native grasses such as Dianella 'Border Silver' and Lomandra Tanika form a barrier along side walkways, the height of the plantings is not to exceed 600mm to prevent concealment	Assaults, concealment and entrapment	Surveillance, Space Management

opportunities.		
The design and layout of the individual structures comply with CPTED principles.	N/A	Surveillance, Space Management, Territorial Reinforcement and Access Control
A long-term maintenance plan shall be prepared for the development. A copy of the plan shall be submitted to the Principal Certifying Authority and approved prior to the issue of the Final Occupation Certificate. The long-term maintenance plans shall be complied with at all times. The long-term maintenance plan shall cover maintenance of vegetation, lighting, graffiti management and malicious damage. Graffiti shall be removed within 72 hours, and lighting, if damaged or broken shall be restored within 48 hours.	Graffiti, Malicious Damage, Personal Safety, Assaults, Sexual Assaults and Break and Enter	Surveillance, Space Management, Territorial Reinforcement and Access Control

Planning comment: It is acknowledged that only one vehicle entry for the village is proposed, it is considered this was raised as a concern for emergency vehicle access, however the NSW Rural Fire Service, who support the development with the single access point, has assessed the application.

In addition, the application was referred to NSW Police who have reviewed the plans and supporting documentation and advised:

- CCTV should be installed in the community centre as it would be considered a soft target in terms of alcohol theft / break and enter.
- All pedestrian pathways should be appropriately lit. A lighting maintenance policy is required to be established for the development. Australia New Zealand Lighting Standard 1158.1 – Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
- Vegetation shall be stepped back in height to maximise sightlines. A safety convention for vegetation is that lower tree limbs should be above average head height and shrubs should not inhibit surveillance. Landscaping close to buildings should be regularly maintained to ensure branches do not act as a natural ladder to gain access to higher parts of the building.
- Entries to the development and to communal areas shall be legible, inviting, well defined and re-enforced by fencing or walls. Signage should be provided at the entry / exit points and throughout the development to assist users and warn intruders they will be prosecuted. Signage to the visitor parking shall be provided. Signage shall be provided on the fire exit doors in the community areas warning users that the doors are to be used for emergency purposes only.
- Maintenance of the landscaped areas and recreational facilities will need to be implemented.
- Space management for the facility appears to be well planned for the development. All space has been well planned and well designed to maximise community safety
- NSW Police support the fencing of the boundaries of the development.

- Glass within the community building should be laminated to enhance the physical security of the doors and windows.
- Fire exit doors to the development and main entry / exit doors to the individual units should be fitted with single cylinder locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorised access to the development. The windows to individual units should also be fitted with key operated locksets (Australia and New Zealand Standard – Lock Sets) to restrict unauthorised access to the unit.
- Security screen doors are to be fitted to all unit entry and exit doors.
- Good site lines shall be maintained within the front yards of the residential yards.

Section 3.1 – Lake, Waterway and Coastline Development

Section 3.1.1 – Development Adjoining the Lake and Waterways Zone

The site does not adjoining the Lake and Waterways Zone, however, the development maintains and enhances the ecological, community and scenic values of the Lake and its tributaries. The impact of the development on the ecology of the site has largely been addressed in earlier sections of this report specifically sections 2.1.1 and 2.1.2 of DCP 1.

The development will be setback greater than 36m from Marmong Creek. The revised application has addressed concerns about the changes to flows and volumes resulting from the development. The further studies carried out have determined that changes in flows generated from the development site will have negligible impact on the overall Marmong wetland inflows. Runoff generated from the site is also unlikely to have an impact on the wetting and drying cycles of the SEPP 14 wetland.

The 25% pervious fraction for roads is appropriate for the design.

GHD Pty Ltd has undertaken a contamination assessment on the former HWC maturation pond on behalf of the proponent in response to Councils concern about the contamination status of the pond water and sediment and possible remediation of the pond. The results of this assessment are contained with Appendix 24 of the development application. Based on the results of surface water, sediment and groundwater sampling Council officers are satisfied that the overall risk from contaminants of the former HWC maturation pond is low, and no remediation is required. Wet weather discharges from the former HWC maturation pond would be expected to be similar to typical urban stormwater discharges, and would have no greater impact than if the former HWC maturation pond were not present.

Section 3.1.2 – Development in or adjoining the Coastal Zone

The site is within the coastal zone; however, the development will not adversely impact the City's coastal lands. The development has demonstrated that the siting, construction and use does not negatively affect the natural processes of coastal lands, coastal water quality or scenic values of the coast, as is specifically discussed through this report.

Section 3.2 to 3.7 (inclusive)

These sections were considered not applicable to the subject development.

Part 4 – Area Plans

There are no area plans applicable to this site.

79C(1)(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

There is no planning agreement that has been entered into under section 93F, and no draft planning agreement that a developer has offered to enter into under section 93F of the Act that relates to this development.

79C(1)(a)(iv) any matters prescribed by the regulations

The Regulation 2000 provides:

(1) For the purposes of section 79C (1)(a)(iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:

(a) in the case of a development application for the carrying out of development:

- (i) in a local government area referred to in the Table to this clause, and*
- (ii) on land to which the Government Coastal Policy applies,*

the provisions of that Policy,

Planning Comment: The Government Coastal Policy does not apply.

(b) in the case of a development application for the demolition of a building, the provisions of AS 2601.

Planning Comment: The development does not include demolition.

79C(1)(b) the likely impacts of the development

The following matters were considered and, where applicable, have been addressed elsewhere in this report.

Context & Setting	Waste
Access, transport & traffic	Energy
Public domain	Noise & vibration
Utilities	Natural hazards
Heritage	Technological hazards
Other land resources	Safety, security & crime prevention
Water	Social impact on the locality
Soils	Economic impact on the locality
Air & microclimate	Site design & internal design
Flora & fauna	Construction

79C(1)(c) the suitability of the site for development

Does the proposal fit the locality?

The outcomes proposed will achieve a highly functional development compatible with the local residential context and land characteristics, and provides excellent living standards for future residents.

Are the site attributes conducive to development?

The site attributes are conducive to development.

79C(1)(d) any submissions made in accordance with this Act or the Regulations?

Public submissions:

Eleven submissions were received in relation to the amended proposal.

The main matters raised in the submissions are summarised below.

- Construction traffic / dust
- Traffic
- Native title claim over the land
- Single access to the site not appropriate and is too long and narrow
- Lack of public transport
- Lack of medical centres to provide for the development
- Potential for future extension to this development
- Link to be provided for residents to the Woodrising Shopping Centre
- Bushfire
- Conflict with the 7(2) zone objectives

- Site should be restored bushland and acquired for public purposes
- Security over access to the community buildings
- Residents of the development may destroy the bushland with walking trails and the like
- Current vacancy in the area of retirement homes
- Stormwater runoff / drainage
- Bushfire concern to the existing dwellings on Marmong Street
- Impact of existing HWC structure on the land on the dwellings

Most of the issues have been extensively considered in this assessment report.

The following is provided regarding those matters not specifically addressed through the report so far:

Native title claim over the land

Planning Comment: The site is privately owned and therefore a native title claim cannot be made over the land.

Potential for future extension to this development

Planning Comment: Any extension to the village will require separate development consent and will be subject to a merits assessment against the relevant legislation at that time.

Site should be restored bushland and acquired for public purposes

Planning Comment: The area of the site on which the development is proposed to occur is largely already disturbed due to previous activities carried out on the site. The development also proposes the rehabilitation and management of the remaining bushland on site. This will result in over 20ha of land being privately managed in a native bushland state. Council has significant areas of land zoned for public ownership, which includes land holdings in the Marmong Point area, as well as surrounding areas. The land would be excess to Council's present needs, having regard to that land already zoned for acquisition.

Security over access to the community buildings / Residents of the development may destroy the bushland with walking trails and the like

Planning Comment: This matter will be addressed through the community management plan that will be developed as part of the requirements for the village to operate.

Each submission has been considered and assessed against the relevant Council's controls and it is concluded that satisfactory design outcomes have been achieved and/or conditions of consent can be imposed to provide an appropriate development that has respected the surrounding land whilst providing a land use that is permissible and highly sort after in the Lake Macquarie area.

Submissions from public authorities:

As required by the EPA Regulation 2000, relevant government departments were notified, and where necessary general terms of approval applied. There were no circumstances where objections were raised by public authorities.

79C(1)(e) the public interest

It is considered the public interest issues have been adequately considered. The proposed development is considered to be in the public interest.

Conclusion:

Based on the above assessment it is concluded that the construction and operation of a retirement village at 153 and 153A Marmong Street Marmong Point will result in an appropriate development, with no unreasonable environmental impacts.

Recommendation:

It is recommended that the application be approved, subject to the conditions contained in Appendix A to this report.

Endorsement:

The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to deal with the application has no pecuniary interest to disclose in respect of the application.

The staff responsible authorised to determine the application have no pecuniary interest to disclose in respect of the application. The report is enclosed and the recommendation therein adopted.

Elizabeth J Lambert
Senior Development Planner
Lake Macquarie City Council