

JOINT REGIONAL PLANNING PANEL (Hunter Central Coast)

JRPP No	2011HCC036
DA Number	DA/673/2011
Local Government Area	Wyong
Proposed Development	Additions to an existing Aged Care Facility comprising a proposed Residential Care Facility containing 95 beds and ancillary works
Street Address	No 1-20 Village Way, Canton Beach
Applicant/Owner	Christadelphian Aged Care C/- Brynes PDM Pty Ltd
Number of Submissions	No submissions General Terms of Approval issued by Rural Fire Service and Mine Subsidence Board
Recommendation	Approval with Conditions
Report by	Jenny Webb, Senior Development Planner

Assessment Report and Recommendation

WYONG SHIRE COUNCIL

To the Hunter Central Coast Joint Regional Planning
Panel

Environment and Planning
Services

95 Bed Residential Care Facility at Canton Beach

DA No 673/2011

Author: Jenny Webb

SUMMARY

A development application has been received for the construction of a new residential care facility and ancillary works at the existing Lakefront Retirement Village, No 1 Village Way, Canton Beach. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act, 1979 (EP&A Act) and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

Applicant	Christadelphian Aged Care
Owner	C/- Brynes PDM Pty Ltd
Application No	Christadelphian Homes Ltd
Description of Land	DA/673/2011
Proposed Development	Lot 496 DP 755266, Lot 600 DP 728966 and Lot 602 DP 728967, No 1-20 Village Way, Canton Beach.
Site Area	Additions to an existing Aged Care Facility comprising a proposed Residential Care Facility containing 95 beds and ancillary works
Zoning	Lot 602 = 17,310 m ²
Existing Use	7(b) Scenic Protection Zone
Employment Generation	Lakefront Retirement Village
Estimated Value	46 staff
	\$14.49 million

Referral to Hunter Central Coast Joint Regional Planning Panel

The proposal is referred to the Hunter central Coast Joint Regional Planning Panel (JRPP) for determination pursuant to clause 13C of State Environmental Planning Policy (Major Development) 2005 (SEPP MD), given it has a Capital Investment Value (CIV) of over \$10 million. The development application was lodged prior to 1 October 2011 and therefore the JRPP remains the determining authority pursuant to the Savings and Transitional Provisions of SEPP (State and Regional Development) 2011.

RECOMMENDATION

- 1** *That the Joint Regional Planning Panel grant consent to DA/673/2011, subject to the conditions contained in Appendix A.*

INTRODUCTION

Site and Locality

The subject site is located at No's 1-20 Village Way, Canton Beach and currently contains the Lakefront Retirement Village which is owned and operated by Christadelphian Aged Care.

The subject site is irregular in shape, is made up of three allotments and has a total site area of 46,690 m².

- Lot 602 DP 728967 (17,310m²)
- Lot 496 DP 755266 (10,120m²)
- Lot 600 DP 728966 (19,260m²)

While all the proposed buildings are proposed to be located wholly on Lot 602, the application has been lodged over all three (3) allotments as offset planting and revegetation is proposed over Lot 600 and vehicular access is proposed over Lot 496. The owner of the site also has a Crown Lease in place over the road and pathway that adjoin the site (Lot 603 DP 728967), although the road has now been transferred to Council as a public road.

The existing facility provides 72 independent living units, 28 hostel serviced apartments, a community centre, dining facilities, outdoor pool, resident parking areas, visitor parking areas, and landscaped grounds. Bus stops are located on either side of Evans Road, approximately 100 metres from the entrance to the development.

The site is zoned 7(b) Scenic Protection zone under Wyong Local Environmental Plan 1991 (WLEP 1991), in which 'housing for older persons or people with a disability' is listed as a prohibited use. The development application relies on Existing Use Rights as the site benefits from a development consent that was granted in 1991 for the extension of the original retirement village (Development Consent No 773/1990). The 1991 consent permitted the construction of additional self care units, hostel units, a 51 bed nursing home, community facilities and a manager's residence. The consent has physically commenced, with the construction of the community building and carpark on Lot 602 and a number of the self care units on Lot 600. The proposed development of the residential aged care facility seeks to replace the construction of the hostel units, nursing home, managers' residence and a number of the self care units as approved under the 1991 consent. The applicant does not propose to surrender development consent No 773/1990 as it is intended to construct a number of further self care units approved under the consent.

The site adjoins the Canton Beach Caravan Park to the North; Evans Road, Darren Kennedy Oval and the Toukley Sewerage Treatment Works to the East; Camp Toukley and vacant Crown land to the South and a Crown Reserve adjacent to Tuggerah Lake to the West.

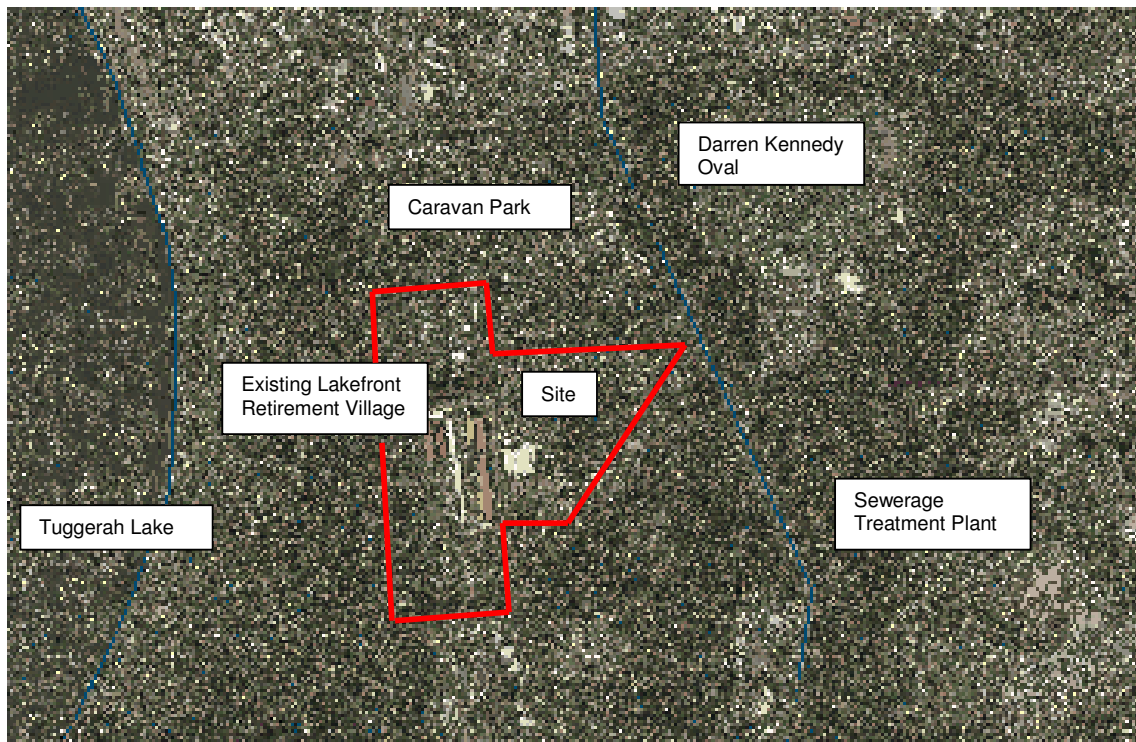


Figure 1: Aerial Photograph of Subject Site

The aged care facility is proposed to be located on Lot 602, which contains the existing community building. The remainder of Lot 602 is vacant and comprises managed grass with scattered trees. An avenue of trees exists along Village Way, which joins the site to Evans Road. Vegetation along the south eastern boundary of the site is subject to an ongoing bushfire maintenance regime which retains the trees but limits the understorey.

The existing vegetation to be removed from the subject site comprises the Endangered Ecological Community - Swamp Sclerophyll Forest on Coastal Floodplains (EEC). The development layout proposed in this application removes no more of the vegetation than would currently be removed under the valid 1991 consent. The vegetation is in a managed state and comprises 0.125 hectares of Open Forest. The flora and fauna report submitted with the application confirms that the loss of EEC is not considered significant having regard to its condition, location, previous approval to be removed and the offsetting strategy proposed.

Project Description

The subject development application proposes to expand the existing Lakefront Retirement Village in order to provide a new Residential Care Facility comprising 95 beds and ancillary development.

The proposed development comprises a two storey building on the eastern side of the site with landscape and open space areas surrounding the built form. Building materials include a combination of feature brick elements as a base, with a lightweight cladding proposed for the first floor. A materials and colour schedule is included in Appendix B. The maximum height of the building to the roof pitch is 10 metres and the building form has a 'Y' shape, enabling all rooms to have natural light and ventilation as well as providing views from all resident's rooms.

The entry foyer houses reception and administration areas and is located adjacent to a porte-cochere that has direct access from Village Way. The main corridor through the middle of the building provides circulation from front to back enabling both residents and visitors clear access through the building. A passenger lift and separate goods lift provides access to the upper level.

Both the eastern and western wings on both levels house the residents. A total of 93 rooms, each with its own ensuite are proposed, which provided for 95 beds (two rooms containing two beds). Each wing is serviced by two nursing stations.

A residents café is proposed within the development at the end of the internal corridor, which will face out onto the open 'Village Green'. The cafe is also located adjacent to a multi-purpose area which can be used for functions. The café is only intended for use by residents, staff and visitors of the facility.

Further on-site facilities include the consultation rooms which would provide services such as doctors, physiotherapy and dental for the benefit of all Lakefront Village residents. A day care centre is also proposed within the building, which can be accessed by all Lakefront Village residents to assist residents with partners needing respite.

The back-of-house operations are located toward the south-eastern end of the building and are accessed from a ring road around the proposed building. The loading facility provides access to the laundry and kitchen facilities so that all 'back-of-house' operations are separate from the day to day operation of the facility.

In summary, the individual elements of the proposal include:

Residential Aged Care Facility

Ground Floor

- 45 rooms, each with ensuite
- front reception foyer, offices, meeting rooms, staff facilities, amenities
- 4 nurses stations
- 2 dining rooms (1 in each wing)
- 4 lounge rooms
- storage rooms
- kitchen
- laundry
- café
- hairdresser
- multipurpose room
- back of house facilities (garbage, plant and storage)
- medical facilities for seniors care
- aged care day care facility
- passenger lift (with stretcher capability)
- goods lift

First Floor

- 48 rooms, each with ensuite
- 3 dining rooms
- 2 lounge rooms
- 4 nurses stations
- TV nook

- office and storage rooms
- amenities
- large balcony

Vehicle Movement

- a new ring road is proposed along the south-eastern side of the proposed building
- car parking is to be provided at grade and in separate parking clusters with a total of 62 new car parking spaces
- ambulance movement occurs through the front porte cochere
- a truck loading area is proposed adjacent garbage and loading dock

Landscape Proposal

- landscaping of grounds
- external pedestrian pathways connecting the existing retirement village with the proposed residential care facility and ancillary services
- undercover link to the existing community facility

Ecological Planting

- 1,255m² of 'offset' planting in the south west corner of the site to compensate for removal of Swamp Mahogany.
- Maintenance of a 10 metre wide arboreal corridor along the southern boundary of the site.

The proposed site plan, as compared to the previously approved site plan is shown in Figures 2 and 3 below.

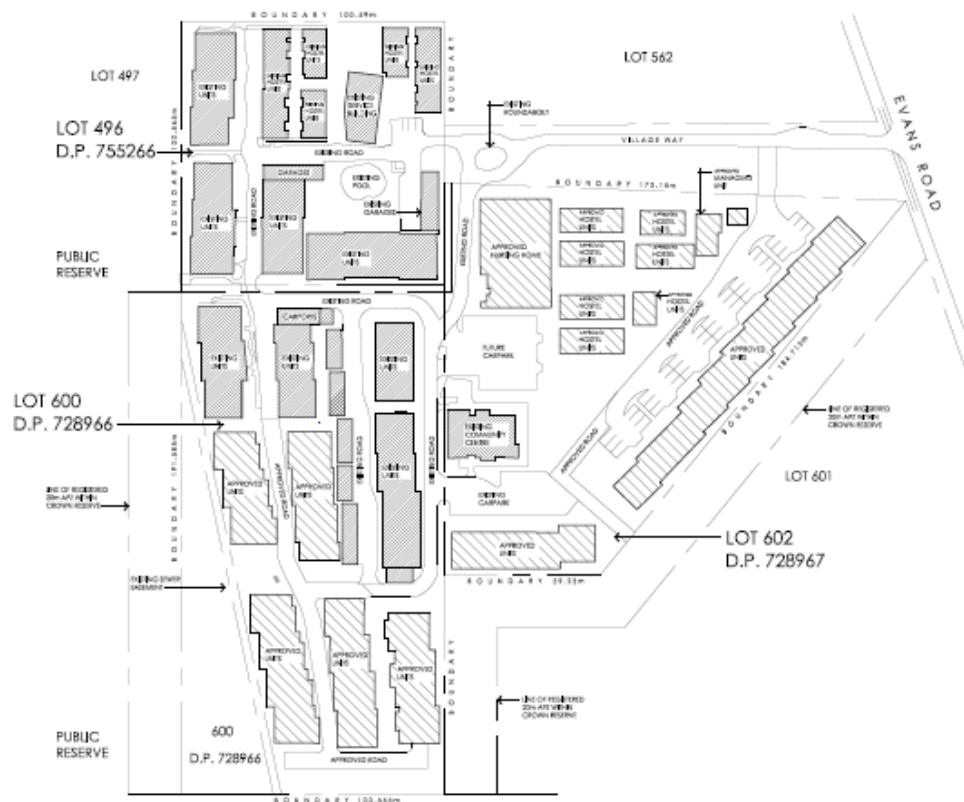


Figure 2: Approved Development under DA/773/1990

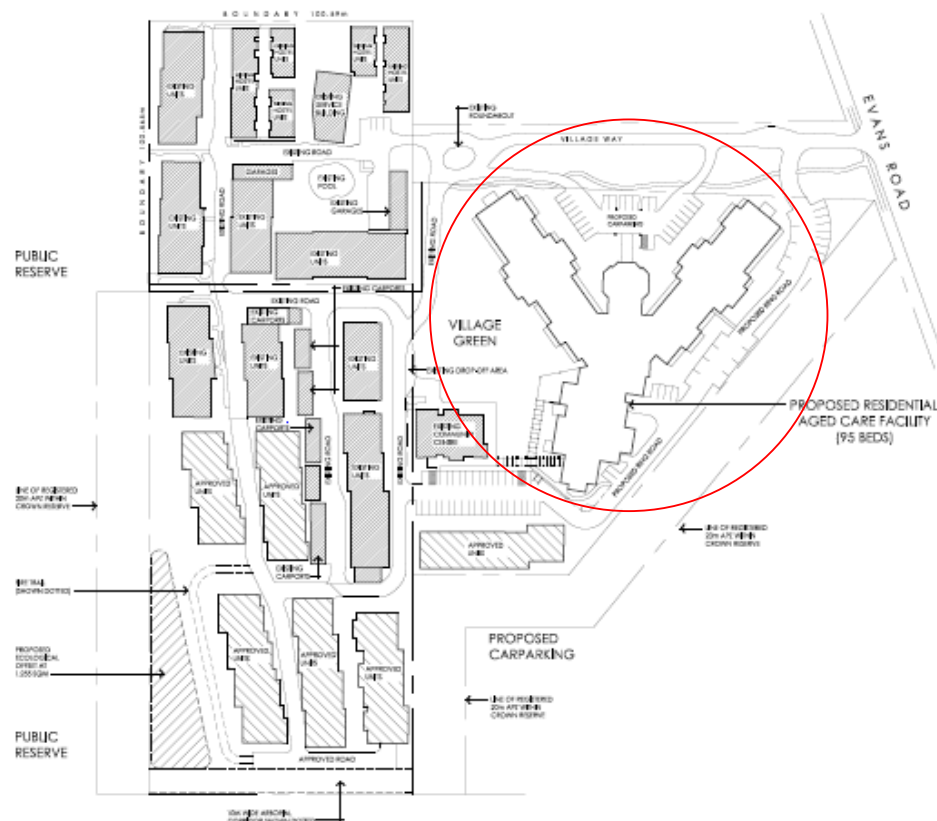


Figure 3: Proposed Development

Consultation and Referrals

The application has been referred within Council to relevant Council Officers including Environmental Health, Engineering, Trade Waste and Ecology.

The application has also been referred externally to the Mine Subsidence Board (MSB) and the Rural Fire Service (RFS) who have both provided General Terms of Approval (GTA's) as approval bodies under Section 91 of the EP&A Act. Copies of the GTA's are included in Appendix C.

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

Summary

Key issues that were identified as part of the assessment of the subject application included:

- The permissibility of the development and the establishment of existing use rights;
- Offsetting flora and fauna impacts, including removal of EEC; and
- Providing legal access from Village Way to the development through the dedication of the former Crown Road to Council as a Public Road.

The above issues have now been satisfactorily addressed and approval of the development is recommended, subject to the conditions included in Appendix A.

VARIATIONS TO POLICIES

No variations to Council Policy are proposed.

HISTORY

As the proposed development relies on Existing Use Rights, the development history of the site is important to the assessment of the application. A summary of the relevant Development Application history is provided below:

- Development Application No 179/85 for a retirement village containing 43 x 2 bedroom units, 28 hostel units and a community facility containing areas for dining, recreation, crafts, medical facilities and a swimming pool was approved in 1985 (as development consent No 85/209) over Portion 496 in the Parish of Wallarah.
- Development Application No 418/88 was lodged for the extension of the retirement village to provide 66 two bedroom self care units, 30 hostel units and community facilities. The extension of the retirement village was proposed over Part Lot 559 DP 43400 (which is now Lot 600 DP 728966) and the development application was approved in December 1988 as Development Consent No 868/88.
- The facilities approved under Development Consent No's 85/209 and 868/88 have been constructed.
- Development Application No 0429/90 (which was later converted to Development Application No 0773/90) for further extensions of the retirement village was approved in June 1991. This application included self care units, hostel units, a 51 bed nursing

home, community facilities and a manager's residence. The development consent was issued over Lot 496 DP 755266 and Lot 555 DP 42618, although included a condition requiring the consolidation of Lots 600 DP 728966, Lot 602 DP 728967 and Portion 496 Parish of Wallarah.

- In September 1991, Development Application No 733/90 was modified to remove the condition that required the three lots to be consolidated.
- In May 1993, Council advised that works undertaken on Lot 600 had constituted commencement of the development consent 773/90.
- In June 1999, Council investigated illegal clearing on Lot 602 and prevented further illegal clearing from occurring.
- In July 1999, discussions were commenced regarding a new development application that would retain more of the vegetation on Lots 600 and 602.
- In October 1999, a development application was lodged (3422/99) for an extension to the retirement village. This proposed 68 new dwellings on Lot 600 only. This development did not require clearing of Lot 602, but made no provision for a wildlife corridor on Lot 600. Deferred commencement consent was granted for DA 3422/99, which was dependent on the surrender of consent No 773/90. However, this was later modified to avoid the need to surrender development consent No 773/90. Development consent No 3422/99 was never commenced and has lapsed.
- In June 2001, discussions commenced regarding further amendment of development consent 773/90. In this case it was decided that the amendments proposed would result in a development not substantially the same as the original.
- In August 2001, Council received Development Application No 2203/01. This application was subsequently refused in December 2002 after extensive negotiation between Council and the applicant. A Section 82A request for review of the determination was made on 14 July 2003. Council confirmed the decision to refuse the application.
- On 28 November 2003, WLEP 1991 Amendment 135 was gazetted, which created a prohibition of '*housing for older persons or people with a disability*' in the 7(b) Scenic Protection Zone. Prior to this amendment, the definition was '*housing for aged or disabled persons*'; which was permissible in the 7(b) zone.

The applicant is relying on existing use rights from DA/773/1990 to enable the proposed development. The history of DA/773/1990 is detailed below:

- DA/773/1990 - Development Application No 0429/90 was lodged in June 1990 and was approved on 18 June 1991 as development consent No 773/90 for 76 additional self care units, 6 additional hostel units, a 51 bed nursing home, community facilities and a Manager's residence. The development consent was issued over Lot 496 DP 755266 and Lot 555 DP 42618.
- On 16 September 1991, DA/733/90 was amended to remove condition 5 which required "*the consolidation of Lots 600 DP 728966, Lot 602 DP 728967 and Portion 496 Parish of Wallarah, into one lot by registered subdivision prior to the issue of a building permit*". The reason for the amendment was that Lot 602 was Crown Land in the name of the State of New South Wales held by James Sidney Howe Wills by

virtue of Special lease 1980/10 Gosford. Lots 496 and 600 were freehold land in the name of James Sidney Howe Wills. The property description on the amended consent remained as Lot 496 DP 755266 and Lot 555 DP 42618.

- The amended consent was issued following representation from the applicant that the property description on the consent was incorrect. The applicant stated that:

The development application related to the following land: - Lot 600 and Lot 602 in DP 728966 (these were formerly part of Lot 555 DP 43400 and Lot 555 DP 42618).

However, your approval shows the address as Lot 496 DP 755266 and Lot 555 DP 42618. Lot 496 is where the earlier construction took place (1985/87) and where the Office and the Administration block is located (although there is a right of way Lot 496 to get to Lot 600).

- The consent was re-issued with the property description being Lot 600 DP 728966 and Lot 602 DP 728967.
- In May 1993, Council advised that works undertaken on Lot 600 had constituted commencement of the development consent. The consent was due to lapse in June 1993 if not physically commenced.
- The development consent was again modified on 8 May 2000 and was known as DA/773/1990/A. The modification enabled the development to be phased over two stages:

Stage 1: Lot 600 DP 728966

Stage 2: Lot 602 DP 728967

The modification also approved the relocation of one building and two open carparks, which straddled the property boundary, to be wholly located within Lot 602 and revised access roads to allow independent access to both Lots 600 and 602.

- Another application to modify the consent was made on 29 October 2003, which proposed the relocation of the community centre and carparking approximately 60 metres south of its initial location on Lot 602. DA/773/1990/B was approved on 20 January 2004 and the modified consent was issued over Lot 496 DP 755266, Lot 600 DP 728966, and Lot 555 DP 42618. A number of additional conditions were also included on the consent for DA/773/1990/B, including a condition which required the consolidation of Lot 600 DP 228966 and Lot 602 DP 728967 prior to the issue of an Occupation Certificate.
- A further modification was lodged in February 2004, which sought approval to remove the condition relating to the consolidation to the lots. However, it appears as if there was an error in the lodgement process and the application was lodged as DA/773/1990/D. There does not appear to be any record of DA/773/1990/C. DA/773/1990/D was approved on 15 June 2004 but instead of deleting the condition regarding consolidation of Lots 600 and 602, the following conditions were included:

Prior to the issue of an Occupation Certificate, the registration of a Right of Way for access purposes for the vehicle accessways that

service both Lot 600 DP 728966 and Lot 602 DP 728966.

Prior to the issue of an Occupation Certificate, the registration of a Section 88B Instrument over Lot 602 DP 728966 permitting access to the Community Centre and its facilities for the residents of the units at Lot 600 DP 728966.

- A Construction Certificate for the community building (on Lot 602) and Buildings 1 to 7 (on Lot 600) was issued on 11 August 2004.
- An Occupation Certificate was issued by Council in March 2005 for Building 3 – Units 84 to 91, Building 7 – Units 80 to 83 and the Community Building relating to DA/773/1990/D and CC/1505/2004.
- DA/773/1990/E was lodged in May 2005 to enclose carports with colourbond and roller doors. This application was withdrawn in August 2005.

PERMISSIBILITY

Pursuant to WLEP 1991, the subject site is zoned 7(b) Scenic Protection Zone and the proposed development is defined as 'housing for older persons or people with a disability'. The proposed use is listed as a prohibited use within the 7(b) Scenic Protection Zone. An extract of the zoning map is provided in Figure 4.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 typically applies to this type of development and aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

These aims are achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
- (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

However, Clause 4(6) of SEPP (Housing for Seniors or People with a Disability), states that the Policy does not apply to land described in Schedule 1 (Environmentally Sensitive Land). Schedule 1 of SEPP (Housing for Seniors or People with a Disability) lists 'Scenic' as 'environmentally sensitive'. Consequently, SEPP (Housing for Seniors or People with a Disability) does not apply to the site as it is zoned 7(b) Scenic Protection.

To enable consent to be granted, the application relies on existing use rights as provided for under Division 10 of the EP&A Act.



Figure 4: WLEP 1991 Zone Extract

Existing Use Rights

Section 106 of the EP&A Act defines an 'existing use' as:

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of this Part, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land:*
 - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

As detailed previously in the report, development consent 773/1990 for “extension to retirement units, including self care units, hostel units, a nursing home, community facilities and a manager’s residence”, was granted in June 1991 over the subject site. The consent related to Lot 496 DP 755266 and Lot 555 DP 42618, although was later reissued with the property description being Lot 600 DP 728966 and Lot 602 DP 728967. In May 1993 Council advised that works undertaken on Lot 600 had constituted commencement of development consent No 773/1990. Since then, a number of modifications have been made to the development consent and construction has continued with self care units on Lot 600 and a community building and carpark being built on Lot 602. The use of the site as housing for older persons or people with a disability was therefore lawfully commenced under

development consent 773/1990 and has since continued to be used for that purpose without abandonment.

Lot 496 DP 755266 contains a number of independent living units and hostel units and benefits from Existing Use Rights as a result of development consent 85/209.

At the time development consent No 773/1990 was granted, the site was zoned 7(b) Scenic protection Zone under Wyong Local Environmental Plan 1991, which permitted the proposed development with development consent.

On 23 November 2003, Amendment No 135 of WLEP 1991 introduced a new definition of 'housing for older persons or people with a disability', as follows:

housing for older persons or people with a disability means residential accommodation, which may take any building form, which is or is intended to be used permanently as housing for the accommodation of aged persons or disabled persons, and which may consist of hostels or a grouping of 2 or more self-contained dwellings, or a combination of both, and which includes 1 or more of the following facilities provided for use in connection with that accommodation:

- (a) accommodation for staff employed in connection with that accommodation,
- (b) chapels,
- (c) medical consulting rooms,
- (d) meeting rooms,
- (e) recreational facilities,
- (f) shops,
- (g) therapy rooms,
- (h) any other facilities for the use or benefit of older persons or persons with a disability.

At the same time as the new definition was introduced under WLEP 1991 (Amendment 135), the landuse table for the 7(b) scenic Protection Zone was amended to make 'housing for older persons or people with a disability' a prohibited use within the 7(b) Scenic Protection Zone. This was the first occasion that the use consented to under DA/773/1990 became prohibited.

During the assessment of the current proposed development, questions arose as to whether the Existing Use Right applied to all three lots being Lot 496 DP 755266, Lot 600 DP 728966 and Lot 602 DP 728967, given that only the community building and carpark had been constructed over Lot 602 DP 728967. The applicant has provided legal advice in this regard and a full copy of the legal advice is provided as Appendix D.

Being satisfied that the site benefits from Existing Use Rights, Section 108 (1) of the EP&A Act states that:

The regulations may make provision for or with respect to existing use and, in particular, for or with respect to:

- (a) *the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
- (b) *the change of an existing use to another use, and*
- (c) *the enlargement or expansion or intensification of an existing use.*

(d) (Repealed)

The proposed development seeks the 'enlargement or expansion or intensification of an existing use'. Clause 42 of the EP&A Regulations states that development consent is required for any enlargement, expansion or intensification of an existing use and that the enlargement, expansion or intensification:

- (a) must be for the existing use and for no other use, and*
- (b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.*

The existing use of the site can be characterised as 'housing for older persons or people with a disability' and the proposed development is considered to be for the same use rather than a new use. The proposed development is also to be undertaken upon land which has an existing development consent for aged housing and a nursing home and which currently contains a community building approved under that consent. As such, the proposal is considered to satisfy the above requirements and the proposed development can be consented to on the basis of Existing Use Rights.

RELEVANT STATE/COUNCIL POLICIES AND PLANS

The Council has considered the proposal against the relevant provisions of the following environmental planning instruments, plans and policies:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No 71 – Coastal Protection
- State Environmental Planning Policy No 55 – Remediation of Land
- Wyong Local Environmental Plan 1991
- Wyong Development Control Plan 2005
 - Chapter 13 – Interim Conservation Areas
 - Chapter 14 – Tree Management
 - Chapter 30 – Wyong Shire Wetlands
 - Chapter 61 – Carparking
 - Chapter 67 – Engineering Requirements for Development
 - Chapter 69 – Waste Management
 - Chapter 70 – Notification of Development Proposals
 - Chapter 99 – Building Lines
- Council Policy L1 – Landscape Guidelines
- Toukley District S94 Contribution Plan
- Section 94A Contribution Plan

Assessment of proposals on land with Existing Use Rights

Pursuant to Section 108(3) of the EP&A Act, Environmental Planning Instruments (EPI's) that contain controls that would derogate from the development have no effect and as such many of the provisions of the EPI's listed above cannot be enforced. However, the Land and Environment Court has published a 'Planning Principle' (*Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71) to assist in the assessment of proposals on land with existing use rights. The Planning Principle outlines relevant considerations such as the bulk and scale of the development, the relevance of an existing building in its setting, impacts on

adjoining land and the internal amenity of future occupants. These specific points have been taken into consideration as part of the assessment of the development.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control. Vegetation to be removed is proposed to be offset through the establishment of a fully vegetated restoration area, replacement plantings of canopy trees and the establishment of an arboreal corridor to improve connectivity between existing vegetated areas. The development is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations.

Climate Change

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

ASSESSMENT

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

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

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

State Environmental Planning Policy No 71 – Coastal Protection

SEPP 71 – Coastal Protection applies to the development as the site is located within a coastal protection zone, being approximately 290 metres from Tuggerah Lake. In accordance with Clause 7 of the SEPP, the proposal has been assessed against the matters for consideration outlined under Clause 8 and found to be satisfactory (see Appendix E). The proposal has also been considered under Part 4 of the SEPP relating to public access, effluent disposal and treatment of stormwater and is consistent with the requirements identified under this part.

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of SEPP 55 specifically relates to the consideration of contamination and remediation prior to a consent authority granting consent to the carrying out of any development. Specifically, subclause (1) states that:

A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Subclauses (2), (3) and (4) are not applicable to the subject development application as it does not propose a change of use. Despite illegal clearing in 1999, there is no record of any other activities on the subject site other than the previous development consent for the retirement village and the construction of the community centre and as such, a contamination assessment has not been undertaken.

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

Although SEPP (Housing for Seniors or People with a Disability) is not applicable to the subject development application, the SEPP provides a number of relevant matters for consideration and has therefore been used as a guide by both the applicant and Council to assess the adequacy of the proposed development in terms of providing for aged care. As such, various standards set by the SEPP are referred to throughout the report.

Wyong Local Environmental Plan 1991

Clause 15 - Acid Sulphate Soils

The WLEP 1991 requires special assessment to be given to certain development on land being subject to actual or potential acid sulphate soils. The site is identified as Class 4 on the Acid Sulphate Soils Planning Map. For Class 4 land, any works beyond 2 metres below natural ground surface or works that are likely to lower the water table to any point below 2 metres AHD, require more detailed assessment. The development application has been accompanied by a Preliminary Acid Sulphate Soils Investigation. The preliminary assessment found that six (6) of the nine (9) soil samples could be defined as either actual or potential acid sulphate soils and consequently an Acid Sulphate Soils Management Plan has been prepared.

Clause 28 – Tree Management

Clause 28 of WLEP 1991 requires development consent for the removal of trees and states that Council shall not grant such consent unless:

- (a) such works are ancillary to or necessary to undertake a use permitted on the land, and*
- (b) the Council has made an assessment of the importance of the vegetation in relation to:*
 - (i) soil stability and prevention of land degradation, and*
 - (ii) water quality and associated ecosystems, such as streams, estuaries and wetlands, and*
 - (iii) scenic or environmental amenity, and*
 - (iv) vegetation systems and natural wildlife habitats.*

The proposed tree removal is necessary for the construction of the proposed residential aged care facility. The impact of the proposed tree removal would be compensated through replanting across the site and the establishment of an arboreal corridor to improve connectivity to adjoining vegetated areas.

Clause 29 – Services

This clause requires all new development to have an adequate water supply and facilities for the removal or disposal of sewage and drainage. Water, sewer and stormwater connections are all available to the site.

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

There are no draft EPI's that apply to the proposed development.

(a)(iii) any development control plans

Wyong Development Control Plan 2005

Chapter 13 – Interim Conservation Areas

The aim of this plan is to protect and conserve remaining natural areas and wildlife corridor opportunities until ecological studies have been fully completed within 'potential conservation investigation areas'. The subject site is covered by Chapter 13, although the removal of trees and vegetation from the site has already been approved under DA/773/1990. Notwithstanding this, a flora and fauna assessment has been submitted with the application, which specifically considers the connectivity of habitat areas in and around the subject site.

The natural vegetation of the Lakefront Retirement Village is generally disturbed with patches of remnant trees within open and fringing managed areas. Connectivity to habitat areas beyond is therefore limited to the canopy level. Natural vegetation to the west continues to the north and south along the fringes of Tuggerah Lake beyond the subject site. Vegetation connectivity diminishes to the north but there is good connectivity to the south into Wyrabalong National Park. Vegetation to the south-west also connects south through the neighbouring Camp Toukley.

The proposed development site does not form part of any major (or minor) corridor to more extensive bushland. The loss of trees will not result in any significant break for fauna movement apart from access to foraging resources within the site itself. There exists only a very narrow and limited corridor for wildlife movement along the southern boundary between the available habitats (extending beyond the site) to the south-east and the west. This very narrow band of vegetation is generally at 5 metres width and contains a moderate degree of weed infestation. Bandicoot surface diggings along the vegetated interface suggest this corridor is utilised by terrestrial mammal species, however the absence of mature emergent trees limits the passage of arboreal species (such as gliders). As part of this development application, it is proposed to enhance arboreal connectivity through planting of locally occurring native trees along the southern boundary to a width of 10 metres. Planting of Swamp Mahogany within this corridor will encourage the long term use of this southern arboreal corridor by providing a foraging resource.

Chapter 14 – Tree Management

The following species listed as Keystone Species in *DCP 14 Tree Management* were observed within the study area:

Botanical Name	Common Name	Habitat
'Gum' producing <i>Acacia</i> species	Wattle	Squirrel Glider
<i>Eucalyptus robusta</i>	Swamp Mahogany	Yellow-bellied Glider / Squirrel Glider / Koala / Regent Honeyeater
<i>Melaleuca species</i>		Ringtail Possum

A number of specimens of *Eucalyptus robusta* were observed on site and approximately 57 trees are proposed to be removed as a result of the new development. The proposed landscape plan and vegetation management plan specify the replanting of *Eucalyptus robusta* species as well as other *Acacia* and *Melaleuca species* recorded. It should also be noted that consent has already been granted for the removal of these trees under DA/773/1990.

Chapter 30 – Wyong Shire Wetlands

A small portion of Lot 600 DP 728966 (south-western corner of the subject site) is mapped under DCP 30. Whilst the existing asset protection zones impact on the mapped wetland area, the proposed building does not increase this impact as there will be no further clearing for asset protection purposes.

The proposed restoration area assists in maintaining a vegetated buffer to the mapped wetland to the south west of the site. Subject to adequate stormwater treatment being provided and the weeds within the adjoining APZ being managed, the proposed development is not expected to create any further adverse impacts on the wetland.

Chapter 61 – Carparking

DCP Chapter 61 specifies that carparking for nursing homes is to be provided at the following rate:

- (i) 1 space per 3 beds
- (ii) 1 space per 3 employees
- (iii) 1 space per professional staff

The traffic and parking report provided with the application identifies a maximum of 46 staff at the facility at any one time, which is made up of 12 professional staff and 34 other employees. Based on these numbers, the following carparking is required:

	Rate	No Beds/Staff	Required Carparking
Visitors	1 per 3 beds	95	31.7
Staff	1 per 3 staff	34	11.3
Professional staff	1 space	12	12
Total			55 spaces

In addition to the carparking rates above, SEPP (Housing for Seniors or People with a Disability) requires an ambulance parking bay, which is proposed to be accommodated adjacent to the front entrance to the residential car facility.

The Lakefront Retirement Village currently provides 114 carparking spaces on site and the proposed development generates a requirement for an additional 55 spaces. In total, it is proposed to provide 176 carparking spaces, which exceeds the requirements of the DCP. It

is also noted that the carparking rates for residential care facilities under SEPP (Housing for Seniors or People with a Disability) are much lower than the Wyong DCP 2005 and consequently it is considered that sufficient parking is provided to cater for both the existing and proposed development.

Chapter 67 – Engineering Requirements for Development

The proposed civil works including roadwork and stormwater management need to be undertaken in accordance with Council's DCP Chapter 67. Compliance with relevant standards can be included as conditions of consent.

Chapter 69 – Waste Management

A Waste Management Plan (WMP) has been submitted with the development application in accordance with DCP Chapter 69. The WMP incorporated details of waste management and reuse for the site preparation, construction and ongoing use of the site.

Chapter 99 – Building Lines

Building lines for the 7(b) Scenic Protection Zone are included for dwellings and ancillary structures, although the DCP does not specify building lines for the proposed type of development. Building setbacks of approximately 10 metres to the side and rear boundaries and approximately 20 metres to Village Way are proposed, which is consistent with the DCP for this zoning.

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

The proposed development does not involve any voluntary planning agreement.

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

The Regulations require consideration of the following:

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

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

(a)(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

The Wyong Coastal Zone Management Plan has been adopted by Council but has not been certified or gazetted by the State Government. The subject site is not affected by the provisions of the Coastal Zone Management Plan.

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

The relationship to the regional and local context and setting

The site is located approximately 220 metres to the south of the existing residential area of Canton Beach, within a small precinct serviced by Evans Road, which is a no-through road. Development in area primarily comprises short term holiday accommodation and seniors housing.

Immediately adjoining the site to the north is the Canton Beach Holiday Park which is a Council operated caravan park located on Crown Land. Vacant Crown reserves also adjoin the site to the east and west. Camp Toukley, which is operated by Lutanda Children's Services is located immediately to the south of the site and provides short-term accommodation, recreational facilities and activities for school camps during the week and church and special interest groups on the weekends. Further to south along Evans Road are 12 privately owned dwelling houses, a manufactured home estate (comprising 239 long term sites) and a hostel for Vietnam Veterans, which is also located on Crown Land. The provision of an additional aged care facility in this locality is consistent with the surrounding land uses and the previous development consent issued over the site. The proposed building is also sufficiently separated from adjoining development to avoid overshadowing, visual and acoustic privacy issues.



Figure 5: Aerial Photograph showing surrounding land uses

While the scale of the development is larger than what might typically be located within the 7(b) Scenic Protection zone, the two storey height of the proposed building is consistent with existing two storey residential units within the retirement village. It is also noted that open forest vegetation communities surrounding the site have canopy heights of up to 26 metres and shrub layers of up to 10 metres, which will maintain the vegetated backdrop to the development.

The access, transport and traffic management measures

Roads, Access and Traffic – External

Access to the development site is via Evans Road and Village Way. Evans Road is a Council public road in fair condition. Village Way was a Crown Road with a licence granted over the road in favour of the applicant for the purpose of landscaping and nature strip. The Crown Road has a physically constructed road pavement within the road reserve area and within the licence area. The Crown Road has recently been handed over to Council as a public road due to the existence of the constructed pavement.

It has been identified that the intersection of Village Way and Evans Road needs to be upgraded in conjunction with the proposed aged care facility. This would include formalising the existing intersection of Evans Road and Village Way by widening the intersection to a BAR/BAL type intersection with trafficable rolled kerb/concrete v-drains to formalise the pavement edges and for drainage. The installation of a BAR/BAL intersection would require the upgrading of Evans Road for approximately 52.5m to the north of the centreline of Village Way and 32.5m to the south of the centreline. The existing piped crossing in Evans Road south of the intersection of Village Way would need to be extended to accommodate the intersection upgrade as necessary.

Evans Road contains deep table drains on the eastern side of the intersection with Village Way. On the western side are a shared path to the south of the intersection and a standard footpath to the north of the intersection. Both paths are at the shoulder pavement level and construction of kerb and guttering to formalise the intersection is not suitable without considerable adjustments to the existing paths. Therefore the installation of an alternate treatment suitable to Council may better serve in this location.

Village Way also needs to be formalised now that it is a public road and AS/NZS 2890.2 indicates the minimum trafficable width for the road pavement for a medium rigid vehicle is 6.5m. Council's public road minimum in existing areas is 8m although it is considered that 6.5m is appropriate for the site and expected use. Footpaving 1.5m wide, is required for the full length of Village Way to connect to the footpaving in Evans Road. Rolled kerb is also required on both sides of Village Way.

Roads, Access and Traffic – Internal

A 6.5m ring road is proposed around the development which will connect to Village Way to the north and the existing carpark to the south. This carpark currently connects to the existing internal road system to the west of the proposed development, which is 5.5 metres wide and suitable for 2 way vehicle traffic. The proposed ring road is to be 6.5m wide and is suitable for 2 way traffic up to medium rigid vehicles. The intersection of this internal road with Village Way should be designed as a standard access in accordance with AS/NZS 2890.2 and DCP 2005 Chapter 67. Traffic calming facilities and appropriate signage should be provided on the internal road system. The proposed drop off area to the rear of the development would also need to be adjusted to separate it from through traffic movements.

Access to the main entrance and main carparking area is proposed to be via a one-way access, with entry and exit onto Village Way. There is no direct access to the site from Evans Road. Existing trees are to be avoided in the design and location of the access ways as indicated on the development plans.

Carparking

Carparking for 62 vehicles is proposed as part of the development. The carpark at the front of the development is to be identified for visitor carparking only, with staff parking to be located at the rear of the building. The extension of the carpark adjacent to the existing community building to the rear (south) of the development is to be for visitor and staff carparking while the carparking on the eastern access road is to be for staff only and needs to be identified as such.

Public Transport

As previously referred to in the report, SEPP (Housing for Seniors or People with a Disability) does not apply to the site. However, the proposed development has been assessed against the location and accessibility requirements of the SEPP to ensure that the proposed facility provides suitable access to services for future residents.

In relation to location and access to facilities, the SEPP requires the consent authority to be satisfied that residents of the proposed development will have access to:

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

The facilities and services referred to above must be either located at a distance of not more than 400 metres from the site of the proposed development or residents must have access to a public transport service that is located at a distance of not more than 400 metres from the site of the proposed development and 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.

There are bus stops located approximately 100 metres from the site on Evans Road and new footpaths to the bus stops that comply with the specified gradients are to be provided as part of this development. The Busways Route 91 provides regular bus services to Toukley and Lake Haven from the bus stop on Evans Road. It is also proposed that in-house medical facilities including access to a General Practitioner will be provided as part of the development.

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

The proposed development is unlikely to impact the public domain, other than some minor improvements to the footpath network from the site to the existing bus stop. Some alterations to the location of the bus stop of the eastern side of Evans road may be required as a result of the necessary intersection upgrade.

The impact on utilities supply

The site is currently connected to water, sewer, electricity and phone services, which can be extended to accommodate the proposed development.

The effect on heritage significance

There are no heritage items or items of Aboriginal significance in the vicinity of the site.

Any effect on other land resources

There are no valuable land resources known to occur within the site.

Any impact on the conservation of water

The proposed site drainage includes piped drainage, kerb and guttering and bioretention systems. The proposed drainage appears acceptable and can be conditioned, should consent be granted, to provide detailed calculations for the drainage and overland flow paths. The design should be in accordance with DCP 2005 Chapter 67 and AS/NZS3500. The existing swale on the south-eastern side of the development site, which diverts overland flows from the crown lands, is to be contained within the development site, or alternatively, should be burdened by a suitable easement for drainage. Existing piped and drainage outlets to the western side of the development site are to be formalised to current standards with dissipaters and spreaders to control flows, which can be addressed by recommended conditions of consent.

Water quality and quantity outcomes will be required as recommended conditions of consent as drainage is directed toward Tuggerah Lake and an area zoned 7(g) Wetland Management. Wetting and drying cycles should be maintained in accordance with Council's requirements and technical guides for freshwater wetlands.

In terms of water reuse and reduction, underground rainwater tanks are proposed between the new building and the existing community building. It is proposed that rainwater will be used for all toilets and that all shower heads, toilets and bathroom taps should be minimum 3 star rating.

Any effect on the conservation of soils or acid sulphate soils

As previously discussed in the report, an Acid Sulphate Management Plan (ASMP) has been submitted with the development application. The ASMP states that based on anticipated construction techniques, it is anticipated that site works will encounter acid sulphate soils and may encounter groundwater and soilwater leachate. As such, guidelines for soil extraction, techniques for ground de-watering and treatment of soilwater leachate and lime application rates have been included in the ASMP. Conditions for compliance with the recommendations of the ASMP are included in the proposed conditions of consent.

Any effect on quality of air and microclimate conditions

Short term dust impacts are anticipated during the construction stage of the development. Conditions requiring dust suppression techniques are included in the proposed conditions of consent.

Any effect on the flora and fauna

A Flora and Fauna Assessment Report has been prepared by *Travers Bushfire & Ecology* to assess the flora and fauna impacts of a proposed residential aged care facility.

Potential Ecological Impact

The proposed development would result in the removal of 0.125 ha of managed Open Forest, which was approved to be removed under development consent No 773/1990. The remnant managed Open Forest has been mapped as the Endangered Ecological Community - Swamp Sclerophyll Forest on Coastal Floodplains. Given that the size of the remnant to be removed is less than 0.25 ha, the loss of the EEC is not considered significant.

In respect to fauna, the building layout impacts on winter flowering Swamp Mahogany (*Eucalyptus robusta*), which is a key foraging plant for fauna such as Grey-headed Flying-fox. The loss of hollows may also impact on hollow dependent threatened species. Swamp Mahogany trees are known to provide important winter foraging habitat for a wide range of fauna species and currently provide partial arboreal connectivity across the site.

The key ecological impacts of the development are as follows:-

- Loss of 1,250 m² of the EEC - Swamp Sclerophyll Forest on Coastal Floodplains;
- Loss of trees within the development footprint (approximately 57 trees) some of which are Swamp Mahogany;
- Potential loss of hollow bearing trees which may affect hollow dependent threatened species, and;
- Partial loss of canopy connectivity across the landscape.

Legislative Requirements

Ecological survey and assessment has been undertaken in accordance with relevant legislation including the *Environmental Planning and Assessment Act 1979*, the *Threatened Species Conservation Act 1995*, the *Environment Protection and Biodiversity Conservation Act 1999* and the *Fisheries Management Act 1994*.

In respect of matters required to be considered under the *Environmental Planning and Assessment Act 1979* and relating to the species / provisions of the *Threatened Species Conservation Act 1995*, three (3) threatened fauna species being Squirrel Glider (*Petaurus norfolcensis*), Little Bentwing-bat (*Miniopterus australis*) and Grey-headed Flying-fox (*Pteropus poliocephalus*); no threatened flora species; and one (1) endangered ecological community, *Swamp Sclerophyll Forest on Coastal Floodplains* were recorded within or in close proximity to the subject site. The Squirrel Glider was identified by call to a 'probable' level of certainty.

In accordance with Section 5A of the *Environmental Planning and Assessment Act 1979*, the 7 part test of significance concluded that the proposed development will not have a significant impact on any threatened species, populations or endangered ecological communities. Therefore, a Species Impact Statement is not required for the proposed development.

In respect of matters required to be considered under the *Environment Protection and Biodiversity Conservation Act 1999*, one (1) threatened fauna species Grey-headed Flyingfox (*Pteropus poliocephalus*), no nationally protected migratory bird species, no threatened flora species, and no endangered ecological communities listed under this Act were recorded within or in close proximity to the subject site.

The proposed development was not considered to have a significant impact on matters of national environmental significance. As such a referral to Department of Sustainability, Environment, Water, Populations and Communities is not required.

The applicant has also identified that a separate application is required to the Catchment Management Authority (CMA) for consent to clear under the Native Vegetation Act. This is separate from the current development assessment process and will require the submission of a separate Development Application to the CMA.

Proposed Mitigative Measures

Based on the completed 7 part test, the flora and fauna impacts are not significant in the context of the current development consent. The following measures are proposed to mitigate the impact on the new aged care facility:

EEC Restoration Area

A fully vegetated restoration area of 1,255m² is proposed to be established to rehabilitate the EEC – Swamp Sclerophyll Forest on Coastal Floodplains. It is proposed to be provided in the south-western corner of the site adjoining the foreshore reserve. The placement of the rehabilitation area helps to enhance connectivity across the southern boundary of the site as it provides a ‘stepping stone’ which will work in conjunction with the proposed arboreal corridor on the southern boundary.

Installation of an Arboreal Corridor

A managed arboreal corridor is proposed along the southern boundary to facilitate the movement of arboreal mammals from vegetated lands to the south-east across to the existing vegetative lands in the west. It is proposed to consist of a 10 m row of planted trees, which are to be selected from species known to occur within the EEC – Swamp Sclerophyll Forest such as Swamp Mahogany. To maintain the integrity of the existing asset protection zones (APZ's) the arboreal corridor will be required to have a managed understorey.

Replacement Planting of Canopy Species

The building layout results in the loss of approximately 57 trees, which are proposed to be replaced in the landscaping surrounding the proposed building. Canopy species can be planted within the existing asset protection zones without compromising their functionality. The plantings will replace the Swamp Mahogany trees and other selected canopy species that are considered appropriate to use in the landscape.

Relocation or Replacement of Hollows

In keeping with normal practice for the management of hollow bearing trees, any existing affected hollow bearing trees will be inspected prior to removal, fauna relocated if present and replacement nest boxes installed.

Vegetation Management

A Vegetation Management Plan has been prepared which identifies the restoration measures and performance targets to be achieved which will mitigate adverse impacts. The site in its current condition is highly modified but supports foraging habitat for a number of threatened species including:-

- Grey-headed Flying-fox
- Little Bentwing-bat

Both of these species are highly mobile and are not likely to be significantly impacted by the removal of canopy vegetation onsite. Revegetation in the long term will provide replacement foraging habitat for these species. Squirrel gliders that occur to the west of the site will continue to use the adjoining lands but arboreal connectivity will be enhanced by strategic revegetation works.



Asset Protection Zones

Registered Asset Protection Zones (APZ's) are located on the adjacent lands to the south and west of the site in accordance with a perpetual leasehold agreement with Crown Lands. Vegetation management within the APZ's has been undertaken by the landowners. The quality of vegetation remnants within the site and the adjoining APZ's has degraded over the years as a result of the fuel reduction works, which removed the understorey but retained the canopy layer.

The ecological impact of the proposed aged care building only relates to the additional impacts from the construction of the new aged care building replacing a series of approved but not constructed buildings on the same lands.

APZ's are registered on the title of adjacent Crown land, which includes a 20m wide zone off the south-east boundary and 20m off the southern portion of the western boundary. The APZ's have been previously approved and implemented and do not increase the level of impact as a result of the modified development layout.

Whilst there is a need to maintain existing cleared areas on all aspects of the development for the purposes of bushfire asset protection, the new development application does not result in a change in the required asset protection zones. A Bushfire safety Authority has been granted for the proposed development by the Rural Fire Service.

The provision of waste facilities

A purpose built garbage room and loading dock is proposed as part of the development and a WMP has been submitted, which details arrangements for general waste and recycling collections. However, the WMP does not specifically deal with medical and biological waste and therefore it is proposed to include conditions of consent relating to the collection and disposal of these wastes.

Whether the development will be energy efficient

To reduce the impact of lighting, hallways during the day the first floor will be lit using skylights and the ground floor has glazing at the end of the hallways for light and a vista. Each resident has the option to control their own space thermally by using their operable window/door system to minimise impact on the need for powered air-conditioning.

The development does not require a BASIX certificate, although would be required to comply with Part J – Energy Efficiency of the Building Code of Australia.

Whether the development will cause noise and vibration

It is not expected that the development would result in any unreasonable long term noise impacts. Construction hours would be limited via a condition of consent.

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

The site is not affected by flooding, although is located within a bushfire prone area. A Bushfire Hazard Assessment Report has been submitted with the application and a Bushfire Safety Authority has been issued by the NSW Rural Fire Service.

There is an existing 20 metre wide APZ adjoining the eastern and part of the western boundary within the Crown reserves. These APZ's have been formalised by way of an easement under Section 88B of the Conveyancing Act 1919 (Appendix F) and are to be included within the proposed fuel management plan for this site. The closest point of the proposed building would be 30.6 metres from the hazard to the southeast and 48 metres from the hazard to the south. The existing APZ's to these aspects consist of maintained grounds within the subject property and the existing 20 metre wide easement within the Crown Reserve.

The APZ's together with construction requirements relating to water and utilities, building construction and access arrangements are considered sufficient to mitigate the threat of bushfire and compliance with the recommendations of the Bushfire hazard Assessment Report and the Bushfire Safety Authority can be addressed through conditions of consent.



Figure 6: Asset Protection Zones on Crown Land

Any risks from technological hazards

There are no known technological hazards associated with the development.

Whether the development provides safety, security and crime prevention

The building has been designed having regard to the principles of Crime Prevention Through Environmental Design (CPTED) including natural surveillance, access control, territorial reinforcement and space management. In accordance with Council's Crime Risk Assessment Protocol, a referral to the NSW Police was not required.

Any social impact in the locality

The proposed aged car facility will provide additional housing options and opportunities for the aged population of Wyong Shire.

Any economic impact in the locality

The proposal is unlikely to have a detrimental impact. The proposal will result in the employment of persons during construction and post-construction.

Any impact of site design and internal design

The proposed development is situated within the grounds of the existing Lakefront Retirement Village, which currently provides hostel and independent living accommodation. The proposed residential care facility is to be located on an exiting vacant area of the site and therefore would not impact on the existing development.

The proposed residential care facility also incorporates various facilities and services which are to be made available to all residents of the Lakefront Village. This includes a respite day care centre, café, hairdresser and medical facilities. The internal design of the residential care facility locates these shared services at the rear of the building, with a separate access via a footpath connecting the building to the existing community facility.

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

Conditions of consent are recommended in relation to hours of construction and the preparation of a traffic management plan for the necessary roadworks on Evans Road and Village Way.

Any cumulative impacts

It is considered that the increase in aged care facilities is unlikely to result in cumulative impacts in the locality.

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

The proposed development of a residential aged care facility is compatible with the surrounding uses and would complement the existing aged housing already provided as part of the Lakefront Retirement Village.

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

Any submission from the public

The application was advertised in accordance with DCP 2005 Chapter 70 - Notification of Development Proposals with no submissions being received.

Any submission from public authorities

The application was referred to the Mine Subsidence Board (MSB) and the Rural Fire Service (RFS) as integrated development.

Mine Subsidence Board

The MSB have granted conditional approval for the development, subject to conditions relating to the final design complying with mine subsidence parameters and articulation/control joints in brickwork. These requirements are included in the proposed conditions of consent and a copy of the correspondence is provided in Appendix C.

Rural Fire Service

The RFS has granted a Bush Fire Safety Authority as required under section 100B of the Rural Fires Act 1997 subject to conditions relating to water and utilities; evacuation and emergency management; design and construction standards, landscaping maintenance and the continued provision of APZ's on the adjoining Crown Land. A copy of the correspondence is provided in Appendix C.

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

Any Federal, State and Local Government interests and community interests

There has been no community opposition to the proposed development and the provision of 95 additional aged care beds is considered to be in the public interest. The construction of the development as proposed under the subject development application would also result in a better environmental outcome than the construction of the development as approved under DA/773/1990 due to the rehabilitation and re-establishment of an area of EEC as well as providing an arboreal corridor to link existing areas of native vegetation.

OTHER MATTERS FOR CONSIDERATION

The site falls within the Toukley District Section 94 plan. On 14 September 2007, the Minister for Planning issued a Direction under Section 94E of the EP&A Act, which prevents Council from imposing Section 94 Contributions on a development consent that is granted to a social housing provider under SEPP (Seniors Living) 2004. While Christadelphian Aged Care is a social housing provider, the development is not being undertaken pursuant to SEPP (Seniors Living) or its equivalent. As such, the development would attract contributions. Nursing home developments typically attract section 94 charges for roads, drainage, water quality and planning studies. However, none of these charges apply to the subject site under the Toukley district Contributions Plan. Consequently, the Section 94A Plan is applicable, which charges a contribution based on 1% of the development cost. The cost of development is \$14.49 million and therefore a contribution of \$144,900.00 is applicable.

CONCLUSION

The subject development application seeks to replace a 51 bed nursing home, 36 hostel units, a managers residence and 40 self care apartments approved under development consent 773/1990 with a 95 bed residential care facility.

The proposed residential care facility incorporates an improved architectural aesthetic compared to the multiple buildings previously approved; provides greater areas of landscaped open space; incorporates current best practice nursing and care services; and proposes improved ecological outcomes through the offsetting of the removal of EEC vegetation and the formalisation of an arboreal corridor to maintain connectivity to surrounding vegetated areas.

Having regard to the comparative improvement of this development proposal in relation to environmental impact, built form, and social benefits, it is recommended that that the application be approved, subject to appropriate conditions.

<i>Appendix A</i>	<i>Conditions of Consent</i>
<i>Appendix B</i>	<i>Architectural Plans and Materials</i>
<i>Appendix C</i>	<i>General Terms of Approval</i>
<i>Appendix D</i>	<i>Applicant's Legal Advice for Exiting Use Rights</i>
<i>Appendix E</i>	<i>SEPP 71 Assessment Table</i>
<i>Appendix F</i>	<i>Copy of Easements for Asset Protection Zones</i>

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

.....
Reporting Officer

.....
Reviewing Officer

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

Approved/Refused:

..... Date ____/____/____