

**JOINT REGIONAL PLANNING PANEL
(Hunter & Central Coast Region)**

JRPP No	2012HCC022
DA Number	DA/1058/2012
Local Government Area	Lake Macquarie City Council
Proposed Development	147 Bed Residential Care Facility, 43 Self Care Apartments, Basement Car Park and Community Facility
Street Address	152, 154, 156, 158, 160 & 162 Brighton Avenue, TORONTO 18 Warhurst Avenue, TORONTO 245, 247 & 249 Excelsior Parade, TORONTO 201 Cary Street, TORONTO
Applicant/Owner	Anglican Care
Number of Submissions	7
Recommendation	Deferred for the applicant to respond to the issues identified in Appendix 4 to this report
Report by	Brian Gibson, Senior Development Planner

Assessment Report and Recommendation

PRECISE

The development proposal is for the construction of a Residential Care Facility consisting of 147 beds, Independent Living Units incorporating 43 Units, associated Basement Car Parking and Loading Dock, a Community Centre, the Consolidation of Lots and Demolition of 3 existing Dwellings and 31 existing Independent Living Units. The Capital Investment Value of the development is \$35 million and is proposed to be undertaken in two stages.

The land is zoned 2(1) Residential & 2(2) Residential (Urban Living) under clause 15 Lake Macquarie Local Environmental Plan 2004. The application has been lodged pursuant to State Environmental Planning Policy (Housing For Seniors or People with a Disability) 2004.

The development proposal fronts Brighton Parade, Toronto and is located adjacent to the Toronto CBD. The development site consists of 14 lots having frontage to Brighton Avenue, Warhurst Avenue, Excelsior Parade and Cary Street, though the works are predominantly to be constructed over lots fronting Brighton Avenue. An existing Residential Care Facility and Independent Living Units located on the southern portion of the development site are to be retained.

Pockets of mature native trees are located throughout the site, particularly along the frontages of Cary Street and Excelsior Parade, and at the rear of the existing dwellings fronting Brighton Avenue. These pockets of native trees are to be removed as a consequence of the proposal, to be replaced with new plantings.

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

The assessment of the application has identified a number of issues in relation to the design, layout, tree removal and scenic quality that need to be addressed through amendments to the plans and submission of additional information. These issues have been raised by Lake Macquarie City Council's Design Review Panel (SEPP65) and internal referral comment in relation to Council's Development Control Plan No 1.

Project Description

The development application has been lodged pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability 2004). The development application proposes the:

- Demolition of the three existing Dwellings and the 'Mountain View' Apartments (incorporating 31 self contained Seniors Housing Units) fronting Brighton Avenue, and in-ground swimming pool;
(the existing Residential Care Facility on properties fronting Excelsior Parade are to be retained)
- Construction of a Residential Care Facility (three storeys with Basement Car Park providing 147 Beds);
- Construction of Independent Living Units (two to three storeys with Basement Car Park providing 43 Self Contained Units);
- Construction of a Community Centre for residents only (consisting of a Mens Shed, Accessible Pool and Change Room Facilities, Community Hall with Kitchenette); and
- Consolidation of 14 Lots.

Figure 1 below details the site layout of the proposal.

The proposed development is to be staged, with the first stage consisting of the demolition of existing buildings/structures and construction of the Independent Living Units, Basement Car Park, Community Facility and associated landscape works. Stage 2 will be the construction of the Residential Care Facility, Basement Car Park, internal access road and associated landscape works.

The Capital Investment Value of the development is \$35 million. The applicant is Anglican Care, a local provider of Aged Care developments.

The Independent Living Units (ILUs) comprises 24 Units containing 2 Bedrooms plus Study and 19 Units containing 2 Bedrooms, all with external terraces/balconies. The basement car park incorporates 43 Parking Spaces including Storage Space, five visitor Parking Spaces, Mechanical Plant and Garbage Facilities.

The Residential Care Facility (RCF) provides 147 Beds consisting of:

- First Level – 41 Beds (dementia and other related conditions);
- Second Level – 52 Beds (high care and palliative-care accommodation with 2 overnight rooms for relatives);
- Third Level – 54 Beds (high-care accommodation);

Also provided within the RCF is a basement car park providing 37 spaces, Loading Dock and Garbage Facilities, Coffee Lounge and Reception, Multipurpose Room, Dining Areas, External Communal Balconies, Communal Courtyard and Dementia Garden Area. Access is off Brighton Avenue.

The development also incorporates a central driveway providing access to the ambulance parking and ten external visitor parking spaces. Also provided are a

Whilst the development will provide meals, all cooking will occur offsite, as will laundering of linen.



(Proposed Development shown with grey infill with existing development to be retained shown with outline)

Location

The site is located adjacent to the Toronto CBD on the southern side of Brighton Avenue. The site includes a northern outlook with views towards Bolton Point across the Lake. A variety of services and facilities are located less than 400m walking distance from the site.



Figure 2 – Location of Proposed Residential Care Facility and Independent Living Units

The development site consists of 14 lots in total, seven fronting Brighton Avenue, one fronting Warhurst Avenue, three lots fronting Excelsior Parade and three lots fronting Cary Street. The total area of the 14 lots is 21,837m². Predominantly however the works are to be constructed over the seven lots fronting Brighton Avenue, having an area of 10,477.78m².

The configuration of each lot is generally rectangular and oriented north/north/east and south/south/west. The total frontage to Brighton Avenue is approximately 135m and an approximate depth of 80m, whilst the lots fronting Excelsior Parade and Cary Street have a varying depth due to the curvature of the road.

The lots fronting Excelsior Parade and Cary Street contain an existing RCF and ILU which are to be retained. Of the seven lots fronting Brighton Avenue, two lots are vacant, two lots contain multiple dwelling housing (31 x Seniors Housing Units), and three lots each containing a dwelling house, all of which are to be demolished.

The lots rise up from Brighton Avenue towards Excelsior Parade, from a low point of RL17 (Brighton Avenue) to a high point of RL42 (Excelsior parade), with the rear of lots fronting Brighton Avenue being RL26. Effectively the site consists of two platforms, the lower platform fronting Brighton Avenue on which the development will be constructed whilst the existing RCF and ILUs, that are to be retained, are located on the upper platform fronting Excelsior Parade and Cary Street.

Pockets of mature native vegetation (trees) are located throughout the site, particularly along the frontages of Cary Street and Excelsior Parade and at the rear of the existing lots fronting Brighton Avenue. In particular, the trees along the frontages of Cary Street and Excelsior Parade provide an entry statement to the Toronto CBD and act as an effective screen for the development site.

The surrounding built environment is predominantly single storey dwellings constructed in an early post war style. Land on the western side of Cary Street has been slow in transitioning from low to medium/high density development with there being no such examples in the vicinity, whilst on the eastern side is the Toronto Private Hospital and a mix of residential and commercial development.

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 No. 65 – Design Quality of Residential Flat Development

Development Applications involving a Residential Flat Building (RFB) are required to address the requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP65). A RFB is defined by SEPP 65 as:

a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops),

but does not include a Class 1a building or a Class 1b building under the *Building Code of Australia*. must be referred proposed development qualifies as a Residential Flat Building.

In prelodgement discussions with the applicant, it was identified that the proposed development qualified as a RFB based on the ILUs containing more than four self contained dwellings and being three storeys in height. It was recommended in those discussions that the applicant submit a prelodgement proposal to Council's *SEPP 65 Lake Macquarie Design Review Panel* (DRP) for comment.

The proposal was submitted to the DRP on 13 June 2012. The DRP provided the following general comments:

To address the Panel's comments, the applicant is advised to prepare a comprehensive site-wide concept plan for redevelopment of the site, taking into account the site's constraints and attributes, including those nominated above. The concept plan should also be informed by a thorough (existing) landscape analysis, and expert advice as to the ecological value (flora and fauna) of the site's remnant bush-land areas. The layout of buildings within the site, the spaces between and within buildings, and setbacks from the roads and boundaries should be reconsidered in the light of the concept plan.

The detailed recommendations of the DRP meeting of 13 June 2012 are contained in Table 1 below.

Following lodgement of the Development Application on 2 August 2012, the proposal was submitted to the DRP meeting of 12 September 2012. The DRP provided the following general comments:

In light of the above comments the panel is of the view that the current application is not able to be recommended for approval. The comments provide the parameters for amendments to the design that could result in a more acceptable built form outcome that appropriately addresses the landscape qualities of the site, the importance of the site as an entry point to Toronto and the emerging streetscape of Brighton Avenue.

The detailed recommendations of the DRP meeting of 12 September 2012 are contained in Table 1 below.

Table 1 – Comment by SEPP 65 Lake Macquarie Design Review Panel

1	Context	<p>12 September 2012 – The current package still does not include a detailed analysis of the site in its current and future context. The proposal does not acknowledge gateway values of the site as approached from the south. The existing trees along the eastern bend of the site are an important component of the site's context. These trees reflect the topography of the hillside and provide a potential urban context for the built form.</p> <p>13 June 2012 - An assessment of the context of the development needs to have an understanding of the totality of what is being proposed for the site. The Panel did not have adequate information regarding the overall development proposal, specifically the form and scale of the residential aged care facility and proposals relating to the future replacement of the existing nursing home facility. There was also no indication that options for the site had been tested against the constraints and opportunities to establish the optimum arrangement for the site. The document did not contain any detailed site analysis or any assessment of compatibility criteria, either in SEPP (Housing for Seniors or People with a Disability) 2004 Or SEPP 65 – Design Quality of Residential Flat Development, or accepted benchmarks as found in Planning Principles. The development fails to demonstrate any reasonable analysis of its boundary interface, either with Cary Street, Brighton Avenue, or common adjoining property boundaries.</p> <p>The Panel acknowledges that the locality is undergoing transition and that it is an area that will in the future accommodate residential flat form of development to a scale of generally 3 storeys. These forms of development would need to comply with SEPP 65 and Council's residential flat requirements. The Panel also notes that the site, in particular the bend in Cary Street at its south-eastern corner, is identified as a "gateway" site and</p>
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		<p>the first substantial entry into the town centre. While concurring that this is a significant site in the township, the panel did not accept that the construction of a large scale structure at minimal setback was an appropriate response to a "gateway site".</p> <p>One of the most important aspects of the context of the site, is the tree buffer along Cary Street. The development should seek to incorporate this buffer. Another important element of the context of the site is the stands and groups of trees running east/west through the centre of the site. These provide a vegetated backdrop to existing development, which should be retained in any future proposal. They also contribute and reinforce the landscape value of the tree cover on the ridge. The east/west tree group is a softening element that would contribute to landscape quality in any development of the site.</p> <p>The Panel is of the view that a much greater level of analysis is required before the Panel can be satisfied that the development is an appropriate response to its context.</p>
2	Scale	<p>12 September 2012 – The Panel does not have a specific concern about the proposed height of the development, provided adequate setbacks are achieved as well as retention of important stands of trees and individual trees. Specifically trees number 4, 48, 49, 50, 57, 58 and 59 should be retained and protected.</p> <p>13 June 2012 - The Panel acknowledges that documentation is at pre-DA stage, however, the lack of any detail at all in documentation in respect to the RACF, and limited information in respect to the self-care dwellings, has resulted in a reduced capacity to provide detailed comment.</p> <p>The plans lack detail regarding heights and relationship with the heights of adjoining development. This lack of detail makes it difficult to provide any definitive comment. The Panel however notes that the buildings presenting to Brighton Avenue would appear to be in the order of 2 meters above street level, resulting in effectively an additional storey.</p> <p>While the scale of buildings well within the site was not of concern, the transition of scale at the streets and shared boundaries is a critical element that has not been demonstrated as appropriate. This is exacerbated by minimal setbacks in many instances.</p>

3	Density	<p>12 September 2012 – Density appears to be acceptable subject to the resolution of setback and tree retention issues.</p> <p>13 June 2012 - The Panel was unable to rely on a numerical indicator of density because of lack of definition of the overall site.</p>
4	Built Form	<p>12 September 2012 – We note that the proposed buildings are substantially above Council's height requirement for the site. The panel's opinion is that this non compliance can only be supported if adequate landscape setbacks are provided and the significant trees on the site are retained.</p> <p>The basement of the building comprising units 1 to 36 as well as the associated terraces on the podium should be setback from the street boundary by at least 4m in accordance with the DCP. This is particularly important given the elevation of the building from the street level.</p> <p>At this stage the presentation of this building to the street is unacceptable. In respect to this building the selected external finishes were primarily glass and metal. It was suggested that incorporation of some timber elements would assist in creating a more residential appearance.</p> <p>The central at-grade driveway providing drop off to the community centre and access to visitor parking occupies a significant proportion of the centre of the site. This access also delivers pedestrians to the main entry of the RACF which faces away from the street. It was suggested that a redesign of this vehicular access, possibly in conjunction with a revision for vehicular access to the RACF basement, would have a number of potential benefits. These include provision of more legible and direct access to the main entry as well as the freeing up of the central area of the site which could potentially permit relocation of the RACF and the residential block in the south west corner of the site, allowing for the retention of the identified viable and valuable trees in those areas. A further benefit would be to provide a more suitable 'back of house' location for the garbage collection area currently proposed at the street edge.</p> <p>13 June 2012 - The impact of the proposal with regard to visual impact, bulk, scale and privacy, is exaggerated by the very limited setbacks to side and street boundaries, and elevation above podium parking. The documentation does not as yet, specify materials, colours and finishes, nor is it clear in respect to separation between buildings. A number of the presentation documents were overly</p>

		<p>diagrammatic to the extent that they did not accurately convey the intended design. Free hand impressionistic sketches are of little use in accurately communicating design intent, and the Section illustrating the diagrammatic street relationship appeared inaccurate. All basements should have minimum setback of 3 metres from boundary to allow suitable deep soil planting. The building adjoining the western boundary should strictly comply with SEPP 65 recommendations for scale, building separation and privacy provisions.</p>
5	Resource, Energy and Water Efficiency	<p>12 September 2012 - It is noted that a number of units, including 6, 7, 22, 23, 38 and 39, currently receive poor solar access. It was suggested that some adjustment to the roof above the breezeway external to these units could permit direct northern sun into units 38 and 39 as well as permitting light via the voids to the breezeway below.</p> <p>13 June 2012 - No detailed information was provided in respect to solar access or overshadowing at this stage.</p>
6	Landscape	<p>12 September 2012 – Again, the panel emphasizes that the proposed height of building non-compliance can only be supported if the significant forest scale trees on the site can be retained. The current scheme results in loss of the majority of trees on the site apart from 2 on the northern edges. Reworking of the design is required to properly address the identified landscape values. Specifically:</p> <ul style="list-style-type: none"> • a minimum on grade 4m landscape setback is required to Cary Street, along with retention of tree 4. The building setback should remain as currently proposed. • the apartment building on the south west corner of the site is to be redesigned or relocated to retain the identified significant trees on that part of the site. <p>The proposed Elaeocarpus on Cary street are not likely to thrive within the currently allowed setback and the local climatic conditions. A hardier species is suggested for this location.</p> <p>The Panel also notes that there is an inconsistency between the landscape drawings and the architectural drawings for the setback to Cary street.</p> <p>13 June 2012 - The proposal doesn't appear to respond to any landscape or visual analysis of the site and locality. The Panel is of the opinion that a number of landscape components on the site are highly important contributors to local landscape quality. Specifically these include the buffer of trees</p>

		<p>along Cary Street, and the group of trees running east/west across the site. The proposal includes retention of only 3 significant trees on the site, and it's the Panel's opinion that this is not an appropriate response to the site's existing landscape values. The Panel requests provision of a detailed landscape analysis, and is also of the opinion that a flora and fauna assessment is required before further site planning occurs. In response to all of the above, the document should include a landscape concept plan that indicates retention of at least the buffer of trees on Cary Street, and the east/west tree group. The retention of the two Lemon Scented Gums (currently proposed for retention) is of a lesser order of importance than protection of these tree groups.</p>
7	Amenity	<p>12 September 2012 – According to the documentation provided, the level of Solar access to the residences prescribed in the RFDC is achieved.</p> <p>13 June 2012 - In the absence of any other information it appears that the central courtyard within the RACF is very narrow relative to its height, and the Panel raised concerns as to solar access and the aesthetic and amenity values of this central courtyard.</p>
8	Safety and Security	<p>12 September 2012 – No additional comments</p> <p>13 June 2012 - Casual surveillance of Brighton Avenue will be compromised because of the elevation of the building from street level.</p>
9	Social dimensions	<p>12 September 2012 – The panel is supportive of a redevelopment for an integrated aged care facility, and acknowledges the significant social and economic benefits that are likely to be generated by the development.</p> <p>13 June 2012 - No comment at this stage, other than to note the high demand for quality independent living and residential aged care in the City, and the site's general attractiveness for this use (subject to an appropriate design).</p>
10	Aesthetics	<p>12 September 2012 – Subject to the recommended changes to the exterior of the self care residences, the architectural treatment of the development was considered to be of a good standard.</p> <p>13 June 2012 - No materials, colours or finishes have been presented at this Pre-DA stage, therefore it is difficult to comment on aesthetics. The panel would expect that the DA would include 3-d renderings which will accurately convey the character of the proposed buildings including</p>

		materials, detailing and vegetation.
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The applicant submitted revised plans on 19 September 2012 to address issues based on their understanding of the discussions at the DRP meeting of 12 September 2012. The DRP issued its recommendations to the applicant that same day.

The applicant has submitted plans in response to discussions at the DRP meeting (note, these plans were submitted without consideration of the Panel's formal recommendations). The plans and supporting information has not been resubmitted to the DRP as the matter has been requested for reporting to the determining authority (Hunter & Central Coast Joint Regional Planning Policy).

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

The development application has been lodged against the 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 is zoned primarily for urban purposes. Therefore the development is permissible with development consent.

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 to be used permanently for seniors or people with a disability consisting of a combination of a Residential Care Facility and of Self-contained Dwellings.

If the application were to be approved, an appropriate condition of consent in this regard would be applicable to limit use of the premises to seniors or people with a disability.

Clause 11 – Residential Care Facilities

In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes:

(a) *meals and cleaning services, and*

(b) *personal care or nursing care, or both, and*

(c) *appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*

not being a dwelling, hostel, hospital or psychiatric facility.

The development incorporates a residential care facility that provides meals and cleaning services, nursing care and appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care.

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 'serviced - self-care housing'.

Chapter 3 – Development for Seniors Housing

Part 1 General

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 is zoned primarily for urban purposes.

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.

The development application has been lodged against SEPP (Housing for Seniors or People with a Disability) 2004.

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

Not Applicable

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.*

A condition of consent would be applicable in relation to restricting those who may occupy the development to:

- Seniors or people who have a disability
- People who live within the same household with seniors or people who have a disability.

- Staff employed to assist in the administration of and provision of services to housing provided under this Policy.

Clause 19 – Use of seniors housing in commercial zones

Not Applicable

Clause 21 – Subdivision

The development proposes to consolidate the 14 separate titles into a single title. A condition of consent would be applicable were development consent to be granted.

Clause 23 – Development on land used for the purposes of an existing registered club

Not Applicable

Part 1A – Site Compatibility Certificates

Not Applicable.

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 by Council's Community Planner (Ageing & Disabilities) identified:

the location is close to shopping, transport and medical services for seniors with good mobility however, the gradients on the path of travel exceed the requirements of SEPP Housing for Seniors and People with a Disability c26(2)(a). These excessive gradients create access issues for people with mobility disabilities, respiratory and cardiac diseases. An alternate solution to assist occupants with access to transport and services is required.

Whilst the site is located within required distances to services/transport, the Disability Access report doesn't comment on gradients between site and transport/services. It is suggested that a return mini bus shuttle service to and from the village to the local shopping centre and medical facilities be offered at least three times during each weekday. The timetable needs to be provided to residents to enable them to make medical appointments and transport connections.

The Management Plan proposes a minibus service for ILU resident outings weekly on Fridays and every second Wednesday, but this is considered insufficient given the gradients between the site and services/transport. Transport for outings should be provided separate to the shuttle service.

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 2006.

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

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 servicing the development with water and sewer reticulation.

If the application were to be approved, 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,*

Comment: Refer to comment by Council's DRP under SEPP65 under Section 79C(1)(a)(i).

- (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,*

Comment: Refer to comment by Council's Coordinator Social & Community Planning under Section 2.2 and 2.6.12 of DCP1 under 79C(1)(a)(iii).

- (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,*

Comment: Refer to comment by Council's DRP under SEPP65 under Section 79C(1)(a)(i).

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.

Council's DRP deemed the site analysis as being inadequate in its analysis of the current and future context. Further the DRP has recommended the design and layout be modified following further analysis of the development site. Refer to comment under SEPP65 under Section 79C(1)(a)(i).

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

In determining a development application to carry out development for the purpose of in-fill self –care housing, a consent authority must take into consideration (in addition to any other matters that are require to be, or may be taken into consideration) the provisions of the 'Seniors Living Policy: Urban design Guideline for Infill Development'.

The following matters are identified by the 'Seniors Living Policy: Urban Design Guideline for Infill Development':

- Responding to context
- Site Planning and Design
- Impacts on Streetscape
- Impacts on Neighbours
- Internal Site Amenity

These matters have generally been addressed throughout this report.

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 current character is of a low density residential nature which is contrary to the medium/high density residential zoning. The existing built form/character of the locality is not of any note or significance, therefore the desired future character is the benchmark for considering the proposal.

In this regard, an assessment by Council's DRP has identified a number of issues with the proposal and has recommended the proposal be modified to improve the design. Refer to comment under SEPP65 under Section 79C(1)(a)(i).

(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

Not Applicable

(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

In this regard, an assessment by Council's DRP has identified a number of issues with the proposal and has recommended the proposal be modified to improve the design. Refer to comment under SEPP65 under Section 79C(1)(a)(i).

(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

The development does not comply with the setback requirements of Section 3.5 of DCP1 under Section 79C(1)(a)(iii). Further, Council's DRP does not support the development in its current form having regard to the setbacks and the bulk and scale of the development.

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

The development proposes landscaping within the adjoining Road Reserve in both Brighton Avenue and Cary Street. In general the planting along Brighton Avenue is supported, however the proposed removal of existing native trees and replacement planting along Cary Street is not supported based on visual impacts, use of non-endemic species, and insufficient building/infrastructure setbacks to allow successful growth.

For further comment refer to comment by Council's DRP under Section 79C(1)(a)(i) and under DCP1 under Section 79C(1)(a)(iii).

(f) retain, wherever reasonable, major existing trees, and

The proposed development seeks to remove a number of mature native trees to accommodate the proposal. In particular, trees adjoining the Cary Street boundary are to be removed, as are other trees throughout the site.

Council's DRP has recommended the development be modified to allow for the retention of a number of trees. Refer to comment by Council's DRP and under DCP1 under Section 79C(1)(a)(i).

(g) be designed so that no building is constructed in a riparian zone.

Not Applicable.

Clause 34 – Visual & Acoustic Privacy

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

The development is considered to provide adequate visual and acoustic privacy to both internal and external residents, as evident by compliance with the privacy setbacks and orientation of windows and balconies in conjunction with landscaping and fencing.

In terms of the internal layout of the development, the location of bedrooms relative to driveways and thoroughfares is considered satisfactory.

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 achieves reasonable solar access to the main living areas of 74% of the ILUs, and achieves reasonable solar access to the RCF. Refer to comment by Council's DRP under Section 79C(1)(a)(i).

A BASIX certificate has been issued for the proposed development and a Section J report provided with the Development Application.

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.*

Council's Chief Development Engineer has deemed the Stormwater Management Plan lodged with the Development Application as being unsatisfactory. Refer to comment under Sections 2.5.3 & 2.5.4 of DCP1 under 79C(1)(a)(iii)..

Clause 37 – Crime Prevention

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

Please refer to comment under Section 2.7.9 of DCP1 under 79C(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*

Pedestrian links to public transport services or local facilities are legible, practical and safe (subject to the upgrade of a pedestrian pathway along the frontage of the development in Brighton Avenue and Cary Street).

Refer to comment under Clause 26(2)(a) regarding compliant gradients.

- (b) *provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.*

The development provides a safe environment for the interaction and movement of pedestrians and motorists. Clear and legible pathways, parking areas and roadways are provided within an attractively landscaped environment.

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, re-cycling and composting facilities. Centralised collection points are provided within the development site. The proposed measures have been deemed satisfactory by Council's Senior Waste Officer.

Part 4 - Development Standards to be Complied With

Division 1 – General

Clause 40 – Development Standards – Minimum Sizes and Building Heights

- (1) *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.*

- The site has an area of 21,837m, thus exceeding the 1000m² minimum required.
- The site has a frontage of approximately 135m, thus exceeding the 20m minimum width.
- Height in zones where residential flat buildings are not permitted:

The majority of the footprint of the proposed development is on land zoned 2(2) which permits RFBs, however a small section of a proposed ILU does sit over land zoned 2(1) Residential (which prohibits RFBs) and therefore is not able to comply with the following provisions:

- The height of buildings is not to exceed 8 metres (measured from ceiling of top most floor to ground level).
- A building that is adjacent to a boundary must not be more than 2 storeys in height.

- A building located in the rear 25% area of the site must not exceed 1 storey in height.

Refer to comment by Council's DRP under SEPP65 under Section 79C(1)(a)(i).

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

No issues are identified in relation to the Commonwealth Aged care Accreditation Standards and the Building Code of Australia.

Division 3 – Hostels and Self Contained Dwellings - Standards Concerning Access & Useability

Clause 41 – Standards for hostels and 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.

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

Not applicable

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

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

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 residential care facility on any of the following grounds.

- Building height: the development exceeds 8 metres, having a maximum height of 18.5 metres (four storeys) at the north-west corner.
- Density and scale: The FSR is 0.8:1 within the context of the overall site (less than 1:1 FSR as specified).
- Landscaped area: Landscaped Area equates to 47% (5153m²) of lower portion of site (10,808.75m²) which exceeds the minimum required area of 30%.

- (d) Parking: car parking complies, refer to comment under Section 2.6.6 of DCP1 under 79C(1)(a)(iii).

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: the development exceeds 8 metres.
- (b) Density and scale: The FSR is 0.8:1 within the context of the overall site (greater than the 0.5:1 FSR specified).
- (c) Landscaped area: Landscaped Area equates to 47% (5153m²) of lower portion of site (10,808.75m²) which exceeds the minimum required area of 30%.
- (d) Deep Soil zones: Deep Soil Area equates to 16% (1746m²) of lower portion of site (10,808.75m²) which exceeds the minimum of 15%.
- (e) Solar access: Adequate solar access is achieved by 74% of the ILUs, being above the 70% minimum.
- (f) Private open space for in-fill self-care housing: all ILUs are provided with either compliant private open space at ground level or in the form of a balcony.
- (g) Repealed
- (h) Parking: car parking complies, refer to comment under Section 2.6.6 of DCP1 under 79C(1)(a)(iii).

Chapter 4 - Miscellaneous

Not applicable

Lake Macquarie Local Environmental Plan 2004 (LMLEP2004)

Clause 15 – General Controls for Land within Zones

The LMLEP2004 does not separately define a RCF or ILUs however the development has been lodged pursuant to SEPP (Housing for Seniors or People with a Disability) and is permissible with consent under that instrument. Figure 3 below details the zoning of the land to be developed under this application.

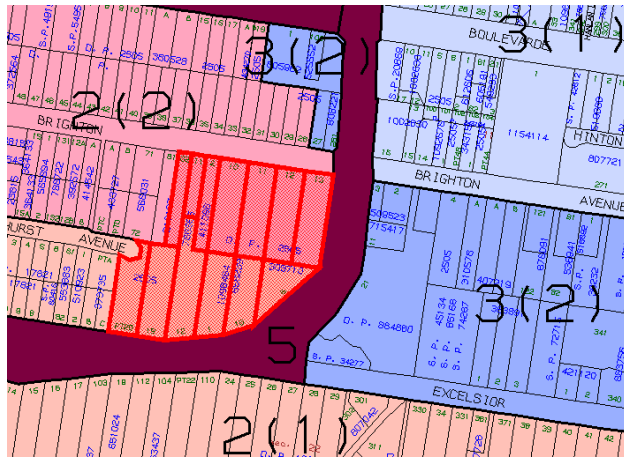


Figure 3 – Map Excerpt from LMLEP2004

(Proposed Development shown as shaded red with bold red outline)

In this regard, the land zoning is a matter for consideration in terms of the zone objectives which is discussed below.

Clause 16 – Development Consent – matters for consideration

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.*

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 and 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 is considered to be antipathetic to the vision, values and aims of the Strategy in its current form, as demonstrated by the assessment to date. Until the outstanding issues are addressed the development will not be able to address and satisfy the Vision, Value and Aims of the Strategy.

Objectives of Zone

The development has been considered against the objectives of the zone.

The land is zoned 2(1) Residential and 2(2) Residential (Urban Living), see Figure 3 above. The objectives of the zones are:

2(1) Residential Zone

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

Comment: The proposal does not satisfy this objective as it provides for a medium-high residential density. Refer to comment regarding the developments compatibility with the character of the locality under SEPP (Housing for Seniors or People with a Disability) 2004.

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

Comment: The development provides services and activities for residents of the development only and not for the general public. In this context the development has limited impact in terms of residential amenity of the surrounding area.

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

Comment: The development fails to achieve this objective as it is not considered by Council's Design Review Panel to be of good quality design. Refer to comment under SEPP65.

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

Comment: The development fails to satisfy this objective as it does not provide for sustainable water cycle management as determined by Council's Chief Development Engineer (refer to comment under Sections 2.5.3 and & 2.5.4 of DCP1).

2 (2) Residential (Urban Living) Zone

(a) *provide for medium and high density housing; and*

Comment: The development satisfies this objective through providing medium-high density residential accommodation in the form of a RCF and ILUs.

(b) *encourage development of good quality design within the zone; and*

Comment: The development fails to achieve this objective as it is not considered by Council's Design Review Panel to be of good quality design. Refer to comment under SEPP65.

(c) *provide an environment where people can live and work in home businesses and professional services whilst maintaining the residential amenity of the surrounding area; and*

Comment: This zone objective is not applicable as the purpose and design of the development is not to have regard to home businesses and professional services in the context of serving the community at large. The proposal will however provide professional services for, but not by, residents of the development.

- (d) *provide residents with good access to a range of urban services and facilities; and*

Comment: This development site is located in close proximity to a range of services and facilities, however additional measures are required to ensure appropriate access for residents of the development. Refer to SEPP (Housing for Seniors or People with a Disability) 2004.

- (e) *encourage amalgamation of existing lots to facilitate well designed medium and high density development; and*

Comment: The development achieves the amalgamation of lots however Council's Design Review Panel considers the development not to be well design medium-high density development. Refer to comment under SEPP65.

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

Comment: The development fails to satisfy this objective as it does not provide for sustainable water cycle management as determined by Council's Chief Development Engineer (refer to comment under Sections 2.5.3 and & 2.5.4 of DCP1).

Based on the determinations in this report, it is deemed the application is not worthy of support in its current form as it is antipathetic to the zone objectives, particularly in relation to:

- the poor quality design and lack of respect to the surrounding character as affirmed by Council's Design Review Panel;
- the likely impact on the amenity of the area as a consequence of the poor quality urban design;
- the lack of access provided to the residents to services and facilities;
- the inability of the development to provide for sustainable water cycle management.

Clause 17 - Provision of essential infrastructure

The site is capable of being fully serviced with essential infrastructure.

Clause 18 - 23

Not applicable.

Clause 24 Subdivision

The development site is over 14 parcels of land known as Lots 10, 11, 12, 13, 19 & Pt Lot 20 Sec 13 DP 2505, Pt Lot A DP 373735, Lot 2 DP 411096, Lot 11 DP 786365, Lot 82 DP 210167, Lot 12 DP 786365, Lot 1 DP 1098464, Lot 16 DP 658239 and Lot B DP 308710 Lot 11 and 12, DP830292. The 14 parcels are proposed to be consolidated as part of this proposal.

Please refer to comment under Section 3.2 of DCP 1 under 79C(1)(a)(iii).

Clause 25 Demolition

The development proposal seeks to demolish a multiple dwelling housing (31 x Seniors Housing Units), associated pool and three dwelling houses, all of which are located on the lots fronting Brighton Avenue.

Demolition of these existing buildings and associated structures are enabled by this Clause and will be considered as part of this application.

Clause 26 – 28

Not applicable

Clause 28A Residential Flat Buildings and Multiple Dwelling Housing in Zone 2(2)

The amalgamated development site complies with the minimum area and dimension requirements listed under Clause 28A(1).

Clause 29 – Building heights

Before consent is granted for a development exceeding eight metres in height, the determining authority must take into consideration whether the proposed height is compatible with the heights of other buildings in the immediate vicinity or locality.

The height of the proposed development exceeds eight metres and exceeds the one to two storey building height that exists on adjoining lots and more broadly within the locality. The ILUs consists of two detached structures of two to three storeys, with a maximum height of 12.3 metres, the Community Facility is three storeys with a maximum height of 10.6 metres, and the RCF is four storeys and has a maximum height of 18.5 metres.

The proposed heights were considered by Council's Design Review Panel (SEPP 65) at its meeting of 12 September 2012. The Panel advised '*it does not have a specific concern about the proposed height of the development, provided adequate setbacks are achieved as well as retention of important stands of trees and individual trees*'.

More detailed comment regarding the height of the proposal and its context is provided under SEPP65 – Design Quality of Residential Flat Development under 79C(1)(a)(i).

Clause 30 – Control of pollution

An assessment of the proposed development has raised concerns that insufficient measures/controls are proposed to prevent harm to the environment through the actions of wind or water.

Refer to further comment under Section 2.1.11 of DCP 1 under 79C(1)(a)(iii).

In terms of contaminants on the site, a Preliminary Contamination Report provided with the application identified asbestos materials within the buildings and soil of the northern portion of the site (Brighton Avenue). The recommendations of the Report were considered and conditions of consent are deemed appropriate.

Refer to further comment under Section 2.1.13 of DCP 1 under 79C(1)(a)(iii).

Clause 31 – Erosion and sediment control

A soil and water management plan was submitted with the application. The plan is deemed to be inadequate in terms of preventing harm to the environment through the actions of wind or water.

Refer to further comment under Section 2.1.11 of DCP 1 under 79C(1)(a)(iii).

Clause 32 – Flood prone land

Not applicable.

Clause 33 – Bush fire considerations

The land is mapped as bush fire prone by the Lake Macquarie City Council Bush Fire Prone Land map dated 10 June 2011 (refer to Figure 4 below).

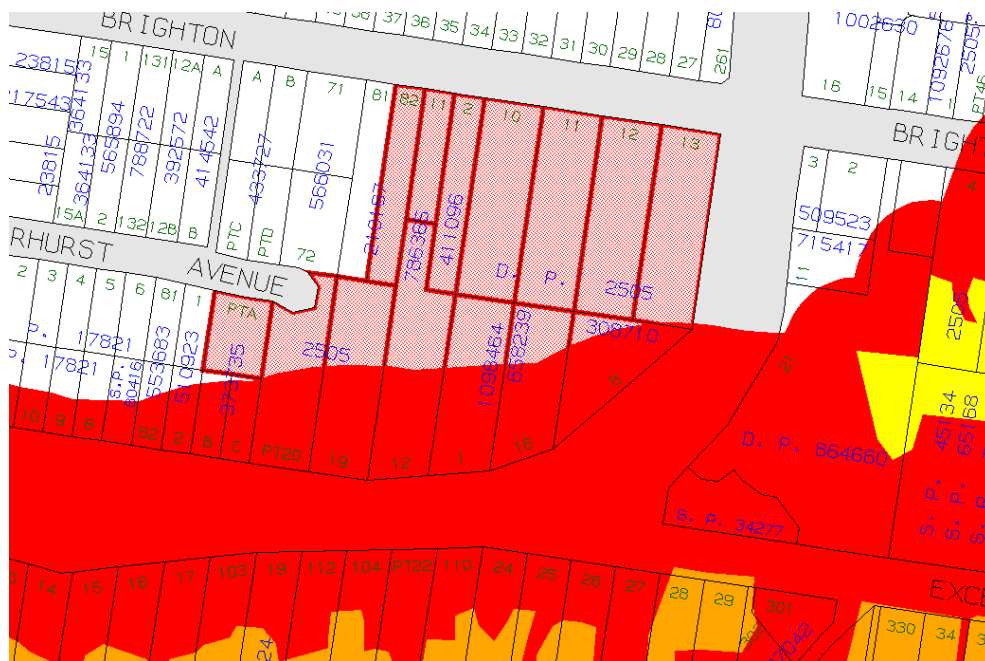


Figure 4 – Bush Fire Prone Land map excerpt

The development application was lodged as Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act, 1979 and Section 100B of the Rural Fires Act, 1997. An Integrated Development Application referral was sent to the NSW Rural Fire Service (RFS).

The General Terms of Approval (GTAs) were issued by the RFS and attached as Appendix 1 to this report.

Clause 34 – Trees and native vegetation

Mature native trees and other native vegetation are contained on the site and are to be removed as part of the proposal. The removal of the native trees and vegetation is not supported based on assessments of the health, conditions and maturity of the trees, their importance to the scenic quality of the locality and the entry statement they provide to the Toronto CBD. Further, Council's

DRP has recommended the retention of some of the native trees and vegetation and consequently the design be modified to allow their retention.

Refer to comment under SEPP65 under 79C(1)(a)(i), Section 2.1.1, 2.1.2, 2.1.3, 2.14, 2.7.1, 2.7.2 of DCP 1 under 79C(1)(a)(iii), and 79C(1)(e).

Clauses 35 –Acid sulfate soils

The development site is identified as being within a “Class 5” Acid Sulfate Soil zone. The proposed works are not expected to have any impact on Acid Sulfate Soils and no requirements or conditions are necessary.

Refer to comment under Section 2.1.10 of DCP 1 under 79C(1)(a)(iii).

Clauses 36 - 37

Not applicable

Clause 38 Advertising Structures and Signs

Along either side of the entry, it is proposed to construct identification signage wall. This will be integrated into the landscaping of the site

Refer to comment under Section 2.7.7 of DCP 1 under 79C(1)(a)(iii).

Clauses 39 - 46

Not applicable.

Clauses 47 Assessment of Heritage Significance

The development site does not contain an archaeological site or potential archaeological site as listed in the LMLEP2004.

Clauses 48 - 50

Not applicable.

Clauses 51 – Development affecting known or potential archaeological sites or relics of European heritage significance

The development site does not contain an archaeological site or potential archaeological site as listed in the LMLEP2004.

Clauses 52 Development in vicinity of a Heritage Item

The development site is not within the vicinity of any heritage item listed in the LMLEP2004.

Clauses 53 - 59

Not applicable.

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

The development adjoins Excelsior Parade and Cary Street, both zoned 5 Main Roads under the LMLEP2004. Consideration of the proposal has been made by the NSW Roads & Maritime Services and Council's Assets Management Department, both determining that the proposal will have no

impact on the operation and efficiency of the main road subject to the recommendations to modify the development proposal.

Clauses 61 - 105

Not applicable.

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

Draft Lake Macquarie Local Environmental Plan 2012

The Draft Lake Macquarie Local Environmental Planning 2012 (Draft LMLEP2012) is on exhibition from 24 September 2012 to 24 December 2012. The Draft LMLEP2012 is a conversion of the LMLEP2004 into the Standard Instrument LEP.

A review of the proposed development against the provisions of the Draft LMLEP2012 identified:

Zoning:

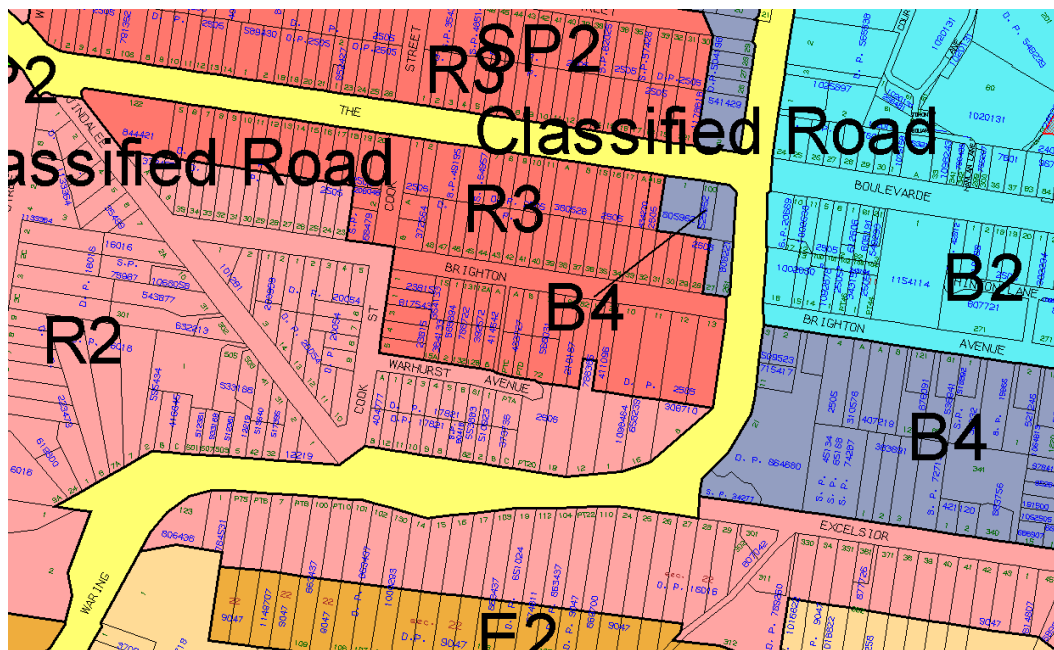


Figure 5 – Planning Zones map excerpt from Draft LMLEP2012

The zoning for the site converts from 2(1) 'Residential' to R2 'Low Density Residential' and 2(2) 'Residential (Urban Living)' to R3 'Medium Density Residential'. Multi Dwelling Housing and RFBs are permissible within R3 zone but not within the R2 zone.

The proposed development would still be permissible under the SEPP (Housing for Seniors or People with a Disability) 2004 regardless of the draft zoning.

Heritage:

The development site and adjoining land are not mapped as Heritage Items (General, Archaeology or Landscape), a Heritage Conservation Area, nor as part of the Sensitive Aboriginal Cultural Landscape.

Height

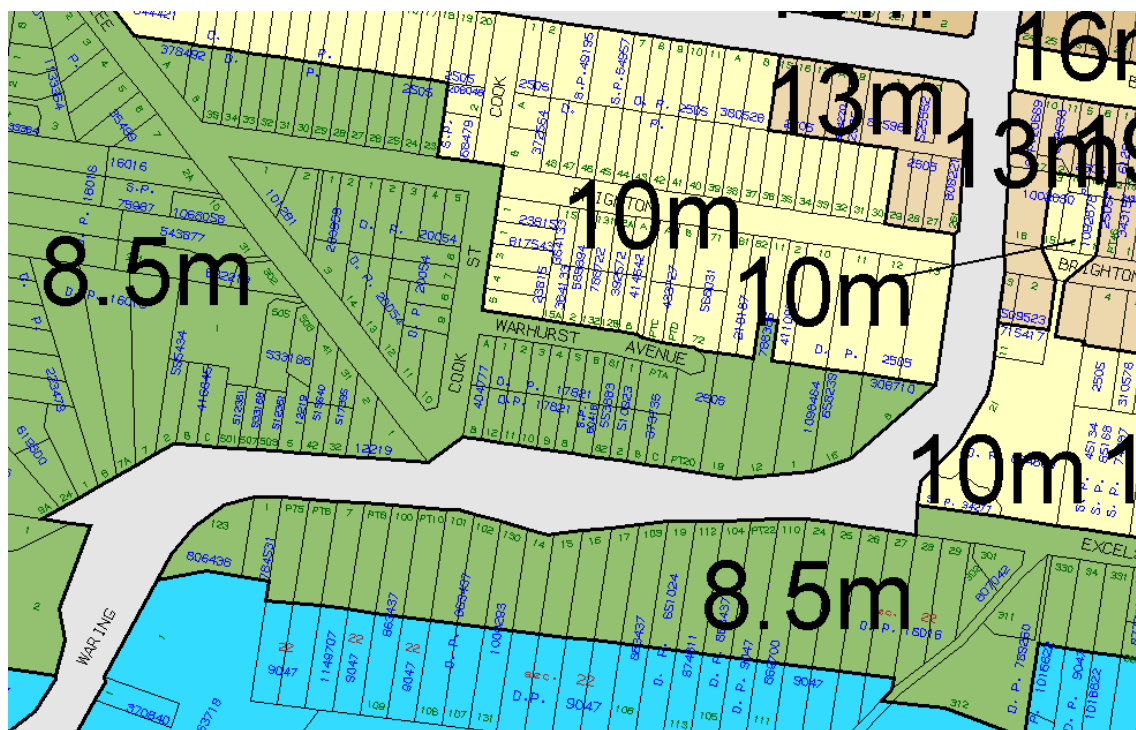


Figure 6 – Height of Buildings map excerpt from Draft LMLEP2012

The development site transfers the height limits for residential development from DCP1 into the Draft LMLEP2012. The proposed development would exceed the height limit of 10 metres for the land fronting Brighton Avenue and would require an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards.

Other provisions are included in the Draft LMLEP2012 however these matters relate to the merit assessment of the proposal.

Consideration of the Draft LMLEP2012 is such that the weighting based on the certainty and imminence of the Draft is limited noting it has not been endorsed by Council nor reported to the Department of Planning and Infrastructure for gazettal.

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

Development Control Plan No. 1 – Principles of Development

Section 1.9 – Development Notification Requirements

The development application was notified in accordance with the Notification Process as outlined in the Development Control Plan No. 1 – Principles of Development (DCP1).

Section 2.1 – Environmental Responsibility and Land Capability

2.1.1 – Ecological Values and 2.1.2 – Ecological Corridors

The development site is not identified in Council's Native Vegetation & Corridors Map as containing any remnant vegetation or corridors. Refer to Figure 7 below.



Figure 7 – Native Vegetation & Corridors map excerpt

A site inspection confirmed however that the site contains pockets of mature native trees and vegetation.

Council's Flora & Fauna Officer advised:

A Flora and Fauna Assessment has not been undertaken for the proposed development, however, it is considered that a Flora and Fauna Assessment is not required for the proposal due to the following:

- *The site is not mapped as a remnant patch of vegetation or as a corridor on the LMCC Native Vegetation and Corridors Map;*
- *The proposal does not include the removal of tree hollows, nest or roost trees; and*
- *The site is highly disturbed and isolated from other larger patches of bushland.*

Discussions have also occurred with Council Environmental Planning Officers Martin Fallding and Robbie Economos and they are of the same opinion that in this instance a Flora and Fauna Assessment is not required.

The removal/retention of trees within the site should be addressed in the Arborist and Landscaping reports.

2.1.3 Scenic Values

The development site possesses the following Scenic Values under Council's Scenic Quality Guidelines and DCP1:

Scenic Management Zone – B

(assigned to areas highly valued in the City for the maintenance of the scenic quality and identity of the various localities)

Landscape Setting Unit (LSU) – Coal Point (High)

Landscape Appreciation –

The road around the point offers scenic outlooks over the lake. The small pockets of park and boat ramps offer low key foreshore appreciation. The Lake edge at Toronto provides a popular viewing point across the Lake to Bolton Point, Green Point in the mid-ground and Swansea in the background. Coal Point, and in

particular the forested ridgeline, is part of important scenic feature and outlooks from many eastern Foreshore areas and the Lake itself.

The site is located to the west of the Toronto CBD over 14 lots having frontage to Brighton Avenue, Warhurst Avenue, Excelsior Parade (main road) and Cary Street (main road). The development site therefore is quite prominent as it is located at the entry to Toronto, in an elevated position just below the southern ridgeline.

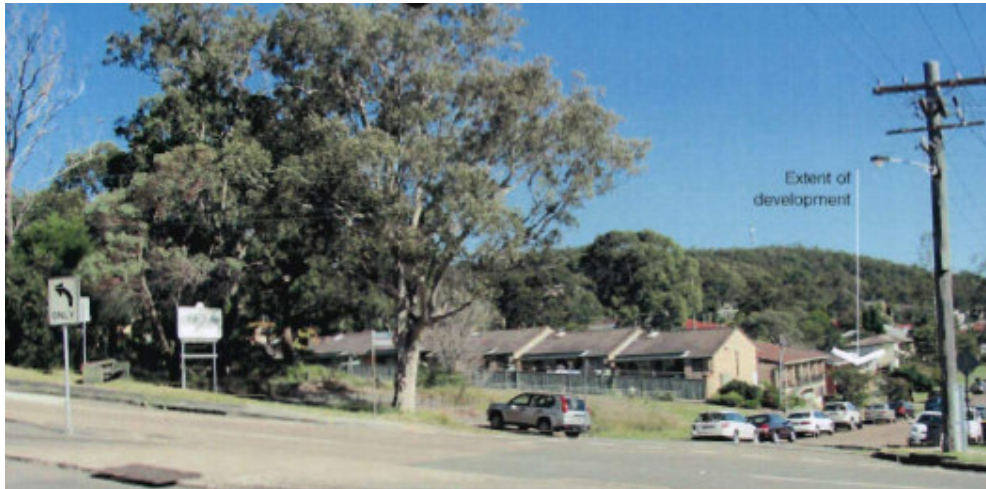


Figure 8 – Image of Development Site

The site rises up from Brighton Avenue towards Excelsior Parade, from a low point of RL17 (Brighton Avenue) to a high point of RL42 (Excelsior parade), with the rear of lots fronting Brighton Avenue being RL26. Consequently the site possesses a northern outlook with views towards Bolton Point across the Lake.

Pockets of Native Vegetation are located throughout the site, particularly along the frontages of Cary Street and Excelsior Parade which provides an entry statement to Toronto and ties in with the vegetation along the ridgeline.



Figure 9 – Trees adjoining Cary Street

The existing built environment is predominantly single and two storey dwellings constructed in a typical post war style. Immediately adjoining the site to the west are low density residential dwellings, as are on opposite sides of Excelsior Parade (south) and Brighton Avenue (north). On the opposite side of Cary Street east of the development site is the Toronto Private Hospital.

The development is to be predominantly constructed over the lots fronting Brighton Avenue. The development will consist of a series of 4 podiums arranged throughout the site, varying from two to four storeys in height, with the main bulk placed adjacent to Brighton Avenue. The majority of the mature native trees will be removed.

In terms of the context, whilst the locality is zoned for higher residential densities there are no other similar developments nor existing approvals. The uptake of lots for redevelopment has not occurred as desired by Council's Lifestyle 2020 Strategy. It is likely however the area will be characterized by two to three storey medium density residential development.

Consequently the development will sit prominently within the landscape.



Figure 10 – Photomontage of Proposed Development from Cary Street



Figure 11 – Photomontage of Proposed Development along Brighton Avenue

Issues have been raised by Council's DRP, Landscape Architect and Integrated Planning Department regarding the impact of the proposal on the scenic quality and

streetscape as a consequence of the impacts from the current design/layout and the removal of mature native trees along the slopes of the southern ridgeline.

Therefore an assessment of the development in context and against the provisions of DCP1 and the Scenic Quality Guidelines determined that the outcome is unsuitable considering the 'Landscape Appreciation' for the 'Landscape Setting Unit' of Coal Point.

2.1.4 Tree Preservation and Management

An assessment by Council's Tree Assessment Officer identified the following:

- Many trees located on site have not been assessed in the Arborist Report 'Revision A' by 'Terras Landscape Architects' dated 20/7/2012, whereby a site assessment carried out has noted that there is a number of trees deemed as worthy of retaining and incorporating into the design.
- A pre-lodgement request for assessment of at least one Spotted Gum located in close proximity to tree listed as 'Tree 10' near the southeastern aspect of site, which has been identified and deemed as worthy of retaining has not been addressed in revised report.
- A grouping of Spotted Gums of varying age, some semi-mature, located within the internal grassed area have not been assessed nor identified and marked on any submitted site plans.
- The potential for retaining the large Grey Gum listed as 'Tree 4' per report has not been explored as requested in pre-lodgement discussions.

While the retention of 'Tree 1' is concurred with, it needs to be acknowledged that of the approximately thirty-five or so trees across the site this is the only tree identified for retention.

Listed 'Trees 11- 13, 42 - 47 and 56' being identified for retention are all located either off the site or on adjoining properties, and should not be considered as being 'incorporated' into the design of proposal other than having regard to Tree Protection Zones.



Figure 12 – Tree located near T10 not assessed



Figure 13 – Trees not marked on site plans



Figure 14 – Trees not assessed in report

Various aspects of the report are concurred with, in that trees such as ‘Trees 48 and 49’ will require removal due to the proximity to retaining walls, and that under the current design further retention of trees may not be viable.

That stated, it is believed that with amendments being made to the design layout, successful retention of others throughout is a viable notion and one worth exploring.

Recommendation

The Consulting Arborist engaged for the project undertake a proper assessment of all trees across the entire site, which is to include a detailed health and hazard assessment, and identification of specific Tree Protection Zones and associated protection measures required to ensure trees remain viable for incorporating into the design, as if undertaking a ‘Preliminary Tree Assessment’.

The proponent should then take outcomes and recommendations from the ‘Preliminary Tree Assessment’ and redesign layout aiming to retain additional trees, paying particular attention to trees located the southeastern aspect of the site (Cary Street frontage).

Alternatively an increased setback from development, allowing replanting of endemic species such as *Corymbia maculata* (Spotted Gum) or *Eucalyptus punctata* (Grey Gum) be provided along the Cary Street frontage, in accordance with comments provided by Council’s Landscape Architect.

2.1.5 Bushfire Risk

Refer to comment under Clause 33 of the LMLEP2004 under 79C(1)(a)(i).

2.1.6 Water Bodies, Waterways and Wetlands

Not Applicable as the proposed development is not located within the vicinity of any natural watercourse.

2.1.7 Flood Management

Not Applicable.

2.1.9 Sloping Land and Soils

The site has been identified as being within a T4 and T5 zone on Council's Geotechnical Maps. The applicant has submitted a Geotechnical Report prepared by Coffey Geotechnics, reference Geotwara21615AA-AE, dated 1 August 2012 which identifies that there is a low to very low risk of slope instability on the site. Council's Chief Development Engineer stated this level of risk is considered acceptable for the proposed development.

The working plans for the development do not clearly identify the location and height of proposed retaining walls on the site. Council's Chief Development Engineer requested the applicant provide a plan showing the location, height and materials proposed for the retaining walls.

2.1.10 Acid Sulfate Soils

The development site has been identified as being within a "Class 5" Acid Sulphate Soil zone. The proposed works are not expected to have any impact on Acid Sulphate Soils and therefore no requirements or conditions are necessary.

2.1.11 Erosion Prevention and Sediment Control

The Development Application qualifies as a Category 3 development and therefore is required to provide a Soil and Water Management Plan. Submitted with the Development Application was a Sediment & Erosion Control Plan and a Sediment Basin Calculations report.

An assessment by Council's Erosion Prevention & Sediment Control Officer identified the plans as being inadequate and requested a revised Soil and Water Management Plan in accordance with the provisions of DCP1 and matters as outlined in Appendix 4.

2.1.12 Mine Subsidence

The proposed development is located within a Mine Subsidence District, consequently the Development Application was lodged as Integrated Development in relation to Section 91 of the *Environmental Planning and Assessment Act 1979*, and Section 15 of the *Mine Subsidence Compensation Act 1961*. The development application was lodged with the General Terms of Approval having been issued by the Mine Subsidence Board which are to be imposed on any development consent issued.

2.1.13 Contaminated Land

The Targeted Soil Investigation prepared by Pacific Environmental dated 19th May 2010 identified contaminated fill on site. A Preliminary Contamination Assessment Report by Coffey Environment was provided with the application and identified

asbestos materials within the existing buildings to be demolished and surrounding soil of the northern portion of the site.

If the application were to be approved, appropriate conditions of consent in relation to the remediation of the contaminated land would be applicable.

2.1.14 Energy Efficiency

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

In addition a Section J report was lodged with the Development Application. A review of the application by Council's Principal Building Officer raised no issues in relation to the report.

2.1.15 Noise and Vibration

Council's Senior Environmental Officer has reviewed, considered and relied on the information provided in the Acoustic Report prepared by Spectrum Acoustics, Ref: 12728/4443 dated 24 July 2012 when assessing this development and is satisfied with the recommendations contained within the report.

The recommendations contained in this acoustic report shall be incorporated into the design and construction of the development.

If the application were to be approved, appropriate conditions of consent in relation to the control of noise and vibration would be applicable, throughout both the construction phase and the daily operations of the village.

2.1.16 Air Quality and Odour

A development of this type has the potential to be an offensive contributor to air quality and odour within the locality. The development however does not propose to undertake cooking or laundering for the residents as these activities are to be carried out offsite.

2.1.17 Demolition and Construction Waste Management

A 'Site Waste Minimisation and Management Plan' was lodged with the Development Application. The Plan, in part, sought to address issues in relation to the Demolition and Construction phases. A review of the Plan by Council's Senior Waste Officer determined it as being sufficient.

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

Section 2.2 – Social Impact

The proposal is a 'Category 2' development with the applicant providing a Social Impact Assessment (SIA). Council's Coordinator Social & Community Planning reviewed the SIA and concurred with its findings that it will lead to an overall positive social impact and provided the following comments:

The Co-ordinator advised the Lake Macquarie LGA has a significantly higher proportion of people aged over 65 years than NSW or Australia. In the 2011

Census, 18.4% of Lake Macquarie's population was aged over 65, compared to 14.7% for NSW, and 14.0% for Australia.

Furthermore, 2.5% of Lake Macquarie's population is aged over 85 years, compared to 2.0% for NSW and 1.9% for Australia. (ABS 2011 Census Data).

It is also estimated that the proportion of Lake Macquarie's population aged over 65 years will continue to grow. By 2022, it is estimated that those aged over 65 years will comprise 25% of the population, and those aged over 85 years will increase to 3.3% of the population. (Lake Macquarie City Council, Ageing Population Plan 2008-2017)

This increase in the ageing population will create additional demands on the community. Adequate and appropriate housing is a cornerstone for policy related to ageing, as it is essential for the wellbeing of older people and reduces demand on health and community services. Whilst the preferred option of older people is to remain in their own home as they age, older people who choose, or who are forced to move from their own home, are often constrained in their choices by a lack of suitable housing alternatives within their local community. (Lake Macquarie City Council, draft Seniors Housing Strategy, May 2012)

Therefore, the proposed development 43 two bedroom independent living units, a 147 bed residential aged care facility, and associated community facilities, will provide a further option for people who choose to leave, or unable to remain in their own homes.

However, whilst I believe that this will result in an overall social benefit, I do have two concerns relating to the proposal.

Firstly, the documentation provided does not adequately address the displacement of the existing residents of the Mountain View Apartments (that are proposed to be demolished). The residents of these apartments will have developed strong social and support networks that contribute greatly to their health and wellbeing. Displacing these residents is likely to break these social and support networks, which will have a significant detrimental effect. Therefore, further information is required regarding how the proponent plans to provide security of tenure for these residents, and maintain their social and support networks.

Secondly, the proposal identifies that the development is to be 'gated'. I believe that the installation of the electronic gates is not an appropriate crime risk response, and will result in a negative social impact, for the following reasons:

1. The evidence suggests that gated communities do not necessarily lead to reductions in actualised or fear of crime, and that they experience similar levels of crime and fear to that of the neighbouring areas (see Blandy, Lister, Atkinson and Flint [2003] Gated Communities: A systematic review of the research evidence. ESCR Centre for Neighbourhood Research: CNR Paper 12, April 2003);

2. Gated communities can lull residents into complacency regarding crime, such as leaving doors and windows unlocked, and not reporting suspicious intruders. This can make gated communities more susceptible to crime;
3. Figures supplied by the NSW Bureau of Crime Statistics and Research, and the Australian Bureau of Statistics have consistently shown that older people are the safest demographic (for which this proposal is targeted to), with only about 1% of those aged 65 years and over experiencing a crime in any given year. (Young people experience the highest rates of crime [10%], with the likelihood of being a victim decreasing with age.);
4. Despite being the least likely to be a victim of crime, older people are the most fearful of crime. Excessive security measures (such as a gating a community) will exacerbate this fear, with the residents believing that they are at risk of crime, despite the evidence indicating to the contrary. This will greatly impact on the quality of life, and diminish the life experiences and opportunities of the residents, as this fear may prevent many of them venturing outside of the complex, believing that to do so would be unsafe;
5. Gated communities create separate communities, reducing civic engagement, and reduce community interaction and involvement. Much research has been undertaken on this issue, and it reveals that gated communities lead to a lack of social interaction and contact with different people, particularly those that live outside of the community. This is in conflict with Lake Macquarie City Council's DCP (Section 2.2.1. Social Impact) that requires development to maintain and/or enhance the community affected by and/or likely to result from the proposed development. The DCP requires applicants to demonstrate linkages between the development and existing communities. Rather than creating linkages, gating a community builds a barrier (both physically and socially) between the development and the existing community, and greatly reduces opportunities for interaction and linkages.

In summary, I believe that gating the community is an excessive crime prevention measure that will be unlikely to result in any benefits to the residents of the community in actualised levels of crime.

In addition, it will have an adverse social impact as it will create separate communities and reduce opportunities for community interaction and involvement, and will unnecessarily create higher levels of fear for many of its residents and the local community. This will impact on the quality of life for many of the development's residents as they will be unnecessarily fearful of venturing outside of the development. I therefore recommend that the development maintain unrestricted site entry.

Please refer to Crime Risk comment under Section 2.7.9 of DCP 1 under 79C(1)(a)(iii).

Section 2.3 – Economic Impact

The proposal will have positive economic impacts for the City.

Section 2.4 – Heritage

Under DA/18/2010, it was required that any subsequent development of the site incorporate interpretation of the former church. If the application were to be approved, appropriate conditions of consent should be imposed in relation to heritage interpretation.

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

2.5.1 Essential Infrastructure

Essential infrastructure including, the supply of water, provision of energy, provision of telecommunications and the disposal and management of sewer is capable of being provided.

If the application were to be approved, appropriate conditions of consent in relation to essential infrastructure services would be imposed.

2.5.2 On-Site Wastewater Treatment

Not Applicable

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

Council's Principal Subdivision Engineer advised the Stormwater Management Plan prepared by Northrop Engineers is not satisfactory as it does not contain stormwater design calculations for the stormwater detention, site discharge index or for the stormwater pipeline that is proposed to be relocated. Stormwater detention should be designed for a storm duration of up to one hour.

The applicant is to provide stormwater design calculations for the stormwater detention, stormwater harvesting, site discharge index and for the Council stormwater pipeline that is proposed to be relocated. Stormwater detention should be designed for a storm duration of up to one hour. The stormwater harvesting design should show where harvested stormwater will be used.

2.5.5 Operational Waste Management

A 'Site Waste Minimisation and Management Plan' was lodged with the Development Application. The Plan, in part, sought to address issues in relation to the collection of waste as part Operational phase. Under the plan the development will have waste collected by a private contractor. The application has however not demonstrated the capacity of the site to accommodate the waste collection vehicles of the private contractor (refer to Section 2.6.10 under DCP1 under 79C(1)(a)(iii)).

In terms of the location of the waste depositories, transferral of wastes and collection point, some issues were identified with the plans. The matters are identified in Appendix 4.

Section 2.6 – Transport, Parking, Access and Servicing

2.6.1 Movement System

Not Applicable.

2.6.2 Traffic Generating Development

Not Applicable.

2.6.3 Road Design

Brighton Avenue which fronts the northern side of the development and where road access is proposed is 10m wide with sealed pavement and kerb & gutter. This street and surrounding public road system is considered adequate to support the development proposed.

2.6.4 Pedestrian and Cycle Paths

An assessment by Council's traffic Engineer identified the following:

1. A concrete footpath 1.2m wide is required for the full frontage of the development in Brighton Avenue and Cary Street. This pathway will connect with the existing pathway in Cary Street and provide pedestrian access to the Toronto shopping centre.
2. Provide a concrete Pedestrian Refuge on Brighton Avenue at Cary Street to facilitate the movement of pedestrians across Brighton Avenue towards the Toronto shopping area. The Pedestrian Refuge is to be designed to not impede the movement of heavy vehicles into and out of Brighton Avenue at Cary Street.

If the application were to be approved, appropriate conditions of consent would be applicable.

2.6.5 Public Transport

Bus stops exist along Cary Street and Excelsior Parade, however these services would not assist residents accessing services and facilities in the Toronto CBD.

The development does however propose to operate a mini shuttle bus. Refer to Section 2.6.12 of DCP1 under Section 79C(1)(a)(iii) for comment regarding the adequacy of the proposed bus service.

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:

Table 2 – Car Parking Requirements

	Rate	Required (On-Site)	Provided	Complies
RFB				
104 General Beds	1 space per 10 beds	10.4	47	
41 Dementia Beds	1 space per 15 beds	2.73		
62 Employees	1 space per 2	31		

	employees			
Ambulance	1	1	1	
ILUs				
86 bedrooms (43 Units)	0.5 per bedroom	43	43	
Visitor			5	
TOTAL		88	95 plus Ambulance	Yes

The parking requirement for this development is 88 parking spaces. It is proposed to provide 95 parking spaces therefore the parking requirement is satisfied.

2.6.7 Car Parking Areas and Structures

An assessment by Council's Traffic Engineer identified the following:

1. Ensure the sight lines from the car park access at the property boundary meets the 2.0 x 2.5 metre sight requirement as set out in AS2890.1, Figure 3.3. It is noted that it is provided on the western most driveway, the middle driveway appears as if there is no obstruction, however the substation west of the eastern driveway may cause vision obstruction if the vehicle exits the driveway close to the substation. This driveway is very wide and can be narrowed towards the central median between this 'in' and 'out'. Council DCP states that for this type of facility the driveway can be as narrow as 3 metres for each travel direction.
2. The ambulance bay appears to have a path and poles / bollards behind it which will affect manoeuvrability. Additional comment is required regarding this obstruction.

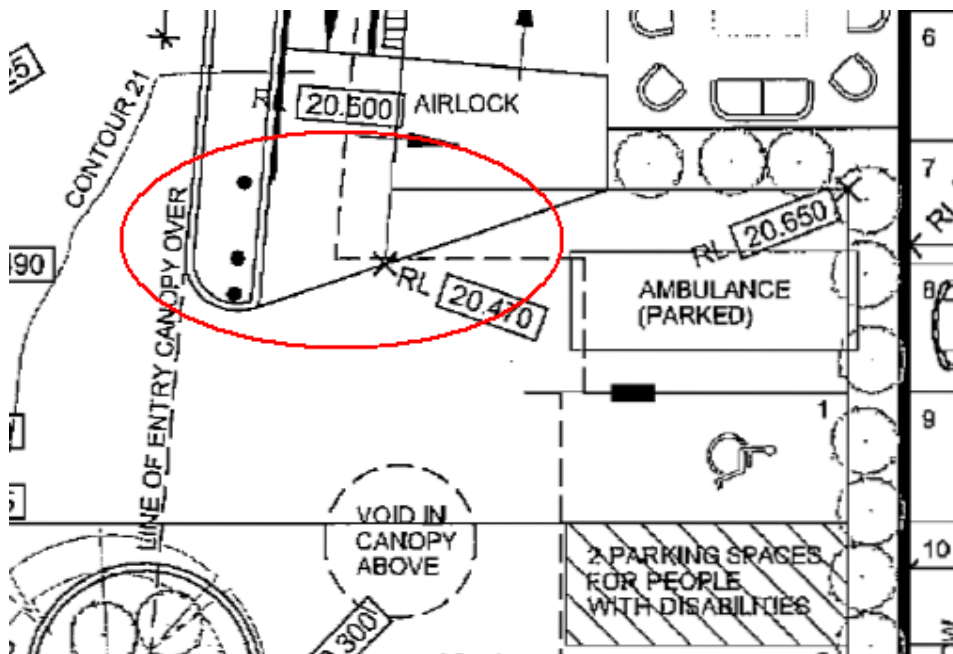


Figure 15 – Obstructions to Ambulance manoeuvrability

2.6.8 Vehicle Access

Council's Principle Subdivision Engineer advises the two proposed vehicle access points for the development from Brighton Avenue have satisfactory location of the accesses and sight distances.

2.6.9 Access to Bushfire Risk Areas

Please refer to the above comments at Section 2.1.5 of DCP 1 under 79C(1)(a)(iii).

2.6.10 Servicing Areas

An assessment by Council's Traffic Engineer identified:

1. The Traffic Impact Statement states that a loading area on Brighton Avenue is proposed (point 3.3.4). Any loading area on-street is not supported.
2. Manoeuvrability diagrams for the largest expected vehicle to access the site for the proposed loading bay and waste area are required to consider how such vehicles can negotiate the site.

2.6.11 On-Site Bicycle Facilities

If the application were to be approved, appropriate conditions of consent regarding the provision of bicycle parking facilities would be imposed.

2.6.12 Non-Discriminatory Access and Use

A Disability Access Report was submitted with the application. A review of the report by Council's Community Planning identified the following additional information being required:

- This development is supported as the organisation that will operate the development already has an existing seniors' housing development on this site, and has established links with the local community. The location is close to shopping, transport and medical services for seniors with good mobility however, the gradients on the path of travel exceed the requirements of SEPP Housing for Seniors and People with a Disability c26(2)(a). These excessive gradients create access issues for people with mobility disabilities, respiratory and cardiac diseases. An alternate solution to assist these people access transport and services is required.

Whilst the site is located within required distances to services/transport, the Disability Access report doesn't comment on gradients between site and transport/services. It is suggested that a return mini bus shuttle service to and from the village to the local shopping centre and medical facilities be offered at least three times during each weekday. The timetable needs to be provided to residents to enable them to make medical appointments and transport connections.

I note from the Management Plan a proposed minibus service for ILU resident outings weekly on Fridays and every second Wednesday, but this is insufficient given the gradients between the site and

services/transport. Transport for outings should be provided separate to the shuttle service.

- The development provides a good range of communal facilities for ILU residents, but more information is needed on how residents will have input into determining their use, and also how changes to the frequency of the shuttle service will be considered. Information is also required on how residents would access services such as housekeeping, meals etc if required.

Section 2.7 – Streetscape and the Public Realm

2.7.1 Streetscape and Local Character

The existing built environment of Brighton Avenue consists of dwellings constructed in an early post war style. The materials used are predominantly weatherboard and fibre sheeting with a mix of colorbond and tiles roofing. In general the buildings are single storey with an undercroft, with some two storey infill.

The existing buildings on the southern side of Brighton Avenue generally have a consistent setback of 5-10 metres, whilst the northern side has a consistent setback of 3-5 metres. Pockets of Native Vegetation are located throughout the site, particularly along the frontages of Cary Street and Excelsior Parade and at the rear of the existing dwellings fronting Brighton Avenue, however the broader streetscape character contains limited mature native trees and vegetation.

As a consequence of the higher density zoning, it is expected that over the medium and long term the existing buildings will be replaced with higher density development. Therefore the future desired character, while not defined in the DCP, is to be given greater weighting than the existing built environment.

For detailed comment regarding the development in the context of the Streetscape and Local Character refer to comment by Council's DRP under SEPP65 under Section 79C(1)(a)(i).

With regard to landscaping of the streetscape, Council's Landscape Architect identified the following

- Brighton Avenue

The landscape and streetscape intent is critical along Brighton Ave particularly to the sites north western corner where the FFL are located above existing grade and footpath level. Landscaping is critical in terms of understorey screening (retaining elements & level changes) and tree planting to aid fragmentation of the physical built form from street views.

The proposed Street Tree planting of LC 'Lophostemon confertus' Brush Box is supported in terms of providing species with scale that will reflect the proposed developments impact on the streetscape (subject to measures addressing destructive root zones causing damage to existing and proposed infrastructure). The Landscape plans/documentation appear that the reserve area adjacent to existing kerb contain sufficient width.

The electrical substation is within primary street views, it is acknowledged that direct access is required for service and maintenance, however there is

opportunity to screen the service box more appropriately while maintaining adequate access provisions. Page 17 Landscape Sections 'Section 'G' clearly indicates the separation and transition of level changes to street viewing level. Inclusive of retaining wall elements and elevated platform base/level from pathway FL around the electrical substation gives it a prominent distinctiveness to the streetscape. Implementation of screening measures will minimise any negative impact on the future streetscape setting.

- Cary Street

The DRP requires an increased setback be implemented from the Cary Street boundary to retain existing mature trees or to provide adequate space for increased planting of locally native tree species. The requirement is supported as the proposed planting intent along Cary Street as illustrated on Page 10 Landscape Treatments is questionable in terms of growth and suitability.

The proposed species of *Elaeocarpus emundii* is a native but not endemic. In an urban context the nominated species will potentially grow to 10m and would suit as a screening tree, however there may be a requirement for Ausgrid Cable Bundling to increase the separation buffer between overhead powerlines and tree canopies/drip line.

It is probable that a 2m buffer from the drip line to the overhead power line adjacent to the property boundary line is not achievable. These nominated trees are also planted close to the retaining wall elements which may hinder both establishment and mature growth.

Thus, ideally an increased buffer along the eastern boundary is required in terms of providing an increased separation between planting and the site boundary aiding further integration of the development into the site and a clear separation from overhead powerlines and retaining structures. Further, the plantings along the boundary should be endemic to the area.

- Perspective Views Photomontages

The streetscape perspectives and photomontages seeking to demonstrate the proposed development will be blended into the urban fabric appear to contain discrepancies. It is apparent that both rendered images have utilised existing canopy cover along Cary Street to aid representation that the development inclusive of additional planting will be adequately integrated into the streetscape.

The before and after images however clearly denote that the supporting documentation is utilising existing significant mature vegetation to aid the site development where as the proposed development will actually require removal of this mature vegetation to facilitate the development. Therefore the supporting documentation must be disregarded.

Further, it is considered the images actually demonstrate the warranted retention of these mature native trees to aid integration of the development and support DRP recommendations for a redesign of the proposal.

2.7.2 Landscape

Council's Landscape Architect provided the following comment:

- In regard to landscape as part of the DCP Category 3 Requirement the Masterplan Report outlines the site context, site analysis and landscape design intent. The proposed soft planting of shrubs and ground covers offers a diversity understorey planting.
- The landscape plan for RCF contains appropriate landscaping. However one Prunus 'Oakville Crimson Spire' located adjacent to the eastern façade abutting the Common Area appears to be planted outside the 9.0m wide deep soil-planting zone. This should be removed if not located within a raised planter box with irrigation or be accommodated within the deep soil planting zone.
- The western apartment gardens illustrates the landscape intent along the western boundary line and its interface with adjoining residential use. The siting and orientation of the building footprints in a north western alignment creates unusual yet creative spaces for planting and use.

However the design intent is peculiar given that there is pedestrian access through all spaces from street to rear southern boundary point. Confirmation is required that the access is for use by staff as opposed to being a thoroughfare.

- Architectural elevations state that a Picket Balustrade is to be used on the balconies presenting to Brighton Ave, however no details have been provided.
- The proposed internal open space areas are centrally located. The open spaces offers pedestrian routes along planted open and raised areas of low cover planting linking areas of public open spaces to resident facility areas. The open space areas also provide canopy cover which is supported. However further seating areas and a shade structure should be incorporated in to the central lawn areas.
- Appropriate setbacks from infrastructure works must be implemented with particular reference to canopy tree planting and proposed pathway links. Root systems pending species selection can be invasive and can be destructive. It is recommended that a setback of minimum 1.5m-3.0m from infrastructure and build elements for these nominated tree species.

For detailed comment regarding the development in the context of the Streetscape and Local Character refer to comment by Council's DRP under SEPP65 under Section 79C(1)(a)(i).

2.7.3 Public Open Space

Not Applicable.

2.7.4 Pedestrian Networks and Places

The development only proposes internal pedestrian networks and places.

Refer to comment under Section 2.6 of DCP1 under Section 79C(a)(iii) for comment regarding upgrades to external pedestrian pathways and facilities.

2.7.5 Light, Glare and Reflection

If the application were to be approved, appropriate conditions of consent in relation to light, glare and reflection would be applicable.

2.7.6 Views

Due to the gradients and orientation of the slopes it is not considered any significant views enjoyed by adjoining development will be impacted on.

For comment regarding Visual Impacts, please refer to Section 2.1.3 of DCP 1 under 79C(1)(a)(iii).

2.7.7 Signs

No details have been provided with the development application however it is expected that identification signage will be incorporated into the development.

If the application were to be approved, an appropriate condition of consent be imposed requiring separate development consent for any non-exempt signage.

2.7.8 Fences

The development proposes fencing as follows:

- Western Boundary A 1.8 metre high lapped timber fence is to be erected along the boundary.
- Eastern Boundary A 1.8 metre high metal palisade fence to be erected along the Cary Street boundary.
- Internal A 1.8 metre high metal palisade gate is to be erected on the internal access road to prevent vehicular and pedestrian access.

All other existing fencing is to remain.

Refer to objections to the proposed gating by Council's Coordinator Social & Community Planning under Section 2.2 of DCP1 under 79C(1)(a)(iii).



Figure 16 – Landscape Fence Plan

2.7.9 Safety and Security

A review of the Crime Prevention Through Environmental Design Assessment identified the development as having a 'low crime risk'. The review found the proposal to be acceptable subject to minor changes which could be addressed as a condition of consent were development consent to be granted.

Section 3.1 – Lake, Waterway & Coastline Development

This section is not applicable to the subject development.

Section 3.2 - Subdivision

The development proposes to consolidate the 14 development lots.

If the application were to be approved, an appropriate condition of consent be imposed requiring consolidation of all the lots.

Section 3.3 – Urban Centre Development

This section is not applicable to the subject development.

Section 3.4 – Housing – Building Siting, Form & Design

These sections were considered not applicable to the subject development.

Section 3.5 – Housing – Specific Housing Types

Residential Flat Building

An assessment of the proposed Residential Flat Building (ILUs) identified:

Front Setback

In the Residential (Urban Living Zone) the setback from any street frontage is a minimum of 6 metres (other than for battleaxe lots) for building walls and 4 metres for balconies, eaves, awning, garden structures or the like.

The development is compliant with the 6 metre front setback but encroaches the 4 metre setback for balcony and other building elements. The design provides only a 1.4 metre setback from the front property boundary (noting that the built element has a height in excess of 2 metres at that setback).

Side Setback

For Residential Flat Buildings in the Residential (Urban Living) Zone, side and rear setback is a minimum of 3 metres at ground level. Where private outdoor areas are provided in the setback the minimum building wall setback is 5 metres.

The development is compliant.

For Residential Flat Building development the minimum privacy distance is 12 metres between developments (6 metres either side of property boundary).

The development is compliant.

Building Envelope

For Residential Flat Building development a building envelope is prepared.

The development steps outside the building envelope along Brighton Avenue, along the western boundary, and at the rear (height).

Basement Parking Structures

Basement parking structures, between a street frontage and the main front elevation, are no more than 1 metre above ground level at any point.

The basement parking structure exceeds the 1 metre height limit by in excess of 1 metre (2.2 metres) at a reduced setback of 1.4 metres.

Section 3.6 – Industrial, Bulky Goods & Utility Installation Development

This section is not applicable to the subject development.

Section 3.7 – Specific Land Uses

This section is not applicable to the subject development.

Part 4 – Area Plans

There are no Area Plans under DCP1 that are applicable to the proposed development or the 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,*

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

(a) The Government Coastal Policy does not apply.

(b) The development includes the demolition of three dwellings and associated outbuildings. A condition of consent is application if development consent is granted.

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 higher and more efficient land use, and a development which is generally compatible with the surrounding residential land

uses. The development however raises concerns in relation to the visual impacts and streetscape impacts as a consequence of the removal of native trees, reduced setback, and height exceedances.

Are the site attributes conducive to development?

The Development Application has failed to demonstrate the suitability of the site for the development having regard to the site attributes. In particular, issues have been raised in relation to:

- the impacts on existing native trees,
- potential impacts on soil erosion,
- the cut and fill, and
- the bulk and scale.

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

Public submissions:

The proposal was notified from 9 August 2012 to the 24 August 2012. From the notification period seven submissions were received, four in support of the proposal, one expressing an interest to be kept informed, and two by way of objection.

Reasons of support are the additional housing choice and Seniors accommodation provided within the Lake Macquarie community.

Reasons of objection are:

- the high density proposed,
- the increased traffic and related noise,
- loss of solar access and privacy due to proposed height,
- impact on on-street parking, and
- commercial nature of the development contrary to the residential character of the area.

The issues of objection have been considered in the assessment under SEPP (Housing for Seniors or People with a Disability) 2004 and the LMLEP2004 and DCP1.

Submissions from public authorities:

As required by the EPA Regulation 2000, relevant government departments were notified, and where necessary general terms of approval applied. The following responses were received:

Integrated

NSW Rural Fire Service

General Terms of Approval (GTAs) were issued by the NSW Rural Fire Service as the development is defined as a Special Fire Protection Purpose in

relation to Section 100B of the *Rural Fires Act 1997*. A copy of the GTAs in correspondence dated 24 August 2012 are attached as Appendix 1.

It is considered that the GTAs are achievable.

Advisory

NSW Roads & Maritime Service

The application was referred to the Hunter Regional Development Committee of the NSW Roads & Maritime Service (RMS) pursuant to Clause 104 of State Environmental Planning Policy (Infrastructure) 2007. The RMS advised in correspondence dated 29 August 2012 (attached as Appendix 2) of having no objection to the proposal subject to addressing items listed in the correspondence.

It is considered that the development can satisfy/achieve the requirements of the RMS subject to amendments and supporting documentation.

NSW Police

The application was referred to the NSW Police in accordance with the 'Development Application Protocol' on 9 August 2012. To date no response has been received in relation to the referral letter nor the follow up e-mail of 14 September 2012.

AUSGRID

The application was referred to AUSGRID for comment with regard to the capacity of the electricity network to accommodate the proposed development. In correspondence dated 6 September 2012 (refer to Appendix 3), AUSGRID advised:

- that a substation may be required on-site, either in the form of a pad mount kiosk or chamber; and
- consideration of the proximity to existing network assets to ensure minimum safety separation requirements are achieved.

79C(1)(e) the public interest

Whilst the proposed development is seen to hold significant social and economic benefits for the Lake Macquarie LGA, the proposal in its current form is not considered to be in the public interest. This is demonstrated by:

- Being contrary to the recommendations of the Council's DRP (SEPP65).
- Being unable to satisfy the provisions and requirements of the SEPP (Housing for Seniors or People with a Disability) 2004.
- Being antipathetic to the Vision, Values and Aims of the Lifestyle 2020 Strategy.
- Being inconsistent with the provisions of the LMLEP2004.
- Being contrary to the controls of DCP1.

- Being contrary to the provisions of the *Lake Macquarie Town Centres Development Control Plan*.

The development site directly adjoins the Town Centre Area Plan for Toronto. Whilst the provisions of the DCP do not directly apply to the development or the site, aspects of the policy are consideration in the merit assessment. The following statements are of note:

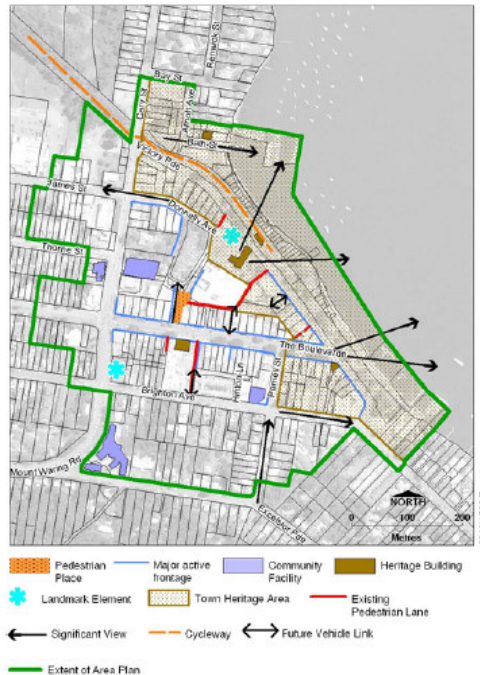


Figure 17 – Toronto Town Centre Structure Plan excerpt

‘Existing Character’

The character of the town centre is defined by itstreed backdrop.

From the lake, the tree line along the ridge of Excelsior Paradeforms a green backdrop.

‘Desired Future Character’

Other development on steeper ... land to the south should generally be smaller scale (two to three stories), with large rear setbacks in order to maintain tree cover and visual amenity from the lake and the foreshore.

‘Scenic Quality’

Development must maintain, or contribute to a continuous tree canopy on the ridgeline along Excelsior Parade when viewed from the lake foreshore, and from the lake.

‘Landscape’

To reinforce the tree canopy on the slope and ridgeline south of Brighton Avenue.

To conserve and replace large canopy native trees inCary Street.

To increase canopy tree planting on private land along Cary Street.

If however the proposed development was revised to address the issues raised by Council's DRP, and provide the additional information as identified in this report, then the development would be suitable and in the public interest.

Conclusion:

An assessment of the Anglican Care proposal identified that a need for additional housing choice for Seniors exists within the Lake Macquarie LGA. The Lake Macquarie LGA is particularly prevalent in terms of an ageing population and subsequent is experiencing increasing demand for Seniors housing choice. The assessment also concluded the desirability of placing a Seniors development as infill development within an established locality, in close proximity to services and facilities, which supports social diversity and the local economy.

The developer, Anglican Care, is a local provider of Seniors housing which operates as a not for profit organization. Anglican Care owns and manages a number of existing Seniors developments in the Lake Macquarie and Newcastle area, and is recognised as a reputable provider by Lake Macquarie City Council and the broader community.

Council is supportive of the proposed RCF and ILU development, an assessment has however concluded that the proposal is unable to be supported in its current form. In particular, Council's DRP has recommended a number of changes to the design and layout, with other issues also having been identified from an assessment pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979.

In this regard however it is considered that the issues raised can be overcome and a modified form of the development can be approved. Further, such is Council's general support for the development that consideration could be given to delegating the application to Senior Council staff for determination.

Therefore it is recommended that determination of the application be deferred with the applicant required to amend the design and layout of the development to address matters as specified in the Recommendation.

Recommendation:

It is recommended the application be DEFERRED with the applicant required to submit amended plans and supporting documentation that addresses the issues listed in Appendix 4.

Brian Gibson
Development Planner
Lake Macquarie City Council

I have reviewed the above planning assessment report and concur with the recommendation.

John Andrews
Chief Development Planner
Lake Macquarie City Council

Appendix 1 – General Terms of Approval by NSW Rural Fire Service

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: csc@rfs.nsw.gov.au

Facsimile: 8741 5433



The General Manager
Lake Macquarie City Council
Box 1906
Hunter Reg Mail Ctr NSW 2310

Your Ref: DA/1058/2012
Our Ref: D12/1785
DA12081584446 PE

ATTENTION: Development Assessment & Compliance
Department

24 August 2012

Dear Sir/Madam

Integrated Development for 13/13/2505 152 Brighton Avenue Toronto 2283

I refer to your letter dated 9 August 2012 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) 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'.

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:

Appendix 1 Continued

2. An Emergency/Evacuation Plan is to be prepared, or the existing plan modified, to include the new facilities and be consistent with the NSW Rural Fire Service document 'Guidelines for the Preparation of Emergency/Evacuation Plan' detailing the following: 1) under what circumstances will the complex be evacuated; 2) where will occupants be evacuated to; 3) roles and responsibilities of persons co-ordinating the evacuation; 4) roles and responsibilities of persons remaining with the complex after evacuation; and 5) a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

Design and Construction

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

3. Construction of the aged care facility building (the building closest to Cary Street) shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

For any queries regarding this correspondence please contact Peter Eccleston on 1300 NSW RFS.

Yours sincerely



Nika Fomin
Team Leader Development Assessment

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

Appendix 2 – Requirements of Hunter Development Committee



Transport
Roads & Maritime
Services

29 August 2012

SF2012/023768/1
CR 2012/008029
MF

General Manager
Lake Macquarie Council
Box 1906
Hunter Region Mail Centre
NSW 2310

Attention: Mr Brian Gibson

**CARY STREET (MR217): PROPOSED ADDITIONS TO AGED CARE FACILITY, AND SELF
CONTAINED CARE UNITS, DEMOLITION OF EXISTING STRUCTURES AND
CONSOLIDATION OF LOTS, TORONTO (DA/1058/2012)**

Dear Mr Gibson

I refer to your letter dated 9 August 2012 (Your reference: DA/1058/2012) regarding the subject development application forwarded to Roads and Maritime Services (RMS) for consideration.

RMS Responsibilities and Obligations

Transport for NSW and RMS' primary interests are in the road network, traffic and broader transport issues. In particular, the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

In accordance with the *Roads Act 1993*, RMS has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Cary Street (MR217) is a classified (State) Road. RMS concurrence is required for connections to the road with Council consent, under Section 138 of the Act. Council is the roads authority for this road and all other public roads in the area. Should road works be required on the classified (State) road, RMS would exercise the functions of roads authority under Sections 64 and 71 of the Act.

In accordance with *State Environmental Planning Policy Infrastructure 2007* (ISEPP) Clause 104, RMS is given the opportunity to review and provide comment on the subject development application as it meets the requirements under Schedule 3, Column 2.

RMS Response and Requirements

This project meets the requirements for referral to the Hunter Regional Development Committee (HRDC). However, as the Chairperson and delegate for the HRDC, I have reviewed the information provided and consider that no significant traffic impacts will result from the

Roads & Maritime Services

Level 1, 59 Darby Street, Newcastle NSW 2300 | Locked Bag 30 Newcastle NSW 2300

www.rmsservices.nsw.gov.au

Appendix 2 Continued

development proposal on the classified road network. I have discussed this matter with Mr Peter McMurray and it was considered that all matters with the proposed development related to traffic, public transport, pedestrians, cyclists and service vehicles could be addressed by Council as these are related primarily to the local road network (Brighton Avenue).

The HRDC would therefore have no objections to or requirements for the proposed development. However, RMS requests that the following matters be addressed by Council in determining the proposed development:

- On-site parking should be to DCP/Council requirements. No reliance should be given to on-street parking in Cary Street in the determination of parking needs relating to the proposed development.
- On-site vehicular turning facilities should be provided to enable all vehicles to enter and exit the site in a forward direction.
- Internal accesses and all parking facilities should be designed and constructed in accordance with Carparking and AS/NZS 2890.1:2004 Part 1 as amended 2005: "Off-street car parking" AS 2890.2 Part 2: "Off-street commercial vehicle facilities"

Comment: It is noted from the information provided that waste collection will be undertaken by use of wheel bins. Concern is raised if a commercial hopper bin is to be positioned in the collection area as it would obstruct the sweep path of the collection truck. Council should take this matter into consideration and ensure that access to the service area and driveway are designed / constructed to accommodate the largest design vehicle.

- All construction and permanent vehicular access should be via Brighton Avenue.
- Footpaths on site should connect to external footpaths and public transport facilities with appropriate consideration given to the elderly and disabled.
- A Construction Traffic Management Plan (CTMP) should be prepared and 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. The CTMP should be submitted to Council for review and approval prior to any construction activities occurring onsite.
- To minimise impacts on the stormwater drainage system, including associated flooding behaviour and water quality impacts, stormwater generated from the development site should be managed so as to attenuate post-development flows to pre-development flows for a full range of design rainfall events. The principles of Water Sensitive Urban Design may be applied to achieve this goal.
- Council should ensure that the applicant is aware of the potential for road traffic noise to impact on development on the site. In this regard, the developer, not RMS, is responsible for providing noise attenuation measures in accordance with the Office of Environment and Heritage *NSW Road Noise Policy 2011*, should the applicant seek assistance at a later date.

On Council's determination, a copy of the Notice of Determination should be forwarded to RMS within the appellant period for advice / consideration and action where required.

Appendix 2 Continued

Please contact me on 4924 0688 if you require further advice.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dave Young', is written over the printed name and title.

Dave Young
Manager, Land Use Development
Hunter Region

Appendix 3 – AUSGRID



08 September 2012

Lake Macquarie City Council
Box 1906
HUNTER REGIONAL MAIL CENTRE
NSW 2310

145 Newcastle Road
Wallsend NSW 2287
All mail to PO Box 487
Newcastle NSW 2300
T +61 2 131 525
www.ausgrid.com.au

Dear Sir or Madam:

**Proposed Development at 152 Brighton Ave, Toronto
Development Application No. DA/1058/2012**

I refer to your letter dated 09 August 2012 concerning the above development. This letter is Ausgrid's response under clause 45(2) of the *State Environmental planning Policy (Infrastructure) 2007*.

As you would be aware, the assessment and evaluation of environmental impacts for a 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, an 'Application of Connection' must be submitted by the Electrical Contractor/Consultant.

Page 1 of 3

Appendix 3 Continued

Proximity to Existing Network Assets

There are existing overhead electricity network assets in the Cary St footpath, 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.

Following a site visit at the subject development, it was identified that the "as constructed" minimum clearances do not appear to encroach the constructed building / development however 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.

Method of Electricity Connection

The method of connection will be in line with Ausgrid's ES10 – *'Requirements for Electricity Connection to Developments'*. I expect the development to 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.

Appendix 3 Continued

Depending on the development and its location in relation to existing electrical infrastructure, the timeframe between the initial application for electricity supply and energising assets will vary and may involve months. The developer's earliest advice that the development is to proceed to construction will allow us to begin planning and processing of the connection project and hopefully minimise any delays.

Please do not hesitate to contact me if you require any further information or assistance.

Yours sincerely



Brian Mottley
Engineering Officer
Customer Supply – Planning & Reliability
Ausgrid

☎ (02) 4910 1265

✉ brian.mottley@ausgrid.com.au

☎ (02) 4951 9459

🌐 www.ausgrid.com.au

Appendix 4 – Summary of Issues requiring Additional Information or Plan Changes

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

The development application be modified to address the recommendations of the *SEPP 65 Lake Macquarie Design Review Panel* from the meeting of 12 September 2012 and be resubmitted to the Panel for assessment.

2. Development Control Plan No. 1 – Principles of Development

▪ Tree Preservation and Management

The Consulting Arborist engaged for the project undertake a proper assessment of all trees across the entire site, which is to include a detailed health and hazard assessment, and identification of specific Tree Protection Zones and associated protection measures required to ensure trees remain viable for incorporating into the design, as if undertaking a 'Preliminary Tree Assessment'.

The proponent should then take outcomes and recommendations from the 'Preliminary Tree Assessment' and redesign the layout aiming to retain additional trees, paying particular attention to trees located in the southeastern aspect of the site (Cary Street frontage).

Alternatively an increased setback from development, allowing replanting of endemic species such as *Corymbia maculata* (Spotted Gum) or *Eucalyptus punctata* (Grey Gum) be provided along the Cary Street frontage, in accordance with comments provided by Council's Landscape Architect.

▪ Sloping Land and Soils

A plan showing the location, height and materials proposed for the retaining walls.

▪ Erosion Prevention and Sediment Control

The following additional information:

1.0 Planning Provisions

The area of disturbance associated with the each stage of the development is over 2500m². Lake Macquarie LEP 2004, Clause 31(2)(c), requires a Soil and Water Management Plan (SWMP) for developments where the area of soil surface exposure is greater than 2500m². In addition, LMCC's DCP No.1 Section 2.1.11 (Erosion Prevention and Sediment Control) states that for each stage of the development over 2500m², a SWMP is required.

2.0 Site Risk

The site is considered high risk due to:

- High-moderate soil erodibility

- Very high-moderate soil erosion hazard
- Dispersible soils – the Gosford-Lake Macquarie Soil Landscape Map identified the soils as part of the Awaba and the Doyalson Soil Landscapes. The Awaba soil landscape is known for its highly dispersible soils.
- Steep slopes – there are areas with slopes of 10% down the site.
- Acid soils and soils with high potential Aluminium toxicity.
- High risk of damage to Council infrastructure if measures fail or are designed and/or implemented incorrectly.
- Large area of disturbance

3.0 Plan Quality

The Sediment and Erosion Control Plan (Appendix 14) provides a concept of the proposed controls. It does not contain all the information required to enable assessment of its overall ability to prevent environmental harm. It is not acceptable as a final concept plan.

The applicant is required to submit an updated plan as part of the Development Application. The plan needs to explain/address the following:

- a) Soils include fine grained dispersible soils. Measures must be appropriate for these soils.
- b) Installation, maintenance and removal schedule for all erosion and sediment control measures including basins;
- c) No sandbags must be placed on any Council roads due to their poor durability;
- d) methods for dust control other than water trucks and sprinklers;
- e) what is “the creek” referred to in Note 14 on Stage 1 plan?
- f) Hay bales are not appropriate for erosion and sediment control measures. Replace hay bales in swales with rock check dams designed as per SD 5.4 of Blue Book.
- g) Flocculants- Aluminium containing products are not permitted to be used without prior written permission from an appropriate Council Officer. Applicant must have demonstrated ability to use such products correctly and without environmental harm prior to any approval. Other flocculants may be suggested as part of the Plan.
- h) The applicant shall also submit with the SWMP, a Statement of Compliance, stating that:
 - ♦ The Plan has been developed by an appropriately qualified professional in erosion and sediment control, or similar;
 - ♦ The Plan complies with the requirements of a SWMP as set out in LMCC’s DCP No. 1;

- ♦ The Plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of Total Suspended Solids (TSS) as identified in LMCC DCP No.1 and The Blue Book (Managing Urban Stormwater – Soils and Construction. Landcom, 2004); and
 - ♦ All erosion and sediment control measures are in accordance with the latest version of The Blue Book (Managing Urban Stormwater – Soils and Construction. Landcom, 2004).
- (i) Full Locality details (address, lot No etc)
 - (j) Location of existing trees and vegetation
 - (k) Extent of vegetation to be cleared
 - (l) Supplementary notes covering inspection and maintenance requirements – more detail in standard notes
 - (m) Locations where ground cover will be maintained as ‘no access’ areas
 - (n) Topsoil storage, protection and re-use methodologies (if topsoil to be reused)
 - (o) Details of the diversion of stormwater from upslope areas around disturbed areas – design, sizing, soil amelioration and lining of diversions must be provided;
 - (p) Site rehabilitation including schedules and a revegetation program – provide definite timelines
 - (q) The frequency and nature of maintenance activities recommended
 - (r) Standard notes – more information on matters raised in this section
 - (s) Diagrams of erosion and sediment control measures must be from the Blue Book (2004) or other current recognised industry standard;
 - (t) Sediment basins – provide basin type, general design, location of emergency spillway, baffles, linings of basins
 - (u) Procedures for the operation and maintenance of pollution control equipment/works must also be noted e.g.
 - (v) Details of the treatment methods e.g. flocculation agents
 - (w) Methods of disposal of the wastes, including discharge points and/or disposal areas
 - (x) Details of major items of equipment used e.g. pumps, sprays etc
 - (y) If the applicant can provide solutions from another currently recognised industry standard for erosion and sediment control then this may be acceptable. Details of the reference must be provided.

An example of a Concept SWMP is contained in Chapter 9 of the Blue Book.

- Social Impact

- (i) Further information is required regarding how the proponent plans to provide security of tenure for existing residents of the Mountain View Apartments, and maintain their social and support networks.
- (ii) Further consideration of the need for the gated security of the development in light of the objections by Council's Coordinator Social & Community Planning.

- Stormwater Management

The applicant is to provide stormwater design calculations for the stormwater detention, stormwater harvesting, site discharge index and for the Council stormwater pipeline that is proposed to be relocated. Stormwater detention should be designed for a storm duration of up to one hour. The stormwater harvesting design should show where harvested stormwater will be used.

- Operational Waste Management

- The applicant is to demonstrate the capacity of the site to accommodate the waste collection vehicles of the private contractor.
- The Working Plan DA100 and Waste Management Plan show room for 16 recycle and 16 waste bins near lift 1, and room for 6 recycle and 6 waste bins near lift 2 for the self contained units. There is no provision for green waste due to the assumption that all garden waste is taken to the composting facility near the communal garden. While the rooms are easily accessible by residents via the lifts, accessibility for collection staff may be difficult due to the many doors and corners that have to be navigated with the bins., i.e only one bin at a time would fit through the narrow corridors near lift 1 and the rooms are a long way away from the external collection points. Ideally bin storage areas should be located closer to the car park entry for ease of access and reduction of handling issues (WH&S), but due to the constraints like lifts and ease of access for the residents, the developer should consider widening the access ways near lift 1 to facilitate bin collection rather than moving the bin storage.
- The Community Centre Building facilitates is to include room for one green waste bin.
- Green waste is supposed to be taken to the compost near communal vegetable garden. Garden Clippings are calculated at approx. 3 m3/week. Depending on the type of composting facility in the communal garden additional green waste bins may be required to cope with the amount of green waste, especially if the residents – as mentioned earlier in the plan – will bring their own

green waste / food waste to the composting facility as well. It is advisable to provide for a green waste bin storage area just in case it is needed either in the early stages of developing the garden or at a later stage if supply is greater than expected.

- Pedestrian and Cycle Paths
 - A concrete footpath 1.2m wide is required for the full frontage of the development in Brighton Avenue and Cary Street. This pathway will connect with the existing pathway in Cary Street and provide pedestrian access to the Toronto shopping centre.
 - Provide a concrete Pedestrian Refuge on Brighton Avenue at Cary Street to facilitate the movement of pedestrians across Brighton Avenue towards the Toronto shopping area. The Pedestrian Refuge is to be designed to not impede the movement of heavy vehicles into and out of Brighton Avenue at Cary Street.
- Car Parking Areas and Structures
 - Demonstrate the sight lines from the car park access at the property boundary meets the 2.0 x 2.5 metre sight requirement as set out in AS2890.1, Figure 3.3.
 - Demonstrate manoeuvrability for an Ambulance entering and departing the Ambulance Parking Bay.
- Servicing Areas
 - Manoeuvrability diagrams for the largest expected vehicle to access the site for the proposed loading bay and waste area are required to consider how such vehicles can negotiate the site.
- Non-Discriminatory Access and Use
 - An alternative solution to the non-compliance of the external gradients on the path of travel to local services and facilities is required to satisfy the requirements of SEPP Housing for Seniors and People with a Disability c26(2)(a).
 - More information is required on how residents will have input into determining the use and frequency of the shuttle service.
 - Information is required on how residents would access services such as housekeeping, meals etc.
- Landscape
 - The landscape plan for RCF contains appropriate landscaping. However one Prunus 'Oakville Crimson Spire' located adjacent to the eastern façade abutting the Common Area appears to be planted outside the 9.0m wide deep soil-planting zone. This should be removed if not located within a raised planter box with irrigation or be accommodated within the deep soil planting zone.

- Confirmation is required that the access through the private outdoor areas for ground level ILUs adjacent to the western boundary are for use by staff as opposed to being a thoroughfare.
- Detail of the proposed Picket Balustrade to be used on the balconies presenting to Brighton Ave.
- Additional seating and a shade structure be incorporated in to the central lawn area/open space.
- Appropriate setbacks from infrastructure works for canopy tree planting and proposed pathway links be demonstrated.