

**JOINT REGIONAL PLANNING PANEL**  
**Hunter and Central Coast**

JRPP No	<b>2014HCC022</b>
DA Number	<b>DA/1325/2014</b>
Local Government Area	<b>Lake Macquarie</b>
Proposed Development	<b>Retirement Village</b>
Street Address	<b>3 Violet Town Road Mount Hutton</b>
Applicant/Owner	<b>DPG Services Pty Limited</b>
Number of Submissions	<b>Two</b>
Regional Development Criteria	<b>General development that has a capital investment value of more than \$20 million.</b>
List all documents submitted with this report	<b>Attachment A: Proposed conditions of consent</b>  <b>Attachment B: Plans of development</b>
Recommendation	<b>Approval subject to conditions</b>
Report by	<b>Elizabeth J Lambert, Senior Development Planner, Lake Macquarie City Council</b>

## Précis

The site is located at Mount Hutton on the eastern side of Lake Macquarie. Wilsons Road and retail development bound the site to the north, Violet Town Road to the west, Council owned land to the south and residential development to the east.

The site is an irregular shape and has an area of approximately 46,800m<sup>2</sup>.



**Figure 1:** Aerial Photo of site showing existing aged care facility

An existing aged care facility is located on the site, as can be seen in Figure 1. The existing facility contains:

- A “H” shaped single storey brick building which operates as the main facility for the site and contains 32 bedrooms providing 94 beds, lounge/dining areas, kitchen, laundry and staff facilities. Connecting the north eastern and south eastern wings is a north/south extension, which consists of a large living area, craft room, library,

doctors room and hairdressing room. Two internal courtyards are provided within this area.

- To the east of the main facility building is a two storey brick building which contains 47 assisted living apartments (ALA), a communal lounge area, laundry and storeroom. The ALA accommodation is linked to the main facility building and is fully serviced by the main facility with regard meals, cleaning, personal care and nursing care, staff and the like.
- Eight single storey brick independent living units (ILU) are located to the south west of the main facility building.

A single driveway access from Violet Town Road services the facility, staff, visitor and resident parking is located within the site.

DPG Services Pty Limited lodged the application. Opal Aged Care who will also operate the extended facility operates the existing facility. The development has a CIV of over \$22million.

Previous development consent (DA/299/2012) was granted in December 2012 for a new aged care facility on the site, works have not commenced on this consent. The previous consent was determined under delegation by Council officers. The application was not determined by the JRPP as the CIV was less than \$20million.

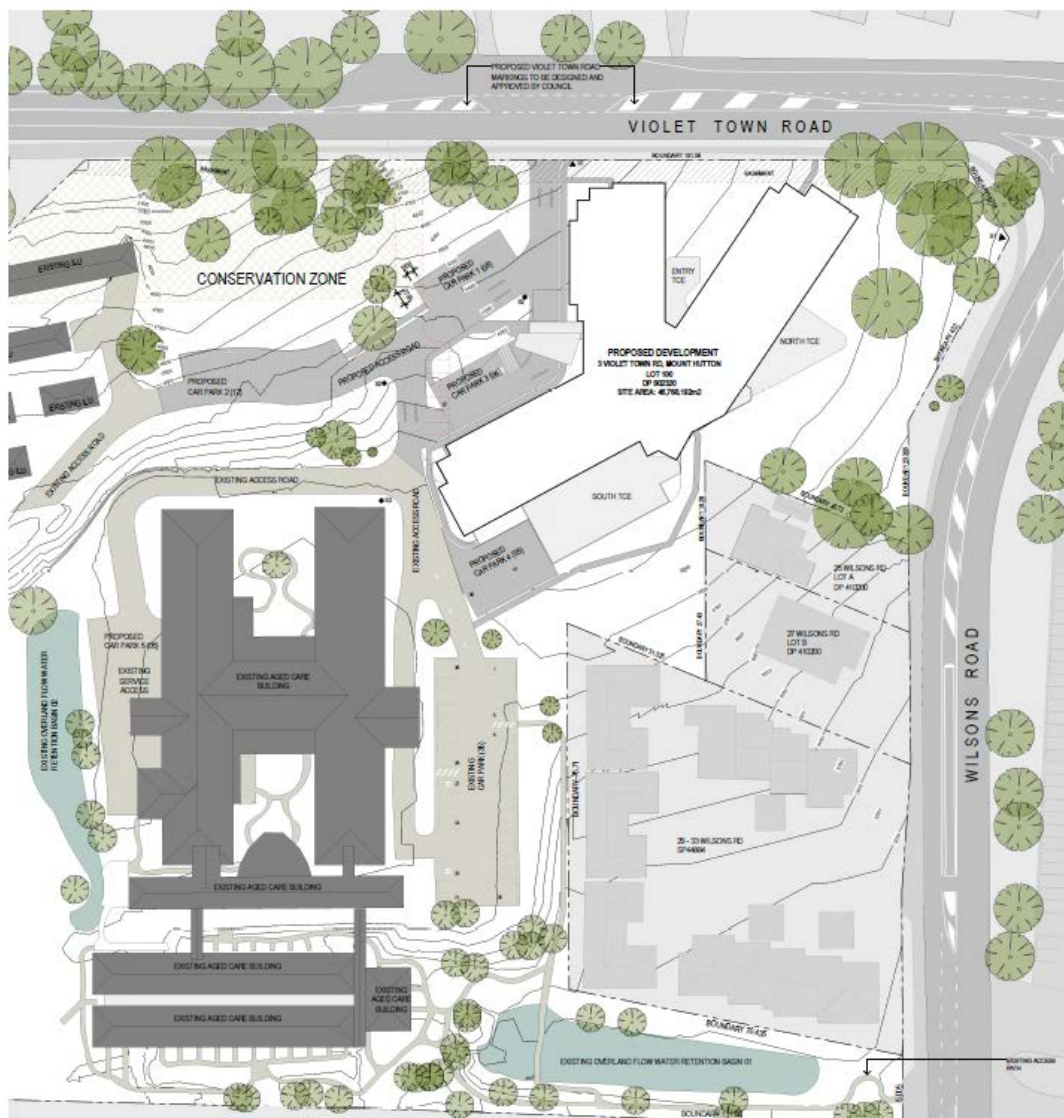
Since obtaining the approval Opal Aged Care have elected to redesign the proposed aged care facility to provide a more cost efficient outcome for the operators. The application seeks approval for the following:

- Excavation works;
- Removal of 28 trees;
- Construction of a new 6,410m<sup>2</sup> gross floor area building for use as a residential aged care facility comprising of:
  - 120 bedrooms providing a total of 128 beds,
  - three landscaped terraces,
  - dining and lounge areas,
  - kitchen and laundry facilities,
  - café,
  - visitor and residents amenities,
  - staff facilities and utility rooms, and
  - loading area;
- New driveway from Violet Town Road and internal access roads;
- Removal of 10 existing parking spaces and the provision of 36 new parking spaces within five new car park areas (total number of car parking spaces will be 77);
- Stormwater infrastructure works;
- Signage and
- Landscaping works.



The proposed building is located within the north western part of the site and comprises three wings which splay from a central area towards the north-west, west and south south west. The proposed building comprises a basement level, which contains back of house facilities such as the kitchen, laundry, storerooms and staff facilities with three levels of resident bedrooms and associated facilities above. The primary entrance is located at the ground floor level and is identified by a split-level porte-cochere.

There are four levels to the building, with the most northern and the most southern wings being three storey and the more western wing being two storey, providing a maximum building height of 13m (RL54.082m). The highest point of the building is setback 20.34m from the nearest site boundary; a property at 25 Wilsons Road.



**Figure 2:** Extract from Plans submitted with application showing the location of the proposed building, access roads and parking areas

When the new facility is operational, the existing facility will be reduced in number of beds provided from the existing 94 beds to 60 beds. The total number of beds will therefore only

increase by 86 (94 to 180) beds. The existing number of ALU and ALA's will remain unchanged.

The facility will operate 24 hours a day; seven days a week. Staffing levels will increase to a maximum of 64 during the main day shift with 35 within the twilight shift and nine during the night shift. Over a 24 hour period there will be 108 people on duty.

The café, kitchen and laundry will not be commercial operations in their own right, but will be ancillary to the facility and are proposed as part of the retirement village for use by staff, residents and visitors.

## 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 Environmental Planning Instrument (EPI)

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

This SEPP is not applicable, as the development application has been lodged against Clause 41 of LMLEP 2004.

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

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

##### **Chapter 1 – Preliminary**

##### **Clause 4 – Land to which Policy applies**

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

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

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

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

The subject site is land that is zoned primarily for urban purposes. It is zoned for residential use and dwelling houses are permissible on the land with the consent of Council.

##### **Chapter 2 – Key Concepts**

##### **Clause 10 – Seniors Housing**

*In this Policy, **seniors housing** is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:*

- (a) a residential care facility, or*
- (b) a hostel, or*
- (c) a group of self-contained dwellings, or*
- (d) a combination of these,*

*but does not include a hospital.*

The development is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of (a) a residential care facility but does not include a hospital.

#### **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.*

*Note. The Aged Care Act 1997 of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.*

The development meets the definition of ‘General term – of residential care facility.

#### **Clause 12 – Hostels**

Not applicable

#### **Clause 13 - Self-Contained Dwellings**

Not applicable

### ***Chapter 3 – Development for Seniors Housing***

#### ***Part 1 General***

#### **Clause 15 – What Chapter Does**

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

*(a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and*

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

The proposed development is on land that is zoned primarily for urban purposes and is a form of seniors housing as the development consists of a residential care facility for seniors. The development is considered to meet this clause.

#### **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 Clause 41 of the LMLEP 2004, hence the SEPP (Housing for Seniors or People with a Disability) 2004 does not apply.

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

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

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

The SEPP requires development on land adjoining land zoned primarily for urban purposes being limited to a hostel, or serviced self-care housing, or a residential care facility. The application is for a residential care facility. The development complies with this clause.

### **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 to be applied, if development consent is granted, 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.

In this case, as the application is applied for under Clause 41 of LMLEP 2004 the restriction terms nominated above do not include people with a disability, as Clause 41 does not specify the use for people with a disability, purely as a retirement village that is for people over 55.

### **Part 1A – Site Compatibility Certificates**

#### **Clause 24 – Site Compatibility Certificates Required**

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

- (a) the development is proposed to be carried out on any of the following land to which this Policy applies:*
  - (i) land that adjoins land zoned primarily for urban purposes,*
  - (ii) land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),*
  - (iii) land that is used for the purposes of an existing registered club, or*



- (b) *the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.*

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

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

## **Part 2 – Site Related Requirements**

### **Clause 26 – Location and Access to Facilities**

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:*
- (a) *shops, bank service providers and other retail and commercial services that residents may reasonably require, and*
  - (b) *community services and recreation facilities, and*
  - (c) *the practice of a general medical practitioner.*
- (2) *Access complies with this clause if:*
- (a) *the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:*
    - (i) *a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
    - (ii) *a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
    - (iii) *a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or*
  - (b) *not applicable*
  - (c) *in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:*
    - (i) *that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and*
    - (ii) *that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and*
    - (iii) *that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),**and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).*

- (3) *For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:*
- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,*
  - (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,*
  - (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.*

An assessment of the development determined satisfactory compliance with the requirements of Clause 26.

### **Clause 27 – Bush Fire Prone Land**

*(1) 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.*

*(2) A consent authority, in determining a development application made pursuant to this Chapter to carry out development on land in the vicinity of 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”, must take into consideration the general location of the proposed development, the means of access to and egress from the general location and other relevant matters, including the following:*

- (a) the size of the existing population within the locality,*
- (b) age groups within that population and the number of persons within those age groups,*
- (c) the number of hospitals and other facilities providing care to the residents of the facilities within the locality, and the number of beds within those hospitals and facilities,*
- (d) the number of schools within the locality and the number of students at those schools,*
- (e) existing development within the locality that has been carried out under this Policy or State Environmental Planning Policy No 5—Housing for Older People or People with a Disability,*
- (f) the road network within the locality and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the locality in the event of a bush fire,*

*(g) the adequacy of access to and from the site of the proposed development for emergency response vehicles,*

*(h) the nature, extent and adequacy of bush fire emergency procedures that are able to be applied to the proposed development and its site,*

*(i) the requirements of New South Wales Fire Brigades.*

*(3) In exercising its functions under subclause (1) or (2), a consent authority must consult with the NSW Rural Fire Service and have regard to its comments.*

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

#### **Clause 28 – Water and Sewer**

*(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 the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*

*(2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.*

The development application and associated plans are endorsed by the Hunter Water Corporation with regard to extending water and sewer reticulation to serve the development. An appropriate condition of consent would be applicable to ensure compliance in this regard is achieved.

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

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

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

##### *Clause 25 - Application for site compatibility certificate*

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

- (i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
- (iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,*

- (v) *without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,*

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

### **Part 3 - Design Requirements**

#### **Clause 30 – Site Analysis**

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

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

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

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

#### **Clause 32 – Design of Residential Development**

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

### **Division 2 – Design Principles**

#### **Clause 33 – Neighbourhood Amenity and Streetscape**

*The proposed development should:*

- (a) *recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*

The development as proposed seeks to achieve a transition between the proposal and the surrounding urban development and landscape having regard to the area being within a transition period.

- (b) *retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*

The existing developed nature of the site and surrounding areas reduces the likelihood of there being material of archaeological significance on site. These activities have resulted in the site being significantly disturbed and altered from its likely original condition. Therefore, the site is considered to have limited historical, social, or cultural significance for Aboriginal groups. The application has been referred to the Local Aboriginal Land Council, Bahtabah. Bahtabah Local Aboriginal Land Council have not raised any objection to the development. Council has undertaken research and mapping in consultation with the Aboriginal community to prepare an Aboriginal Heritage Management Strategy and associated mapping. This site is not mapped as having potential Aboriginal heritage significance.

- (c) *maintain reasonable neighbourhood amenity and appropriate residential character by*  
:

- (i) providing building setbacks to reduce bulk and overshadowing, and*
- (ii) using building form and siting that relates to the site's land form, and*
- (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
- (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*

The development is considered in context with development in the locality. Proposed building setbacks, embellished with landscaping will adequately reduce the building mass, bulk and scale including offsite impacts of overshadowing and overlooking. Further development of these plans has provided a well-resolved building that has appropriate consideration to neighbouring properties and the larger area. The building siting will relate to the site's land form and building heights are compatible in scale to surrounding development.

- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*

The front building line of the development is not inconsistent with surrounding development.

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

Proposed planting is consistent with surrounding vegetation.

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

Existing trees wherever possible are being maintained.

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

The site does not contain a riparian zone.

#### **Clause 34 – Visual & Acoustic Privacy**

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

The development proposes a significant setback to neighbouring dwellings to the north east and appropriate screening and placement of terrace areas to reduce the impact of the development with regard privacy to adjoining development.

It is acknowledged, the proposed development will have some visual and acoustic impacts on surrounding development, however these impacts are considered acceptable in the context of the overall development.

#### **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, in my opinion, has acceptable impact to the living areas and private open space of neighbouring development. Solar access is provided within the development to rooms and outdoor open space areas within the development to ensure these areas are desirable places to be.

#### **Clause 36 – Stormwater**

*The proposed development should:*

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

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

### **Clause 37 – Crime Prevention**

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

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

### **Clause 38 – Accessibility**

*The proposed development should:*

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

Public transport operates along Wilsons Road all day. Pedestrian access to the bus stops will be facilitated by a requirement to construct a concrete footpath from the development to the bus stop.

Bus stops within the area presently conform with Disability Discrimination Act requirements.

The access to and around the development is satisfactory.

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

### **Clause 39 – Waste Management**

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

The development proposes waste and re-cycling facilities. This matter has been addressed within the internal referral section of this report.

## **Part 4 - Development Standards to be Complied With**

### **Division 1 – General**

### **Clause 40 – Development Standards – Minimum Sizes and Building Heights**

#### **(1) General**

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



(2) *Site size*

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

The site has an area of approximately 46,800m<sup>2</sup>, thus exceeding the 1000m<sup>2</sup> minimum required.

(3) *Site frontage*

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

The site is a corner lot of irregular boundaries, however, has a frontage of approximately 65m to Wilsons Road and 160m to Violet Town Road, thus exceeding the 20m minimum width.

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

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

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

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

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

*Note. Development standards concerning accessibility and useability for residential care facilities are not specified in this Policy. For relevant standards, see the Commonwealth aged care accreditation standards and the Building Code of Australia.*

Council's Aging and Disability Planner and Council's Building Surveyor have assessed the development to ensure compliance with the above.

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

Not applicable

***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***

***Division 1 - General***

***Clause 46      Inter-Relationship of Part with Design Principles in Part 3***

- (1) *Nothing in this Part permits the granting of consent to a development application made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.*

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

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

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

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

Not applicable

**Division 2 Residential Care Facilities**

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

*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:*

- (a) *building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or*

The building height is greater than 8m, however, the zoning allows for building that are higher than 8m. Part of the increased height in this area is to cater for increasing population densities that are achieved in the medium to high density zone located in close proximity to commercial centres and other facilities.

- (b) *density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,*

The density of the development is less than 1:1, the density is 0.33:1.

- (c) *landscaped area: if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,*

The development provides landscaping at greater than 25m<sup>2</sup> per residential care bed.

- (d) *parking for residents and visitors: if at least the following is provided:*

- (i) *1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and*
- (ii) *1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and*
- (iii) *1 parking space suitable for an ambulance.*

Carparking has been provided in accordance with the above requirements.

### ***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**

Not applicable

### ***Chapter 4 - Miscellaneous***

Not applicable

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

### **State Environmental Planning Policy (Infrastructure) 2007**

Ausgrid provided comment under clause 45(2) of SEPP Infrastructure 2004, as follows:

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.

Ausgrid have also provided recommended conditions that will be applied to any consent.

### **State Environmental Planning Policy No. 55 – Remediation of Land**

This SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. A preliminary contamination assessment has been undertaken by Douglas Partners. Council's Environmental Health Officers have reviewed the report and advised:

The Preliminary Contamination Assessment Report prepared by Douglas Partners (project 49836.01) dated February 2012 recommends that the site may be made suitable for the proposed use subject to implementation of their recommendations.

The proposed conditions to be applied are detailed within the Internal Referral section of this report.

### **State Environmental Planning Policy No. 64 – Advertising and Signage**

The signage is defined under the SEPP as building identification sign:

*means a sign that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a*

*logo or other symbol that identifies the business, but that does not include general advertising of products, goods or services.*

Clause 8 of SEPP 64 requires the consent authority to be satisfied that the signage is consistent with the objectives of the SEPP as set out in clause 3(1)(a) and that the signage satisfies the assessment criteria specified in Schedule 1. Assessment against clause 3(1)(a) and Schedule 1 is provided below.

Clause 3(1)(a) requires the consent authority to ensure that signage (including advertising):

- (i) is compatible with the desired amenity and visual character of an area, and*
- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish,*

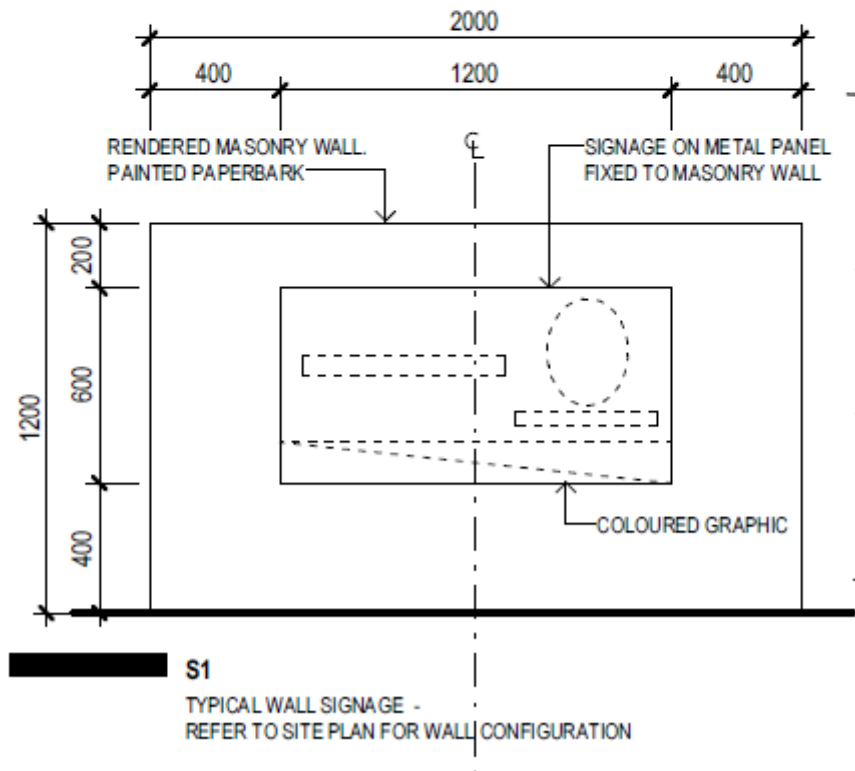
Comment: These matters are addressed in the discussion below.

The application includes entry signage panels. One panel is proposed to be located adjacent to the driveway entry to the site on Violet Town Road. The other is proposed on the Wilsons Road frontage.

Signage fronting Violet Town Road is depicted below and provides for an entry wall with a 90° return along the driveway:

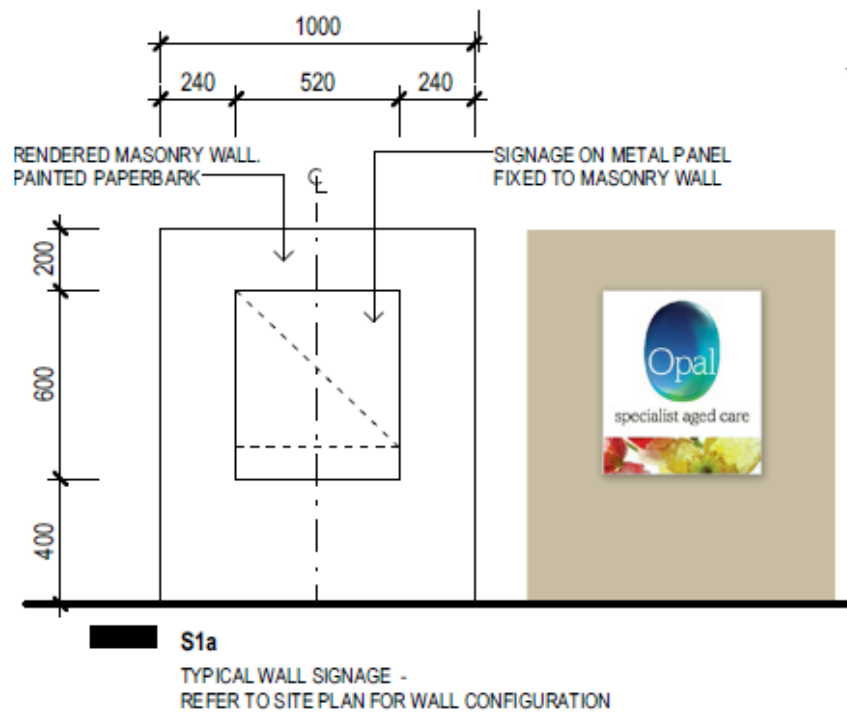


TYPICAL LANDSCAPE SIGNAGE ON WALL



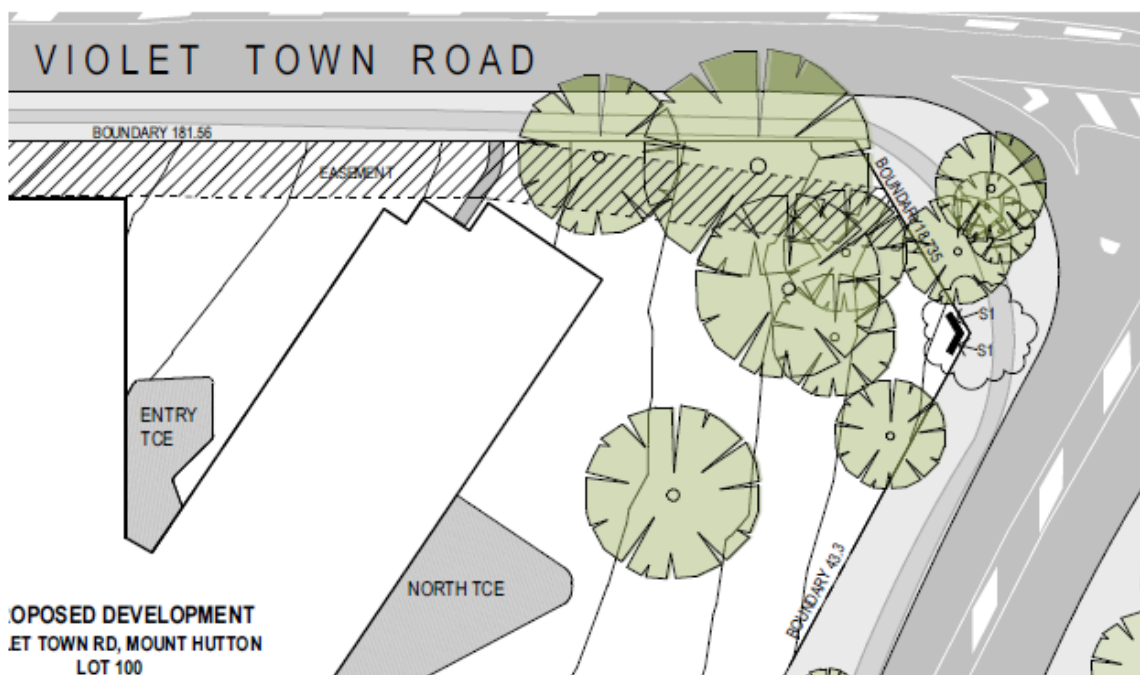
**Figure 3: Signage (S1)**

The return along the driveway will consist of a 1m wide version of the above, as shown below:



**Figure 4: Signage (S1a)**

The signage presenting to Wilsons Road will consist of two S1 signs placed at an oblique angle to the road reflecting the corner boundary in this vicinity.



**Figure 5: location of signage presenting to Wilsons Road**



The maximum height of signage above ground is 1.2m, which is considered appropriate to provide for adequate identification of the premises and to not negatively detract from the amenity of the area.

Violet Town Road is a sub-arterial road with moderate traffic volumes. The western side of Violet Town Road has constructed low density housing, but is zoned medium to high density, therefore an increase in density in this area is expected. The signage proposed in this area is of a considered design that will not further reduce the amenity of the area.

Wilsons Road is a local road that has the main Mount Hutton commercial precinct located on the north side of the road providing for greater intensity of development already constructed in this area. The presentation of the 1.2m high x 4m wide (effective width) signage wall in this area is considered acceptable particularly given activities in the immediate vicinity. Signage is not proposed to be illuminated; conditions of consent should apply in this regard.

Each panel will be finished with rendered masonry in Paperbark with a metal panel detailing the signage positioned on the front of the panel, providing high quality signage infrastructure that will be integrated with the landscaping within these areas.

## **Schedule 1 – Assessment Criteria**

### **1 Character of the area**

- *Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*

The signage is compatible with the desired future character of the area.

- *Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

There is no particular theme for outdoor advertising in this area or the locality.

### **2 Special areas**

- *Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The signage does not detract from the amenity of the area.

### **3 Views and vistas**

- *Does the proposal obscure or compromise important views?*

The signage does not obscure or compromise important views as the signage is integrated into the landscape design and features as landscape walls for the development.

- *Does the proposal dominate the skyline and reduce the quality of vistas?*

The signage has a maximum height of 1.2m and does not project above the height of the proposed buildings.

- *Does the proposal respect the viewing rights of other advertisers?*

The signage respects the viewing rights of other advertisers.

### **4 Streetscape, setting or landscape**

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*

The scale, proportion and form of the signage is appropriate for the streetscape.

- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*

The proposal contributes a visual interest to the streetscape.

- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*

There is no signage on the existing building to be removed.

- *Does the proposal screen unsightliness?*

There is no unsightliness to be screened by signage, signage is integrated into the landscape design.

- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*

The signage does not protrude above buildings, structures or tree canopies in the area.

- *Does the proposal require ongoing vegetation management?*

Vegetation management may be required and will be at the discretion of the operator of the facility, however given the low level height of signage tree removal and significant pruning will not be required as a result of the location of the signage.

## **5 Site and building**

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*

The signage is compatible with the scale, proportion and other characteristics of the site on which the signage is to be located.

- *Does the proposal respect important features of the site or building, or both?*

The development respects significant features of the site.

- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The signage shows innovation in the relationship to the signage to the building and site.

## **6 Associated devices and logos with advertisements and advertising structures**

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

The signage has not been designed to include logos as an integral part of the signage or structure on which it is to be displayed.

## **7 Illumination**

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*

- *Is the illumination subject to a curfew?*

The application does not propose any illumination.

## **8 Safety**

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The proposal would not reduce the safety for any public road, pedestrians, or bicyclists as the signage does not obscure sightlines from public areas.

In this regard, the development has adequately addressed the requirements of SEPP 64 with regard to the signage component.

Signage applied for as part of this application has been assessed against Clause 13 of the SEPP 64 (matters for consideration). In this regard, the signage is compatible with the desired amenity and visual character of the area, and will provide effective communication in suitable locations for the development, and is of high quality design and finish.

The SEPP does not regulate the content of signage and does not require consent for a change in the content of signage.

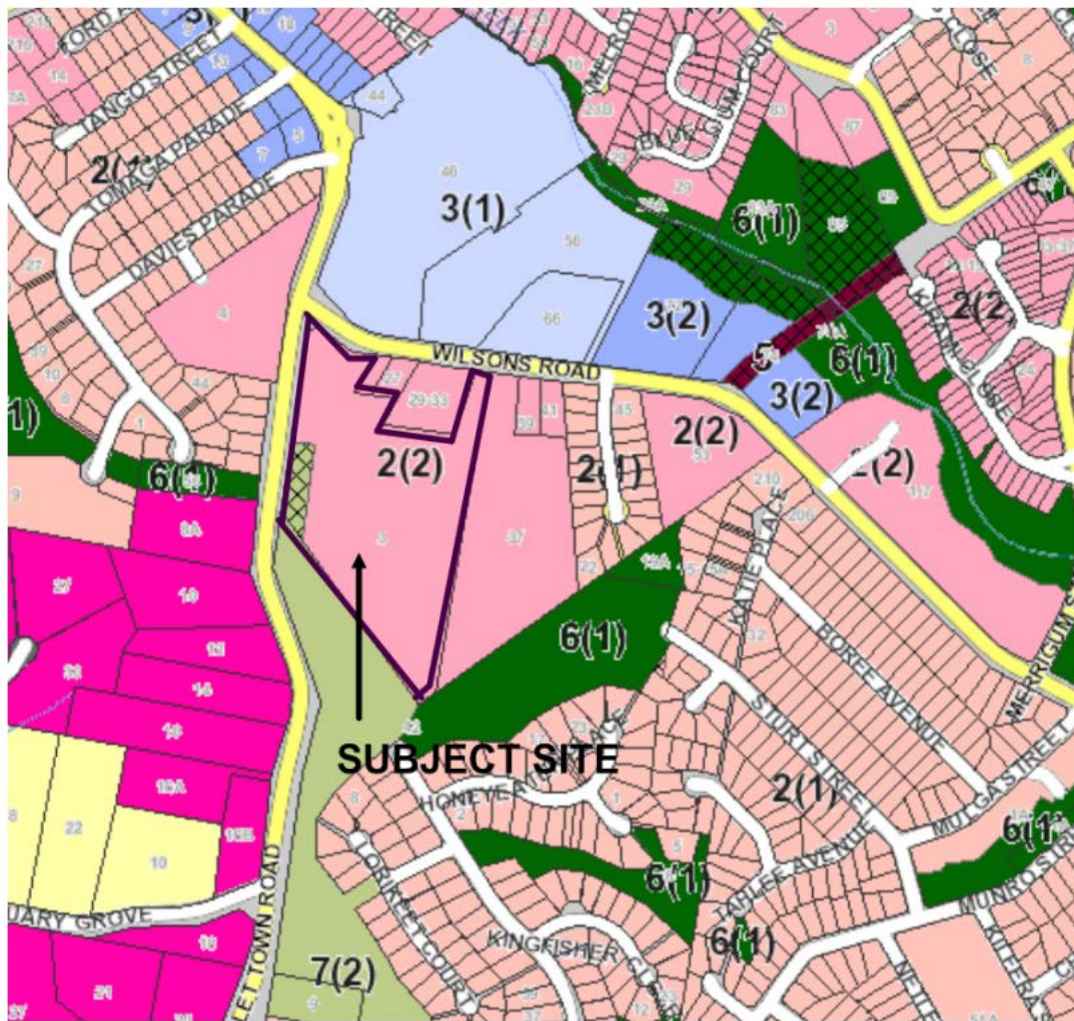
## ***Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004)***

### **Clause 15 General Controls for Land within Zones**

The land is zoned 2(2) Residential (Urban Living) and 7(2) Conservation (Secondary). Surrounding lands are zoned:

- 2(1) Residential,
- 2(2) Residential,
- 3(1) Urban (Core),
- 3(2) Urban (Centre Support),
- 6(1) Open Space,
- 7(2) Conservation (Secondary), and
- 7(5) Environmental (Living).

The area of the site cross hatched is zoned for acquisition by Council. The development is clear of the landed zoned 7(2) and the land zoned for acquisition.



**Figure 6:** Extract from Lake Macquarie Local Environmental Plan 2004 zone map

Clause 16 Development Consent – matters for consideration

(a) *Lifestyle 2020 Vision, Values and Aims*

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

**Vision**

*The vision for land to which this strategy is:*

- *a place where the environment is protected and enhanced.*
- *a place where the scenic, ecological, recreational and commercial values and opportunities of the Lake and coastline are promoted and protected.*
- *a place with a prosperous economy and a supportive attitude to balanced economic growth, managed in a way to enhance quality of life and satisfy the employment and environmental aims of the community.*

- *a place that recognises encourages and develops its diverse cultural life and talents and protects and promotes its heritage.*
- *a place that encourages community spirit, promotes a fulfilling lifestyle, enhances health and social wellbeing, encourages lifestyle choices and has opportunities to encourage participation in sport and recreation.*
- *a place that promotes equal access to all services and facilities and enables all citizens to contribute to an participate in the City's economic and social development.*

## **Values**

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

## **Aims**

*The aims of the strategy are to:*

- 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*
- reinforce and strengthen centres so that a wide range of commercial and community services may be provided in a timely and accessible manner, and*
- provide local employment opportunities for residents and promote economic development consistent with the City's natural, locational and community resources, and*
- guide the development of urban communities that are compact, distinct and diverse and include a range of housing types and activities, and*
- 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*
- develop an attractive urban setting for the City which reflects its physical and natural environment, and visual character, and*
- 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*
- 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*
- integrate land use with the efficient provision of public and private movement systems.*

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

The proposal provides for a housing type, which exists in the broader locality, and is provided for on this site within the existing facility but is in limited supply in general. The proposal is characterised by generous building setbacks, which enables considerable landscape buffers to the surrounding properties, which will minimise the visual presence of the development to the surrounding rural setting, especially to the north. As a result, the development, whilst residential in nature and visible from public places, along with surrounding properties will not adversely detract from the visual setting nor unreasonably affect the amenity of surrounding landowners. The locality will gain from the positioning of this building on the corner of Violet Town Road and Wilsons Road as it provides a quality built form responsive to the site constraints. The locality will maintain its character as a pleasant open and treed landscape.

### *(b) Objectives of Zone*

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

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

*Clause 16 of the LMLEP 2004 provides as follows:*

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

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

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

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

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

The land is zoned predominantly 2(2) Residential (Urban Living). The objectives of the zones are to:

- (a) provide for medium and high density housing, and*

Planning Comment:

The proposal comprises a retirement village being a residential care facility. The development provides for medium density housing in the form of residential care facility, which is of an appropriate residential form and density. The development will provide residents the opportunity to enjoy the vistas afforded external to the site. The siting of the building within an extensively landscaped setting with the retention of much of the existing mature vegetation, whilst providing generous passive recreation area to be retained and additional areas provided within the facility.

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

Planning Comment:

The proposal is considered compatible with zone. Setbacks appropriate to the development type and site constraints are proposed for both Wilsons Road and Violet Town Road. The development is of good quality design, which has had regard to the site and existing infrastructure. The design is further embellished through the retention of existing mature trees and through the implementation of a detailed landscape design.

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

Planning Comment:

The development will not provide a place where people can live and work in home businesses and professional services however; this objection is being achieved elsewhere in the locality. The extension of this existing facility within close proximity to public transport



and within a residential area enables staff of the facility to potentially live closer to their work place.

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

Planning Comment:

The site is centrally located to Charlestown, Mount Hutton and Warners Bay CBD's. These areas include all relevant infrastructure and associated services, therefore the site is well located to take advantage of reasonably easy access to these centres.

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

Planning Comment:

The development is over a substantial land holding, greater than 46,000m<sup>2</sup>, further consolidation of lots is not required to accommodate a better designed medium to high density development. Sufficient area exists within the development site to accommodate the development, with the provision of ample setbacks to existing development. The development is well designed.

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

Planning Comment:

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

#### Clause 17 - Provision of essential infrastructure

The site has available water, sewer, electricity, and telecommunication facilities adequate to service the development.

#### Clause 18 – 28A

Not applicable.

#### Clause 29 Building heights

The buildings will exceed 8 metres in height from natural ground level. The development will have a component that will contain four storeys. The land to be developed is zoned 2(2), which, under DCP 1, has a height limit of 10 metres. The site is located amongst development that has a range of heights; from single storey single dwellings large bulky retail complexes in the form of the shopping centre to the north of the site. It is proposed to use the slope of the site to create a stepped approach to the development from Wilsons Road. As such, the proposed height is considered compatible with the area and the zone.

#### Clause 30 Control of pollution

All reasonable and practicable control measures will be implemented to minimise pollution likely to arise from carrying out the development. This matter is addressed in further detail throughout this assessment report.

#### Clause 31 Erosion and sediment control

The area of soil surface exposure is greater than 2500m<sup>2</sup>. In this regard, Council has considered a soil and water management plan, which complies with the construction guidelines adopted by Council. In addition, conditions of consent are proposed to prevent and minimise the effects of erosion and sediment.

#### Clause 32 Flood prone land

The land is not flood prone land.

Clause 33 Bush fire considerations

The land is zoned bush fire prone.

The development is integrated development in terms of the Rural Fires Act. In this regard, the development has been referred to NSW RFS. NSW RFS have provided comment and general terms of approval, these are included as a condition of consent in the recommended conditions in Appendix A.

Clause 34 Trees and native vegetation

The proposed works will necessitate removal of some vegetation. An Arboricultural Assessment Report supports the application and is generally supported.

Clauses 35 - 37

Not applicable.

38 Advertising Structures and Signs

Development consent is sought for signage proposed as part of this development application.

Clauses 39 – 40

Not applicable.

Clause 41 Development for the purpose of retirement villages

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

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

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

- (2) *This clause applies to:*

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

Planning Comment: The development site is zoned 2(2) and directly adjoins land zoned 2(1) Residential under the LMLEP 2004.

- (3) *In this clause:*

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

Planning Comment: The development application has been lodged as a 'Retirement Village'. The statement of environmental effects details that the proposal fits within the definition of Retirement Village under Clause 41(3) of the LMLEP 2004. A condition of consent will apply restricting use of the premises to persons predominantly aged 55 years or older. The development provides for all meals, cleaning, emergency assistance and transport service for residents. This development provides for care beds that intrinsically

include the full servicing of the care beds, which will supplement the self-care and assisted care facilities existing on site.

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

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

- (5) *Despite subclause (4), consent may be granted to development for the purpose of a retirement village only if the consent authority is satisfied that:*
- (a) *the land on which the development will be carried out is of sufficient size to accommodate a minimum 70 unit retirement village development, and*

Planning Comment: The development proposal consists of accommodation for 128 people/beds. The site is capable of accommodating 70 units however; the applicant has designed the development to accommodate for care beds as an extension to the existing operation.

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

Planning Comment: The development fronts Violet Town and Wilsons Road, both are formed and sealed public roads servicing residential zoned land to the south and east.

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

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

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

Planning Comment: The development application is supported by a plan, which shows that over 70% of the development area comprises land with a slope of less than 20%.

#### Clause 42 – 42B

Not applicable.

#### Part 6 - 10

Not applicable.

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

Draft Lake Macquarie Local Environmental Plan 2012 (dLMLEP 2012) was on public exhibition until 24 December 2012 and is now adopted as Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014). LMLEP 2014 zones the land R3 – Medium Density Residential and E2 – Environmental Conservation.

Clause 7.12 – Development for the purpose of Seniors Housing states:

- (1) *The objective of this clause is to maintain for a certain period the opportunity for development for the purpose of seniors housing in certain locations.*

- (2) *Despite any other provision of this Plan, development consent may be granted to the following development:*
- (a) *a hostel (within the meaning of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004),*
  - (b) *a residential care facility,*
  - (c) *serviced self-care housing (within the meaning of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004) if the consent authority is satisfied that the housing will be provided:*
    - (i) *for people with a disability, or*
    - (ii) *in association with a residential care facility, or*
    - (iii) *as a retirement village (within the meaning of the Retirement Villages Act 1999).*
- (3) *Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:*
- (a) *the land is eligible land, and*
  - (b) *the land is of a sufficient size to accommodate at least 70 dwellings, and*
  - (c) *the land has frontage to a sealed public road that provides access to nearby urban areas, and*
  - (d) *at least 70% of the proposed development site comprises land with a slope of less than a 20% grade.*
- (4) *This clause ceases to apply 2 years after the commencement of this Plan.*
- (5) *This clause extends to a development application made but not finally determined before this clause ceases to apply.*
- (6) *In this clause, eligible land, means land on which development referred to in subclause (2) was permissible immediately before this Plan commenced.*

The application is for a residential care facility, which is proposed on land that is “eligible land”, is of sufficient size to accommodate at least 70 dwellings, the site has frontage to sealed public roads that provide access to nearby urban areas and 70% of the site has a grade of less than 20%. LMLEP 2014 commenced on 10 October 2014, therefore two years have not lapsed and Clause 7.12 is still relevant to the land.

In this regard, the proposed development would be permissible under Clause 7.12 of LMLEP 2014.

The building height map prescribes a building height of 10m; the proposed buildings do not comply with the 10m height limit, as they are proposed with a maximum height of 13m. While the proposed building height conflicts with the Plan, the development will still be able to achieve the intent of the zone and provides a much needed expansion of an aged care facility in close proximity to services and facilities. The additional height proposed has been well considered in terms of its impacts both within the site and off site.

LMLEP 2014 was gazetted on 12 September 2014, and commences 28 days after it is published on the NSW legislation website, making the commencement date of the Plan 10 October 2014.

Clause 1.8A – Savings provision relating to development applications, enables development applications made before the commencement of the Plan, which have not been finally

determined before that commencement, must be determined as if this Plan had not commenced. This application was lodged prior to the commencement of LMLEP 2014 and is therefore determined under LMLEP 2004.

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

#### *Development Control Plan No. 1 – Principles of Development*

##### **Section 1.8 – Development Notification Requirements**

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

NSW Office of Water;  
Mine Subsidence Board;  
NSW Rural Fire Service;  
Hunter Water Corporation;  
Ausgrid, and  
Roads and Maritime Services.

NSW Office of Water provided their General Terms of Approval on 14 October 2014.

The Mine Subsidence Board General Terms of Approval were received on 16 December 2014.

The NSW Rural Fire Service provided comments on 20 January 2015.

Hunter Water Corporation have not provided any comment on the development.

Ausgrid provided comments on 24 September 2014.

Roads and Maritime Services provided comments on 29 September 2014.

Notification occurred in accordance with Development Control Plan No. 1 – Principles of Development, which required notification for a minimum 14 day period.

Two submissions were received. Both submissions object to the proposal. The objections are addressed within section 79C(1)(d) of this report.

##### **Section 2.1 – Environmental Responsibility and Land Capability**

###### 2.1.1 – Ecological Values, 2.1.2 – Ecological Corridors and 2.1.4 – Tree Preservation

This development proposes the removal of some vegetation. Council's Flora and Fauna planner has reviewed the vegetation removal in accordance with the relevant legislation and guidelines and acknowledges the development site is comprised predominantly of disturbed grassland and coastal apple forest. The majority of the mid / understory from the coastal apple forest has been removed with a number of scattered native trees occurring.

The development is unlikely to have a significant impact to threatened species as per Section 5A of the Environmental Planning and Assessment Act. Threatened species known to occur in the area include *Tetratheca juncea*, the squirrel glider and a number of micro bats and birds. Habitat proposed to be removed is considered too disturbed to be suitable for

Tetratheca juncea. Habitat for the squirrel glider, micro bats and birds that is to be impacted is considered marginal with better quality habitat occurring in areas to be retained.

Placement of the development on the site will protect native vegetation corridors as mapped by Councils Native Vegetation and Corridors Map.

The development adequately protects and retains existing vegetation where appropriate. Additional landscaping will be incorporated within the development to further embellish the natural landscape features of the site.

The development is supported subject to conditions of consent being applied to protect vegetation that is proposed to be retained within the application.

#### 2.1.3 – Scenic Values

The siting of the new development within the north-east corner of the site will utilise a vacant piece of land, and in doing so has the potential to be seen from Violet Town Road, Wilsons Road, various residential areas to the north, particularly areas on the northern side of Tennant Road from Warners Bay Road to Willow Road.

In order for Council to assess the visual impact of the development a benchmark relative to the existing vegetation on the site has been provided. The photomontages demonstrate that the visual impact of the development will be minimal due mainly to the location of the site lower on the hill. The slope and vegetation to the south of the development adequately mitigates any impacts of the development. The proposed material palette and stand of mature trees located on the corner of Violet Town Road and Wilsons Road work together to substantially screen the development from the intersection and nearby areas.

The impact of the development will be mitigated by the articulated design, colour and materials proposed for the development and the significant landscape buffers along the boundaries of the site. Overall, the proposal is considered sympathetic to the landscape appreciation of Mount Hutton. The proposal will establish a more dominant corner to the corner of Violet Town Road and Wilsons Road however, a satisfactory level of amenity will be provided to the residents of the development.

#### 2.1.5 - Bushfire Risk

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

#### 2.1.6 - Water Bodies, Waterways & Wetlands

The proposed development is not located within the vicinity of any natural water bodies. In addition, the proposed development has provided appropriate discharge to the existing formed drainage system; therefore, there will be no direct impacts on any downstream water bodies.

#### 2.1.7 – 2.1.8

Not applicable.

#### 2.1.9 - Sloping Land & Soils

The site has been identified as being within a T3 and T4 zone on Council's Geotechnical Maps, as such further geotechnical investigations are required prior to consent. The applicant has submitted a Geotechnical Report from Douglas Partners that identifies that the site has a low to very low risk of land instability. Therefore, the site is suitable for the proposed development.



The application proposes significant cut and fill works to create a flat pad for the new building. This will result in excess fill, which will be placed to the north of the proposed building, and in a “regrade area” to the south of the existing building. From an engineering perspective, the proposed cut and fill and regrade works are satisfactory. It will be necessary to ensure that the regrade areas are revegetated as soon as possible to limit erosion from the site.

#### 2.1.10 Acid Sulfate Soils

The site was not identified as having potential acid sulfate soils.

#### 2.1.11 - Erosion Prevention & Sediment Control

The submitted Erosion and Sediment Control Plan prepared by Opus satisfactorily addresses Council's requirements for erosion and sediment control, conditions of consent to further regulate this are recommended.

#### 2.1.12 – Mine Subsidence

Mine Subsidence Board provided General Terms of Approval on 16 December 2014, which will be included on any consent.

#### 2.1.13 - Contaminated Land

A Preliminary Contamination Assessment prepared by Douglas Partners has been submitted with the application and states that the site may be made suitable for the development subject to the implementation of their recommendations, conditions are contained within Appendix A.

#### 2.1.14 Energy Efficiency

The development does not require a BASIX certificate. No further consideration of this matter is required.

#### 2.1.15 Noise and Vibration

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

The acoustic report prepared by Acoustic Logic dated 8 August 2014, which assesses and determines the potential noise emissions generated by the development and the likely noise intrusion from external sources.

Much of the noise management at the site is contingent on correct installation of plant & equipment; in this regard, conditions of consent should apply regarding compliance with the acoustic report and certification of the completed development. The development is not expected to have adverse impact on the amenity of the area with regard noise and vibration.

Conditions of consent, as per Appendix A are recommended for any consent.

#### 2.1.16 Air Quality and Odour

The application is supported by a Qualitative Odour Assessment prepared by Pacific Environment Limited (Job ID. 6608) dated 15 July 2013. The following condition shall apply to any consent issued:

##### Mechanical Ventilation Design & Construction

Mechanical ventilation equipment to the kitchen and laundry facilities shall be designed in accordance with *AS1668.2 - The use of mechanical ventilation and air conditioning in buildings*. Design shall specifically include:

- The vent shall be situated at least 1m above the ridge of a pitched roof or 3m above a flat roof and shall not be located within 6m of another property boundary;
- Exhaust stack gases shall be vented with a design exit velocity of at least 10m/s without any impediment to vertical discharge.

Additionally in relation to kitchen mechanical ventilation equipment:

- Exhaust stacks to be vented at a height clear of downwash effects from the building in which the activity is located and adjacent buildings and a minimum of 3m above the highest point of the building roof ridge line or above that of any higher adjacent building within 50m.
- Exhaust stack gases to be vented with a design exit velocity of at least 10m/s without any impediment to vertical discharge.

All mechanical ventilation extraction systems shall be designed to allow retro-fitting of odour control equipment as required.

#### 2.1.17 Demolition and Construction Waste Management

The construction will generally involve modular / prefabricated components, which are manufactured off site and transported to the site for installation / assembly. As such, waste generation from construction will be minimal.

A waste management plan as part of the Construction Environmental Management Plan to manage construction waste; this is recommended as part of the conditions of consent. The plan shall identify:

- types and amounts of waste likely to be generated;
- waste storage issues;
- methods of transport and disposal of wastes;
- opportunities for waste reduction, re-use of materials and recycling; and
- requirements for compliance with the Waste Avoidance and Resource Recovery Act 2001.

#### **Section 2.2 – Social Impact and 2.3 –Economic Impact**

The increasing population within the Lake Macquarie Local Government area generates an increased need for appropriately placed aged care facilities.

The proposal will have an overall positive social benefit for Lake Macquarie.

With an ageing population, additional seniors housing options will be required to meet the future needs of the City. This proposal will provide additional seniors housing options, and is appropriately located – on a site with existing seniors housing, close to public transport, and close to services and facilities.

The East Lake Macquarie area has a population of 10,376 people aged 65 years and over and the North Lake Macquarie area has a population of 10,664 people aged 65 years and over (2006 Census). In this combined catchment area (North and East Lake Macquarie) there are currently only 752 independent living units spread over 15 sites. Australia is currently experiencing the biggest generational shift that has been seen for over 60 years. By 2031, the Lake Macquarie LGA, population aged >70 years is estimated to be approximately 45,000 people (double to existing), which means approximately 4,000 high care and low care beds (combined), an increase of 2,000 beds from where we are today, will be required.

This proposal contributes to satisfying demand for this form of accommodation and care.

An economic assessment has not been provided as the proposed development is not expected to have any adverse impact on the economic development of the area.

## Section 2.4 – Heritage

Section 2.4 is not relevant to this application.

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

### 2.5.1 Essential Infrastructure

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

Ausgrid have advised provided recommended conditions for any consent issued for the development, this matter is addressed earlier in this report.

Hunter Water Corporation have advised that development is clear of the sewer main and that a section 50 application will be required for the development.

### 2.5.2 On-Site Wastewater Treatment

The development does not require an on-site wastewater treatment device.

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

A suitable Stormwater Management Plan by Opus, Drawing. No. T-N0280.00\_DA1 incorporating detention, water harvesting, water quality facilities and site discharge index requirements in accordance with Lake Macquarie DCP No.1 has been provided.

The proposal will incorporate 30 cubic metres of stormwater storage for harvesting and reuse, the provision of a Gross Pollutant Trap (GPT) and the upgrading of one of the existing stormwater detention basins to provide for an additional 150 cubic metres of stormwater detention. Peak stormwater flows will be reduced for the critical storm events.

### 2.5.5 Operational Waste Management

Waste generated during operation is likely to include:

- medical wastes; and
- general waste and recyclables.

The facility will have garbage and recyclable bins, which will be privately serviced on a commercial basis as per the existing development. Medical wastes will also be serviced from the development using a commercial service arrangement. Adequate areas exist within the development for the storage of waste and for its servicing and removal.

A Site Waste Minimisation and Management Plan supports the application. 1100 litre bins will be used for collection of general waste and cardboard as a rear loader collection vehicle will be used for pickups. General waste, including food waste, will be stored in 7 x 1100 litre bins and serviced by the current contractor. The waste collection arrangement is satisfactory for the development.

## Section 2.6 – Transport, Parking, Access and Servicing

### 2.6.1 - 2.6.2

Not applicable.

### 2.6.3 Road Design and 2.6.5 Public Transport

Violet Town Road, which fronts the development, is constructed with kerb and gutter and is approximately 17 metres wide. This street and the surrounding public road system are considered adequate to support the development.

A concrete footpath exists along the full road frontage of the site. No additional footpaving is required. Public transport via buses is available in the adjoining streets.

The site is located within close proximity to bus stops, located on Wilsons Road. These bus stops have been upgraded in accordance with the Disability Discrimination Act requirements. No alteration to public transport is required as part of this application.

Access from Violet Town Road is proposed to be relocated which will require alteration of the existing painted median installed for the intersection of Wilsons Road and Violet Town Road.

The medians are to be designed and approved by Council, as per the development application. Council (via the Lake Macquarie Traffic Facilities and Road Safety Committee) will undertake the approval. The applicant will be required to submit a design during the CC stage for the alteration to the painted median.

Manoeuvrability has been demonstrated on-site and is adequate.

### 2.6.4 Pedestrian and Cycle Paths

There is limited pedestrian paths near the development. Additional foot paving as nominated in the plans will be provided as part of the development.

### 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:

	Rate	Required (On-Site)	Provided	Complies
<b>Dwellings</b>				
188 beds	1 space /10 beds	18.8	18.8	Yes
8 x 2 bedroom (ILU)	0.5/bedroom	8	8	Yes
64 Staff (on shift at any one time)	0.5 spaces / staff	32	32	Yes
47 x 1 bedroom (ALU)*	1 space / 10 beds	4.7	4.7	Yes
Ambulance	1 space	1	2	Exceeds
<b>TOTAL</b>		<b>64.5</b>	<b>65</b>	<b>Complies</b>

\* The assisted living units operate similar to the residential care facility; as such, the parking rate for residential care has been applied for within the Traffic Impact Report and is supported by Council's Traffic and Transportation Engineer.

The subject development generates 64.5 spaces with 65 spaces being provided, including two ambulance spaces. This demonstrates compliance with SEPP Seniors Living.

#### 2.6.7 Car Parking Areas and Structures / 2.6.8 Vehicle Access

Council's Principal Development Engineer and Traffic and Transport Engineer have advised that the internal driveway and car parking areas (including turning movements) for the development are adequate and comply with DCP 1 requirements and AS 2890.1.

The proposed access to the development from Violet Town Road is being relocated approximately 30 metres to the north. The sight distances are acceptable at this location. The relocation of the entry will impact on the road line marking for the intersection of Violet Town Road and Wilsons Road. Medians are to be designed and approved by Council via the Lake Macquarie Traffic Facilities and Road Safety Committee). A detailed design will be required for construction certificate approval.

Roads and Maritime Services (RMS) have provided comment on the application and advised they raise no objection or requirement for the development as it is considered there will not be a significant impact on the classified road network. Nevertheless, RMS have requested the following be considered:

- All redundant driveway / accesses shall be removed and reinstated to Council's requirements.
- Appropriate traffic management measures shall be in place, to minimise the impacts on traffic using Violet Town Road during construction phase of the development.

The above are included as recommended conditions of consent.

#### 2.6.9 Access to Bushfire Risk Areas

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

#### 2.6.10 Servicing Areas

The development will be required to facilitate delivery vehicles, waste collection vehicles and other servicing vehicles as required. The development is to ensure sufficient turning area be provided within the site to allow all vehicles to exit in a forward direction.

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

#### 2.6.11 On-Site Bicycle Facilities

No formal onsite bicycle facilities will be provided as part of the development.

#### 2.6.12 Non-Discriminatory Access and Use

Council's Aging and Disability Planner has advised that the disability access report provided for the development is adequate in describing the development and its ability to provide for non-discriminatory use.

Given the topography of the site, transport by electric car/buggy to connect all areas of the site, shall be provided, allowing residents of the independent living units the opportunity to visit residents in the residential care facility. This means of transport needs to be made available to transport residents to the allotment entry to assist with accessing local shops, services and transport in the area.

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

The recommendations of the Access Audit shall be included as conditions of consent.

## Section 2.7 – Streetscape and the Public Realm

### 2.7.1 Streetscape and Local Character

The site has an irregular shape and covers an area of approximately 46,768m<sup>2</sup>. An existing aged care facility is already located on the site.

The site is located within a residential setting surrounded by vegetated hillsides, particularly to the south of the site. Higher density residential development is located farther to the north with a moderate size local shopping centre located immediately to the north of the site. The site is located within a Scenic Management Zone B.

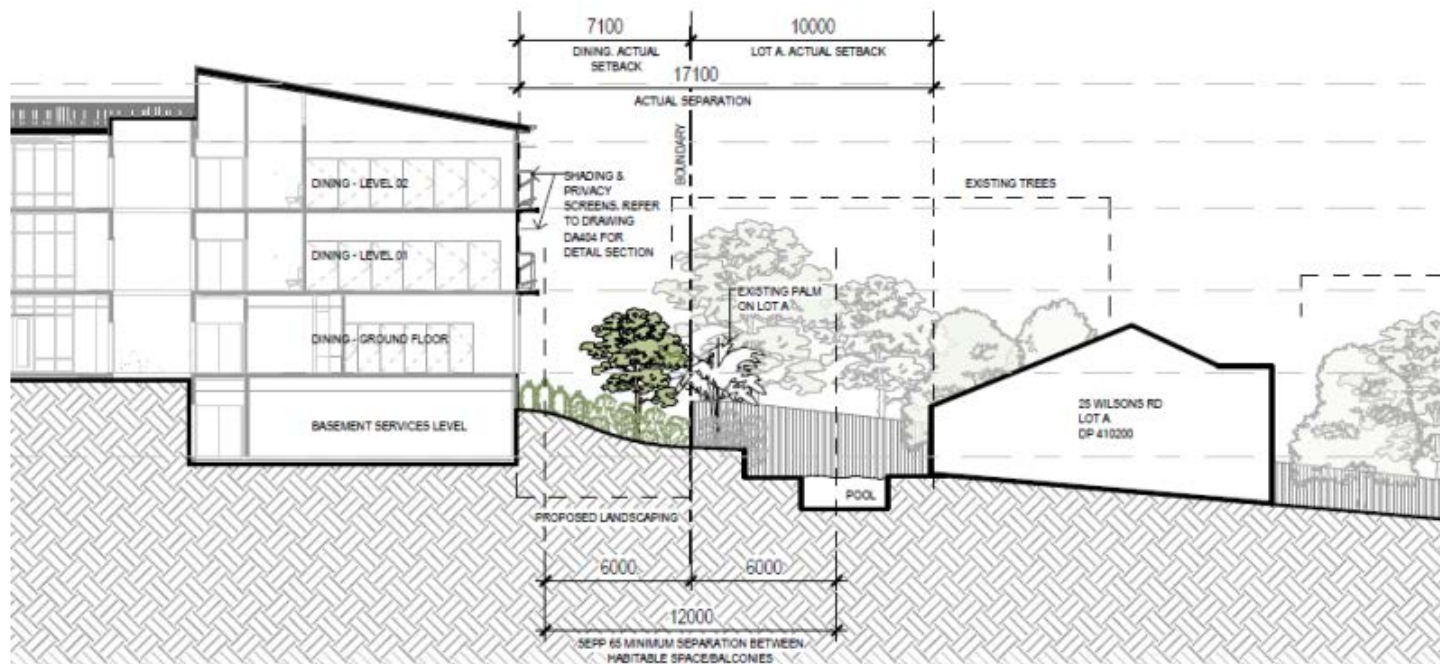
The proposed building will be quality built form, which will contribute favourably to the context of the area.

The design of the building seeks to provide a non-institutionalised character to the building. The building responds to the landscape setting and complements the low density residential context while responding to the future desired character of the area as a higher density residential area. While the building is four storeys, it has been nestled into the slope of the site and consideration has been given to the setbacks from the boundaries such that it does not present with any strong four-storey element.

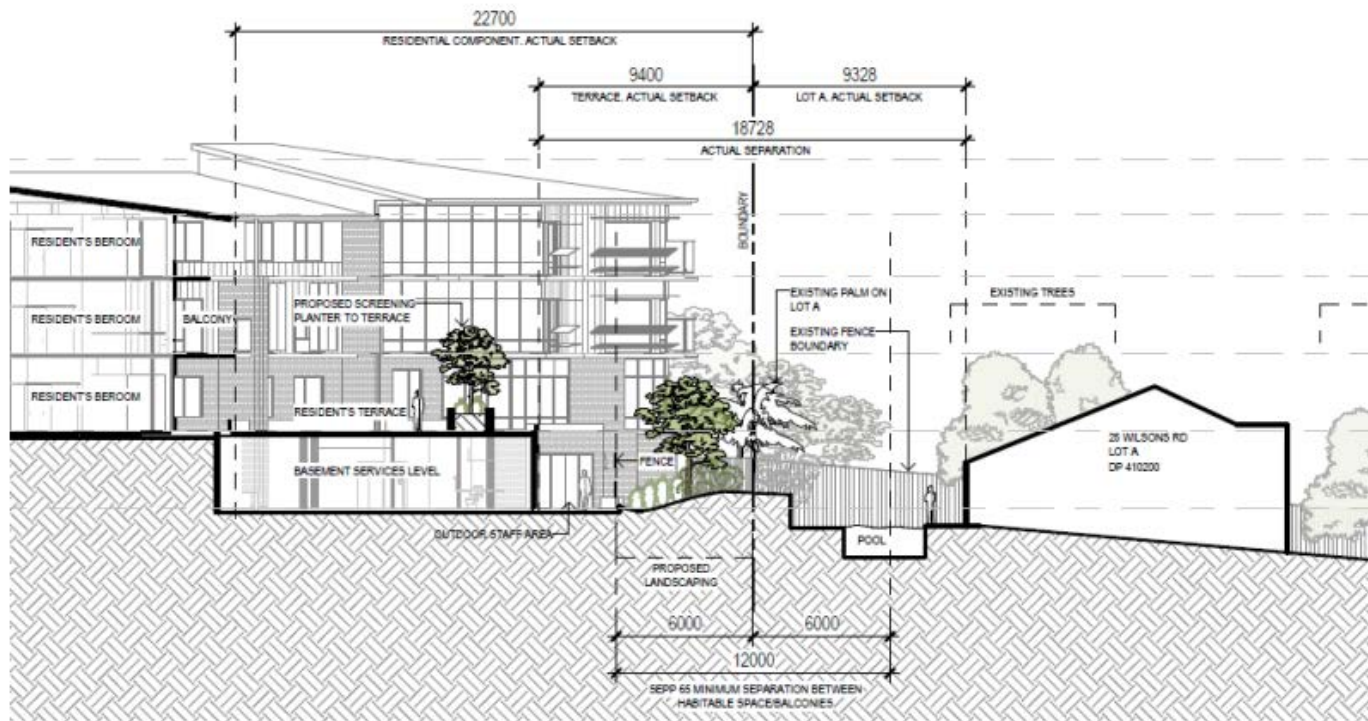
The following cross sections depict the location of the building with regard its proximity to the nearest neighbour at H/No. 25 Wilsons Road. The cross sections show that at its nearest point the building is located 7m from the shared boundary with H/No. 25 Wilsons Road. Within this setback, the landscape plan shows the provision of landscaping. The site and land immediately adjoining the site is zoned for medium to high density development. Using the Residential Flat Design Code (RFDC) as a tool for separation distances, the RFDC provides for a separation distance of 12m for buildings up to four storeys in height. When the separation distance is apportioned across both sites, the development should be setback a minimum of 6m from the common boundary. The development provides a 7m setback.

Figures 7 and 8 show the 12m separation distance nominated under the RFDC apportioned between the two lots. With the inclusion of additional landscaping on the development site, between the building and the adjoining lot the existing dwelling at H/No. 25 Wilsons Road is afforded appropriate amenity in terms of minimising the opportunities for over viewing and by providing a landscaped outlook. Should the site at H/No. 25 Wilsons Road be developed the separation between the proposed building and the lot boundary enables development on 25 Wilsons Road in line with the RFDC controls; that is, for a building up to four storeys a separation distance of 12 metres can be provided between the two lots.

The building has a maximum height of 13m. The design generally presents as a two storey built form to the street and surrounding properties with the proposed modulation and articulation allowing the building to present as a mix of different building types. The additional height is provided for in the centre of the site, positioned away from the street frontages and existing facilities. The larger setbacks and proposed high level of landscaping along the street frontages will assist in reducing and softening the visual appearance of the building.



**Figure 7:** Cross-section from the proposed building to the dwelling at H/No. 25 Wilsons Road



**Figure 8:** Cross-section from development over the balcony to the adjoining dwelling at H/No. 25 Wilsons Road





**Figure 9:** Extract from application showing the internal road entry looking east



**Figure 10:** Extract from application showing Violet Town Road looking east

Visual access to the site is exposed to motorists travelling along Violet Town Road and Wilsons Road however; existing and proposed vegetation along the eastern boundary will provide some screening, which will result in the development being well placed and appropriate for the future higher density of this area.

The street setbacks to Wilsons Road vary between 31m and 50m. A minimum setback to Violet Town Road of 4.7m is proposed, however the main building frontages are setback five to six metres.

Overall the development provides an appropriate transition between the residential dwelling along Wilsons Road and the shopping centre to the north as well as

providing a strong street address to Violet Town Road. The intersection of Wilsons Road and Violet Town Road will have retained vegetation to provide filtered views of the development from the intersection. The development is an acceptable integration of land uses.

### 2.7.2 Landscape

A landscape plan and landscaping documentation has been provided as part of the development. Council's Landscape Architect has provided comment on the landscaping and is generally satisfied that the development will be adequately landscaped to assist in mitigating potential impacts of the development. Overall, the landscape outcomes are considered to be acceptable and would achieve a category 3 design outcome.

The need to retain vegetation particularly to the corner of Violet Town Road and Wilson Road from a streetscape visual outcome and as noted in the submitted VIA analysis is emphasised. Tree retention and replanting as proposed and recommended in the landscape and arboriculture documentation is fully supported.

The nominated pot sizes and mass planting areas are supported both from a visual and streetscape outcome. The enhanced low understorey of low habit mass planting will provide a natural visual outcome from street views both from Violet Town Road and Wilson Road. This will also assist in fragmenting built form and provide a softening of built form through filtered views beneath and replanted understorey canopy. The open palisade fence will be visually softened by the backdrop of mass planting.



**Figure 11:** Landscaping proposed in close proximity to the building

Figure 11 shows (red dashed line) dementia laps provided within secure areas of the site. The existing vegetated areas will be embellished to create a tranquil landscaped setting.

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

#### 2.7.3 Public Open Space

The proposed development does not propose any public open spaces within the development site.

#### 2.7.4 Pedestrian Networks and Places

The development proposes appropriate internal pedestrian networks and places. The proposed internal pedestrian network links all the buildings within the facility to the external pedestrian path on Violet Town Road.

The proposed and existing pedestrian network is considered appropriate for the development.

#### 2.7.5 Light, Glare and Reflection

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

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

#### 2.7.7 Signs

Signage has been addressed within the SEPP 64 section of this report.

#### 2.7.8 Fences

The site will be fenced with open palisade fencing to secure the site. Fencing will be set back from the site boundary to ensure it blends into the site and does not dominate any street view elevation. Fencing will be integrated with the landscaping for the site.

1.8m high open palisade metal fencing will be located:

- between the north and west wing of the building;
- between the northern wing and the boundary with H/No. 25 Wilsons Road;
- surrounding the staff courtyard, and
- between car park 4 and the boundary with H/No. 29 – 33 Wilsons Road.

The landscape plans provide cross sections of the proposed landscaping and fencing in various locations, showing the fencing integrating with the landscape design. The proposed fencing provides safety and security for residents and staff and is complementary to the existing streetscape character proposed within this landscape environment.

#### 2.7.9 Safety and Security

A CPTED report has been submitted with the application that adequately addresses the main crime risks. The report also identifies a number of strategies to mitigate further risks and to ensure that the proposal is designed and constructed in accordance with CPTED principles. Council's Crime and Safety officer has advised that the report is satisfactory for the development can be supported with the provision that the recommendations of the CPTED report (including surveillance, access control, territorial reinforcement, activity and space management, dwelling design,

lighting , access, car parking, fencing, and landscaping), are to be included as conditions of consent, additionally, the following conditions shall apply:

A long-term maintenance plan is to be developed. This is to cover maintenance of vegetation, graffiti management, litter control, lighting maintenance, and malicious damage. Graffiti is to be removed within 24 hours, and lighting, if damaged or broken should be restored within 48 hours.

The Crime Risk Assessment Report prepared for the proposal adequately addresses the main crime risks. The report also identifies a number of strategies to mitigate further risks and to ensure that the proposal is designed and constructed in accordance with CPTED principles. I concur with previous recommendation from Council that the measures identified in the report (Section 6, p14) regarding surveillance, access control, territorial reinforcement, activity and space management, dwelling design, lighting , access, car parking, fencing, and landscaping, are to be included as conditions of consent.

#### Section 3.1 to 3.7 (inclusive)

These sections were considered not applicable to the subject development.

#### Part 4.12 – Mount Hutton Area Plan

Mount Hutton is a residential area, supported by a large shopping precinct with two smaller local centres and a range of additional standalone uses, including nurseries and aged care facilities.

Residential development is predominantly low-density, although the area also offers opportunities for a variety of housing types and lifestyle choices. Maintaining and enhancing these opportunities to ensure a continued mix of housing is essential to the success of the suburb's liveability.

The intent of Council's requirements is to ensure Mount Hutton develops in an integrated manner that reflects community desires and development needs. The site is within the Wilsons Road South Precinct, which is characterised by the "Hillside" Aged Care Facility, which is located in the foreground to the south western ridge line. This ridgeline is well vegetated and is a significant backdrop to the suburb. This ridgeline is protected through zoning. The lower slopes to the ridge provide good opportunity for development in close proximity to the Mount Hutton shopping area. The area may be characterised as bushland and rural/residential housing.

Development within the Wilsons Road South precinct must be respectful of the treed ridgeline. This development has demonstrated through the visual impact analysis that there will be no adverse impact from the development with regard the treed ridgeline.

The proposal has respected the amenity of the area by providing appropriate setbacks to the streets and with the placement of the higher parts of the development within the middle area of the site closer to areas that will, over time, be developed for higher density development. The proposed development is designed to minimise environmental impacts, and risk of hazards to people and property in the locality. Adequate infrastructure is provided for the development and accessibility within and around the site will be improved. The bushland to the south of the site is part of an important flora and fauna corridor that is owned by Council. The development provides for significant setbacks from this area.

The proposed development will enhance and revitalise the site by delivering suitable building form closer to the street to provide a stronger street presence to the site that is comparable with surrounding built form. Additions to the existing aged care facility

is considered appropriate in that it will integrate well with the existing residential development in the area, and will respond appropriately to the existing commercial building form in the immediate vicinity.

The development will result in an integrated development that reflects the community's needs as well as development needs.

The development will maintain the valued environmental characteristics of the site whilst enabling a form of development, which is appropriate having regard to the site constraints. Importantly, the development of care beds in this environment is a highly sought after accommodation requirement for our aging population.

The development will increase the population density and increase employment within walking distance of the shopping facilities of Mount Hutton. The site is located on a bus route, which services surrounding development. While retirement villages are not a preferred development within the Wilsons Road South Precinct, the development is an extension to an existing facility that has ample area within the lot to provide for this type of development whilst respecting the natural amenity of the area. The development is considered appropriate for the site

The proposed development will:

- Assist in meeting predicted population needs
- Provide a quality living environment
- Respect the built form character of the area
- Be of a density and design that reflects a predominantly detached housing appearance
- Achieve a green and treed environment that enhances the existing and valued character of the suburb
- Be designed to work with the specific qualities of individuals.

The development will provide for an attractive and safe development that will complement the environment of the suburb.

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

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

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

The Regulation 2000 provides:

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

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

Planning Comment: The Government Coastal Policy does not apply.

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

Planning Comment: The development does not include demolition.

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

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

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

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

#### **Does the proposal fit the locality?**

The outcomes proposed will achieve a highly functional development compatible with the surrounding activities, including the existing aged care facility.

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

The site attributes are conducive to development of this nature subject to conditions of consent.

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

#### **Public submissions:**

Two submissions were received in relation to the proposal. The main matters raised in the submissions are summarised below.

- Traffic and impact on roads and adjoining properties / Location of proposed driveway / noise from increased traffic

#### Planning Comment:

The increase in traffic as a result of the development will be largely caused from the following activities:

- Construction of the development,
- Increase in staff at the facility,
- Being a care facility an increase in visitors to the facility.

It is considered the construction period will have the greatest impact through increased use of the site. The construction period will be, although considerable in time, finite and will have an end. Conditions of consent require the preparation of a CEMP to address, in part the increase in vehicle attendance at the site, parking and the like. The increase in traffic from visitors and staff upon completion of the development will result in a minor increase in traffic along this section of Violet Town Road. Conditions of consent will require the reconstruction of the driveway intersection with Violet Town Road in its new location as well as the associated seagull intersection requirements.

The proposed access to the development from Violet Town Road is being relocated approximately 30 metres to the north of the existing. The sight distances are acceptable at this location. The relocation of the entry will impact on the road line marking for the intersection of Violet Town Road and Wilsons Road. Medians will be designed and approved by Council via the Lake Macquarie Traffic Facilities and Road Safety Committee). A detailed design will be required for construction certificate approval.

The repositioning of the driveway will enable greater stopping distance for vehicles on Violet Town Road approaching the crest from the north. Violet Town Road has capacity to accommodate the development with the incorporation of road works to relocate the driveway and provide a seagull intersection which will provide safety in accessing the facility. The proposed works will not alter access arrangements to properties on the western side of Violet Town Road.

- Decrease in property values

#### Planning Comment:

There is no evidence to support that good development will decrease property values. This development will provide an attractive built form to Violet Town Road that will not detract from surrounding development but will provide a lead for future development of the area. Property values are not a consideration under section 79C.

- Impacts of the build, including noise, dust, vibration (potential for cracking of adjoining houses), hours of work and length of time, safety concerns

#### Planning Comment:

Proposed conditions of consent require the development of a Construction Environmental Management Plan (CEMP) that shall be developed in consultation with neighbours to reduce the impact of construction works, this plan will address, but not be limited to safety, noise, dust, vibration, traffic routes, hours of work and the like.

- Appearance of the development from Violet Town Road

#### Planning Comment:

This matter has been addressed within DCP1 (streetscape) section of this report.

- Clarification as to whether intended occupants are aged or mental health patients

#### Planning Comment:

The application is for a retirement village under Clause 41 of LMLEP 2004. A condition of consent will be provided that requires beds to be occupied by residents aged over 55 and their carers.

- Lack of parking

Planning Comment:

The development has demonstrated compliance with SEPP (Seniors) with regard to the provision of car parking. Council officers consider the development has provided car parking compliant with state controls.

- Impact of lighting from the development on properties opposite on Violet Town Road

Planning Comment:

The development does not propose lighting that will be directed across Violet Town Road. Conditions of consent are proposed to minimise light glare to adjoining properties.

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

**Submissions from public authorities:**

Submissions were received from NSW Rural Fire Service, Mine Subsidence Board and NSW Office of Water as integrated referral submissions, details of which are provided below.

Roads and Maritime Services, Ausgrid and Hunter Water Corporation commented on the application, details of these submissions have been provided throughout this report.

No other submissions from public authorities were received.

**79C(1)(e) the public interest**

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

**INTEGRATED DEVELOPMENT**

The application is integrated development in accordance with clause 91 of the Act, for the purpose of:

- section 100B of the Rural Fires Act 1997;
- section 15 of the Mine Subsidence Compensation Act 1961, and
- section 91 of the Water Management Act 2000.

The general terms of approval as nominated below are included in the proposed conditions of consent for the development.



### **Rural Fires Act 1997**

NSW Rural Fire Service provided their General Terms of Approval dated 20 January 2015; they are included in Appendix A as a condition of consent.

### **Mine Subsidence Compensation Act 1961**

The Mine Subsidence Board provided their General Terms of Approval dated 16 December 2014; they are included in Appendix A as a condition of consent.

### **Water Management Act 2000**

NSW Office of Water responded by providing General Terms of Approval for the development via letter dated 14 October 2014. The construction dewatering proposed for the project is deemed an aquifer interference activity in accordance with the definition in the Water Management Act 2000. Their General Terms of Approval are included in Appendix A as a condition of consent.

## **CONCLUSION**

Based on the above assessment it is concluded that the construction and operation of a retirement village as an extension to the existing aged care facility on the site at 3 Violet Town Road Mount Hutton, will result in an appropriate development, with no unreasonable environmental impacts.

Approval of the development, subject to conditions of consent, is considered to be in the public interest and meet the objectives of the Act, and promote the orderly and economic development of the land.

## **RECOMMENDATION**

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

## **ENDORSEMENT**

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

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

Elizabeth J Lambert  
**Senior Development Planner**  
**Lake Macquarie City Council**

I have reviewed this report and concur with the recommendation.

John Andrews  
**Chief Development Planner**  
**Development Assessment and Compliance**

**Attachment A: Proposed Conditions of Consent**

**Attachment B: Plans of Development**