

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2015HCC020
<b>DA Number</b>	DA/1043/2015
<b>LGA</b>	Lake Macquarie
<b>Proposed Development</b>	Residential Care Facility
<b>Street Address</b>	Lot 2 DP 788892 158 Macquarie Road, CARDIFF NSW 2285
<b>Applicant/Owner</b>	HAMMONDCARE
<b>Date of DA lodgement</b>	3 July 2015
<b>Number of Submissions</b>	10 submissions over 3 submission periods
<b>Recommendation</b>	Defer determination pending written support of the NSW Roads and Maritime Service being provided
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	General Development over \$20 million
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>• State Environmental planning Policy No. 44 – Koala Habitat Protection</li> <li>• State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• Lake Macquarie Local Environmental Plan 2014</li> <li>• Lake Macquarie Development Control Plan 2014</li> <li>• Environmental Planning and Assessment Regulation 2000</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Draft Conditions of Consent</li> <li>• Plans of Development</li> </ul>
<b>Report prepared by</b>	Anna Kleinmeulman – Development Planner – Lake Macquarie City Council
<b>Report date</b>	18 January 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

**Yes / No**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Yes / No / Not Applicable**

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**~~Yes~~ / No / Not Applicable**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**Yes / No / Not Applicable**

### Conditions

Have draft conditions been provided to the applicant for comment?

**Yes / No**

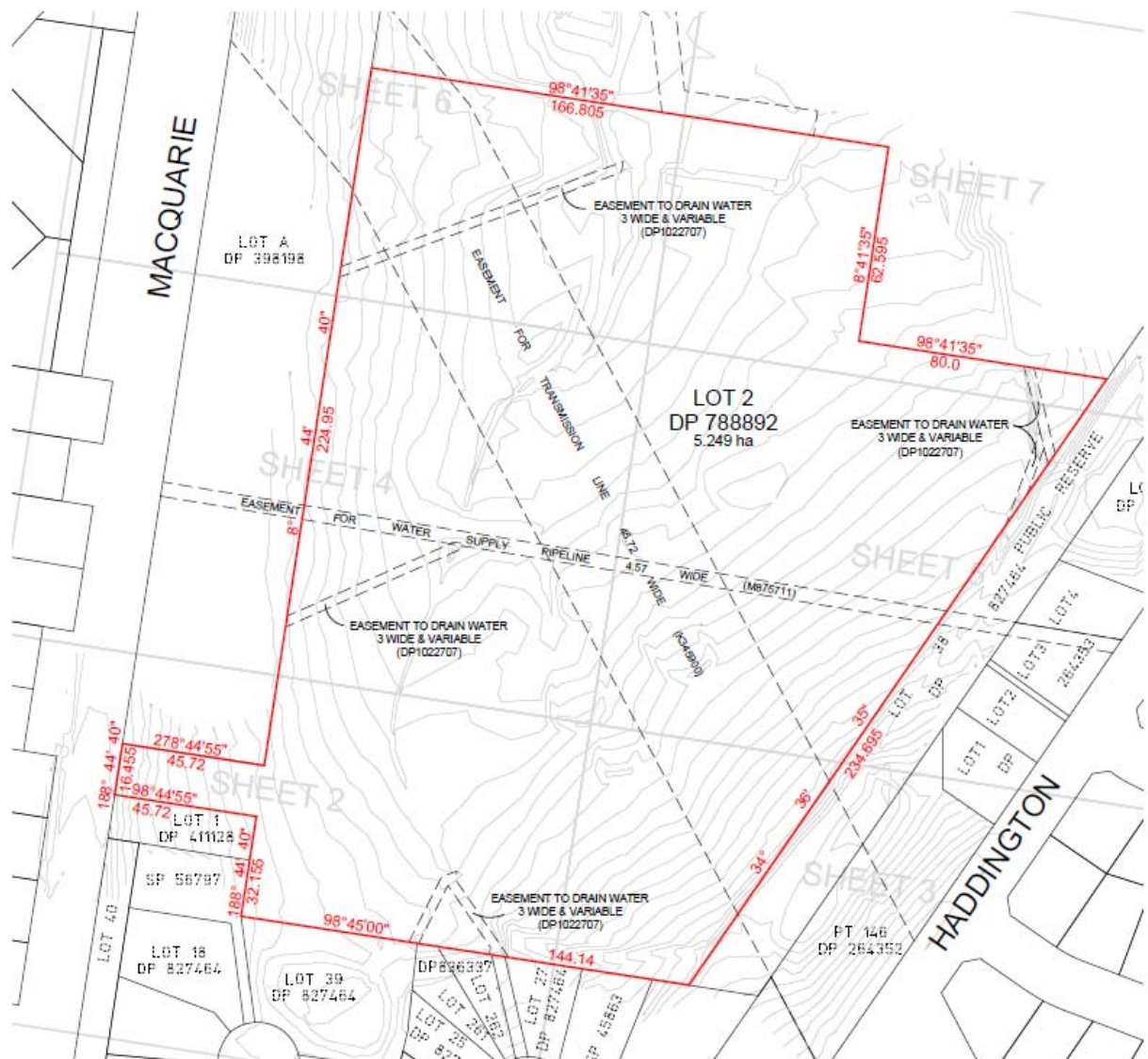
## Executive Summary

<b>Key Dates:</b>	Lodgement            3 July 2015 Amended Plans    19 May 2016 6 September 2016 7 October 2016 11 November 2016 20 December 2016
<b>Submission Period:</b>	1 <sup>st</sup> notification: 9 July 2015 to 24 July 2015 2 <sup>nd</sup> notification: 19 September 2016 to 3 October 2016 3 <sup>rd</sup> notification: 11 November 2016 to 29 November 2016
<b>Zoning:</b>	R2 Low Density Residential
<b>Approval Bodies:</b>	Mine Subsidence Board NSW Rural Fire Service
<b>Concurrence Body:</b>	Nil
<b>Referral Agencies:</b>	Ausgrid
<b>CIV:</b>	\$24,677,852

## Project Overview

### Subject Site

The proposed development is located on Lot 2 DP 788892, 158 Macquarie Road, Cardiff. The land is an irregular shaped parcel with an area of 5.249ha and a 16.45m frontage to Macquarie Road. The land is burdened by a number of easements that significantly restrict the developable area of the site. The site is also benefited by a right of carriageway linking the site to Ada Street to the north.



**Figure 1 - Subject site showing easements**

In addition to the easements burdening the land, a number of constraints apply to the lot:

- Bushfire prone land,
- Mine subsidence area,
- High hazard flood control lot, and
- Natural watercourse

The site is currently vacant apart from a small brick office/amenities building and metal weather shelter located at the northern end of the site associated with the existing use as a

golf driving range. The land has been largely cleared of native vegetation with only two small stands of vegetation remaining in the east and south of the site as depicted in Figure 2.



**Figure 2 - Aerial photo showing location of subject site**

### Proposed Development

The development entails the construction of a 99 bed dementia specific residential aged care facility incorporating administration and servicing building, shop, hairdresser and chapel as well as associated car parking, landscaping and drainage works. The development is concentrated on the southwestern side of the transmission easement that transects the site. The proposed buildings are predominantly single storey with the office and a portion of the high care building being two storeys in height.

The development is accessed from Macquarie Road with car parking concentrated along the western side of the site. Buildings are separated and interspersed with landscaping, reducing the overall bulk of the development.





**Figure 3 - Schematic site layout**

### Legislative Requirements

The application has been assessed against the relevant Plans and Policies applicable to the site. These include:

- State Environmental Planning Policy 44 – Koala Habitat Protection
- State Environmental Planning Policy 64 – Advertising and Signage
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP SL)
- State Environmental Planning Policy (Infrastructure) 2007
- Lake Macquarie Local Environmental Plan 2014
- Lake Macquarie Development Control Plan 2014

Consent is sought for a Residential Care Facility under SEPP SL and is permitted with development consent. The proposal is considered to generally meet the requirements of the above plans and policies as per the detailed assessment contained under the applicable sections of this report.

The application has been referred to Ausgrid, the Mine Subsidence Board, NSW Rural Fire Service (RFS) and NSW Roads and Maritime Service (RMS) for comment and the issuing of

General Terms of Approval where necessary. The requirements of these bodies are reflected in proposed conditions of consent.

It must be noted that support from the RMS for the access from Macquarie Road is contingent on the submission of further detail of the proposed road works required to facilitate a safe and efficient intersection. At the time of writing this report, this detail had not yet been provided by the applicant. It is recommended that the application be deferred for electronic determination subject to the written support of the RMS being provided.

## **The Assessment**

### **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**

An assessment of the compliance of the proposed development with SEPP SL has been undertaken. The development is considered to meet the applicable standards for residential care facilities as set out in the SEPP. The sections relevant to the application are discussed below.

#### **Chapter 1 - Preliminary**

##### **2. Aims of Policy**

The development is consistent with the aims of the Policy through the supply of housing for people with a disability in close proximity to urban services.

##### **4. Land to which the Policy Applies**

The subject site is zoned R2 and is therefore defined as land primarily for urban purposes. The SEPP applies to this land as per subclause 4(1)(a)(i) as dwelling houses are permissible on the land. The land is not excluded land in accordance with Clause 4(6).

This Policy prevails to the extent of any inconsistency between this Policy and any other Environmental Planning Instrument.

#### **Chapter 2 – Key Concepts**

##### **9. People with a disability**

The development will cater specifically for dementia patients. This meets the definition of people with a disability.

#### 10. Seniors housing

The development constitutes a residential care facility which is a form of seniors housing under this Policy.

#### 11. Residential Care Facility

The facility will include the provision of meals and cleaning services, nursing care and appropriate staffing, furniture, furnishings and equipment for the intended residents to meet the definition of a residential care facility. A condition of consent is proposed in this regard.

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

#### **Part 1 General**

#### 18. Restrictions of occupation of seniors housing allowed under this chapter

Subclause 18(2) requires that a condition of consent be imposed on any seniors housing development restricting occupancy to seniors or people with a disability, people who live in the same household as the afore mentioned or staff employed to assist in the administration or provision of services to housing provided under this Policy. A condition of consent relating to the above restriction is proposed and a restriction as to user registered on the property title is required.

#### **Part 2 Site-related Requirements**

#### 26. Location and access to facilities

The residents of the facility will have access to shops, banking facilities and other retail and commercial services, community services and recreation facilities and medical services through the provision of 12 seat mini bus as the site is in excess of 400m from these facilities. Given the disability of the intended residents, it is unlikely that residents will leave the facility on a regular basis to access these facilities. In order to ensure compliance with this clause a condition of consent is proposed that requires the provision of the bus and ensures it is available Monday to Friday.

#### 27. Bush fire prone land

The application has been referred to the NSW Rural Fire Service for General Terms of Approval as the site is identified as bushfire prone land and the facility is defined as a special fire protection purpose under the Rural Fires Act 1997.

General Terms of Approval have been granted by the Rural Fire Service, dated 20 August 2015. These conditions are included in the recommended condition set.

#### 28. Water and Sewer

The submitted plans have been endorsed by Hunter Water recognising that adequate water and sewerage services are available for connection.

29. Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

The consent authority must take into consideration the criteria referred to in subclause 25(5)(b)(i), (iii) and (v). The development must be compatible with surrounding land uses having regard to:

- the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land within the vicinity of the proposed development.
- The services or 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.
- 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.

In regard to the above criteria, the site is known to be bush fire prone (addressed under clause 27), susceptible to flooding and within mine subsidence area. The site is predominantly cleared and does not have any significant environmental value or resource.

The site is identified as “flood control lot – high hazard”. The development has been designed to meet Council’s requirements for development on flood liable land by setting floor levels at or above the probable maximum flood level identified for the site.

The application has been referred to the Mine Subsidence Board who have issued General Terms of Approval subject to conditions.

The development will provide a bus service for residents to access services in the surrounding town centres. Cardiff, Glendale and Warners Bay town centres are all within close proximity to the site and provide services required under SEPP SL. The existing services in the surrounding town centres are capable of accommodating the demand created by the development. Some services will also be provided on site including chapel, hairdresser and shop providing daily grocery needs.

The design of the facility has had due regard to the dominant land use and scale of development in the locality. The development has a maximum height of two storeys. Buildings have been separated to minimise the bulk and provide a built form compatible with the neighbouring low density residential development. Where adjacent to existing dwellings in Almora Close, the development observes a minimum setback of 10m (Building 10). The setback area will include the retention of several mature trees as well as ‘buffer plantings’ as depicted in the Landscape Plan submitted with the application. A VMP has also been submitted which will embellish the native tree plantings in this portion of the site (see Figure 3). These features, together with boundary fencing and the existing topography of the land will minimise the impact of the development on neighbouring residents.



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

### ***Division 1 General***

#### ***30. Site analysis***

A comprehensive site analysis plan and supporting documentation has been prepared for the subject site.

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

#### ***33. Neighbourhood amenity and streetscape***

Development adjoining the site is currently characterised by low density residential dwellings. The site has been used as a golf driving range for many years and is undeveloped other than a small shop/office. The site immediately to the north is largely undeveloped other than a disused soccer field and gravel access track to the golf range.

The site is accessed via a battle-axe handle from Macquarie Road. The site is screened from Macquarie Road by vegetation within a Council reserve.

The development has been designed to reflect the height of existing development within the locality with a mixture of one and two storey buildings. Buildings on the site have also been separated and distributed throughout the developable area of the site to reduce the bulk of the development and provide a village like feel to the residents.

A large number of the existing trees will be removed to accommodate the proposal. This is discussed in greater detail under the DCP controls. Replanting as proposed in the Vegetation Management Plan will result in an acceptable outcome. Additionally, the development will re-establish a riparian zone along the watercourse running through the site. The width of the riparian zone will vary in width to accommodate the placement of buildings and the constraints of the site. This is discussed under the relevant DCP controls.

#### ***34. Visual and acoustic privacy***

The development has been designed so as not to result in a significant loss of visual privacy with single storey building elements oriented towards adjoining properties.

Driveways and parking areas are generally located away from neighbouring properties with the exception of the proposed car park in the south western portion of the site which is adjacent to a neighbouring multi dwelling housing development. The topography of the land results in the multi dwelling housing development sitting higher than the proposed car park. It is anticipated that the impacts of this will be minor and will be able to be adequately ameliorated though solid boundary fencing as currently exists.

#### ***35. Solar access and design for climate***

The proposed development will not cause overshadowing to neighbouring properties. Within the development, Buildings 1 to 5 will house lower care patients and contain communal living/kitchen areas. Proposed buildings 1 and 2 have been oriented to receive

good passive solar access and natural ventilation to the communal living areas. The passive solar access to proposed Buildings 3, 4 and 5 will be less favourable due to the internal living areas being oriented in a south westerly direction. The development is designed with buildings positioned around a central area of open space and therefore there are constraints on the orientation of some of the buildings. It is noted that secondary sitting areas are provided with a northerly orientation and many of the bedrooms where residents may also spend a substantial amount of time also have good solar access. Building 10 will house high care patients and has communal living areas oriented to receive good solar access. Most bedrooms will also receive good solar access. This is considered particularly important for the high care ward where residents may be less mobile.

### 36. Stormwater

Stormwater design has been deemed satisfactory subject to conditions of consent. Further detail with regard to stormwater is contained in the discussion under DCP controls.

### 37. Crime Prevention

The facility is designed to accommodate residents with dementia. For safety, access into the residential areas will be secure and staff will monitor the area 24 hours a day.

A Crime Prevention Through Environmental Design Report (HammondCare Property & Capital Works, July 2016) has been submitted by the applicant. The report identifies a number of strategies to mitigate risk and to ensure that the proposal is designed / constructed in accordance with CPTED principles. Compliance with the recommendations of this report with regard to the surveillance, access control, territorial reinforcement, activity and space management with regard to dwelling design, lighting, access, car parking, fencing, landscaping shall be included as conditions of consent.

### 38. Accessibility

The development does not provide pedestrian links to public transport services or local facilities due to the distance to these exceeding 400m. Instead, a minibus will be provided with the development to transport residents to local facilities. As stated previously, due to the disability of the intended residents, it is unlikely that occupants will leave the facility unaccompanied.

57 parking spaces for staff and visitors are proposed on the western side of the site. This is accessed directly from Macquarie Road and is considered to be acceptable.

### 39. Waste Management

During operation, waste will be sorted by facilities management staff and separated appropriately. A garbage/recycling room is located within proposed Building 6. The applicant has advised that waste will be collected by a private contractor.

## **Part 4 Development standards to be complied with**

### **Division 1 general**

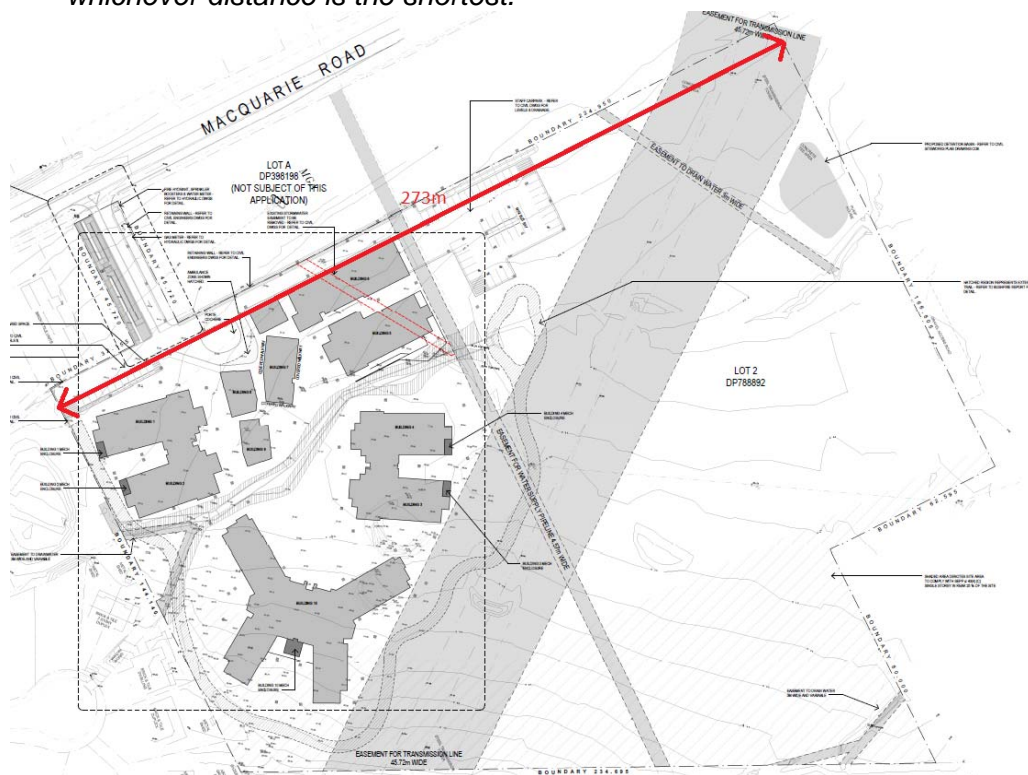
#### **40. Development Standards – minimum sizes and building height**

The subject site and proposed development meet the development standards as follows:

- Site size - 5.3ha
- Site frontage - The site has a 16.5m battle-axe handle providing vehicular access to the site from Macquarie Road. At the building line, the site has a width of 273.5m and therefore complies with the 20m requirement. Under the Standard Instrument – Principal Local environmental Plan “building line is defined as follows:

**building line** or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof, whichever distance is the shortest.



**Figure 4 - Building layout showing width of the property at the building line**

It is considered that the development meets the minimum width requirement at the building line as illustrated above. Should the Panel deem this interpretation to be incorrect, the applicant has submitted a Cl. 4.6 Objection to Development Standards in relation to the standard. This variation is supported due to the minimal impact associated with variation. This is discussed in more detail under Clause 4.6 of the Lake Macquarie LEP 2014.

- Height - The development does not exceed 8m and 2 storeys in height. No building in the rear 25% of the lot exceeds 1 storey as viewed from the neighbouring properties.

### ***Division 2 Residential care facilities – standards concerning accessibility and usability***

There are no development standards under this Policy. The development must comply with the relevant standards of the Commonwealth aged care accreditation standards and the BCA.

### ***Part 7 Development standards that cannot be used as grounds to refuse consent Division 2 Residential Care Facilities***

#### **48. Standards that cannot be used to refuse development consent for residential care facilities**

- Building height – Building height is below 8m. The application cannot be refused based on height.
- Density and scale – the development has a FSR less than 1:1. The application cannot be refused based on density.
- Landscaped Area – the landscaped area of the site exceeds 25m<sup>2</sup> per care bed. The application cannot be refused based on landscaped area.
- Parking for residents and visitors – 57 car parking spaces are provided on site. This exceeds 1 per 15 beds and 1 per staff member on duty at any time. At the above rates, the development requires 32 spaces. As such, the application cannot be refused based on parking.

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

#### **55. Residential care facilities for seniors required to have fire sprinkler systems**

The applicant intends to install a fire sprinkler system. Conditions of consent are recommended to reflect this requirement.

### **State Environmental Planning Policy 44 – Koala Habitat Protection**

SEPP 44 – Koala Habitat Protection applies to the subject site. The site is considered to form potential koala habitat due to the presence of *Eucalyptus signata* which is listed in Schedule 2 as a feed tree species and comprises greater than 15% of the trees remaining on the site. Upon inspection of the site, no trees were found to contain scratch marks consistent with their use by koalas. The nearest record is 3km away to the north east and the most recent record is 7km away to the south in 2006. The highly fragmented connectivity within the local area is considered unlikely to be suitable for a population of koalas to be sustained. There are only a limited number of koala records within a 10km radius of the subject site and as such, the site is not considered to comprise core koala habitat.

### **State Environmental Planning Policy 64 – Advertising and Signage**

The development proposes business identification signage on the feature walls adjacent to the vehicular entry on Macquarie Road. The proposed signage satisfies the requirements for

exempt development contained in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, therefore SEPP 64 does not apply.



Figure 5 - Schematic entry to the site

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

#### **101 Development with frontage to classified road**

The development has frontage to Macquarie Road which is identified as a classified road. The consent authority must not grant consent to development on land that has frontage to a classified road unless it is satisfied:

- a. *Where practicable, vehicular access to the land is provided by a road other than a classified road, and*
- b. *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - i. *The design of the vehicular access to that land, or*
  - ii. *The emission of smoke or dust from the development, or*
  - iii. *The nature, volume or frequency of vehicles using the classified road to gain access to the land, and*



- c. *The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or include measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

In reference to the above, the development is unlikely to be affected by traffic noise or emissions due to the substantial setback from Macquarie Road. Council's Environmental Management section have assessed the application with regard to noise and have not raised any specific concerns relating to traffic noise. A condition of consent relating to internal comfort levels has been recommended.

Although access from Ada Street is available via a right of carriageway benefiting the subject site, the applicant has sought approval for access from Macquarie Road. RMS does not object to this arrangement, however has requested additional design detail prior to granting their support. Until such details have been provided and RMS has granted their support, it cannot be concluded that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the design of the vehicular access.

#### 104 Traffic generating development

The proposal provides 57 car parking spaces associated with the residential care facility. As the development will have direct access to a classified road (Macquarie Road) and will incorporate greater than 50 car parking spaces, the proposal is identified as Traffic Generating Development as specified in Schedule 3 of the SEPP.

The application was referred to RMS in accordance with Clause 104. RMS raised no objection to the proposal subject to the provision of works within Macquarie Road to facilitate a "left in, left out" arrangement containing a deceleration lane. At the time of writing, the applicant had not provided the necessary detail requested by the RMS for them to complete their assessment. As such it is considered that there are outstanding matters which are required to be addressed and therefore the application cannot be determined. It is therefore recommended the determination of the application be deferred until RMS support is granted for the required works within Macquarie Road.

### **Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)**

#### **Part 1 – Preliminary**

##### 1.9A Suspension of covenants, agreements and instruments

The following covenants, restrictions and easements apply to the subject site (see Figure 1):

- 4.57m wide easement for water supply pipeline.
- 45.72m wide easement for transmission line.
- 3m wide and variable easement to drain water (B).
- 3m wide and variable easement to drain water (C).
- Restrictive covenant regarding the erection of boundary fencing.
- Reservation of minerals.

The proposed development intends to erect structures over one of the easements to drain water (C) listed above. This easement benefits Lake Macquarie City Council. The applicant has redirected stormwater from this easement and seeks for this easement to be extinguished. Council has no objection to this proposal subject to the stormwater design being generally as shown in the submitted plans. The development does not encroach on any other easement.

## **Part 2 Permitted or prohibited development**

### 2.3 Zone objectives and Land use Table

The subject site is zoned R2 Low Density Residential. Under the LMLEP 2014 the proposal is defined as “seniors housing” which is a permissible land use within the R2 zone subject to development consent. The application is seeking consent under SEPP SL however, the development is considered to generally comply with the objectives of the zone. In this regard the development provides for the housing needs of the community being dementia care within a low density residential environment. The development enables other land uses being a residential care facility that provides facilities to meet the day to day needs of residents. The development is sympathetic to the scenic, aesthetic and cultural heritage qualities of the built and natural environment.

### 2.7 Demolition of Structures

No demolition is proposed under this application. The existing brick office/amenities building currently associated with the use of the site as a golf driving range. Works associated with the proposed development will not affect the retention of these structures. The use of the golf driving range will not continue.

## **Part 4 Principal development standards**

### 4.3 Height of buildings

A maximum building height of 8.5m applies to the site. The development has adopted an 8m height in accordance with SEPP (Housing for Seniors or People with a Disability) 2004.

### 4.6 Exceptions to development standards

As identified in the discussion under SEPP SL, the applicant has made a submission under clause 4.6 in relation to the minimum site frontage (20m) required under the SEPP. As discussed, the objection is not deemed to be required as the requirement states a 20m width is required at the **building line** which is achieved under the proposed design. Notwithstanding this, should the Panel not concur Council's interpretation, the applicant's submission for a variation to the development standard is supported based on the following conclusions:

- Non-compliance will not hinder the achievement of the objects and purpose of the Environmental Planning and Assessment Act 1979.
- The objection is well founded as the assumed objectives of the site frontage standard are achieved notwithstanding the proposal's non-compliance.
- The site is of significant scale being 5.2ha in area. The development has a FSR of 0.12:1.

- The proposal only results in a departure of 3.55m from the 20m minimum frontage and still provides sufficient width for the access roadway, footpath and landscaping.
- Strict compliance with the 20m site frontage width would require amalgamation with an adjacent site to increase the site frontage boundary length which would be unnecessary given the significant size of the overall site where the buildings are to occur.
- The area of the site that contains a frontage less than 20m will be used as a pedestrian/vehicular access and not for construction of buildings.
- Variation will not result in any significant adverse impacts on the amenity of the neighbouring residential dwellings, in terms of views, wind, solar access and privacy.
- The proposal is not an inappropriate scale of development fronting Macquarie Road.
- Approval of the development would not result in an undesirable precedent.
- The proposal provides a social benefit by facilitating increased dementia specific aged care housing.

## **Part 5 – Miscellaneous provisions**

### 5.9 Preservation of trees or vegetation

The proposal includes the removal of a significant amount of native vegetation remaining on the site. The impacts of tree removal are discussed under the relevant section of the DCP.

## **Part 6 – Urban Release Areas**

### 6.3 Development Control Plan

The subject site forms part of the “Cardiff Area 1” urban release area. At the time of lodgement, a DCP had not been prepared as required under this clause. The application was held in abeyance for the preparation of the DCP to be undertaken. The Ada Street Cardiff Precinct Plan was prepared and adopted by Council on 9 May 2016. The plan became effective on 6 June 2016 as part of Revision 10 to DCP 2014. An assessment of the application against requirements of this plan is contained under the DCP component of this report.

## **Part 7 – Additional Local Provisions**

### 7.1 Acid sulfate soils

The development site was not identified as having potential Acid Sulfate Soils.

### 7.2 Earthworks

Earthworks are proposed in connection with the proposal. The impact of the proposed earthworks have been considered in the assessment of the application and are likely to be minimal. Further discussion is provided under the DCP controls.

### 7.3 Flood Planning

The site is identified as “flood planning area’ on the Flood Planning Map. The applicant has submitted flood modeling and a Flood Impact Report stating the impact on the proposed development will be acceptable and not result in unreasonable impacts on surrounding

properties. Council's Development Engineer has reviewed the submitted information and concurs with the conclusions drawn in this report.

#### 7.15 Development on certain land at Ada Street, Cardiff

The applicant has demonstrated compliance with this clause, which requires that there be no reduction in stormwater detention on the site following development. The existing stormwater detention in a 100 year flood event has been calculated at 1,238 m<sup>3</sup>. Stormwater storage following development is 1,361 m<sup>3</sup>. Additional storage is provided for in the detention basin, stormwater harvesting tank and the triple cell box culvert. The requirements of this clause have been satisfied.

#### 7.21 Essential Services

The applicant has ensured provision of essential services including water, electricity, the disposal of sewage, stormwater drainage and vehicular access. An electricity kiosk is proposed within the subject site to service the electricity needs of the development and Hunter Water have endorsed the plans indicating adequate water and sewer services are available. Adequate stormwater disposal and vehicular access are provided.

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

There are no draft Environmental Planning Instruments applying to this application.

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

### **Development Control Plan 2014**

#### **Part 1 – Introduction**

##### 1.15 Development Notification Requirements

The application was notified in accordance with Council requirements. There were three notification periods due to alterations to the proposal. These were as follows:

1. 9 -14 July 2015
2. 19 September – 5 October 2016
3. 11 – 29 November 2016

There were a total of 10 submissions received in relation to the application which are summarised later in this report. Issues raised predominantly concerned stormwater disposal from the site and road works within Macquarie Road.

#### **Part 3 – Development in Residential Zones**

##### 2.2 Scenic Values

The applicant has submitted photomontages of the development from different viewpoints within the locality to demonstrate the level of visual impact.

Council's Landscape Architect has provided comment on the impact of the development on scenic values as follows:

*The supplied photomontages highlight the importance of the existing trees in mitigating the visual impacts of the development. The significant loss of the trees from the north western corner and highest point of the site is of concern as depicted in photos 9/10, however this view corridor is not considered from Macquarie Road. Recommendation: supply a photo montage of the site viewed near the entry at Macquarie Road looking east as per the original Visual Impact Statement. This viewpoint is considered the most common observation point from public land.*

An additional photomontage looking from the site entry on Macquarie Road has been submitted by the applicant. Council's Landscape Architect maintains concern in relation to visual impact. It is the opinion of the assessing officer that the impact on scenic values as a result of tree loss can be adequately ameliorated through the implementation of the Landscape Plan and Vegetation Management Plan and there will not be a significant adverse impact on the scenic amenity of the area as a result of the proposal. Further discussion is provided under the Ada Street Precinct Plan controls later in this report.

### 2.3 Geotechnical

The portion of the site to be developed is identified as geotechnical Zone T5. No further geotechnical investigation is required.

### 2.4 Mine Subsidence

The application was referred to the Mine Subsidence Board (MSB) as Integrated Development. MSB granted conditional approval to the development. The MSB condition is provided in the recommended conditions of consent.

### 2.5 Contaminated Land

Council holds no records of any contaminating land use having occupied the subject site.

### 2.7 Stormwater Management & 2.8 Catchment Flood Management

A revised Stormwater Report, prepared by Taylor Thomson Whitting dated 16 December 2016 was submitted to Council along with further details relating to the stormwater system. Council's Development Engineer has assessed the proposal and is satisfied the stormwater system and proposed stormwater management on site is satisfactory.

The stormwater design consists of an open channel of variable width, with the minimum width being 10 metres and the average riparian corridor width being 20 metres through the site. The open channel has been designed to convey the 100 year storm event.

As the proposed development is for an aged care facility it is identified as a "flood sensitive use" in DCP 2014. This means habitable floor levels must be set at or above the Probable Maximum Flood (PMF) level. To achieve this outcome the developer proposes to pipe the difference between the 100 year and PMF flood discharge via a triple cell box culvert through the site. All floor levels are located at or above the PMF level.

The stormwater management system includes on site stormwater detention, stormwater harvesting (and reuse for irrigation) and stormwater quality controls. The management system satisfies DCP 2014 requirements.



## 2.10 Natural Water Systems

A natural watercourse traverses the site from south to north and will be redirected slightly to accommodate the proposed development. A riparian corridor with an average width of 10m either side of the watercourse will be established for rehabilitation and water quality purposes. The proposal has been reviewed by Council's Sustainability officer who is satisfied that the proposal will achieve the desired environmental outcome. The watercourse is not identified as a blue line on topographic maps. Referral to the NSW Office of Water is not required.

## 2.11 Bushfire

The site is identified as bushfire prone land. The application has been referred to the Rural Fire Service for General Terms of Approval as the development constitutes a "special fire protection purpose". The RFS have granted conditional approval to the development, dated 20 August 2015. The RFS GTAs are provided in the recommended conditions.

## 2.12 Flora & Fauna

Flora and fauna assessment and surveying has been conducted generally in accordance with the Lake Macquarie Flora and Fauna Survey Guideline.

The application proposes removal of 0.72 hectares of smooth-barked apple- red bloodwood-scribbly gum open forest. This vegetation type is not characteristic of a threatened community listed on the TSC Act or EPBC Act. Native vegetation at the site does not form part of a corridor mapped in Council's Native Vegetation and Corridor Map v1 (2011). There are 13 hollow-bearing trees at the site, of which seven are proposed for removal.

Impacts on flora and fauna have been adequately ameliorated through the provision of a Vegetation Management Plan which contains provisions for replanting of native vegetation, revegetation of the riparian corridor with appropriate species, provision of nest boxes to replace hollow bearing trees to be removed and ongoing weed control. Conditions of consent are recommended to further support these outcomes.

## 2.14 European Heritage

The former colliery tramway abuts the western boundary of the site. The tramway is listed as an item of local historical significance under Schedule 5 (Item 41) of the LMLEP 2014. The application has been assessed by Council's Heritage Planner who is satisfied the development will have no detrimental impact on the heritage significance of the tramway due to the separation proposed. Furthermore, it is unlikely that any archaeological remnants relating to the former tramway will be discovered during earthworks for the proposed development. It has been recommended as a safeguard that Council's standard condition relating to non-indigenous relics be included in any approval granted.

## 2.17 Social Impact

A Social Impact Assessment has been prepared and submitted in support of the application. The assessment identified limited potentially negative social impacts related to noise generation during construction activities and ongoing operation which can be ameliorated through conditions of consent and management practices of the facility.

Positive social impacts associated include the benefits generated for older people in the Cardiff area and their families, contribution to the anticipated future need for seniors

accommodation in the area to accommodate the aging population, and the generation of employment in the construction and operation of the facility.

### 2.18 Economic Impact

It is not anticipated the proposal will generate any adverse economic impact within the local area. The facility will create varying employment opportunities associated with the construction and ongoing operation which will contribute positively to the local economy. An economic impact assessment is not considered necessary in this instance due to perceived positive impacts and lack of negative economic impacts.

### 2.20 Utilities

The applicant has identified the proposed location of an electrical substation to service the development. It is proposed to locate the substation at the western end of the proposed vehicular access off Macquarie Road. This will be visually unobtrusive as viewed from the street. The application has been referred to Ausgrid who have provided general advice, dated 11 August 2015. A copy of this advice will be provided to the applicant.

### 3.1 Streetscape

It is intended to access the development via a 16.5m battle-axe handle from Macquarie Road. The buildings within the development will largely be screened from Macquarie Road by a 45m wide reserve located between the subject site and Macquarie Road. As a result, the proposal will not have a significant impact on the existing streetscape.

### 3.2 Street setback

As discussed above, the development does not directly address the street. Buildings are set back in excess of 50m from Macquarie Road.

### 3.3 Side setback & 3.4 Rear setback

The proposal exceeds the minimum side setbacks set out in the DCP for the R2 zone. A minimum side setback of 5.7m is maintained to the southern boundary. The development is not located in close proximity to any other side or rear boundary of the site.

### 3.5 Site coverage

Site coverage of the 5.25ha site is well below the 50% permissible under the DCP. Development is restricted to the south-west portion of the site (south-west of the transmission easement). Future development could be accommodated in the north-east of the site under a future application.

### 3.6 Building bulk

The building bulk of the development is considered to be consistent with the surrounding residential development. The development has a maximum height of 2 storeys with many of the buildings being single storey, particularly those located closer to neighbouring properties. The intent of the design is to create a "village feel" such that bulk is distributed throughout the development and not concentrated in a single structure.

### 3.8 Roofs

The roof form of the development is consistent with the residential character of the area and will not dominate building elevations. Hip-style roofing is proposed for the majority of

buildings (some with gables) with pitches ranging from 5% to 25%. Locations of rooftop plant equipment is shown on the submitted plans and will not be visually obtrusive when viewed from outside the subject site.

### 3.9 Views

There are no significant views available from or across the subject site.

### 3.11 Energy efficiency and generation

The development is not a BASIX affected building as defined under the EP& A Regulation 2000.

There is potential within the design and layout of the development for renewable energy generation (particularly solar) to be installed in the future.

## 4 Visual Privacy

The proposal will not adversely affect the visual privacy of neighbouring residents. Adequate separation is provided between the proposed buildings and the boundary to maintain privacy. In addition all structures near to the southern boundary are single storey and are located down slope of the existing dwellings accessed from Almora Close.

### 4.1 Acoustic Privacy

The site layout generally separates outdoor recreation areas and congregation points away from sleeping areas. Conditions of consent are proposed in relation to noise from plant and equipment impacting neighbouring residents.

### 4.2 Landscaped Area & 4.3 Landscape Design

A significant number of mature native trees are to be removed to accommodate the proposal. Tree removal is offset by the provision of good quality landscaping throughout the portion of the site to be developed under this application as well as the Vegetation Management Plan which incorporates replanting in the southern portion of the site.

As only a small portion of the site is to be developed under this application, landscaped area (not formal landscaping) will be in excess of 55% of the total site area.

Landscape design and documentation has been prepared by Arcadia Landscape Architecture.

### 4.5 Front fences

Walls incorporating business identification signage are proposed at the Macquarie Road entrance to the site. The walls are proposed to be 1500mm in height. The walls are designed and positioned to be wholly within the boundaries of the subject site and will not affect sight distances for vehicles entering and exiting the site. A condition of consent is recommended.

### 4.6 Side and rear fences

A 1.8m high Colorbond fence acting as a radiant heat barrier to comply with Planning for Bush Fire Protection 2006 is proposed along part of the western boundary. The fence will separate Council's reserve from the site. No other boundary fencing is proposed under this

application although fencing is proposed within the development providing security to residents.

#### 4.7 Traffic & Transport

Access to the site is proposed via a battle-axe handle from Macquarie Road which is a classified road. The applicant has submitted a Traffic & Parking Report assessing the adequacy of parking provision, the potential traffic implications and the suitability of the proposed vehicle access, internal circulation and servicing arrangements. This report concludes the following:

- The traffic generation of the development will be consistent with other existing developments in the area;
- The traffic generation of the development will not present any adverse traffic implications;
- The parking provision is adequate for the needs of the development without detrimental impact on the surrounding on-street parking demand;
- The access arrangements will have regard for Austroads design criteria; and
- The internal circulation and parking arrangements are appropriate to current design standards.

No objection is raised to the proposed vehicular access from internal or external referral officers. The application has been referred to the RMS in accordance with the requirements of SEPP (Infrastructure) 2007. This is discussed under the relevant section of this report.

#### 4.8 Design of Parking and Service Areas

The proposed car park is consistent with Council's design criteria and will allow for the safe and efficient movement of vehicles within the development. The positioning of car parking is not considered to detract from the streetscape due to the distance from Macquarie Road, the retention of existing vegetation and the provision of good quality landscaping. A condition of consent relating to the construction of parking areas is recommended.

#### 4.9 Design of Driveways

The design of the vehicular access from Macquarie Road within the property boundaries is considered to be acceptable to cater for the needs of the development. The driveway achieves suitable grades and will allow for two-way traffic. Standard conditions of consent will apply with regard to driveway construction.

#### 4.11 Car parking rates

57 car parking spaces are provided for the proposed development. Car parking is in excess of that required under SEPP SL.

#### 4.12 Non-Discriminatory Access

An Access Report has been submitted in support of the application. This report concludes that adequate facilities and access throughout the development is achieved in the design and layout.

#### 4.13 Safety and Security

A CPTED report has been submitted in support of the application. The recommendations of this report are included in conditions of consent.

#### 4.14 Cut and Fill

Cut and fill throughout the development is within acceptable limits. Details of retaining structures have been provided. On the western boundary, retaining is limited to 900mm. Within the development, retaining within the building footprint varies according to the topography of the site and does not exceed 3m set in DCP 2014. The applicant must ensure that all works are contained within the property boundaries with no works to be carried out on the Council reserve adjacent to the site.

#### 5.1 Demolition and Construction Waste Management

An appropriate Site Waste Management and Minimisation Plan has been submitted in support of the proposed development as per DCP 2014 requirements.

#### 5.2 Waste Management

A private contractor for operational waste disposal is proposed. A garbage and recycling room has been allocated within the administration building adjacent to the service/loading dock.

#### 5.5 Erosion and Sediment Control

An appropriate Erosion and Sediment Control Plan has been submitted.

#### 5.6 Air Quality

The development is not anticipated to create any offensive or hazardous emissions that would affect the air quality of the surrounding area.

#### 5.7 Noise and Vibration

It is not anticipated offensive noise or vibrations will be emitted by the development. Conditions of ensuring that the facility complies with the provisions of the Industrial Noise Policy are recommended.

### **Part 12.20 – Ada Street Cardiff Precinct Plan**

#### 1.4 Desired Future Character

The proposal is generally consistent with the low-scale urban development envisioned for the site. The development comprises predominantly single storey buildings which are separated by landscaped spaces which will not present as a bulky development when viewed from neighbouring properties. Mature trees will be retained and stormwater has been managed as per DCP 2014 and LMLEP 2014 requirements.

#### 1.6 Design and Layout for Development

The proposal is generally consistent with the Structure Plan. Vehicular and pedestrian access is from Macquarie Road.



### 1.7 Stormwater Management

Stormwater will be managed in accordance with Council's requirements. The drainage corridor traversing the site will be revegetated with riparian plantings as discussed above. Flooding impacts have been adequately addressed. See discussion under DCP 2014 Part 3.

### 1.8 Bushfire Management

The development will be constructed in accordance with Rural Fire Service requirements, including fire trails and asset protection zones. General Terms of Approval have been issued by NSW Rural Fire Service.

### 1.9 Transport and Access

Access is proposed from Macquarie Road. Roads and Maritime Service is yet to grant their support for this arrangement as discussed previously.

### 1.10 Ecological Values and Scenic Amenity

Under the provisions of this Plan, the applicant must retain a minimum of 20 structurally sound medium-large trees within 40m of the site's common boundary with 14-20 Almorea Close. The amended tree retention plan submitted by the applicant does not demonstrate compliance with this requirement as only 18 of the 21 retained trees meet the requirements of a medium-large tree (10m height, 4m spread). It appears, however, that compliance could be achieved through a more thorough and accurate assessment. The tree retention plan contains inconsistencies with regard to trees being removed/retained. In particular:

- Tree 159 is identified for removal however appears unaffected by the development.
- Tree 161 is identified for removal in the Tree Assessment Table but shown retained in SULE Assessment Plan. Tree appears to be unaffected by the development.
- Tree 166 is identified for retention in the Tree Assessment Table but shown removed on the SULE Assessment Plan. This tree is identified as a dead snag and appears to be unaffected by the development.
- Tree 173 is identified for removal however appears unaffected by the development.

Effort shall also be made to retain Tree 109 & 152 which have been identified as Visually Significant Trees. It appears that the Fire Trail can be realigned to protect the structural root zone of Tree 109 and pruning may allow the retention of Tree 152. Further assessment by a qualified Arborist will be required.

A condition of consent is recommended requiring the submission of an amended Tree Retention Plan demonstrating compliance with the DCP. This plan shall be approved by Council prior to any works commencing on the site.

### 1.11 Visual Impact and Landscaping

Landscaping of the site in accordance with the submitted Landscape Plan and Vegetation Management Plan is considered to be acceptable and in accordance with Council requirements.

### 1.12 Mine Subsidence

The application has been referred to the Mine Subsidence Board as Integrated Development. The Mine Subsidence Board have granted conditional approval as discussed under the relevant section of this report.

#### **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,*

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.*

The proposal does not include demolition.

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

The following matters were considered and, where applicable, have been addressed within 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 sought after development compatible with the surrounding area.

#### **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?**

The application was formally notified for 14 days in accordance with Council's notification policy on 3 occasions.

#### **Notification Period: 9 – 24 July 2015**

One submission was received during this notification period. The matters raised are summarized below:

- There is no legal right for the subject property or Council to drain water to Lot 1 DP 788892.  
  
Comment: The development discharges stormwater to a natural watercourse which subsequently drains to Lot 1. There are not deemed to be any legal restrictions on the applicant discharging stormwater to the watercourse.
- There is no apparent identification of upstream amplification, extension or modification notwithstanding apparent reliance upon it by the applicant.  
  
Comment: The applicant has submitted an amended stormwater management plan and documentation demonstrating Council requirements have been satisfied with regard to stormwater management.
- Clause 7.15(3) of LMLEP 2014 has not been complied with where the applicant acknowledges that there is increased flooding as a consequence of the development.

Comment: The applicant has submitted amended stormwater management plans and flood modeling. Council's Development Engineer has assessed the proposal and is satisfied that Clause 7.15(3) of LMLEP 2014 has been met.

- The applicant relies on the use of Lot 1 DP 788892 as flood storage when it is not (nor is the Council) entitled to do so.

Comment: The applicant does not rely on Lot 1 for flood storage. The development provides stormwater detention and water quality controls within the subject lot as per the requirements of Clause 7.15 of the LMLEP 2014.

#### Received outside the notification period

Six submissions were received outside the notification period. Two of these submissions comprised petitions containing four signatories. Both petitions were from the same parties. The matters raised are summarised below:

- Potential negative impacts on traffic safety and property access as a result of the proposed concrete median that the RMS requires the applicant to construct in Macquarie Road to restrict access to the development to "left in, left out".

Comment: The design of works within Macquarie Road to facilitate access to the site has been amended to respond to the concerns of residents opposite the site entry.

- Objection to the draft Ada Street Area Plan. Issues raised include stormwater disposal, stormwater detention and flooding impacts and inconsistencies with the Lake Macquarie LEP.

Comment: The submission was in relation to the exhibition of the draft Ada Street Area Plan. The Plan was by Council on 9 May 2016. The plan became effective on 6 June 2016 as part of Revision 10 to the DCP.

#### Notification Period: 19 September - 3 October 2016

No submissions were received.

#### Notification Period: 11 - 29 November 2016

Three submissions were received during the notification period. The matters raised are summarised below:

- The details of the proposed road works in Macquarie Road are unclear and unresolved.

Comment: The applicant is required to submit additional information in relation to the proposed works in Macquarie Road in response to the requirements of the RMS. This matter remains outstanding.

- Impact on property access opposite the proposed site entry on Macquarie Road as a result of required works within the road reserve and impact on traffic safety.

Comment: The design of the works within Macquarie Road to facilitate safe access and egress to the site has been amended to respond to the issues raised. The RMS will assess the final design and have acknowledged the impact on existing property accesses.

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

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 15 of the Mine Subsidence Compensation Act 1961, and
- Section 100B of the Rural fires Act 1997.

The General Terms of Approval from the Mine Subsidence Board and the NSW Rural Fire Service are included in the draft conditions of consent.

## **Conclusion**

Based on the above assessment and having regard to the submissions received it is concluded that subject to the support of the Roads and Maritime Service being provided for the required works within Macquarie Road the proposed residential care facility is an appropriate development for the site with no unreasonable impacts.

It is recommended the application is approved pending the provision of written advice from the RMS supporting the proposed access and road works.

## **Recommendation**

It is recommended that determination of the application be deferred pending the written support of the Roads and Maritime Service being provided and that upon such documentation being provided to the panel, the application be determined via electronic means.

## **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 authorized 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.



Anna Kleinmeulman  
**Development Planner**  
**Development Assessment and Compliance**

I have reviewed this report and concur with the recommendation.



Elizabeth Lambert  
**Chief Development Planner (Acting)**  
**Development Assessment and Compliance**

**Attachment A: Proposed Conditions of Consent**

**Attachment B: Plans of Development**