

JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

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| JRPP No | 2016HCC003 |
| DA Number | DA/2125/2015 |
| Local Government Area | Lake Macquarie City Council |
| Proposed Development | Alterations and Additions to Aged Care Facility |
| Street Address | 87 and 89 Toronto Road, Booragul |
| Applicant/Owner | Anglican Care |
| Number of Submissions | Nil |
| Regional Development Criteria (Schedule 4A of the Act) | General development that has a capital investment value of more than \$20 million. |
| List of All Relevant s79C(1)(a) Matters | <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 • Lake Macquarie Local Environmental Plan 2014 • Lake Macquarie Development Control Plan 2014 • Division 10 Existing Uses – Environmental Planning and Assessment Act 1979 • Part 5 Existing Uses – Environmental Planning and Assessment Regulations 2000 • Lake Macquarie Development Contributions Plan (Citywide – Glendale) <p>External Referrals</p> <ul style="list-style-type: none"> • Section 100B Rural Fires Act 1997 • Section 15 Mine Subsidence Compensation Act 1961 • State Environmental Planning Policy (Infrastructure) 2007 |
| List all documents submitted with this report for the panel's consideration | Attachment A: Proposed Conditions of Consent Attachment B: Plans of Development Attachment C: Agency Submissions |
| Recommendation | Approval subject to conditions |
| Report by | Carlos Ferguson, Development Planner, Lake Macquarie City Council |
| Report date | 15 April 2016 |

Executive Summary

Key Dates: 17 December 2015 - DA lodged
6 January 2016 – 21 January 2016 - Notification
22 February 2016 – Request for Information
2 March 2016 – Submission of Additional Information

Notification Period: 6 January 2016 – 21 January 2016

Zoning: R2 Low Density Residential
SP1 Special Uses (Mines)

Approval Bodies: NSW RFS
Mine Subsidence Board
Sydney Trains

Referral Agencies: Ausgrid

CIV: \$20,200,000

Proposal

This application seeks development consent for alterations and additions to the existing Aged Care Facility at 87-89 Toronto Road Booragul. The proposal involves reconfiguration and additions to the Fred Lean and C A Brown facilities. The changes will result in five additional beds, from 120 to 125.

The applicant has advised that the primary purpose for the redevelopment is to upgrade the C A Brown and Fred Lean Aged Care Facilities (located in the northern part of the site) to improve the residential amenity and fire safety measures.

The development will also involve:

- removal of the existing kitchen/food preparation area and laundry (being relocated to an offsite facility)
- relocation of the existing Day Therapy Unit from the Fred Lean facility to under the C A Brown facility (in the location of the current laundry).
- construction of a water feature adjacent to the new entry
- creation of a new central reception area, café and function area
- construction of new car parking near Day Therapy Centre (7 additional spaces and extra bus bay)
- landscaping
- signage (2 entry signs, and 2 signs associated with the Day Therapy Centre)
- consolidation of 87 Toronto Road (Lot 10 DP 1048813) and 89 Toronto Road (Lot 66 DP 592211). The existing Fred Lean facility, and proposed works, are located over both lots. The applicant seeks for this to occur prior to the issue of an Occupation Certificate.

The development is regional integrated development, requiring general terms of approval from the NSW Rural Fire Service and Mine Subsidence Board. The Joint Regional Planning Panel is the consent authority, due to the cost of works exceeding \$20 million.

A photograph showing the York Street View of the site. The image displays a grassy area in the foreground, a metal guardrail, and a road. In the background, there are trees and a building. A red rectangle highlights the 'Proposed additions' to the building. A yellow callout box points to the 'Existing Independent Living Units (not subject of this DA)'. The sky is blue with some clouds.

PROJECT 2014076 Anglican Care Booragui
York Street View
01/03/16

Existing Independent Living Units (not subject of this DA)

Proposed additions

JACKSON TEECE

ISSUE 1 | 01/03/16 | DAB3

[illegible]

Figure 3: Existing Floor Plan

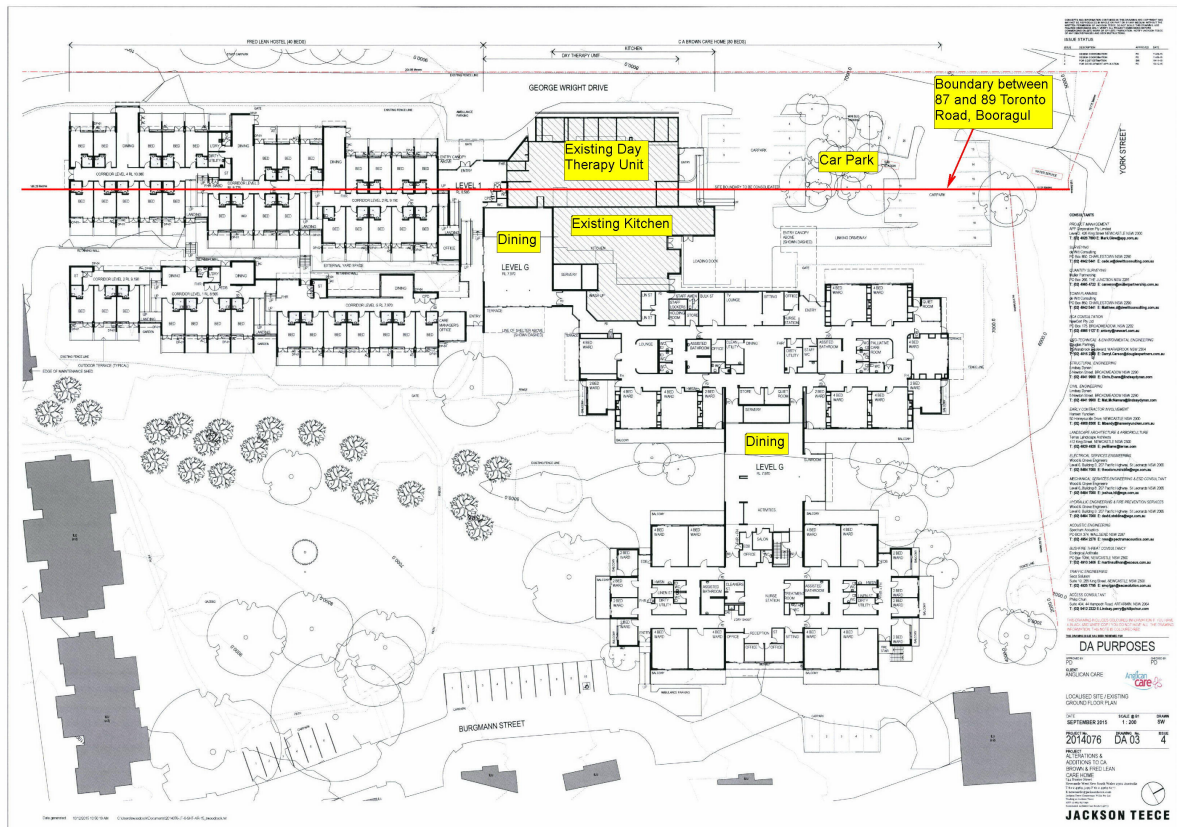
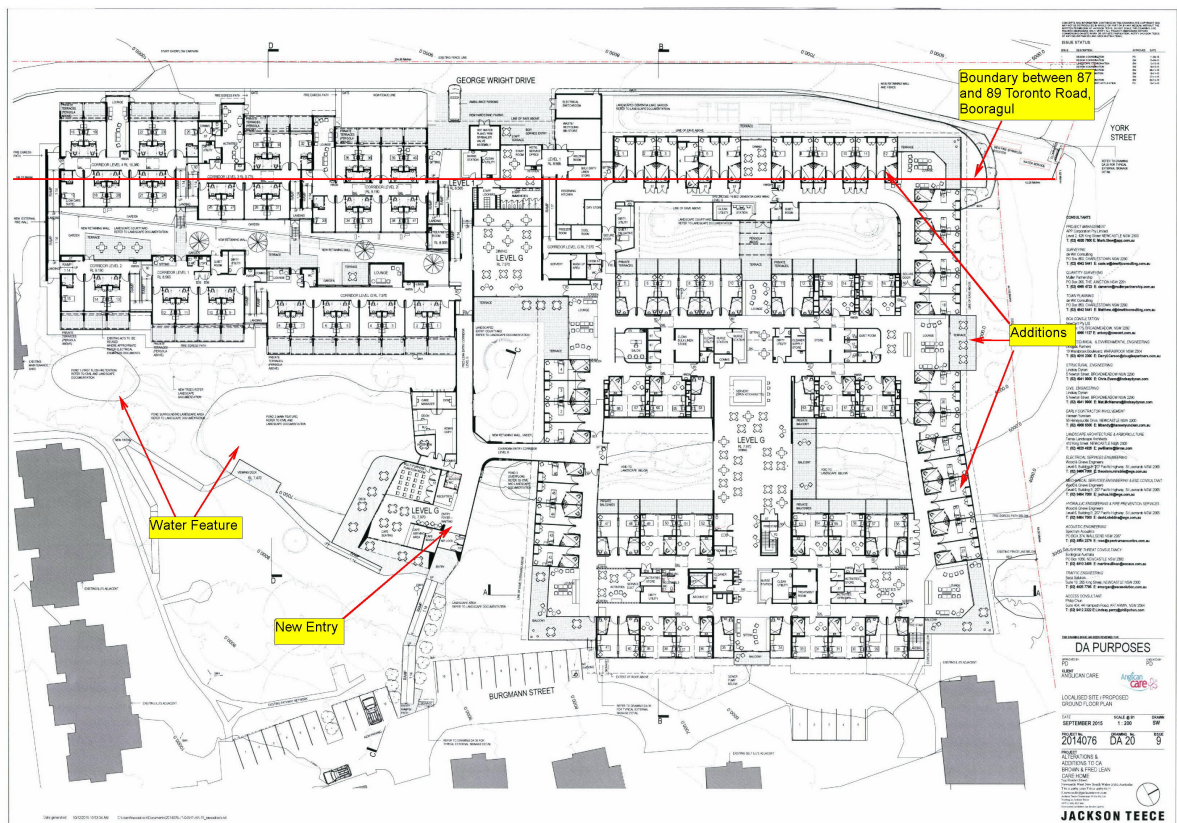


Figure 4: Proposed Floor Plan



Boundary between 87 and 89 Toronto Road, Booragui

Proposed Day Therapy Centre

DA PURPOSES

PROPOSED LOWER GROUND FLOOR PLAN

2014076 DA 21

JACKSON TEECE

The development application is lodged over two lots, Lot 10 DP 1048813 and Lot 66 DP 592211, known as 87 and 89 Toronto Road Booragul, respectively. The subject site and respective lots are shown in the figures below:

Residential

Industrial

Subject Site - Fred Lean and C A Brown Facilities

Booragui Train Station & Newcastle to Sydney Rail Corridor

Streets shown: MYRTLE STREET, AWARA STREET, REGENT AVENUE, CADOGAN STREET, YORK STREET, LAKE CRESCEN, FIVE ISLANDS ROAD, WOODWARD STREET, LINDA STREET, WILLARD PARK, THIRD STREET, FIRST STREET, BELL STREET, ASPENALL STREET, KANGAROO STREET, RENS STREET, RANGLAND STREET, TORONTO ROAD, STATION STREET, FOURTH STREET.

Scale: 1:5000

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Date: 26-Apr-18

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Figure 6: Lot 10 DP 1048813 and Lot 66 DP 592211



The subject lots have a combined area of approximately 5 hectares. The Fred Lean and C A Brown facilities occupy an area of approximately 5,685m².

The site is located at the intersection of Toronto Road, Five Islands Road and York Street, Booragul. The southern part of the site fronts Fourth Street and Station Street. An access road known as George Wright Drive is located within the site adjacent to the west and north boundaries.

The south western boundary of the site adjoins the Sydney to Newcastle railway line. Booragul Train Station is to the west. Immediately north of the site is the old Teralba Colliery to the north, which is currently used for industrial purposes.

There are vehicle access points located off Toronto Road and George Wright Drive. The main access point to the Fred Lean and C A Brown facilities site is located off York Street.

Site Constraints

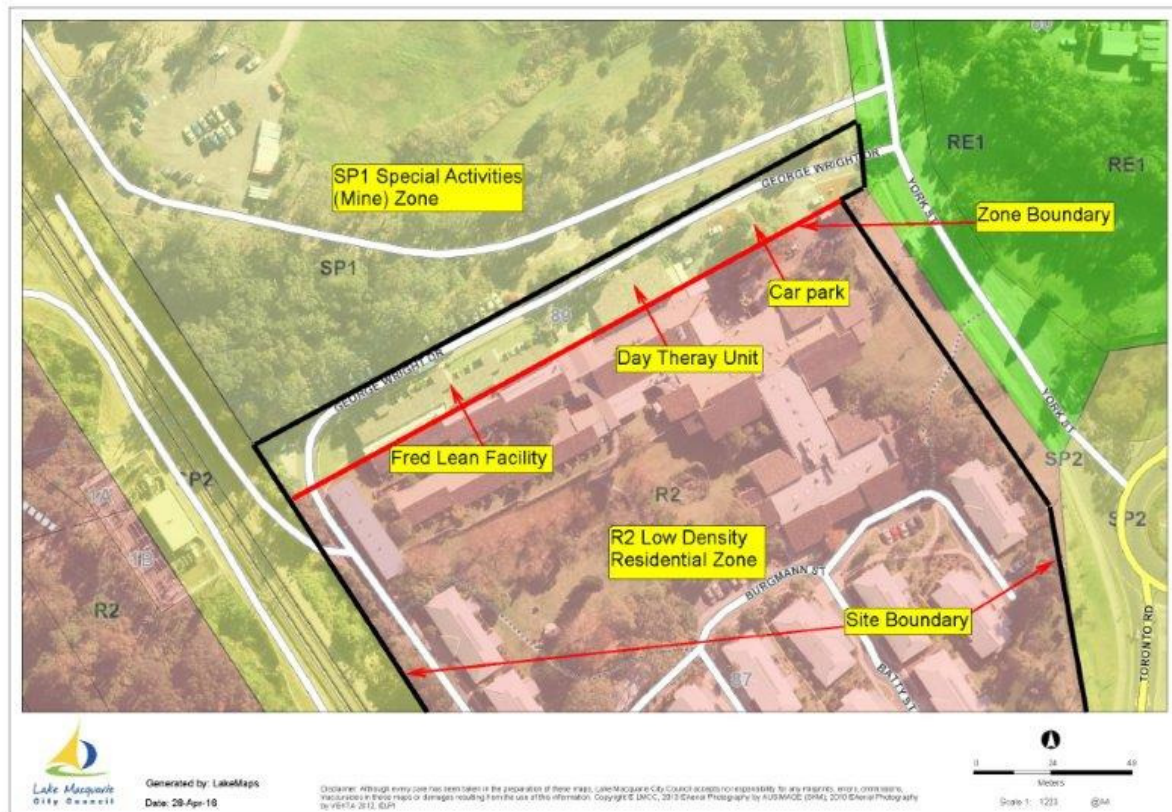
The site is identified as being bush fire prone, and is located within the Teralba Heritage Precinct. The site has a gentle slope from the west (railway line) to the east (York Street/Toronto Road).

The development is partially located on land zoned R2 Low Density Residential and SP1 Special Activities (Mine). The planning implications are discussed below.

Key Issue – Existing Use Rights

The applicant has identified that part of the proposal relies on the existing use provisions of the Environmental Planning and Assessment Act and Regulations, due to the existing Aged Care Facility being partially located over 89 Toronto Road, which is zoned SP1 Special Activities – Mine (see Figure 7 below).

Figure 7: Zone boundary and Existing Development



Seniors Housing and Residential Care Facilities are not permissible within the SP1 zone under State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 and Lake Macquarie Local Environmental Plan 2014 (see assessment of these sections for further details).

Figure 7 above shows the extent to which the Aged Care Facility is currently located on the SP1 zoned land. This includes part of the Fred Lean facility, the Day Therapy Unit (to be relocated as part of this proposal) and car parking.

The new development to be located in this area will include aged care rooms, service areas, landscaping and an ambulance parking area.

A review of Council's records confirms via aerial photos that the Fred Lean facility has been partially located over 89 Toronto Road since 11 February 1979. This review has also identified previous approvals (listed below) issued by Council over the land now identified as 89 Toronto Road – Lot 66 DP 592211 for the Aged Care Facility.

These applications were lodged over land referred to as Part Portion 33 FP 376513, Vol 5431, Pol 171, which is now identified as 87 and 89 Toronto Road, Booragul.

11 Jul 1975 Application lodged seeking approval for Nursing Home, Day Care Centre and Personal Care Units in two stages. Approved on 20 August 1975.

- 21 Apr 1977 Application lodged for Personal Care Units identified as Stage 1, which is currently the Fred Lean facility.
- 3 Jan 1980 Application for Nursing home and Day Care Centre (Stage 2), which currently form part of the C A Brown facility.

These approvals were issued under the Northumberland Planning Scheme 1960, which was in force until 1981 and zoned the subject land Special Uses "A" (Ecclesiastical). Under the Scheme, the proposal was defined as a "Hospital" and permissible on 89 Toronto Road.

"Hospital" was defined as *"a building used or designed for use as a hospital, sanatorium, health centre or dispensary, **a nursing home or home for aged**, infirm, incurable or convalescent persons, whether public or private, and includes a shop or dispensary used in conjunction therewith, but does not include an institution"*.

More recently, DA/3306/2002 approved 40 self care units, office and community facilities under the provisions of State Environmental Planning Policy 5 – Housing for Older People or People with a Disability, although this DA did not involve works to the Fred Lean or C A Brown facilities.

Under Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004), the subject land (89 Toronto Road) was identified as being zoned 4(1) Industrial (Core), which prohibited Seniors Housing.

Section 106 - Environmental Planning and Assessment Act 1979

Section 106 states that an *"existing use"* means:

(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of this Part, have the effect of prohibiting that use, and

(b) the use of a building, work or land:

(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and

(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

The construction and use of the Aged Care Facility on land within 89 Toronto Road was permissible within the Special Uses "A" (Ecclesiastical) zone under the Northumberland Planning Scheme 1960, and was established lawfully through applications in 1975, 1977 and 1980.

The land was later zoned 4(1) Industrial (Core) under LMLEP 2004, which had the effect of prohibiting the portion of the Aged Care Facility on 89 Toronto Road.

Council staff are satisfied that the existing development on 89 Toronto Road for the purposes of an Aged Care Facility was lawfully commenced prior to becoming prohibited under LMLEP 2004, and is an "existing use" under the provisions of Section 106 of the Environmental Planning and Assessment Act 1979.

Clauses 42, 43, 44 - Environmental Planning and Assessment Regulation 2000

The application seeks consent for alterations and additions to the existing use. Clauses 42, 43 and 44 of the Environmental Planning and Assessment Regulations 2000 permits the enlargement, expansion and intensification of an existing use, or the alteration, extension and rebuilding of any building used for an existing use, subject to development consent.

The proposal does not involve any change of use and consists of a minor intensification/extension (of 5 additional beds), which is to be carried out on the land which the existing use has been located over since 1979.

The proposed development is consistent with the provisions in Part 5 of the Regulations.

Land and Environment Court Principles - Existing Use

Council's assessment of the proposal has been consistent with established case law, in particular *Stromness Pty Ltd v Woollahra Municipal Council* (2006) NSWLEC 587, which determined that an assessment of an application involving an existing use is to be undertaken with regard to current environmental planning instruments, to the extent that they do not derogate from the existing use rights.

As part of this case, the court established four principles to provide guidance with regard to existing use rights, which are addressed below:

Principle 1 - How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?

While planning controls, such as height, floor space ratio and setbacks do not always apply to sites with existing use rights; they are likely to have relevance to the assessment of applications on such sites. This is because the controls generally apply to surrounding sites and indicate the kind of development that can be expected if and when surrounding sites are redeveloped. The relationship of new development to its existing and likely future context is a matter to be considered in all planning assessments.

Comment – The proposal will not adversely impact the existing or likely future character of the area, or the use of adjoining properties, particular to the north which is used for industrial purposes.

The subject site and the SP1 zoned land property to the north have the same 8.5m height limit under LMLEP 2014. The proposal also represents a residential use, which is generally less intensive than the industrial type use of the adjoining property.

Principle 2 – What is the relevance of the building in which the existing use [sic] takes place?

Where the change of use is proposed within an existing building, the bulk and scale of that building are likely to be deemed acceptable, even if the building is out of scale with its surroundings, because it already exists. However, where the existing building is proposed for demolition, while its bulk is clearly an important consideration, there is no automatic entitlement to another building of the same floor space ratio, height or parking provision.

Comment – The proposal involves refurbishment and minor extensions to the existing buildings, but will not substantially change the built form of the existing Aged Care Facility. The proposal is considered to be reasonable with regard to impacts on the streetscape and adjoining properties.

Principle 3 – What are the impacts on the adjoining land?

The impact on adjoining land should be assessed for all development. It is true that where, for example, a development control plan requires three hours of sunlight to be maintained in adjoining rear yards, the numerical controls does not apply. However, the overshadowing impact on adjoining rear yards should be reasonable.

Comment – The development is not likely to generate any impacts on adjoining properties. The proposal does not increase any potential conflicts with the existing industrial activities on the adjoining property to the north.

Principle 4 – What is the internal amenity?

Internal amenity must be assessed as it is assessed for all development. Again, numerical requirements for sunlight access or private open space do not apply, but these and other aspects must be judged acceptable as a matter of good planning and design. None of the legal principles discussed above suggests that development on sites with existing use rights have lower amenity than development generally.

Comment – The development will provide an improved level of internal amenity for residents of the Aged Care Facility. An acoustic report has been submitted with the application that recommends attenuation measures to reduce noise from the adjoining railway line, which is the main noise source affecting the proposed development.

ASSESSMENT

SECTION 79C: POTENTIAL MATTERS FOR CONSIDERATION

Section 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

The site is predominantly zoned for urban purposes, being R2 Low Density Residential under LMLEP 2014, and is subject to the provisions of the SEPP.

The application has been submitted under the provisions of this Policy, which sets aside the local planning provisions. This is consistent with recent approvals over the site, which were subject to the provisions of SEPP 5 – Housing for Older People and People with a Disability.

Part of the site (89 Toronto Road) is zoned SP1 – Special Activities (Mine) under LMLEP 2014, which adjoins land zoned for urban purposes (87 Toronto Road), however due to the existing use rights a site compatibility certificate is not required for the development.

The proposal is considered to comply with the relevant provisions of this Policy. In particular, Council is satisfied that the development complies with the design and development standards in Clauses 32, 40 and 48 where relevant.

With regard to height, the development will have a two storey component (in the C A Brown section), and has a maximum height of 7.816m measured from the ground floor to the ceiling of the 1st floor. The proposal complies with the 8m height limit in the Policy.

State Environmental Planning Policy 71 Coastal Protection

The site is located within the coastal zone under the policy, however is not located within in a sensitive coastal location nor involves significant coastal development. The matters for consideration in Clause 8 have been taken into consideration. The proposal does not conflict with the requirements of the Policy.

State Environmental Planning Policy (Infrastructure) 2007

The development involves works adjacent to a rail corridor that will potentially impact electricity infrastructure. As such, Division 5 “Electricity transmission or distribution” and Division 15 “Railways” are relevant to the proposal.

The application has been referred to Ausgrid and Sydney Trains in accordance with the requirements of the Policy. Comments from these agencies are discussed in the Submissions section of this report. The proposal does not conflict with the requirements of the Policy.

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

Zoning

The development will be located on land zoned R2 Low Density Residential (87 Toronto Road Booragul) and SP1 Special Activities – Mines (89 Toronto Road Booragul).

The south-east part of 87 Toronto Road Booragul is zoned SP2 Infrastructure, but does not relate to this application.

Figure 7: Zoning Map



Definition

The development seeks consent for alterations and additions to an existing residential care facility, which fits the Dictionary definition of “*seniors housing*” in LMLEP 2014.

Permissibility

The land use table lists Seniors Housing as a use that is permissible with consent in the R2 zone, but is prohibited in the SP1 zone as it does not relate to the purpose (Mining) shown on the Land Zoning Map.

As discussed earlier in this report, the applicant has sought to utilise the Existing Use provisions in the Act and Regulations with regard to works proposed within the SP1 zone. Figures 3 and 4 respectively identify the part of the existing and proposed development that is located on the SP1 zoned land, to where the existing use applies.

Objectives

The development is considered to be consistent with the relevant zone objectives, as detailed below:

R2 Zone

- *To provide for the housing needs of the community within a low density residential environment.*

Comment – The proposal will provide improved and additional seniors housing in a form that is compatible with the existing character of the surrounding area.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment - The development consists of improvements to an existing residential care facility and will include facilities and services such as the Day Therapy Centre that will provide support to the local community.

- *To encourage development that is sympathetic to the scenic, aesthetic and cultural heritage qualities of the built and natural environment.*

Comment - As detailed later in this report, the proposed development is not likely to impact the scenic, aesthetic or cultural qualities of the existing streetscape, adjoining properties of the character of the surrounding area.

SP1 Zone

The proposal is considered to be consistent with the objectives of the SP1 zone, to the extent that they do not derogate from the existing use rights associated with the Aged Care Facility.

The proposal will not increase the area of SP1 land currently used for the purposes of Seniors Housing or impact existing industrial operations on the adjoining property (zoned SP1), which consists of business operations associated with the mining industry.

The nearest structure on the adjoining property is located 140m from the development, and separated by an existing driveway and creek, which are likely to be retained in the future. The proposal will not reduce the existing buffer, nor is any additional buffer considered necessary, to the industrial operations on the adjoining property.

Clause 4.5 - Height of Buildings

The site is subject to an 8.5m height limit under LMLEP 2014. The proposed development will have a maximum height of approximately 8.95m measured in a vertical line from the ground floor to the ridgeline, and will exceed the LEP height limit.

As discussed previously, the proposal complies with the 8m height limit in SEPP Housing for Seniors and People with a Disability, which is measured from the ground floor to the ceiling. The SEPP controls prevail in this instance.

Clause 5.9 - Preservation of trees or vegetation

The development proposes removal of 22 trees, including two native trees along York Street which currently provide valuable screening/softening of the development frontage. The applicants arborist report has determined that only one of these (a Paperbark) is in good condition.

The remaining trees are landscape plantings located within stormwater drainage channel and the car park area off George Wright Drive. Council's internal Landscape referral has not raised any concern with the proposed tree removal, subject to the proposed landscaping scheme.

It is considered that the proposed landscaping scheme makes suitable provision for supplementary planting of native species. In particular, a row of five native trees shall be planted along the York Street frontage to replace the Paperbark to be removed.

The proposed tree removal is considered acceptable in this instance and does not require removal of any critical habitat or species of ecological or scenic importance.

Clause 5.10 - Heritage Conservation

The site is in close proximity to the Sydney to Newcastle Rail Line, which is identified in LMLEP 2014 as Heritage Item 189, being the Great Northern Railway (GNR). Council's internal heritage referral has identified that the proposal is not likely to impact the heritage value of the GNR.

The site is also within the Terabla Heritage Precinct under Lake Macquarie Development Control Plan 2014, which is discussed below.

Clause 7.21 – Essential Services

Essential services and infrastructure are provided to the site for the existing development. Hunter water has endorsed the plans confirming water and sewer are available to the site. It is noted that some upgrading of the electricity infrastructure is proposed as part of the development. Ausgrid has not raised any concerns in this regard.

Section 79C(1)(a)(ii) the provisions of any draft Environmental Planning Instrument

There are no draft EPIs applicable to the site or the proposed development.

Section 79C(1)(a)(iii) any development control plan (DCP)

Lake Make Macquarie Development Control Plan 2014

Part 11.3 Teralba Heritage Area Plan

The site is located within the Terabla Heritage Precinct. Council's internal heritage referral raised no concerns with regard to the proposed development. The proposal is considered to be consistent with the objectives of this Part.

Part 3 - Development in Residential Zones

The proposed development will predominantly be located on land zoned R2 Low Density Residential, and the proposal has being assessed against the provision of the Residential chapter of LMDCP 2014.

The development is considered to be consistent with the objectives of this Part, particularly with regard to the following relevant sections:

Section 2.7 - Stormwater Management

The proposal will utilise and improve the existing stormwater system. Roof water will be directed to the existing drainage channel through the site, which will be upgraded to cater for the 100 year storm event with 500mm freeboard.

Council's internal Subdivision Engineering referral has not raised any concerns with the proposed stormwater management plans. The proposal is considered to be comply with Council's Stormwater requirements.

Section 3.1 – Streetscape

The York Street streetscape character is largely created by the existing Aged Care Facility, as there is no other development clearly visible along the street until the Lake Crescent intersection, located 150m north of the site. At that point the character is formed by single storey older style residential dwellings on the eastern side of the road, and the existing Teralba Colliery buildings on the western side of the road.

The development will provide an appropriate street setback (see below) and will have a built form and landscaping that will provide visual interest along York Street. The development will have 3 outdoor terraces along the York Street frontage, and windows from the rooms addressing the street.

The development will also improve the site entry along York Street, and will maintain existing pedestrian connectivity from the bus stop/foot path to the development.

The development will provide an improved streetscape outcome, and is not likely to adversely impact the existing character of the streetscape.

Section 3.2 – Street Setback

The development will reduce the existing street setback to York Street from 12.5m (approx. existing) to 6.47m. There is no other nearby development on adjoining properties, nor is there any established streetscape pattern. The proposal complies with the 4m minimum street setback requirement in Section 3.2, and is considered suitable in this instance.

Section 3.5 – Site coverage

The proposal will have a minor increase in the footprint of the C A Brown/Fred Lean facility. The development will not exceed the maximum 65% site coverage requirement of Section 3.5.

Section 3.6 – Building Bulk

The proposed development is consistent with the controls and objectives of Section 3.6. The height and scale of the proposal is reasonably consistent with that of the existing aged care facility, and the change in street setback will not unreasonably increase the visual bulk of the development. It is noted that the development will have a continuous roof line facing York Street, which is discussed in Section 3.8 below.

Section 3.8 – Roofs

The proposed roof height complies with the controls in Section 3.8. It is noted that the proposed roof line facing York Street will have 2 continuous sections of 35m and 51m. The longer section is broken up by a separate roof over the lounge /terrace area, and the end sections provide some visual interest.

The applicant has provided a rendered 3D perspective (shown in Figure 1) of the development when viewed from York Street, which suitably demonstrates that the proposal will not have an unreasonable visual impact on the streetscape.

Section 3.10 – Solar Access and Orientation

The proposed development is located on the northern side of the site. The majority of rooms will have windows with either a northerly or easterly aspect and all common rooms and terrace areas will have suitable solar access.

Section 4 and 4.1 – Visual and Acoustic Privacy

The development is considered to provide a suitable level of visual and acoustic privacy. Rooms are orientated in alignment with screened balconies, and are separated from plant and services areas off George Wright Drive.

Section 4.2 – Landscaped Area

The proposed development will improve landscaping within the site, and is consistent with the objectives of Section 4.2. The proposal was reviewed by Council's Urban Design and Landscape Architect, who did not raise any objection to the proposal subject to a recommendation regarding removal of certain species from the design, which have been included in the conditions of consent.

Section 4.4 – Landscape Design

A suitable landscape design has been prepared by Terras Landscape Architects in accordance with Section 4.4.

Section 4.5 – Front Fences

The development will retain the existing open palisade fencing along York Street. This is considered acceptable and consistent with the objectives of Section 4.5.

Section 4.11 – Car parking

The applicant conducted an assessment of existing parking on the site, which consists of 179 parking spaces, three ambulance bays and a bus space.

The assessment determined that under SEPP Housing for Seniors and People with a Disability and Lake Macquarie Development Control Plan 2014, the site will require 119 spaces and 2 ambulance bays, taking into account the proposed development.

The development will result in the loss of 21 car parking spaces and a bus space off George Wright Drive, and an ambulance bay off the proposed Day Therapy Centre. The proposal will provide seven additional car parking spaces and two bus spaces off the proposed Day Therapy Centre.

Post development, the site will contain 167 spaces and 2 ambulance bays, and will exceed the parking requirements of LMDCP 2014 and SEPP Seniors Housing and People with a Disability. The proposal has been reviewed by Council's Traffic Engineer, who has not raised any objection to the proposed parking arrangements.

Section 4.12 – Non-Discriminatory Access

The proposal is for Seniors Housing, and has been designed to comply with accessibility standards. An Access Audit was submitted with the application, and was considered acceptable by Council's Seniors and Disability Access Officer.

Section 4.13 – Safety and Security

A Crime Risk Assessment was submitted with the application, and was considered acceptable by Council's Social and Community Planning Officer. It is noted that the new entry to the Aged Care Facilities will provide improved security, and the design is considered to be consistent with Crime Prevention Through Environmental Design principles.

Section 4.14 – Cut and Fill

The development proposes retaining walls within the proposed development with a maximum height of approximately 1m. The proposed cut and fill complies with the controls and objectives of Section 4.14.

Section 5.2 – Waste Management

The development will utilise maintain the existing arrangements for combined internal collection of waste from the development. The proposal is not likely to increase waste generation or requirement changes to this arrangement.

Section 5.7 – Noise and Vibration

The development is in close proximity to the Sydney-Newcastle rail corridor, and may be impacted from rail noise. An Acoustic Assessment has been submitted addressing likely noise impacts on the development, and makes recommendations for glazing requirements for rooms 16, 19, 22, 23 and 25.

It was identified that internal noise could be exceeded while windows were open, and in accordance with the "Development near Rail Corridors and Busy Roads - Interim Guideline" recommended that the design of the building must be such that the noise exposed rooms must meet ventilation requirements of the BCA (and other relevant standards) with windows closed, and that air should be ducted into noise affected bedrooms from a quiet area not exposed to the rail noise, or through the use of quiet, acoustically treated, ventilators.

Given the proposal involves alterations to an existing facility, it is considered that these measures will improve the existing residential amenity with the development, and is acceptable in this instance. Council's internal Environmental Management referral did not raise any objections to the proposal in this regard.

Part 9.17 Signage

The application seeks approval for 4 signs as part of the proposed development, including:

- A 2.4m x 1.2m illuminated entry sign off Burgmann Street (near proposed main entry)
- A 2.4m x 1.2m illuminated entry sign off York Street (George Wright Drive entry)
- A 1.3m x 900mm sign near entry to proposed Day Therapy Centre.
- A 1.3m x 900mm wall sign at entry to proposed Day Therapy Centre.

The proposed signage complies with the controls for illuminated, freestanding and wall signs in this Part.

The proposed illuminated sign off York Street is the only sign likely to be visible from the road, and will improve identification of the vehicular entry to the development. The sign is not likely to adversely impact adjoining properties or traffic conditions along York Street. It is considered reasonable to include a condition regarding managing lighting impacts.

Lake Macquarie Development Contributions Plan – Citywide (Glendale)

The site is subject to the Glendale Citywide Section 94 plan. Under the provisions of that plan, the development will require payment of Section 94 contributions for the additional beds. Council's Community Planning section has provided advised on the contributions required, which in this case is \$418.22.

The Section 94E Ministerial Direction dated 14 September 2007 does not apply to this application, as the applicant has not demonstrated that it is a "social housing provider" as defined in Clause 3 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. As such, contributions are required as per Council's Contributions Plan. The requirement for Section 94 contributions has been discussed with the applicant, who has no objections in this regard.

Section 79C(1)(a)(iiia) 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.

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

The Government Coastal Policy applies to this site. Issues associated with the Coastal Policy have been considered under the provisions of SEPP 71 – Coastal Protection.

Section 79C(1)(a)(i) the likely impacts of the development

Built Environment – The development is consistent with the design guidelines of Council's DCP, and is suitable with regard to the both the streetscape character and that of development on adjoining properties. The development is not likely to have a significant or adverse impact on the built environment.

Natural Environment – The proposed tree removal and stormwater arrangements are considered acceptable. The development is not likely to have a significant impact on the natural environment.

Social Impact – The development will upgrade the existing Aged Care Facility, and is likely to have an improved social impact.

Economic – The development is not likely to have any wider economic impacts.

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

The development is considered suitable for the location with regard to the character of the surrounding area, existing development on the site and adjoining properties and the physical and environmental constraints of the site.

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

Public Submissions

Nil.

Submissions from Public Authorities

NSW Rural Fire Service

The site is mapped as being bushfire prone, and the proposal is considered to be a Special Fire Protection Purpose. The application was referred to the NSW RFS as Integrated Development under Section 100B of the Rural Fires Act.

General terms of approval were issued on 16 March 2016, subject to conditions requiring BAL 12.5 construction for specified areas and standard APZ, services and emergency evacuation conditions. These have been included in the draft conditions.

Mine Subsidence Board

The site is within a Mine Subsidence District, and was referred to the MSB as Integrated Development under the Mine Subsidence Compensation Act.

A letter of approval was issued on 25 February 2016 subject to conditions. These have been included in the draft conditions.

Ausgrid

Ausgrid provided comment on 18 January 2016. No objections were raised to the proposal, but general advice was provided regarding matters that required consideration prior to construction works.

These included requirements for a new substation required for the development, clearance to overhead power lines, underground mains, electricity easements, method of electricity connection and conduit installation. An advice has been included in the draft conditions to this effect.

Sydney Trains

The application was referred to Sydney Trains under State Environmental Planning Policy (Infrastructure) 2007 for development immediately adjacent to rail corridors. Sydney Trains provided comment on 4 February 2016, recommending conditions regarding Acoustic Assessments, Stray Currents/Electrolysis, General Access and Excavations. These have been included in the conditions of consent.

Sydney Trains also included a request that the existing boundary fence between George Wright Drive and the rail corridor be replaced prior to the issue of a Construction Certificate, as the fence is generally 1.8m except for a low section located in a depression approximately 75m from the NW corner of the site.

Given that the fencing is an existing issue and that construction fencing associated with the development will be located on the other side of George Wright Drive, it is considered reasonable to include this as a condition of consent to be satisfied prior to the issue of an Occupation Certificate.

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

The proposal does not raise any wider public interest concerns, and approval of the application is considered to be in the public interest.

CONCLUSION

The application proposes alterations and additions to improve the existing Aged Care Facility at 87-89 Toronto Road Booragul.

Approval of the development subject to the recommended conditions is considered to be in the public interest and consistent with the objectives of the Act in promoting orderly and economic development of the land.

RECOMMENDATION

That DA/2125/2015 be approved subject to recommended conditions of consent.

ENDORSEMENT

The staff responsible for the preparation of the report, recommendation and 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.

Carlos Ferguson
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: Draft Conditions of Consent

Attachment B: Plans of Development

Attachment C: Agency Submissions