

JOINT REGIONAL PLANNING PANEL
Hunter and Central Coast

Panel Reference	2016HCC005
DA Number	DA/2122/2015
Local Government Area	Lake Macquarie
Proposed Development	Hospital Alterations and Additions
Street Address	42 Fairfax Road Warners bay
Applicant/Owner:	Erilyan Pty Ltd/ HCOA Operations Aust Pty Ltd
Number of Submissions	Eleven
Recommendation	Approval, subject to conditions
Regional Development Criteria	Private Infrastructure and Community facility that has a capital investment value of more than \$5 million.
List of all relevant s79C(1)(a) matters	State Environmental Planning Policy (infrastructure) 2007 State Environmental Planning Policy No. 55 – Remediation of land State Environmental Planning Policy No. 71 – Coastal Protection Lake Macquarie Local Environmental Plan 2014 Lake Macquarie Development Control Plan 2014
List all documents submitted with this report	Attachment 1 – Proposed Conditions Attachment 2 – Plans of Development Attachment 3 – Clause 4.6 Variation – Height of Buildings
Report by	Glen Mathews, Development Planner, Lake Macquarie City Council

Executive Summary

Date Lodged:	Original Plans:	17 December 2015
	Amended Plans:	08 June 2016
	Amended Plans:	08 August 2016
	Amended Plans:	26 August 2016
Submission Period:	First Notification:	12 January 2016 to 28 January 2016
	Second Notification:	17 June 2016 to 01 July 2016
Zoning:	R3 Medium Density Residential	
Approval Bodies:	Mine Subsidence Board	
	NSW Rural Fire Service	
Referral Agencies:	Hunter Water Corporation	
	Ausgrid	
CIV:	\$7,873,895.75	

Précis

The site is located at Warners Bay on the northern side of Lake Macquarie. To the north of the subject site is residential accommodation, to the east are Medcalf Street and a Council reserve, to the south is Biddabah Public School and to the west are Fairfax Road and residential development.

The site is an irregular shape and has an area of 21710m².

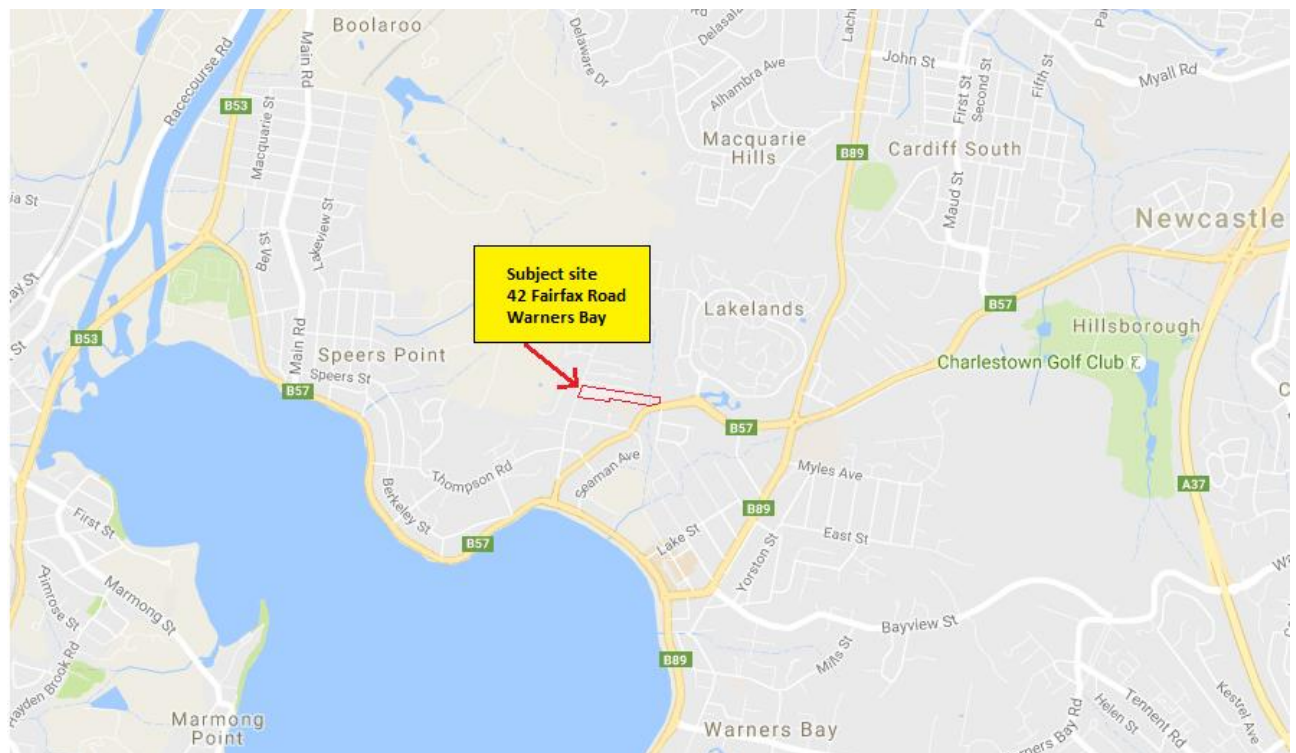


Figure 1 - Locality Plan

An existing Private Hospital is located on the site as can be seen in Figure 2. The existing facilities include:

- A large brick building running from west to east across the subject site presenting a single storey façade to the public domain and providing a two storey element at the rear of the site, which is aided by the topography of the land. The building contains 94 beds, 5 surgical theatres, 6 consulting rooms, ancillary break out rooms, kitchens and washing facilities.
- 94 car parking spaces are provided, with separate entrance and exit points being located at the western boundary directly onto Fairfax Road. Internally carparking areas are accessible from access ways along the north and partially along the south of the existing building.

The application proposes the retention of the existing facilities on the subject site and the partial clearing of vegetation to the east to facilitate the proposed additions.



Figure 2 - Ariel Photo of site showing extent of existing Private Hospital.

PROJECT DESCRIPTION

Erilyan Pty Ltd lodged the application. Ramsay Health Care who would also operate the extended facility, currently operate the existing facility. The development has a capital investment value of \$7,873,895.75.



Figure 3 - Visual representation of Eastern Elevation

The application seeks approval for the following:

- excavation works;

- removal of 2,900m² of partially cleared vegetation;
- removal of 600m² of intact vegetation;
- construction of approximately 2,600m² additional floor area for use as Private Hospital, comprising:
 - 39 additional beds (mental health) providing a total of 133 beds;
 - 4 additional consulting rooms providing a total of 10;
 - loss of 1 surgical theatre providing a total of 4;
 - dining and lounge areas;
 - group and multi-purpose rooms;
 - kitchen and laundry facilities;
 - visitor and residents amenities;
 - staff facilities and utility rooms, and
 - loading area;
- removal of 5 existing car parking spaces and provision of 56 new car parking spaces (total number of onsite spaces will be 152);
- construction of loading/ deliveries area;
- dry storage area;
- provision of a relocated bin storage area;
- stormwater infrastructure works; and
- landscaping works.

The proposed structure is located directly east of the existing hospital building extending the existing built form towards the east.

The building comprises three levels at the eastern edge with a maximum building height of 12m above existing ground. The highest point of the building is setback 2.8m from the southern site boundary which adjoins Biddabah Public School. and 8.2m from the northern boundary adjoining residential development and 150m from the eastern boundary, adjoining Medcalf Street.

When the new facility is operational, the Private Hospital will have total of 133 beds. The facility will operate 24 hours a day, seven days a week. Staffing levels will increase to a maximum of 100 during the main day shift.

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

THE ASSESSMENT

This report provides an assessment of the justification presented in the application against all relevant State and Local planning legislation and policy.

SECTION 79C: POTENTIAL MATTERS FOR CONSIDERATION

79C(1)(a)(i) the provisions of any Environmental Planning Instrument (EPI)

State Environmental Planning Policy (Infrastructure) 2007

The application complies with the definition of a *health service facility* at Part 3 Division 10 Clause 56 of the Policy.

Clause 57 (1) allows the development to be undertaken, by any person, with consent on land in a prescribed zone.

The proposal is located on land in a prescribed zone, as identified by the Policy, being land zoned R3 medium density residential under *Lake Macquarie Local Environmental Plan 2014* (LMLEP2014).

The development is prohibited under LMLEP2014, consequently permissibility is conferred under clause 57 of the Policy.

The development is also on land that is considered to satisfy *clause 101 – development with frontage to classified road* of the Policy. Whilst the development is orientated to a local road, it is considered that the Land the development is located on, fronts a classified road. In this regard, the matters for consideration at clause 101(1) & (2) have been taken into consideration. In this regard, Council is satisfied that the proposal does not conflict with these clauses of the Policy.

The application was also considered with regard to *clause 102 – impact of road noise or vibration on non-road development*. Under this clause, the proposal is not considered to conflict with the guideline “*Development Near Rail Corridors and Busy Roads –Interim Guideline*” published by the Department of Planning 2008.

Under clause 104, the scale of proposal does not trigger Traffic Generating Development as defined at Schedule 3 of the Policy.

The proposal is deemed consistent with the Policy.

State Environmental Planning Policy No. 55 – Remediation of Land

This SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

The subject site is identified as being outside of the area identified by Council as affected by the former Pasminco site. As such it is considered that the proposal will utilise previously undeveloped land in an area which is not identified as being potentially contaminated. Thus it was considered that no further assessment was required in this regard.

State Environmental Planning Policy No. 71 – Coastal Protection

This application has been assessed having regard to the aims of the SEPP. It is not expected that the proposed development will have adverse impact on achieving the aims of the SEPP.

In addition, the application has had regard to the matters for consideration in Clause 8 of the SEPP. The application will comply with the aims of the SEPP and the other matters for consideration under Clause 8 of the SEPP.

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

Clause 2.2 Zoning of land to which Plan applies

The subject site is zoned R3 Medium Density Residential. Surrounding lands are zoned:

- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation

No portion of the site has been identified for acquisition by Council.

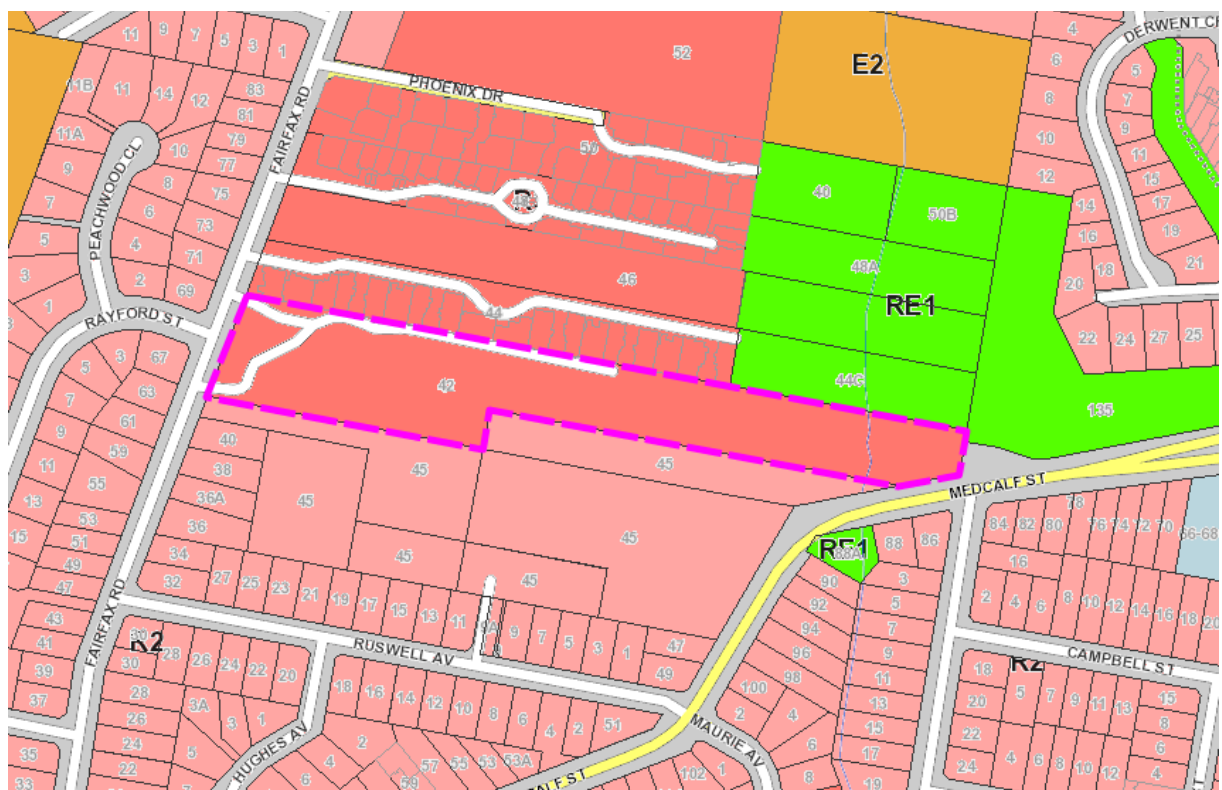


Figure 4 - Extract from Lake Macquarie Local Environmental Plan 2014 Zoning Map

Clause 2.3 Zone objectives and Land Use Table

As discussed above, permissibility is conferred under SEPP Infrastructure. Notwithstanding this, the proposal has been considered with regard to the relevant objectives of the R3 Medium Density Residential Zone:

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

Planning Comment:

The proposal is for alteration and additions to an existing private hospital. It has been demonstrated within the supporting information that the development will not unreasonably restrict the capacity of any adjoining site for future residential development.

- *To provide a variety of housing types within a medium density residential environment.*

Planning Comment:

The proposal is for alteration and additions to an existing private hospital. The proposal will not inhibit future provision of medium density development within the locality.

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

Planning Comment:

The proposed alteration and additions to the Warners Bay Private Hospital will provide 39 additional beds to service the immediate and wider community. These beds cater for mental health patients, providing a service to meet the needs of local and surrounding residents of Lake Macquarie.

- *To maintain and enhance the residential amenity and character of the surrounding area.*

Planning Comment:

The proposed location of the alteration and additions will not be highly visible from the public domain, thus the existing character presented to the streetscape will be maintained. Shadow diagrams have been provided which demonstrate that the development will not adversely impact on the solar access of adjoining residential development. The development will provide additional parking exceeding requirements of the Lake Macquarie Development Control Plan 2014 for a hospital, meeting the parking demands of the proposed facility.

Clause 2.4 – 4.2B

Not applicable.

Clause 4.3 Building heights

The maximum height prescribed for the subject site by the height of buildings map is 10m.

The building will exceed 10 metres in height from existing ground level.

The development seeks consent for the erection of buildings with a maximum height of 12m above existing ground level. In this regard, the consent authority must take into consideration whether the height is appropriate for the locality and to ensure that the building height encourages high quality urban form. In this regard an objection under Clause 4.6 is submitted for consideration.

Clause 4.4 – 4.5

Not Applicable

Clause 4.6 Exceptions to development standards

The development proposes a maximum building height which exceeds the 10m maximum building height identified by height of buildings map. A written submission under clause 4.6 has been considered below:

- 1) *The objectives of this clause are as follows:*
 - a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Applicants Comment: The applicant has demonstrated that the proposed variation will maintain the objectives of Clause 4.3 height of buildings and R3 Medium Density Residential zone, this demonstrates a degree of flexibility may be appropriate to the development standard in this instance. The applicant has put forward that the proposal will service the needs of the community providing 39 additional mental health beds and associate facilities over multiple levels providing a significant community benefit while retaining key ecological aspects of the site to the east. Thus it is provided that the development will achieve a better outcome from the flexibility of the standard.

Planning Comment: The proposal is for alterations and additions to the Warners Bay Private Hospital. The proposed development will exceed the maximum building height prescribed by Clause 4.3 height of buildings by 2m or 20% having an overall building height of 12m. The building height is measured from existing ground level to the top of the proposed plant screening on the roof. The plant screen is 1.2m high and set in 4.05m from the edge of the building or 4.65m from the edge of the roof, including eaves.

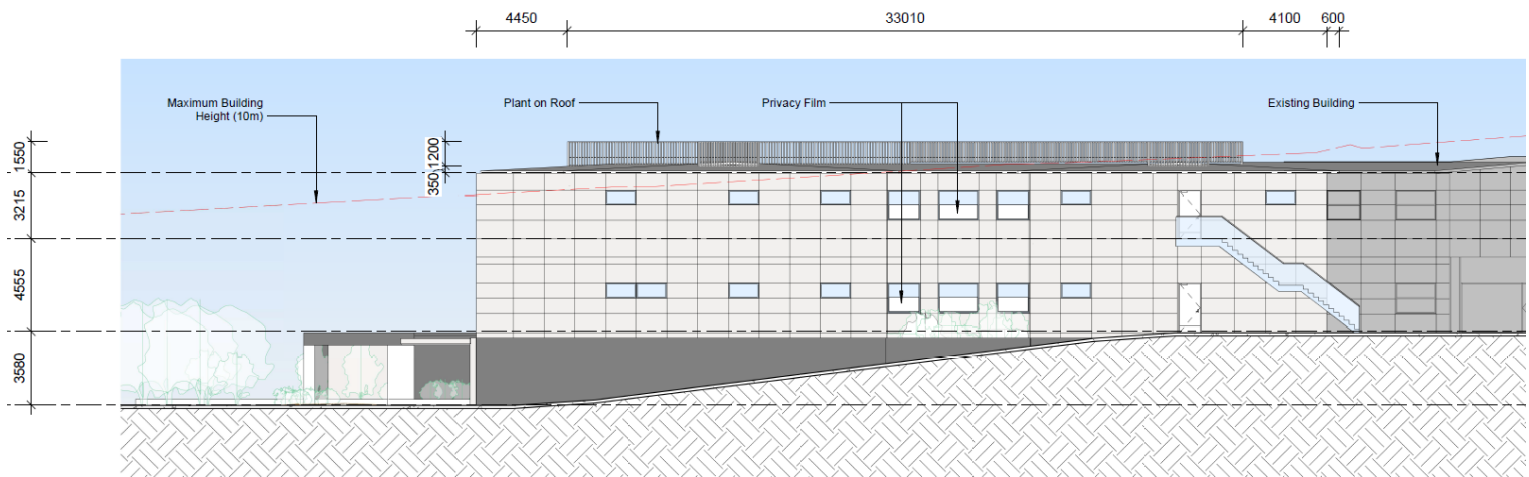
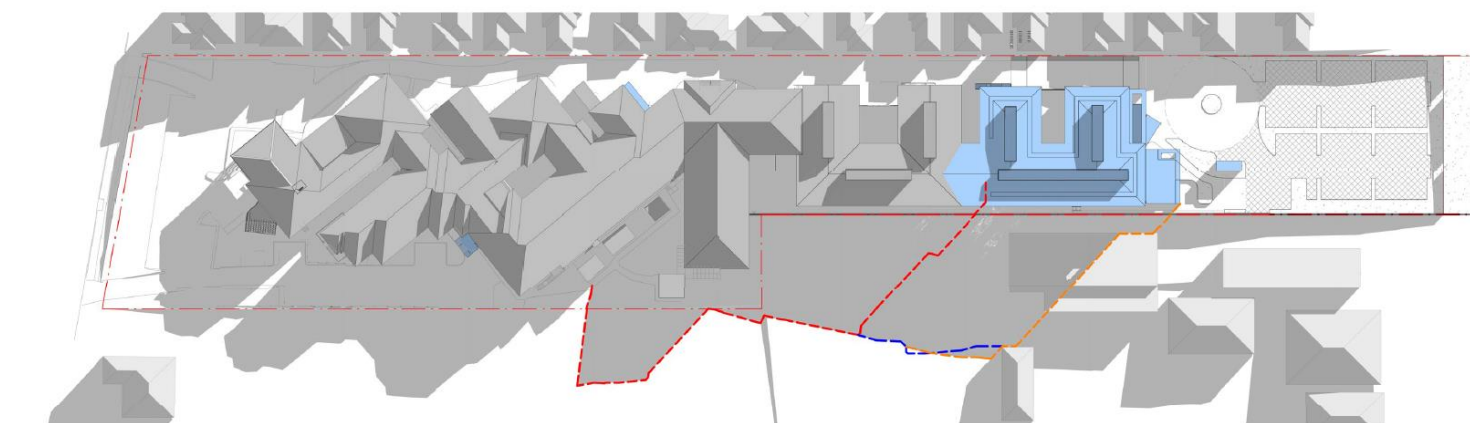


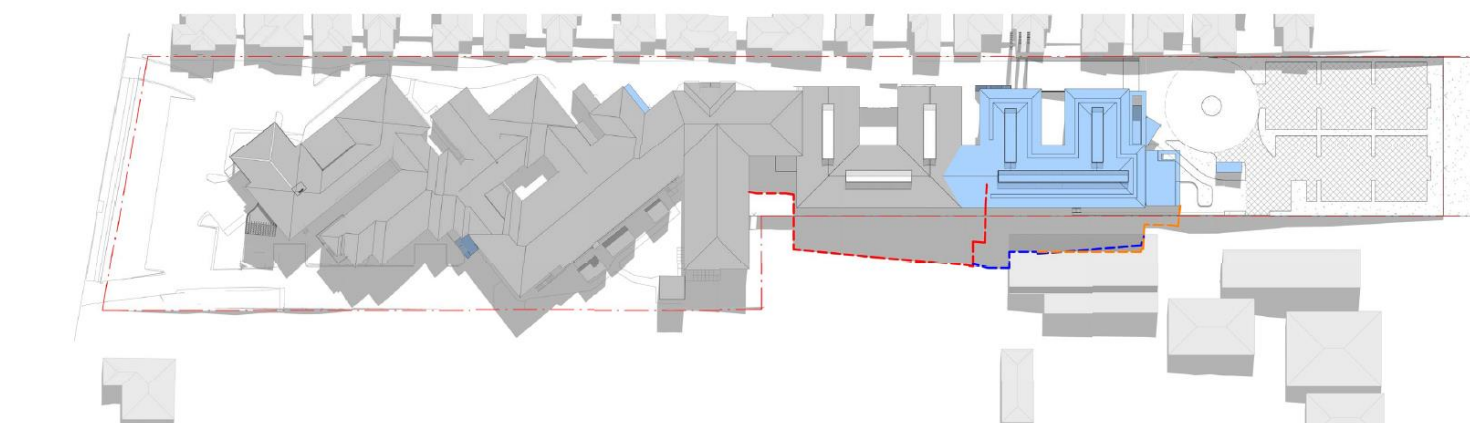
Figure 5 - North Elevation

The written request to vary the development standard has included shadow diagrams which represent the difference between over shadowing from a fully compliant development and development proposal. Figure 6 demonstrates the difference in overshadowing produced by the development as minor and negligible in terms of solar impact on adjoining land uses.

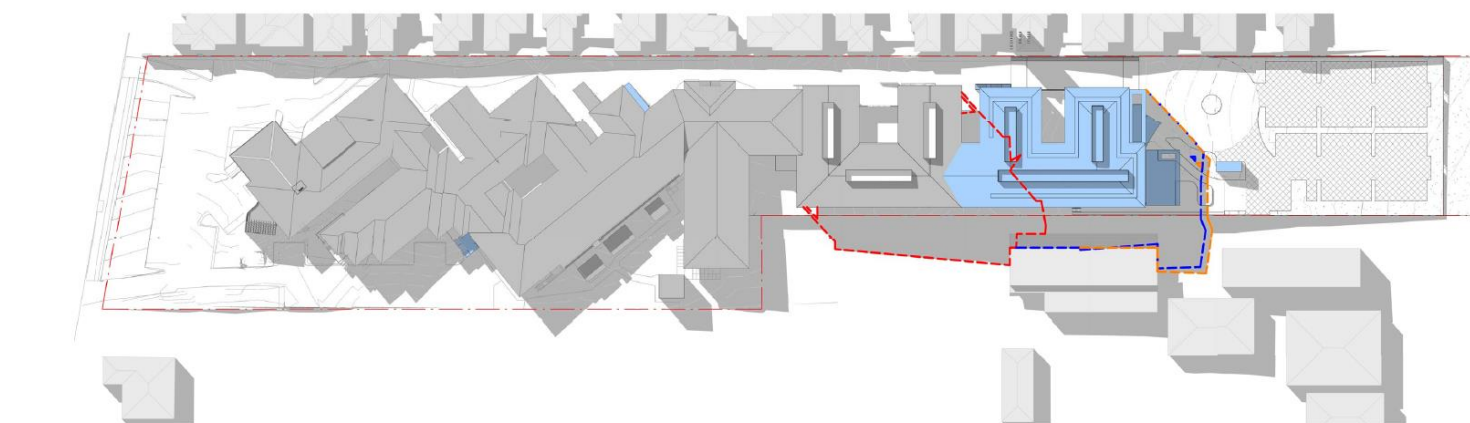
The proposed development achieves a better outcome by improving the yield of beds, ancillary facilities and car parking on the site, while retaining key ecological values consisting of an endangered ecological community (EEC), located to the east of the proposed building and car parking area and providing adequate Asset Protection Zones (APZ) for fire separation. Thus it is considered suitable in this instance to provide flexibility to the control as it will result in an improved development outcome.



1 Shadow Diagram - Proposed - 21st June 9am
SCALE: 1 : 750



2 Shadow Diagram - Proposed - 21st June 12pm
SCALE: 1 : 750



3 Shadow Diagram - Proposed - 21st June 3pm
SCALE: 1 : 750

Figure 6 - Shadow Diagram

- 2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment: Clause 4.3 Height of Buildings is not expressly excluded.

- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Applicant Comment: The applicant has demonstrated that compliance with the development standard is unreasonable in this circumstance a brief summary of reasons has been provided below;

- The development is consistent with the existing character of the subject site and medium density character of the locality will not be impeded.
- The breach is limited to the rear of the site.
- Negate requirements for APZ's on adjoining properties.
- Reduces the extent of the footprint providing improved ecological outcomes.
- Development extent to the east is consistent with adjoining development.

The applicant has demonstrated sufficient environmental planning grounds to justify contravening the development standard. A brief summary of reasons has been provided below:

- The development does not result in any adverse visual impacts
- The breach will not be highly visible from the public domain.
- The breach negates the reliance on providing APZ's off site and retains a suitable buffer to area identified as EEC vegetation.

Planning Comment: The applicant has submitted a written request with justification to support the variation of the maximum building height.

Compliance with the development standard is considered unreasonable in this situation, as the development is consistent with the medium density character of the locality and will not affect the ability for such development to be carried out.

The exceedence of the 10m height limit is associated with all plant and screening centrally located upon the proposed roof and an area of 23.1m² viewed from the southern elevation as demonstrated in figure 7. All plant located on the roof is suitably setback from the edge of the roof and will not adversely impact views, solar access or visual privacy of the existing locality. Figure 6 above demonstrates the additional solar impact from the area exceeding the maximum height and does not show an unacceptable level of overshadowing or significantly reduce the ability of adjoining development to achieve solar access from what would be provided by a development with a maximum height of 10m.

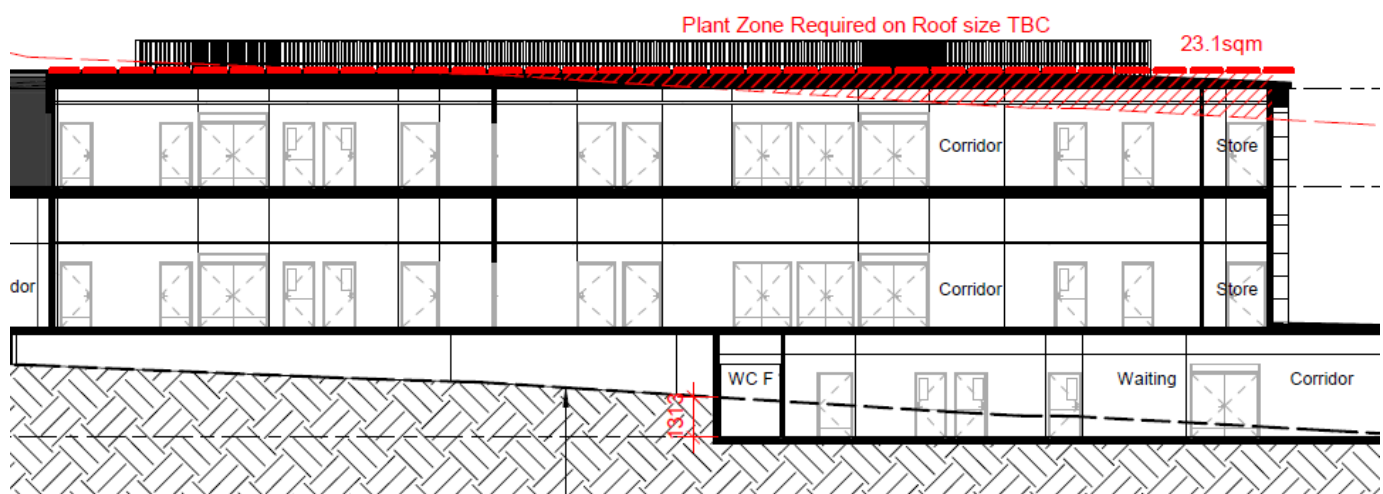


Figure 7 - Area exceeding maximum building height

The variation of the control allows the foot print of the proposal to be consolidated to provide the ability to have all APZ's contained within the subject site and maintain suitable buffers to EEC contained within the eastern portion of the site, while maintaining a suitable yield of beds and ancillary facilities from the proposal.

- 4) *Development consent must not be granted for development that contravenes a development standard unless:*
- a) *the consent authority is satisfied that:*
 - i. *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - ii. *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - b) *the concurrence of the Secretary has been obtained.*

Comment: it is considered the applicants written request adequately addresses subclause (3) as outlined above. Council has delegation for variation of height of buildings (PS 08-003).

In regards to Clause 4.6(7) of the LMLEP 2014, Council will keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3), particularly as the proposed development meets a significant public demand.

Clause 5.1 – 5.8

Not Applicable

Clause 5.9 Preservation of Trees or vegetation

Refer to comment provided within Lake Macquarie Development Control Plan 2014 Consideration.

Clause 5.9AA Trees or vegetation not prescribed by development control plan

Not Applicable

Clause 5.10 Heritage conservation

There are no identified heritage items or locations associated with the subject site. The site is not identified as containing a sensitive Aboriginal Landscape further consideration of this matter is provided in Section 2.15 Aboriginal Heritage of the Lake Macquarie Development Control Plan (LM DCP) 2014. There are no items of European or Natural heritage identified pursuant to Schedule 5 Environmental heritage.

Clauses 5.11 – 6.5

Not applicable.

Clause 7.1 Acid sulfate soils

The development site has been identified as "Class 5" within the Acid Sulphate Soils Map, whilst no ASS are expected within the site, proposed works may have an effect on any ASS within the adjacent lots. However, it is considered that the proposed works are NOT likely to lower the water table by 1 metre, as such will not have any unacceptable impact on adjacent ASS areas.

Clause 7.2 Earthworks

Earthworks are required to provide a suitable building platform for the proposed development.

Earthworks proposed as part of the development do not adversely affect adjoining properties amenity or future redevelopment potential. There is no importation of fill associated with the subject site and any excavated fill removal will be controlled, and a standard condition will be imposed in this regard. The development will not adversely impact nearby water catchments and it is unlikely that the proposed earth works will impact any aboriginal relics, items or locations of heritage significance. Further detailed consideration of these matters is provided throughout the report.

Clause 7.3 Flood Planning

The subject site is identified as containing some land that is located below the flood planning level as identified in the flood planning maps. The flood planning level is defined as the 100 year flood level plus a 500mm freeboard. The footprint of the proposed building is located outside of the flood planning area and the floor level of the proposed building is located well above the flood planning level. The eastern edge of the car parking area protrudes approximately 14m into the flood planning area. A car park is compatible with the flood hazard on the site and will not adversely impact on potential flood risk to life and property associated with the land use. The car parking area will be constructed at natural ground levels and will not increase flood levels upstream or downstream of the site, thus it is considered that the development is consistent with the objectives of the Clause.

Clauses 7.4 – 7.20

Not applicable.

Clause 7.21 Essential services

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

The application was referred to Ausgrid for comment under clause 45(2) of SEPP Infrastructure 2004, the following comment was provided:

Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid's infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

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

Clause 7.22 – 7.23

Not applicable.

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

There are no draft instruments which affect the development proposal.

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

Lake Macquarie Development Control Plan 2014

Part 1 Introduction Section 1.15 –Notification Requirements

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

Mine Subsidence Board;

NSW Rural Fire Service;
Hunter Water Corporation; and
Ausgrid, and

The Mine Subsidence Board General Terms of Approval were received on 20 July 2016.

The NSW Rural Fire Service provided comments on 16 August 2016.

Hunter Water Corporation have endorsed the proposed development plans.

Ausgrid provided comments endorsing the proposal.

Notification and re-notification of amended plans occurred in accordance with the Lake Macquarie Development Control Plan 2014 – Part 1 Section 1.15 Notification which required notification for a minimum 14 day period.

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

Part 3 Development in Residential Zones – Section 2 Context & Setting

2.1 Site Analysis

The development has considered and addressed all relevant constraints of the site within the plans and supporting documentation.

2.2 – Scenic Values

The application has been assessed by Council's Landscape/ Streetscape Architect confirming the following findings;

Visual impact assessment of the extension has been considered with the primary impacts being to the southern neighbour, Biddabah Public School. Effective screen planting can be achieved along the carpark edge to mitigate these impacts as per the recommended condition of consent below. The southern elevation of the building requires continuous screening within the 2800mm setback. The Landscape plan calls up removal of shrubs to accommodate '*new walls and concrete*' and this is not supported. Locating the external stairs against the building frees up space for soft landscape.

The following condition for planting along the southern boundary is to be include in any consent to address the above concerns:

Shrub planting along the southern boundary shall comprise a diversity of tall screening shrubs with a minimum mature height of 3000mm planted at minimum 1500mm intervals.

2.3 Geotechnical

The development is located within a T5 geotech area. As the proposal is 3 storeys in height an initial slope stability investigation was conducted. Council's Chief subdivision engineer has reviewed the investigation and considers outcomes acceptable.

2.4 Mine Subsidence

Mine Subsidence Board provided General Terms of Approval on 20 July 2016, which will be included on any consent.

2.5 Contaminated Land

The subject site has historically been utilised as a hospital.

The subject site is located outside of the area which Council have identified as being impacted by the former Pasminco Site. Historically the subject site has been utilised as a hospital with the development to utilise previously undeveloped land at the rear. Thus it is not considered that the development will be impacted by any potentially contained land.

2.6 Acid Sulfate Soils

Addressed under Clause 7.1 of the LM LEP 2014.

2.7 Stormwater Management

A suitable Stormwater Management Plan by Acor Consultants incorporating detention, water harvesting, water quality facilities in accordance with the Lake Macquarie DCP 2014 has been provided. The plan is considered adequate for DA purposes.

2.8 Catchment Flood Management

Council requires flood sensitive uses such as hospitals to have their floor levels located at or above the probable maximum flood level (PMF). The PMF level on this site is 10.1 metres AHD. The lowest proposed floor level is identified as 12.44 metres AHD, which is well clear of the flood levels. Any future construction is to be in accordance with the floor levels demonstrated on the submitted plans and reinforced as a condition of any development consent.

2.9 Lake Flooding & Tidal Inundation

Not Applicable

2.10 Natural Water System

The proposed development is located within the vicinity of a tributary of North Creek, which is considered a natural water body. The proposed development contains stormwater detention and water quality controls, which will ensure that there is no detrimental impact to the water body.

2.11 - Bushfire Risk

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

2.12 Flora & Fauna

The application has been assessed by Council's ecological expert confirming the following findings.

Native vegetation at the site is mapped as MU11 coastal sheltered apple- peppermint forest, MU38 redgum- rough barked apple swamp forest, MU37 swamp mahogany paperbark forest, MU40 swamp oak rushland forest and MU37 alluvial paperbark forest. Of these vegetation communities, the application proposes to clear 0.32 ha of MU 11 coastal sheltered apple- peppermint forest. This vegetation community is not characteristic of a threatened community listed on the Threatened Species Conservation (TSC) Act 1995 or Environmental Protection and Biodiversity Conservation (EPBC) Act 1999, however does form part of a corridor mapped in Council's Native Vegetation and Corridor Map (v1 2011).

Habitat trees HT1, HT2, HT3, HT4, HT5 and HT6 are nominated for removal.

The retained redgum- rough barked apple swamp forest east of the development footprint is characteristic of 'river flat eucalypt forest on coastal floodplains', an endangered ecological community (EEC) listed on the TSC Act. The application complies with recommended buffers within the Lake Macquarie Flora and Fauna Survey Guideline and DCP 1 Part 3 Development in Residential Zones.

The carpark has been re-designed to retain hollow-bearing trees as part of a vegetated buffer to the EEC. Habitat trees HT8, HT9, HT10 and HT11 are now nominated for retention. The native vegetation buffer to the EEC varies between 15 and 25 metres.

The application reasonably complies with the aims and objectives of SEPP19 Bushland in Urban Areas, which is applicable to the site as it occurs adjacent to land zoned RE1.

The subject development responds to the East Munibung Hill Precinct Area Plan. A 20 m riparian zone, exclusive of bushfire asset protection zones (APZ), has been provided in compliance with the Area Plan.

Native vegetation at the site forms part of a native vegetation corridor mapped in Council's *Native Vegetation and Corridor Map v1 (2011)*. A fauna crossing point occurs south of the site which provides for fauna movement north and south of Medcalf Street. The application proposes to narrow the existing corridor on the subject site from approximately 190 m width to approximately 90 m width. Whilst this reduction is significant in numerical terms this reduction will impact it's ecological function as a valuable corridor. In this regard the highest value native vegetation at the site is associated with the retained riparian corridor east of the development footprint. Retained native vegetation at the mapped crossing point includes mature forest redgum *Eucalyptus tereticornis* and no impact on the mapped crossing point is anticipated as a result of the application.

The revised Civil Design Plans show onsite detention within the nominated development footprint; however this has subsequently been identified to be removed from the vegetated buffer to the EEC as requested in the initial flora and fauna referral. Alternative detention arrangements have been resolved to the satisfaction of Council.

Council's flora and ecological expert has recommended the following conditions which have been included as conditions of any consent;

1. I recommend a mechanism is provided that ensures remaining habitat is conserved in perpetuity (e.g. a restrictive covenant, legally binding agreement such as a VPA under the EP&A Act or VCA under the NPWS Act).
2. The following change is recommended to the Revised Landscape Plans: The 'small trees in narrow garden beds *Elaeocarpus eumundi*' are substituted with *Elaeocarpus reticulatus*, a species which forms part of the endangered ecological community mapped east of the development footprint.
3. Tree 71, a dead tree nominated for removal in the Arborist Report is not shown on the Site Plan. As the location of this tree in relation to the endangered ecological community is uncertain, the removal is not supported.

The application is otherwise generally compliant with ecological requirements detailed in the LMCC LEP, DCP and ecological SEPPs. Assessments of significance have been provided for threatened biota listed on the TSC Act which were recorded or have the potential to occur at the site. Council's ecologist confirms the application is unlikely to result in a significant impact to threatened biota listed on the TSC Act, and a species impact statement is not required.

Standard conditions DEV 200-14 Retention of Trees and Native Vegetation (Development), DEV 200A Vegetation Management Plan and Implementation (as

amended below) and DEV201 Hollow Bearing Tree Removal (as amended below) are appropriate for any approval.

2.13 Preservation of Trees & Vegetation

Arborist report revision F submitted to support and justify tree removal associated with the development has been reviewed by Council's arborist confirming the following findings.

Vegetation removal proposed is supported with the exception of tree 56, which has not been justified for the location and having been identified as fair health. A condition will be applied to any consent requiring the Arborist Report to be amended so as to retain tree 56 to be maintained.

A standard condition for the tree protection measures is recommended to be included on any consent.

2.14 European Heritage

The subject site is not identified as containing any items or location of European heritage, pursuant to schedule 5 of the LM LEP 2014.

2.15 Aboriginal Heritage

The subject site is not identified as a sensitive Aboriginal Landscape and an AHIMS search of the site with a 200m buffer was conducted, which did not identify any recorded sites or declared places in or near the location.

2.16 Natural Heritage

The subject site is not identified as containing any items or location of Natural heritage, pursuant to schedule 5 of the LM LEP 2014.

2.17 Social Impact

The development was reviewed by Council's Coordinator of Social and Community Planning. It was determined that the development would not result in any significant negative social impact. It is considered that the development will support the effective delivery of medical services to the benefit of the local and regional community.

The development has been reviewed by Council's Asset, traffic section who have identified that Fairfax Road is adequate to support the proposal and there will be an excess in car parking spaces provided as such it is considered that potential impacts from traffic and parking generated by the development will be negligible.

Privacy regarding overlooking the school – The proposal does not overlook outdoor areas, rather the roofs of the school buildings. In addition privacy film has been provided to the lower 50% of northern and southern elevation windows, to prevent any direct outlook to the school and residential development to the north.

Plans have been amended with fencing now included along the boundary of the site adjoining the public school and internal north west dividing fence. A standard fencing condition will be amended to

It is considered that all social impact concerns raised have been addressed throughout this report, the proposed development will provide a significant social benefit to the local and regional community which outweigh any negative impacts generated by the proposal.

2.18 Economic Impact

The proposal will not result in any unreasonable adverse economic impacts.

2.19 Lot Amalgamation in the R3 Zone

The proposal does not include the amalgamation of any development lots. No lot will become isolated as a result of the proposal.

2.20 Utilities

Addressed under Clause 7.21 of the LM LEP 2014.

Part 3 – Development in Residential Zones – Section 3 Development Design

3.1 Streetscape

The development is located to the rear of the existing hospital building and will not be dominant in the immediate streetscape, however filtered views will prevail from surrounding aspects. However it is considered that the development will not adversely impact on the existing streetscape.

3.2 Street Setback

The development is set to the rear, thus there will be no unreasonable impact to the existing street setbacks applied.

3.3 Side Setback

A minimum setback is required for all buildings over two storeys. The proposed building is setback a minimum of 2.8m from the southern side boundary and 8.2m from the northern side boundary. The departure from the southern side boundary is supported as this setback (2.8m) is consistent with the existing hospital building. The structure provides 2.8m setback for all levels thus exceeding the minimum 900mm for ground level and 1.5m for first floor level buildings. Thus adequate building separation is provided to the lower levels. It is not considered that the 200mm departure from development control will result in unacceptable offsite, with adequate separation at ground level for the inclusion of landscaping and to provide visual separation.

Setback to the north is considered adequate as it sufficiently exceeds the minimum 3m setback requirement for a 3 storey structure.



Figure 8 - Existing south and north setbacks

3.4 Rear Setback

The development requires a minimum rear setback of 8m, a setback in excess of 150m is provided to the rear boundary which is considered adequate.

3.5 Site Coverage

The existing buildings have a site coverage of approximately 26% the proposed alteration and additions will increase site coverage to approximately 31% which is significantly below the maximum of 50%.

3.6 Building Bulk

The proposed development exceeds building bulk requirements of 15m maximum length for unbroken wall and maximum height of 4m.

These controls are more often applied to residential style development. In this case the proposed extension is consistent with the existing hospital building. Notwithstanding this it is recommended building bulk controls are appropriate to soften large unarticulated buildings. As such the merits of the building bulk presented have been considered.

The proposal consists of three levels identified as existing ground floor, existing lower ground floor and proposed lower ground floor, level are demonstrated in figure 9 below.

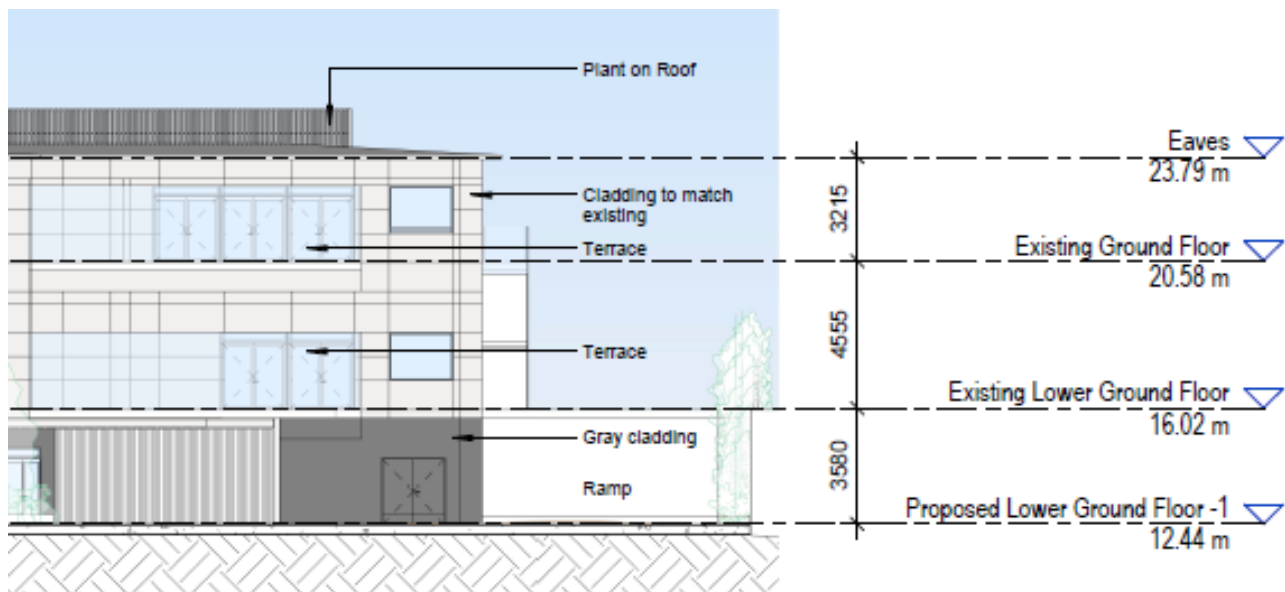


Figure 9 - Labelling of floor levels

To the south the structure presents as a large unbroken form, providing an additional building element of 41m length and up to 11.35m in height plus roof area. The bulk and continuous form is complimented by providing a dark grey cladding to the lower ground level 1 and inclusion of 7 large window opening in this level. Lower ground and ground floors are a lighter colour cladding which is consistent with the existing hospital building. A large window is provided to each bedroom, with a total of 11 windows to incorporated into each floor along the elevation to provide a break in materials. A minimum side setback of 2.8m for the lower ground level 1 provides adequate area for provision of landscaping and deep soil planting to soften the bulk of the built form. It is also noted that as the development extends back into the site, the site narrows from 65m to 41m, which limits the potential to significantly articulate the built form. As such a combination material use, provision of glazed opening and provision of landscaping has been utilised to reduce the bulk of the building presented to the south. These variations have also been provided to the norther elevation which also includes articulation of built form is provided with a maximum unbroken length of 19.56m. It is considered that the additional articulation helps to reduce the impact of building presented to development north of the subject site.

The eastern elevation provides suitable articulation, with Lower ground floor 1 extending toward the rear boundary and both lower ground and ground floor incorporating external terrace areas. There are variations in building materials and a suitable number of openings to provide visual relief.

3.7 Garage, Carports & Sheds

Not Applicable

3.8 Roofs

The roof of the proposed structure is relatively flat and will therefore not add any significant undesirable elements to the built form.

Plant is proposed atop of the building. All plant is to be centrally located and is to be screened. As such it is not considered that the any plant will adversely impact on the immediate locality. The roof will provide a feature which is not directly visible from adjoining sites as all plant and screens are suitably setback from the edge of the proposed roof.

3.9 Views

There are no significant views associated with the subject site. There are no significant land forms, items or water views from the site. The development is not located along any ridgeline which would promote views and potential impact on existing views from the public domain or any adjoining land use, thus it is not considered that there will be any significant impact on views associated with the locality.

3.10 Solar Access & Orientation

The proposed development has provided shadow diagrams which demonstrate that the proposal does not impact on the solar access of the residential development to the north. The shadow diagrams also identify the proposed impact on the school to the south of the proposal. The development will not adversely affect solar access to the open space of the school yard located directly south of the proposal, with in excess of 50% of the area being unaffected during the winter solstice. The development will shadow the northern windows of one school building during the winter solstice. It is noted there are numerous school buildings which are currently not affected by the proposal and will retain current level of norther solar access.



Figure 10 - School building affected by overshadowing from proposed development

3.11 Energy Efficiency & Generation

The development does not require a BASIX certificate. The development will need to comply with Part J of the BCA.

4 Visual Privacy

To the south development has potential for visual privacy issues with overlooking from proposed hospital room of the school playground. To prevent any direct overlooking all windows have been provided with an opaque privacy film to a height of 1.6m above finished floor level. This provides the opportunity to maintain solar access into each room but will prevent direct overlooking of school grounds.

To the north the development has the potential to affect the visual privacy with overlooking of adjoining residential development. Windows provided within the northern façade include ten highlight windows along the front building line to the north and six 1.2m high windows, treated with opaque privacy film to a height of 1.6m, are provided to the secondary building line addressing the north approximately 14m behind the front building line. Thus it is not considered that the proposal will adversely impact on visual privacy of adjoining land users.

To the east the proposal will overlook the proposed car parking area. There are outdoor decks at the north east corner of the proposal on the ground floor and lower ground floor. The wall return along the north is extended for the length of deck to prevent direct views over the residential development. The outdoor decks are setback 11.86m from the north boundary and 17.4m from the south boundary, thus it is considered that adequate separation is provided to prevent direct view and impact on visual privacy of adjoining land uses.

4.1 Acoustic Privacy

The proposal is for the extension of an existing private hospital, maintaining the existing land use. It is not considered that the proposal will adversely impact on the acoustic amenity of adjoining land users.

An acoustic report provided to support the development has been reviewed and recommended conditions are to be imposed on any consent.

4.2 Landscaped Area

The development will retain the significant area of native vegetation in the eastern portion of the site. Suitable areas of vegetation have been proposed along the north and south side boundaries of the alterations and additions and suitable areas are provided within the proposed car parking area. Landscaping has been considered by Council's Landscape Architect and is considered suitable for the locality. A landscape plan has been adopted for the purpose

4.3 Landscape Design

A suitable level of landscape design has been resolved to support the application. This has been reviewed by Council's Landscape Architect who is satisfied with the resolved outcomes

4.4 Principle Private Open Space

Not Applicable

4.5 Front Fences

Not Applicable

4.6 Side & Rear Fences

The proposal includes 2.1m high colorbond fence for the southern boundary adjoining Biddibah Public School and along the eastern edge of the development, within the subject site, and returning along the northern boundary to the existing colorbond fence. Height and location of fencing is considered suitable in response to privacy issues and security concerns raised. However, the use of colorbond fencing

is not supported as it will be visually dominant. It is recommended that the applicant utilise a lapped and capped timber style fence to help reduce the visual dominance and soften the fences appearance particularly to Biddibah public school to the south. It is not considered that there are any additional privacy concerns to the north with the inclusion of high sill windows and minimum 8.6m setback from the adjoining boundary. As such, it is considered that existing fencing could be maintained along the northern boundary with the addition of 2.1m high fencing only applied to the return from the proposed eastern fence and existing northern boundary fence.

Provision 2.1m high lapped and capped timber fencing with timber panelling located on the school side will be included as a condition of any consent.

4.7 Traffic & Transport

A traffic and parking assessment was provided to support the development application. The report indicated that there would be no adverse traffic impact as a result of the development. The proposal exceeds DCP parking requirements and internal circulation and servicing is suitable. The report has been considered by Council's asset management traffic section and no objection has been raised, acknowledging that Fairfax Road has adequate capacity to support the proposal and no additional public infrastructure is required.

4.8 Design of Parking & Service Areas

The internal driveway and car parking area (including turning movements) are adequate for the development and comply with the DCP 2014 requirements and AS 2890.1 Parking Facilities – Off Street Parking & AS 2890.6 Parking Facilities – Off-street parking for people with disabilities.

The proposed development has included adequate facilities for service vehicles.

4.9 Design of Driveways

Existing driveways have been considered by Council's Engineers and are suitable for the proposed development.

4.10 Motorbike Parking & Bicycle Storage

The development control plan does not require additional storage to be provided for bicycles or motorcycles for any development other than residential flat buildings within residential zones. As the proposal is providing excess car parking it is considered that adequate spaces are provided for additional motorcycle use if required.

4.11 Car Parking Rates

For a hospital one space per two beds plus one space per two staff are required. The hospital includes day surgery facilities thus additional rates of 1.5 space per consulting room and 1 space per 2 operating theatres are required.

However, where the floor area of an existing development is being increased the required car parking is to be calculated for the additional floor area only.

The development proposes an additional 39 beds, 20 additional staff, four additional consulting room and the loss of one operating theatre.

1 space per 2 beds – 39 beds = 19.5 spaces

1 space per 2 staff – 20 staff = 10 spaces

1.5 spaces per consulting room – 4 additional rooms = 6 spaces

Loss of one operating theatre does not require any additional spaces.

A total of 36 additional car parking spaces are required for the development. The development proposes 56 new car parking spaces and the loss of 5 existing spaces, as a result there will be an additional 51 spaces provided by the development.

This total exceeds Council's requirements and is considered to benefit the locality with objection being raised to the number of people parking in the surrounding street. It is considered that the additional parking will adequately meet the demand of the facility.

Notwithstanding this it is acknowledged that car parking rates for the development have been raised as a concern in public submissions as calculations have been applied to the development as whole using the above requirements;

1 space per 2 beds – 133 beds	= 66.5 spaces
1 space per 2 staff – 100 staff	= 50 spaces
1.5 spaces per consulting room – 10 consulting rooms	= 15 spaces
1 space per 2 operating theatres – 4 theatres	= 2 spaces
Total	= 133.5 spaces

As a whole the development requires 133.5 spaces, a total of 152 spaces are provided, which satisfies overall demand

4.12 Non- Discriminatory Access

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

4.13 Safety & Security

Crime Prevention Through Environmental Design (CPTED) is based upon the principle of designing out crime by making the chances of being caught in the act of crime, outweigh the benefits of the criminal activity.

Council's CPTED officer advised that the Crime Risk Assessment Report prepared by Neal consulting Solutions (July 2016) for the proposal addresses the main crime risks associated with the proposed development. The report also identifies a number of strategies to mitigate risk and to ensure that the proposal is designed / constructed in accordance with CPTED principles. I concur the measures identified in the report (Section 6.8 Recommendations, pp18-19) regarding surveillance, access control, territorial reinforcement, activity and space management, building design, lighting, access, car parking, fencing, landscaping and recommend these be included as conditions of any consent.

In addition, it is recommend the addition of a 24 hour timeframe for the removal of graffiti upon its appearance as it relates to Item 9, Section 6.8 (p19) be added to those conditions.

4.14 Cut & Fill

A maximum cut of 1.3m from natural ground level is required for the inclusion of the Lower Ground Floor 1, with the Lower Ground introducing fill to maximum height of 1.9m above existing ground. This provides a total of 3.2m cut and fill, which allows the development to provide continuous floor levels from the existing development to the proposed additions. Development controls limit combined cut and fill to a maximum of 3m contained to the building footprint. The variation of 200mm is considered acceptable in this circumstance as there will be no adverse impacts as a

result of the proposal, by way of visual impact, overshadowing, native vegetation or drainage as considered in the above assessment.

In addition the development includes 600mm of fill in the eastern portion of the site which will be battered at a suitable grade to natural ground. This is considered acceptable for the locality

Part 3 – Development in Residential Zones – Section 5 Operational Requirements

5.1 Demolition & Construction Waste Management

A suitable demolition and construction plan has been provided to support the development. Disposal has been reviewed by Council's sustainability section and is considered appropriate for the development.

5.2 Waste Management

A suitable waste management plan has been provided to support the development. Disposal is provided via a private contractor and has been reviewed by Council's sustainability section and is considered appropriate for the development. Council Waste Operation section has also reviewed the application and confirm that the location of waste storage is accessible for collection by garbage trucks.

5.3 On-Site Sewerage Management

Not Applicable

5.4 Liquid Trade Waste & Chemical Storage

Not Applicable

5.5 Erosion & Sediment Control

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

5.6 Air Quality

The development will maintain the existing site use as a private hospital. It is not considered that the alteration and additions to provide 39 additional beds and ancillary facilities will adversely affect air quality.

5.7 Noise & Vibration

An Acoustic Assessment prepared by Wilkinson Murray Pty Ltd dated June 2016 was reviewed by Council's Environmental Assessment Officer. The report recommends additional acoustic treatment of plant & mechanical ventilation ducting. As such suitable modified conditions have been provided to reflect the revised assessment.

Part 12 Precinct Area Plans – Section 12.5 East Munibung Hill Precinct

1.4 Flora & Fauna

Flora and Fauna Impacts have been considered above and the due regard has been provided to the EEC identified in the eastern portion of the site with a 20m vegetation buffer being retained between the footprint of the development and EEC.

1.5 Subdivision Design & Layout

The development proposal does not include subdivision. The proposed alteration and addition to a private hospital are consistent with institutional uses identified for the

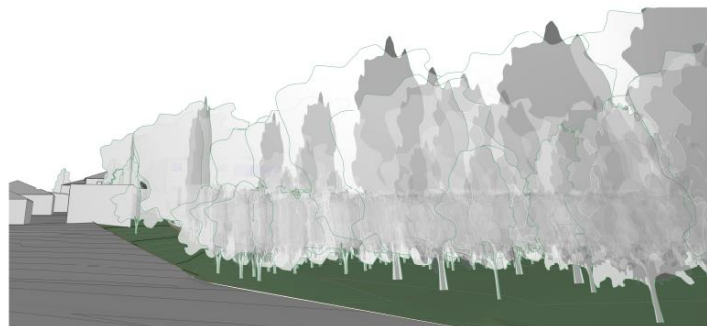
site in “Figure 2 Envisaged East Munibung Hill Structure Plan” of the East Munibung Hill Precinct Area Plan.

1.6 Built Form

The development will not unreasonably affect the built form presented to the public domain.



1 View - Fairfax Road
SCALE: New Build Highlighted in Blue where visible



2 View - Medcalf Street
SCALE: New Build Highlighted in Blue where visible



Figure 11 - Interpretation of views from the public domain

1.7 Land Contamination

The subject site is not identified as a potentially contaminated subject to council mapping, as such no additional investigation is required.

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

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

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

The Regulation 2000 provides:

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

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

Planning Comment: The Government Coastal Policy applies to the subject site. The development is located approximately 7.8km landward from the open coast high water mark. The proposal is contained to a private development and will not impact on any coastal process or visual aspects of the Lake Macquarie coast line. Thus it is considered that the proposal is conducive to the government coastal policy.

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

Planning Comment: The development does not include demolition.

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

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

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

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

Does the proposal fit the locality?

The outcomes proposed will achieve a highly functional development compatible with the surrounding activities, including the existing hospital, school and residential accommodation.

Are the site attributes conducive to development?

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

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

Public submissions:

Three submissions were received during the initial submission period, during the second notification period no submissions were received and eight submissions were

received after submission period had closed raising issues with parking and traffic associated with the proposal. The main matters raised in the submissions are summarised below.

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

Planning Comment:

Council's traffic engineer has reviewed the development and supporting information. No objection is raised to the proposal and comment is provided that Fairfax Road is adequate to support the development.

- Lack of parking

Planning Comment:

The development has demonstrated compliance with LMDCP 2014 car parking rate with regard to the provision of car parking. Council officers consider the development has provided car parking compliant with planning controls. The hospital as a whole has been considered against Council parking requirements and it is considered that the development complies with the minimum parking provisions.

- Visual Privacy

Planning Comment:

This matter has been addressed within LMDCP 2014 Section 4, it is not considered that any unreasonable visual impact will occur as a result of the proposal. Particular concerns raised regarding potential overlooking and ground level privacy of the adjoining school to the south have been addressed. The development will include an opaque film on all, ground and lower ground level windows to a height of 1.6m and inclusion of a 2.1m high boundary fence to obscure an direct overlooking of the adjoining school site.

- Impacts of the build, including noise, dust, and hours of work.

Planning Comment:

Standard conditions of consent, which limit construction hours and noise and the control of dust are to be included as conditions of any development consent.

- Lighting

Planning Comment:

A standard condition will be provided that ensures lighting is provided in accordance with Australian Standard AS4282-1997.

- Drainage/ flooding

Planning Comment:

The development has proposed adequate stormwater drainage for the proposal, and the finished floor levels provided have been considered against the Probably Maximum Flood height. Council's Chief Development Engineer confirms that drainage provided is adequate for the proposal.

- Removal of vegetation

Planning Comment:

Removal of vegetation has been considered by Council's Flora and Fauna specialist and Council's Arborist. Removal of vegetation proposed is considered suitable and retains a twenty metre vegetation buffer to identified Endangered Ecological Community (EEC) at the eastern portion of the site noting this forms part of a broader corridor that extends to the north and east beyond the property boundaries.

Each submission has been considered and assessed against the relevant Council's controls and it is concluded that satisfactory design outcomes have been achieved and/or conditions of consent can be imposed to provide an appropriate outcome that respects the subject and surrounding, land whilst providing a land use that is permissible and in high public demand in the Lake Macquarie area.

Submissions from public authorities:

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

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

No other submissions from public authorities were received.

79C(1)(e) the public interest

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

INTEGRATED DEVELOPMENT

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

- section 100B of the Rural Fires Act 1997;
- section 15 of the Mine Subsidence Compensation Act 1961, and

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

Rural Fires Act 1997

NSW Rural Fire Service provided their General Terms of Approval dated 16 August 2016; they are included in Appendix A as a condition of consent.

Mine Subsidence Compensation Act 1961

The Mine Subsidence Board provided their General Terms of Approval dated 20 July 2016; they are included in Appendix A as a condition of consent.

CONCLUSION

Based on the above assessment it is concluded that the construction and operation of the proposed alterations and additions to Warners Bay Private Hospital on the site

at 42 Fairfax Road Warners Bay, will result in an appropriate development with no unreasonable environmental impacts.

Acknowledging there are a number of public submissions in response to the proposal, of which detailed consideration has determined appropriate conditions to be imposed to ameliorate any unreasonable impact to residents.

Approval of the development, subject to conditions of consent, is considered to be in the public interest and meet the objectives of the Act, and is considered to be an acceptable expansion of an existing public facility, which will provide significant benefit to the residents of Lake Macquarie and beyond.

RECOMMENDATION

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

ENDORSEMENT

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

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

Glen Mathews
Development Planner
Lake Macquarie City Council

I have reviewed this report and concur with the recommendation.

John Andrews
Chief Development Planner
Development Assessment and Compliance

Attachment A: Proposed Conditions of Consent

Attachment B: Plans of Development