

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2016HCC014
<b>DA Number</b>	DA/202/2016
<b>LGA</b>	Lake Macquarie
<b>Proposed Development</b>	Residential Aged Care Facility
<b>Street Address</b>	Lot 11 DP 656806, Lot 1 DP 515152, Lot 2 DP 515152, Lot 3 DP 515152, Lot 4 DP 515152  64 Warners Bay Road, WARNERS BAY NSW 2282, 66 Warners Bay Road, WARNERS BAY NSW 2282, 68 Warners Bay Road, WARNERS BAY NSW 2282, 70 Warners Bay Road, WARNERS BAY NSW 2282, 72 Warners Bay Road, WARNERS BAY NSW 2282
<b>Applicant/Owner</b>	BUPA CARE SERVICES PTY LIMITED
<b>Date of DA lodgement</b>	15 February 2016
<b>Number of Submissions</b>	Two
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	General development over \$20 million
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Lake Macquarie Local Environmental Plan 2014</li> <li>• Lake Macquarie Development Control Plan 2014</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Assessment Report  Proposed conditions of consent  Plans of development
<b>Report prepared by</b>	Fiona L Stewart
<b>Report date</b>	23 November 2016

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes / No**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes / No / Not Applicable**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes / No / Not**

	Applicable
<b>Special Infrastructure Contributions</b>	
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	Yes / No / Not Applicable
<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	
<b>Conditions</b>	
Have draft conditions been provided to the applicant for comment?	Yes / No

## Executive Summary

<b>Key Dates:</b>	Lodgement: 15/2/2016  Amended Plans: 12/8/2016
<b>Submission Period:</b>	24 February 2016 – 11 March 2016
<b>Zoning:</b>	R2 – Low Density Residential  RU4 – Primary Production Small Lots
<b>Approval Bodies:</b>	Mine Subsidence Board  Department of Primary Industries - Water
<b>Concurrence Body:</b>	Nil
<b>Referral Agencies:</b>	Ausgrid  Hunter Water Corporation  NSW Police
<b>CIV:</b>	\$26,757,000 (excluding GST)

# Assessment Report and Recommendation

## Précis

The development proposal is for the construction of a Residential Aged Care Facility consisting of 144 beds, including 36 dementia resident beds, within a two level building comprising a “ring” shape around a large central courtyard area. A car parking area is proposed to the front setback of the site to accommodate 36 vehicles, as well as ambulance and mini bus parking. There is also a “Health Hub” building proposed as stage two of the development, adjacent to the front of the facility, to provide integrated primary health care to residents through GP led multi-disciplinary services (ie. dietetics, psychology, exercise physiology, podiatry).

The Capital Investment Value of the development is \$26,757,000 (excluding GST). The development is Integrated Development in relation to the *Water Management Act 2000* and the *Mine Subsidence Compensation Act 1961*.

The site is located at Warners Bay on the northern side of Lake Macquarie. The site is bounded by low density residential development to the west and north (across Warners Bay Road), with South Creek forming the boundary to the rear adjacent to rural lands. There is an existing seniors housing (independent living) development adjacent to the eastern side boundary.

The site is regular in shape, comprising five lots, with a frontage to Warners Bay Road of 80.52m and a total site area of 15,307m<sup>2</sup>. The site is zoned R2 – Low Density Residential for the lots adjacent to Warners Bay Road and RU4 – Primary Production Small Lots for the rear allotment, pursuant to the Lake Macquarie LEP 2014.

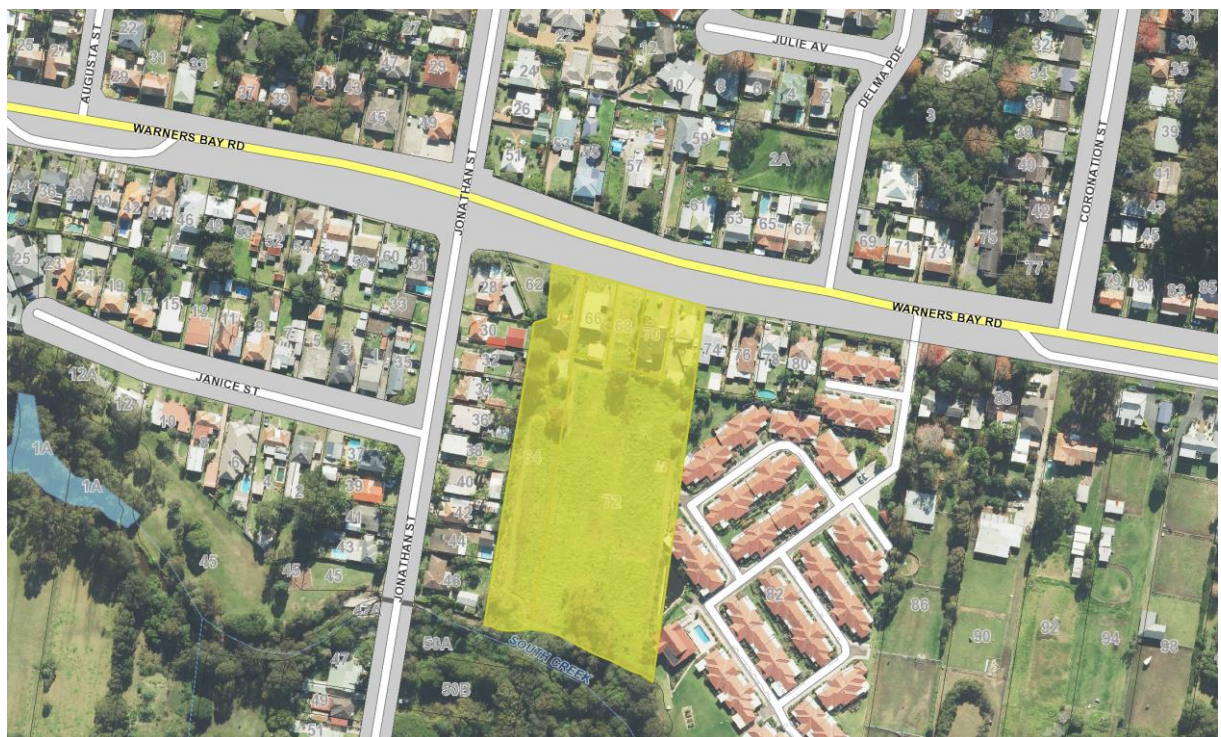


Figure 1: Aerial photo of site

Previous consent has been granted for a Seniors Living development on part of the site, comprising a 120 bed Aged Care Facility (DA/1723/2007), for which consent lapsed on 22 October 2013.

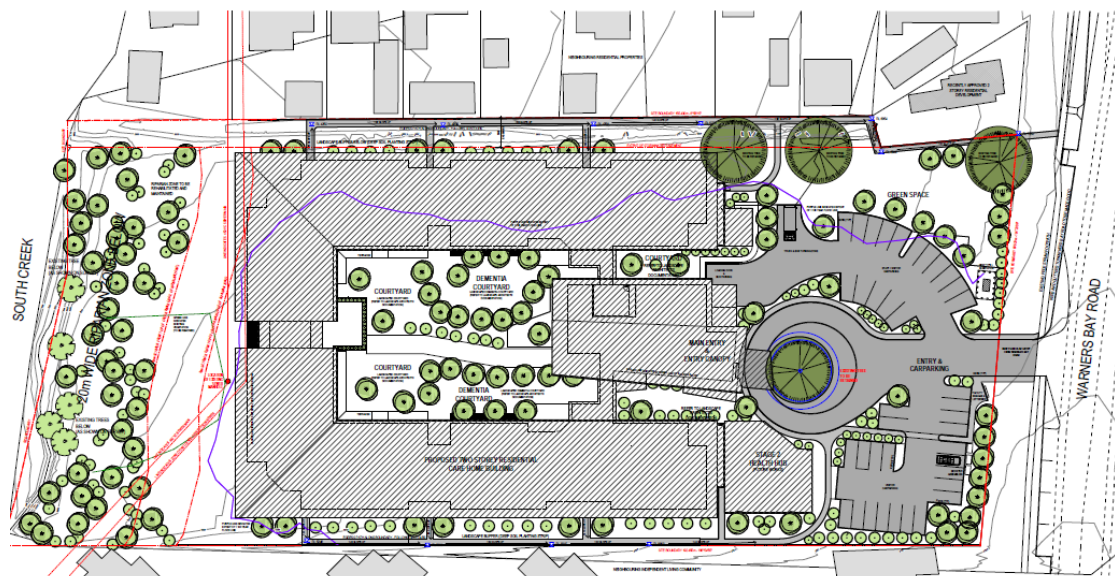
### Proposed Development

The development application has been lodged pursuant to Clause 7.12 – *Development for the purpose of Seniors Housing* under Lake Macquarie LEP 2014.

The application proposes a Residential Aged Care Facility, comprising high-end residential aged care.

The proposal includes:

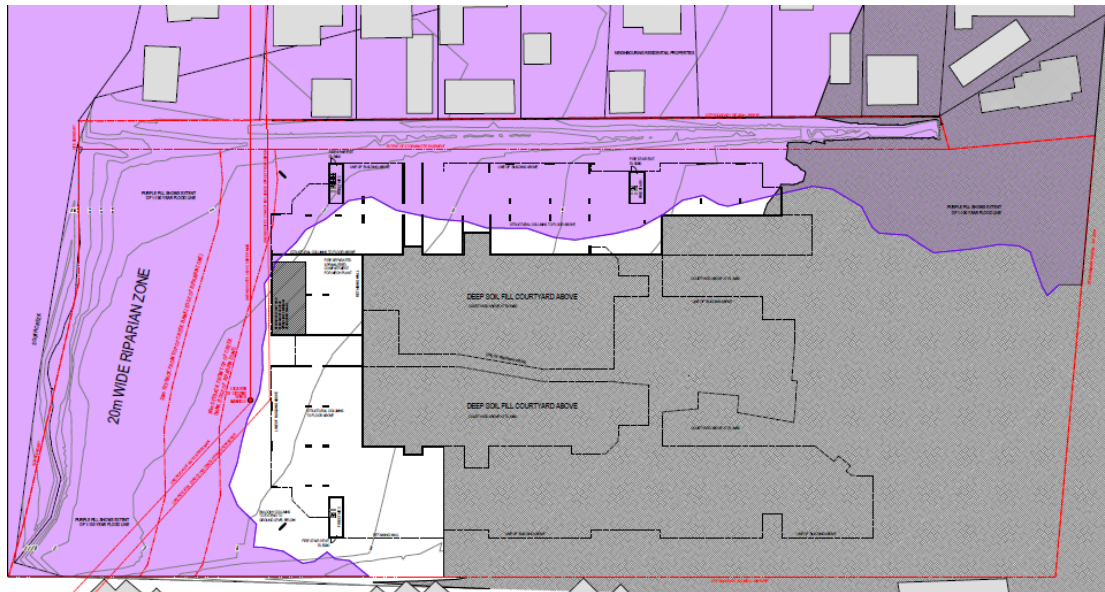
- Demolition of four existing dwellings and ancillary structures.
- Consolidation of the five existing lots into one.
- Staged development, comprising construction of the Residential Aged Care Facility at Stage 1, and the associated Health Hub building at Stage 2.
- Provision of 144 bed care, including 36 dementia resident beds within a two level building around a central courtyard area.
- Front of house functions (entry, kiosk, café, reception, office, hairdressing salon consulting rooms and function room).
- Back of house functions (kitchen, laundry, electrical switch room, communications room, staff amenities, maintenance and store).
- Two passenger lifts and four sets of fire stairs.
- Car parking area to accommodate 36 car parking spaces.
- Single vehicular ingress and egress from Warners Bay Road.
- Proposed 20m vegetated riparian zone adjacent to South Creek at the rear, with all buildings and public access/recreational areas located outside of the riparian area.



**Figure 2:** Site Plan (extract from submitted plans)

A majority of the site is constrained by being flood prone (High Hazard towards the rear adjacent to South Creek, and along western side). Subsequently, the development has been designed to comprise a sub floor area, with structural supporting columns at the rear, where the site is lower, to support the cantilevered ground floor level above.

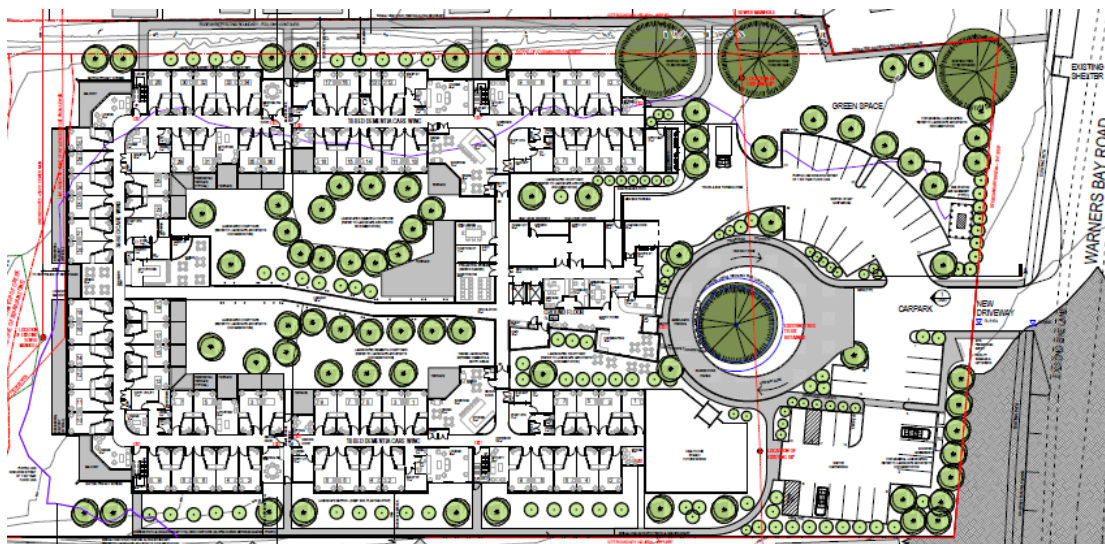




**Figure 3:** Sub Floor Plan (purple shading shows extent of 1:100 year flood line)

The following is proposed at ground floor level, as per Figure 4:

- Main entry with reception, admin services and function room;
- Three care wings with 72 beds (36 dementia beds);
- Dining and lounge areas;
- Central courtyard (with café and terrace) and 2 x dementia courtyards.
- Back of house functions, plant rooms and loading bay;
- Landscaped area at rear adjacent to revegetated riparian zone; and
- Stage 2 health hub.

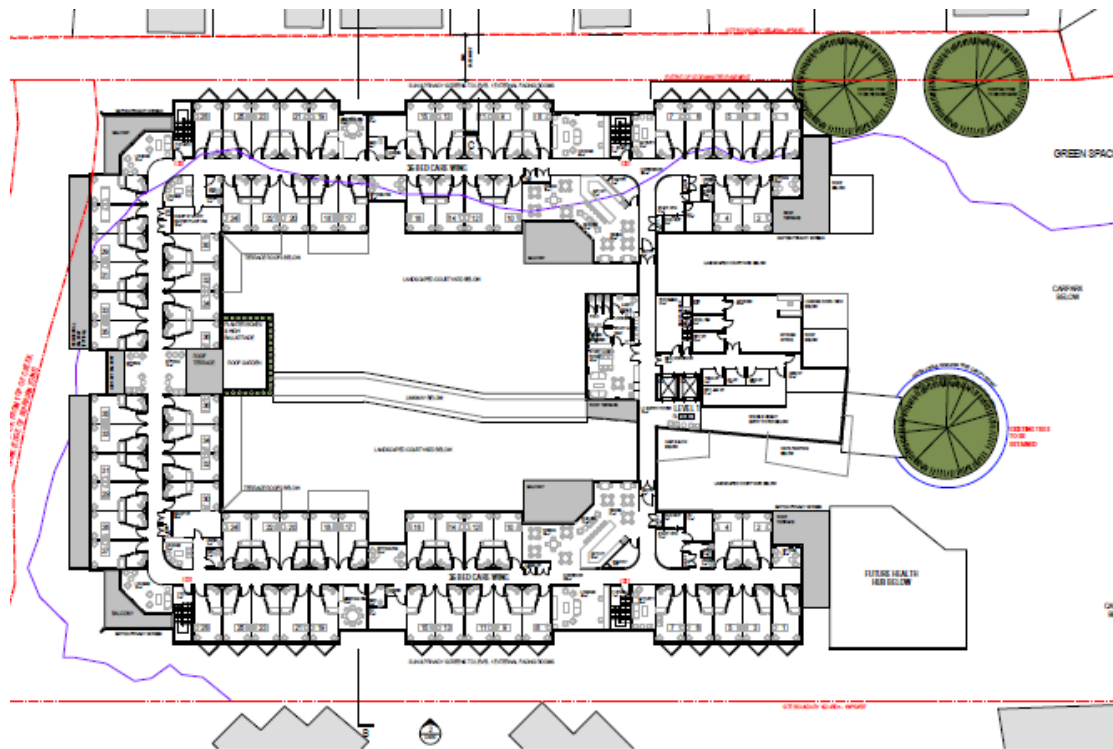


**Figure 4:** Ground Floor Plan (extract from submitted plans)

The following is proposed at first floor level, as per Figure 5:

- Level 1 foyer area;
- Two care wings with 72 beds (36 care beds in each);

- Dining and lounge areas; and
- Roof garden and terrace;



**Figure 5:** First Floor Plan (extract from submitted plans)

The total gross floor area (GFA) for the development is 7,677m<sup>2</sup> and a proposed maximum height above existing ground level of 10.5m.

The building presents as two storeys at the front of the site, with the rear being elevated over an undercroft area (due to flooding constraints). A large proportion of the building is compliant with the maximum height control of 8.5m, under LEP 2014 (discussed later in this report under LEP 2014).

The facility is proposed to operate 24 hours a day, seven days a week with reduced staffing numbers at night times. The maximum total number of staff at any one time is 30.

All cooking and laundering for the facility would be undertaken on site, within the “back of house” area.

## 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 (State and Regional Development) 2011**

The proposed development is of a class referred to in Schedule 4A of the *Environmental Planning and Assessment Act 1979* (General development over \$20 million).

As such, Part 4 (Regional Development) of *SEPP (State and Regional Development) 2011* applies and the development application is determinable by the Joint Regional Planning Panel, in accordance with Part 4 of the *Environmental Planning and Assessment Act 1979*.

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

This SEPP is not applicable, as the development application has been lodged against Clause 7.12 of LMLEP 2014.

The development however, has been assessed against the relevant provisions/standards of the SEPP (Housing for Seniors or People with a Disability) 2004 as a design and assessment tool due to the absence of specific merit controls applying to Clause 7.12 under the LEP.

The proposed development is considered to meet all design requirements under the SEPP for a residential care facility, as follows:

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

###### ***Chapter 1 – Preliminary***

###### **Aims of Policy**

The aims of the policy are met by the proposed development of a high quality design, that would provide for an increase in supply and diversity of residences that meet the needs of seniors and would make efficient use of existing infrastructure and services within the locality.

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

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

(1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:*

(a) *shops, bank service providers and other retail and commercial services that residents may reasonably require, and*



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

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

Assessment of availability of access to facilities and services from the site has been undertaken. There is an existing bus stop located on the road reserve at the front of the development site, with daily bus services along Warners Bay Road servicing the

Lake Macquarie Fair shopping centre at Mount Hutton and the Warners Bay Town Centre. The development therefore complies with the requirements of Clause 26.

However, having regard to the 'high end care' nature of the facility, it is unlikely that many residents would leave the site to seek facilities and services. It is proposed to provide medical related services to residents within the proposed Health Hub building on site, under Stage 2.

#### **Clause 28 -Water and Sewer**

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*
- (2) *If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.*

The development application and associated plans are endorsed by the Hunter Water Corporation with regard to servicing the development with water and sewer reticulation.

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

#### **Clause 30 -Site Analysis**

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

Site analysis information has been submitted which appropriately identifies the existing conditions including constraints and opportunities of the site. The site analysis is deemed adequate for assessment purposes.

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

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

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

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

*The proposed development should:*

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

The development as proposed achieves a transition between the proposal and the surrounding urban development (which includes an existing lower scale seniors living development adjacent to the east) and landscape, having regard to the area undergoing transition from small scale primary production uses to increased residential uses.

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

There are no heritage items or conservation areas within the locality. The subject site is not mapped as having potential Aboriginal heritage significance (although there is a mapped area adjacent to the rear of the site), however, the building is provided with approximately 30m setback to South Creek at the rear.

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

*by :*

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

The development results in reasonable neighbourhood amenity and appropriate residential character, with the proposed building setbacks and screen landscaping serving to reduce the visual bulk of the building and overshadowing of adjacent development. The building presents as two storey when viewed from the street, with the proposal providing for a well-resolved building that relates to the site's land form and has appropriate consideration to neighbouring properties and the larger area.

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

The front building line of the development, which is set back behind the car parking area within the front setback, generally correlates with the front building line of the bulk of the existing adjacent seniors living development and is considered to be appropriate.

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

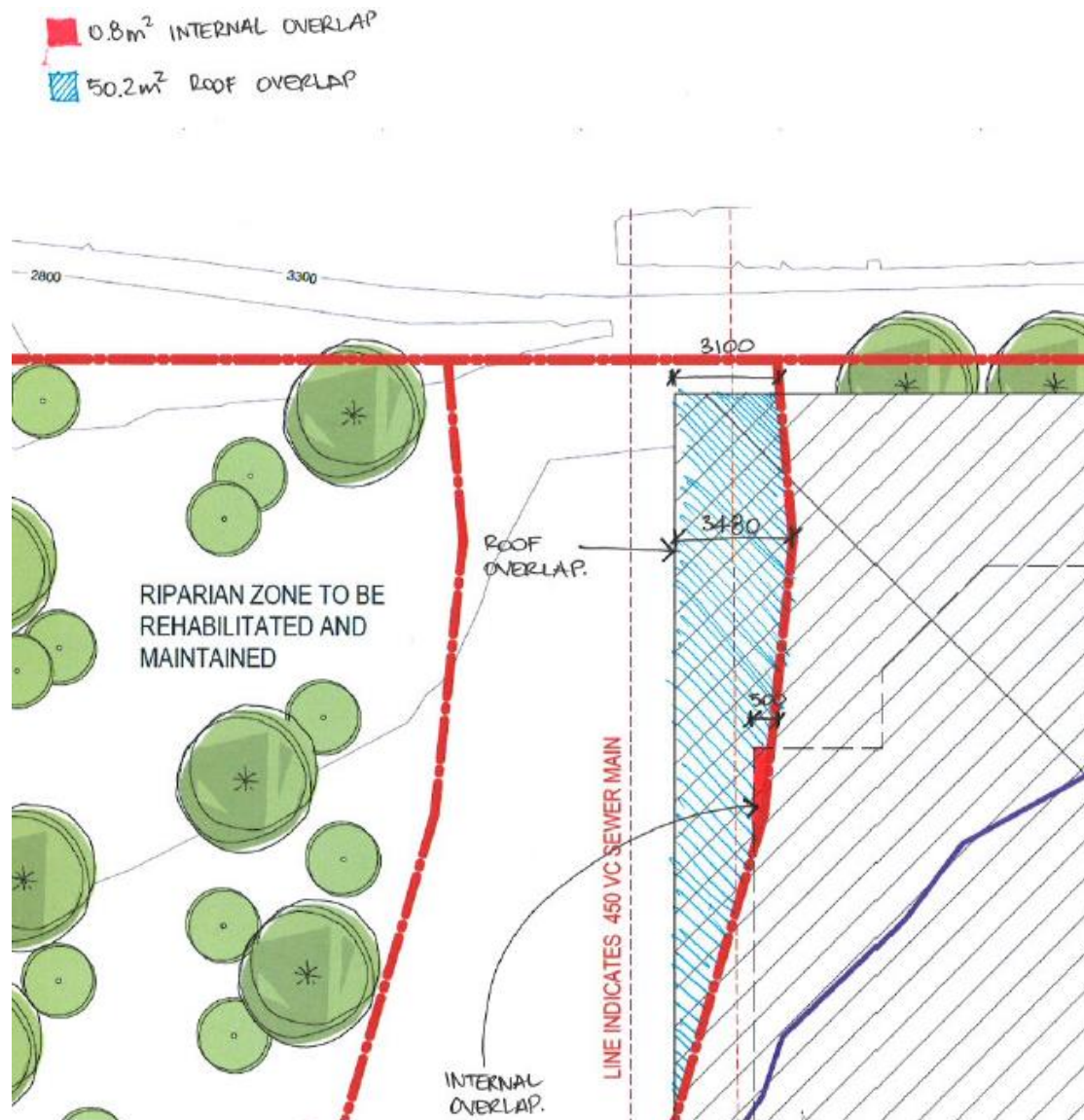
Proposed planting is consistent with surrounding vegetation, with planting proposed along the front boundary and within the car parking area to provide landscaping to the front setback.

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

Existing trees are maintained where possible. Notably, four existing trees will be retained within the front setback, with the existing large Eucalyptus tree towards the centre of the front portion of the site being retained as a feature tree to the building's main entry.

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

The building is set back 30m from the riparian zone, with a minor encroachment for the rear north-western corner of the building, upper level balconies and roof overhang (see below), which is considered to be negligible and acceptable on merit.



**Figure 6:** Riparian Zone building encroachment

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

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

The development proposes a significant setback to neighbouring dwellings to the north-west along Jonathan Street, with the building design including vertical screening to windows on the upper levels to habitable rooms facing side boundaries, to minimise overlooking of adjacent sites.

The proposed balconies to the rear corners of the building are provided with slatted privacy screens to the length of the outer sides to prevent overlooking to adjacent residential properties.

The loading dock for deliveries and noise generating “back of house” functions have been relocated to the centre of the building/site. There is a truck/mini bus turning zone to the western side of the driveway area which is located approximately 17m

from the boundary to the adjacent low density residential uses. The residential component of the building is set well back from the road minimising noise impacts from this source to residents.

A Noise Assessment (Spectrum Acoustics, dated June 2016) has been submitted for the proposal which concludes that the development would be capable of operating in compliance with appropriate noise limits, with the provision of acoustic barriers to either side of the front setback to mitigate potential carpark noise and restriction on use of the turning zone/loading bay prior to 7:00am.

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

### **Clause 35 -Solar Access & Design for Climate**

*The proposed development should:*

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

Overshadowing impacts from the development are predominantly to rear setbacks of adjacent residential development and will not impact upon sunlight access to main living areas, or private open space directly adjacent to rear of dwellings, of neighbours.

Solar access is provided within the development to rooms and outdoor open space areas wherever achievable (having regard to site orientation). Rooms oriented to the rear south-west elevation are heavily overshadowed on June 21, as are a number of rooms oriented to the central courtyard area, however this situation is improved at other times of the year.

The development is designed with the building comprising a “ring” formation around a central courtyard area to minimise building depth and provide for opportunities for solar access and natural ventilation.

### **Clause 36 -Stormwater**

*The proposed development should:*

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

A Stormwater Management Plan has been submitted for the proposal that includes a drainage gross pollutant trap, first flush devices, rainwater harvesting (for irrigation) and on site detention, to appropriately manage stormwater.

The parking area at the front of the site is provided with adjacent areas of pervious materials and hard surfaces to the rear of the site, adjacent to the riparian zone are minimised.

### **Clause 37 -Crime Prevention**



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

This matter has been addressed in further detail in this assessment, please refer to comment under DCP 2014, Part 3: Development Design – *Safety and Security*.

#### **Clause 38 -Accessibility**

*The proposed development should:*

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

Public transport operates along Warners Bay Road all day. Pedestrian access to the bus stops directly in front of the site will be facilitated by access pathways linking the front entry of the building to the existing public footpath at the street (without the need for pedestrians to cross the main driveway area).

Access to and around the development is satisfactory and the services/facilities provided on-site are adequate, attractive and safe as determined by the Disability Access Compliance Statement submitted (Accredited Access Consultant, dated 25 January 2016), and proposed landscaping.

#### **Clause 39 -Waste Management**

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

The development proposes satisfactory waste and re-cycling facilities, with centralised collection points provided within the development site.

A satisfactory Waste Management Plan (Universal Foodservice Designs, dated 15 May 2016) has been submitted for the proposed development.

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

#### **Division 1 – General**

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

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

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

##### **(2) Site size**

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

The site has an area of approximately 15,307m<sup>2</sup>, thus exceeding the 1000m<sup>2</sup> minimum required.

##### **(3) Site frontage**

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

The site frontage is well in excess of 20 metres at the building line.

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

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

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

Residential flat buildings are not permitted within either of the site's zoning(s), however for the purposes of this assessment, the applicable maximum height control for the development is pursuant to *Clause 4.3 - Height of buildings* under Lake Macquarie Local Environmental Plan 2014 (discussed in more detail later in this report), therefore compliance with this clause is not required.

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

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

No issues are identified in relation to the Commonwealth Aged Care Accreditation Standards or the Building Code of Australia in regards to access/useability.

An Access Report and BCA Compliance report have been submitted for the proposed development, with conditions of consent recommended, should approval be granted, in regards to compliance with relevant legislation/standards and the recommendations of the Access Report.

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

Clause 44 – Availability of facilities and services

*A consent authority must be satisfied that any facility or service provided as part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage.*

All the essential facilities and services for the use (including meals and cleaning services, nursing care and appropriate staffing, furniture, furnishings and equipment), to cater for resident's needs would be available when the building is ready for occupation.

The development is proposed as a staged development, with the 'Health Hub' building to comprise Stage 2 works, to provide for additional specialised health facilities and services for residents.

## ***Part 7 - Development Standards that cannot be used as Grounds to Refuse Consent***

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

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

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

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

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

The proposed development is in accordance with the principles set out in Division 2 of Part 3.

## **Division 2 Residential Care Facilities**

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

*A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds:*

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

The building height is greater than 8m, however, the zoning allows for buildings that are higher than 8m (8.5m maximum height under LEP 2014). The development is limited to two storeys in height.

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

The density of the development is less than 1:1, at 0.5:1.

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

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

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

- (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and*

- (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and*

- (iii) 1 parking space suitable for an ambulance.*

Carparking has been provided in excess of the above requirements.

## **Chapter 4 - Miscellaneous**

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

*A consent authority must not grant consent to carry out development for the purpose of a residential care facility for seniors unless the proposed development includes a fire sprinkler system.*

The applicant has advised that a fire sprinkler system will be installed in the proposed residential care facility.

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

Written notice has been provided to Ausgrid under clause 45(2) of SEPP Infrastructure 2007, with comments received in response, setting out Ausgrid requirements. A condition of consent requiring compliance with Ausgrid requirements is recommended, should approval be granted.

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

It is noted that the subject site currently comprises residential uses and there is no history of use for the site or wider locality that would suggest that there would be any existing land contamination.

Standard conditions of consent in regards to potential asbestos contaminants are recommended, should approval be granted.

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

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

*means a sign that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but that does not include general advertising of products, goods or services.*

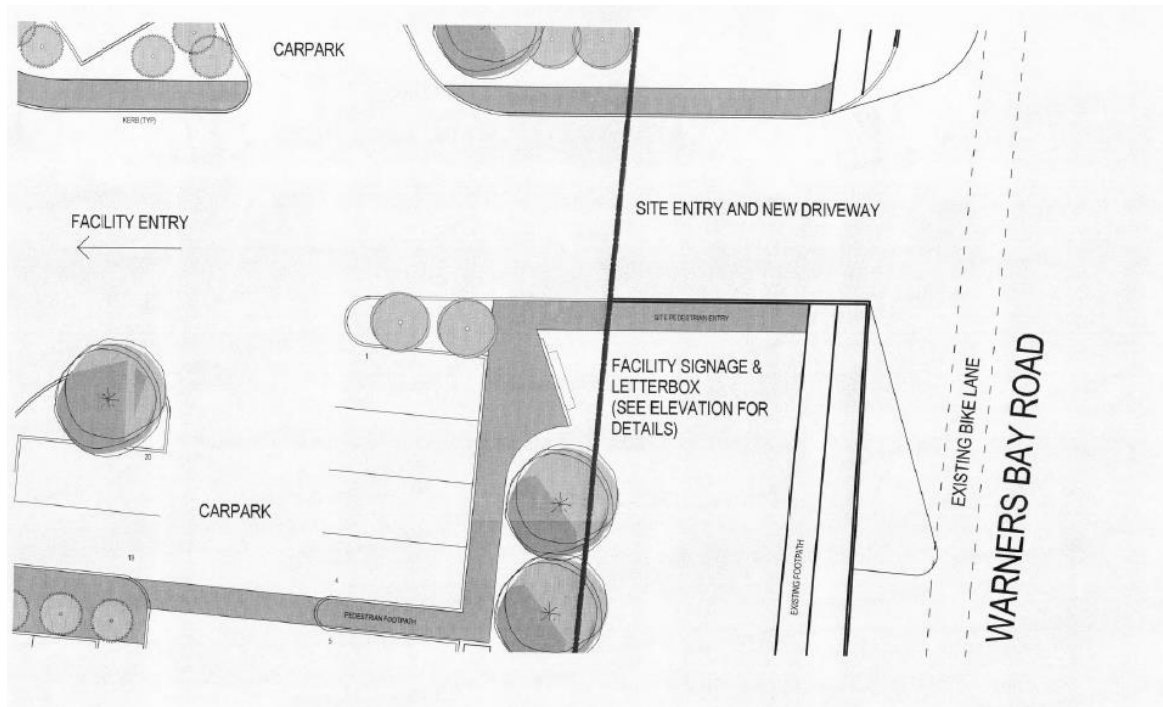
Clause 8 of SEPP 64 requires the consent authority to be satisfied that the signage is consistent with the objectives of the SEPP as set out in clause 3(1)(a) and that the signage satisfies the assessment criteria specified in Schedule 1. Assessment against clause 3(1)(a) and Schedule 1 is provided below.

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

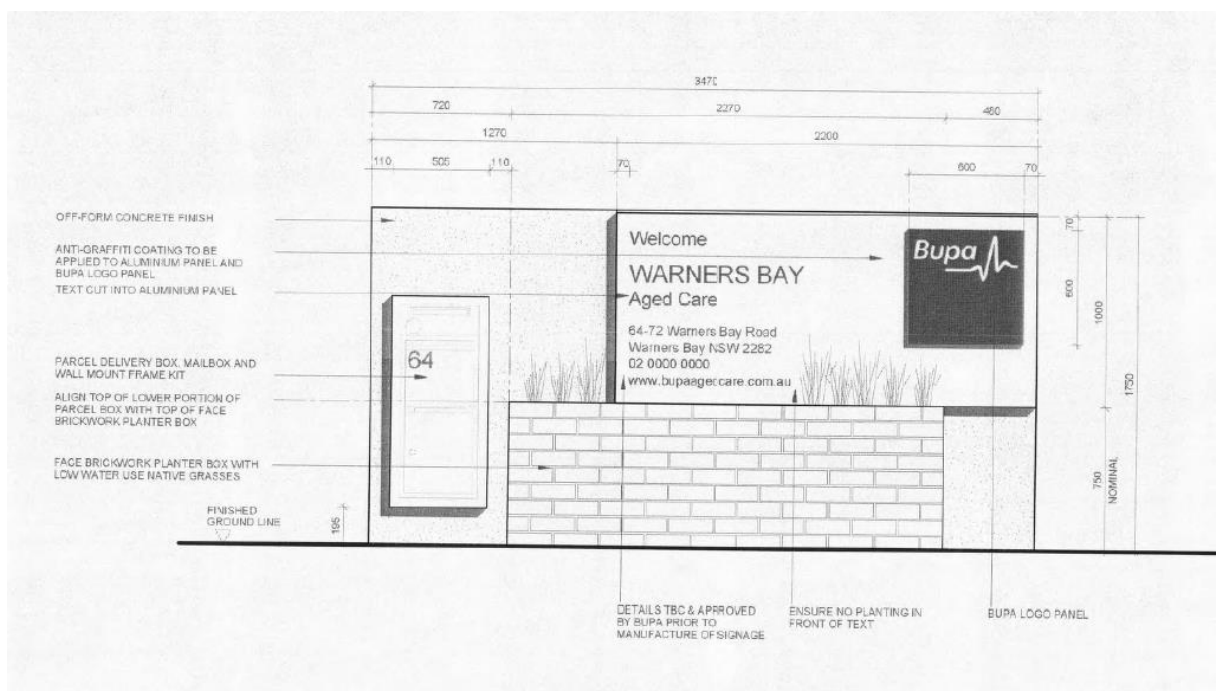
- (i) is compatible with the desired amenity and visual character of an area, and*
- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish.*

The proposal includes an entry signage panel to the site frontage, comprising a 1.75m high (3.47m long) masonry wall panel (off-form concrete finish) to incorporate an aluminium building identification sign, mailbox for the facility and a face brickwork planter box feature.

The signage panel/entry feature is located adjacent to the vegetated buffer and carparking area at the front of the site.



**Figure 7: Signage Location Plan**



**Figure 8: Entry Signage Elevation**

The maximum height of the signage above ground is 1.75m, which is considered appropriate to provide for adequate identification of the premises and to not negatively detract from the amenity of the area.

Warners Bay Road is a sub-arterial road with moderate traffic volumes. The signage panel proposed would be located towards the centre of the subject site and not in close proximity to any adjacent residential uses.



The presentation of the 1.75m high x 3.47m wide signage wall panel in this area is considered acceptable, given its location, high quality design including integration with the adjacent landscaping and other nearby uses (aged care independent living development and small scale commercial development on the opposite side of Warners Bay Rd). The signage is not proposed to be internally illuminated.

## **Schedule 1 – Assessment Criteria**

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

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

The signage, comprising building identification signage only, is considered to be compatible with the desired future character of the area.

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

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

### **2 Special areas**

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

The signage in the location proposed does not detract from the amenity of the area.

### **3 Views and vistas**

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

The signage does not obscure or compromise important views.

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

The signage has a maximum height of 1.75m and does not project above the height of the proposed buildings or trees to the front setback of the site.

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

The signage respects the viewing rights of other advertisers.

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

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

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

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

The proposal contributes a visual interest to the streetscape.

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

There is no existing advertising within close proximity of the site.

- *Does the proposal screen unsightliness?*

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

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

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

- *Does the proposal require ongoing vegetation management?*

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

## **5 Site and building**

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

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

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

The proposed signage respects significant features of the site.

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

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

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

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

The Bupa logo has been sympathetically integrated into the overall design of the building identification signage proposed.

## **7 Illumination**

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

The application does not propose any illumination for the signage, particularly internal illumination.

## **8 Safety**

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*

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

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

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

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

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

### **State Environmental Planning Policy No. 71 – Coastal Protection**

The site is within the coastal zone and subject to the provisions of the SEPP which aims to manage and protect the coastal environment of New South Wales and in particular in regards to visual amenity and access.

The site is not in an elevated location and although in proximity to the lake, not adjacent to the lake foreshore or readily visible from the lake.

The proposal has been assessed having regard to the relevant provisions of the policy and it is considered that the development would be consistent with the aims of the SEPP.

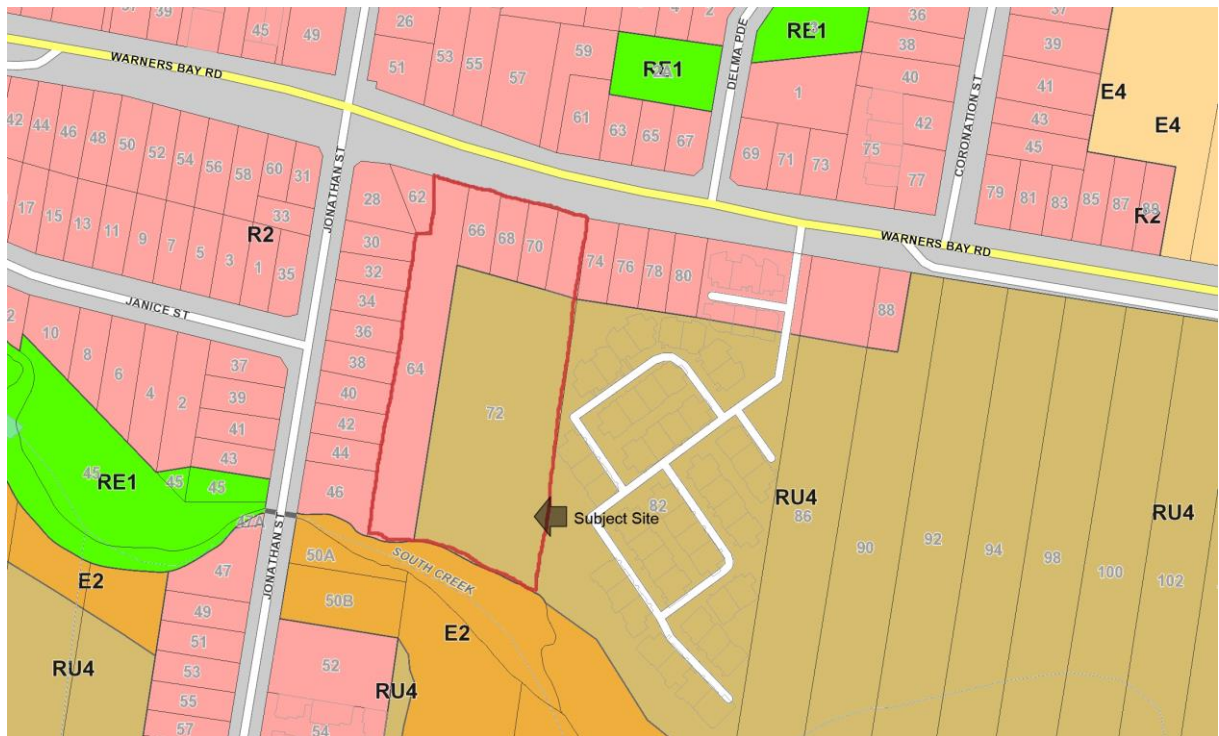
In addition, the assessment has had regard to the matters for consideration in Clause 8 of the SEPP, and it is considered that the proposal is acceptable in this regard as follows:

- The type, location and design of the development and its relationship with the surrounding area is considered to be suitable. The development is of an appropriate type for the locality, and the building(s) proposed would not be excessive in bulk or dominance when viewed from the coast;
- The site, which is set well back from the lake foreshore, is considered to be suitable for the proposed development;
- There would be no impact on any existing wildlife corridors within the locality;
- The proposed development would not be adversely impacted by coastal processes or hazards nor will the proposal affect any coastal processes or hazards; and
- The stormwater management strategy (as amended) for the proposed development includes adequate measures to ensure the protection of water quality runoff from the site.

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

#### **Clause 2.3 Zone objectives and Land Use Table**

The land is zoned R2 – Low Density Residential and RU4 – Primary Production Small Lots (as are surrounding lands). There is also an E2 – Environmental zoning adjacent to South Creek at the rear, however, this zoning does not extend onto the subject site.



**Figure 9:** Extract from Lake Macquarie LEP2014 zoning map

### Zone Objectives

*Clause 7.12 does not include any provision that specifically overrides or excludes any other provision of the LMLEP 2014 and subsequently Council must be satisfied that the development as proposed would be consistent with the relevant objectives for the zone as set out in the Land Use Table under the LEP.*

The development has been considered against the objectives of the zone(s) for the site.

The land is zoned predominantly *RU4 – Primary Production Small Lots*, with the objectives of the zone as follows:

- (a) *To enable sustainable primary industry and other compatible land uses.*
- (b) *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- (c) *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- (d) *To provide for a rural lifestyle and other compatible activities.*
- (e) *To maintain or improve the quality of the environment.*

The proposal provides for a housing type (seniors housing), which exists in the broader locality, however residential aged care facilities are in limited supply in general. The proposal is characterised by generous building setbacks, which enables considerable landscape buffers to surrounding properties, to minimise the visual presence of the development to the surrounding rural setting to the east. However, it

is also noted that the subject site is currently isolated to a certain extent and not immediately adjacent to other rural uses in the locality.

As a result, the development, whilst residential in nature and visible from public places and surrounding properties will not adversely detract from the visual setting nor unreasonably affect the amenity of surrounding landowners. The locality in general and riparian corridor to the rear, would gain benefit from the location of the development, providing for a quality built form responsive to the site constraints. The locality will maintain its current landscaped character.

The remainder of the land is zoned *R2 – Low Density Residential*, with the objectives of the zone as follows:

- (a) *To provide for the housing needs of the community within a low density residential environment.*
- (b) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- (c) *To encourage development that is sympathetic to the scenic, aesthetic and cultural heritage qualities of the built and natural environment.*

The development provides for the housing needs of the wider community in the form of a residential care facility, which is of an appropriate residential form and scale although not considered to be low density in itself.

The provision of the building within an enhanced landscape setting, with retention and ongoing management/revegetation of the riparian zone to the rear of the site would be sympathetic to the scenic and aesthetic qualities of the built and natural environment in the locality.

The proposal is considered compatible with zone. The new facility within close proximity to public transport and within a largely residential area enables staff of the facility to potentially live closer to their work place and for ease of access for visitors.

#### Clause 2.4 – 2.6

Not applicable.

#### Clause 2.7 Demolition required development consent

Consent is sought under the application for the demolition of four existing dwelling houses and ancillary structures on the site to facilitate the development.

#### Clause 2.8

Not applicable.

#### Part 3: Exempt and Complying Development

#### Clause 3.1 – 3.3

#### Part 4: Principal Development Standards

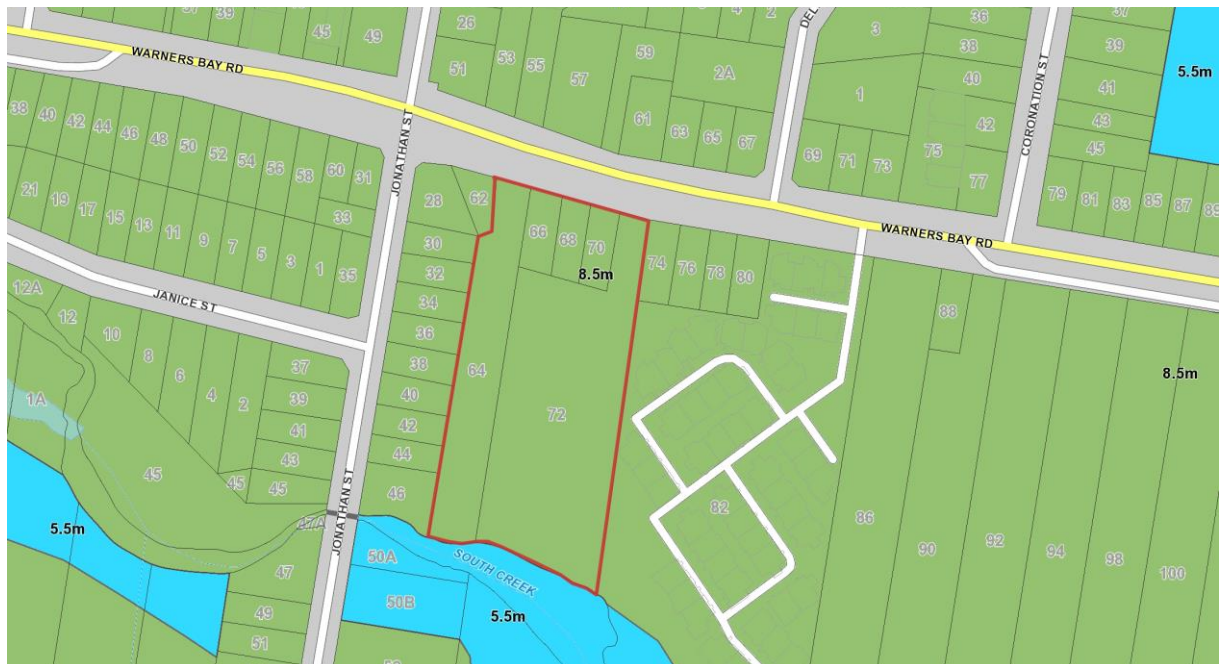
#### Clause 4.1 – 4.2B

Not applicable.

#### Clause 4.3 Height of buildings

The main building that comprises the proposed residential care facility exceeds the maximum 8.5m height (from natural ground level) for land shown on the *Height of Buildings Map*.





**Figure 10:** Extract from Lake Macquarie LEP2014 height of buildings map

The non-compliance relates primarily to the rear portion of the proposed building, with the maximum height reached being 10.5m at the south-western corner. The building is predominantly two storeys in height although the rear of the building, located where the site slopes down to the south-west, is cantilevered over an undercroft area in order to achieve the ground floor level of the building required to address the 1:100 year flood levels for the site.

A non-compliance with the maximum height control also applies to the central pitched roof section of the building, which extends from the entry canopy at the front to approximately one third of the building length (including a rooftop mechanical plant enclosure). This roof plane is restricted to the centre of the site, set well back from the edges of the main roof, adds visual interest to the design, improves the contribution of the building to the streetscape and does not result in amenity impacts to adjacent properties.

Having regard to the use of the building proposed, surrounding development, with many examples of two-storey dwellings and the location of the site on the lower side of Warners Bay Road, the building heights proposed are considered to be appropriate for their location and relate to a building of high quality urban form.

The development presents as two storeys when viewed from the street frontage where the building is below the 8.5m height plane, with the pitched roof section to the centre of the building protruding above as discussed. There are also setbacks in excess of 7m proposed to each side, where although the building would present visual bulk, would not result in any unacceptable amenity impacts to adjacent low density residential uses.

The building heights proposed for the development are considered to be acceptable on merit and would not result in unacceptable amenity impacts in the locality.

#### Clause 4.4 – 4.5

Not applicable.

#### Clause 4.6 Exceptions to development standards

A written request had been submitted from the applicant providing justification of the contravention of the *Height of Buildings* development standard as discussed above. The objectives of the development standard as follows:

- (a) *To ensure the height of buildings are appropriate for their location.*
- (b) *To permit building heights that encourage high quality urban form.*

The Clause 4.6 exception adequately addresses the reasons for the contravention and identifies sufficient environmental planning grounds to justify that the compliance with the development standard is unreasonable and unnecessary, given the circumstances of the case and the existing site constraints.

The proposed development, although contravening the development standard would be consistent with the objectives of the Height of Buildings development standard and the objectives of the zoning of the land on which the development is proposed.

#### Part 5: Miscellaneous provisions

##### Clause 5.1 – 5.4

Not applicable

##### Clause 5.5 Development within the coastal zone

The site is located within the coastal zone, however is not in an elevated location and although in proximity to the lake, not adjacent to the lake foreshore or readily visible from the lake.

The objectives of this clause relate to protection and preservation of the coastal environment, including amenity and scenic quality, as well as maintenance and provision of public access to and along the coastal foreshore.

The proposed development would not impact upon existing levels of public access to the coastal foreshore and is considered to be suitable in its relationship with the surrounding area. Having regard to the type, location and built form, including bulk/scale proposed for the development, it is considered that there would not be any negative impacts on the natural scenic quality in the area, with the proposal designed to maintain and improve the visual qualities of the riparian area within the rear of the site.

The subject site is not located such that there would be any impacts to the visual amenity or scenic qualities of the coast, any views from a public place to the coastal foreshore or on existing biodiversity and ecosystems.

Appropriate stormwater management measures are proposed for the development to ensure that there would not be any discharge of untreated stormwater into the coastal creek (South Creek) at the rear of the site, that is a tributary of the lake.

##### Clause 5.6 Architectural roof features

As discussed previously under *Clause 5.3 Height of buildings*, the central portion of the roof at the front of the building that also comprises the “canopy” over the main entry would exceed the maximum height limit of 8.5m for the site.

The merits of this non-compliance have been considered under Clause 5.2.

##### Clause 5.7 – 5.8

Not applicable.

##### Clause 5.9 Preservation of trees or vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

A majority of the site is clear of trees and any native vegetation owing to use of the front lots for residential dwellings and the larger lot to the rear for horse grazing. There is a significant tree towards the centre of the front of the site which is proposed to be retained and utilised as a landscape element for the main entry to the building and three other large trees towards the front of the site adjacent to the western side boundary would be retained.

Remnant and regrowth native vegetation also occurs along the southern site boundary which is dominated by swamp oak *Casuarina glauca*, and an exotic grassy groundcover. This native vegetation is characteristic of a degraded form of 'swamp oak floodplain forest on coastal floodplains', an endangered ecological community listed on the TSC Act. Nearby native vegetation associated with South Creek, which occurs south of the site, is characteristic of 'river flat eucalypt forest on coastal floodplains', also an endangered ecological community listed on the TSC Act.

Native vegetation in the southern section of the site also forms part of a native vegetation corridor mapped in Council's *Native Vegetation and Corridor Map v1 (2011)* and is therefore of high ecological value. The application proposes to retain all native vegetation in the southern section of the site with a minimum 10 m buffer between development and the swamp oak EEC.

There are no objections from a flora and fauna perspective relating to the proposed clearing of one native tree near the RU4 and R2 boundary (not part of the EEC) and landscaping associated with the existing dwellings. The VMP includes adequate planting to compensate for this loss of native vegetation at the site.

See further discussion later in this report under DCP 2014, Section 2.12 - *Flora and Fauna* and 2.13 – *Preservation of Trees and Vegetation*.

#### Clause 5.9AA – 5.15

Not applicable.

#### Part 6: Urban Release Areas

#### Clause 6.1 – 6.5

Not applicable.

#### Part 7: Additional Local Provisions

#### Clause 7.1 Acid sulfate soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The site is identified as containing Class 3 and Class 5 Acid Sulfate Soils. The Class 3 ASS are located at the rear of the site adjacent to South Creek and within the nominated riparian zone where minimal ground disturbance will be undertaken.

The works proposed under the application are not likely to lower the water table by 1 metre, as such will not impact upon adjacent ASS areas.

#### Clause 7.2 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Development consent is sought under the application for earthworks required for construction of the proposed aged care facility, with the amount of cut/fill proposed not considered to be excessive which a large area of the site to the rear not proposed to be modified. A Geotechnical Report has been submitted which assesses site classification and does not highlight any issues in this regard.

The works proposed would not result in any detrimental effect on drainage patterns or soil stability in the location or on the existing and likely amenity of adjoining properties.

Conditions of consent are recommended to be imposed, should the application be approved, in regards to excavation and retaining quality and source/destination of any fill and excavated material.

### Clause 7.3 Flood planning

*The objectives of this clause are as follows:*

- (a) To minimise the flood risk to life and property associated with the use of land,*
- (b) To allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) To avoid significant adverse impacts on flood behaviour and the environment.*

*This clause applies to:*

- (a) Land identified as "Flood planning area" on the Flood Planning Map, and*
- (b) Other land at or below the flood planning level.*

*Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) Is compatible with the flood hazard of the land, and*
- (b) Will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) Incorporates appropriate measures to manage risk to life from flood, and*
- (d) Will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

*A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.*

*In this clause: flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.*

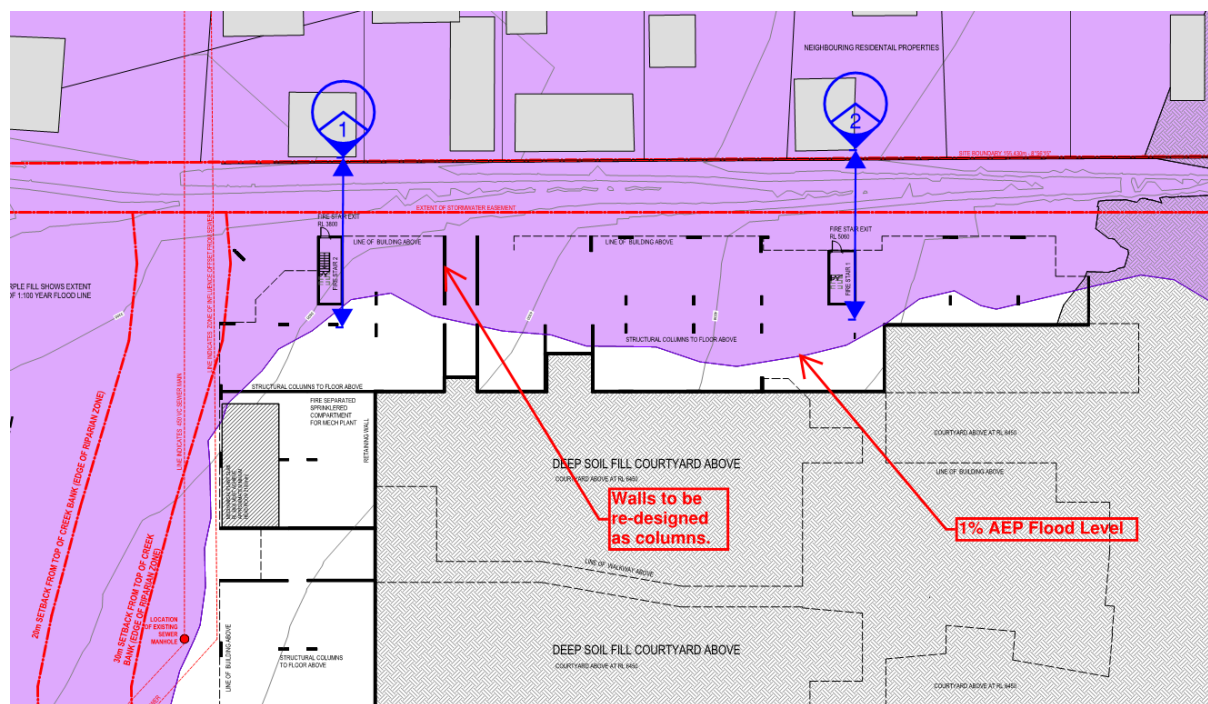
The site is identified as being located within a Flood Planning Area on the Flood Planning Map and is subject to catchment flooding, being impacted on by 100 year flood waters from South Creek and also from Warners Bay Road.

The design and positioning of the proposed development has had regard to the flooding affectation of the site, with the building having proposed floor levels that meet the required floor levels specific to a residential care facility (sensitive use) in accordance with the probable maximum flood levels. The rear of the building is designed with the ground floor level over a sub-floor undercroft area supported by structural columns.

A “Preliminary Flooding Advice” report (Northrop Consulting Engineers, dated 4 July 2016) has been submitted with the application, which reviews the site with regard to the proposed development and the impact of flooding.

Information provided by Northrop Consulting Engineers, dated 25 October 2016 as follows:

*“To further assess the impact of the development footprint on the 1% AEP flows from the western catchment, cross-sections of the flow path have been taken at two locations where the building impediment is at its greatest..”*



**Figure 11: Measures to minimise potential inundation to adjacent sites**

*“Noting that the walls highlight in Figure 1 will be redesigned as columns, the only prominent obstructions proposed within the western 1% AEP flow path are the Fire Stairs. These stairwell structures are 2.8m wide and 7.4m and 5.8m long respectively at Sections 1 and 2. As shown in Attachment 1, the depth of flow at both proposed stair locations does not exceed 100mm and is located at its outer extents. Given this the impact of the stairwells on flooding depths is expected to be minimal. However, to offset the loss of capacity it is proposed that compensatory volume be provided by lowering the channel adjacent to the stairs as depicted in flood storage cross sections. The provision of compensatory capacity in the channel will more than offset the impact of the isolated obstructions and avoid any impact to flood levels.*”

*Egress paths are also proposed from this area of the building. The location of the paths is shown in Figure 2. The pathway is to follow the natural contours along the western boundary and avoid the use of fill to minimise any impact to flood levels. In addition the link bridges shown traversing the drainage channel are to be suspended above the 1% AEP flood level and be designed as removable grate crossings to allow clear access for maintenance.*

*As part of the development kerb and guttering is to be provided along the southern side of Warners Bay Road. In the 1% AEP storm event runoff from the northern tributary of South Creek sheets onto Warners Bay Road and overtops the crown before sheeting across the proposed development's site boundary. To the west of the site, two kerb inlet pits collect runoff from Warners Bay Road which is piped to the open channel within the drainage easement on the western boundary.*

*The impacts of providing kerb and guttering along the site frontage are considered be two fold. Firstly runoff will be more effectively contained within the road reserve with increased head allowing greater conveyance within the piped network to the open channel. Secondly, as illustrated by the levels shown in Figure 3, should flow depths exceed approximately 200mm above the new kerb runoff will flow into Jonathan Street. It is reasoned that the additional ponding volume within Warners Bay Road in conjunction with the possible diversion of flows via Jonathan Street will not result in additional inundation of the western drainage channel but rather aid in its reduction within the neighbouring properties."*

Based on this information, it is considered that the development would not result in significant adverse impact on flood behaviour within the locality or detrimental increase in potential flood affectation to other adjacent development or surrounding properties.

A condition of consent is recommended, should the application be approved, that the walls adjacent to the south-western fire stair be re-designed as columns (in accordance with the Northrop advice). Additionally, the *Flood Storage Cross Sections* are recommended to be included in the 'approved documentation' to the development.

#### Clause 7.4 – 7.11

Not applicable.

#### Clause 7.12 Development for the purpose of seniors housing

The application for the seniors housing development has been lodged pursuant to Clause 7.12 of LMLEP 2014, which states:

- (1) *The objective of this clause is to maintain for a certain period the opportunity for development for the purpose of seniors housing in certain locations.*
- (2) *Despite any other provision of this Plan, development consent may be granted to the following development:*
  - (a) *a hostel (within the meaning of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004),*
  - (b) *a residential care facility,*
  - (c) *serviced self-care housing (within the meaning of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004) if the consent authority is satisfied that the housing will be provided:*
    - (i) *for people with a disability, or*

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

The application is for a residential care facility (144 beds), which is proposed on land that is “eligible land”, is of sufficient size to accommodate at least 70 dwellings, the site has frontage to Warners Bay Road which is a sealed public road that provide access to nearby urban centres at Mount Hutton and Warners Bay and 70% of the site has a grade of less than 20%.

In this regard, the proposal is considered to be consistent with the requirements of this clause and subsequently the proposed development permissible under Clause 7.12 of LMLEP 2014.

Note: Although this clause ceased to apply on 10 October 2016, as the subject application was lodged prior to this date, it can be determined in accordance with the provisions of this clause (subclause 5).

#### Clause 7.13 – 7.20

Not applicable.

#### Clause 7.21 Essential services

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

Suitable vehicular access is also able to be provided for the development.

#### Clause 7.22 – 7.23

Not applicable.

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

None applicable.

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



## **Lake Macquarie Development Control Plan 2014 (DCP 2014)**

### **Part 1 – Introduction**

#### *Notification of the application:*

Written notification of the application was made to adjacent property owners for a minimum of 14 calendar days, which included properties on the opposite side of Warners Bay Road.

Two submissions were received, which both raise objections to the proposal. The objections are addressed within section 79C(1)(d) of this report.

Relevant government departments were also notified, being:

NSW Department of Primary Industries - Water

Mine Subsidence Board

Ausgrid

NSW Police Service

The Mine Subsidence Board General Terms of Approval were received on 29 March 2016.

NSW Office of Water General Terms of Approval were outstanding at the time of finalisation of this report, although anticipated prior to determination by the Panel.

Ausgrid provided comments on 11 March 2015.

No comment has been received from the NSW Police Service.

Additionally, the development plans have been stamped by Hunter Water prior to lodgement of the application with regard to HWC assets.

### **Part 2 – Development in Rural Zones & Part 3 – Development in Residential Zones**

#### **Aims for Development in Rural Zones**

*The aims of LM DCP 2014 for development in rural zones are:*

1. *To ensure that the amenity of rural areas and natural landscapes are maintained.*
2. *To ensure that rural housing and lifestyle development is integrated effectively with agricultural productivity and reduces land use conflict.*
3. *To ensure that development occurs in an ecologically sustainable manner, and is energy efficient in terms of design and layout, consumption and materials.*
4. *To maintain the amenity and natural character of the landscape.*
5. *To promote the orderly economic development which maintains the viability of rural lands.*

#### **Aims for Development in Residential Zones**

*The aims of LM DCP 2014 for development in residential zones are:*

1. *To ensure development responds to the characteristics of the site and qualities of the surrounding urban environment, or the desired future character.*
2. *To support principles of Ecologically Sustainable Development.*
3. *To inspire innovative design for all forms of development within the residential zones.*
4. *To ensure development does not have adverse impacts on residential amenity.*

The aims for development in the subject zones reflects the zone objectives, discussed previously in the report under LEP 2014 – *Clause 2.3 Zone objectives and Land Use Table.*

The development provides for the housing needs of the wider community in the form of a residential care facility, which is of an appropriate residential form and scale although not considered to be low density in itself.

The provision of the building within an enhanced landscape setting, with retention and ongoing management/revegetation of the riparian zone to the rear of the site would be sympathetic to the scenic and aesthetic qualities of the built and natural environment in the locality.

The proposed development is considered to be consistent with the zone objectives (of both applicable zones) generally and would not result in land conflict with other existing parcels of rural lands within the locality.

Both Part 2 & Part 3 of the DCP 2014 have the following sections (and controls) in common, being 2.1 to 2.18 as discussed below:

#### Section 2.1 – Site Analysis

A Site Analysis Plan has been submitted for the proposal that identifies the existing conditions, including constraints and opportunities for the proposed development. Information has been submitted indicating that the proposed development has been designed to address the constraints (flood levels, stormwater easement to north-western side, moderate road noise from Warners Bay Road, riparian zone to rear adjacent to South Creek) and take advantage of the opportunities (access to nearby services/facilities, ease of access to the site, existing mature trees and riparian zone to rear).

Additionally, a visual analysis comprising of photos of existing views and 3D building mass of the proposal modelled into the landscape, from nine different viewpoints to the site has been submitted which shows the scale and form of the proposed development within its setting.

The development demonstrates good site planning, built form and landscape outcomes informed by an understanding of the site and locality.

#### Section 2.2 – Scenic Values

A Landscape and Visual Impact Assessment (required for seniors living developments and hospitals with more than 30 beds) had been submitted for the proposal which incorporates an extensive viewpoint analysis.

The subject site is in a relatively low lying area of the visual catchment and not visible from or adjacent to the coastline of Lake Macquarie, with the visual impact assessment identifying that “...*the site is neither highly or moderately sensitive to change when considering whether it is a visually sensitive landscape or a place of high visibility.*” The proposed development would be most ‘visible’ from the street

immediately in front of the site and properties on Warners Bay Road opposite the site and would be considered to be a dominant element from viewpoints immediately adjacent to the site.

However, having regard to the articulated building form, setback from the street, colours and materials palette and landscape treatment to the front setback and wider site proposed, adverse visual impacts to the locality have been appropriately mitigated and the development would be acceptable in regards to protecting the scenic values of the locality.

Although the location of the parking area within the front setback of the site is not desirable from a visual impact perspective, the curved design and landscaping proposed to the carparking area and wider development results in a good visual outcome when viewed from the street frontage and surrounding properties. Having the building set well back on the site contributes to reducing potential visual impact resulting from the bulk and scale of the development, which although not considered excessive for the type of development, is located within a predominantly low density residential area.

### Section 2.3 – Geotechnical

The site is not identified as being within a geotechnical zone on Council's Geotechnical Maps and is relatively flat.

A Geotechnical Engineers Report from Douglas Partners has been submitted for the proposal that assesses the site classification (site classification M) and some contamination assessment. The report does not raise any issues in this regard.

### Section 2.4 – Mine Subsidence

Written concurrence has been obtained from the Mine Subsidence Board for the proposed development, with the general terms of approval included in the recommended conditions, should the application be approved.

### Section 2.5 – Contaminated Land

The geotechnical report advises that no contamination of the site has been found and there are no historical uses of the site that would raise concern in this regard.

Standard conditions of consent in regards to asbestos removal are included in the recommended conditions, should approval be granted.

### Section 2.6 – Acid Sulfate Soils

The site is identified as containing Class 3 and Class 5 Acid Sulfate Soils. The Class 3 ASS are located at the rear of the site adjacent to South Creek and within the nominated riparian zone where minimal ground disturbance will be undertaken.

The works proposed under the application are not likely to lower the water table by 1 metre, as such will not impact upon adjacent ASS areas.

### Section 2.7 – Stormwater Management

Council Engineers advise that the Stormwater Management Plan (as amended) provides for acceptable stormwater management measures for the development, incorporating detention, water harvesting, water quality facilities and appropriate site discharge index.

The rainwater storage is proposed to be used for irrigation of landscaping only, with the tank increased to 52,000L capacity. Council's Landscape architect advises that

this volume would be acceptable for daily landscape irrigation given the landscape area proposed for the site.

A condition of consent is recommended to be imposed, should the application be approved, to require provision of an automated irrigation system for the landscaped areas on site capable of accommodating the tank capacity.

#### Section 2.8 – Catchment Flood Management

The site is identified under Council's mapping system as being subject to catchment flooding, being impacted on by 100 year flood waters from South Creek and also from Warners Bay Road.

See previous discussion under LEP 2014, Clause 7.3 *Flood Planning*.

#### Section 2.9 – Lake Flooding and Tidal Inundation (incorporating sea level rise)

The subject site is not subject to Lake Flooding, Tidal Inundation or Sea Level Rise constraints.

#### Section 2.10 – Natural Water Systems

The site is adjacent to South Creek (a tributary of Lake Macquarie) which runs along the rear of the site outside of the property boundary.

There are no works proposed that would adversely affect the natural state of the watercourse, with the riparian zone to be maintained and rehabilitated to contribute to water quality and mitigate sedimentation to the lake. Stormwater management measures include a gross pollutant trap, first flush devices and underground detention tanks for management of water quality and quantity for the developed site.

Under the applicable controls, a 30m Vegetated Riparian Zone is required (to the third order watercourse) with development to take place outside of the VRZ. A 30m setback is proposed to the building works for the development (with minor encroachment discussed previously), with the zone within 20m of the creek to be revegetated and maintained with native riparian vegetation. Stormwater drainage works are proposed within the VRZ.

Council's Sustainability Officer further advises:

*“Both the Architectural Plans and Vegetation Management Plan show a 30 metre setback from South Creek, with a 20 metre vegetated riparian zone. I am satisfied that the development will not have an adverse impact on water quality, aquatic habitat and riparian vegetation of South Creek. The VMP adequately describes the existing riparian area and outlines the proposed protection methodologies.*

*As requested, additional information has been supplied within the Stormwater Drainage Report and associated plans has demonstrated that the appropriate controls in the form of scour protection is proposed and shown on appropriate plans on both boundaries for stormwater management.”*

Advice has also been sought for the development from NSW Department of Primary Industries – Water, whose final comments had not been received at the time of finalisation of the report.

#### Section 2.11 – Bushfire

The subject site does not constitute Bushfire Prone Land.

## Section 2.12 – Flora and Fauna

There is native riparian vegetation existing at the rear of the site adjacent to south creek characteristic of 'swamp oak floodplain forest on coastal floodplains', an endangered ecological community (EEC) listed in the TSC Act. Nearby native vegetation associated with South Creek, which occurs south of the site, is characteristic of 'river flat eucalypt forest on coastal floodplains', also an EEC listed in the TSC Act.

Native vegetation in the southern section of the site also forms part of a native vegetation corridor mapped in Council's *Native Vegetation and Corridor Map v1 (2011)* and is of high ecological value.

An amended Vegetation Management Plan has been provided at the request of Council which shows an expanded riparian buffer to include all the swamp oak endangered ecological community (EEC) in the southern section of the site, so that the fence does not intersect a patch of remnant EEC and to protect and encourage natural regeneration of the EEC into the future.

Council's Flora and Fauna Officer advises:

*"The application proposes to retain all native vegetation in the southern section of the site with a variable (~10-20 m) buffer between the development and the swamp oak forest EEC. This buffer distance is considered to reasonably comply with the recommendations in the Lake Macquarie Flora and Fauna Survey Guideline given that the EEC is in a degraded form and the remaining vegetation is nominated for rehabilitation and protection in perpetuity."*

The proposed development adequately protects and retains existing vegetation and will result in revegetation and ongoing management of the riparian zone to the rear which is a desirable outcome in regards to the preservation of flora and fauna within the locality. Additional landscaping will be incorporated within the development to further embellish the natural landscape features of the site.

The development is supported in this regard, subject to imposition of the recommended condition of consent, should the application be approved, requiring the Riparian Zone to be rehabilitated in accordance with the VMP and also to be conserved in perpetuity via a restrictive covenant under Section 77B of the *Conveyancing Act 1919*.

## Section 2.13 – Preservation of Trees and Vegetation

The proposed development seeks to retain a majority of existing trees on site, including a significant tree (eucalypt species) towards the centre of the front setback which is to be utilised as a 'feature' of the main entry to the building.

An Arboricultural Impact Appraisal has been submitted for the proposal (Naturally Trees, dated 22 June 2016) which identifies that only trees of low and very low retention value would be removed (nine in total), to accommodate the proposed development.

No objection to the proposed tree removal has been raised by Council's Tree Management Officer, who recommends a condition of consent be imposed in regards to tree protection measures during construction, should the application be approved.

## Section 2.14 – 2.16 (Heritage Provisions)

N/A

## Section 2.17 – Social Impact

A Social Impact Assessment (SIA) has been submitted (Revised version by Sarah George Consulting, dated October 2016). The SIA identifies limited potentially negative social impacts related to noise generation in the construction and operation of the proposed facility, with these negative impacts out-weighed by the positive impacts through the provision of a modern, secure and respectful Aged Care Facility for residents with dementia and increased availability of affordable seniors housing in the area.

Council's Social Planner has raised concerns with the failure of the SIA to investigate the impacts associated with the loss of the primary production (RU4) land.

Lake Macquarie LGA has a significantly higher proportion of people aged over 65 years than NSW or Australia. In the 2011 Census, 18.4% of Lake Macquarie's population was aged over 65, compared to 14.7% for NSW, and 14.0% for Australia. Furthermore, 2.5% of Lake Macquarie's population is aged over 85 years, compared to 2.0% for NSW and 1.9% for Australia. (ABS 2011 Census Data).

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

With an increasing ageing population, additional appropriately placed seniors housing options will be required to meet the future needs of the City. This proposal will provide additional seniors housing options (specific to residential aged care and dementia), and would be appropriately located on a site adjacent to other existing seniors housing, close to public transport, and close to services and facilities.

The rural lands within the development site, comprise the rear portion (under No.68 Warners Bay Rd), which is the only lot currently without an existing dwelling house. Therefore, there is only the potential for this lot to be developed to provide for a rural lifestyle choice as the other lots that comprise the development site are standard dwelling lots within a low density residential zoning.

The rural land parcel is also "isolated" from other rural lands in the locality by the existing seniors living development to the east and it is therefore considered that development of the lot as proposed would not set a precedent that would lead to the loss of other rural lands in the locality and is supported in this instance.

#### **Section 2.18 – Economic Impact**

The proposed development would provide for the creation of varied employment opportunities and would provide for wider economic benefits to existing development in the locality and nearby local centres.

### **3 – DEVELOPMENT DESIGN**

The relevant controls from both the Part 2 (Development in Rural Zones) & Part 3 (Development in Residential Zones) of DCP 2014, in regards to Development Design, are discussed below:

#### **Streetscape**

The existing built environment along the section of Warners Bay Road primarily consists of one and two-storey older style residential dwelling houses. Four dwellings would be demolished to accommodate the proposed development, which would be flanked on one side by a new two-storey dwelling house (No.62 Warners Bay Rd) adjacent to the corner of Jonathan Street and an older style dwelling house (No.74 Warners Bay Rd) to the other side. There would be a row of four dwellings retained

between the new development and the existing seniors living development to the south-east, which also wraps around the rear of these four dwellings.

Although the bulk and scale of the proposed building would be significantly greater than adjacent development, the development design, with the building set well back on the site and provision of the landscaped buffer to the street, would result in the development contributing appropriately to the streetscape with respect to the local context.

Although the car parking area within the front setback is not desirable in regards to streetscape presentation, the parking is designed with a layout and a relationship to the landscaping proposed, to provide interest and reduce the dominance of the hard surfaces when viewed from the street.

The development, through the nature of its use, provides for surveillance of the front setback area and the street and is considered to enhance street amenity for pedestrians and result in a positive contribution to the streetscape.



**Figure 12:** Extract from Visual Assessment Report – Streetscape Visual

#### Street Setback

The street setback is not consistent with the established street setback. The building would be set back approximately 50m from the front boundary, which would generally correlate to the front setback to the principal area of the adjacent seniors living development to the east and would provide for increased landscaping within the front setback and a reduction in the dominance of the building when viewed from the street.

The setback proposed would also result in a reduction in properties impacted upon by potential visual bulk and amenity issues resulting from the development.

The street setback proposed for the development is considered to be acceptable on merit.

#### Side Setback



The residential controls require a minimum side setback of 3m for a building height of three storeys or more and the rural zone controls require a minimum side setback of 5m for buildings.

There is a side setback of 7.1m proposed for the eastern side of the building and a side setback of 8.183m for the western side of the building, adjacent to the existing easement.

The side setbacks proposed are considered to provide for adequate separation to existing dwellings on adjacent sites for visual separation and to maintain reasonable levels of privacy and solar access.

#### Rear Setback

The residential controls require a minimum rear setback of 9m for a building height of three storeys or more and the rural zone controls require a minimum rear setback of 5m for buildings.

There is a rear setback of approximately 30m proposed for the development. This setback comprises the riparian zone to the rear of the building to South Creek. There are no buildings within close proximity to the rear boundary of the site and no issues raised in regards to amenity impacts for adjacent properties to the rear.

#### Site Coverage

There is a maximum site coverage control for residential development of 50% of the total site area. The site coverage proposed for the development is approximately 66%, however a large proportion of the site not covered by buildings would comprise deep soil landscaping.

The amount of site coverage proposed is not considered to be excessive for the type of development and sufficient setbacks are proposed to the building to minimise amenity impacts to adjacent sites.

#### Building Bulk

The development would comprise a building bulk significantly greater than adjacent low density residential development. However, the building would present as two-storey to the street, would not be visible from the Lake and would be of a high quality architectural design.

The visual impact of the building would be mitigated by its siting on the low lying site and location on a sub-arterial road with moderate traffic volumes. Articulated walls and a variety of colours and materials in keeping with the local environment, to the facades of the building as well as the provision of balconies and decks to the rear and landscaping to the side and rear setbacks, aid in a reduction in visual bulk.

The side setbacks proposed would provide for adequate separation to adjacent dwellings to minimise visual impact and preserve amenity. Additionally, the scale and massing of landscaping has been designed to reduce the visual bulk of the development when viewed from adjacent sites and the street.

#### Roofs

The roof form proposed for the building would relate to the typography of the site and would not unnecessarily increase the visual bulk or potential amenity impacts arising from the development.

#### Views

It is not envisaged that there would be any resultant negative impact on any existing district views or views to the lake from surrounding properties.

#### Solar Access and Orientation

The site is oriented with the front boundary facing generally north-east with solar access provided to rooms within the development as far as practicable, with the development designed to minimise building depth, and internal recreation space (courtyard areas) incorporated into the design to provide residents with access to outdoor areas, although these are partially impacted upon by shadow from the building.

Shadow diagrams have been submitted with the application which illustrate that a minimum of three hours of sunlight is maintained to 50% of the private open space of adjacent development between 9am and 3pm on June 21.

Solar access for the proposed development and adjacent sites is considered to be satisfactory.

#### Energy Efficiency and Generation

There are solar panels notated on the roof plan, although limited information submitted in regards to proposed energy efficiency measures for the development.

The development does not require a BASIX certificate, however, will be subject to compliance with the relevant provisions of Section J of the BCA.

The building design provides for opportunities for cross ventilation and solar access.

#### Visual Privacy

The windows proposed along the eastern and western sides to the upper level of the building are all provided with fixed angled vertical privacy screens. There are also windows to communal lounge areas that face side boundaries on both sides of the building, located where there are minimum side setbacks of 9m proposed, and small roof terraces to the front of the first floor level (set back approximately 12m from side boundaries), which are considered adequate in regards to visual privacy to adjacent sites without necessitating additional privacy measures.

The windows along the eastern and western sides of the building at ground floor level are not provided with screens, however owing to their setbacks and orientation (in relation to adjacent development) do not provide overlooking into adjacent dwellings. There is also some screening provided to windows by the fencing and landscaping proposed to the side setbacks and it is considered important for the amenity for residents for opportunities for outlook from rooms to be available.

A condition of consent is recommended, however, that the windows at the rear of the ground floor level on the western elevation (to rooms 28, 30, 32, 33 & 34), where the site slopes away and screening from fencing/landscaping may not be adequate, be provided with fixed angled privacy screens to prevent overlooking to the adjacent rear yards of the properties along Jonathan Street.

The two balcony areas to the rear 'corners' of the building would be provided with privacy screening along the length of the side that faces adjacent properties.

Visual privacy for adjacent properties has been adequately addressed through the design of the development which would minimise potential amenity impacts in this regard to an acceptable degree.

#### Acoustic Privacy

A Noise Assessment Report (Spectrum Acoustics, dated June 2016) and additional information requested by Council (dated 26 October 2016) has been submitted for the proposal. The acoustic report has considered potential noise impacts from road traffic, carpark, turning zone/loading bay and mechanical plant.

The proposed development has also been amended during the assessment to relocate the loading area and “back of house” functions away from the south-eastern side boundary and closer to the centre of the site.

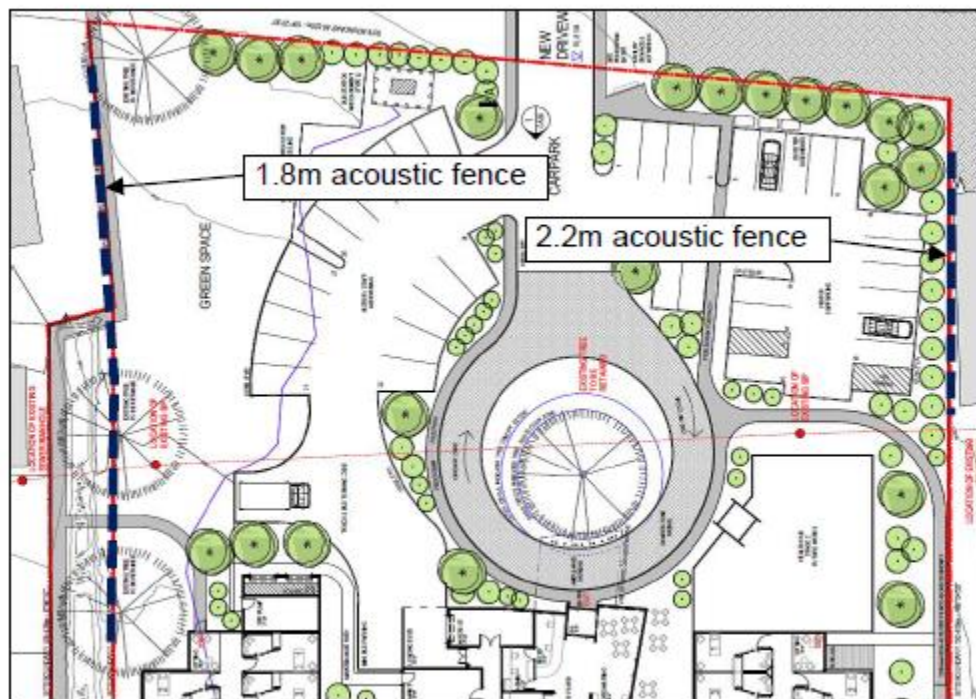
The report comments that in regard to carpark and turning zone associated noise sources, based on the assumptions and recommended acoustic attenuation measures in place (recommended acoustic fencing to sides of front setback), the assessment indicates compliance with project specific noise criteria levels as determined within the NSW Industrial Noise Policy can be met.

However, no service delivery vehicles or buses or any other vehicles fitted with reversing alarms are to access the site between 10pm – 7am due to an exceedance of the sleep disturbance criteria when vehicles use reversing alarms.

In relation to rooftop mechanical plant, the acoustic report has prescribed a maximum sound power level of 84 dB(A) to achieve compliance. This will need to be incorporated within the final review and acoustic certification, which has been included in a recommended condition to be imposed, should the application be approved.

The acoustic report concludes that the proposed development will not result in adverse noise impacts on or from the site, subject to recommendations, which include the following:

- Acoustic barrier be provided to the carpark on the eastern side of the front setback to a height of 2.2m.
- Acoustic barrier be provided to the western side of the front setback to a height of 1.8m.
- The Acoustic barriers comprise a fence containing no holes or gaps and makes contact with the ground and has a mass of at least 15kg/m<sup>2</sup> (ie, lapped and capped palings or Hebel panels).
- Provide appropriate noise screening to mechanical plant enclosure at the rear of the development. For sound power level up to 80 dB(A) this would comprise a 9mm fibre cement screen, or should the total sound power level of the plant exceed 80 dB(A) the enclosure would need to be roofed and have solid walls, essentially making it a plant room.



**Figure 3. Acoustic fence location.**

**Figure 13:** Extract from Noise Assessment Report – Recommended acoustic fencing to side boundaries of front setback

The recommendations of the Acoustic Report in regards to acoustic fencing provision to both sides of front setback (to be located on respective boundaries) and screening of plant enclosure to rear are included in a recommended condition to the determination, should the application be approved.

It is also recommended to be conditioned that final construction drawings for the proposal be reviewed and certified by the acoustic consultant and a final review and acoustic certification of the development be required.

#### Landscaped Area and Design

Detailed landscape plans have been submitted for the proposed development (prepared by Group GSA, amendment dated 27 June 2016), that illustrates landscaping to the site to complement the nature and scale of the development and the riparian planting to the rear adjacent to South Creek.

Under the residential controls, for lots greater than 15,000m<sup>2</sup>, a minimum landscaped area of 45% of the total site area is to be provided. The proposal includes a total landscaped area of 5,226m<sup>2</sup> (34%), with landscaped areas integrated into the design of the development to all boundaries and internal spaces of the building for outlook, screening and amenity. There is also landscaping proposed along the front boundary of the site to contribute positively to the streetscape.

Council's Landscape Architect recommends conditions of consent be imposed, should approval be granted, in regards to required street tree planting.

Council's Landscape Architect has advised that the proposal is generally acceptable in regards to landscaping proposed, however, has concern with potential impacts of works (including trenching for drainage) to the "feature tree" to be retained to the centre of the roundabout at the front of the site and the proposed integration of the

turfed areas at the rear of the site with the EEC. A maintenance or physical edge is recommended to be provided to delineate the EEC and 20m landscape buffer and to provide an appropriate interface between mown turf grass and native plantings.

It is considered that the concrete egress path shown adjacent to the perimeter of the rear building footprint could be expanded to include another attached “loop” to travel along the boundary between the 20m vegetated riparian zone and the proposed turf area to serve this purpose as well as providing an expanded path for staff, visitors and residents to utilise for recreation.

A condition of consent is recommended to be imposed in this regard, should the application be approved.



**Figure 14: Overall site landscaping proposed**

#### Fences

There is 1.8m high solid fencing proposed to both side boundaries of the site, with the requirements of the acoustic report recommendations that this fencing be replaced by acoustic fencing (1.8m high to the western side and 2.2m to the eastern side) within the front setback.

This fencing is considered to be acceptable in height(s) having regard to it comprising predominantly rear boundary fencing to the adjacent sites (with residential dwellings). It is also considered reasonable to have the materials of side boundary fencing at the discretion of negotiations with relevant property owners, although fencing should comprise either lapped and capped timber or other materials of a darker natural colour which would be required in order to minimise the dominance of the extent of fencing to the site.

Council's Landscape Architect has recommended that fencing to the side boundaries of the 30m Riparian Zone should comprise dark coloured (black) permeable palisade style fencing. This type of fencing would be appropriate to the eastern side where it abuts the adjacent seniors housing development, where a portion of this boundary currently comprises palisade style fencing. However on the western side, where it comprises the rear boundary fence of properties fronting Jonathan Street and is separated from the riparian vegetation by the existing drainage channel, it is considered that a solid fence would be more practical and appropriate.

There is existing dilapidated fencing to the rear boundary adjacent to South Creek that in some parts comprises mesh and other restrictions to the free movement of native fauna. This fencing is required to be removed under requirements of the Vegetation Management Plan (VMP), with Council's preference being that no fencing be provided to the rear boundary at all. However, should fencing be necessary, it should comprise permeable fencing that permits the movement of both water flows and native fauna.

Conditions of consent in regards to these fencing requirements are recommended to be imposed on the determination, should the application be approved.

#### Traffic and Transport

Warners Bay Road is a sub-arterial road with moderate traffic volumes and in the vicinity of the site is approximately 14m wide. This street and the surrounding public road system are considered adequate to support the development.

A concrete footpath exists along the full road frontage of the site, which may require upgrading and there will be a requirement for provision of kerb and guttering. Public transport via buses is available along Warners Bay Road with a bus stop/shelter existing adjacent to the front north-western corner of the site. It is proposed to provide pedestrian links from the new development to link up to the existing footpath network to the bus stop, which has been designed to provide this linkage without the need for pedestrians to cross the main carparking and driveway area.

A Traffic Assessment (SECA solution, dated 27 June 2016) has been submitted for the proposed development, which concludes that the additional traffic demands associated with the development will have a minimal impact upon the local road network and the proposed access (single vehicular access point proposed to the centre of the site) provides for a safe and appropriate layout. The report also comments that parking demands associated with the development can be accommodated on site in accordance with the Council DCP (and the Seniors Living SEPP) and as such will not impact upon the existing on-street parking in the locality.

The parking rate provision proposed for the development is compliant numerically with the SEPP (Council's DCP 2014 requires compliance with the requirements of the SEPP in this regard).

Council's Traffic Engineer initially raised concerns with a proposed deceleration lane for access to the development which was considered to be problematic with regard to its proximity to both the existing bus zone at the front of the site and the intersection with Jonathan Street.

Under the amended proposal this aspect of the proposal has been redesigned, as recommended by Council's Traffic Engineer, to construct and linemark a parking lane fronting the site, with '*No Parking*' restrictions on the approach to the driveway for safe turning into and out of the site. This also allows for additional overflow car parking spaces to be provided on the street along the site frontage (four spaces).

Requirements in regards to design and provision of the works along the road frontage and required associated linemarking/traffic signage (which will require approval via the Lake Macquarie Traffic Facilities and Road Safety Committee) are included in the recommended conditions to the determination, should approval be granted.

#### Design of Parking and Service Areas

Council's Principal Development Engineer has advised that the internal driveway and car parking areas (including turning movements) for the development are adequate and comply with DCP 2014 requirements, AS 2890.1 Parking Facilities – Off Street

Parking and AS 2890.6 Parking Facilities – Off street parking for people with disabilities.

The development will be required to facilitate delivery vehicles, waste collection vehicles and other servicing vehicles as required. The development is designed to ensure sufficient turning area is provided within the site to allow all vehicles to exit in a forward direction. Council's Principal Subdivision Engineer advises that the proposed development is satisfactory in this regard.

The design of the parking, driveway and service areas for the development are appropriate for the use, would provide for safe and efficient movement of vehicles/pedestrians and would not dominate or detract from the appearance of the development when viewed from the street.

Conditions of consent are recommended, should approval be granted, requiring all redundant driveway/accesses be removed (which should be undertaken in conjunction with the kerb and gutter provision) and that appropriate traffic management measures shall be in place to minimise impacts on traffic using Warners Bay Road during the construction phase of the development.

#### Design of Driveways

The driveway for the development is designed as a single access point to the centre of the front boundary with the driveway branching out to parking areas on either side of the front setback and a one way circular drop off/pick up zone and ambulance parking extending around to the main entrance of the building.

A minimum driveway width of 5.5m is provided as required for the development. The design of the driveway as proposed is adequate to service the development.

Proposed landscaping to the front setback would minimise the impact of the driveway on the streetscape without risk to safety.

#### Car Parking Rates

In accordance with the Car Parking Rates for Development in Residential Zone, the development is defined as 'Seniors Housing' and subsequently the required car parking rates are in accordance with the provision under SEPP (Housing for Seniors or People with a Disability) 2004.

Clause 48(d) of the SEPP requires:

	Rate	Required (On-Site)	Provided	Complies
<b>1 space per 10 beds in RACF</b>				
144 beds	1 space /10 beds	14.4	21	Yes (exceeds)
<b>1 space per 2 persons employed and on duty at any one time</b>				
Maximum 30 staff on duty at any one time	1 space / 2 employees	15	15	Yes
<b>1 Ambulance space</b>	1 space	1	1	Yes
<b>TOTAL</b>		<b>30.4</b>	<b>37</b>	<b>Complies</b>



Compliance is achieved with the requirements under the SEPP for the proposed development.

The 7 excess spaces proposed, and the additional 4 overflow spaces to the street frontage are considered desirable in regards to accommodating possible fluctuations in staff numbers over the day/week and any additional parking demand generated by the “Health Hub” building proposed under Stage 2 of the development.

Advice from the applicant is that the intent of the Health Hub building is that the services contained within would be provided solely for residents of the facility only and would not be open to the public. Subsequently it is considered that the 7 additional car parking spaces could accommodate parking for Health Hub building staff. Under DCP 2014 parking rates for *medical centres* requires one space per on-duty practitioner plus one space per 2 full-time equivalent employees and using this as a guide it is considered that the additional car parking spaces available could accommodate approximately 10 health hub staff.

A condition of consent is recommended, should approval be granted, that the services within the Health Hub building are provided for residents of the facility only and not be available to the public. Additionally, a condition is recommended that the total number of staff to be on site at any one time should not exceed 40.

#### Non-Discriminatory Access

Council’s Community Planner - Aging and Disability, has advised that the Statement of Compliance Access for People with a Disability provided for the development is adequate in describing the development and its ability to provide for non-discriminatory use within private and public areas.

A requirement for compliance with the recommendations of the Access Report and relevant legislation in regards to non-discriminatory access is included in the recommended conditions of consent to be imposed should approval be granted.

#### Safety and Security

Council’s Community Planner for Youth & Safer Communities, advises that the submitted Crime Risk Assessment (de Witt, Dated February 2016) for the proposed development adequately addresses the main crime risks. The report also identifies a number of strategies to mitigate further risks and to ensure that the proposal is designed/constructed in accordance with CPTED principles.

Council’s community planner concurs with the recommendations in the report (Section 3, p18) regarding surveillance, access control, territorial reinforcement, activity and space management, dwelling design, lighting, access, car parking, fencing, and landscaping, and recommends that they are included as conditions of consent.

A condition of consent in regards to safety and security to include these requirements in the crime risk assessment report and also requirements that removal of graffiti occur within 24 hours of its appearance, that any shrubs and ground cover within the landscaped areas are maintained at a maximum height of 1.2m, is included in the recommended conditions, should approval be granted.

#### Cut and Fill

The site is not identified as being within a geotechnical zone in Council’s mapping system. A Geotechnical Report has been submitted with the application that assesses site classification and does not highlight any geotechnical issues.

The plans for the proposed development include cutting and filling and also identifies areas of the site that are not to be modified. Council's Principal Development Engineer advises that the amount of cut and fill is consistent with DCP 2014 controls.

Standard conditions of consent in this regard are recommended, should approval be granted.

## Part 5 Operational Requirements

### Demolition and Construction Waste Management

There will be waste generated for the proposed development at both demolition and construction stages. A Site Waste Minimisation and Management Plan has been submitted with the application, which outlines waste management measures in regards to demolition of the existing dwellings and ancillary structures on site and construction of the proposed facility.

A requirement for a Waste Management Plan is recommended as part of the conditions of consent, should approval be granted.

The plan shall identify:

- types and amounts of waste likely to be generated;
- waste storage issues;
- methods of transport and disposal of wastes;
- opportunities for waste reduction, re-use of materials and recycling; and

requirements for compliance with the Waste Avoidance and Resource Recovery Act 2001.

### Operational Waste Management

The submitted Site Waste Minimisation Plan advises that operational waste will be managed for the facility in the same manner as similar sites managed by BUPA. There is a waste storage area adjacent to the loading dock at towards the front of the building with collection to be managed by a commercial waste contractor.

Adequate space is provided for the separation of waste (general waste and recyclables) prior to collection.

A Waste Management Plan prepared by Universal Foodservice Design (UFD) has been submitted for the development.

The Waste Management Plan advises:

- Estimated general waste generation rate of 8,640 litres per week. 5 x 660 litre bins, serviced 3 times per week by a private contractor.
- Estimated recycling waste generation rate of 2,880 litres per week. 3 x 660 litre bins, serviced 2 times per week by a private contractor.
- Estimated medical waste generation rate of 187.2 litres per week. 2 x 240 litre bins serviced weekly by a private contractor. Medical waste contractor will also service sharps bins throughout the facility.
- A dedicated waste holding area will be located on the ground level for the storage of all waste generated.
- Facility staff will remove bins and locate them for removal by a private contractor.

- The section of driveway to be used by the waste collection contractor will be designed for heavy rigid vehicles and allow turning circles and a provision for driver steering errors and overhangs.

The Waste Management Plan acknowledges that the facility will pay a Commercial Waste Management Charge entitling the facility to a Council provided weekly 240 litre garbage service, however, noted that the estimated waste generation volumes will require collection by a private contractor at agreed times and days.

The waste collection arrangement is satisfactory for the development, with the Waste Management Plan to be referenced under the Approved Documents condition of consent, should approval be granted.

#### Liquid Trade Waste and Chemical Storage

Waste generated during operation is likely to include:

- medical wastes; and
- general waste and recyclables.

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

Standard conditions of consent in regards to chemical storage and medical waste are included in the recommended conditions to be imposed should approval be granted.

#### Erosion and Sediment Control

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

#### Air Quality

Potential impacts of the proposed development in regards to air quality have been assessed in regards to mechanical ventilation to the commercial kitchen area and potential odour pollution from the commercial laundry, proposed to service the facility.

An Odour Assessment (RCA Australia, dated May 2016) has been submitted for the proposed development at the request of Council's Environmental Management section, which has considered potential odour sources from the kitchen and laundering activities with the following statement included in the report conclusion:

*"On the basis of the information available at the time of compiling this report, RCA assessed that the odours which may be produced from the development will not have an adverse odour impact on sensitive receptors in the vicinity of the proposed development, including the residences positioned in the local vicinity of the development."*

The odours identified which may be produced from the development would not have an adverse odour impact on sensitive receptors in the vicinity of the proposed development, including the residences positioned in the local vicinity of the development having regard to proposed venting measures and existing site conditions and vegetation.

RCA also provides the following recommendations for the mechanical design of the

ventilation systems (proposed commercial laundering - laundry room exhausts) and (food preparation activities) to minimise the impacts of odours at the residences under all weather conditions, including adverse conditions for odour dispersion (eg, a cold, still morning):

- Ensure that the roof exhausts have a stack height min 2m above the roof.
- Ensure that the exhausts for the laundry room and food preparation activities discharge vertically and the lateral distance between these (2) roof exhausts is min 4m.
- Provide mechanical ventilation (ie, by exhaust fan) so that a minimum velocity of 15 m/s is achieved at the exhaust exit. This velocity is the industry accepted (minimum) standard for providing sufficient dispersion of air emissions including odours to minimise impacts,
- Consider incorporating smaller scale odour treatment in the exhaust stream, for example, charcoal treatment, providing the odour treatment equipment does not adversely affect the exhaust velocity.

Given that this odour assessment did not identify any significant risks of odour from the proposed development, more specific and detailed assessments including dispersion modelling of odours is not considered to be required.

Council's Environmental Management section recommends, should the development application be approved, a condition is included to comply with the recommendations contained within the RCA odour assessment.

#### Noise and Vibration

A Noise Assessment (Spectrum Acoustics, dated June 2016) has been submitted for the proposal which concludes, with the provision of recommended acoustic barriers to either side of the front setback to mitigate potential carpark noise and restriction on use of the turning zone/loading bay prior to 7:00am, the development would be capable of operating in compliance with appropriate noise limits.

The acoustic report also contains recommendations in regard to acoustic barriers to mechanical plant.

Conditions of consent are recommended to be imposed, should approval be granted to require implementation of recommendations of the Acoustic Report, the requirement for final Acoustic Certification and measurements to address noise and vibration during the demolition/construction stages of the development.

#### **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.

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

The Regulation 2000 provides:

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

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

Planning Comment: The Government Coastal Policy does not apply.

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

Planning Comment: Standard conditions of consent are recommended in regards to demolition and compliance with applicable standards.

### **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 locality, including the existing adjacent seniors housing development.

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

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

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

#### **Public submissions:**

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

- Visual bulk and scale of the building

Planning Comment:

It is acknowledged that the proposed development would comprise a building bulk significantly greater than adjacent low density residential development. However, the building bulk is not considered to be excessive for such a use and would be of a high quality architectural design.

The visual impact of the building would be mitigated by its siting on the low lying site and location on a sub-arterial road with moderate traffic volumes. Articulated walls and a variety of colours and materials in keeping with the local environment, to the facades of the building as well as the provision of balconies and decks to the rear and landscaping to the side and rear setbacks, aid in a reduction in visual bulk.

The side setbacks proposed would provide for adequate separation to adjacent dwellings to minimise visual impact and preserve amenity. Additionally, the scale and massing of landscaping has been designed to reduce the visual bulk of the development when viewed from adjacent sites and the street.

- Visual privacy impacts

Planning Comment:

The windows proposed along the eastern and western sides to the upper level of the building are all provided with fixed angled vertical privacy screens. The windows along the eastern and western sides of the building at ground floor level are not provided with screens, however owing to their setbacks and orientation (in relation to adjacent development) do not provide overlooking into adjacent dwellings. The two balcony areas to the rear 'corners' of the building would be provided with privacy screening along the length of the side that faces adjacent properties.

There is also some screening provided to windows by the fencing and landscaping proposed to the side setbacks. Whilst it is acknowledged that a degree of overlooking of the rear setbacks of adjacent dwellings would be possible, it should also be recognised that the rooms that accommodate residents of the facility are not "high use" and viewing from any windows would be intermittent only. It is considered that visual privacy measures to prevent overlooking of adjacent sites also needs to be balanced with the importance for the amenity for residents for opportunities for outlook from rooms to be available.

A condition of consent is recommended, however, that the windows at the rear of the ground floor level on the western elevation (to rooms 28, 30, 32, 33 & 34), be provided with fixed angled privacy screens to prevent overlooking to the adjacent rear yards of the properties along Jonathan Street.

Visual privacy for adjacent properties has been adequately addressed through the design of the development which would minimise potential amenity impacts in this regard to an acceptable degree.

- Potential solar access impacts

Planning Comment:

Shadow diagrams have been submitted with the application which demonstrate that a minimum of three hours of sunlight is maintained to 50% of the private open space of adjacent development between 9am and 3pm on June 21.

Solar access provided by the development for adjacent sites is considered to be satisfactory.

- Noise and dust impacts during construction

Planning Comment:

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

Standard hours for construction works on site area also included in a standard condition of consent.

- Operation noise and light glare to residence

Planning Comment:

The development does not propose lighting that will be directed towards any dwellings adjacent to the site. Conditions of consent are proposed to minimise light glare to adjoining properties.

Acoustic measures are conditioned to minimise operational noise, with the loading bay and BOH functions relocated towards the centre of the site under the amended proposal and a condition of consent also recommended in regards to restriction on delivery vehicle access times.

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

**Submissions from public authorities:**

Submissions were received from Mine Subsidence Board and NSW Office of Water as integrated referral submissions. See discussion below under *Integrated Development*.

Roads and Maritime Services, Ausgrid and Hunter Water Corporation commented on the application.

Details of these submissions have been provided throughout this report. No other submissions from public authorities were received.

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

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

S94 Contributions are levied on the development for public amenities and services required as a consequence of the development.

**INTEGRATED DEVELOPMENT**

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

- section 15 of the Mine Subsidence Compensation Act 1961, and
- section 91 of the Water Management Act 2000.



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

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

The Mine Subsidence Board provided their General Terms of Approval dated 29 March 2016; they are included in Appendix A as a condition of consent.

#### **Water Management Act 2000**

NSW Office of Water General Terms of Approval for the development had not been received at the time of finalisation of this report, however, are anticipated to be received prior to the application going before the JRPP for determination.

The General Terms of Approval (once received) will be included as a condition of consent, as an addendum to Appendix A.

#### **CONCLUSION**

Based on the above assessment it is concluded that the construction and operation of the proposed residential aged care facility on the site at 64 to 72 Warners Bay Road, Warners Bay, would result in an appropriate development, with no unreasonable environmental impacts.

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

#### **RECOMMENDATION**

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

#### **ENDORSEMENT**

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



Fiona Stewart  
**Development Planner**  
**Development Assessment and Compliance**

I have reviewed this report and concur with the recommendation.

Chris Dwyer  
**Acting Chief Development Planner**  
**Development Assessment and Compliance**

**Attachment A: Proposed Conditions of Consent**

**Attachment B: Plans of Development**