

## DA 202/2016 – 2016HCC014 – 64 Warners Bay Rd Aged Care Facility

### Answers to questions raised by Panel Members:

1. *Answers to the questions in the report (template) cover sheets, under the first table.*
2. *Confirmation by email prior to the meeting that the outstanding GTA from the Office of Water has been received*

See amended Cover Sheet and Executive Summary below.

3. *Tree planting/removal in the front carpark – the rate per space, any rates within Council's controls (can be at site/prior briefing)*

There are a total of nine trees proposed for removal from the site (Trees 1, 3, 5, 6, 7, 10, 11, 13 & 20 in diagram below), seven of these are in front setback and the other two within building footprint. All trees proposed for removal are described in the Arborist Report as being "of low and very low retention value".



There are no specific requirements under LMDCP 2014 *Part 3 – Development within Residential Zones*, in regards to tree planting within carparking areas.

However (as a guide), under the Business Zone controls there are requirements as follows:

- Development must include one advanced clear-trunked broad-canopy tree for every six at-grade car parking spaces.

There are in excess of six broad-canopy trees proposed to the car parking area (37 parking spaces proposed), with Council's Landscape Architect advising that the location of the trees to the west of the parking spaces in particular, adjacent to the green space, would have appropriate space for root volume and potential for growth.

Amendments to recommended conditions of consent:

1. In speaking further with DPI – Water and Council internal referral officers, there is some discrepancy in requirements for Vegetated Riparian Zone. The outcome is that the whole 30m of the VRZ is recommended to comprise riparian vegetation as opposed to 20m being rehabilitated and the remaining 10m adjacent to the rear of the building to comprise landscaped area.

Therefore Condition No's.18 & 28 are recommended to be amended as follows:

**18. Riparian Zone Protected in Perpetuity**

Native vegetation is to be retained and rehabilitated ~~along the full length of the 20m~~ **within the 30m** riparian buffer to South Creek (from top of creek bank) in accordance with the approved Vegetation Management Plan (VMP) and illustrated on the approved Landscape Plans, **with the area to be rehabilitated to be clearly defined from the developed area.**

~~The concrete pathway (on the approved Landscape Plans) to the rear of the building shall be "looped around" to provide an additional section of pathway located along the boundary with the 20m vegetated riparian zone and the landscaping to the north as a physical edge to delineate the zones and provide an appropriate interface between mown turf grass and native plantings.~~

**The extent of the Vegetated Riparian Zone (VRZ) shall be demarcated by the concrete pathway as shown on the *Landscape Masterplan Ground and Entry plan* (Dwg.1100). All planting to the south of this pathway shall comprise riparian vegetation (not turfed) with signage provided to clearly indicate that this area should not be traversed.**

The applicant shall create a Public Positive Covenant, under Section 77B of the *Conveyancing Act 1919*, over the area of the site identified as the **Vegetated** Riparian Zone, requiring that the area be managed in accordance with the requirements of the VMP. ~~and~~ **The covenant shall also** prohibit the erection of any structures **(other than those approved under this consent)**, provision of fill material or clearing of native vegetation within this zone and **stipulate** that any fencing within this area ~~to be designed to~~ **shall** not block stormwater flows or collect debris in storm events.

Council is to be identified as the party empowered to release, vary or modify the Covenant, which shall be created prior to the issue of the final Occupation Certificate for the development.

## **28. Landscaping**

Landscaping shall be implemented/installed in accordance with the approved landscape plans and documentation as prepared GSA Group (Project No.15659), Revision dated 27 June 2016, Vegetation Management Plan (VMP) and specifications as scheduled in the conditions of consent.

All landscape works shall be carried out by members of the Landscape NSW & ACT Master Landscapers Association and implemented under the full supervision of the appropriately qualified landscape contractor until the Landscape Compliance Report is received by the Principal Certifying Authority.

Street trees along Warners Bay Road shall be *Melaleuca linariifolia* 75L planted at 8m centres on the southern side of the footpath pending services. Planting detail as per LMCC Landscape Standard Drawings 2016 LSD-PLA-01. Street trees to be maintained by the proponent for 52 weeks.

Landscape works must conform to planting densities as scheduled comprising planting at nominated spacings in all areas dedicated to planting. A hard garden retaining edge (timber or concrete) shall be installed to all planting areas adjoining turf surfaces and all planted areas covered with minimum 100mm mulch to aid plant establishment.

~~There is to be a hard edge installed between the 30m riparian revegetation works and the turf proposed along the southern side of the site. This edge can comprise 1200mm decomposed gravel or concrete path, or concrete edge strip. The location of the edge must be at the identified boundary of the riparian zone or north of this boundary and include existing riparian trees. The edge to be maintained as a barrier to turf invading revegetation zones.~~

All landscape works to be maintained to achieve continuous healthy growth improving amenity and aesthetics over the site and meeting the aims for development in the zone.

At the practical completion of landscape works, the landscape consultant who prepared the documentation shall submit to the Principal Certifying Authority a Landscape Compliance Report prior to issue of Occupation Certificate that establishes satisfactory completion of the landscape works approved by this consent.

All landscaping shall be permanently maintained in good condition in accordance with the adopted DCP 2014 Guidelines – Landscape Design Guidelines.

2. There is an error in Condition No.39, which is recommended to be amended as follows:

## **39. Car Parking and Allocation of Spaces**

A total of 36 car parking spaces shall be constructed on the site (including one disabled space) in accordance with the minimum requirements of the Australian Standard AS/NZS 2890 as current at the time of construction, and maintained on the land in accordance with the approved plans.

The car parking spaces are to be identified on-site by line marking and must be numbered. The car parking provided shall only be used in conjunction with the uses contained within the development and except as provided for in these conditions are not to be used other than by a staff member or visitor of the development and are not to be used as public carparking.

The required disabled car parking spaces shall be clearly marked and signposted for the sole use by disabled persons.

No spaces shall be marked, signposted or otherwise identified as being for the sole use of staff only, however, signage shall be erected adjacent to the driveway to indicate that the western parking bays are to be utilised for staff parking and disabled parking. This is to reduce potential vehicular/pedestrian conflict within the driveway area and path to linking to public transport services at the front of the site.

All car parking spaces, line marking and signage shall be completed prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first.

A handwritten signature in black ink, appearing to read 'F Stewart', with a stylized flourish at the end.

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

## 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**

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**Special Infrastructure Contributions**

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

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

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

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)

### Summary of s79C matters

The key issues arising from the s79C Assessment, discussed in detail in the report, as follows:

LMLEP 2014

- Clause 4.3 Height of buildings – Partial non-compliance satisfactorily addressed under submitted Clause 4.6 Exception (copy included in attachments) and acceptable on merit.
- Clause 5.9 Preservation of trees or vegetation – 30m setback for building from South Creek to rear. VMP sets out requirements for retention and rehabilitation of riparian vegetation and conditions of consent are recommended in regards to protection of the zone in perpetuity and tree protection measures.
- Clause 7.3 Flood Planning – The site is flood prone, with building floor levels designed to meet required flood levels for a 'sensitive use' in accordance with probable maximum flood levels. Conditions of consent recommended in regards to measures to mitigate impact on flood behaviour in the locality.
- Clause 7.12 Development for the purpose of seniors housing – The development is consistent with the aims of this clause. The land is eligible land; of sufficient size to accommodate at least 70 dwellings; has a frontage to a sealed public road that provides access to nearby urban areas; and at least 70% of the site has a slope of less than 20% grade.

## LMDCP 2014 (Part 3 – Development within Residential Zones)

- Clause 2.7 - Stormwater Management. Stormwater Drainage Plan and Stormwater Drainage Report for development referenced in 'Approved Documentation' condition and further conditions of consent recommended in regards to stormwater disposal and use of harvested water.
- Clause 2.8 – Catchment Flood Management. The building has been designed with siting and floor levels to respond to flood prone affectation of site. A condition of consent is recommended in regards to additional flood mitigation measures to prevent inundation of adjacent sites.
- Clause 2.10 - Natural Water Systems. South Creek is located at the rear of the site, with a 30m setback to the building proposed and conditions recommended in regards to the maintenance and rehabilitation of the riparian zone. Satisfactory stormwater management measures are also proposed.
- Clause 2.12 – Flora and Fauna. The Vegetation Management Plan submitted has been referenced in the conditions as well as specific conditions recommended in regards to implementation of the VMP and protection of the riparian zone in perpetuity.
- Clause 3.10 – Solar Access and Orientation. Issue raised in submission. Shadow diagrams indicate acceptable levels of solar access for development and adjacent sites.
- Clause 4.0 - Visual Privacy. Issue raised in submission. Fixed window and balcony screening, side setbacks of 7.1 and 8.2m and screen planting to side setbacks proposed. A condition of consent is recommended to provide additional window screens to rooms to the rear of the western side, where floor levels are elevated.
- Clause 4.1 - Acoustic Privacy. Issue raised in submission. Noise Assessment Report referenced in approved documentation and conditions of consent recommended in regards to Acoustic Certification and restriction of delivery vehicles accessing the site between 10pm and 7am.
- Clause 4.11 - Car parking rates. Car parking provision in excess of numeric requirements under SEPP (Housing for Seniors or People with a Disability) 2004.

## Legislative clauses requiring consent authority satisfaction

SEPP (Housing for Seniors or People with a Disability) 2004

### **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.*



## **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.

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

*Clause 7 of SEPP 55 requires the consent authority to be satisfied that potential land contamination has been considered and if the land is contaminated, that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.*

There is no development history of the site that would indicate potential contamination. The results of chemical analyses used to assess soil conditions for possible off-site disposal to a licensed landfill, contained in the Geotechnical Report submitted, found that no asbestos was detected within the soil at the locations and depths tested and that the soils tested were within the 'General Solid Waste' (GSW) criteria based on total contaminant concentrations.

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**

*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.*

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 to incorporate an aluminium building identification sign for the facility.

The presentation of the signage wall panel in this area is 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).

## **Schedule 1 – Assessment Criteria**

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

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

### **2 Special areas**

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

### **3 Views and vistas**

The signage does not obscure or compromise important views. 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.

The signage respects the viewing rights of other advertisers.

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

The scale, proportion and form of the signage is appropriate for the existing streetscape. The proposal contributes a visual interest to the streetscape.

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

There is no unsightliness to be screened by signage, the signage is to be integrated into the landscape design. The signage does not protrude above buildings, structures or tree canopies in the area.

### **5 Site and building**

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

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**

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

### **7 Illumination**

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

### **8 Safety**

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.