

**JOINT REGIONAL PLANNING PANEL
HUNTER AND CENTRAL COAST**

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| Panel Reference | 2017HCC005 |
| DA Number | DA2017/00149 |
| Local Government Area | NEWCASTLE CITY COUNCIL |
| Proposed Development | Stage 2 of a Seniors Housing Development, involving the construction of 45 self-care living dwellings and associated site works. |
| Street Address | 90A Vale Street Shortland Lot 1 DP 1215916 |
| Applicant/Owner | Applicant - PEP Consulting Owner - AVEO Pty Ltd |
| Date of DA lodgement | 16/02/2017 |
| Number of Submissions | Nil. |
| Recommendation | Approval |
| Regional Development Criteria (Schedule 4A of the Act) | In accordance with Clause 22 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> , as the subject development application is a staged development that relates to a concept approval, the Joint Regional Planning Panel is the determining authority. The concept approval was determined by the Panel on the 11 March 2014 (JRPP Ref no 2012HCC016DA) as the cost of works was \$66,536,395. |
| List of All Relevant s79C(1)(a) Matters | <p>Environmental planning instruments: s79C(1)(a)(i)</p> <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy No 71 Coastal Protection • Newcastle Local Environmental Plan 2012 (LEP) <p>Development Control Plan: s79C(1)(a)(iii)</p> <ul style="list-style-type: none"> • Newcastle Development Control Plan 2012 (DCP) • Section 94A Development Contributions Plan 2009 |
| List all documents submitted with | <p>Appendix A - Conditions of consent</p> <p>Appendix B - Documents submitted with the application</p> |

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| this report for the panel's consideration | Appendix C – External Referral Comments Appendix D – Approved Concept Plan (as modified) |
| Report by | Newcastle City Council |
| Report date | 13 July 2017 |

Summary of s79C matters

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

Legislative clauses requiring consent authority satisfaction

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

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**

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

Conditions

Have draft conditions been provided to the applicant for comment? **Yes / No**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Development Application No. 2017/00149 has been lodged with Council, seeking consent for Stage 2 of a Seniors Housing Development, involving the construction of 45 self-care living dwellings. The dwellings all contain two bedrooms and range in size from 95.1m² to 119.5m². The proposal also involves a landscape strategy which includes the removal of 120 trees, compensatory planting, construction of pedestrian paths and a picnic shelter.

The proposal was placed on public exhibition for a period of 14 days from 24 February 2017 to 10 March 2017 in accordance with the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning & Assessment Regulations 2000* (EP&A Regulations) and Section 8 of Newcastle Development Control Plan 2012 (DCP). No submissions were received during the notification period.

The key issues raised in the assessment relate to:

- Consistency with the approved concept plan
- Tree removal

In accordance with Clause 22 of *State Environmental Planning Policy (State and Regional Development) 2011*, as the subject development application is a staged development that relates to the concept approval, the Joint Regional Planning Panel is the determining authority. The concept approval was determined by the Panel on the 11 March 2014 (JRPP Ref no 2012HCC016DA) and the cost of works was \$66,536,395.

1. INTRODUCTION

This report provides a detailed overview of the development proposal for Stage 2 of a Seniors Housing Development, involving the construction of 45 self-care living dwellings at 90A Vale Street Shortland (Lot 1 DP1215916).

The development application is reported to the Hunter and Central Coast Joint Regional Planning Panel in accordance with Clause 22 of *State Environmental Planning Policy (State and Regional Development) 2011*, as the subject development application is a staged development that relates to a concept approval. The concept approval was determined by the Panel on the 11 March 2014 (JRPP Ref no 2012HCC016DA) and the cost of works was \$66,536,395.

2. BACKGROUND

A concept approval for a Seniors Housing development and associated works (DA2012/0419) was approved on 11th March 2014. The approval included 300 serviced self-care units and a 127 bedroom 'high-care' residential care facility, in five stages.

Previous approvals have been granted on the site, including for Stage 1, being an administration/community facility, 50 dwellings, entry road and car park and the demolition and re-building of a clubhouse for the golf club that is associated with the site.

The current application is for Stage 2 of the development.

3. SITE DESCRIPTION

The site has an area of 11 hectares and is irregular in shape. The subject land is an allotment that has been created following the approval of the concept plan, and the boundaries have been created to be consistent with the general footprint of the Seniors Housing development. The site is now known as 90A Vale Street Shortland (Lot 1, DP1215916), which is an allotment divided into a smaller and larger section separated by the Chichester Gravity Trunk Main, running through the site in a north-west to south-east direction.

The site is surrounded by the Shortland Waters Golf Club (Lot 2, DP1215916). The site has variable slope, but generally falls from the south-west to north-east, and currently contains native vegetation. Stage 1 of the concept plan is currently under construction.

The site is accessed via a private road through land owned by the Shortland Waters Golf Club (Lot 2, DP 1215916) and the University of Newcastle (Lot 1, DP1188100), which then connects to Vale Street by a bridge over the Jesmond Bypass Road (Main Road/ State Highway 23). The access arrangements were approved in accordance with the concept plan (DA2012/419) and have since been reinforced through the subsequent subdivisions. A formal pedestrian path provides connections from Vale Street through the site and south to the adjacent University site.

The surrounding site contains the 18 hole Shortland Waters golf course, which includes a clubhouse and pro-shop, ancillary structures, dams, wetlands, natural vegetation and landscaping, and car-parking areas to the south, west and east of the clubhouse.

To the north-east, the site is bounded by the Great Northern Rail Line, SEPP 14 wetlands and various industrial and warehouse units. To the north-west the site adjoins SEPP14 wetlands (including the Newcastle Wetlands Reserve), low density residential development and the Jesmond Bypass Road. To the west the site is bounded by the Jesmond Bypass Road, and beyond this road comprises low density residential uses. To the south, lies the Shortland Waters Golf Course, Newcastle Institute for Energy Research complex (NIER) and the University of Newcastle. To the east, the site adjoins the Great Northern rail line and Warabrook Pond.



Figure 1: Shows an aerial view of the site and the location of the concept approval and Stages 1 and 2.

4. PROPOSAL

The proposed development relates to Stage 2 of the concept proposal approved in DA2012/0419, which was for a seniors living development consisting of 300 serviced self-care units, a 127 bed residential care facility and associated community facilities.

The Stage 2 development involves the construction of 45 self-care living dwellings. The proposed dwellings all contain two bedrooms and range in size from 95.1m² to 119.5m², as shown in Table 1 below.

The proposal also involves a landscape strategy which includes the removal of 120 trees, retention of 29 trees and compensatory planting (75 trees), construction of pedestrian paths and a picnic shelter. The development is shown in Figure 2 below.



Figure 2: Stage 2 development overview

The varying dwelling types are summarised in the below table.

| Dwelling Type | No. of bedrooms | Gross Floor Area | No. of dwellings proposed |
|---------------|-----------------|------------------|---------------------------|
| 1CL | 2 | 95.1m | 2 |
| 1CR | 2 | 95.1m | 2 |
| 1CL-SR | 2 | 95.1m | 6 |
| 1CR-SR | 2 | 95.1m | 6 |
| 1CR-SR(b) | 2 | 95.1m | 1 |
| 1LH | 2 | 96.5m | 2 |
| 1LHM | 2 | 96.5m | 2 |
| 2RH | 2 | 111.3m | 4 |
| 3LH | 2 | 109.4m | 6 |
| 3RH | 2 | 109.4m | 2 |

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| 4LH | 2 | 119.5m | 6 |
| 4RH | 2 | 119.5m | 6 |

Table 1: Dwelling sizes

The construction access for Stage 2 will continue along the southern perimeter of the overall development site.

5. PLANNING ASSESSMENT

5.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

5.1.1 Section 23G – Joint Regional Planning Panels

Section 23G and Schedule 4A (3) of the EP&A Act requires the Joint Regional Planning Panel (JRPP) to determine applications for general development over \$20 million.

The concept approval (DA2012/0419 and JRPP Ref no 2012HCC016DA) was approved by the JRPP on the 11 March 2014 and the cost of works was \$66,536,395. The subject application is a staged development application that relates to the concept approval.

In accordance with *Clause 22 Staged development functions for development exceeding minimum capital investment values of State Environmental Planning Policy (State and Regional Development) 2011*, the application is to be determined by the Hunter and Central Coast Regional Planning Panel.

5.1.2 CONSISTENCY WITH CONCEPT PLAN

The current application is for Stage 2 of a concept plan to which Section 83B and 83D of the *Environmental Planning and Assessment Act 1979* applies. In this regard, Section 83D(2) states:

While any consent granted on the determination of a staged development application for a site remains in force, the determination of any further development application in respect of that site cannot be inconsistent with that consent.

Consistency with the approved concept plan (as modified) is detailed in the table below, with comments provided on the conditions of consent (DA2012/0419).

| Condition | Comment |
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| A. REASONS FOR CONDITIONS | |
| A1. The conditions of this consent have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979. The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment. | Noted. |
| B. CONCEPT APPROVAL | |

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| <p>B1. This consent does not authorise the carrying out of development on any part of the site.</p> <p>Except where modified by conditions of this consent, the concept approval comprises the following concept proposals for the development of the site:</p> <ul style="list-style-type: none"> • Contamination Remediation Works of "<i>Lorna Street site</i>" (Lot 10 DP 1149782) • Contamination Remediation Works of the "<i>Vale Street site</i>" (Lot 103 DP 881682) • Golf course redesign works of "<i>Lorna Street site</i>" (Lot 10 DP 1149782) • Golf course design and works of "<i>Vale Street site</i>" (Lot 103 DP 881682) • Seniors living development comprising of 300 serviced self-care units, a 127 bed Residential Care Facility and associated community facilities • Subdivision of the seniors living development <p>Further development applications are required to detail the concept proposals, and consent is required to carry out that development.</p> | <p>The current application relates to the Seniors Housing Development.</p> |
| <p>B2. Order of development</p> <p>An Occupation Certificate for the 61st self-contained seniors housing dwelling must not be issued until the remediation works for the Lorna Street site are fully complete and certification to this effect by the appointed EPA Accredited Site Auditor is submitted to the relevant consent authority.</p> | <p>This condition relates to the occupation certificate, and will be reinforced in any consent issued, noting that the 61st dwelling will be constructed as part of this current stage.</p> |
| <p>C. INTEGRATED DEVELOPMENT CONDITIONS</p> | |
| <p>C1. The following conditions have been imposed by the relevant approval bodies in relation to the development relating to the required approvals and must be addressed in the applicable stage of the proposed development:</p> | |
| <p><u>C(i). Section 91 of Water Management Act 2000 (Department of Primary Industries - Office of Water)</u></p> <p>1. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 2012/419 and provided by Council to the NSW Office of Water.</p> <p>Any amendments of modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p> <p>2. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is</p> | <p>The current application does not involve works that are considered to be a '<i>controlled activity</i>'.</p> |

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| <p>land and material in or within 40 metres of the top of the bank or shore of the lake identified.</p> <p>3. The consent holder must prepare or commission the preparation of:</p> <ul style="list-style-type: none"> i. Vegetation Management Plan ii. Works Schedule iii. Erosion and Sediment Control Plan iv. Soil and Water Management Plan v. Amendments to Plans-Provision of 20m riparian buffer around all SEPP 14 wetlands and any other waterfront land. <p>4. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's Guidelines located at www.nsw.gov.au/Water-Licensing/Approvals/default.aspx</p> <ul style="list-style-type: none"> i. Vegetation Management Plans ii. Laying pipes and cables in watercourses iii. Riparian Corridors iv. In-Stream works v. Outlet structures vi. Watercourse crossings <p>5. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.</p> <p>Rehabilitation and maintenance</p> <p>6. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.</p> <p>7. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approve by the NSW Office of Water.</p> <p>Reporting requirements</p> <p>8. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.</p> <p>Security deposits</p> <p>9. The consent holder must provide a security deposit (bank guarantee or cash bond) equal to the sum of the</p> | |
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| <p>cost of complying with the obligations under any approval-to the NSW Office of Water as and when required.</p> <p>Access-ways</p> <p>10. N/A</p> <p>11. The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.</p> <p>Bridge, causeway, culverts, and crossing</p> <p>12. The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the lake or waterfront land, other than in accordance with the plan approved by the NSW Office of Water.</p> <p>13. N/A</p> <p>Disposal</p> <p>14. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.</p> <p>Drainage and Stormwater</p> <p>15. The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.</p> <p>16. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.</p> <p>Erosion Control</p> <p>17. The consent holder must establish all erosion and sediment control works and water diversion structure in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.</p> <p>Excavation</p> <p>18. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance</p> | |
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| <p>with the plan approved by the NSW Office of Water.</p> <p>19. N/A</p> <p>Maintaining river</p> <p>20. N/A</p> <p>21. N/A</p> <p>River bed and bank protection</p> <p>22. The consent holder must establish a 20m wide riparian corridor/buffer along all SEPP 14 wetlands and any other waterfront land in accordance with a plan approved by the NSW Office of Water. The 20m riparian zone must be restored and managed to provide an ecological buffer to the existing wetlands, and consist of fully structured locally occurring ecotones. All riparian buffers are to be suitably fenced or otherwise separated from the golf course and any other development areas.</p> <p>23. The consent holder must prepare a Riparian Management Plan, which outlines the proposed future management of the riparian buffers and wetlands, This Riparian Management Plan must be submitted to the NSW Office of Water as par to any application for a controlled activity approval as required by these General Terms of Approval.</p> <p>Plans, standards and guidelines</p> <p>24. N/A</p> <p>25. N/A</p> <p>26. N/A</p> <p>27. N/A</p> | |
| <p>C/ii). Section 100B Rural Fires Act 1997 (Rural Fire Service)</p> <p>A deemed bush fire safety authority was issued by the Rural Fire Service under Section 100B of the <i>Rural Fires Act 1997</i>, subject to the following conditions (Ref: Our Ref: D15/2000, DA15071597698 GB; dated 21 August 2015, adopting the same numbering):</p> <p>Asset Protection Zones</p> <p>The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke, and embers, while supporting or evacuating occupants. To achieve this, the following conditions are to apply:</p> <ol style="list-style-type: none"> 1. A minimum of 70 metres APZ shall be provided to the Southern elevation and a minimum 35 metre APZ shall be provided to the Northern elevation. The APZs shall be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of '<i>Planning for Bush Fire Protection 2006</i>' and the NSW Rural Fire Service's document '<i>Standards for asset protection zones</i>'. | <p>This condition acknowledges that a bushfire safety authority was issued for the concept approval. This current application was also referred to the NSW Rural Fire Service, and GTAs generally consistent with the concept approval have been provided.</p> |

Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions are to apply:

2. Water, electricity and gas are to comply with section 4.1.3 and 4.2.7 of *'Planning for Bush Fire Protection 2006'*.

Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions are to apply:

3. Internal roads are to comply with section 4.2.7 of *'Planning for Bush Fire Protection 2006'*.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purposes developments. To achieve this, the following conditions are to apply:

4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of *'Planning for Bush Fire Protection 2006'*.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions are to apply:

5. New construction is to comply with Section 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 *'Construction of buildings in bush fire-prone areas'* and section A3.7 Addendum, Appendix 3 of *'Planning for Bush Fire Protection'*.

Landscaping

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions are to apply:

6. Landscaping within the site shall comply with the principles of Appendix 5 of *'Planning for Bush Fire Protection 2006'*.

D. APPROVED DOCUMENTATION

D1. The development is to be implemented in accordance with the plans and supporting documents set out in Attachment 1 to this consent, except where modified

The applicant has advised:
'The site layouts have been

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| <p>by any conditions of this consent.</p> | <p><i>amended slightly (whilst still maintaining the original intent described by the Masterplan). These amendments were driven by:</i></p> <ul style="list-style-type: none"> <i>• Minimising tree clearing.</i> <i>• Responding to the natural site topography.</i> <i>• Some slight adjustments of road alignments and building footprints were required to maximise the accessibility of the site for persons with a disability. Providing compliant grades to the majority of the site (including roads, footpaths, and driveways).</i> <i>• Achieving compliance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 required minor amendments to building footprints.</i> <i>• Building plans also were amended slightly to meet changing market expectations for retirement product required some minor reconfiguration of roads and the like. AVEO were keen to capture and implement these key learnings from similar projects throughout Australia to ensure the success and longevity of the Shortland Waters project.</i> <p><i>It is noted condition E2(b) of the Concept Approval specifically provides for the proposed changes:</i></p> <p><i>Note: future development applications may incorporate minor amendments to the design, location or orientation of housing, roads etc, except where modified by any conditions of this consent.</i></p> <p><i>The minor deviations produce an indiscernible change to the layout, remaining “in accordance with the plans” of the</i></p> |
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| | <p><i>approved concept proposal. Therefore the proposal is compliant with condition D1.'</i></p> <p>It is considered that the proposal remains consistent with the approved concept plans and supporting documents. It is noted that the conditions of consent facilitate that each individual stage can be considered in relation to building design and tree removal. These aspects are discussed in accordance with the relevant conditions.</p> |
| D2. In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail. | <p>It is noted that the conditions of consent facilitate that each individual stage can be considered in relation to building design and tree removal. These aspects are discussed in accordance with the relevant conditions.</p> |
| E. LIMITS ON THE CONSENT | |
| E1. This consent does not authorise any components of the Concept Approval (including building works or subdivision) to be carried out without further approvals and consents being obtained. | <p>The current application is facilitating compliance with this condition of the concept approval.</p> |
| <p>E2. This concept approval does endorse the following aspects for future development applications:</p> <ul style="list-style-type: none"> a) overall site areas for golf course and seniors living development; b) general location of residential care facility building, self-care apartment buildings and self-care housing (including maximum heights) (Note: future development applications may incorporate minor amendments to the design, location or orientation of housing, roads etc., except where modified by any conditions of this consent.) | <p>The applicant has advised:</p> <p><i>'The proposal is within the approved seniors living area footprint and within the general location of the self care housing identified in the concept plan (refer Attachment 1). Minor variations to the road alignment, dwelling design, location and orientation is specifically permitted under Condition E2(b).</i></p> <p><i>It should be noted that the Concept Approval condition E3, as modified 15 October 2015 "does not authorise the final siting of buildings and dwelling/density, yield or total floor area".</i></p> <p><i>Therefore the proposed Stage 2 Master Plan is considered to</i></p> |

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| | <p><i>be not inconsistent with the approved Concept pursuant to Section 83D(2) of the EP&A Act.'</i></p> <p>It is noted that the overall site area and general location of the buildings have not been approved as part of the concept DA. The current application seeks to gain consent for these aspects. It is further noted that this condition notes that the future development applications may incorporate minor amendments to the design, location or orientation of housing and roads.</p> |
| <p>E3. This consent <u>does not authorise</u>:</p> <ul style="list-style-type: none"> a) the final siting of buildings and dwelling/density yield or total floor area; b) any tree removal - the conceptual approval acknowledges large scale tree removal will be required within the development footprint, however detailed analysis of tree removal will be required at each DA stage (refer conditions H8, H9, H10, and M8); c) landscaped areas (which may need to be increased/alterd - refer conditions H8, H9, H10, and M8). | <p>It is noted that the final siting of the buildings, floor area, tree removal and landscaping have not been approved as part of the concept DA. The current application seeks to gain consent for these aspects.</p> <p>The exact location of the dwellings and associated roads and landscaping are not identical to the location proposed in this Stage 2 application. However, given the context of this condition, it is considered that the plans submitted with this Stage 2 application are consistent with the concept plan.</p> <p>Tree removal has been addressed in an Arborist Report, which is discussed in detail in this assessment report.</p> |
| F. STAGING | |
| <p>F1. Future development applications are to be submitted to the consent authority having regard to the concept proposals identified under the terms of B - Concept approval.</p> | <p>This current Stage 2 application is acceptable having regard to the terms of Section B of the consent.</p> |
| G. GENERAL CONDITIONS THAT RELATE TO ALL STAGES AND/OR REQUIREMENTS FOR FUTURE DEVELOPMENT APPLICATIONS AGENCY / AUTHORITY REQUIREMENTS | |
| <p><u>G(i) NSW Department of Transport (Roads and Maritime Services)</u></p> <p>The following conditions apply as required by the NSW Department of Transport pursuant to Clause 104 of <i>State Environmental Planning Policy (Infrastructure) 2007</i> (Ref: SF2012/012622/1; CR2013/0050043; dated 16 August 2013 and Ref: SF2012/012622;</p> | |

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| CR2015/003136 MJ; dated 3 August 2015): | |
| G1. Deleted via Section 96 modification | The requirement for road upgrades, originally imposed by the RMS, were deleted from the concept approval. This amendment was made with concurrence from the RMS. |
| G2. Deleted via Section 96 modification | |
| <u>G(ii) TransGid/AusGrid: Works Adjacent to electricity or transmission line (Applicable to Golf Course works)</u> | |
| G3. Future proposed works associated with the golf course that are located in the area adjacent to the existing TransGrid easement (which runs parallel to the Great Northern Railway) must be indicated on a detailed survey plan prepared by a registered surveyor which shows easement boundaries, tower locations, and distances of any proposed works from the easement and the towers. This survey plan must be submitted to Transgrid for review prior to submission of the associated development applications. Any works within the easement area will require the prior written approval of TransGrid. | The current application does not include golf course works. |
| <u>G(iii) Hunter Water: Chichester Trunk Gravity Main (CTGM)</u> | |
| G4. The section of the CTGM at the crossing must not impact to the main's operation as the CTGM is a critical part of Hunter Water's infrastructure. This may require upgrading and/or replacement which would be required to be undertaken prior to any construction traffic traversing the pipeline corridor. The requirements, timing and duration of any necessary works to the section of the CTGM will need to be discussed with and approved by Hunter Water. | The current application does not include works at the CTGM crossing. |
| G5. Clear and unfettered access is to be provided to the CTGM both during and after construction. | The applicant will be required to comply with this condition ongoing. |
| G6. The development is to comply with the general design requirements contained in Hunter Water's design standards (WSA03) HWC Edition) regarding the location of services and roads around/crossing water mains. Services crossing the CTGM (both existing and future) are to be a minimum of 600mm clear of the main(s). | The current application does not include works at the CTGM crossing. |
| G7. The CTGM is most likely to be renewed (either duplicated or replaced) in the short to medium term, and adequate protection for both the current and new pipe is to be provided at the service crossing. | The applicant will be required to comply with this condition ongoing. |
| G8. Landscaping is not to be undertaken within the pipeline corridor, due to the condition of the existing main and the need to construct a new main in the corridor. Note: This will impact on the landscaping required by Conditions No. H8, H9, H10 and MS. | The current stage does not include landscaping in the pipeline corridor. The applicant will be required to comply with this condition ongoing. |
| G9. For any construction over any Hunter Water assets, being land containing the CTGM or easements containing sewer or water mains, the Developer will be | The current application does not include works at the CTGM crossing. |

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| required to apply for and obtain a formal construction license for the proposed works with the submission a "works as executed" plan providing full details and information on the completed works. | |
| G10. Access rights (being formal Easement for Right of Carriageway) for the service/road crossings will need to be negotiated with Hunter Water prior to the lodgement of the relevant development application. Note: Further advice regarding the CTGM is provided in the Advisory Notes at the end of this Consent. | The applicant has confirmed that easements have been created for the crossings over CTGM. |
| G(iv) Australian Rail Track Corporation (ARTC) | |
| G11. Stormwater: Stormwater from the development must not affect the rail corridor. The applicant must submit details of stormwater disposal to Council for approval for all stages which demonstrates that the flow of stormwater toward the rail corridor will not be increased by the proposed development. | The applicant has submitted stormwater management plans for this current stage. The plans demonstrate that stormwater impacts to the rail corridor will not be increased as part of this proposal. |
| G12. Fencing: The boundary of the site with the rail corridor must be fenced with a 1.8m mesh fence to prevent unauthorised entry. | The applicant will be required to comply with this condition ongoing. |
| H. GENERAL CONDITIONS THAT RELATE TO ALL STAGES AND/OR REQUIREMENTS FOR FUTURE DEVELOPMENT APPLICATIONS - OTHER REQUIREMENTS | |
| <p>H1. Future applications are to include details of a nest box installation program to compensate for removal of hollow-bearing trees in accordance with the Flora and Fauna Assessment prepared by RPS dated March 2012. The submitted nest box installation program is to identify the following:</p> <ul style="list-style-type: none"> a) Location of the proposed nest boxes · b) Proposed on-going monitoring and maintenance of nest boxes. c) felling details d) confirmation of an ecologist to be present during clearing. | <p>The SEE dated 16 February 2017 refers to the Ecological Assessment prepared by Umwelt Pty Ltd dated October 2015 undertaken for Stage 1 of the overall development. The SEE and subsequent details provided by the applicant also refers to the mitigation measures included within the Ecological Assessment, being applicable to the proposed Stage 2.</p> <p>The applicant has submitted the original concept plan document, detailing the location of the hollow bearing trees, and reaffirmed the previous methodologies approved in previous stages in relation to tree removal.</p> <p>Conditions of consent are recommended to ensure that the tree removal is adequately mitigated in this regard.</p> |
| H2. Future applications to address tree-removal recommendations of the Flora and Fauna Assessment prepared by RPS dated March 2012, including | The current Stage 2 application is supported by an Arborist Report, and the applicant has |

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| precautions to be implemented during vegetation clearance to avoid negative impacts upon the remnant vegetation within the study area. | reaffirmed the previous methodologies approved in previous stages in relation to tree removal. |
| H3. Future applications are to include a stormwater plan which demonstrates how stormwater and surface drainage from the site will be appropriately managed to prevent impacts on the <i>State Environmental Planning Policy 14 – Coastal Wetlands</i> (quality and quantity of pre-development water flows). | The applicant has submitted stormwater management plans for this current stage. The current proposal does not include works within 100m of the SEPP14 wetlands, and it is considered that the plans demonstrate that stormwater impacts are adequately managed. |
| <p>H4. Future applications are to include details of a weed management plan to control and manage flora listed under the Noxious Weeds Act 1993 and other invasive species. The submitted weed management plan is to identify the following:</p> <ul style="list-style-type: none"> a) Identification and measures of disposal of invasive species b) Management of the site during and after construction to prevent growth of noxious weeds. | <p>The applicant advises:</p> <p><i>'There are no noxious weeds currently on the site. Construction vehicles will utilise a shaker grid or similar to access and depart the site to remove any potential weed remnants. On-going landscape maintenance will form part of the Seniors Living Operational Management Plan. Weed management will include a range of manual removal, frill or basal injection, scrape and paint and cut and paint methods in response to the type of weed encountered. All weeds will be disposed of with the general waste.'</i></p> <p>It is considered that the proposal can be adequately managed in relation to weed management. Conditions of consent are recommended in this regard.</p> |
| H5. Future applications are to include a sediment and erosion control plan prepared in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the "Blue Book") published by Landcom, 2004. Sediment and nutrient controls will be required to prevent pollutants, sediment and seed dispersal into the Ecologically Endangered Community vegetation. | A sediment and erosion control plan was submitted with this application. |
| H6. Future applications are to include an investigation of the connection of the existing golf course maintenance shed to the sewer of the Hunter Water Corporation | The current application does not include works relating to the maintenance shed. |
| H7. Future applications are to include an assessment of | The area relating to this Stage 2 |

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| acid sulfate soil potential at the site and/or submission of an acid sulfate soils management plan in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's 'Acid Sulfate Soil Manual'. | DA are mapped as Class 5 Acid Sulfate Soils. It is considered that the proposal is acceptable in this regard. |
| <p>H8. Each future development application for each stage must provide a detailed site survey/site analysis, site plan (existing and proposed) and landscape plan in accordance with the relevant Council requirements as applicable at the time the associated DA is lodged.</p> <p>Site features, including but not limited to all existing vegetation, opportunities for tree retention and associated tree retention value assessment/arborist report, proposed changes to ground levels, proposed tree species, roof garden details, etc.</p> | <p>The current application includes the required documents.</p> <p>Tree removal has been considered in an Arborist's Report, which is discussed in detail in this assessment report.</p> <p>The application includes the details required by this condition.</p> |
| <p>H9. The development must, where possible, retain high value trees (particularly within the green space areas and spine road/cul-de-sac roads of the Seniors Living Development), and strong justification for removal of high value trees will be required. This may impact on the density/dwelling yield as identified within the concept staged development application.</p> | <p>Tree removal has been considered in Arborist Report, which is discussed in detail in this assessment report.</p> <p>The application includes the details required by this condition.</p> |
| <p>H10. Each future development application for each stage must detail all proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be provided and is to include details of the following:</p> <ul style="list-style-type: none"> a) cross sections through the site where appropriate b) proposed contours or spot levels c) botanical names d) quantities and container size of all proposed trees e) mature tree height of all proposed trees f) shrubs and ground cover g) details of proposed soil preparation h) mulching and staking i) treatment of external surfaces and retaining walls where proposed j) drainage, location of taps and k) appropriate maintenance periods. | <p>The current application includes the required landscaping details.</p> |
| <p>H11. Written evidence that satisfactory arrangements can be made with the relevant authorities for the provision of water supply, sewerage, electricity supply and telecommunications is to be submitted with the relevant stages of the proposed development.</p> | <p>The applicant has provided written evidence from the applicable service providers (Hunter Water, Ausgrid, NBN Co).</p> |
| <p>H12. Development applications for each stage are to</p> | <p>A traffic report was submitted</p> |

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| <p>address via a traffic report and traffic management plan the impacts of construction and operation on the operation of the land owned by the University of Newcastle (Lot 1 DP 1188100).</p> <p>Evidence of consultation with the University of Newcastle is to be lodged with each Development Application stage.</p> | <p>with the application.</p> <p>Emails confirming consultation with the University have been provided.</p> |
| <p>H13. Each future Development Application for each stage must comply with the applicable water efficiency, flood management and drainage/stormwater management requirements of Council that apply at the time of submission of each application.</p> | <p>The applicant has submitted stormwater management plans for this current stage, which satisfactorily considers the matters detailed in this condition.</p> |
| <p>I. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: CONTAMINATION REMEDIATION WORKS OF THE 'LORNA STREET SITE' (LOT 10 DP 1149782)</p> | |
| <p>I1. As part of the future development application for work on Lorna Street site, a revised Remedial Action Plan prepared in accordance with the Environment Protection Authority's (EPA) <i>'Guidelines for Consultants Reporting on Contaminated Sites'</i> and certified by the appointed EPA accredited Site Auditor is to be submitted to the relevant consent authority. The revised Remedial Action Plan is to address the Review Comments and Conclusions and Recommendations from the Interim Advice #1 prepared by Ian Gregson dated 10 April 2013.</p> | <p>The current application does not include works on the Lorna Street site.</p> |
| <p>I2. Confirmation of the extent of the remediation works and proximity to the SEPP 14 Wetland is required. Refer also to buffer requirements within the General Terms of Approval by the Office of Water (Condition C1. C(i) 22).</p> | <p>As above.</p> |
| <p>I3. Remediation works must be undertaken in accordance with the approved Remedial Action Plan.</p> | <p>As above.</p> |
| <p>J. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: 'VALE STREET SITE' (LOT 103 DP 881682) - CONTAMINATION REMEDIATION WORKS (IF REQUIRED)</p> | |
| <p>J1. Additional investigations as recommended in the Phase 1 Environmental Site Assessment prepared by RCA Australia dated January 2013 is to be submitted to the relevant consent authority as part of any future development application lodged for Lot 103 DP 881682 known as 90 Vale Street, Birmingham Gardens and Lot 151 DP1143683 known as 50A Queen Street, Waratah (the Vale Street site).</p> | <p>The proposal has been considered by Council's Senior Environmental Protection Officer in relation to contamination considerations. It is considered that the current proposal has adequately addressed contamination. Details of this assessment are discussed in the report.</p> |
| <p>J2. If the additional investigations identify remediation works are required, then a Remedial Action Plan prepared in accordance with the Environment Protection Authority's (EPA) <i>'Guidelines for Consultants Reporting on Contaminated Sites'</i> and certified by the appointed EPA accredited Site</p> | <p>As above.</p> |

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| Auditor is to be submitted to the relevant consent authority. | |
| J3. If required, remediation works must be undertaken in accordance with the approved Remedial Action Plan. | As above. |
| K. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: 'VALE STREET SITE' (LOT 103 DP 881682) - GOLF COURSE REDESIGN WORKS | |
| K1. As part of any future development application lodged for Lot 103 DP 881682 known as 90 Vale Street, Birmingham Gardens and Lot 151 DP 1143683 known as 50A Queen Street, Waratah ('the Vale Street site') additional investigation as recommended in the Phase 1 Environmental Site Assessment prepared by RCA Australia dated January 2013 is to be submitted to the relevant consent authority. | As above. |
| L CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATIONS: 'LORNA STREET SITE' (LOT 10 DP 1149782) - GOLF COURSE DESIGN AND WORKS | |
| L1. The future development application/s for the golf course on the Lorna Street site must include an overall detailed site landscaping masterplan which addresses the landscape design having regard to the site constraints/limitations imposed by the required land remediation for the development and including the following: a) height of trees appropriate to the Lorna Street site (having regard to rehabilitation/capping at various depths) b) a detailed site analysis which considers retention of existing trees c) a landscape buffer which softens/minimises visual impact of seniors living development as viewed from the golf course. The buffer must be wholly located within the proposed golf course and not rely on landscape buffer to be provided within the proposed seniors living development site boundary. | The current application does not relate to the golf design and works. |
| M. CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATION: SENIORS LIVING DEVELOPMENT | |
| M1. An Occupation Certificate for the 61 st self-contained seniors housing dwelling must not be issued until the remediation works for the Lorna Street site are fully complete and certification to this effect by the appointed EPA Accredited Site Auditor is submitted to the relevant consent authority (as referred to in B - Order of Development). | This condition relates to an occupation certificate, and will be reinforced in any consent issued, noting that the 61 st dwelling will be constructed as part of this current stage. |
| M2. If the construction of the seniors living development is to be undertaken as further divided stages, then the first stage must comprise (but not be limited to) the following works: a) Access road upgrade b) Relocation of the 16 golf club parking spaces | The Stage 2 application is not the first development application for Seniors Living. The Stage 1 approval (DA2015/10112) addressed this condition. |
| M3. Each development application for the Seniors Living Development must demonstrate design excellence. Streetscapes of the proposed self-care housing (villas and townhouses) must not result in | The proposal includes a range of semi-detached and attached dwellings, with a variety of articulation and roof forms, |

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| <p>repetitive streetscapes comprising identical and/or similar housing designs. A variety of roof forms, and design solutions utilising high quality materials, textures and colour schemes must be submitted for each stage.</p> | <p>which is reinforced by the varied road layout which adds character to the development.</p> <p>There is some uniformity in the use of materials and colour within the scheme. However, it is generally considered to be acceptable.</p> <p>The development is of high quality and the proposed scale and character of the buildings are appropriate in the context of the area.</p> |
| <p>M4. Each future development application for the proposed seniors living buildings is to include a report from a suitably qualified acoustical consultant certifying the design of the buildings meets the requirements and standards applicable at the time of lodgement. The proposed acoustic measures must not be lesser than those recommended with the Acoustic Assessment prepared by RCA Acoustics dated 10 April 2013.</p> | <p>The previously approved Acoustic Report (Acoustic Assessment prepared by RCA Acoustics dated 10 April 2013) has been submitted with this Stage 2 application. Accordingly, it is considered that this condition is addressed.</p> |
| <p>M5. Future development applications for the Seniors Living Development will need to comply with the provisions of the <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (NSW) or the applicable version of the "senior housing" environmental planning instruments at the time of lodgement. In particular the following clauses may require alterations to submitted concept design and/or the provision of detailed information:</p> <ul style="list-style-type: none"> a) amelioration of land use conflicts and management measures with the existing registered club (Clause 23); b) provision of a private mini-bus; pathway gradients (Clause 26); c) design principles (Clauses 33-39); d) standards for self- contained dwellings (Clause 42); e) on site services - to be provided for the development (Clause.44). | <p>This Stage 2 application, which includes Seniors Housing, is considered to comply with <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (NSW), as detailed in this assessment report.</p> |
| <p>M6. The proposed seniors housing development is to be occupied exclusively by 'seniors or people who have a disability, people who live within the same household with seniors or people who have a disability or staff employed to assist in the administration of and provision of services' as defined under Clause 18(1) of <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (NSW).</p> | <p>The applicant will be required to comply with this condition ongoing.</p> <p>A condition will be imposed on any consent issued for Stage 2.</p> |
| <p>M7. The first development application for the Seniors Living Development is to include an overall detailed site landscaping master plan for the entire Senior Living development site which must address the following:</p> | <p>The Stage 2 application is not the first development application for Seniors Living. The current application includes detailed landscaping plans,</p> |

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| <ul style="list-style-type: none"> a) a detailed site analysis which considers retention of existing trees b) a landscape buffer which softens/minimises visual impact of seniors living development as viewed from the golf course. The buffer should be located within the proposed seniors living development site boundary c) the areas of landscaping and deep soil zones must achieve a meet the minimum 30% of the total area of the senior living development area. <p>This area must not include the golf course site, which is intended to be subdivided from the parcel of land and will have future separate ownership and ongoing management. The 30% landscape area must incorporate a combination of existing vegetation and compensatory planting of additional trees.</p> | <p>which are consistent with the details provided in the Stage 1 application.</p> |
| <p>M8. The development application for the first stage of senior living development must include details addressing the construction of the following works for access to the site:</p> <ul style="list-style-type: none"> a) widening of the access road at the intersection with the NEIR Facility access road to adequately cater for at least a ten (10) seater bus and heavy vehicle entry/exit. b) construction of any car parking to replace any displaced for the construction of the access road. c) the compensatory replacement of any existing trees removed to allow these works. <p>Should the road be dedicated as a public road, then all works are required to be completed to the required standards specified by Council as applicable at the time the development application is lodged.</p> | <p>The Stage 2 application is not the first development application for Seniors Living. The Stage 1 approval (DA2015/10112) addressed this condition.</p> |
| <p>M9. The developer enters into a suitable maintenance agreement with a qualified service agent for the sewer pump station and associated infrastructure (or temporary alternative arrangements) and written evidence of such an agreement being provided to Council prior to any occupation of the seniors living development.</p> | <p>The application has provided documentation from Hunter Water, demonstrating that the proposal can be adequately serviced.</p> |
| <p>M10. The developer providing an appropriate overflow relief structure for the sewer pump station in accordance with the Hunter Water Corporations Standard Detail Ref: SCP-500 and a turfed swale drain, such being addressed within any future development application.</p> | <p>As above.</p> |
| <p>N CONDITIONS RELATING TO FUTURE DEVELOPMENT APPLICATIONS: SUBDIVISION OF THE SENIORS LIVING DEVELOPMENT</p> | |
| <p>Nil</p> | <p>Noted.</p> |
| <p>O. ADVISORY MATTERS</p> | |
| <p><u>1. Future Development Applications</u></p> | <p>Consideration of the current</p> |

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| Each stage of the concept development will require separate development applications that will be assessed under the applicable legislation and planning policies at the time. | legislation and planning policies is discussed in this assessment report. |
| <p><u>2. State Environmental Planning Policy (SEPP) No. 55 - Contamination And Remediation</u></p> <p>a) A detailed assessment under SEPP 55 is required to be undertaken as part of each subsequent development application for each stage of the concept development, and</p> <p>b) Whether the consent authority will be satisfied as required under clause 7 and thus able to grant consent to a subsequent stage of the development is not known in the absence of the assessment as part of the concept DA. Consent to carry out a subsequent stage accordingly may not be granted.</p> | The current application has been considered in accordance with SEPP55, as detailed in this assessment report. |
| <p><u>3. State Environmental Planning Policy (SEPP) No. 14: Coastal Wetlands</u></p> <p>a) The remediation works associated with the concept proposal (Lorna Street site) may trigger Clause 7 of <i>State Environmental Planning Policy (SEPP) 14 - Coastal Wetlands</i>, making these works "designated development". Whether the consent authority will be satisfied as required under Clause 7 and thus able to grant consent to a subsequent stage of the development is not known in the absence of the assessment as part of the concept Development Application. Consent to carry out a subsequent stage accordingly may not be granted.</p> | The current application is considered to not be ' <i>designated development</i> '. |
| <p><u>4. Hunter Water: Chichester Gravity Main ICTGM)</u></p> <p>a) The developer should note the proximity of the CTGM to the proposed aged care facility and residents. Whilst catastrophic failures of these types of pipelines are rare, given the size of this main, if a failure occurred, there would likely be a large volume of water released until the main could be isolated.</p> <p>b) The developer should also be aware of the HWC Easement containing the Sewer Rising Main and an effluent water main which traverses the land in an uneven corridor from west to east between the pond and the lake and that no construction will be permissible over any part of the easement without Hunter Water formal approval.</p> <p>c) Hunter Water is concerned that suitable ingress and egress options need to be further explored by the developer of this proposal as the additional emergency egress point was being planned to traverse a further HWC Easement for major water pipeline on the north western boundary and through a noted swamp area to the main road.</p> | These matters are advisory comments for the applicant. |

As detailed in the above table, it is considered that the Stage 2 application is consistent with the approved concept plan.

5.1.3 Section 91 – Integrated Development

The proposal requires approval from the NSW Rural Fire Service (RFS), and is considered to be '*integrated development*' pursuant to Section 91 of the EP&A Act, being a '*special fire protection purpose*'. The RFS granted conditional approval on 11 April 2017.

It is noted that the bushfire safety authority requires an Asset Protection Zone of 70m in all directions, rather than the 70m only to the south referenced in the bushfire report and the original concept approval.

The applicant has demonstrated that this amendment does not raise any additional concerns in relation to the clearing of native vegetation, noting:

'For the purposes of assessment, the following are not considered a hazard or as a predominant vegetation class/ formation and can be included within an asset protection zone:

- (a) non-vegetated areas including roads, footpaths, cycleways, waterways, buildings, rocky outcrops and the like; and*
- (b) reduced vegetation including maintained lawns, golf course fairways, playgrounds or sports fields, vineyards, orchards, cultivated ornamental gardens and commercial nurseries. (PBP 2006:52)*

The plans provided in Attachment 2 show the proposed 70m Inner Protection Zone (IPA) extends across existing golf course fairways. No further clearing is required to provide the IPA.'

5.1.4 Section 79C Evaluation

The proposal has been assessed under the relevant matters for consideration detailed in s.79C (1) EP&A Act as follows:

5.1.4.1 Section 79C(1)(a)(i) provisions of any environmental planning instrument

State Environmental Planning Policy (State and Regional Development) 2011

This policy sets out the functions of regional panels in determining applications for regional development. Clause 20 and 21 of the SEPP require the Joint Regional Planning Panel to be the determining authority for development included in Schedule 4A of the Act. This includes applications for development over \$20 million in value.

The concept approval (DA2012/0419 and JRPP Ref no 2012HCC016DA) was approved by the JRPP on the 11 March 2014 and the cost of works was \$66,536,395. The subject application is a staged development application that relates to the concept approval.

In relation to Staged development applications, Clause 22 states:

22. *Staged development functions for development exceeding minimum capital investment values* *lf:*

- (a) development of a class or description included in Schedule 4A to the Act is described in that Schedule by reference to a minimum capital investment value, other minimum size or other aspect, and*
- (b) development the subject of a staged development application under Part 4 of the Act is development so specified, and*
- (c) the relevant regional panel is satisfied that development the subject of a separate development application forming part of the staged development application is part of a single proposed development so specified,*

the functions of a council conferred on the regional panel under this Part extend to the determination of the separate development application.

Accordingly, the application is submitted to the Hunter and Central Coast Joint Regional Planning Panel for determination.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

Schedule 3 of ISEPP, relates to traffic generating development and requires certain applications to be referred to the RTA (now known as the RMS). The concept plan was considered to be '*traffic generating*'. The current stage of the application is not required to be referred to the RMS. It is noted that the proposal remains consistent with the approved concept plan.

Clause 87 requires consideration of the impact of rail noise or vibration on non-rail development. In this regard, the following comments have been made by Council's Senior Environment Protection Officer in relation to potential noise concerns:

'The Acoustic Assessment prepared by RCA Acoustics dated 10 April 2013 was submitted as part of the documentation for DA No: 2012/419. The recommendations of the Acoustic Assessment prepared by RCA Acoustics dated 10 April 2013 relate to residential dwellings located within two hundred and fifty metres of the railway to the east of the proposed development. The proposed Stage 2 is not located within the two hundred and fifty metre zone and the recommendations do not apply to this stage. Therefore, no further acoustic mitigation is required.'

The proposal is considered to be acceptable in relation to acoustic impacts.

The proposal was not required to be referred to Ausgrid in accordance with Clause 45(2).

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP SH)

The development is proposed under the provisions of SEPP SH. The proposed development is permissible under the provisions of the SEPP SH on land zoned primarily for urban purposes. It is noted that the development is not proposed on land that would require a site compatibility certificate under Clause 24 of the SEPP SH. However, it is noted that a site compatibility certificate was previously obtained when the land was subject to a different zoning.

The applicant advises:

'Seniors housing is not permitted in the RE2 Private Recreation zone pursuant to Newcastle LEP 2012.

The primary component of the development proposal ('serviced self-care housing') is permitted on this land by Clause 15 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 Seniors SEPP) which states that:

This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy:

- (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and*
- (b) development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.*

The remaining components of the development proposal are ancillary to the serviced self-care housing.

A site compatibility certificate is not required under Clause 24 of the Seniors SEPP, because the proposed development is on land zoned for urban purposes (i.e. RE2 Private Recreation zone), and does not need to rely on the permissibility conferred by Clause 15(b) for land adjoining an urban purposes zone. There are no other triggers for the site compatibility certificate i.e. the land is not in a special uses zone, or on land that is used for an existing registered club.

In the judgement of Signature Gardens Retirement Resort Pty Limited v Cessnock City Council [2013] NSWLEC 1070, Commissioner Brown considered that an 6(a) Open Space zone was primarily for urban purposes, following a review of the permissible uses and objectives of the zone. The RE2 Private Recreation zone is considered to be an urban purposes zone, because it is primarily used in the urban settlement footprint of the Newcastle local government area (places like Broadmeadow racecourse, Lambton bowling club and Mayfield Panthers Club), and contains uses that are predominately urban in nature (such as function centres, food and drink premises, neighbourhood shops, and childcare centres).

At the time of lodging the concept development application, a site compatibility certificate was required because the previous zoning under Newcastle LEP 2003 - 6(a)Open Space & Recreation- was not considered to be an urban zone and the development site was on land used for a registered club.

This DA is permissible as part of the approved Concept Development'.

The SEPP SH allows for several types of housing for seniors including the proposed 'self-contained dwellings'.

'Self-contained dwellings' are defined in Clause 13 of the SEPP as:

'a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

In this Policy, serviced self-care housing is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.'

The proposal's compliance with the requirements of the SEPP SH are summarised in the below table.

| Applicable Clause | Discussion |
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| Clause 4 Land to which Policy applies | As previously detailed, it is considered that the policy applies to the land, being land zoned primarily for urban purposes. |
| Clause 10- Seniors housing | The proposal involves Seniors Housing, as defined by this clause. |
| Clause 13- Self-contained dwellings | The proposal involves 'serviced self-care housing', as defined by this clause. |
| Clause 17 - Development on land adjoining land zoned primarily for urban purposes | As discussed in this assessment report, the subject site is considered to be land zoned for urban purposes, and accordingly this clause is not applicable. |
| Clause 18 - Restrictions on occupation of seniors housing allowed under this Chapter | The relevant conditions of consent are recommended, as required by this clause. |
| Clause 23 - Development on land used for the purposes of an existing registered club | The application is not relying on the existing club in relation to permissibility. Irrespective, it is noted that there is appropriate measures to separate the club from the residential areas and the approved concept plan provides for formal subdivision of the seniors housing component from the registered club on the site. |
| Clause 24 - Site compatibility certificates required for certain development | As detailed in the assessment, the proposal is not relying on a site compatibility certificate. |

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| <p>Clause 26 - Location and access to facilities</p> | <p>The clause notes that suitable access to facilities including shops, bank service providers and other retail and commercial services, community services, recreation facilities, and the practice of a general medical practitioner should be available to the development.</p> <p>The applicant has provided the following comments in the SoEE:</p> <p><i>'In satisfaction of this clause, access to the nominated services and facilities (subclause 26(1)) will be provided via a private minibus, pursuant to subclause 26(2)(c). Further, recreational facilities will be available on site (i.e. golfing) and areas have been identified within the Admin/Community Facilities Building for a number of supporting services and facilities (e.g. hairdresser, wellness spa, lounge, billiards etc). It is noted that a SCC has previously been issued in relation to this proposal by the NSW DP&E, certifying that the access proposed is suitable for proposed seniors housing development.'</i></p> <p>As noted, some services are provided within the administration and community building in the form of hairdressers, wellness spa, café, retail shop and social facilities.</p> <p>The site is located in close proximity to the Shortland Waters Golf Club, a short walk/buggy ride away.</p> <p>Shops services and eating/drinking venues, educational facilities and the University Forum Sports and Aquatic Centre are located adjacent to the site and there is informal pedestrian access to this area in addition to the formal pedestrian path.</p> <p>The applicant advised, as part of the Stage 1 proposal, that the intention was to provide a mini bus service to the nearest medical practices at Waratah and other surrounding areas.</p> <p>The proposal is acceptable having regard to this clause.</p> |
| <p>Clause 27 Bushfire prone land</p> | <p>The site is located within bushfire prone land and the RFS have provided conditions that are necessary to ensure safe facilities in the event of fire.</p> <p>There is a requirement for an Inner Protection Area of 70m, which can be achieved on the site. An emergency secondary access road is required to be provided, and the location of this access has been identified by the applicant as part of the Stage 1 approval. All these measures are secured by conditions of consent.</p> <p>It is considered that the proposal complies with the requirements of <i>Planning for Bushfire Protection 2006</i>, and that the proposal is satisfactory having regard to the considerations contained in this clause.</p> |
| <p>Clause 28 - Water and sewer</p> | <p>The proposal can be adequately serviced with water and sewer.</p> |
| <p>Clause 29 - Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply</p> | <p>This clause requires the consent authority to consider whether the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:</p> <p>(i) <i>the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</i></p> |

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| | <p>(ii) <i>the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</i></p> <p>(iii) <i>without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</i></p> <p>As detailed in this assessment report, the proposed clearing of vegetation is considered to be acceptable and there are no known hazards that cannot be adequately managed. The proposal is acceptable having regard to approved land uses in the vicinity of the site.</p> <p>The application, which forms part of an overall approved concept plan for Seniors Living, has demonstrated an appropriate level of services and infrastructure.</p> <p>The bulk, scale, built form and character of the proposed development is appropriate in the context of the site.</p> |
| Clause 30 - Site analysis | The applicant prepared a site analysis in accordance with this clause. |
| Clause 32 - Design of residential development | The Division 2 clauses (33-39) are discussed below. |
| Clause 33 - Neighbourhood amenity and streetscape | <p>The applicable matters identified by this clause are discussed below:</p> <p><i>The proposed development should:</i></p> <p>(a) <i>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</i></p> <p>The applicant advises:</p> <p><i>'The character of the site is dominated by green open space (i.e. the golf course, wetlands etc.) except in the southern portion of the site. The proposed Stage 2 dwellings are an extension to the existing 50 seniors self-care dwellings. The proposal continues the character established with Stage 1 of dwellings, through the limiting of development to only 1 storey in height as it moves further north, towards the wetlands. Extensive landscaping throughout the development helps to provide a sense of continuity between the surrounding landscaped areas and the residential development.'</i></p> <p>Comment:</p> <p>It is considered that the proposal is acceptable in this regard.</p> <p>(b) <i>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,</i></p> |

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| | <p><i>and</i></p> <p>Comment: Heritage matters have been discussed in this report. The proposal does not have any impacts on any heritage items.</p> <p>(c) <i>maintain reasonable neighbourhood amenity and appropriate residential character by:</i></p> <ul style="list-style-type: none"> (i) <i>providing building setbacks to reduce bulk and overshadowing, and</i> (ii) <i>using building form and siting that relates to the site's land form, and</i> (iii) <i>adopting building heights at the street frontage that are compatible in scale with adjacent development, and</i> (iv) <i>considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</i> <p>The applicant advises: <i>'The site is visually isolated and nearby development is limited to the significant NIER development and University buildings. However appropriate setbacks and building heights have been designed throughout the development, to provide an attractive amenity for residents whilst maintaining an adequate density to achieve economies of scale in service and facility provision.'</i></p> <p>Comment: It is considered that the proposal is acceptable in this regard.</p> <p>(d) <i>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</i></p> <p>Comment: The proposed front building setbacks are consistent to those established in Stage 1. The proposal is considered to be acceptable in this regard.</p> <p>(e) <i>embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</i></p> <p>Comment: The proposal is considered to be acceptable in relation to this clause.</p> <p>(f) <i>retain, wherever reasonable, major existing trees, and</i></p> <p>Comment: Tree removal has been discussed in this assessment report. The proposal is considered to be acceptable.</p> <p>(g) <i>be designed so that no building is constructed in a riparian</i></p> |
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| | <p><i>zone.</i></p> <p>Comment: Works are not proposed in a riparian zone.</p> <p>The proposal is acceptable having regard to this clause.</p> |
| Clause 34 - Visual and acoustic privacy | The proposal is acceptable in relation to visual and acoustic privacy considerations, which have been discussed in further detail in this assessment report. |
| Clause 35 - Solar access and design for climate | The proposal is generally acceptable in relation to solar access considerations, which have been discussed in further detail in this assessment report. |
| Clause 36 - Stormwater | The proposal is satisfactory in relation to stormwater management. |
| Clause 37 - Crime prevention | The proposal is satisfactory in relation to crime prevention considerations. Given that the site is in a relatively secluded location, the instances for opportunistic crime are likely to be low. The proposed layout of the units provides for a high level of casual surveillance. |
| Clause 38 - Accessibility | The application included an Access Design Review which detailed that the proposal is capable of compliance with the relevant requirements. It is noted that further details will be considered at the Construction Certificate stage. |
| Clause 39 - Waste management | The proposal has identified that garbage will be collected via a private contractor. In the context of this site, this proposal is acceptable. |
| Clause 40 - Development standards—minimum sizes and building height | <p>This clause specifies development standards, as discussed below:</p> <ul style="list-style-type: none"> • Site size - The site meets the minimum area requirement of 1,000 square metres. • Site frontage - The site meets the minimum site frontage requirement of 20 metres. • Height in residential zones where residential flat buildings are not permitted - The site is not within a residential zone, so this clause does not apply. |
| Clause 41 - Standards for hostels and self-contained dwellings | <p>This clause specifies that a consent authority must not consent to a development application for the purpose of a self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.</p> <p>The applicant has provided an Access Design Review which details that the proposal is capable of compliance with the relevant requirements. A condition has been included in the consent to ensure that these standards are adopted as part of the development.</p> |
| Clause 42 Serviced self-care housing | <p>As previously detailed, the proposal is not reliant on being <i>'land that adjoins land zoned primarily for urban purposes'</i> and accordingly this clause does not apply. Irrespective, the applicant advises:</p> <p><i>'Residents of the proposed development will have access to home delivered meals, personal care, home nursing and assistance with housework.'</i></p> |
| Clause 43 - Transport services to local | As previously detailed, the proposal is not reliant on being <i>'land that adjoins land zoned primarily for urban purposes'</i> and accordingly this |

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| centres | <p>clause does not apply. Irrespective, the applicant advises:</p> <p><i>'A minibus will be provided for the use of residents of the proposed development, and will provide the required services. Bus stop locations are provided throughout the development as shown in the Landscape Plans.'</i></p> |
| Clause 44 - Availability of facilities and services | <p>As previously detailed, the proposal is not reliant on being 'land that adjoins land zoned primarily for urban purposes' and accordingly this clause does not apply. Irrespective, the applicant advises:</p> <p><i>'Community facilities and services proposed as part of the approved Seniors Living Concept Proposal (DA 2012/419) were approved in the Phase 1 DA (DA2015/10112) and are currently under construction and therefore will be available to residents when the housing is ready for occupation.'</i></p> |
| Clause 50 - Standards that cannot be used to refuse development consent for self-contained dwellings | <p>This clause states that 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 self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on certain specific grounds. These matters are addressed below:</p> <p>(a) <i>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),</i></p> <p>Comment: All proposed buildings are less than 8 metres in height.</p> <p>(b) <i>density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,</i></p> <p>Comment: The proposed FSR is 0.23:1.</p> <p>(c) <i>landscaped area: if:</i></p> <p>(i) <i>in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided, or</i></p> <p>(ii) <i>in any other case—a minimum of 30% of the area of the site is to be landscaped,</i></p> <p>Comment: Proposed landscaping is greater than 30% of the site.</p> <p>(d) <i>Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension</i></p> |

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| | <p><i>of 3 metres,</i></p> <p>Comment: Proposed deep soils zones are greater than 15% of the site.</p> <p><i>(e) solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</i></p> <p>Comment: 82% of dwellings achieve the required solar access.</p> <p><i>(f) private open space for in-fill self-care housing: if:</i></p> <p><i>(i) in the case of a single storey dwelling or a dwelling that is located, wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and</i></p> <p><i>(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length or depth and that is accessible from a living area,</i></p> <p><i>Note. The open space needs to be accessible only by a continuous accessible path of travel (within the meaning of AS 1428.1) if the dwelling itself is an accessible one. See Division 4 of Part 4.</i></p> <p>Comment: Each dwelling contains at least 15m² of private open space accessible to the living rooms, with an area 3x3 metres.</p> <p><i>(g) (Repealed)</i></p> <p>Noted.</p> <p><i>(h) parking: if at least the following is provided:</i></p> <p><i>(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or</i></p> <p><i>(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.</i></p> <p>Comment: Each of the dwellings contain two bedrooms, with one car space provided.</p> |
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As detailed in the above table, it is considered that the proposal is satisfactory having regard to the provisions of SEPP SH.

State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (SEPP) (BASIX) 2004 applies to buildings that are defined as 'BASIX affected development', being "development that involves the erection (but not the relocation) of a BASIX affected building," (ie.: contains one or more dwelling).

Accordingly the provisions of the SEPP apply to the current development proposal. The applicant submitted a BASIX Certificate which lists the commitments to achieve appropriate building sustainability. A condition is recommended to be included on the development consent requiring such commitments to be fulfilled.

State Environmental Planning Policy No.55 (Remediation of Land) (SEPP No.55)

This policy requires consideration to be given to previous uses on the site and whether the site needs to be remediated for future uses. Clause 7(1)(b) and (c) of SEPP No.55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

The following comments have been made by Council's Senior Environment Protection Officer in relation to contamination issues:

'Development Application No: 2012/419 was approved on 11 March 2014 and a modified consent was issued on the 15 October 2015 for seniors living development, golf course works, remediation and other associated works. Part J of Development Application No: 2012/419 is relevant for contamination assessment of the 'Vale Street Site' on which the proposed Stage 2 of the seniors living development is located.

Condition J1 of Development Application No: 2012/419 required additional contamination assessment to be undertaken on the 'Vale Street Site' as recommended in the Phase 1 Environmental Assessment prepared by RCA Australia dated 29 January 2013. The additional investigations were recommended due to potential localised filling in the area and the use of herbicides and pesticides at the existing golf course.

The Phase 2 Environmental Site Assessment prepared by RCA Australia dated October 2016 has undertaken soil sampling within the proposed development footprint of Stage 2. Soil sampling was undertaken in accordance with the NSW Environment Protection Authority's 'Sampling Design Guideline'.

The soil sampling revealed no elevated concentrations of contaminants and the Stage 2 site is considered suitable for the proposed seniors living development. No additional assessment is required for the Stage 2 area, (however it is noted) that additional contamination assessment will be required for future stages.'

Accordingly, it is considered that the proposal is satisfactory having regard to this policy, as it has been demonstrated that the site is suitable for the proposed Stage 2 works.

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

The current stage of the concept plan does not include any buildings to which this policy applies.

State Environmental Planning Policy No.71 - Coastal Protection

The subject land is identified as being within the coastal zone, and accordingly this policy applies. It is noted that some land included in the overall concept plan is in a 'sensitive coastal location'. However, the proposal does not include any works within 100m of a mapped SEPP 14 wetland, accordingly the proposed works are not located in a 'sensitive coastal location'.

The proposal is considered to be suitable given its type, location and design and its relationship with the surrounding area. The proposal will not have any detrimental impacts on the amenity of coastal foreshores or the scenic qualities of the coast. The proposal, which forms part of a previously approved Concept Plan includes sufficient measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats, and existing wildlife corridors.

The proposal is considered to be acceptable in relation to the likely impact of coastal processes and coastal hazards and the cumulative impacts on the environment, and includes adequate measures to ensure that water and energy usage by the proposed development is efficient.

Conditions of consent are recommended in relation to measures to protect any potential Aboriginal sites.

In addition, the proposal does not involve the discharge of untreated stormwater into nearby SEPP14 wetlands.

The matters for consideration detailed in SEPP71, specifically Clause 8, have been considered, and the proposal is acceptable in this regard.

State Environmental Planning Policy No.44 - Koala Habitat Protection

During the assessment of the concept plan, it was demonstrated that the site was not considered to be 'core koala habitat'. Accordingly the provisions of SEPP44 do not apply to the proposal.

State Environmental Planning Policy No.14 - Coastal Wetlands

The proposal does not include any works within 100m of a mapped SEPP 14 wetland.

Other State Environmental Planning Policies

The proposal is not contrary to the provisions of any other relevant State Environmental Planning Policy.

Regional Environmental Plan

There are no regional environmental plans that are relevant to this proposal.

Newcastle Local Environmental Plan 2012

Clause 1.3 – Land to which Plan applies

Newcastle Local Environmental Plan 2012 (LEP) applies to land identified upon the 'Land Application Map'. The subject development occurs within this area.

Clause 2.3 Land Use Table - Zoning

The site is zoned RE2 Private Recreation under the LEP. The proposed development is defined as 'seniors housing' under the LEP. 'Seniors housing' is not permissible in the RE2 zone, however permissibility is discussed in accordance with the SEPP SH, which prevails to the extent of any inconsistency with the LEP.

Clause 4.3 Height of Buildings

The site does not have a height limit identified in the LEP.

Clause 4.4 Floor Space Ratio

The site does not have a floor space ratio identified in the LEP.

Clause 5.5 Development within the Coastal Zone

The proposal is acceptable having regard to the principles of the NSW Coastal Policy. The proposed development will not impact on access to any foreshore areas. It also will not impact on the amenity of the foreshore through overshadowing or loss of views from a public place.

The development will not have a negative impact on existing ecosystems or biodiversity in the area, and is seeking to retain and enhance landscaping across the site. Adequate effluent and stormwater management systems have been proposed as part of the development to minimise any impacts from water and effluent disposal.

The proposal is acceptable having regard to this clause.

Clause 5.9 Preservation of trees or vegetation

To facilitate the proposed works there will be an impact on existing trees and other vegetation prescribed for the purpose of this clause and by Newcastle DCP 2012.

In support of the proposed works, the applicants have submitted an arborist's report which details species, location, size, health and values. The report is prepared generally in accordance with Council tree assessment requirements, and it is considered that the proposed tree removal is acceptable.

It is considered that the amenity of the area will not be significantly impacted in respect of the local character and appearance.

Compensatory planting is proposed and appropriate conditions have been recommended to ensure the replacement vegetation enhances the biodiversity values of the area.

Clause 5.10 Heritage Conservation

The subject site is not listed for its cultural heritage significance in Schedule 5, Part 1 of Newcastle Local Environmental Plan 2012 and it is not an identified archaeological site.

Further, the site is not located within a Heritage Conservation Area or positioned directly adjacent to any heritage listed items.

Clause 6.1 Acid Sulfate Soils

The subject site is identified as containing Class 5 Acid Sulphate Soils. The proposal is considered to be acceptable having regard to this clause.

Clause 6.2 Earthworks

The earthworks proposed in association with the proposal have been considered in accordance with this clause, and in this regard the application is acceptable.

5.1.4.2 Section 79C(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition

Draft State Environmental Planning Policy Coastal Management

Draft State Environmental Planning Policy (Coastal Management) 2016 was exhibited between 11 November 2016 and 20 January 2017. If the draft SEPP is made it will supersede the coastal zone considerations of SEPP 71 and the Newcastle Local Environmental Plan 2012.

It is considered that the proposed development is satisfactory in respect of the provisions of Draft State Environmental Planning Policy (Coastal Management) 2016.

5.1.4.3 Section 79C(1)(a)(ii) any development control plan (and section 94 plan)

The main planning requirements of relevance in the Newcastle Development Control Plan 2012 (DCP) are discussed below.

3.08 - Seniors Housing

This section does not contain specific controls, but rather refers to SEPP SH. The proposal has been considered in accordance with SEPP SH, as detailed in this report.

4.01 - Flood Management

Council's Engineer has confirmed that the land that the proposal relates to is not affected by flooding.

4.02 - Bushfire Protection

The site is located within a bushfire prone area and a conditional approval was granted from the RFS on the 11 April 2017.

4.04 - Safety and Security

The proposal is satisfactory in relation to safety and security considerations. Given the site's relatively secluded location, the instances for opportunistic crime are likely to be low. The proposed layout of the units provides for a high level of casual surveillance. The proposal is satisfactory in relation to safety and security.

4.05 - Social Impact

It is considered that the proposal will have positive social impacts, in providing a needed form of accommodation for seniors or persons with a disability.

The application included an Access Design Review which details that the proposal is capable of compliance with the relevant requirements.

It is considered that the proposal is acceptable having regard to social impacts.

5.01 - Soil Management

A Sediment and Erosion Management Plan has been submitted with the application, providing for minimisation of sediments being removed from the site during the construction period. A condition has been placed on the consent to ensure such measures are in place for the entire construction period.

5.02 - Land Contamination

Reference is made to the previous comments in relation to SEPP 55.

5.03 Tree Management

As detailed in the concept approval conditions, the original concept plan approval did not include approval for any specific tree removal. However, it was acknowledged that large scale tree removal would be required within the development footprint.

The concept plan approval conditions required that the development, where possible, retain high value trees (particularly within the green space areas and spine road/cul-de-sac roads of the Seniors Living Development), and strong justification for removal of high value trees was required. Accordingly, the applicant submitted an Arborist's Report, which considered the tree removal proposed in the context of the requirements of the DCP.

The Arborist's Report details that a total of 120 trees are proposed to be removed, with 29 trees retained as part of the proposal.

Of the 120 trees to be removed, 48 trees have been assessed as having a moderate to high retention value. In the context of this site, it is considered a reasonable compensatory planting rate is in the order of 2:1 for these moderate to high value trees. This results in a requirement to plant 96 trees and shrubs.

Compensatory planting for 75 trees have been included in the submitted landscaping plan. The landscaping plan also includes extensive shrubs which, in accordance with the DCP and associated Technical Manual, can be included as compensatory planting. It is considered acceptable to require planting specifically for compensation, to be at a larger pot size than that identified by the applicant. In this regard, it is recommended that the proposed 75 trees be a minimum 100L pot size and at least 21 of the proposed shrubs be a minimum of 25L pot size.

The Arborist's Report makes recommendations in relation to protection of the trees to be retained.

Subject to conditions of consent confirming the compensatory planting, and the methodologies identified in the Arborist Report, it is considered that the proposal is satisfactory in relation to tree removal.

5.04 - Aboriginal Heritage

The applicant has provided the following commentary:

'The site itself is not identified as having any aboriginal heritage significance or significant items. The site is disturbed and current a golf course. It is therefore considered unlikely that any potential artefacts remain.'

An assessment in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW, 2010) has indicated that an Aboriginal Heritage Impact Permit (AHIP) is not required for this proposed development. Reference to the Aboriginal Heritage Information Management System confirmed there are no sites of Aboriginal significance recorded on the site.

The proposal is acceptable having regard to this section.

5.05 and 5.07 - Heritage Items and Heritage Conservation Areas

The site is not State listed or locally listed for its cultural heritage significance and it is not an identified archaeological site. The site is not located within a Heritage Conservation Area and/or positioned directly adjacent to listed items.

It is considered that the proposal is acceptable in relation to heritage considerations.

5.06 - Archaeological Management

The site is not listed as an 'Archaeological site' in accordance with the Newcastle Local Environmental Plan 2012.

7.01 - Building Design Criteria

It is considered that the proposal is acceptable having regard to the requirements of this section. It is noted that these requirements overlap with criteria elsewhere within SEPP SH and the Concept Plan.

Due to the context of the subject site, it is noted that the proposal is not in close proximity to an existing residential development, other than the previous stage approved in accordance with the concept plan. It is considered that the proposal is acceptable in relation to setbacks, views and privacy, having regard to the DCP.

The bulk, scale, and character are considered to be acceptable, having regard to the character of the site and surrounding area.

7.02 - Landscape, Open Space and Visual Amenity

The proposal is identified as a 'category 3' development. In this regard, a suitably qualified Landscape Architect has prepared the submitted landscape plan.

It is considered that the proposal is acceptable having regard to the requirements of this section. It is noted that these requirements overlap with criteria within SEPP SH and the Concept Plan.

7.03 - Traffic, Parking and Access

The proposal is considered to be acceptable having regard to the DCP requirements, noting that the parking requirements overlap with criteria within SEPP SH.

Traffic impacts are discussed later in this assessment report. The proposal is considered to be acceptable having regard to this DCP section.

7.04 - Movement Networks

The proposed movement network remains generally consistent with the approved concept plan. The proposed roads have been considered by Council's Senior Development Officer (Engineering) as being satisfactory. The proposal has also been

considered in accordance with Council's street numbering policies, ensuring that logical way finding is achieved by the design.

7.05 - Energy Efficiency

The application includes the required BASIX certificates and is acceptable in relation to solar access, noting the provisions in SEPP SH.

7.06 Stormwater and 7.07 Water Efficiency

Council's Engineer has made the following comments in relation to the proposal:

'The Stormwater Management Plan provided includes a master planning document for the entire site that is used to provide guidance to the implementation of stormwater management measures for subsequent DA approvals. Civil drawings provided show the proposed stormwater layout for the Stage 2 development and a Stage (Precinct) 2 stormwater report documents the stormwater management philosophy for this stage. As the stormwater controls for this site are located in subsequent stages there will be no stormwater quantity and quality controls in the stage 2 build. It is considered reasonable to require stormwater management controls be built in the subsequent stages as documented in the submitted Stormwater Masterplan Strategy for the entire development site.'

The proposal is satisfactory in relation to stormwater management.

7.08 - Waste Management

The proposal includes a waste management plan. The applicant has advised:

'Waste and recycling collection services will be provided by a commercial waste contractor (TBA). Utilising a commercial waste contractor affords the development greater flexibility regarding collection schedules and the appropriate collection frequencies will be determined in consultation with the waste contractor once appointed – at present, this is planned to be once per week – however once operational, collection schedules may need to be adjusted accordingly depending on actual waste generation.'

The waste strategy proposed is acceptable.

8.00 - Public Participation

The proposal was notified in accordance with this policy. The application was notified for a period of 14 days and no submissions were received.

Newcastle Section 94A Development Contribution Plan

The application attracts a Section 94A Contribution pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the *Newcastle Section 94A Development Contributions Plan*. A contribution of 1% of the cost of development would be payable to Council as determined in accordance with clause 25(j) of the *Environmental Planning and Assessment Regulation 2000*.

5.1.4.4 Section 79C(1)(a)(iia) Planning agreements

No planning agreements are relevant to the proposal.

5.1.4.5 Section 79C(1)(a)(iv) the regulations (and other plans and policies)

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and *Regulation 2000*.

Hunter Regional Plan

The Hunter Regional Plan provides an overarching framework to guide land use plans, development proposals and infrastructure funding decisions. The NSW Government's vision for the Hunter is to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

To achieve this vision the Government has set four goals for the region:

- The leading regional economy in Australia
- A biodiversity-rich natural environment
- Thriving communities
- Greater housing choice and jobs

The proposal is consistent with the aim of providing greater housing choice in existing communities, close to jobs and services and well supported by transport options.

Lower Hunter Regional Strategy

The primary purpose of the Lower Hunter Regional Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years. It is considered that the proposal achieves higher residential density, in an area with adequate access to existing services and infrastructure.

5.1.4.6 Section 79C(1)(a)(v) Coastal management plan

No Coastal Management Plan applies to the site or the proposed development.

5.1.4.7 Section 79C(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Further to the discussion in this report, additional impacts of the proposal are discussed below.

Tree removal

As detailed in the concept plan approval conditions, the original concept plan approval did not include approval for any specific tree removal. However, it was acknowledged that large scale tree removal would be required within the development footprint. The concept plan approval conditions required that the development, where possible, retain high value trees (particularly within the green space areas and spine road/cul-de-sac roads of the Seniors Living Development), and strong justification for removal of high value trees will be required.

Accordingly, the applicant submitted an Arborist's Report, which considered the tree removal proposed in the context of the requirements of the DCP. As detailed in the

DCP section of this report, it is considered that the proposal is satisfactory in relation to tree removal.

Traffic and Parking

It is noted that SEPP SH prevails to any inconsistency in relation to parking requirements of the DCP. SEPP SH identifies that the consent authority cannot refuse a proposal based on parking:

if at least the following is provided:

(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or

Each of the proposed dwellings contain two bedrooms and, accordingly, are required to include provision of one parking space. The proposal complies with this requirement.

Council's Engineer has made the following comments in relation to the proposal:

Traffic access from Vale Street for the entire development has been dealt with in the Stage 1 development approval (DA2015/10112) with this Stage 2 DA extending the road network generally as approved in the Concept Approval (DA2012/0419). Road widths are consistent with the previous approvals.

Each of the 45 Units proposed has a garage and an off road driveway space. There are also about 5 visitor spaces provided on the access roads.

The concept plan approval requires that a Traffic Report and Traffic Management Plan be submitted for each stage of the development, addressing the impacts of construction and operation on land owned by the University of Newcastle. The applicant has provided a Traffic Report which reiterates the existing management plan being followed for Stage 1 of the construction. In relation to this Stage 1 management, Council's Engineer noted:

'This report has identified that some inconvenience to University of Newcastle traffic will occur with the construction of the entry road however this is a short term inconvenience (14 to 22 weeks) that can be appropriately managed on-site with suitable traffic control. Once the entry and internal roads are constructed construction traffic associated with the building works on the site will have little if any impact on UON traffic.

I am satisfied with the assessment of construction traffic impacts in the Seca Solutions report and subject to the preparation and implementation of detailed construction traffic management plans prior to commencement of work have no objection to the proposal. These plans will need to be prepared in accordance with the Seca Solutions recommendations and include suitable liaison and notification with and to UON.'

SEPP SH does not require the specific provision of motorbike and bicycle parking for the seniors housing component. It is noted that there would be adequate room for the parking of such vehicles, if required.

The applicant has advised that a mini bus will be provided for future resident's day to day needs.

The proposal is considered to be acceptable in relation to traffic and parking.

Social Impact

It is considered that the proposal will have positive social impacts, in providing a needed form of accommodation for seniors/persons with disabilities.

The application included an Access Design Review which details that the proposal is capable of compliance with the relevant requirements.

It is considered that the proposal is acceptable having regard to social impacts.

Acoustic Impacts

The following comments have been made by Council's Senior Environment Protection Officer in relation to potential noise concerns:

'The Acoustic Assessment prepared by RCA Acoustics dated 10 April 2013 was submitted as part of the documentation for DA No: 2012/419. The recommendations of the Acoustic Assessment prepared by RCA Acoustics dated 10 April 2013 relate to residential dwellings located within two hundred and fifty metres of the railway to the east of the proposed development. The proposed Stage 2 is not located within the two hundred and fifty metre zone and the recommendations do not apply to this stage. Therefore, no further acoustic mitigation is required.'

The proposal is considered to be acceptable in relation to acoustic impacts.

Character, bulk and scale

The character, bulk and scale of the proposal have been discussed in this report, in the context of the SEPP SH guidelines, LEP and DCP controls. The proposal is considered to be acceptable in this regard.

Ecological Impacts

The following comments have been made by Council's Senior Environment Protection Officer in relation the potential ecological impacts of the proposal:

'The assessment of Development Application No: 2012/419 included analysis of potential ecological impacts of the overall concept proposal. The Flora and Fauna Assessment prepared by RPS dated March 2012 included an assessment of impacts on threatened flora and fauna listed under the Threatened Species Conservation Act 1995 including a seven-part test of significance for relevant species. The Flora and Fauna Assessment prepared by RPS dated March 2012 concluded the concept proposal would not result in significant impacts upon threatened flora, fauna or ecological communities provided recommended mitigation measures were undertaken. The recommended mitigation measures are included within Part H of the consent for Development Application No: 2012/419.'

As detailed in this assessment report, the proposal remains consistent with the approved concept plan, and the conditions of consent that relate to the management of tree removal and weeds.

It is considered that subject to conditions, that the proposal will not have a significant impact in relation to ecological considerations.

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

The site has been identified for development of this scale, though the approval of the concept plan, and is not affected by significant environmental constraints. As detailed in the assessment, it is considered that the site is suitable for the proposed development.

5.1.4.9 Section 79C(1)(d) any submissions made in accordance with this act or the regulations

The application was notified in accordance to the Regulations and no submissions were received.

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

The development is in the public interest and will allow for the orderly and economic development of the site, in accordance with the concept plan previously approved. It will allow for the creation of seniors housing and housing for people with a disability in a range of accommodation sizes and levels of care.

6. CONCLUSION

The proposal is considered to be acceptable against the relevant heads of consideration under section 79C of the *Environmental Planning and Assessment Act 1979*.

7. RECOMMENDATION

THAT the Hunter and Central Coast JRPP determine to grant development consent to DA2017/00149 (2017HCC005) for Stage 2 of a seniors housing development involving the construction of 45 self-care living dwellings and associated site works at 90A Vale Street Shortland, pursuant to Section 80 of the *Environmental Planning and Assessment Act 1979*, subject to the conditions in Appendix A.