

JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

Council Assessment Report

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| Panel Reference | Panel Reference No. 2017HCC044 |
| DA Number | 53119/2017 |
| Local Government Area | Central Coast Council |
| Proposed Development | INTEGRATED Seniors Living Accommodation; New Registered Club; and Retail Tenancies |
| Street Address | LOT: 151 DP: 818343, LOT: 152 DP: 818343, LOT: 369 DP: 755251, 184 Brick Wharf Road WOY WOY, 186 Brick Wharf Road WOY WOY, 1 North Burge Road WOY WOY |
| Applicant | Barker Ryan Stewart Pty Ltd - Sydney |
| Owner | Woy Woy Holdings Pty Ltd |
| Date of DA Lodgement | 16/10/2017 |
| Number of Submissions | Ninety Four (94) |
| Recommendation | Refusal |
| Regional Development Criteria - Schedule 7 of the State Environment Planning Policy (State and Regional Development) 2011 | Capital Investment Value > \$20M and lodged before 1 March 2018 |
| List of all relevant 4.15(1)(a) matters | <ul style="list-style-type: none"> • <i>Environmental Planning & Assessment Act 1979</i> (EP& A Act) • <i>Environmental Planning and Assessment Regulation 2000</i> (EP & A Regulation) • <i>Crown Land Management Act 2016</i> (Crown Land Act) • <i>Water Management Act 2000</i> (Water Management Act) • <i>State Environmental Planning Policy No 55 - Remediation of Land</i> (SEPP 55) • <i>State Environmental Planning Policy (Infrastructure) 2007</i> (SEPP Infrastructure) • <i>State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development</i> (SEPP 65) |

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| | <ul style="list-style-type: none">• <i>State Environmental Planning Policy No 71 – Coastal Protection</i> (SEPP 71)• <i>State Environmental Planning Policy (Coastal Management) 2018</i> (SEPP Coastal Management)• <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> (SEPP BASIX)• <i>State Environmental Planning Policy (Housing for Senior or People with a Disability) 2004</i> (SEPP HSPD)• <i>State Environmental Planning Policy (State and Regional Development) 2011</i> (SEPP State and Regional Development)• <i>Gosford Local Environmental Plan 2014</i> (GLEP 2014)• Gosford Development Control Plan 2013 (GDPC 2013)• Apartment Design Guide. Tools for improving the design of residential apartment development (ADG)• The Brisbane Water Foreshore Flood Study (October 2010)• The Brisbane Water Foreshore Floodplain Risk Management Study (March 2015)• The Brisbane Water Foreshore Floodplain Risk Management Plan (November 2015)• Handbook No. 7: Managing the Floodplain: A guide to Best Practice in Flood Risk Management in Australia• Central Coast Regional Plan 2036• Gosford Plan of Management (Community Parks)• Gosford City Council Climate Change Policy |
| List all documents submitted with this report for the Panel's consideration | <ol style="list-style-type: none">1 Recommendation for Refusal2 Development Plans3 SEPP HSPD Compliance Table4 SEPP No. 71 Matters for Consideration Table5 Central Coast Regional Plan 2036 Matters for Consideration6 ADG Compliance Table7 GDPC 2014 Compliance Table8 Site Compatibility Certificate9 Actions of Council/ Applicant throughout the DA process |
| Report prepared by | A Stuart |
| Report date | 27 July 2018 |

DRAFT

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

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 summarised, in the Executive Summary of the assessment report? **Yes**

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? **No**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (s7.24)? **No**

Conditions

Have draft conditions been provided to the applicant for comment? **Not Applicable**

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Title: Development Application No. 53119/2017, Proposed INTEGRATED Seniors Living Accommodation (JRPP) on LOT: 151 DP: 818343, LOT: 152 DP: 818343, LOT: 369 DP: 755251, 184 Brick Wharf Road WOY WOY, 186 Brick Wharf Road WOY WOY, 1 North Burge Road WOY WOY

Department: Environment and Planning

SUMMARY

A development application has been received for the redevelopment of the subject site, consisting of 63 seniors housing independent living units, a new registered club (The Sporties at Woy Woy), five (5) retail tenancies, and a basement carpark and bowling green at No.'s 184-186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy.

The development is relying upon the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP HSPD). The application has been assessed having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and other statutory requirements.

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|------------------------------|---|
| Applicant | Barker Ryan Stewart Pty Ltd - Sydney |
| Owner | Woy Woy Holdings Pty Ltd |
| Application No | 53119/2017 |
| Description of Land | LOT: 151 DP: 818343, LOT: 152 DP: 818343, LOT: 369 DP: 755251, 184 Brick Wharf Road WOY WOY, 186 Brick Wharf Road WOY WOY, 1 North Burge Road WOY WOY |
| Proposed Development | INTEGRATED Seniors Living Accommodation; New Registered Club; and Retail Tenancies |
| Site Area | 7,565.7m ² |
| Zoning | R2 LOW DENSITY RESIDENTIAL (No. 184 Brick Wharf Road) RE2 PRIVATE RECREATION (No. 186 Brick Wharf Road) RE2 PRIVATE RECREATION (No. 1 North Burge Road) |
| Existing Use | Registered Club |
| Employment Generation | Yes |
| Estimated Value | \$30,390,505.00 |

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RECOMMENDATION

- 1** *That the Joint Regional Planning Panel refuse the application subject to appropriate reasons for refusal detailed in Attachment 1 of this report, having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act and other relevant issues.*
- 2** *That the Joint Regional Planning Panel advise those who made written submissions of its decision.*

PRECIS

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| Application Type | Development Application – Integrated |
| Application Lodged | 16/10/2017 |
| Delegation level | Joint Regional Planning Panel |
| Advertised and Notified | Exhibition period closed on 11 December 2017 |
| Submissions | Ninety Four (94) |
| Disclosure of Political Donations & Gifts | No |
| JRPP Briefing/ Inspection | 25 January 2018 |
| Legislative Clauses Requiring Consent Authority Satisfaction | <ul style="list-style-type: none"> • Section 4.15 of <i>Environmental Planning & Assessment Act 1979</i> - Evaluation. • Section 4.47 (2) of the <i>Environmental Planning and Assessment Act 1979</i> – Development that is integrated development. • Clause 49 of the <i>Environmental Planning and Assessment Regulation 2000</i>. • Clause 50 (2A) of the <i>Environmental Planning and Assessment Regulation 2000</i>. • Section 90 of the <i>Water Management Act 2000</i>. • Section 5.21 and 5.24 of the <i>Crown Land Management Act 2016</i>. • Clause 7 of <i>State Environmental Planning Policy No 55 - Remediation of Land</i>. • Clause 45(2)(b) of <i>State Environmental Planning Policy (Infrastructure) 2007</i>. • Clause 28 (Determination of development applications) of <i>State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Apartment Development</i>. • Clause 7 (Application of clause 8 matters) of <i>State Environmental Planning Policy No 71 – Coastal Protection</i>. • Clause 21 (Savings and transitional provisions) of <i>State Environmental Planning Policy (Coastal Management) 2018</i>. • Clause 6 (Building to which Policy applies) of <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> • Clause 20 (Declaration of regionally significant development: section 4.5 (b) of <i>State Environmental Planning Policy (State and Regional Development) 2011</i>. • Clause 6(a) (Land to which this policy does not apply)and Clause 24 (Site compatibility certificates required for certain development applications) of <i>State Environmental Planning Policy (Housing for Senior or People with a Disability) 2004</i>. |

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| | <ul style="list-style-type: none"> • Clause 2.3 (Zone Objectives and Land Use Table); Clause 4.6(4) (Exceptions to development standards); Clause 7.2 (3) (Flood planning) and Clause 7.3 (1)(a) and (b) (Floodplain risk management) of <i>Gosford Local Environmental Plan 2014</i>. |
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VARIATIONS TO POLICIES

| Policy | Clause / Description | Variation |
|---|--|---|
| State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 | <p>Clause 40 (4): Height in zones where residential flat buildings are not permitted (No. 184 Brick Wharf Road, Woy Woy only):</p> <ul style="list-style-type: none"> • Part (a) the height of all buildings in the proposed development must be 8 metres or less. • Part (b) a building that is adjacent to a boundary of the site must be not more than 2 storeys in height. • Part (c) a building located in the rear 25% area of the site must not exceed 1 storey in height. | <ul style="list-style-type: none"> • Max. height proposed at 12.5m, resulting in a 4.5m or 56.25% variation. • 3 storeys proposed, resulting in a 1 storey or 50% variation. • 3 storeys proposed, resulting in a 2 storey or 200% variation. |
| Apartment Design Guide | <ul style="list-style-type: none"> • 3D-1 Communal Open Space • 3E-1 Deep Soil Zone • 4D-2 Room depths • 4F-1 Common Circulation | <ul style="list-style-type: none"> • 290m² or 3.8% of the site is dedicated as communal open space resulting in a variation with this provision of 21.2% or 1601m². • 1006m² or 13.3% of the site is proposed as deep soil zones, resulting in a variation with this provision of 1.7% or 124m². • Room depths of 8.5m, resulting in a variation of 0.5m or 6.25% • 9 apartments (Building B) with common circulation, resulting in a variation with this provision of 1 apartment or 12.5% |

| Policy | Clause / Description | Variation |
|--|---|---|
| Gosford Local Environmental Plan 2014 | <ul style="list-style-type: none"> Clause 4.3(2) (Height of Buildings) | <ul style="list-style-type: none"> Max. height proposed at 12.5m, resulting in a 4m or 47% non-compliance. |
| Gosford Development Control Plan 2013 | <ul style="list-style-type: none"> Chapter 7.1 Car Parking <p>This Chapter requires 107 car parking spaces to be allocated to residential and residential visitor parking and 217 car parking spaces to be allocated to the registered club component of the development, resulting in a total of 324 car parking spaces.</p> <p>NOTE:</p> <p>Car parking associated with the retail component of the development has not been calculated in that it is not a permissible use.</p> | <ul style="list-style-type: none"> 324 car parking spaces are required associated with the residential and club uses. The proposed development provides 136 car parking spaces, resulting in a shortfall of 188 car parking spaces and a 58% variation to the parking control. |

THE SITE

The proposed development is located at No's. 184 –186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy. The site is level, does not contain any significant vegetation, and is currently occupied by a registered club and associated facilities and outbuildings, as shown in Figure 1.

The site is located within the RE2 Private Recreation zone (No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy) and R2 Low Density Residential zone (No. 184 Brick Wharf Road, Woy Woy) under *Gosford Local Environmental Plan 2014* (GLEP 2014) and has a total site area of approximately 7,565.7m², refer to Figure 2.



Figure 1: Aerial photograph of the site and adjoining properties (site shown highlighted in black)

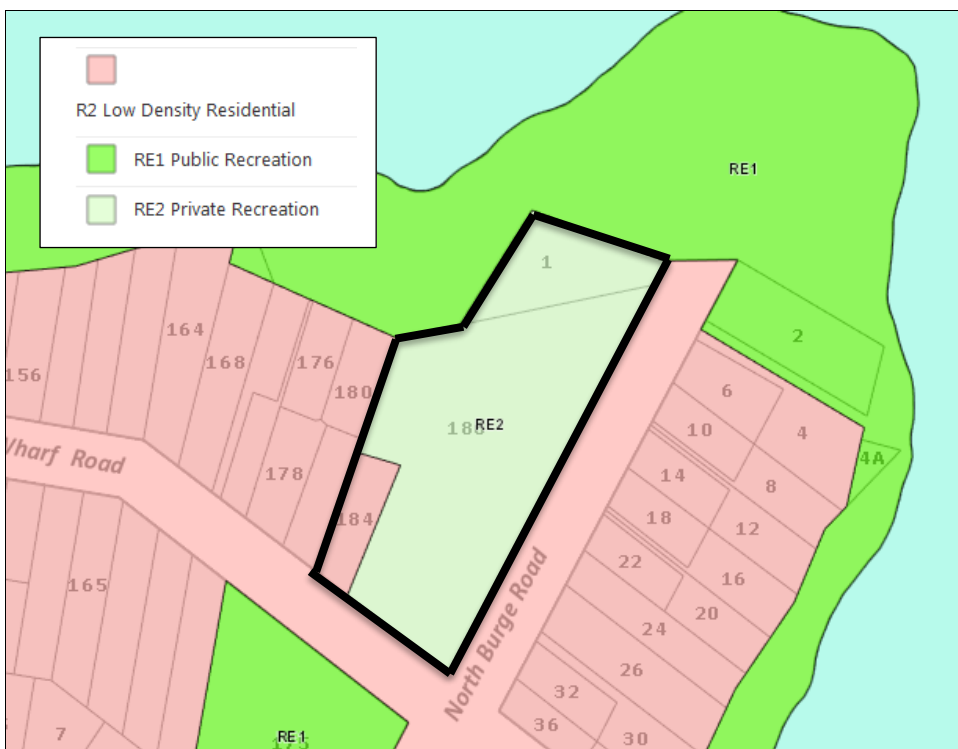


Figure 2: Zoning of the site and adjoining properties (site shown highlighted in black)

SURROUNDING DEVELOPMENT

Directly adjacent to the northern boundary of the site is public car parking and Lions Park zoned RE1 Public Recreation under GLEP 2014.

Forty three (43) on street car parking spaces exist in North Burge Road, directly adjacent to the eastern site boundary

Further east of the site on the opposite side on North Burge Road exists residential development, community facilities, and Lions Park zoned RE1 Public Recreation under GLEP 2014.

Directly south of the site on the opposite side of Brick Wharf is a local park zoned RE1 Public Recreation under GLEP 2014.

Directly west of the site surrounding development comprises one and two storey dwellings, with Woy Woy town centre and commercial precinct and Woy Woy train station located approximately 800m west of the site.

THE PROPOSED DEVELOPMENT

Development Application No. 53119/ 2017 seeks approval for the construction of sixty-three (63) seniors housing independent living units, a new registered club (The Sporties at Woy Woy), five (5) retail tenancies, and a basement carpark and bowling green at 184-186 Brick Wharf Road and 1 North Burge Road, Woy Woy. In detail, development consent is sought for the following:

Demolition

- Demolition of all existing structures on the site.

Car Parking

- The basement car park will be accessed from North Burge Road with internal lift and stair access to the residential floors.
- One hundred and thirty six (136) basement car parking spaces are proposed, including 9 accessible spaces and 18 visitor spaces.

The Sporties at Woy Woy

- The proposal will include a bistro, auditorium, entertaining areas, deck and a bowling green at the basement level.
- The registered club will be accessed from North Burge Road. Internal lift and stair access will be restricted between the ground level club and the 'all-weather' bowling green.

- The redevelopment of the registered club will retain existing trading hours, operating from Monday to Sunday from 5.00am to 12.00am. The capacity of each area of the club is outlined below in Figure 3:

| Club Area/Facility | Capacity |
|---------------------------------|---------------------------------|
| Entertainment Area | 42 Patrons |
| Outdoor Gaming and Smoking Area | 9 Patrons and 9 Gaming Machines |
| Bar and Lounge Area | 50 Patrons |
| Bistro | 84 Patrons |
| Auditorium | 130 Patrons |
| Outdoor Deck | 50 Patrons |

Figure 3: The Sporties at Woy Woy Proposed Capacities

Residential Accommodation

- The proposal includes 63 independent living units for the purpose of seniors housing. The proposal provides 2 bedroom, 3 bedroom, sub penthouse and penthouse units (refer to Figure 4 and 5).
- Residential units will have pedestrian access from street level off both Brick Wharf Road and North Burge Road and lift access from the basement car park to residential floors (refer to Figure 5 and 6).
- The proposed unit mix is provided in Figure 4:

| Residential Units (Building A, B, and C) | | | |
|---|--------------|-----------------|----------------|
| | 1 bed | 2 bed | 3 bed |
| Ground Floor | - | 14 | - |
| First Floor | - | 16 | 7 |
| Second Floor | - | 9 | 11 |
| Third Floor | - | - | 6 |
| Total Units | 0(0%) | 39 (62%) | 24(38%) |

Figure 4: Proposed Unit Mix

Retail

- The proposal includes five (5) retail tenancies and associated bathrooms. The trading hours of the retail premises are as follows: -
 - Monday: 11am – 7.30pm
 - Tuesday: 10am – 9pm;
 - Wednesday: 8.30am – 8.30pm;
 - Thursday and Friday: 10am – Midnight;
 - Saturday: 9am – Midnight; and
 - Sunday: 8.30am – 8pm.
- Retail tenancies and associated bathrooms will be accessed via the boardwalk fronting Lions Park.

Overall Development

- Proposed dedication of a strip of land to provide a footpath along North Burge Road adjacent to the on street car parking.
- The proposal is located within three (3) main building envelopes as demonstrated in Figure 5:

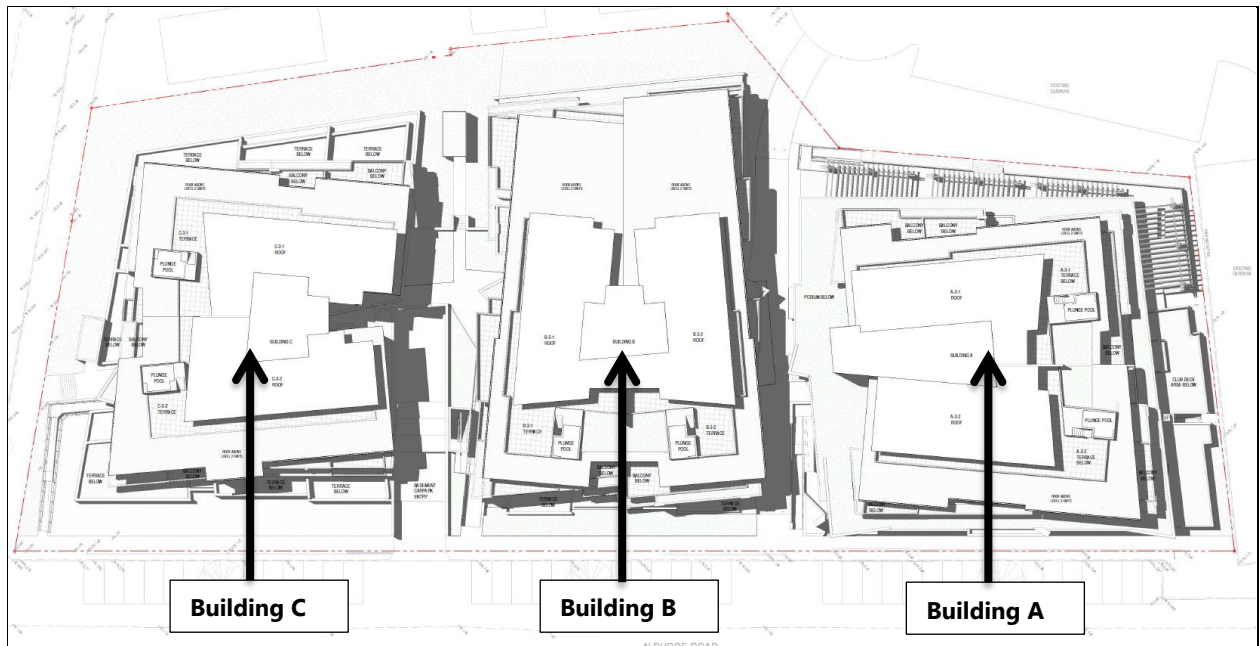


Figure 5: Proposed Site Plan

- Landscaping for the whole of the site is proposed in accordance with the landscape plan accompanying the development application (refer to figure 6):



Figure 6: Proposed Landscaping Plan (ground level)

- A summary of the proposed development is provided in Figure 7.

| | Building A | Building B | Building C |
|---------------------|---|---|--|
| Ground Floor | <ul style="list-style-type: none"> • Woy Woy Sporties, club facilities, deck and landscaped areas • 5 retail tenancies • Bathrooms • Loading area • Lift and stair access | <ul style="list-style-type: none"> • 7 x 2 bedroom units • Fishing club • Garbage room with bin carousel • Residents communal lounge • Lift and stair access | <ul style="list-style-type: none"> • 7 x 2 bedroom units • Garbage room with bin carousel • Lift and stair access |
| First Floor | <ul style="list-style-type: none"> • 3 x 2 bedroom units • 4 x 3 bedroom units • Lift and stair access • Garbage chute | <ul style="list-style-type: none"> • 8 x 2 bedroom units • 1 x 3 bedroom units • Lift and stair access • Garbage chute | <ul style="list-style-type: none"> • 5 x 2 bedroom units • 2 x 3 bedroom units • Lift and stair access • Garbage chute |
| Second Floor | <ul style="list-style-type: none"> • 2 x 2 bedroom units • 2 x 3 bedroom units • 2 x sub penthouses • Lift and stair access • Garbage chute | <ul style="list-style-type: none"> • 4 x 2 bedroom units • 2 x 3 bedroom units • 2 x sub penthouses • Lift and stair access • Garbage chute | <ul style="list-style-type: none"> • 3 x 2 bedroom units • 1 x 3 bedroom units • 2 x sub penthouses • Lift and stair access • Garbage chute |
| Third floor | <ul style="list-style-type: none"> • 2 x penthouses • Lift and stair access • Garbage chute | <ul style="list-style-type: none"> • 2 x penthouses • Lift and stair access • Garbage chute | <ul style="list-style-type: none"> • 2 x penthouses • Lift and stair access • Garbage chute |
| Basement | <ul style="list-style-type: none"> • 136 total car spaces; • 8 rink 'all weather' bowling green; • Caretaker/storage room; • Cleaners room; • Mechanical plant room; and • Lift and stair access to residential levels. | | |

Figure 7: Summary of the proposed development

- Photomontages of the proposal, viewed from various locations surrounding the site:



Figure 8: Photomontage (Lions Park perspective)



Figure 9: Photomontage (in a northerly direction from the corner of North Burge Road and Brick Wharf Road, Woy Woy)



Figure 10: Photomontage (in a northerly direction from North Burge Road, Woy Woy adjacent to proposed new club entrance)

HISTORY

Council's records show that the following applications were previously lodged on this site:

- DA 45969/2014 for alterations and additions to the Woy Woy Bowling Club including the construction of six (6) restaurant tenancies was approved on 16 December 2014 with a lapsing date on 16 December 2019. DA 45969/2014 has not commenced in accordance with s.4.53 of the *Environmental Planning and Assessment Act 1979*.

-
- DA 52491/2017 proposing Seniors Housing (87 Units), a new club building, 5 retail tenancies, and the demolition of existing structures was received by Council on 19 July 2017.

In accordance with cl.50 (2A) of the *Environmental Planning and Assessment Regulation 2000* (EP& A Regulation) DA 52491/2017 was required to be accompanied by a Site Compatibility Certificate issued by the Department of Planning and Environment. Clause 24 (3) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP HSPD) states the following: -

3) *Nothing in this clause:*

(a) *prevents a consent authority from:*

- (i) *granting consent to a development application to which this clause applies to carry out development that is on a smaller (but not larger) scale than the kind of development in respect of which a site compatibility certificate was issued.*

Upon lodgement of DA 52491/2017, Council staff raised concern with the scale of the development proposed in accordance with cl. 24(3) of SEPP HSPD. The Department of Planning and Environment, in issuing the required Site Compatibility Certificate, confirmed that the terms of the determination granted, applied to a smaller scaled development than that which was proposed under DA 52491/2017. In view of the above, DA 52491/2017 was withdrawn by the applicant.

In addition, the applicant was advised to address the terms of the determination granted within the Site Compatibility Certificate. Alternatively, the applicant could apply to the Department of Planning and Environment for a new Site Compatibility Certificate to more accurately reflect the proposal as sought in accordance with DA 52491/2017.

- Development Application No. 53119/2017 was lodged with Council on 16 October 2017, accompanied by a Site Compatibility Certificate. A summary of Council's and the applicant's actions post lodgement are provided in **Attachment 9**.

s. 4.15 (1)(d) of the EP & A Act: Consultation

Public Consultation

The development application was notified in accordance with Chapter 7.3 Notification of Development Proposals of Gosford Development Control Plan 2013 (GDGP 2013) from 26 October 2017 until 16 November 2017. Following confirmation from Water NSW that the proposal was integrated development, the notification period was extended from 9 November 2017 until 11 December 2017 in accordance with Division 7 Public Participation – other advertised development of the *Environmental Planning and Assessment Regulation 2000* (Clauses 86-91).

A total of 94 submissions were received. The issues raised in the submissions are discussed below:-

Outdoor recreational community facilities comprising 3 outdoor bowling greens and suitable access for the local Fishing Club, will be lost as a result of this development.

Comment:

The Sporties at Woy Woy is a registered club within Clubs NSW. The provision of these facilities are at the discretion of the Club.

The development will negatively impact the amenity of residents in the adjoining streets as well as recreational visitors by creating significant shadowing impacts.

Comment:

Shadow diagrams during the winter solstice, the summer solstice and equinox were submitted with the development application. A review of these shadow diagrams indicates that any shadows cast by the proposed development will not impact surrounding public recreational land.

The shadows cast by the proposed development during the winter solstice on 22 June are discussed below (refer to figures 11-13).

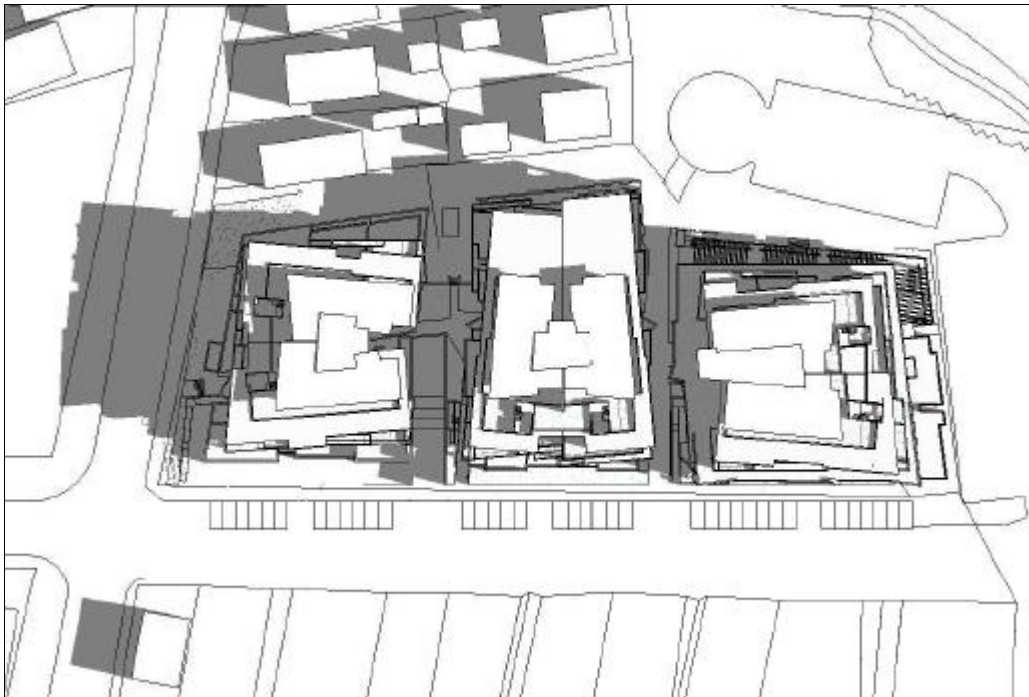


Figure 11: Winter Solstice, 22 June, 9am

At 9am during the winter solstice on the 22 June, shadows cast by the proposed development will fall upon the sites western landscaped setback and will encroach to a minor extent into the residential properties located at No. 180 Brick Wharf Road and No. 182 Brick Wharf Road, Woy Woy. However, no objection is made as the usability and livability of the affected areas will not be unreasonably compromised. Furthermore, no window openings within these two adjoining

residential properties will be affected by any additional loss of solar access associated with the proposal.



Figure 12: Winter Solstice, 22 June, Midday

At midday during the winter solstice on the 22 June, all additional shadow cast by the development will fall within the subject site and adjacent roadways. In this regard, no objection is made.

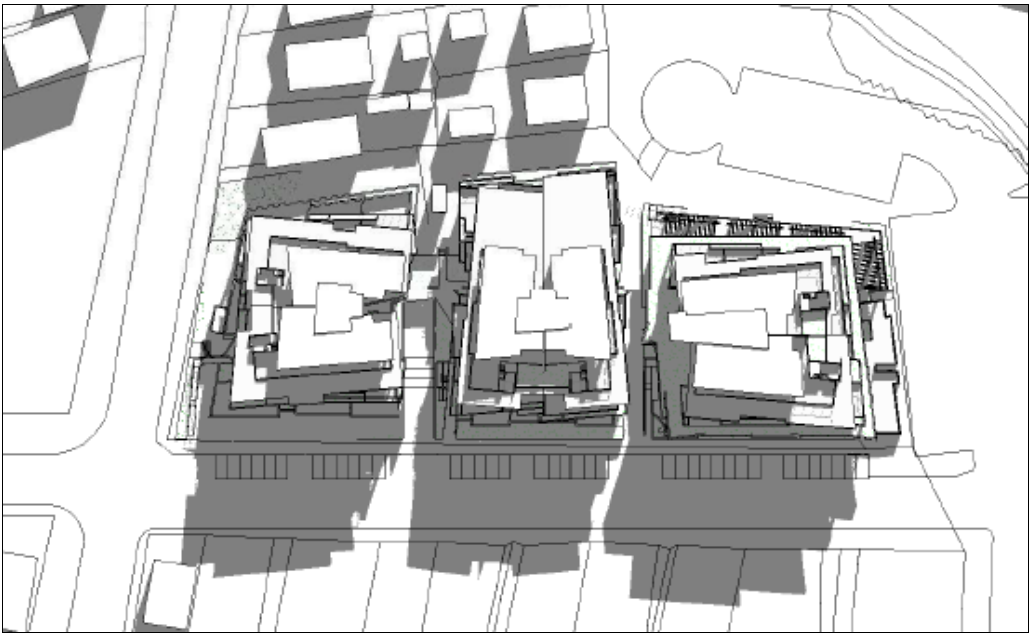


Figure 13: Winter Solstice, 22 June, 3pm

At 3pm during the winter solstice on the 22 June, additional shadows cast by the development will impact North Burge Road and nine (9) residential properties located on the eastern side of North Burge Road, Woy Woy. Despite this, no objection is made given the impacted outdoor areas of these properties will retain unaffected solar access between 9am and approximately 2pm during the winter solstice. In addition, the areas impacted by shadows cast by the proposal do not comprise principal outdoor open spaces. The impacted areas are predominantly used for car access and accommodation. It is also acknowledged that during the summer solstice and equinox these nine residential properties on the eastern side of North Burge Road, Woy Woy will remain unaffected in terms of overshadowing caused by the proposed development.

In view of the above considerations, Council staff raise no objection with the shadows cast by the proposed development.

The DA is out of keeping with the intended recreational use of the land.

Comment:

The site is located within the RE2 Private Recreation zone (No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy) and R2 Low Density Residential zone (No. 184 Brick Wharf Road, Woy Woy) under GLEP 2014.

Whilst the provision of a registered club and community facilities are permissible with development consent in the RE2 Private Recreation zone within GLEP 2014, seniors housing and retail facilities are prohibited. The proposed development comprising seniors housing on No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy is permissible by virtue of the provisions of clause 4 (1) of the SEPP HSPD which provides the policy applies to land being used for the purposes of an existing registered club. The applicant was advised of the prohibition on the site relating to the 5 retail premises proposed however to date this issue remains unresolved.

The provision of seniors housing at No. 184 Brick Wharf Road, Woy Woy is permissible with development consent in that the land is zoned R2 Low Density Residential zone under GLEP 2014.

The DA is out of character with the area.

Comment:

The subject site is within the Woy Woy Character Statement No. 14 Community Centres and Schools of *Gosford Development Control Plan 2013* (GDGP 2013).

The overall design of the development is structured as a compound of separate pavilions. The pavilion style buildings are surrounded by deep soil planting on the boundaries and open space within the site that is consistent with maintaining landscaping and green space. The development includes a higher density of residential development than that existing in the area. However, it is considered the transition between neighbouring development and the proposed

development is acceptable. The use of landscaping on boundaries and roof areas of the proposal enhances the scenic quality of the area.

Overall the development does not propose a bulk and scale that will adversely affect the scenic quality of the area. Furthermore, views will be maintained around and through the site.

The height and floor space ratios proposed are significantly higher than the surrounding low density residential area.

Comment:

The subject development application relates to 3 parcels of land at No. 184 Brick Wharf Road, No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy. The parcels are zoned both R2 Low Density Residential and RE2 Private Recreation under GLEP 2014.

No. 184 Brick Wharf Road, Woy Woy is zoned R2 Low Density Residential under GLEP 2014 and has a height limit of 8.5m and a maximum floor space ratio of 0.5:1. The remaining 2 properties have no maximum height or floor space ratio under GLEP 2014.

The Statement of Environmental Effects, prepared by Barker Ryan Stewart, dated October 2017 accompanying the development application, does not adequately consider the relevant development standards for No. 184 Brick Wharf Road, Woy Woy being that it is located in the R2 Low Density Zone under GLEP 2014.

To date, this issue remains unresolved. The proposal cannot be supported in that insufficient information has been provided to enable further assessment to occur with regard to this issue.

During the construction phase there are concerns regarding the movement of heavy vehicles, the parking of tradesman vehicles the noise associated with the works and increase in traffic.

Comment:

Any proposal of this scale would result in temporary construction traffic however a condition of development consent requiring a Construction Traffic Management Plan (CTMP) including a Vehicle Movement Plan and Traffic Control Plan would address this concern if the proposal was to be approved.

Neighbouring residents as well as the proposed new residents occupying the development will be affected by noise caused by the club and retail premises.

Comment:

An Environmental Noise Assessment Report, prepared by Day Design Pty Ltd, dated 25 August 2017, accompanies the development application. The nearest residential receptors identified as being potentially affected by noise associated with the development are located to the east, on the opposite side of North Burge Road and adjacent to the sites western boundary (figure 14):

- No.'s 6 - 36 North Burge Road, Woy Woy, east of the site (R2 Receptor); and
- No.'s 180 -182 Brick Wharf Road, Woy Woy, located west of the site (R3 Receptor).



Figure 14: Identification of Noise receptors

The predicted noise levels from the proposed development exceed noise criteria throughout the day and night and therefore require noise controls measures that are detailed in Section 7 of the Environmental Noise Assessment Report, prepared by Day Design Pty Ltd, dated 25 August 2017. Several controls measures recommended in their report include:

- Administrative noise management controls to be adopted by the operators of the clubs and retail tenancies.
- The provision of sound barrier walls constructed of either clear toughened glass or polycarbonate/perpsex in the following locations (see figure 15):
 - 1.8m high sound barrier wall on the eastern boundary of the Club deck area;
 - 2.1m high sound barrier wall on the southern and western boundaries of the boardwalk.



Figure 15: Location of sound barrier walls

If the required noise control measures detailed in Section 7 of the Environmental Noise Assessment Report, prepared by Day Design Pty Ltd, dated 25 August 2017 are implemented, the predicted noise levels will be compliant.

The visual impact associated with providing the abovementioned sound barrier walls when viewed from Lions Park and surrounding residential properties has not been assessed as these built elements have not been detailed on the submitted elevation architectural plans supporting the development application. Given the concerns raised by Council staff relating to flooding and permissibility, the applicant was not requested to address this issue.

Verification that seniors will occupy the units.

Comment:

Should the matter be determined by way of approval, a condition of development consent would be imposed by way of a restriction as to user, registered on the title of the property, in accordance with s.88E of the *Conveyancing Act 1919*, limiting the use of any accommodation to which the development application relates to seniors or people who have a disability, people

who live within the same household with seniors or people who have a disability, and staff employed to assist in the administration of and provision of services.

The infrastructure on the Peninsular, especially stormwater requires upgrading and there are questions as to whether or not the current infrastructure can cope with the development.

Comment:

The development application is accompanied by Stormwater Management Reports and Plans, prepared by Barker Ryan Stewart, dated 6 July 2017 and 11 October 2017. Council's Development Engineer has reviewed these documents and raises no objection for the following reasons:

- The proposal doesn't include any provision for on-site detention. Given the location of the site in relation to Brisbane Water, the proposal is exempt from complying with these requirements. This rationale is considered reasonable and has been previously applied to numerous developments located in the lower catchment areas.
- On site retention of 80 cubic metres or 80,000 litres of rainwater to be used for outdoor irrigation, toilets flushing and laundry use is proposed.
- The proposed discharge of the surcharge stormwater flows from the internal stormwater system into Council's piped stormwater system located at the intersection of North Burge & Brick Wharf Road is supported based on the condition of Council's existing infrastructure.

The site is not suitable for seniors housing given the flood associated constraints associated with the development application.

Comment:

As detailed throughout this report, the proposal has been assessed and is not considered suitable due to the flood constraints of the site. The site is considered unsuitable for seniors living housing.

The permissibility of the development is questionable regarding the site compatibility certificate issued by the Department of Planning and the Environment.

Comment:

The proposed development pertaining to the provision of seniors housing is permissible by virtue of cl. 4 (1) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP HSPD) which states that the policy applies to land being used for the purposes of an existing registered club.

Having regard to cl.24(2) of SEPP HSPD, Council considers the Director General has not certified that the site is suitable for a more intensive development.

Having regard to cl.24(3)(i) of SEPP HSPD, it is concluded the proposed development is of a larger scale than the development considered by the Department of Planning and Environment in issuing the Site Compatibility Certificate, consequently removing the consent authorities ability to approve the development application. The applicant was advised of this issue in correspondence dated 10 November 2017.

Having regard to the requirements of cl.24(3)(ii) of SEPP HSPD it is considered the proposed development is not compatible with the surrounding environment in that the applicant has been unable to adequately demonstrate how residents within the development can be safely evacuated during extreme weather events and projected changes as a result of climate change.

In view of the above considerations, the proposal is recommended for refusal.

Traffic and parking concerns associated with the proposed development.

Comment:

The development application is not supported by Council's Traffic and Transport Planner on transport engineering grounds due to its adverse impact on surrounding carparks off North Burge Road. Furthermore, the proposed driveway access point from North Burge Road could potentially result in an unacceptable loss of the existing shuttle bus and taxi set-down area.

The development application is not supported by Council's Landscape and Recreation Planner in that the adjacent public car park, as well the on-street car parking in North Burge Road will negatively impact community use of these facilities.

The Traffic and Parking Impact Assessment Report, prepared by Barker Ryan Stewart, dated October 2017, identifies the proposed access into the development will be via two new driveways on North Burge Road, one being 6.2m wide servicing the basement and the other being 4m wide providing access for approved vehicles and the loading dock. The internal shared road servicing the loading dock waste collection areas will terminate at a third driveway leading to Lions Park.

The Traffic and Parking Impact Assessment Report, prepared by Barker Ryan Stewart, dated October 2017, identifies a small rigid vehicle (delivery vehicle) would be able to enter and leave the site in a forward direction via the proposed internal road way which services the loading dock, exiting to the cul-de-sac of the rear car park. Waste collection will also be via the restricted access internal road way. The swept path plans provided for this access way confirm that a medium rigid vehicle can successfully enter and exit the site in a forward direction from North Burge Road, through the site to the Lions Park. However, evidence has not been provided demonstrating Council's 10.5m contracted waste vehicle is able to exit the site without impinging on traffic flow in the cul-de- sac as required by Australian Standard 2890.2-2002. In addition, the Traffic and Parking Impact Assessment Report, prepared by Barker Ryan Stewart, dated October 2017, did not address the level of traffic generation associated with this internal access way.

In addition to the above concerns, Lions Park located directly north of the site is Crown land, and is vested under the control of Council. The use of the adjoining Crown reserve as a vehicular egress point for the development will not ensure the land is managed in accordance with the objectives of the RE1 Public Recreation Zone contained within GLEP 2014.

Light pollution from the development.

Comment:

Concern is raised with the potential light spillage from the outdoor areas of the club, the retail areas, the front entry area of the club and the number of window and door opening serving the eastern and western elevations of the proposal. It is considered these elements may adversely impact upon the amenity of the neighbouring residents. Insufficient information has been provided so as to demonstrate the development results in an acceptable impact to adjoining residential properties with regard to light spillage. Given the concerns raised by Council staff relating to flooding and permissibility, the applicant was not requested to address this issue.

Is part of the site Council-owned land?

Comment:

No. 1 North Burge Road, Woy Woy (Lot 369 DP 755251) is owned by Woy Woy Holdings Pty LTD ACN 105 112 374. The land was transferred to the current owner by The State of New South Wales on 19 June 2015. Council has or had no relationship with Lot 369 DP 755251.

The proposed development will devalue surrounding properties.

Comment:

This concern is speculation and is not a matter for consideration under Section 4.15 of the EP & A Act. There is no evidence to substantiate this claim.

Concern is raised with the inclusion of retail premises.

Comment:

The provision of 5 retail premises is not a permissible use within the RE2 Private Recreation zone under GLEP 2014. However, kiosks, restaurants and cafes are permissible in the RE2 Private Recreation zone. The applicant was advised of this concern on 8 January 2018. To date, Council has not received a formal response to this issue.

The developer's application identifies that the existing bowling club requires 60 car parking spaces and currently has no onsite parking. There is 43 angle parking spaces in North Burge Rd. Such offsite parking is not reserved for the use by club patrons and should be disregarded in the parking assessment.

Comment:

The existing registered club does not provide any parking facilities on site to accommodate patrons.

Forty three (43) on street car parking spaces exist in North Burge Road, directly adjacent to the eastern site boundary. The Traffic and Parking Impact Assessment Report, prepared by Barker Ryan Stewart, dated October 2017 states: *'The Club is currently serviced by 43 on street car parking spaces adjacent to the site in North Burge Road.'*

A review of Council files indicates no lease or any agreement at this location for the use of on street parking to benefit the existing bowling club located on the site.

The development application proposes the continued use of on street car parking which is not supported given the lack of on-site parking proposed. The proposed development provides 136 on site car parking spaces, a shortfall of 188 car parking spaces and a 58% variance to that required under GDCP 2014 having regard to the residential and club uses only.

The Geotechnical Report accompanying the development application does not address the proposed excavation.

Comment:

This submission refers to the Geotechnical Report, prepared by Positive Fix Pty Ltd, dated October 2014 that accompanied DA 45969/2014 for alterations and additions to the Woy Woy Bowling Club including the construction of six (6) restaurant tenancies.

The subject development application is not accompanied by a geotechnical assessment.

Public Authority Consultation

- Water NSW

Water NSW has advised the proposed development requires a water supply work approval under s.90 of the *Water Management Act 2000*. If granted, the approval will be subject to the terms and conditions of the *Water Sharing Plan for the North Coast Coastal Sands Groundwater Sources 2016*.

On 27 February 2018, the applicant was requested to provide additional information at the request of Water NSW. To date, this additional information has not been received by Council to enable further assessment to occur.

-
- NSW Police

The application was referred to the NSW Brisbane Water Local Area Command (BWLAC). No comment has been provided by BWLAC.

- AUSGRID

The application was referred to AUSGRID, where no objection was raised subject to recommended conditions.

Internal Consultation

The development application was referred to the following internal officers for comment:

- Architect

The development application has been assessed by Council's Architect where no objection was raised subject to additional information relating to landscaping in North Burge Road and potential noise mitigation measures.

- Development Engineer

The development application is not supported by Council's Development Engineer due to issues associated with flooding.

The issues raised by Council's Development Engineer have not been addressed to date.

- Waterways and Coastal Protection

On 6 April 2018, Council received advice from EMM Consulting with regard to a potential solution for flood evacuation. The proposed concept involved the raising of Brick Wharf Road and was referred for review to Council's Flood and Drainage Engineers. A detailed assessment of the proposal by Council's Waterways and Coastal Protection Division concluded the following:

- The proponent's engineer advocates for the road crown to be potentially raised by 0.4m to RL1.4m relative to the Australian Height Datum (AHD), with the gutter levels remaining unchanged (refer to Figure 16 and 17).
- Raising the road crown to RL1.4m AHD would increase the average cross fall to 15%, which is not safe. Therefore, the proposal to retain existing kerb & gutter is not feasible.
- The road levels would need to be raised to a minimum of 2.67m AHD to account for the probable maximum flood (PMF) in 2100 (1.93m + 0.74m). This is not feasible.
- Road-raising could possibly be considered in the context of an overall adaption strategy for this whole northern part of Woy Woy, where all land and infrastructure is raised to a safe level. But such a strategy does not exist at present.
- Even if a wide-scale land raising strategy was adopted for this part of Woy Woy then it would still not be appropriate for sensitive and vulnerable development types such as seniors housing, given that safe access and evacuation is required up to the PMF.

- The existing road cannot be raised to support the proposed development.

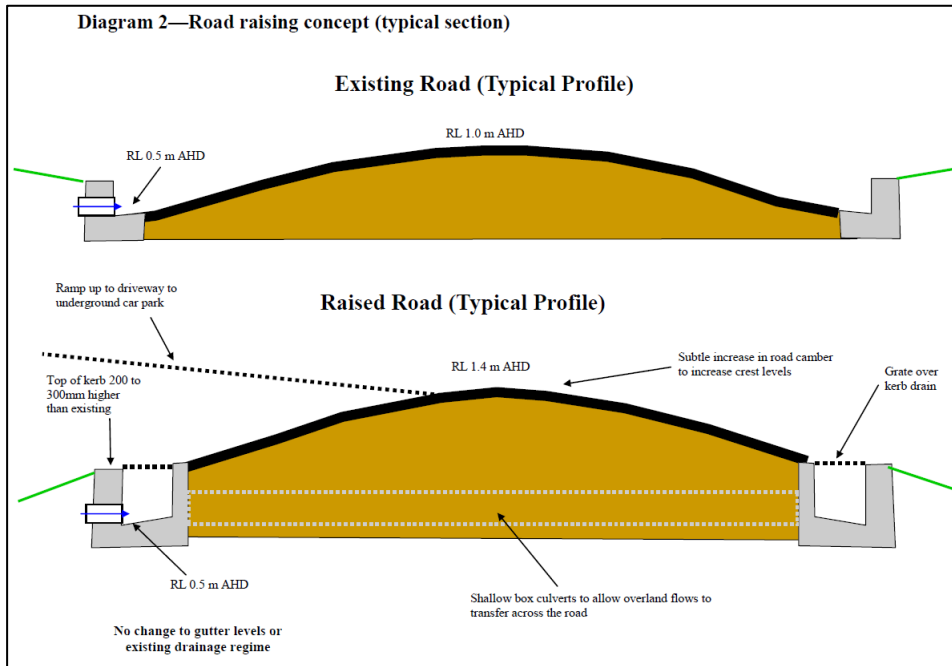


Figure 16: Road raising concept

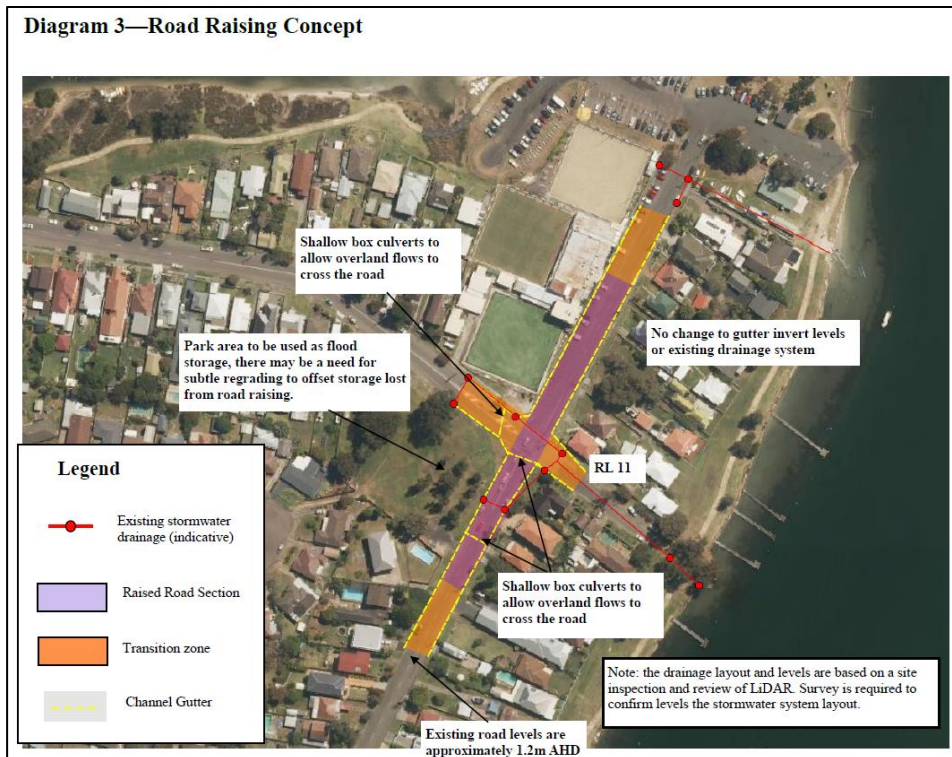


Figure 17: Road raising concept

- Traffic and Transport Planner

The development application is not supported by Council's Traffic and Transport Planner on transport engineering grounds due to its adverse impact on surrounding carparks off North Burge Road. Furthermore, the proposed driveway access point from North Burge Road could potentially result in an unacceptable loss of the existing shuttle bus and taxi set-down area.

No information has been provided by the applicant to address these concerns.

- Environmental Health Officer

Council's Environmental Health Officer has advised that the information supporting the development application does not adequately address food preparation areas within the clubs bistro or retail spaces. However, should the development application be determined by way of approval, the fitout of any food premises can be addressed by the imposition of appropriate conditions. In this instance, no further objection is made.

- Liquid Trade Waste

The development application has been considered by Council's Liquid Trade Waste Officer, where additional information was identified as being required pertaining to hydraulic detail associated with liquid trade waste and commercial areas, drainage associated with the garbage room and on site vehicle washing. No further information has been provided by the applicant to address these concerns.

- Waste Services (Garbage)

The development application has been considered by Council's Waste Services Division, where additional information was identified as being required in relation to the design of the proposed waste facilities. No further information has been provided by the applicant to address these concerns.

- Water and Sewer

The development application has been considered by Council's Water and Sewer Division, where no objection was raised subject to recommended conditions.

- Landscape and Recreation Planner

The development application is not supported by Council's Landscape and Recreation Planner in its current form due to several impacts on adjacent public areas and the ability of those areas to perform the core public purpose for which they are reserved and developed.

There is an unacceptable impact on the adjacent public car park and boat and trailer parking. The two double boat ramps existing in Lions Parks generate a need for a minimum of 20 spaces per ramp (NSW Boat Ramp Facility Guidelines 2015) which is equivalent to 40 spaces. The existing provision is 25 marked spaces and approximately 10 unmarked angle spaces. The

current car parking facilities within Lions Park are inadequate for trailer parking demand in busy periods as it serves the southernmost ocean access ramp.

The Traffic and Parking Impact Assessment Report, prepared by Barker Ryan Stewart, dated October 2017, incorrectly assumes the existing car and trailer parking in Count areas D, G and I, as available for car parking to serve the new development with a capacity of 39 spaces. It is likely that shoppers and family visitors will park in the trailer spaces. This is compounded by holiday and weekend demand for parking to serve Lions Park. In addition, the traffic counts provided are not current, being 3 years old.

In correspondence dated 10 November 2017, the applicant was requested to address these matters. The applicant advised that this information would be addressed once issues associated with flooding were adequately resolved. The applicant has been advised in correspondence dated 7 May 2018 that the development application is to be determined on the submitted information and no further information has been provided by the applicant.

- Social Planner

Council's Social Planner recommended the applicant provide further consideration as to the social impact of the proposed development. No further information has been provided by the applicant to address this request.

ECOLOGICALLY SUSTAINABLE PRINCIPLES

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be **inconsistent** with the principles.

The applicant has failed to address from a floodplain risk management perspectives, the need for safe access and evacuation by vehicle with regard to the current tide predictions for Woy Woy, the need for which will increase for future generations.

CLIMATE CHANGE

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the development application having regard to the former Gosford City Council's Climate Change Policy and the following policy commitment statement:

'Prepare, implement and review plans and strategies inclusive of consideration of risk from future sea level rise, and address the issue of, how to beneficially use coastal areas while recognising the long term need to protect, redesign, rebuild, elevate, relocate or retreat as sea levels rise.'

The assessment undertaken in this report has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, flood and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts. The proposed development is considered unsatisfactory in relation to climate change in that the applicant has failed to

address from a floodplain risk management perspectives, the need for safe access and evacuation by vehicle with regard to the current tide predictions for Woy Woy, the need for which will increase for future generations.

ASSESSMENT

Having regard for the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and section 10.7 certificate details, the assessment has identified the following key issues, which are elaborated upon for the panel's information. Any tables relating to plans or policies are provided as an attachment.

s. 4.15 (1)(a)(i) of the EP & A Act: Provisions of Relevant Instruments/ Plans/ Policies:

Environmental Planning and Assessment Regulation 2000

In accordance with cl.50 (2A) of the *Environmental Planning and Assessment Regulation 2000*, the development application is required to be accompanied by a Site Compatibility Certificate (SCC) issued by the Department of Planning and Environment. On 16 October 2017, the development application was lodged with Council, accompanied by a SCC.

Water Management Act 2000

In order to protect legitimate water users and the environment, the Department of Primary Industries (Water) (DPI Water) and Water NSW monitors and enforces compliance with the Water Management Act 2000 (Water Management Act) and the Water Act 1912 (Water Act). The Water Act is being progressively repealed and replaced by the Water Management Act. Water use approval, water management approval or activity approval under Part 3 of Chapter 3 of the *Water Management Act 2000* may be required, and the development application was referred to NSW Water.

In correspondence received at Council on 22 February 2018, Water NSW advised Council that the primary matters of concern are dewatering plus any potential impact on the groundwater source. Water NSW requested a Geotechnical Report which details the geotechnical and hydrogeological conditions to determine whether or not General Terms of Approval (GTA) are required.

On 27 February 2018, the applicant was requested to provide the above-mentioned additional information. To date, this additional information has not been received at Council to enable further assessment to occur.

Crown Land Management Act 2016

The internal shared road servicing the loading dock waste collection area will terminate at a third driveway leading to Lions Park, which is identified as a Crown Reserve (refer to Figure 18 and 19).

The Traffic and Parking Impact Assessment Report, prepared by Barker Ryan Stewart, dated October 2017, identifies a small rigid vehicle (delivery vehicle) would be able to enter and leave the site in a forward direction via the internal road way which services the loading dock, exiting to the cul-de-sac of the rear car park. Waste collection will also be via the restricted access internal road way.

The Minister for Lands and Water, as owner of the Lot 7303 in DP: 1162281, has not granted landowner's consent for lodgement of a development application required under the *Environmental Planning and Assessment Act 1979*. Furthermore, neither a license nor easement over Crown Land in accordance with the Crown Lands Act has been sought.



Figure 18: Crown land surround the site (shown hatched in red)

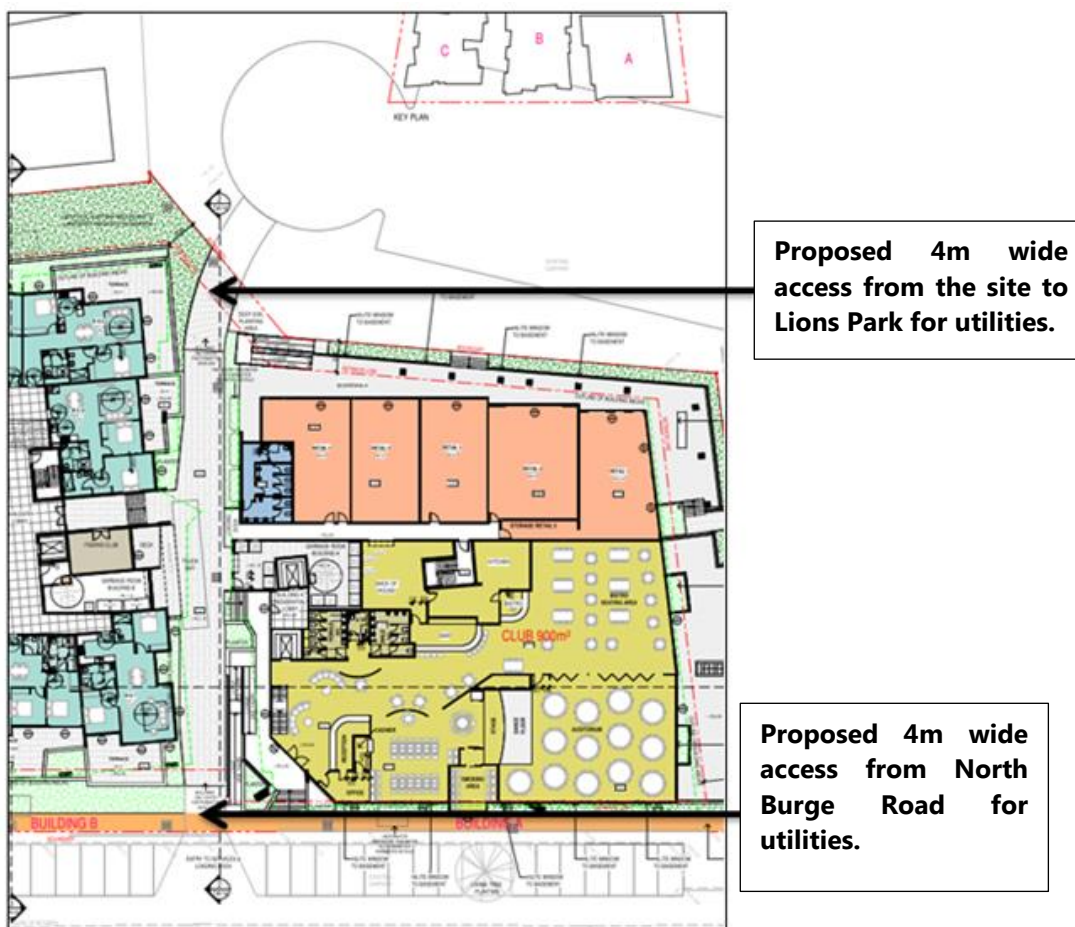


Figure 19: 4m wide access for approved vehicles for utilities

On 1 July 2018, the *Crown Lands Management Act 2016* (Crown Land Act) commenced, which transfers management of Crown reserves to the *Local Government Act 1993* (LGA 1993).

Council cannot consent to the vehicular egress junction associated with the proposed development for a private benefit without reclassifying Lions Park to Operational Land. Lions Park will not be classified as Operational Land. Lions Park will be classified as Community Land based upon its original purpose of public recreation.

The transitional arrangements under the Crown Land Act do allow for a period to develop Plans of Management or reclassification arguments for existing arrangements, but not new arrangement such as is currently proposed. The Crown Lands Act will follow the process of LGA 1993 in regard to the classification, categorisation and management of land.

Utilising the adjoining Crown reserve as a vehicular egress point for the development will not ensure the land is managed in accordance with the objectives of the RE1 Public Recreation Zone contained within *Gosford Local Environmental Plan 2014* and Council's Plan of Management (Community Parks) (Section 1.3 Aim) which provides: -

-
- *To develop a generic plan of management for Community Parks which complies with the Local Government Act 1993 as part of Council's Land Management Program.*
 - *To develop a plan which provides guidance for the control of usage, development and maintenance of community parks.*

In view of the above considerations, Council cannot support the development application in its current form.

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

The development application has been submitted under the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP HSPD)*. The proposed development is permissible by virtue of the provisions of clause 4 (1) of the SEPP which provides the policy applies to land being used for the purposes of an existing registered club.

Schedule 1 precludes the application of SEPP HSPD where the land is identified as being in coastal protection areas, floodway or affected by high hazard flooding. Whilst the site is mapped as being affected by flooding the land is not in a floodway or in high hazard flooding area. The site is mapped under *State Environmental Planning Policy (Coastal Management) 2018* as being in a 'coastal zone, and therefore, land to which Schedule 1 – Environmentally Sensitive Land refers to. Notwithstanding, cl.7 (a) of SEPP HSPD states that land identified under SEPP Coastal Management does not preclude the application of SEPP HSPD.

Under cl. 10 of SEPP HSPD, the proposed development is considered to comprise, in part, seniors housing, being self contained dwellings, which is defined as follows:

'Seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- a) a residential care facility, or*
- b) a hostel, or*
- c) a group of self-contained dwellings, or*
- d) a combination of these*

but does not include a hospital.'

Clause 13(1) of SEPP HSPD additionally defines a self-contained dwelling 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 September 2007, SEPP HSPD was gazetted and introduced the use of Site Compatibility Certificates (SCCs). A SCC for a new senior's housing development recognises that it is broadly compatible with the surrounding environment and locality, and can now proceed to the lodgement of a development proposal, with the relevant local council. The Department of Planning and Environment in issuing a SCC must consider a series of criteria covering environmental, resources, servicing and infrastructure and local impacts before making a decision.

On 24 January 2017, the Department of Planning and Environment and issued a SCC under cl.25(4) of SEPP HSPD, which is provided in **Attachment 8**. However, the Department of Planning and Environment provided the following advice:

'Noting the requirement in Schedule 2 of the certificate, it is the Department's view that further consideration should be given to the overall building height, bulk and scale of the development, including the number of infill self-care housing units proposed. Further consideration should be given to the visual dominance of the development to the waterfront and street, and the developments interface with residential development, noting the need for the development to be compatible with the surrounding development.'

On 16 October 2017, the current application was lodged with Council, accompanied by the required SCC. However, Council's Planner raised concern with the scale of the development and how the development is interpreted having regard to cl. 24(3) of SEPP HSPD which states:

'cl. 24 (3) Nothing in this clause:

(a) prevents a consent authority from:

- (i) granting consent to a development application to which this clause applies to carry out development that is on a smaller (but not larger) scale than the kind of development in respect of which a site compatibility certificate was issued, or*
- (ii) refusing to grant consent to a development application to which this clause applies by reference to the consent authority's own assessment of the compatibility of the proposed development with the surrounding environment.'*

Having regard to the requirements of cl.24(3)(i) of SEPP HSPD, correspondence was forwarded to the applicant on 10 November 2017, advising that in accordance with cl. 24 (3) of SEPP HSPD, the proposed development appears to be of a larger scale than the development considered by the Department of Planning and Environment in issuing the SCC. Whilst the number of self-contained dwellings align with the SCC issued by the Department of Planning and Environment, the built form and envelope of the development has changed at all levels. Furthermore, the SCC issued by the Department of Planning and Environment did not include an excavated level to accommodate car parking and a bowling green. **Refer to Figure 20 for a comparison per level of the two proposals.**

Figure 20 Comparison of DA 53119/2017 and the Site Comptibility Certificate



DA 53119/2017 (Basement Level): Occupied by 136 car parking spaces and the Registered Club bowling green. There was no basement level proposed under the SCC.



Site Compatibility Certificate (Ground Floor Plan): Occupied by seniors housing units; 91 car parking spaces; ingress vehicular access on North Burge Road and egress vehicular access to Brick Wharf Road; Club facilities; and 6 café/ restaurant premises.



DA 53119/2017 (Ground Floor Plan): Occupied by seniors housing units; ingress vehicular access on North Burge Road and egress vehicular access to Lions Park; Club facilities; and 5 retail premises.



Site Compatibility Certificate (First Floor Plan): Occupied by seniors housing units



DA 53119/2017 (First Floor Plan): Occupied by seniors housing units



Site Compatibility Certificate (Second Floor Plan): Occupied by seniors housing units



DA 53119/2017 (Second Floor Plan): Occupied by seniors housing units.



Site Compatibility Certificate (Third Floor Plan): Occupied by access to roof terraces for Building B and C. Building A is occupied by access to the Registered Clubs rooftop bowling green.



A qualitative and quantitative analysis between the development reviewed by the Department of Environment and Planning in issuing the Site Compatibility Certificate and the proposal sought under the current application was requested on 10 November 2017. It was recommended any qualitative and quantitative analysis is supported by legal advice as to the suitability of the subject Site Compatibility Certificate accompanying the subject development application in accordance with cl. 24(3)(i) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Having regard to cl. 24(2) of SEPP HSPD, Council considers the Director General has not certified that the site is suitable of more intensive development. Therefore, the consent authority must not consent to the development application.

Having regard to cl. 24(3)(i) of SEPP HSPD, it is concluded the proposed development is of a larger scale than the development considered by the Department of Planning and Environment in issuing the Site Compatibility Certificate, consequently removing the consent authorities ability to approve the development application.

Having regard to the requirements of cl. 24(3)(ii) of SEPP HSPD it is not considered the proposed development is compatible with the surrounding environment in that the applicant has been unable to adequately demonstrate how residents within the development can be safely evacuated during extreme weather events and projected changes as a result of climate change.

Given the above considerations, whilst the provision of seniors housing is permissible under cl.4(1) of SEPP HSPD, it is concluded the SCC accompanying the development cannot be relied upon in this instance and therefore the proposal cannot be supported and the consent authority must not consent to the development application. Furthermore, Council has also not received a written request seeking to justify the contravention of cl. 40(4) of SEPP HSPD in accordance with cl. 4.6(4)(Exceptions to Development Standards) of GLEP 2014 with regard to No. 184 Brick Wharf Road, Woy Woy.

Despite the concerns identified above, an assessment of all relevant provisions of the SEPP HSPD has been carried out and is provided in **Attachment 3** to ensure the consent authorities own assessment of the compatibility of the proposed development with the surrounding environment is complete in accordance with cl. 24(3)(a)(ii) of HSPD.

State Environmental Planning Policy (Infrastructure) 2007

In accordance with cl. 45(2)(b) of *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks.

In accordance with cl. 45(2)(b) of SEPP Infrastructure, the application was referred to Ausgrid. On 6 December 2017, comments were received from Ausgrid where no objection was raised subject to recommended conditions.

State Environmental Planning Policy 71 – Coastal Protection

The provisions of *State Environmental Planning Policy (SEPP) No 71 - Coastal Protection* require Council consider the Aims and Objectives of the SEPP together with the matters for consideration listed in Clause 8 of the SEPP when determining a development application within the Coastal Zone. The Coastal Zone is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone.

The site is located wholly within a coastal protection zone under SEPP 71. The proposal has been assessed within the context of the matters for consideration under cl. 8 of SEPP 71 in **Attachment 4**. It is concluded that given the flood associated constraints associated with the development application, the proposal is not considered suitable having regard to cl. 8(d) of SEPP 71.

State Environmental Planning Policy (Coastal Management) 2018

SEPP 71 was repealed on the commencement of the State Environmental Planning Policy (Coastal Management) 2018 (SEPP Coast Management) on 3 April 2018. However, cl. 21 of SEPP Coastal Management provides that SEPP 71 continues to apply to a development application lodged but not finally determined before commencement of the Policy. As such, SEPP 71 continues to be a relevant planning provision for this application.

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

The application is supported by a BASIX certificate which confirms the proposal will meet the NSW government's requirements for sustainability, if built in accordance with the commitments in the certificate. The proposal is considered to be consistent with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7 of *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55) specifically relates to the consideration of contamination and remediation prior to a consent authority granting consent to the carrying out of any development. The site has a history of commercial use and there is no evidence to suggest potential site contamination that would restrict the continued use of the site.

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

The proposal satisfies the definition of a residential flat building under SEPP 65. Subclause 30(2)(b) of SEPP 65 provides that the consent authority should take into consideration the design quality of the proposed development. The Design Verification Statement which accompanies the application demonstrates consistency with the design quality principles.

Council's Architect provided advice in relation to the SEPP 65 Design Quality Principles. Council's Architect supports the development application for the following reasons:

- The proposed development is four storeys within a context of one and two storey houses on individual blocks surrounded by gardens. Despite this difference the proposal is considered generally compatible with the existing context.
- The proposed development complies with the setback controls in *The Apartment Design Guide: Tools for improving the design of residential apartment development* (ADG). Adjacent to the development sites western boundary, 6m to 9m building setback are proposed with a 6 metre wide deep soil and landscape zone that will provide screening and a vegetated outlook to and from the development.
- The proposed development is divided into three separate sections, separated by landscaped courtyards. The use of pavilions creates views through the development further reducing the visual bulk when viewed from the street.
- The use of projecting planters and a variation in materials contributes to disguising the scale of the development. In addition, the uppermost level provides greater setbacks from all boundaries than the lower levels so as to reduce the visual bulk when viewed from the surrounding street, recreation reserves and Brisbane Water.
- The subject site is in a prominent location adjoining the public car park, and some larger trees are recommended to provide shade, outlook and scale to the public outdoor areas and create visual separation and screening between the development and the carpark. It was noted that street trees within the carpark on North Burge Road are shown on the architectural drawings but not on the landscape drawings. This carpark should contain two significant trees outside each of the buildings.
- There may be possible privacy and noise conflicts between the unit balconies and bistro and retail uses directly below. These amenity concerns should be further considered and may

require increased separation or controls relating to the hours of operation for the registered club.

In the event the development application was recommended for approval, the above recommendations pertaining to landscaping and potential amenity concerns could be addressed via the imposition of appropriate conditions and/or a further noise impact assessment.

In addition to SEPP 65, the ADG provides objectives, design criteria and design guidance on how residential development proposals can meet the Design Quality Principles contained within Schedule 1 of SEPP 65, through good design and planning practice. An assessment of all relevant provisions of the ADG has been carried out and is provided in **Attachment 6** to ensure the consent authorities own assessment of the compatibility of the proposed development with the surrounding environment is complete in accordance with cl. 24(3)(a)(ii) of HSPD.

Having regard to the design guidelines within the ADG, concern is raised with the lack of communal open space proposed, noise pollution to the residential units associated with the provision of utilities, noise transfer from the club and retail tenancies to residential units, and a lack of roof design detail on the architectural plans accompanying the development application.

Central Coast Regional Plan 2036

The subject site is included in the Central Coast Regional Plan 2036 as an 'urban area' and is located in close proximity to the 'strategic centre' of Woy Woy (figure 21).

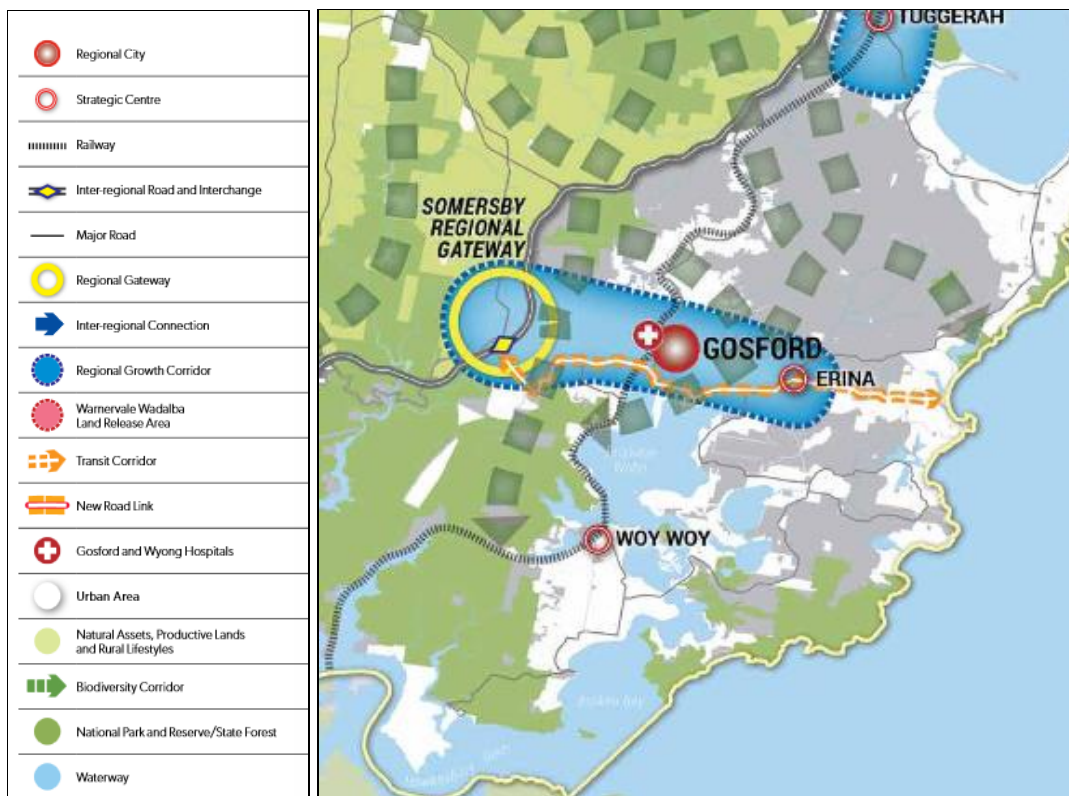


Figure 21: Central Coast Regional Plan 2036

An assessment of all relevant provisions of the Central Coast Regional Plan 2036 has been carried out and is provided in **Attachment 5** to ensure the consent authorities own assessment of the compatibility of the proposed development with the surrounding environment is complete in accordance with cl. 24(3)(a)(ii) of HSPD.

The proposed redevelopment of the site is inconsistent with Directions 14 and 17 of the Central Coast Regional Plan 2036, as they are relevant to the subject site. Direction 14 aims at protecting the coast and managing natural hazards and climate change. In particular Action 14.1 identifies that the risk of climate change must be managed whilst also improving the region’s resilience to hazards such a flooding. Direction 17 aims at aligning land use and infrastructure planning to maximise the use of and capacity of existing infrastructure. It is not considered the applicant has adequately addressed the impact the proposal will have on current and future infrastructure associated with managing natural hazards and climate change.

Gosford Local Environmental Plan 2014 (GLEP 2014)

| Development Standard | Required | Proposed | Compliance with Controls | Variation | Compliance with Objectives |
|-------------------------------|-----------------|-----------------|---------------------------------|------------------|-----------------------------------|
| 4.3 Height of Building | 8.5m | Approx. 12.5m | No | 47% | No |
| 4.4 Floor Space Ratio | 0.5:1 | Approx. 0.27:1 | Yes | NIL | Yes |

Figure 22: GLEP Compliance Table (this table only relates to the R2 Residential Low Density zone land, known as No. 184 Brick Wharf Road, Woy Woy)

Zoning and Permissibility

The site is located within the RE2 Private Recreation zone (No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy) and R2 Low Density Residential zone (No. 184 Brick Wharf Road, Woy Woy) under *Gosford Local Environmental Plan 2014 (GLEP 2014)* (refer to Figure 2).

Whilst the provision of a registered club and community facilities are permissible with development consent in the RE2 Private Recreation zone within GLEP 2014, seniors housing and retail facilities are prohibited. The proposed development comprising seniors housing on No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy is permissible by virtue of the provisions of clause 4 (1) of the SEPP HSPD which provides the policy applies to land being used for the purposes of an existing registered club. The applicant was advised of the prohibition on the site relating to the 5 retail premises proposed however to date this issue remains unresolved.

The provision of seniors housing at No. 184 Brick Wharf Road, Woy Woy is permissible with development consent in that the land is zoned R2 Low Density Residential zone under GLEP 2014.

In this instance, it is considered that the development application is inconsistent with the stated objectives of the RE2 Private Recreation zone, the R2 Low Density Residential zone, and the principles of Ecologically Sustainable Development as specified within Clause 8A (2)(d) of *the Local Government Act 1993* (LGA 1993) in that ecologically sustainable development is not proposed.

Height of Buildings

The proposed development results in a maximum building height of 12.5m on No. 184 Brick Wharf Road, Woy Woy which is a 47% variation to cl. 4.3(2) of GLEP 2014.

Exceptions to Development Standards

If an applicant wishes to vary a development standard in an environmental planning instrument, they can formally lodge a written request justifying the variation. In accordance with cl. 4.6(4), development consent must not be granted for a development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated in subclause (3). Subclause (3) provides:

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

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

Council has not received a written request seeking to justify the contravention of cl.4.3(2) of GLEP 2014 in accordance with cl.4.6(4) of GLEP 2014. Council has also not received a written request seeking to justify the contravention of cl.4.0(4) of SEPP HSPD in accordance with cl.4.6(4) of GLEP 2014.

In view of the above, and despite any merit associated with the variations to development standards proposed, the consent authority is unable to assess the proposed variation to the height of buildings development standard.

Acid Sulfate Soils

This land has been identified as being affected by the Acid Sulfate Soils Map and the matters contained in cl. 7.1 of Gosford Local Environmental Plan 2014 have been considered. The site contains Class 2 Acid Sulfate Soils. An Acid Sulphate Soil Assessment or an Acid Sulphate Soil Management Plan is required. In the event the development application was recommended for approval, this requirement could be addressed via the imposition of appropriate conditions.

Flood planning

The site is identified as having flood impacts as shown in figure 23.



Figure 23: Flooding Impact (site shown highlighted in black).

The development application's residential accommodation is defined within GLEP 2014 as seniors housing, that being 'a group of self-contained dwellings'. Clause 7.2 (Flood planning) of *Gosford Local Environmental Plan 2014* applies to the proposed development. Clause 7.2 (3) (a) – (e) requires consideration with regard to whether or not a proposal is supportable.

Having regard to the provision within cl. 7.3 of GLEP 2014, the objectives contained within cl 7.3 (1)(a) and (b) of GLEP 2014 are required to be considered having regard to cl. 7.3 (2) of GLEP 2014. However, the further restrictive provisions contained within cl. 7.3 (3) of GLEP 2014 do not apply to the proposed development in that the proposed development cannot be defined as any of those development contained within cl.7.3 (a) – (g) of GLEP 2014.

The proposal does not comply with cl.7.2 of GLEP 2014 for the following reasons:

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- cl. (1b) in that the development application has not adequately addressed projected changes as a result of climate change, and therefore Council has concluded that subject site is not compatible with the identified flood hazard.
 - cl. (3a) in that the proposed development is not compatible with the flood hazard of the land (access and evacuation).
 - cl. (3c) in that the proposed development does not incorporate measures to manage risk to life from flood (access and evacuation).
 - cl. (3e) in that it is likely the proposed development will result in unsustainable social and economic costs to the community as a consequence of flooding. The proposal will rely upon emergency services for evacuation, and given the high number of elderly people that would be present on the site at any one time, this cost to the community could be relatively high.

Regarding floodplain risk management, cl. 7.3 (1)(a) identifies that development with particular evacuation or emergency response issues, such as seniors housing, must enable evacuation of land in events exceeding the flood planning level. Clause 7.3(1)(b) further identifies that the operational capacity of emergency response facilities and critical infrastructure must be protected during extreme flood events.

The applicant has been unable to adequately demonstrate how residents can be safely evacuated during extreme weather events and projected changes as a result of climate change in accordance with cl. 7.2 and 7.3 of GLEP 2014. In this regard, the development application must be refused.

s. 4.15(1)(a)(ii) of the EP& A Act: Draft Environmental Planning Instruments:

No draft Environmental Planning Instruments apply to this development application.

s. 4.15(1)(a)(iii) of the EP& A Act: Provisions of any development control plan:

Gosford Development Control Plan 2013 (GDGP 2013)

GDGP 2013 provides objectives, design criteria and design guidance on how development proposals can achieve good design and planning practice. An assessment of all relevant provisions of the GDGP 2013 has been carried out and is provided in **Attachment 7** to ensure the consent authorities own assessment of the compatibility of the proposed development with the surrounding environment is complete in accordance with cl. 24(3)(a)(ii) of HSPD.

Whilst the proposal development does demonstrate merit with regard to the proposed built form, it is concluded the site is not compatible for '*housing for seniors or people with a disability*' in accordance with Chapter 6.7 Water Cycle Management of GDGP 2013.

s. 4.15(b) of the EP & A Act: The Likely Impacts of the Development:

a) Built Environment

A thorough assessment of the proposed development's impact on the built environment has been undertaken in terms of SEPP HSPD, SEPP 65, the ADG, GLEP 2014 and GDCP 2013 and in terms of submissions received. Concern remains with the following likely impacts of the development to the built environment:

- The potential for adverse impacts to neighbouring properties in terms of light spillage and noise generation from the club/ retail uses and internal roadway. As well, internal site amenity and accessibility issues between the senior's living units and the club remain.
- The size, location and design of communal open space is inadequate having regard to the context and the scale of development.
- The adjoining Crown reserve (Lot 7303 in DP: 1162281) is used as a vehicular egress point from the site located at ground level. Utilizing the adjoining Crown reserve as a vehicular egress point for the development will not ensure the land is managed in accordance with the objectives of the RE1 Public Recreation Zone contained within *Gosford Local Environmental Plan 2014* and Council's *Plan of Management (Community Parks)*.
- The proposed development provides 136 car parking spaces, resulting in a shortfall of 188 car parking spaces and a 58% variance associated with the residential and club uses in accordance with Chapter 7 of GDCP 2013. This shortfall will contribute to unacceptable impacts on the adjacent public car park and boat and trailer parking, on street car parking in North Burge Road and the ability of these areas to perform the core public purpose for which they are reserved.

b) Natural Environment

The proposal will not have an adverse impact on the scenic qualities of the coastline. The subject site does not contain any threatened species or habitat and will have no impact on the conservation of fish and marine vegetation. The proposal will not affect any identified wildlife corridor.

c) Economic Impacts

The proposed development will contribute to the supply of housing needs in the locality and is considered to be satisfactory from an economic perspective.

d) Social Impacts

Council's Social Planner recommended the applicant provide further consideration as to the social impact of the proposed development. No further information has been provided by the applicant to address this request. This issue remains unresolved.

s. 4.15 (1)(c) of the EP & A Act: Suitability of the Site for the Development:

A review of Councils records has identified the following constraints:

- Site Compatibility Certificate:
 - In accordance with Clause 24(2) of SEPP SHPD, Council staff consider the Director General has not certified in a current site compatibility certificate, that the site is suitable of more intensive development and the development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b) of SEPP SHPD.
 - Clause 24(3)(a)(i) of SEPP SHPD in that a consent authority cannot grant development consent to a development application that is of a larger scale than the kind of development in respect to which a site compatibility certificate was issued.
 - Clause 24(3)(a)(ii) of SEPP SHPD in that the proposed development is not compatible with the surrounding environment.
- Integrated Development: Water NSW has not provided General Terms of Approval in accordance with the *Water Management Act 2000*.
- Permissibility: Whilst the provision of a registered club and community facilities are permissible with development consent in the RE2 Private Recreation zone within GLEP 2014, seniors housing and retail facilities are prohibited. The proposed development comprising seniors housing on No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy is permissible by virtue of the provisions of clause 4 (1) of the SEPP HSPD which provides the policy applies to land being used for the purposes of an existing registered club. The applicant was advised of the prohibition on the site relating to the 5 retail premises proposed however to date this issue remains unresolved.
- Owners Consent: The Minister for Lands and Water, as owner of the Lot 7303 in DP: 1162281, has not granted landowner's consent for lodgement of a development application as required under the *Environmental Planning and Assessment Act 1979*, and any other associated applications to other authorities for the above development proposal.
- Acid Sulfate Soils: This land has been identified as being affected by the Acid Sulfate Soils (class 2) and the matters contained in cl. 7.1 of Gosford Local Environmental Plan 2014 are relevant. An Acid Sulphate Soil Assessment or an Acid Sulphate Soil Management Plan is required.
- Flood: The land is classified as being flood affected. The applicant has been unable to adequately demonstrate how residents can be safely evacuated during extreme weather events and projected changes as a result of climate change in accordance with cl. 7.2 and 7.3 of GLEP 2014.
- Landslip: The subject site is identified as being in a medium hazard landslip area and will require a Geotechnical Report submitted to establish the stability of the site's landform.

It is considered the above-mentioned constraints render the site unsuitable for the proposed development in its current form.

s. 4.15 (1)(e) of the EP & A Act: The Public Interest:

Approval of the development application is not considered to be in the public interest. It is considered the site is not compatible for '*housing for seniors or people with a disability*' as a result of the flood hazard. Furthermore, the development application seeks approval to utilise Lions Park as an egress point for service vehicles and the like which will alienate both the public pathway and Lions Park at this junction contrary to the purpose of public recreation land.

Other Matters for Consideration

Development Contribution Plan

Should the development application be approved, in accordance with s.7.11 of the EP&A Act, developer contributions would be payable.

Water and Sewer Contributions

The proposed development is subject to Water and Sewer Contributions.

CONCLUSION

This development application has been assessed under the heads of consideration of s.4.15 of the *Environmental Planning and Assessment Act 1979* and all relevant instruments and policies.

Based on the assessment outlined earlier in this report, it is considered that the application be **refused** pursuant to section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, for the reasons outlined in this report.

Attachments

- 1** Recommendation for Refusal
- 2** Development Plans
- 3** SEPP HSPD Compliance Table
- 4** SEPP No. 71 Matters for Consideration Table
- 5** Central Coast Regional Plan 2036 Matters for Consideration
- 6** ADG Compliance Table
- 7** GDCP 2014 Compliance Table
- 8** Site Compatibility Certificate
- 9** Actions of Council/ Applicant throughout the DA process

Attachment 1

Recommendation for Refusal

A. Joint Regional Planning Panel as the consent authority refuse consent to Development Application No. 53119/2017 for the following reasons:

1. Water NSW has not provided General Terms of Approval in accordance with the *Water Management Act 2000*.

Particulars

- 1.1 Section 90 of the *Water Management Act 2000*.
 - 1.2 Section 4.46 of the *Environmental Planning and Assessment Act 1979*.
 - 1.3 Clause 54 of the *Environmental Planning and Assessment Regulation 2000*.
2. The provision of 'retail premises' in the RE2 Private Recreation zone under *Gosford Local Environmental Plan 2014* is prohibited.

Particulars

- 2.1. No. 186 Brick Wharf Road, Woy Woy and No. 1 North Burge Road, Woy Woy are located within the RE2 Private Recreation zone under *Gosford Local Environmental Plan 2014*.
 - 2.2. 'Restaurant or café' and a 'kiosk' are permissible with consent in the RE2 Private Recreation zone under *Gosford Local Environmental Plan 2014*. The remainder of 'retail premises' as defined, are prohibited under cl. 2.3 (1)(d) of *Gosford Local Environmental Plan 2014* in the RE2 Private Recreation zone.
3. The Site Compatibility Certificate accompanying the development application cannot be relied in this instance.

Particulars

- 3.1. Clause 50(2A) of the *Environmental Planning and Assessment Regulation 2000*.
- 3.2. Clause 54 of the *Environmental Planning and Assessment Regulation 2000*.
- 3.3. Clause 24(2) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in that the Director General has not certified in a current site compatibility certificate, that the site is suitable of more intensive development and the development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

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- 3.4. Clause 24(3)(a)(i) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in that a consent authority cannot grant development consent to a development application that is of a larger scale than the kind of development in respect to which a site compatibility certificate was issued.
 - 3.5. Clause 24(3)(a)(ii) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in that the proposed development is not compatible with the surrounding environment.
4. Council has not received a written request seeking to justify the contravention of cl. 4.3(2) of *Gosford Local Environmental Plan 2014* and cl. 40(4) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* in accordance with cl. 4.6 of *Gosford Local Environmental Plan 2014*.

Particulars

- 4.1. The proposed development results in maximum building height of 12.5m on No. 184 Brick Wharf Road, Woy Woy and a 47% variation to cl. 4.3(2) (Building Height) of *Gosford Local Environmental Plan 2014*.
- 4.2. The proposed development results in maximum building height of 12.5m on No. 184 Brick Wharf Road, Woy Woy and a 56.25% variation to cl. 40(4)(a) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- 4.3. The proposed development results in a maximum of three storeys on No. 184 Brick Wharf Road, Woy Woy and a 50% variation to cl. 40(4)(b) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- 4.4. The proposed development results in a maximum of three storeys on No. 184 Brick Wharf Road, Woy Woy and a 200% variation to cl. 40(4)(c) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- 4.5. Clause 4.6(4) of *Gosford Local Environmental Plan 2014* provides that development consent must not be granted for a development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated in subclause (3). Subclause (3) provides:
'Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.'*
- 4.6. The three lift overruns (and any other roof design features) have been omitted from the architectural plans accompanying the development application.

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5. The adjoining Crown reserve (Lot 7303 in DP: 1162281) is used as a vehicular egress point from the site located at ground level. The development must be redesigned so that the Lions Park is not used as a vehicular egress point from the development.

Particulars

- 5.1. The Minister for Lands and Water, as owner of the Lot 7303 in DP: 1162281, has not granted landowner's consent for lodgement of a development application required under the *Environmental Planning and Assessment Act 1979*, and any other associated applications to other authorities for the above development proposal.
- 5.2. The proposed development is contrary to s. 4.15 (1)(c) and (1)(e) of the *Environmental Planning and Assessment Act 1979*.
- 5.3. A council manager is authorised to classify and manage its dedicated or reserved Crown land as if it were community land within the meaning of the *Local Government Act 1993*, in accordance with s.3.21 and s3.22 of the *Crown Land Management Act 2016*.
- 5.4. A license has not been sought or obtained for the use of Crown land in accordance with s.5.21 of the *Crown Land Management Act 2016*.
- 5.5. An easement over Crown land has not been sought or obtained for the use of Crown land in accordance with s.5.47 of the *Crown Land Management Act 2016*.
- 5.6. Council's Plan of Management (Community Parks), dated June 1996, applies to community land which has been categorised as a "park" under the *Local Government Act 1993*, and sub categorised as a "community park" by Council, as will be the case in this instance.
- 5.7. There exists no power to grant an easement for development associated with the development. In accordance with s. 46(1)(b)(i) of the *Local Government Act 1993*, a lease, licence or other estate in respect of community land may be granted in accordance with an express authorisation in the plan of management and such provisions of the plan of management as apply to the granting of the lease, licence or other estate for a purpose prescribed by subsection (4), or for a purpose prescribed by any of s. 36E to 36N as a core objective of the categorisation of the land concerned:
- 5.7.1. The proposed development is inconsistent with s. 3.10 (Leases and Licences) within Council's Plan of Management (Community Parks), dated June 1996, which provides that Council will consider granting leases and licences on community land that are restricted to a public purpose, and not to be leased for the exclusive use of a single group.
- 5.7.2. The proposed development is inconsistent with s. 36G of the *Local Government Act 1993* which provides:
'The core objectives for management of community land categorised as a park are:
(a) *to encourage, promote and facilitate recreational, cultural, social and educational pastimes and activities, and*

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- (b) *to provide for passive recreational activities or pastimes and for the casual playing of games, and*
- (c) *to improve the land in such a way as to promote and facilitate its use to achieve the other core objectives for its management.'*

5.6.3 The proposed development is inconsistent with s.46 (4) of the *Local Government Act 1993*.

5.8. Utilizing the adjoining Crown reserve as an vehicular egress point for the development will not ensure the land is managed in accordance with the objectives of the RE1 Public Recreation Zone contained within *Gosford Local Environmental Plan 2014* and Council's Plan of Management (Community Parks) (s. 1.3 Aim) which provides: -

- *To develop a generic plan of management for Community Parks which complies with the Local Government Act 1993 as part of Council's Land Management Program.*
- *To develop a plan which provides guidance for the control of usage, development and maintenance of community parks.*

6. The proposed development is not compatible with the flood hazard of the land having regard to access and evacuation.

Particulars

- 6.1. The proposed development is inconsistent with principles of ecologically sustainable development as specified within cl. 8A (2)(d) of the *Local Government Act 1993*.
- 6.2. The proposed development is contrary to s. 4.15 (1)(c) and (1)(e) of the *Environmental Planning and Assessment Act 1979*.
- 6.3. The proposed development is inconsistent with cl. 6(2) within the *Protection of the Environment Administration Act 1991* in that the principle of equity, particularly intergenerational equity, is central to the concept of sustainable development. Ecologically sustainable development must incorporate considerations pertaining to climate change adaptation. The applicant has failed to address from a floodplain risk management perspectives, safe access and evacuation by vehicle with regard to the current and future sea level rise projections for Woy Woy.
- 6.4. Clause 24(3)(a)(ii) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* identifies that nothing prevents a consent authority from refusing to grant consent to a development application to which this clause applies by reference to the consent authority's own assessment of the compatibility of the proposed development with the surrounding environment.
- 6.5. Clause 8(d) of *State Environmental Planning Policy No 71 – Coastal Protection* in that the site is not considered suitable for seniors housing given its type, location and design and its relationship with the surrounding area.

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- 6.6. Clause 1.2(2)(h) and (i) (Aims of Plan) and cl.2.3 (2) (Zone Objectives) of the *Gosford Local Environment Plan 2014*.
- 6.7. Clause 7.2 of *Gosford Local Environmental Plan 2014* aims to stop development that is incompatible with the level of flood hazard, including projected changes as a result of climate change. The increased impacts of king tide alone, together with sea level rise, are not compatible, notwithstanding the additional impacts of flooding or coastal storm surge.
- 6.8. Clause 7.3 (1)(a) of *Gosford Local Environmental Plan 2014* identifies that development with particular evacuation or emergency response issues, such as seniors housing, must enable evacuation of land in events exceeding the flood planning level. Clause 7.3(1)(b) of *Gosford Local Environmental Plan 2014* further identifies that the operational capacity of emergency response facilities and critical infrastructure must be protected during extreme flood events.
- 6.9. The subject site is categorised as Flood, Isolated, Submerged (FIS) within *Flood Information to Support Land- Use Planning*, published by the Australian Institute for Disaster Resilience, on behalf of the Australian Government Attorney-General's Department, dated 2017. These guidelines recommend consent authorities '*consider whether to minimise or prohibit more intense development in these areas. New key community, utility and vulnerable uses may be prohibited. Intensification of existing uses and other new uses or developments is discretionary, provided that a detailed risk assessment can demonstrate that an appropriate mix of planning, building and emergency management controls can effectively manage the risks to the use and the occupants and not result in adverse emergency management impacts to existing developments and their users*'.
- 6.10. *Gosford Development Control Plan 2013*, Chapter 6.7.7.6.4 (A) identifies that for seniors housing development, floor levels, being habitable or non-habitable, are to be above the Probable Maximum Flood (PMF) level.
- 6.11. *Gosford Development Control Plan 2013*, Chapter 6.7.7.6.4 (C) identifies that if the subject site falls within an area of an existing Floodplain Risk Management Plan then the development must not:
- *Affect the safe occupation of any flood prone land.*
 - *Be sited on the land such that flood risk is increased.*
 - *Result in an increase in the potential of flooding detrimentally affecting other development or properties.*
 - *Be likely to result in unsustainable social and economic costs to the flood affected community or general community as a consequence of flooding (including: damage to public property and infrastructure, such as roads, stormwater, water supply, sewerage, and utilities).*
 - *Be incompatible with the flow of floodwaters on flood prone land (considering any structures, filling, excavation, landscaping, clearing, fences, or any other works).*

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- *Cause or increase any potential flood hazard (considering the number of people, their frailty, as well as emergency service and welfare personnel).*
- 6.12. *Gosford Development Control Plan 2013*, Chapter 6.7.7.6.4 (F) also calls for safe access, evacuation and parking during a PMF, without having to cross floodwaters of any depth, including access and evacuation.
- 6.13. The proposed development is inconsistent with the *Gosford City Council Climate Change Policy* in that the applicant has failed to address from a floodplain risk management perspective, safe access and evacuation by vehicle with regard to the current tide predictions for Woy Woy, the need for which will increase for future generations.
- 6.14. Direction 14 and Direction 17 of the *Central Coast Regional Plan 2036*.
- 6.15. On 6 April 2018, Council received advice from EMM Consulting with regard to a possible solution for flood evacuation. This draft road raising concept is not feasible in that the proposed road level increases are too low and it is not possible to reconstruct the road with an increased cross-fall to lower levels. Furthermore, it is not just the crown of the road that would need to be raised, but the entire travel lane, where any major raising of the road would negatively affect the local drainage system, such that runoff would be redirected into private property, where it would remain.
- 6.16. The subject site is identified as flood affected within the following documents:
- The Brisbane Water Foreshore Flood Study, dated October 2010;
 - The Brisbane Water Foreshore Floodplain Risk Management Study, dated March 2015; and
 - The Brisbane Water Foreshore Floodplain Risk Management Plan, dated November 2015.
7. The proposed development will result in a 58% departure with the required car parking associated with the residential and club uses, contributing to unacceptable impacts on the adjacent public car park and boat and trailer parking, on street car parking in North Burge Road and the ability of these areas to perform the core public purpose for which they are reserved.

Particulars

- 7.1. The proposed development is contrary to s. 4.15 (1)(c) and (1)(e) of the *Environmental Planning and Assessment Act 1979*.
- 7.2. Clause 1.2(2)(c) and (f) (Aims of Plan) and cl.2.3 (2) (Zone Objectives) of the *Gosford Local Environment Plan 2014*.
- 7.3. *Gosford Development Control Plan 2013*, Chapter 7.1 requires the provision of 324 car parking spaces associated with the provision of seniors housing and a registered club on the site. The proposed development will result in a 58% departure with required car parking associated with the residential and club uses only, noting the car parking

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- allocation associated with the 5 'retail premises' have not been calculated, being a prohibited form of development.
- 7.4. The proposed driveway access point to North Burge Road results in an unacceptable loss of shuttle and bus taxi set-down area.
 - 7.5. There is an unacceptable impact on the adjacent public car park and boat and trailer parking. The two double boat ramps existing in Lions Parks generate a need for a minimum of 20 spaces per ramp (NSW Boat Ramp Facility Guidelines 2015) which is equivalent to 40 spaces. The existing provision is 25 marked spaces with 10 unmarked angle spaces. The current car parking facilities within Lions Park are inadequate for trailer parking demand in busy periods as it serves the most southernmost ocean access ramp. To further reduce the public's ability to utilise these areas is not supported.
 - 7.6. The Traffic and Parking Impact Assessment Report, prepared by Barker Ryan Stewart, dated October 2017, incorrectly assumes the existing car and trailer parking in Count areas D, G and I, as available for car parking to serve the new development with a capacity of 39 spaces.
8. The proposed development will result in unacceptable accessibility concerns between the users of the club and residential accommodation located within the site for the following reasons:
- The access points between Building B and Building A are off set and not directly aligned. Residents would have to transverse the vehicle service corridor to access Building A when exiting the club.
 - A common access path is shared by the club and residential accommodation from North Burge Road by stairs and a ramp. The separate entries to the club and residential area are located 15m apart. Residents will have to pass the entry to the club to access the private residential lift when accessing the site from North Burge Road. The gaming machines are located in close proximity to the entrance of the club facility.
 - The Access Report, prepared by Code Performance Pty Ltd, dated 9 November 2017 has concluded that the proposed development in its current form demonstrates minor non-compliances. The report states that these non-compliances may be rectified and the proposal is readily capable of compliance, subject to design amendments.
 - The pedestrian access points from Building B to Building A require pedestrians to transverse the vehicle access road that runs through the site in an east-west direction from the servicing of waste and loading area. The stairs from Building B are located adjacent to the loading dock area and the stairs to the neighbouring Building A are adjacent to the truck bay. This route of travel can impact upon the safety of those using these access points especially those residents or visitors who have mobility issues.

Particulars

- 8.1. Clause 23 and cl. 38 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- 8.2 Principle 7: Safety of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.
9. The proposed development will result unacceptable amenity concerns between the users of the club and residential accommodation located within and surrounding the site for the following reasons:
- Habitable rooms on the ground floor of Building B have been located immediately adjacent to the vehicle drive through area on site site where the waste service truck enters and exits the site.
 - The Environmental Noise Assessment prepared by Day Design Pty Ltd, dated 25 August 2017, did not address the noise generated from the use of the vehicle service corridor on residential properties located at No. 180 Brick Wharf Road and No. 176 Brick wharf Road, Woy Woy. The proposed development incorporates bedrooms and living areas on the northern elevation of Building B that will be impacted by the noise generated from these activities. There is no indicated noise mitigation measured for these areas.
 - Light spillage associated with the outdoor areas of the club, the retail areas, the front entry area of the club and the number of window and door opening serving the eastern and western elevations of the proposed development has not been addressed with regard to neighbouring properties.

Particulars

- 9.1. Clause 23, cl. 31 and cl. 34 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- 9.2 Principle 6: Amenity of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.
- 9.3. Section 4J – Noise and Pollution within the *Apartment Design Guide. Tools for improving the design of residential apartment development* identifies noise transfer and pollution are minimised through the siting and layout of the building.
10. The size, location and design of communal open space is inadequate having regard to the context and the scale of development.

Particulars

- 10.1. Principle 5: Landscape of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.
- 10.2. Section 3D – Communal Open Space within the *Apartment Design Guide. Tools for improving the design of residential apartment development* identifies that 25% of the site must be provided as communal open

space. Approximately 290m² or 3.8% of the site is dedicated as communal open space resulting in a departure with the requirements of this provision by 21.2%. As well, this communal open space does not receive adequate solar access.

11. Insufficient information to complete the assessment and determination of the proposed development, namely in relation to waste management, social impact, liquid trade waste, noise impact and attenuation, headlight glare, light spillage, geotechnical matters, acid sulphate soils, and the design of the roof.

Particulars

- 11.1. Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- 11.2. Clause 54 of the Environmental Planning and Assessment Regulation 2000.

12. The public interest as evidenced by submissions received regarding the proposed development supports refusing consent.
 - B. The applicant be advised of JRPP's decision and of their right to appeal in the Land and Environment Court under section 8.7, 8.10 of the Environmental Planning and Assessment Act 1979 six (6) months after the date on which the applicant received notice in respect to JRPP's decision.
 - C. The objectors be notified of JRPP's decision.
 - D. The External Referrals be notified of JRPP's decision.

Attachment 2

Development Plans

Attached separately

Attachment 3

SEPP HSPD Compliance Table

| SEPP Requirement | Proposed | Compliance |
|--|--|--|
| Chapter 1 Preliminary | | |
| cl. 2 Aims of Policy | <p>This Policy aims to encourage the provision of housing that will:</p> <p>(a) <i>increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and</i></p> <p>(b) <i>make efficient use of existing infrastructure and services, and</i></p> <p>(c) <i>be of good design.</i></p> <p>The proposed development is not inconsistent with these aims.</p> | Yes |
| cl.4 Land to which this policy applies | <p>Clause 4(1)(b) of SEPP HSPD provides the policy applies to land that adjoins land zoned primarily for urban purposes but only if the land is being used for the purposes of an existing club.</p> <p>Clause (6)(a) of SEPP HSPD provides that this policy does not apply to land described in Schedule 1 (Environmentally Sensitive land). The subject site is not identified in another environmental planning instrument by any of the descriptors identified in Schedule 1 and therefore this Policy can be applied to the site.</p> | Yes |
| Chapter 3 Development for Seniors Housing | | |
| Part 1 General | | |
| cl.16 Development consent required | Development for the purposes of seniors housing utilising the provisions of SEPP HSPD may be carried out with the consent of the relevant consent authority. | Yes |
| cl.18 Restrictions on occupation of seniors housing allowed under this Chapter | Despite the recommendation of this report, in the event the matter is determined by way of approval, a condition of development consent must be imposed to the effect that only the kinds of people referred to in subclause (1) of this provision may occupy any accommodation to which the development application relates. This will be achieved by way of a restriction as to user, registered against the title of the property on which development is to be carried out, in accordance with s.88E of the <i>Conveyancing Act 1919</i> . | Capable of complying via condition. |
| cl.23 Development on land used for the purposes of an existing registered club | <p>Separate primary pedestrian entry points for the residential areas and the club facilities are proposed. The access points are well within lobby areas away from the club with restricted internal lift and stair access and well-defined pathways.</p> <p>Residents travelling from the basement level can access the residential levels above the club level without interacting with the club.</p> <p>The access points between Building B and Building A are off</p> | Yes No |

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| | <p>set and not directly aligned. Residents would have to transverse the vehicle service corridor to access Building A with the club facilities.</p> <p>Although the pedestrian access points for the residential levels and club facilities in Building A are separately defined, a common access path is shared from North Burge Road by stairs and a ramp. The separate entries to the club and residential area are located approximately 15m apart. Residents will have to pass the entry to the club to access the private residential lift when accessing the site from North Burge Road. The gaming machines are located in close proximity to the entrance of the club facility. There are potential concerns with the transmission of noise from the club facilities to those units and their balconies located above the club level.</p> | |
| Part 1A Site Compatibility Certificates | | |
| cl.24 Site compatibility certificates required for certain development applications | <p>The proposed development pertaining to the provision of seniors housing is permissible by virtue of the provisions of cl. 4 (1) of <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> (SEPP HSPD) which provides the policy applies to land being used for the purposes of an existing registered club.</p> <p>It is concluded whilst the provision of seniors housing is permissible under cl.4(1) of SEPP HSPD, the SCC accompanying the development cannot be relied upon in this instance as detailed in the Assessment Report under the heading <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>.</p> | No |
| cl.25 Application for site compatibility certificate | On 24 January 2017, the Department of Planning and Environment determined the application for a SCC under cl.25(4) of SEPP HSPD. | Yes |
| Part 2 Site-related requirements | | |
| cl.26 Location and access to facilities | <p>There are two (2) bus stops located on Brick Wharf Road adjacent to the subject site which can be access by ramps at a grade of 1:14. The site is accessible by bus route 59 Monday – Saturday with 5 services running each way from 6:16am to 5:26pm weekdays and two services running each way on Saturday between 8:10am and 1:47pm. The site is also accessible by route 64 Monday – Saturday with services running each way at an approximately half hour frequency from 5:44am to 6:23pm weekdays. This reduces to an hourly frequency on Saturday between 6:40am and 5:40pm.</p> <p>The Access Report, prepared by Code Performance Pty Ltd, dated 9 November 2017 has concluded that the proposed development in its current form demonstrates minor non – compliances. The report states that these non – compliances may be rectified and the proposal is readily capable of compliance, subject to design amendments.</p> | <p>Yes</p> <p>No</p> |

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| cl.27 Bush fire prone land | N/A | N/A |
| cl. 28 Water and sewer | Council's reticulated water and sewer currently service the development site. Council's Water and Sewer Section have confirmed that the existing services can accommodate the additional load that will be generated by the development. | Yes |
| cl.29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply | N/A | N/A |
| Part 3 Design Requirements | | |
| Division 1 General | | |
| cl.30 Site analysis | In accordance with the provisions of clause 30, the consent authority must be satisfied the applicant has taken into account a site analysis in accordance with clause 30 (1), (2), (3) and (4). It is considered the site analysis plan adequately addresses how the proposal achieves compliance with Clause 30 (1), (2), (3) and (4) of SEPP HSPD. | Yes |
| cl.31 Design of in-fill self-care housing | <p>In determining a development application to carry out development for the purpose of in-fill self-care housing, a consent authority must take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration) the provisions of the <i>Seniors Living Policy: Urban Design Guideline for Infill Development</i>, published by the Department of Infrastructure, Planning and Natural Resources in March 2004:</p> <p><u>Chapter 1: Responding to Context</u></p> <ul style="list-style-type: none"> Neighbourhood Character and Site Analysis: The proposed development is a significant opportunity to upgrade and invest in the long term financial viability of the site and provide a mixed-use development in accordance with the needs of the surrounding residential population. The proposal will complement the town centre of Woy Woy, nearby commercial developments and is consistent with recent in-fill developments in Woy Woy. <p><u>Chapter 2: Site Planning and Design</u></p> <ul style="list-style-type: none"> Objectives and Design Principles: The traditional address and access to the site is clearly defined from North Burge Road and the design and orientation of the building responds to environmental conditions. The proposed development provides variety to housing stock including 2 bedroom, 3 bedroom, sub penthouse and penthouse unit. The proposal is setback from the | <p>Yes</p> <p>Yes</p> |

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| | <p>waterfront and the proposed basement car park assists with minimising physical and visual dominance.</p> <p>However, it is considered the site is not compatible for <i>'housing for seniors or people with a disability'</i> because of the flood hazard. Furthermore, the development application seeks approval to utilise Lions Park as an egress point for service vehicles and the like which will alienate both the public pathway and Lions Park at this junction contrary to the purpose of public recreation land.</p> <p>Furthermore, the development application is not supported by Council's Traffic and Transport Planner on transport engineering grounds due to its adverse impact on surrounding carparks off North Burge Road. In addition, the proposed driveway access point to North Burge Road results in an unacceptable loss of shuttle bus and taxi set-down area.</p> <p><u>Chapter 3: Impact of Streetscape</u></p> <ul style="list-style-type: none"> Objectives and Design Principles: The entry to the proposed basement car park does not exceed 25% of the site frontage and does not dominate the streetscape. Building separation and integrated landscaping presents a light weight appearance. Materials, colours and finishes are consistent with surrounding developments and the desired future character of the area. <p><u>Chapter 4: Impact on Neighbours</u></p> <ul style="list-style-type: none"> Objectives and Design Principles: Concern is raised with the potential light spillage from the outdoor areas of the club, the retail areas, the front entry area of the club and the number of window and door opening serving the eastern and western elevations of the proposal. It is considered these elements may adversely impact upon the amenity of the neighbouring residents. Insufficient information has been provided so as to demonstrate the development results in an acceptable impact to adjoining residential properties regard to light spillage. <p><u>Chapter 5: Internal Site Amenity</u></p> <ul style="list-style-type: none"> Objectives and Design Principles: The proposed development achieves natural cross ventilation to all units by utilising cross flow from doors and windows on each level. Each unit achieves private open space in the form of a balcony, courtyard or terrace. Entrances are well defined and balconies, doors and windows address | <p>No</p> <p>Yes</p> <p>No</p> <p>Yes</p> |
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| | <p>primary frontages, allowing for casual surveillance.</p> <ul style="list-style-type: none"> • There are no anticipated acoustic impacts on adjoining development from the residential component of the development, however there is potential acoustic privacy issues for those units residing above the club level with noise transfer from the below outdoor areas associated with the club. The Environmental Noise Assessment prepared by Day Design Pty Ltd, dated 25 August 2017, did not address the noise generated from the use of the vehicle service corridor on residential properties located at No. 180 Brick Wharf Road and No 176 Brick wharf Road, Woy Woy. The proposed development incorporates bedrooms and living areas on the northern elevation of Building B that will be impacted by the noise generated from these activities. There is no indicated noise mitigation measured for these areas proposed. • SEPP Controls: The proposed development has been designed and orientated to reduce the impacts of overshadowing on adjoining developments. | <p>No</p> <p>Yes</p> |
| cl.32 Design of residential development | The proposal is inconsistent with several design principles specified in Division 2. | No |
| Division 2 Design principles | | |
| cl.33 Neighbourhood amenity and streetscape | <p>The proposed development is considered to contribute to the quality of the area by demonstrating a well-articulated building envelope and by modernising the existing club facilities on site that are nearing the end of their economic life.</p> <p>It should be noted the subject site does not contain any heritage items listed under Schedule 5 of GLEP 2014 and is not located within a heritage conservation area.</p> <p>Subject to further request for information relating to light spillage and acoustic barriers, it is considered visual privacy and amenity is otherwise acceptable through the provision of a consistent 6m setback adjacent to the sites western boundary, noting the predominant building alignment along this boundary is at 9m.</p> <p>The transition between Lions park and the foreshore area adjacent to the club facilities/residential levels and the retail areas requires further attention through the mitigation of visual and acoustic impacts. Additional landscaping on this boundary to aid in the transition of built form to park area is recommended.</p> | <p>Yes</p> <p>No</p> |

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| <p>cl.34 Visual and acoustic privacy</p> | <p><u>Visual Privacy</u></p> <p>Proposed site planning will maintain visual privacy for apartments within the development and neighbouring properties. Landscape to the roof terraces will contribute to disguising some balcony areas and increasing privacy.</p> <p>Subject to further request for information relating to light spillage and acoustic barriers, it is considered visual privacy and amenity is otherwise acceptable through the provision of a consistent 6m setback adjacent to the sites western boundary, noting the predominant building alignment along this boundary is at 9m.</p> <p><u>Acoustic Amenity</u></p> <p>The Environmental Noise Assessment prepared by Day Design Pty Ltd, dated 25 August 2017, has identified that the calculated level of noise emissions from the proposed development will exceed the noise limits that are defined as acceptable at all the receptor locations. The areas identified as being key source of noise emissions is the outdoor deck, outdoor gaming/smoking area and the live bands playing in the auditorium.</p> <p>The recommendations include the provision of a 2.1m high sound barrier wall located along the length of the western boundary in front of the proposed retail units and the provision of a 1.8m high sound barrier wall on the eastern boundary of the club deck.</p> <p>Concern is raised with the visual impact associated with providing the abovementioned sound barrier walls when viewed from Lions Park and surrounding residential properties, noting these have not been detailed on the submitted elevation architectural plans supporting the development application.</p> <p>The proposal cannot be supported in that insufficient information has been provided to enable further assessment to occur with regard to this issue. The aforementioned acoustic report identifies a number of mitigation measures outside the erection of the sound barriers that will need to be implemented during the operation of the club. These include but are not limited too; hours of access for outdoor bistro and bar areas, closing of windows during live music events and the closing of external doors to retails tenancies. Further recommendations require detailed analysis to be carried out once the mechanical plant is selected and the locations selected prior to development.</p> | <p>Yes</p> <p>No</p> |
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| | <p>There are no anticipated acoustic impacts on adjoining development from the residential component of the development, however there is potential acoustic privacy issues for those units residing above the club level with noise transfer from the below outdoor areas associated with the club. The Environmental Noise Assessment prepared by Day Design Pty Ltd, dated 25 August 2017, did not address the noise generated from the use of the vehicle service corridor on residential properties located at No. 180 Brick Wharf Road and No 176 Brick wharf Road, Woy Woy. The proposed development incorporates bedrooms and living areas on the northern elevation of Building B that will be impacted by the noise generated from these activities. There are no indicated noise mitigation measures for these areas.</p> | |
| cl.35 Solar access and design for climate | <p>The proposed development has met the BASIX requirements for passive solar design and water and energy conservation.</p> <p>The submitted shadow diagrams indicate that the majority of the proposed overshadowing from the development will be across North Burge Road, slightly extending in to the front setback of the properties on the eastern side of North Burge Road. The shadowing on these properties directly east of the proposal and will occur mid-winter from approximately 2pm during the winter solstice. This loss of solar access is not considered to adversely impact these sites.</p> <p>The seniors living facility has been orientated to ensure that a majority of apartments are facing north or east resulting in 86% of apartments receiving direct sunlight. The proposal has been designed to maximise solar access and natural ventilation to the living and balcony areas which in turn reduces energy consumption.</p> | Yes |
| cl.36 Stormwater | <p>The development application is accompanied by Stormwater Management Reports and Plans, prepared by Barker Ryan Stewart, dated 6 July 2017 and 11 October 2017. Council's Development Engineer has reviewed these documents and raises no objection for the following reasons:</p> <ul style="list-style-type: none"> • The proposal doesn't include any provision for on site detention. Given the location of the site in relation to Brisbane Water, the proposal is exempt from complying with these requirements. This rationale is considered reasonable and has been previously applied to numerous developments located in the lower catchment areas. • On site retention of 80 cubic metres or 80,000 litres of rainwater to be used for outdoor irrigation, toilets flushing and laundry use is proposed. | Yes |

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| | <ul style="list-style-type: none"> The proposed discharge of the surcharge stormwater flows from the internal stormwater system into Councils piped stormwater system located at the intersection of North Burge & Brick Wharf Road is supported based on the condition of Council's existing infrastructure. | |
| cl.37 Crime prevention | A crime prevention through environmental design report (CPTED), prepared by Barker Ryan Stewart, dated October 2017 accompanies the development application. The design of the proposed development has considered crime prevention through environmental design principles to minimise the opportunity for crime on and in proximity to the site. | Yes |
| cl.38 Accessibility | <p>The proposal provides pedestrian access to and from the site to Brick Wharf Road (where two bus stops are located) and North Burge Road.</p> <p>The Access Report, prepared by Code Performance Pty Ltd, dated 9 November 2017 has concluded that the proposed development in its current form demonstrates minor non – compliances. The report states that these non – compliances may be rectified and the proposal is readily capable of compliance, subject to design amendments.</p> <p>The pedestrian access points from Building B to Building A require pedestrians to transverse the vehicle access road that runs through the site in an east- west direction for the servicing of waste and loading area. The stairs from Building B are located adjacent to the loading dock area and the stairs to the neighbouring Building A is adjacent the truck bay. This route of travel can impact upon the safety of those using these access points especially those residents or visitors who have mobility issues.</p> | No |
| cl.39 Waste management | <p>A Waste Management Plan (WMP), prepared by Barker Ryan Stewart, dated October 2017, provides details of the waste management activities during the demolition and constructions phases of the development including on-going waste management during occupation residential seniors living components and the club and retail operations.</p> <p>Council's Waste Officer reviewed the submitted WMP and concluded that the document provided insufficient information. On 10 November 2017, the applicant was advised to submit a revised WMP and amended plans addressing the following:</p> <ul style="list-style-type: none"> Residential mixed and recyclable waste bulk bins being collected on alternate days (as residential waste servicing on alternate days is not an option). A minimum 10.5m long waste bin servicing/holding bay location is required to present all bulk waste bins for | No |

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| | <p>collection on the scheduled, designated days. Commercial waste must be stored in a separate waste storage enclosure to avoid conflict of use.</p> <ul style="list-style-type: none"> • Separate, fully dimensioned, residential and commercial waste storage enclosure/s to Building A. It was recommended that waste generated by the proposed Club and 5 commercial tenancies be further separated to avoid conflict of use. However, a single commercial waste enclosure sized to accommodate all commercial uses may be provided and managed internally. • Mixed and recyclable waste containers are to be provided within all waste storage enclosures. • The ground floor resident mixed waste "hatch" for Building B and C to be clearly indicated. Residential waste enclosures are for residential waste to limit access and ensure no conflict of use. • The green waste bulk bins referred to within the WMP are to be relocated external from residential waste storage area/s. • Provide waste storage areas with sufficient area to accommodate twice weekly servicing of mixed and recyclable residential waste will require 2 x 1.1m³ bulk waste bins to Building A and 2 x 1.1m³ / 1 x 0.66m³ to Building C, Building B will require 2 X 1.1m³ / 1 x 0.66m³ bulk bins. • The interim bulk waste bin servicing/holding bay between Building B and C is to be sized to accommodate 6 x 1.1 m³ / 2 x 0.66m³ bulk waste bins i.e. minimum 11.5m in length and be located to facilitate roll out of bulk bins to the rear or the waste collection vehicle. <p>To date, all requests for further information remain unresolved. It is likely the waste storage areas would have to be redesigned.</p> | |
| <p>Part 4 Development standards to be complied with Division 1 General</p> | | |
| <p>cl.40 Development standards—minimum sizes and building height</p> | <p>Development consent must not be granted to a development unless the proposed development complies with the following standards:</p> <ul style="list-style-type: none"> • 40(2) Site size – minimum 1,000m² • 40(3) Site frontage – 20 metres wide measured at the building line • 40(4) Height in zones where residential flat buildings are not permitted. <p>The proposal complies with the standards specified in this clause, as the total area of the site is 7,582m² and the site has a frontage to Brick Wharf Road and North Burge Road that exceeds 20m satisfying Clause 40 (2) and (3).</p> | <p>Yes</p> |

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| <p>The subject development application relates to 3 parcels of land at No. 184 Brick Wharf Road, No. 186 Brick Wharf Road and No. 1 North Burge Road, Woy Woy. The parcels are zoned both R2 Low Density Residential and RE2 Private Recreation under <i>Gosford Local Environmental Plan 2014</i> (GLEP 2014).</p> <p>Clause 40 (4) does apply in this circumstance but only to No. 184 Brick Wharf Road, Woy Woy which is zoned R2 Low Density Residential under GLEP 2014. Clause 40(4) provides the following:</p> <p><i>(4) Height in zones where residential flat buildings are not permitted. If the development is proposed in a residential zone where residential flat buildings are not permitted:</i></p> <p><i>(a) the height of all buildings in the proposed development must be 8 metres or less, and</i></p> <p><i>Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).</i></p> <p><i>(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and</i></p> <p><i>Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.</i></p> <p><i>(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.</i></p> <p>The Statement of Environmental Effects, prepared by Barker Ryan Stewart, dated October 2017, accompanying the application does not adequately consider the relevant development standards applicable to No. 184 Brick Wharf Road, Woy Woy. In correspondence dated 10 November 2017, the applicant was advised of this issue. To date, Council has not received a formal response to this issue.</p> <p>Figure 1 below details the approximate site boundaries of No. 184 Brick Wharf Road, Woy Woy in the south eastern corner of the site. Having regard to the development standards contained within cl.40 (4) of SEPP HSPD, the proposal is non-compliant, resulting in a 56.25% variation to the 8m height control, a 50% variation to part (b) and a 200% variation to part (c).</p> | <p>No</p> |
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Figure 1: Approx. boundary of R2 Low Density Lot (highlighted in black)

Council has not received a written request seeking to justify the contravention cl.40(4) of SEPP HSPD in accordance with cl.4.6(4) of GLEP 2014.

In view of the above, and despite any merit associated with the variations to development standards proposed, the consent authority is unable to assess the proposed variation to the height development standard.

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| Division 3 Hostels and self-contained dwellings—standards concerning accessibility and useability | | |
| cl.41(1) Standards for hostels and self-contained dwellings | The proposal has been design in accordance with these requirements. | Capable of complying via condition. |
| Part 7 Development standards that cannot be used as grounds to refuse consent | | |
| Division 1 General | | |
| cl.46 Inter-relationship of Part with design principles in Part 3 | The proposed development in its current form does not adequately address several provisions within Part 3. | No |

| Division 4 Self-contained dwellings | | |
|---|---|---|
| cl.50 Standards that cannot be used to refuse development consent for self-contained dwellings | <p>Clause 50 provides seven (7) standards by which development consent for self – contained dwellings including in-fill self-care housing cannot be refused:</p> <p>(a) Building height The proposed development exceeds the height of 8m with a maximum height of 14.3m.</p> <p>(b) Density and scale If the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less. The proposed floor space ratio is 1.3:1.</p> <p>(c) Landscaped area A minimum of 30% of the area of the site is to be landscaped, The subject proposal provides 36.4% landscaped area (2764m²).</p> <p>(d) Deep soil zones Not less than 15% of the area of the site must be provided as a 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 of 3m. 13.5% of the site areas is provided as deep soil zones.</p> <p>(e) Solar Access 86% of apartments receive 3 hours sunlight between 9am and 3pm.</p> <p>(f) Private open space for infill self-care housing Each apartment provides in excess of 15m².</p> <p>(g) Parking 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider:</p> <ul style="list-style-type: none"> • Residential -77 car parking spaces required (capable of complying). • Visitor – 12.6 car parking spaces required (Capable of complying). | cl.50 (a), (b), and (d) of SEPP HSPD can be utilised in refusing the subject development application. |
| Schedule 3 Standards concerning accessibility and useability for hostels and self-contained dwellings | | |
| Part 1 Standards applying to hostels and self-contained dwellings | | |
| cl.1-13 | The proposal has been design in accordance with these requirements. | Capable of complying via condition. |
| Part 2 Additional standards for self-contained dwellings | | |
| cl.14-21 | The proposal has been design in accordance with these requirements. | Capable of complying via condition. |

Attachment 4

SEPP No. 71 Matters for Consideration Table

| cl.8 | Matters for Consideration | Assessment | Compliance |
|-------------|--|--|-------------------|
| a | Aims of the Policy | The proposal is compliant with the objectives of the Policy in terms of protection of the coastal zone and environment; and the maintenance of pedestrian access to foreshore areas. | Yes |
| b | Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved. | The proposal does not affect public access to foreshore areas. | Yes |
| c | Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability. | The subject site does not adjoin the coastal foreshore. | N/A |
| d | The suitability of development given its type, location and design and its relationship with the surrounding area. | Given the flood associated constraints associated with the development, the site is not considered suitable for seniors housing. | No |
| e | Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore. | The proposal has no adverse impact on the foreshore in terms of view loss or overshadowing. | Yes |
| f | The scenic qualities of the New South Wales coast, and means to protect and improve these qualities. | The proposal will not have an adverse impact on the scenic qualities of the coastline. | Yes |
| g | 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. | The subject site does not contain any threatened species or habitat. | N/A |

| cl.8 | Matters for Consideration | Assessment | Compliance |
|--------------|--|---|-------------------|
| h | Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats. | The proposal has no impact on the conservation of fish and marine vegetation. | N/A |
| i | Existing wildlife corridors and the impact of development on these corridors. | The proposal will not affect any identified wildlife corridor. | Yes |
| j | The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coast. | The subject site does not adjoin the coastal foreshore | N/A |
| k | Measures to reduce the potential for conflict between land-based and waterbased coastal activities. | The proposal has no impact on water-based coastal activities. | N/A |
| l | Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals. | The subject site does not contain any aboriginal sites or relics, and there are no known sites within the immediate locality. | N/A |
| m | Likely impacts of development on the water quality of coastal water bodies. | The proposal will not adversely affect downstream water quality. | Yes |
| n | The conservation and preservation of items of heritage, archaeological or historic significance. | The proposal has no impact on items of heritage, archaeological or historic value. | Yes |
| o | Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities. | N/A. | N/A |
| p(i) | The cumulative impacts of the proposed development on the environment. | The precautionary principle requires decision-makers to be cautious where there is uncertainty concerning the nature or scope of potential serious or irreversible environmental damage. The proposed development does not pose a threat of serious or irreversible environmental damage. | Yes |
| p(ii) | Measures to ensure that water and energy usage by the proposed development is efficient. | Water and energy usage is efficient. | Yes |

Attachment 5

Central Coast Regional Plan 2036 Matters for Consideration

| Matters for Consideration | Assessment | Compliance |
|---|---|------------|
| Goal 1 – A prosperous Central Coast with more jobs close to home | | |
| Direction 3: Support priority economic sectors | The proposed development will increase residential densities in proximity to the town centre of Woy Woy and will complement nearby commercial developments. The proposal will provide local employment opportunities during and after construction. | Yes |
| Direction 7: Increase job containment in the region | The proposal will stimulate the local economy and provide additional employment opportunities during and after construction. | Yes |
| Goal 2 - Protect the natural environment and manage the use of agricultural and recourse lands | | |
| Direction 14: Protect the coast and manage natural hazards and climate change | Direction 14.1 has not been adequately addressed by the applicant in the Statement of Environmental Effects accompanying the application. | No |
| Goal 3 - Well-connected communities and attractive lifestyles | | |
| Direction 15: Create a well – planned, compact settlement pattern | The proposal responds to population growth and complements nearby infill development and commercial developments in the town centre of Woy Woy. The site is connected by public transport, however prioritises walking and cycling, with an upgraded pathway linking the site to the town centre of Woy Woy. | Yes |
| Direction 16: Grow investment opportunities in the region’s centres | The redevelopment of the site is an opportunity to invest in and upgrade The Sporties at Woy Woy and deliver a mixed use development. | Yes |
| Direction 17: Align land use and infrastructure planning | The proposed development complements population growth and the desired future character of the area. However, it is not considered the applicant has adequately addressed the impact the development application will have on future infrastructure. | No |
| Direction 18: Create places that inclusive, well designed and offer attractive lifestyles | The immediate recreation area includes waterfront parks, pathways and the public jetty. The Lions Park adjacent to the site has been upgraded with a level pedestrian and cycle path. The proposed development is within walking distance of the town centre of Woy Woy and supports local public transport networks. | Yes |

| Matters for Consideration | Assessment | Compliance |
|--|---|------------|
| Goal 4 – A variety of housing choice to suit needs and lifestyles | | |
| Direction 19: Accelerate housing supply and improve housing choice | The proposed development responds to population growth and the need for additional, high quality accommodation for seniors. The proposal will provide additional housing choice in the form of 2 bedroom, 3 bedroom, sub penthouse and penthouse units. | Yes |
| Direction 20: Grow housing choice in and around local centres | | |
| Direction 21: Provide housing choice to meet community needs | | |

Attachment 6

ADG Compliance Table

| Design Criteria | Required | Proposed | Compliance |
|---|--|---|------------|
| 3D-1 Communal Open Space | Minimum communal open space area 25% of the site | <p>The size, location and design of communal or public open space will vary depending on the site context and the scale of development. The function of open space is to provide amenity in the form of:</p> <ul style="list-style-type: none"> • landscape character and design; • opportunities for group and individual recreation and activities; • opportunities for social interaction; • environmental and water cycle management; • opportunities to modify microclimate; and • amenity and outlook for residents. <p>The principal part of the communal open space area may be supplemented by:</p> <ul style="list-style-type: none"> • additional landscape area, circulation space and areas for passive use and outlook; and • public land used for open space and vested in or under the control of a public authority. <p>Approximately 290m² or 3.8% of the site is dedicated as communal open space resulting in a departure with the requirements of this provision by 21.2%. For a site of this size, the extent of non-compliance is not supported.</p> <p>The area dedicated as the principal communal open space at ground level located between Building B and Building C has been included. As well, the landscape outlook from this area identified in the western side boundary setback.</p> <p>The bowling green located within the basement level of the development is not considered to be communal open space as it is associated with the registered club and is located below ground level.</p> | No |
| | 50% direct sunlight to principal usable part for min 2 hrs between 9am and | The small area dedicated for communal open space is situated between Building B and Building C and does not receive solar access until the late afternoon. | No |

| Design Criteria | Required | Proposed | Compliance |
|-------------------------------------|---|---|--|
| | 3pm mid-winter | | |
| 3E-1 Deep Soil Zone | Minimum 7% of the site, with minimum dimension 6m for a site greater than 1,500m ² | <p>13.3% of the site areas is provided as deep soil zones with dimensions of at least 4.5m.</p> <p>Whilst the above areas adjacent to the southern and eastern boundaries do not achieve the minimum dimension of 6 metres in some areas, they have been included as deep soil areas in that they meet objective 3E-1 of the ADG. Objective 3E-1 of the ADG, aims at <i>“providing areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.”</i></p> <p>In view of the above, whilst minimum dimensions of 6 metres is not provided for all deep soil zones proposed, no objection is made in that 13.3% of the site will be occupied by deep soil zones. The areas of non-compliance are minimal across the site.</p> | Yes |
| | On some sites, it may be possible to provide a greater area for deep soil zones. Sites between greater than 1500m ² 15% should be achieved, if possible. | 13.3% of the site is provided as deep soil zones. | No , however minor non-compliance is supported. |
| 3F-1 Visual Privacy | <p>Separation from boundaries (habitable rooms and balconies):</p> <ul style="list-style-type: none"> • 6m (up to 12m in height) • 9m (up to 25m in height) | <p>The subject site has two (2) street frontages, Brick Wharf Road (secondary frontage) and North Burge Road (primary frontage).</p> <p><u>Western Boundary (adjacent to No. 180 and No. 182 Brick Wharf Road, Woy Woy):</u></p> <ul style="list-style-type: none"> • GF – L2- 6m (complies) • L3 – 9m (complies) <p><u>Internal Separation:</u></p> <ul style="list-style-type: none"> • All internal separation distances comply (habitable/ non-habitable/ blank wall scenarios). | Yes |
| 3J-1 Bicycle and Car Parking | Minimum parking provided in accordance with the Gosford DCP 2013 | GDCP 2013 is the applicable planning control for car parking under the ADG in this instance as the subject site lies outside the prescribed areas for use of the RMS Parking Guide for Metropolitan Sub-Regional Centres (notwithstanding cl.50 (g) of SEPP HSPD). | No |

| Design Criteria | Required | Proposed | Compliance |
|---------------------------------------|--|---|--|
| | Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas | Secure parking for bicycles and motorcycles is not evident in the basement Level | No |
| | Supporting facilities within car parks, including garbage, plant and switch rooms, storage areas and car wash bays can be accessed without crossing car parking spaces | <p>Garbage Rooms have not been provided in the basement and have instead been provided at grade on the ground level, where there are servicing areas for trucks provided. In this instance this is considered to be acceptable. Servicing of Garbage Room Building C can only be conducted by foot and not serviced by a waste servicing vehicle.</p> <p>The ADG and GDCP 2013 do not identify a requirement for car wash bays in residential flat developments. However, Objective 3J- 3 of the ADG states that a car wash bay is a supporting facility within a car park. It is acknowledged that commercial car washing is widely available in the area, however, failure to provide facilities results in on street car washing and pollution entering the stormwater. Therefore, the omission of this facility is not supported, however can be conditioned.</p> <p>It is also noted that an area for a delivery or service vehicles has not been provided (RMS Guidelines identify 1 space per 50 flats). In this instance it is considered the loading bay proposed for the waste truck is acceptable in accommodating this requirement.</p> | <p>Yes</p> <p>No</p> <p>Yes</p> |
| 4A-1 Solar and Daylight Access | Living rooms and private open space of at least 70% of apartments receive a minimum of 3hr sun between 9am and 3pm mid-winter | 86% of apartments within the proposed development receive 3 hours sun between 7am and 5pm. | Yes |
| | Maximum of 15% of apartments receive no direct sun between 9am and 3pm mid-winter | Complies. | Yes |
| 4B-3 Natural Ventilation | Min 60% of apartments cross ventilated | 42 of the 63 units (66%) are cross ventilated. | Yes |

| Design Criteria | Required | Proposed | Compliance |
|-----------------------------|---|--|---|
| 4C-1 Ceiling Heights | Minimum 2.7m | Complies. | Yes |
| 4D-1 Apartment Size | 1 bedroom: 50m ² 2 bedroom: 75m ² (5m ² per additional bathroom) 3 bedroom – 90m ² (5m ² per additional bathroom) | All apartment sizes are in excess of the requirements. Complies. | Yes |
| | Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms | All habitable rooms have a window within the external wall that have a larger area than 10%. | Yes |
| 4D-2 Room depths | Habitable room depths and maximum 8m depth for open plan layouts. | All habitable rooms comply. Some units have a habitable room depth of 8.5m in units with an open plan layout. This is a 0.5m non – compliance. This 6.25% on-compliance is supported as the affected units maintain adequate amenity. | No , however no objection is made in this instance |
| 4D – 3 Layout | Bedroom and living room sizes – 9 & 10m ² bedrooms with min 3m width, 3.6m-4m width living rooms | Complies | Yes |
| 4E-1 Balconies | 1 bedroom: 8m ² , min 2m depth 2 bedroom: 10m ² , min 2m depth 3 bedroom: 12m ² , min 2.4m depth | All primary balconies comply with this requirement. | Yes |
| | Podium/ground level private open space minimum 15m ² , minimum depth 3m | Ground level apartments comply with the 15m, however in some instances a 3m depth is not achieved. The areas of minimum depths are 1.7m to 1.9m. Affected terraces also have areas that meet the minimum depth requirements | Yes |

| Design Criteria | Required | Proposed | Compliance |
|-----------------------------------|--|--|--|
| | | and are well in excess of the prescribed 15m ² . In this regard no objection is raised. | |
| 4F-1 Common Circulation | Maximum of 8 apartments off a circulation core (although design guidance allows up to 12 apartments) | All proposed buildings comply notwithstanding Level 2 of Building B which has 9 apartments from the one (1) core. This block includes two (2) stair wells and one (1) lift shaft in a large central lobby area. | No , however no objection is made in this instance. |
| 4G-1 Storage | 1 bedroom: 6m ³ 2 bedroom: 8m ³ 3 bedroom: 10m ³ Note: Minimum 50% within unit | Storage areas are proposed in both the basement areas and individual dwellings. | Yes, capable of complying via condition. |
| 4H Acoustic Privacy | Noise transfer is limited through the siting of the buildings and building layout | It is considered the apartments have been orientated so as to minimise noise from living areas and outdoor terraces. | Yes |
| 4J Noise and Pollution | The impact of external noise transfer and pollution are minimised through the siting and layout of the building. | Wet areas and utility rooms have been located adjoining stair cores and lift wells. Habitable rooms on the ground floor of Building B have been located immediately adjacent the vehicle drive through area of the site where the waste service truck enters and exits the site. There is a bedroom adjoining the garbage room at this level. In this regard noise attenuation has not been adequately addressed. It is also considered potential noise transfer from the club level and retail premises to those apartments located above the club level in Building A and B have been adequately addressed by the applicant. | Yes No |
| 4K Apartment Mix | A range of apartment types are provided to cater for different household types, and distributed throughout the building. | Complies | Yes |
| 4L Ground Floor Apartments | Maximise street frontage activation and amenity. | Complies | Yes |
| 4M Facades | Provide visual interest whilst | Complies | Yes |

| Design Criteria | Required | Proposed | Compliance |
|----------------------------------|---|---|-------------------|
| | respecting the character of the area. | | |
| 4N Roof Design | Roof features are incorporated in the roof design, response to the street and provide sustainability features. | There are no architectural roof features proposed for any of the buildings that create interest at any elevation. Furthermore, the three lift overruns have been omitted from the architectural plans accompanying the development application. | No |
| 4O Landscape Design | Landscape design is viable, sustainable, contributes to the streetscape and amenity. | Landscaping is provided on the southern, eastern and western boundaries with planting also provided at all levels of the development via on structure planters. | Yes |
| 4P Planting on Structures | Appropriate soil depths are provided | Complies | Yes |
| 4W Waste | Waste storage facilities are provided to minimise impacts on the streetscape, building entry an amenity of residents. | The waste storage areas on the site are within the building envelope and are not visible from the streetscape. | Yes |

Attachment 7

GDCP 2013 Compliance Table

| Development Control | Required | Proposed | Compliance |
|---------------------------|---|---|-----------------------------|
| 2.1 Character | <p><u>Desired Character</u></p> <ul style="list-style-type: none"> • These properties should continue to provide community, educational and recreation services according to the needs of their surrounding residential population. • Ensure that the height and siting of new structures also preserve levels of privacy, sunlight and visual amenity that are enjoyed by neighbouring dwellings and their private open spaces. • Minimise the scale and bulk of new buildings. Divide floorspace into separate pavilion structures that are surrounded by landscaped courtyards. • For visually-prominent facades, incorporate extensive windows and display some variety of materials or finishes rather than expanses of plain masonry or metal cladding. | <p>The subject site is within the Woy Woy Character Statement No. 14 Community Centres and Schools.</p> <p>The overall design of the development is structured as a compound of separate pavilions. The pavilion style buildings are surrounded by deep soil planting on the boundaries and open space within the site that is consistent with maintaining landscaping and green space as per the desired character.</p> <p>Noise mitigation measures as recommended in the Environmental Noise Assessment Report, prepared by Day Design Pty Ltd, dated 25 August 2017. The recommendations include the provision of a 2.1m high sound barrier adjacent to the retail precinct on site. Concerns regarding the visual impact of this barrier on the character of the area particularly from Lions Park and surrounding residential properties has not been adequately addressed by the applicant.</p> <p>There are no architectural roof features proposed for any of the buildings that create interest at any elevation. Furthermore, the three lift overruns have been omitted from the architectural plans accompanying the development application.</p> | <p>Yes</p> <p>No</p> |
| 2.2 Scenic Quality | <p>The subject site is located within the Peninsula Geographic Unit and encompasses the Woy Woy/ Umina Landscape Unit and the Woy Woy Bays Landscape Units</p> | <p>The proposal is subject to the provisions of GDCP 2013 Chapter 2.2 – Scenic Quality.</p> <p>The development includes a higher density of residential development than that existing in the area. However, it is</p> | <p>Yes</p> |

| Development Control | Required | Proposed | Compliance |
|---|---|---|------------------------------------|
| | | <p>considered the transition between neighbouring development and the proposed development is acceptable. The use of landscaping on boundaries and roof areas of the proposal enhances the scenic quality of the area.</p> <p>Overall the development does not propose a bulk and scale that will adversely affect the scenic quality of the area. Views will be maintained around and through the site.</p> <p>The proposal is consistent with the stated objectives of GDCP 2013 Chapter 2.2 - Scenic Quality.</p> | |
| 6.1 Acid Sulfate Soils | Report required. | The site is identified as Class 2 Acid Sulfate Soils. Acid Sulfate Soil Management Plan would be required given the basement excavation. | Capable of complying via condition |
| 6.3 Erosion and Sediment Control | Plans required | Complies | Yes |
| 6.4 Geotechnical Requirement | Investigations | The subject site is identified as being in a medium hazard landslip area will require a Geotechnical Report submitted to establish the stability of the site's landform. However, this information did not accompany the development application. | No |
| 6.7 Water Cycle Management | Minimise the impact of the development on the natural predevelopment water cycle. | <p>The proposal is inconsistent with Chapter 6.7 – Water Cycle Management in that:</p> <ul style="list-style-type: none"> • No flood assessment has been carried out. • Chapter 6.7.7.6.4 (A & C) calls for any development for Seniors Housing to be unaffected by the probable maximum flood (PMF). This land is significantly affected by the PMF. • Chapter 6.7.7.6.4 (F) identifies safe access, evacuation and parking during a PMF, without having to cross floodwaters of any depth, including access and evacuation. This is not possible for this site due | No |

| Development Control | Required | Proposed | Compliance |
|-------------------------------|--|--|------------------|
| <p>7.1 Car Parking</p> | <p><u>Residential Car Parking</u> 1.5 spaces per dwelling = Visitor Spaces/0.2 spaces per dwelling</p> <p><u>Registered Club</u> 1 space per 10m²</p> <p><u>Retail Component</u> The commercial component of the proposal is not permissible within the zone therefore car parking has not been calculated.</p> | <p>to the surrounding road network.</p> <p>The basement car park will be accessed from North Burge Road with internal lift and stair access to the residential floors.</p> <p>One hundred and thirty six (136) basement car parking spaces are proposed, including 9 accessible spaces and 18 visitor spaces.</p> <p>The use of on – street car parking has been proposed however there is no lease agreement, which benefits the club for such spaces and as such these spaces cannot be counted as spaces allocated for the proposed development.</p> <p><u>Residential Car Parking</u></p> <ul style="list-style-type: none"> • 1.5 spaces per dwelling (63)= 94.5 Spaces • Visitor Spaces/0.2 spaces per dwelling = 12.6 spaces <p>Total required spaces (residential & visitor) = 107.1</p> <p><u>Registered Club</u> 1 space per 10m² of gross floor area up to 5000m² (including outside seating areas):</p> <ul style="list-style-type: none"> • Ground Floor (approx. 1110m²): 1 space per 10m² = 110 spaces • Bowling Green (1066.4m²)= 106.64 <p>Total required spaces = 216.64 (club)</p> <p><u>Retail Component</u> The commercial component of the proposal is not permissible within the zone therefore car parking has not been calculated on this basis.</p> <p><u>Conclusion</u> In accordance with this provision, the proposed development requires 107 car parking spaces to be allocated to residential and residential visitor parking and 217 car parking spaces to be allocated the registered club component</p> | <p>No</p> |

| Development Control | Required | Proposed | Compliance |
|----------------------|----------|--|------------|
| | | <p>of the development, resulting in a total of 324 car parking spaces.</p> <p>Noting calculations associated with the retail component of the development have not been provided, the proposed development will result in 58% non-compliance with required car parking associated with the residential and club uses.</p> <p>The applicant was advised of these concerns in correspondence dated 10 November 2017. This issue remains unresolved.</p> | |
| 7.2 Waste Management | | Waste Management has been reviewed by Councils Waste Officer. In correspondence dated 10 November 2017, the applicant was requested to address these concerns. This issue remains unresolved. | No |

Attachment 8

Site Compatibility Certificate



Mr Ian Stewart
Barker Ryan Stewart Pty Ltd
Studio 5, 78 York Street
East Gosford NSW 5255

Our ref: 16/13521
Your ref: 20130081

Dear Mr Stewart

Determination of application for a site compatibility certificate for Lot 151, 152 DP 818343 and Lot 369 DP 755251, No. 184-186 Brick Wharf Road and 1 North Burge Road, Woy Woy

I refer to your application of 4 November 2016 for a site compatibility certificate under clause 25 of *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (the SEPP) in relation to 184-186 Brick Wharf Road and 1 North Burge Road, Woy Woy.

As the Secretary's delegate, I have determined the application for a site compatibility certificate under clause 25(4) of the SEPP by issuing a certificate subject to the satisfaction of certain requirements specified in the certificate (clause 25(7)). I have attached the Certificate of Site Compatibility.


Noting the requirement in Schedule 2 of the certificate, it is the Department's view that further consideration should be given to the overall building height, bulk and scale of the development, including the number of infill self-care housing units proposed. Further consideration should be given to the visual dominance of the development to the waterfront and street, and the development's interface with residential development, noting the need for the development to be compatible with the surrounding environment.

Final development form and layout, including the number and size of infill self-care housing units in the proposed seniors housing development, shall be determined by the consent authority through the assessment of the development application under section 79C of the *Environmental Planning and Assessment Act 1979*.

I would encourage you to liaise with Council in relation to planning and design matters, for example height, bulk, scale, setbacks, landscaping, access and parking arrangements, prior to the lodgement of a detailed development application.

If you have any questions in relation to this matter, please contact Ms Monica Gibson, Director, Hunter and Central Coast region of the Department of Planning and Environment on (02) 4904 2708.

Yours sincerely

 24 January 2017
Stephen Murray
Executive Director
Planning Services

Encl: Site Compatibility Certificate

**State Environmental Planning Policy (Housing for Seniors or People with a Disability)
2004
Certificate of Site Compatibility**

I, the Executive Director, Regions, Planning Services, as delegate of the Secretary of the Department of Planning and Environment, determine the application made by Barker Ryan Stewart on behalf of Woy Woy Holdings Pty Ltd on 4 November 2016, by issuing this Certificate under clause 25(4)(a) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

I certify that in my opinion:

- the site described in Schedule 1 is suitable for more intensive development; and
- the development for the purposes of seniors housing, of the kind proposed in the application and described in Schedule 1, is compatible with the surrounding environment and surrounding land uses, having had regard to the criteria specified in clause 25(5)(b), subject to the requirements specified in Schedule 2 of this certificate.


Stephen Murray
Executive Director
Planning Services

Date certificate issued: 24 January 2017

Please note: This certificate will remain current for 24 months from the date of this certificate (clause 25(9)).

SCHEDULE 1

Site description: Lot 151, 152 DP 818343 and Lot 369 DP 755251, No. 184-186 Brick Wharf Road and 1 North Burge Road, Woy Woy

Project description: Woy Woy Sporties - Seniors housing development, under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, comprising:

- 'in-fill self-care housing' units, proposed in conjunction with a new sport club building and food and drink premises on site.

SCHEDULE 2

Application made by: Barker Ryan Stewart on behalf of Woy Woy Holdings Pty Ltd

Requirements imposed on determination:

The final design, number and size of self-care housing units in the proposed seniors housing development will be subject to the consent authority being satisfied with the form, height, bulk, scale, and setbacks, noting the need for the development to be compatible with the surrounding environment. This shall be determined by the consent authority through assessment of the development application under section 79C of the *Environmental Planning and Assessment Act 1979*.

Attachment 9

Actions of Council/ Applicant throughout the DA process

| Date | Comment |
|------------|---|
| 10/11/2017 | <p>Following the completion of a preliminary assessment, correspondence was forwarded to the applicant where concerns were identified relating to the submitted Site Compatibility Certificate, <i>Gosford Local Environmental Plan 2014</i>, <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>, and car parking.</p> <p>The applicant was also advised that internal referral comments had been received from Council's Recreation Passive Parks Section. The comments provided confirmed that the proposal is not supported in its current form due to several impacts on adjacent public areas and the ability of those areas to perform the core public purpose for which they are reserved and developed.</p> <p>The applicant was further advised of requests of additional information from Council's Liquid Trade Waste and Waste Servicing Sections.</p> |
| 14/12/2017 | The applicant requested an extension until the end of January 2018 in which to formally respond to Council. |
| 08/01/2018 | <p>Correspondence was forwarded to the applicant advising of the following:</p> <ul style="list-style-type: none"> • Advice was provided from Council's Traffic and Transport Planner stating the development application is not supported on transport engineering grounds due to its adverse impact on surrounding car parking off North Burge Road. In addition, the proposed driveway access point to North Burge Road results in an unacceptable loss of shuttle and bus taxi set down service. • Further clarification was requested with regard to the permissibility of the proposed five retail premises proposed in an area of the site zoned RE2 Private Recreation. |
| 09/01/2018 | <p>Correspondence was forwarded to the applicant, where advice provided from Council's Engineering Assessment Team Leader (South) identified several flood related issues. It was recommended the applicant engage the services of a Flood Consultant specialising in flood risk management to address the flood constraints within the site having regard to seniors living and evacuation management.</p> <p>Council also recommended the flood risk management concerns identified in this correspondence are adequately addressed prior to the submission of additional information/ and or amended plans in response to correspondence from Council dated 10 November 2017 and 8 January 2018.</p> |
| 11/01/2018 | As requested, advice was provided to the applicant concerning flood studies relevant to the development application. |
| 12/01/2018 | As requested, further advice was provided from Council's Flooding and Drainage Engineer to the applicant concerning flood studies relevant to the development application. |
| 14/02/2018 | Correspondence was forwarded to the applicant, advising of issues raised in submissions received, a copy of the briefing minutes of the Joint Regional Panel Briefing Meeting on 25 January 2018, and further advice from Council's Development Engineer. |
| 27/02/2018 | The applicant was requested to provide additional information at the request of Water NSW. |
| 13/03/2018 | The applicant requested a meeting to address the flood concerns raised by Council. |

| | |
|-------------------|---|
| | The applicant was advised that until a formal response is provided to Council relating to flood evacuation, Council Officers are unable to attend any further meetings with regard to this issue. |
| 14/03/2018 | Correspondence was received from applicant questioning Council's opposition to the development because of the flood evacuation issue and why this issue was not raised at the pre-lodgement meeting or subsequent meetings. |
| 16/03/2018 | In response to correspondence received at Council on 14 March 2018 the applicant was advised of the following:- <ul style="list-style-type: none"> • Council has not received any additional information as requested with regard to flood risk management concerns. As stated in correspondence dated 13 March 2018, until a response is provided to Council for review Council Officers are unable to attend any further meetings with regard to this issue. Based on the current advice provided by Councils Flooding & Drainage Engineer, the application is not supported. However, this position may be further reviewed upon receipt of the previously requested information. • The Pre-DA Meeting Notes, held on 16 September 2016, provided advice regarding flooding. It was also noted in the minutes of the meeting that the comments provided in the pre DA process are intended to guide the applicant in the preparation and lodgement of a formal development application, wherein further issues may become apparent, and additional information may be required from the applicant during the formal assessment phase. Furthermore, this meeting in no way infers nor implies that development consent will be granted to a proposal. |
| 22/03/2018 | Correspondence was forwarded to the applicant, advising that due to the scale and nature of this proposed development, Council's Social Planner has recommended a comprehensive social impact assessment be undertaken. |
| 06/04/2018 | Council received advice from EMM Consulting with regard to a solution for flood evacuation. The proposed concept was referred for review to Council's Flood and Drainage Engineers. |
| 12/04/2018 | The applicant was advised the preferred flood evacuation solution was not supported. It was concluded the flood risk management concerns previously identified by Council cannot be adequately addressed and it is recommended the application is either withdrawn or referred for determination in its current form. |
| 02/05/2018 | As requested, Council advised the applicant of the fees that could be refunded if the development application was withdrawn. |
| 04/05/2018 | The applicant requested a period of 4 weeks to address the various issues raised. |
| 07/05/2018 | Council advised the flood risk management concerns previously identified by Council cannot be adequately addressed and it is recommended the application is either withdrawn or referred for determination in its current form. Council advised that they cannot further defer the application in which to provide further additional information, when to date, only a conceptual proposal has been provided without any technical flood investigations. |
| NOTE | Council has not received a response with regard to concerns (unrelated to flood evacuation) that were raised by Council in correspondence dated 10 November 2017 (Preliminary Assessment); 8 January 2018 (Traffic/ Transport/ Permissibility); 14 February 2018 (JRPP Briefing); 27 February 2018 (Advice from Water NSW); and 22 March 2018 (Social Impact). The applicant advised that this information would be addressed once issues associated with flooding were adequately resolved. |