

STATEMENT OF ENVIRONMENTAL EFFECTS
**11-15 Lang Road, 76-80 Marsh Parade & 536-
542 Hume Highway, Casula**
Proposed construction and operation of a
Residential Aged Care Facility

For:



Submitted to:
Liverpool City Council

Date:
March 2017
2016.0053

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TABLE OF CONTENTS

| | | |
|-----------|--|-----------|
| 1. | INTRODUCTION | 1 |
| 2. | THE SITE | 3 |
| 2.1 | LOCATION AND CONTEXT | 3 |
| 2.2 | SURROUNDING DEVELOPMENT | 5 |
| 3. | DESCRIPTION OF THE PROPOSED DEVELOPMENT..... | 8 |
| 3.1 | OVERVIEW OF THE PROPOSAL..... | 8 |
| 3.2 | CATHOLIC HEALTHCARE | 9 |
| 3.3 | NEEDS ASSESSMENT..... | 9 |
| 3.4 | DEMOLITION..... | 12 |
| 3.5 | DETAILED DESCRIPTION OF PROPOSED NEW RESIDENTIAL AGED CARE FACILITY BUILDING..... | 12 |
| 3.6 | SITE TOPOGRAPHY, BUILDING HEIGHT AND SETBACKS..... | 15 |
| 3.7 | LAND USE AND FLOOR SPACE SUMMARY | 16 |
| 3.8 | VEGETATION AND LANDSCAPING | 17 |
| 3.9 | STORMWATER MANAGEMENT | 18 |
| 3.10 | TRAFFIC, VEHICLE AND TRUCK ACCESS, AND PARKING | 18 |
| 3.11 | SITE MANAGEMENT | 19 |
| 3.12 | SITE IDENTIFICATION SIGNAGE | 20 |
| 3.13 | UTILITIES..... | 20 |
| 3.14 | PRE-LODGE MENT MEETING WITH COUNCIL | 20 |
| 4. | ENVIRONMENTAL ASSESSMENT | 25 |
| 4.1 | COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT | 25 |
| 4.2 | NSW ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT).... | 25 |
| 4.2.1 | Section 23G of the EP&A Act - Joint Regional Planning Panels..... | 25 |

| | | |
|--------|---|----|
| 4.2.2 | Section 79B of the EP&A Act - Concurrence | 25 |
| 4.2.3 | Section 79C of the EP&A Act - Evaluation | 25 |
| 4.3 | SECTION 79C(1)(A)(I) – ENVIRONMENTAL PLANNING INSTRUMENTS | 26 |
| 4.3.1 | Liverpool Local Environmental Plan 2008 | 26 |
| 4.3.2 | State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004..... | 36 |
| 4.3.3 | Type of Seniors Housing Proposed under the SEPP | 37 |
| 4.3.4 | Permissibility under the SEPP | 37 |
| 4.3.5 | Design Considerations under the SEPP | 46 |
| 4.3.6 | Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment | 63 |
| 4.3.7 | State Environmental Planning Policy (Infrastructure) 2007 | 63 |
| 4.3.8 | State Environmental Planning Policy No. 1 – Development Standards.. | 65 |
| 4.3.9 | State Environmental Planning Policy No 55 – Remediation of Land | 66 |
| 4.3.10 | State Environmental Planning Policy No. 64 – Advertising and signage | 68 |
| 4.4 | SECTION 79C(1)(A)(II) ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT | 70 |
| 4.5 | SECTION 79C (1) (A) (III) DEVELOPMENT CONTROL PLANS | 71 |
| 4.6 | SECTION 79C (1) (A) (IIIA) PLANNING AGREEMENTS | 71 |
| 4.7 | SECTION 79C (1) (A) (IV) ANY MATTER PRESCRIBED BY THE REGULATION..... | 72 |
| 4.8 | SECTION 79C (1) (A) (IV) ANY COASTAL ZONE MANAGEMENT PLAN | 72 |
| 4.9 | SECTION 79C (1) (B) IMPACTS OF DEVELOPMENT | 72 |
| 4.9.1 | Proposed Height, Bulk and Scale | 72 |
| 4.9.2 | Shadow Impacts | 72 |
| 4.9.3 | Context and setting | 72 |
| 4.9.5 | Social Impact Comment | 73 |
| 4.9.6 | Heritage | 73 |

| | | |
|--------|--|----|
| 4.9.7 | Bushfire Considerations | 73 |
| 4.9.8 | Geotechnical and Soil Salinity Management..... | 74 |
| 4.9.9 | Access, traffic and parking | 74 |
| 4.9.10 | Air and microclimate | 74 |
| 4.9.11 | Noise | 74 |
| 4.9.12 | Natural and Technological Hazards | 75 |
| 4.9.13 | Stormwater Management | 75 |
| 4.9.14 | Soils..... | 76 |
| 4.9.15 | Waste Management..... | 76 |
| 4.9.16 | Flora and Fauna | 76 |
| 4.9.17 | Erosion and Sedimentation..... | 76 |
| 4.9.18 | Contamination | 76 |
| 4.9.19 | Economic Impact..... | 77 |
| 4.9.20 | Safety, Security and Crime Prevention | 77 |
| 4.9.21 | Utility services | 80 |
| 4.9.22 | BCA and ESD performance of proposed building | 80 |
| 4.9.23 | Construction Impacts | 80 |
| 4.10 | SECTION 79C(1)(C) SITE SUITABILITY | 81 |
| 4.11 | SECTION 79C(1)(E) THE PUBLIC INTEREST | 81 |
| 4.12 | SECTION 91A OF THE EP&A ACT - INTEGRATED DEVELOPMENT | 82 |
| 4.13 | SECTION 94 OF THE EP&A ACT – REQUEST FOR EXEMPTION TO CONTRIBUTIONS | 82 |
| 5. | SUMMARY AND CONCLUSION | 83 |

APPENDICES

- Appendix A: Site Survey (reduced)
- Appendix B: Architectural Drawings (reduced)
- Appendix C: Architectural Design Report
- Appendix D: Landscape Architectural Concept Drawings (reduced)
- Appendix E: Stormwater Management Report and Design Measures Drawings (reduced)
- Appendix F: Social Impact Comment
- Appendix G: Sedimentation and Erosion Control Plans (reduced)
- Appendix H: Contamination Report
- Appendix I: BCA Report
- Appendix J: Acoustic Assessment Report
- Appendix K: Traffic and Parking Assessment Report
- Appendix L: Waste Management Plans
- Appendix M: Geotechnical and Salinity Management Reports
- Appendix N: Arborist Report
- Appendix O: QS Letter
- Appendix P: Concept Civil Designs including cut and fill information - Engineering Drawings
- Appendix Q: Wastewater/Recycled Water Management Statement
- Appendix R: Pre-lodgement Meeting Notes
- Appendix S: Formal Objection under State Environmental Planning Policy No.1 – Development Standards – Storeys Control (Seniors Housing SEPP)
- Appendix T: Formal Objection under State Environmental Planning Policy No.1 – Development Standards – Height Control (Seniors Housing SEPP)
- Appendix U: Formal Objection under State Environmental Planning Policy No.1 Development Standards – Distance under Clause 26 Seniors Housing SEPP
- Appendix V: Formal Objection under State Environmental Planning Policy No.1 Development Standards – Landscaped Area (Seniors Housing SEPP)

Appendix W: Clause 4.6 Request to vary Clause 4.3 Height of Building Mapping Control under Liverpool Local Environmental Plan 2008

Appendix X: Clause 4.6 Request to vary Clause 4.4 Floor Space Ratio Mapping Control under Liverpool Local Environmental Plan 2008

LIST OF FIGURES

Figure 1: Location context

Figure 2: Site aerial relationship

Figure 3: Site cadastral relationship

Figure 4: Artists impression/computer generated render view from corner of Marsh Parade and Hume Highway

Figure 5: Artists impression/computer generated render view from Hume Highway at corner of Hume Highway with Lang Road

Figure 6: Extract from LLEP Land Zoning Map

Figure 7: Extract from LLEP Height of Buildings Map

Figure 8: Extract from LLEP Floor Space Ratio Map

LIST OF TABLES

Table 1: Summary of CHL land the subject of this DA

Table 2: Summary of building setbacks from site boundaries

Table 3: Summary of Land uses and gross leasable floor areas for the proposed development

Table 4: Summary of Pre-lodgement Meeting notes and Applicant Responses

Table 5: Assessment of the proposed development against the zone objectives – R3 Medium Density Residential zone under the LLEP

Table 6: Assessment of proposed signage against Schedule 1 of SEPP 64

Table 7: Design response of the proposed development against the CPTED Principles

LIST OF PHOTOGRAPHS

Photo 1: View of former dwelling house at 11 Lang Road.

Photo 2: View of former dwelling house at 13 Lang Road.

Photo 3: View of former dwelling house at 15 Lang Road.

Photo 4: View of former dwelling house on the corner of Lang Road and Hume Highway (542 Hume Highway).

Photo 5: View of existing bus stop at frontage to 540 Hume Highway.

Photo 6: View of existing dwelling house on southern side of Lang Road at corner of Hume Highway (544 Hume Highway) and dwelling houses opposite site at the intersection of Hume Highway with Lang Road.

Photo 7: View of existing dwelling house and car port at 74 Marsh Parade.

Photo 8: View of subject site at intersection of Marsh Parade with Hume Highway.

1. INTRODUCTION

This report constitutes a Statement of Environmental Effects (SEE) accompanying a Development Application (DA) for:

Proposed construction and operation of a Residential Aged Care Facility (RACF) development under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP) involving:

- Site preparation, removal of trees and bulk earthworks;
- Construction of an electrical substation;
- Construction of a 3 level building which will contain:
 - 144 one-bedroom residential aged care facility for high and dementia care residents, suitable to accommodate 144 residents;
 - A residential aged care building with a gross floor area of 7,953 square metres;
 - Ground level car parking for 35 cars inclusive of disabled parking of which 33 spaces are under cover;
 - Parking to enable a mini-van to park at the site;
 - Ambulance bay;
 - Loading dock with manoeuvring area;
 - Aged care amenities and facilities which will include:
 - Multi-function space,
 - Physiotherapy room;
 - Consulting rooms;
 - Hairdressing salon;
 - Reception and lobby area;
 - Administration, manager and staff rooms;
 - Strategically located lounge and dining areas for residents to enjoy outlooks to the landscaped gardens and terraces;
 - Nurse stations at each residential level;

- On-site facilities for provision of catering with full commercial kitchen and refrigeration/store rooms;
 - On-site linen services;
 - Plant areas;
 - Storage areas;
 - Staff amenities;
 - Lift access to each level of the building for all residents and users; and
- A landscaped garden setting with an area of some 2,271 square metres of landscaped open space to accommodate formal settings, outdoor seating, gardens which surround the built form extending towards the Hume Highway and Lang Road boundaries while at the same time fencing to provide a secure environment for residents.

This SEE report is submitted to:

Liverpool City Council

Address of land affected:

11-15 Lang Road, 76-80 Marsh Parade & 536-542 Hume Highway, Casula

This SEE has been prepared on behalf of the applicant Catholic Healthcare Limited (CHL) by Higgins Planning in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg.).

This SEE provides:

- A description of the site and locality;
- A description of the proposed development;
- An assessment of relevant environmental planning considerations under Section 79C of the EP&A Act including compliance with relevant planning instruments and controls, environmental impacts, site suitability and the public interest;
- Conclusions on the environmental planning assessment and merits of the proposed development on which the application can be supported and granted consent.

2. THE SITE

2.1 LOCATION AND CONTEXT

The site is located at 11-15 Lang Road, 76-80 Marsh Parade & 536-542 Hume Highway, Casula in the Liverpool City local government area (LGA). The land has frontages to Lang Road along its southern boundary, Marsh Parade along its northern boundary and the Hume Highway along its western boundary.

The site is located some 37 kilometres south-west of the Sydney CBD, 3.6 kilometres south of the Liverpool CBD and 1.3 kilometres to the east of Casula Mall, as shown in **Figure 1** below:

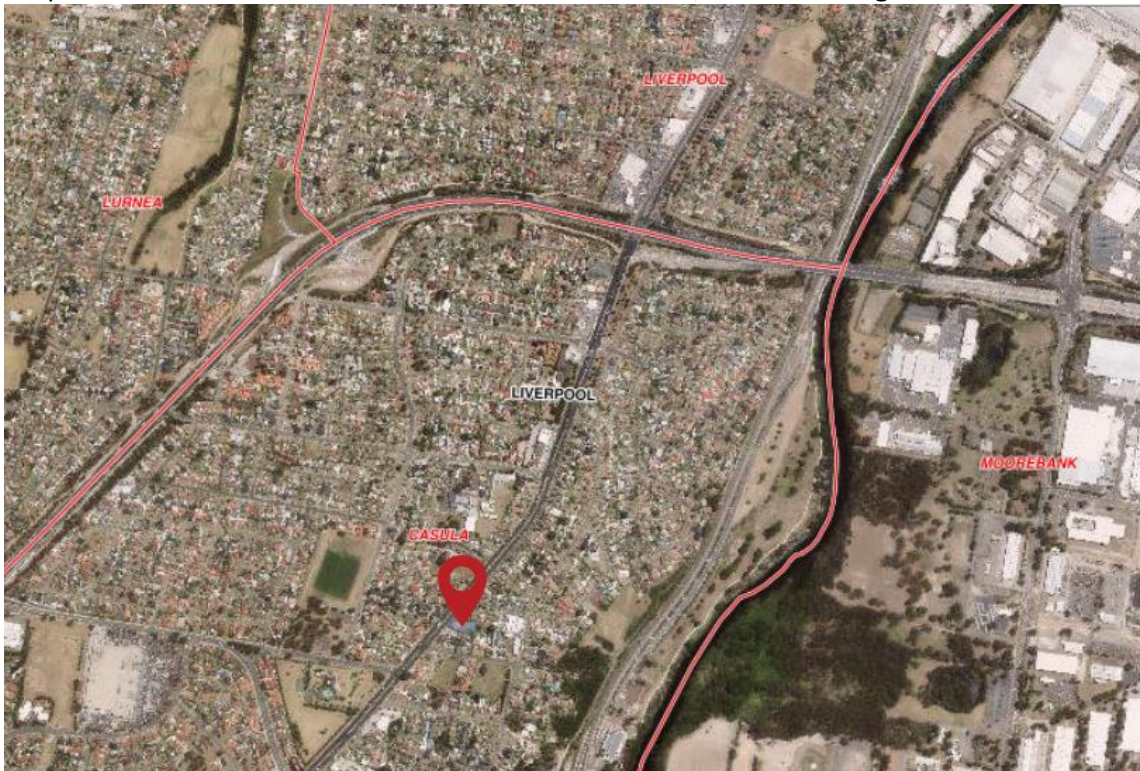


Figure 1: Location context (site shown with red marker)

Source: NSW Planning Viewer

Please see below in **Figure 2**, land currently owned by CHL.

Source: SiX

Table 1: Summary of CHL land the subject of this DA

| Street Address | Lot | DP |
|--------------------------|-----|--------|
| 11 Lang Road, Casula | 7 | 28819 |
| 13 Lang Road, Casula | 6 | 28819 |
| 15 Lang Road, Casula | 5 | 28819 |
| 76 Marsh Parade, Casula | 139 | 26304 |
| 78 Marsh Parade, Casula | 140 | 26304 |
| 80 Marsh Parade, Casula | 141 | 26304 |
| 536 Hume Highway, Casula | 4 | 28819 |
| 538 Hume Highway, Casula | 3 | 28819 |
| 540 Hume Highway, Casula | 2 | 28819 |
| 542 Hume Highway, Casula | 1 | 577831 |

2016.0053

The site has a frontage of some 124m to the Hume Highway, approximately 108m to Lang Road and 31.4m to Marsh Road. The site is not flat, and has a topography which increases in grade from the Marsh Road frontage to the Lang Road frontage along the Hume Highway boundary of approximately 4.94m. Indeed the site also has a cross fall from the corner of Lang Road with the Hume Highway to the north-east corner of the site at the Marsh Parade frontage of approximately 5.85m.

The site survey drawings are included at **Appendix A**.



Figure 3: Site cadastral relationship (site outlined in red)

Source: SiX

2.2 SURROUNDING DEVELOPMENT

The properties known as 9 Lang Road and 74 Marsh Parade, adjoins the site's eastern boundaries and contain dwelling houses. The dwelling house at 9 Lang Road also has a number of buildings in its rear yard which appears to be shed or garage structures which are connected to the principle residence and an in ground pool, while the dwelling house of 74 March Parade is setback some 19.5m from Marsh Parade, (which is significantly greater than the setback of the dwellings on 76 and 78 Marsh Parade which are some 7.5m from the Marsh Road frontage) and has a driveway adjacent to its western which connects to an open car port structure.

The land to the immediate north of the site on the opposite side of Marsh Parade is a "slip-lane" to the Hume Highway which services a number of dwelling houses. To the east of the site along Marsh Parade, the land has been developed for detached dwelling houses.

The land at the intersection of Marsh Parade with Canberra Avenue to the east of the site has been developed for a small neighbourhood centre, which is zoned B1 Neighbourhood Centre, which contains service related uses including a family day care centre, butcher, massage parlour, and real estate agency.

The land on the western side of the Hume Highway has been developed for detached dwelling houses.

The land to the south of the site at the corner of the Hume Highway and Lang Road has been developed for a detached dwelling house. The land on either side of Lang Road to the east and south of the site has been developed for detached dwelling houses, with the exception of 5 and 6 Lang Road which contain townhouse developments and next door to 5 Lang Road on the corner of Canberra Avenue a development site for town houses.

It should be noted that the applicant obtained approval via a Complying Development Certificate (CDC) to demolish the existing dwelling houses on all of the lots dated 7 February 2017. This demolition work commenced in March 2017 and is scheduled for completion in July 2017.

Photos 1 – 8 below demonstrate the former dwelling houses which existed on the subject site and adjoining site development.



Photo 1: View of former dwelling house at 11 Lang Road.



Photo 2: View of former dwelling house at 13 Lang Road.



Photo 3: View of former dwelling house at 15 Lang Road.



Photo 4: View of former dwelling house on the corner of Lang Road and Hume Highway (542 Hume Highway).



Photo 5: View of existing bus stop at frontage to 540 Hume Highway.



Photo 6: View of existing dwelling house on southern side of Lang Road at corner with Hume Highway (544 Hume Highway) and dwelling houses opposite intersection of Hume Highway with Lang Road.



Photo 7: View of existing dwelling house and car port at 74 Marsh Parade.



Photo 8: View of subject site at intersection of Marsh Parade with Hume Highway.

3. DESCRIPTION OF THE PROPOSED DEVELOPMENT

3.1 OVERVIEW OF THE PROPOSAL

The Development Application (DA) proposes the construction and operation of a Residential Aged Care Facility (RACF) development under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP) with the following details:

- Site preparation, removal of trees and bulk earthworks;
- Construction of an electrical substation;
- Construction of a 3 level building which will contain:
 - 144 one-bedroom residential aged care facility for high and dementia care residents, suitable to accommodate 144 residents;
 - A residential aged care building with a gross floor area of 7,953 square metres;
 - Ground level car parking for 35 cars inclusive of disabled parking of which 33 spaces are under cover;
 - Parking to enable a mini-van to park at the site;
 - Ambulance bay;
 - Loading dock with manoeuvring area;
 - Aged care amenities and facilities which will include:
 - Multi-function space,
 - Physiotherapy room;
 - Consulting rooms;
 - Hairdressing salon;
 - Reception and lobby area;
 - Administration, manager and staff rooms;
 - Strategically located lounge and dining areas for residents to enjoy outlooks to the landscaped gardens and terraces;
 - Nurse stations at each residential level;
 - On-site facilities for provision of catering with full commercial kitchen and refrigeration/store rooms;

- On-site linen services;
 - Plant areas;
 - Storage areas;
 - Staff amenities;
 - Lift access to each level of the building for all residents and users; and
- A landscaped garden setting with an area of some 2,271 square metres of landscaped open space to accommodate formal settings, outdoor seating, gardens which surround the built form extending towards the Hume Highway and Lang Road boundaries while at the same time fencing to provide a secure environment for residents.

3.2 CATHOLIC HEALTHCARE

Catholic Healthcare Limited (CHL) is a Commonwealth registered not-for-profit organisation, owner and operator of existing high-quality and award winning residential aged care facilities throughout New South Wales and Queensland. CHL currently operates 41 residential aged care facilities, 10 retirement living communities and 2 health care services, which provides services to more than 4,700 people in the community.

CHL was established in 1994 and their team have been operating in the aged care industry since 1998. These existing facilities offer a full range of services from high care, dementia care, extras services such as disabled services, palliative care, respite care and day respite care facilities.

Details about CHL and their existing facilities can be found at the following link:

<http://www.catholichealthcare.com.au/>

CHL seek to provide a superior designed residential aged care facility in Casula to provide increased opportunities for older members of the community who seek access to the high standards of care, allowing residents to age in place. Up to 40% of places will be made available for concessional residents as assisted affordable housing.

An example of the standard of living sought to be achieved at Casula is that which can be found at the existing residential aged care facilities at St Peters (Lane Cove), and Emmaus Village (Kemps Creek).

3.3 NEEDS ASSESSMENT

CHL have undertaken their own “Needs Assessment” to evaluate the proposed inclusion of a new RACF within the Liverpool City Local Government Area (LGA) which includes the following assessment:

Need for Residential Care

Within the 70 plus population, the South-West Sydney ACPR is identified as an area of need for residential aged care places of at least 1607 by the year 2026. The SA3 of Liverpool is currently classified as an ACAR Category 2 - High Need, with the SA2 subgroup of Casula forecasted to have a shortfall of - 655 places in 2021 and - 2276 places in 2026.

There is an ACPR Gap of 1135 beds in the Liverpool LGA by 2026.

When choosing a preferred residential aged care provider, non-geographic elements that may influence an individual's decision making process may include the fact that CHL is a not-for-profit faith based provider.

Financially and Socially Disadvantaged

The Socio-Economic Index for Areas Report (2013) identifies the index of relative socio-economic disadvantage in Australia, ranking Casula by need, in the 38th percentile (798/2104) and in NSW in the 48th percentile (248/521). This supports the need for services to cater for care recipients from financially and socially disadvantaged backgrounds. CHL maintains its commitment to meet the needs of older people within this group across the Casula SA2.

Dementia

The 2009 Deloitte Access Economics report identified dementia as one of the fastest growing sources of major disease burden. The number of people with dementia in NSW is projected to increase four fold from 84,000 in 2009 to 341,000 in 2050, and corresponds with the diagnosis of 26,000 new cases annually in NSW increasing to 116,000 new cases annually in 2050.

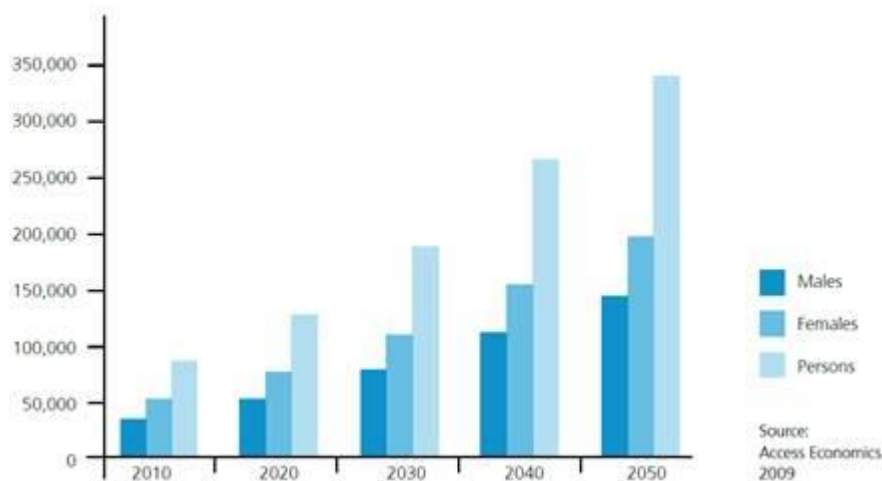


Figure 2 - Projected Prevalence of Dementia in NSW

Dementia prevalence in NSW by State Electoral Division (SED), indicates for Liverpool SED an estimated 781 people living with dementia in 2015, forecast to increase to 1004 by 2020 and reaching 3802 by 2050. This represents a growth in the incidence of diagnosed dementia of 487% by 2050.

CALD (Culturally and Linguistically Diverse)

The 2011 Australian Census data identified 36% of people aged 65 and over, were born outside Australia. Of these people, 61% were born in non-English speaking countries, with Italian (23%) and Greek (14%), the two most commonly spoken languages other than English.

The prevalence of dementia within the older CALD population in Australia is projected to increase more than three-fold, from approximately 35,000 in 2010 to 120,000 by 2050 (Report Brief 2, Older people from CALD backgrounds with dementia, FECCA, 2015).

In NSW, of the 16 ACPR, the top 5 most populated regions (by top 30 birthplace groups) are found within the Sydney metropolitan area. Of the 70^E NSW CALD population, 78% are found within these five regions:

- South-Eastern Sydney (23,585)
- South-Western Sydney (22,811) - ACPR for Casula

The three (3) most commonly spoken languages other than English are Italian, Vietnamese and Chinese

- Inner-Western Sydney (21,892)
- Western Sydney (19,108) and
- Northern Sydney (15,156)

As a not-for-profit aged care provider, CHL's strategic plan is responsive to the emerging needs of the CALD aged population, and its commitment to this Aged Care Planning Region is reflected in the significant investment proposed in the development of the CHLC.

CHL Casula is located in a neighbourhood comprising a mix of low-to-medium density residential housing and open space, and in close proximity to:

- Liverpool Hospital at Liverpool (4km)
- Multiple medical practices within Liverpool central business district
- Casula Railway Station within 500m
- Bus service within 100m to the Sydney central business district and surrounding suburbs
- Site frontage to Hume Highway (a major Sydney arterial road)
- Jardine Park (550m) and G&M Amalfi Memorial Park (2.8km)

The Casula site does not have any known environmental or heritage issues.

Within a 5km radius of CHLC, there are nine (9) residential aged care services located in Liverpool, Prestons, Chipping Norton and Hammondville, with a total of 661 beds.

The Social Impact Comment at **Appendix G** includes information to assist with the evaluation of the need for the project as well, which states in part:

...

The mix of housing will be improved, particularly in the context of wider trends including ageing of the population, and the commensurate demand for residential aged care accommodation. The Aged Care Approval Round (ACAR) is an annual competitive assessment process for releasing and allocating aged care places to approved aged care providers. The number of places released is governed by the Commonwealth's population-based aged care service provision target ratio.i

The residential aged care target ratio is reducing from 88 to 78 places per 1,000 people aged 70 and over, with that target to be achieved by 2021-22.ii As at June 2016, there were 77.5 residential care places in south west Sydney, less than the target of 78 places for 2021-22.iii The provision of aged care places is closely targeted, with the 2016-17 Aged Care Approvals Round Essential Guide identifying target locations at the SA3 level.iv The adjacent Fairfield and Campbelltown LGAs were identified as targets in the 2016-17 Aged Care Approvals Round Essential Guide.v

The SA3 of Liverpool is currently classified as an ACAR Category 2 – High Need, with the SA2 subgroup of Casula forecast to have a shortfall of 655 places in 2021 and 2,276 places in 2026. A gap of 1,135 beds is forecast in the Liverpool LGA by 2026.vi

Accordingly, it can be concluded that the approval of the aged care places will assist in meeting the demand for such accommodation in the locality.

...

All aged care services, whether or not they are certified, are required to meet the supported resident ratio - formerly known as the concessional resident ratio – which applies to their region. Sanctions may be applied to those services that do not meet the required ratio. Exceptions to the requirement are homes that provide only extra service or the distinct part of a home that provides extra service. Supported, concessional and assisted residents count towards the supported resident ratio.x

Notes:

i Australian Government Aged Care Financing Authority (2016) *Fourth Report on the Funding and Financing of the Aged Care Sector*, Glossary p. i.

ii *Ibid*, pages vii and xxiv.

iii https://agedcare.health.gov.au/sites/g/files/net1426/f/documents/09_2016/op_places_ratios_by_acpr.pdf accessed 6 March 2017.

iv Australian Government Department of Health 2016-17 *Aged Care Approvals Round Essential Guide*, page 62.

v *Ibid*, page 62.

vi Catholic Healthcare Limited (2016) *ACAR submission for Casula*.

vii <http://www.myagedcare.gov.au/costs/aged-care-homes-costs-explained> accessed 9 March 2017.

viii <http://www.myagedcare.gov.au/aged-care-homes-costs-explained/accommodation-payments> accessed 9 March 2017.

ix Department of Social Services (2014) *Information Booklet on Fees for Home Care Packages and Residential Aged Care for People entering care from 1 July 2014*, all rates as at May 2014.

x <https://agedcare.health.gov.au/tools-and-resources/ageing-and-aged-care-research-andstatistics/residential-care/supported-resident-ratios> accessed 9 March 2017.

The proposal seeks the inclusion of 40% of beds as concessional beds.

3.4 DEMOLITION

Demolition works were approved via a Complying Development Certificate (CDC) to demolish the existing dwelling houses on all of the lots dated 7 February 2017. This demolition work commenced in March 2017 and is scheduled for completion in July 2017. Any required construction management plan will be limited to works associated with the construction only of the RACF.

3.5 DETAILED DESCRIPTION OF PROPOSED NEW RESIDENTIAL AGED CARE FACILITY BUILDING

Ground Floor Level: is the lowest level of the residential aged care facility which can be accessed via the main driveway to the “porte cochere” for all pedestrians and visitor car parking area, with centrally located lifts for access to the residential levels. Refer to Drawing No. DA-2000. This level includes the following:

- Reception and café;
- Hair salon, consultation rooms, physiotherapy room, multifunction room;
- plant rooms;
- administration and staff amenities;

- under cover parking for 33 cars inclusive of disabled parking, and fully enclosed with roller shutter door loading dock area with internal manoeuvring area for service vehicles;
- commercial kitchen and associated facilities;
- linen service and associated facilities; and
- storage areas.

As a result of the site topography, this level of the building is excavated into the site mid-way between the Marsh Parade frontage and the Lang Road frontage. The finished level of the ground floor level has been carefully considered to create accessible paths as means for residents to access the main entry from Marsh Parade and to gain access to landscaped gardens for the residential rooms at level 1.

An electrical substation is required which is positioned adjacent to the driveway. The loading dock is fully enclosed with a roller shutter door to maintain security and at the same time contain noise. The internal manoeuvring area and access to the car parking are also located on the ground floor level.

As shown in the landscape concept design, the driveway to the loading dock will be suitably screened from both the adjoining property to the east and the Marsh Parade public street frontage.

Level 1 floor Plan: has been designed to include 72 rooms, resident facilities such as dining areas and lounge areas overlooking courtyard areas, nurses stations, in addition to utility and storage spaces associated with administration and other functions required for the aged care facility. The design a secure area and rooms suitable to enable residents whose dementia requires increased support to remain on-site rather than relocate to another facility. Refer to Drawing No. DA-2001.

Level 2 floor Plan: has been designed to include 72 rooms, resident facilities such as dining areas and lounge areas overlooking courtyard areas and terraces, nurses stations, chapel, in addition to utility and storage spaces associated with administration and other functions required for the aged care facility with a lift foyer providing a central visual link through this level of the building. Refer to Drawing No. DA-2002.

A reduced set of the architectural drawings prepared for the project by Group GSA can be found in **Appendix B**.

In addition, Group GSA has prepared an architectural design report and statement which demonstrates the principles which have underpinned the design development of the RACF, both included in **Appendix C**.

The design of the proposed development is unique for CHL given the topographical site features. The team from Group GSA have developed a design to respond to the site's unique characteristics, which is also mindful of the objectives sought by the client, while at the same time designing a modern state of the art RACF under the provision of the Seniors Housing SEPP.

The existing vegetation has been considered in terms of its significance and its ability to be integrated where possible into a new design. The existing vegetation has been assessed in various design options and given the assessment information which accompanies this DA as prepared by the arborist in **Appendix N**, a decision was made that the proposed redevelopment should create a renewed streetscape inclusive of replacement trees and vegetation so as to provide for a coordinated site renewal.

The design statement includes details of the finishes and material proposed to be included in the streetscape presentation and details the design rationale for the project, along with details of the articulation of each residential cluster in the design of the building, so as to create a variable street setback to each street frontage. The architectural design statement at **Appendix C** advises in part:

...

The façade design gives sense of identity to the building and a strong yet refined presence to the street. The building addresses the main corners of the site to Hume Highway and the entry/chapel façade that blends into the porte cochere awning offers an elegant and well-integrated character to the main entry of the building. The opposite corner to Lange Road utilizes a large communal space to create a strong architectural statement that addresses the street while creating an important feature to the end of the built form.



Figure 4: Computer rendered image of proposed RACF viewed from corner of Hume Highway and Marsh Parade

Source: Group GSA

The architectural design statement at **Appendix C** further advises in part:

The façade detailing is simple yet varied with material finishes that provide a modern Australian residential aesthetic with a focus on using a combination of masonry, metal and natural materials that offer a clean and contemporary appearance, with low-maintenance requirements. The window and façade details will directly address the noise generated by the busy Hume Highway, ensuring comfort for residents. The inclusion of clerestory roof forms allows natural light to penetrate the internal corridor and communal spaces.



Figure 5: Computer rendered image of proposed RACF viewed from corner of Hume Highway and Lang Road

Source: Group GSA

3.6 SITE TOPOGRAPHY, BUILDING HEIGHT AND SETBACKS

As described previously, the site has a topography which involves a cross fall between the high point at the corner of the Hume Highway with Lang Road of RL 44.02 to a low point of the site's north-east corner at Marsh Parade of RL 38.17, which is 5.85m.

The change in topography is significant and should be considered in terms of built form, being slightly greater than a "storey" across the site. This has required careful consideration in the design for the RACF to ensure disabled access throughout the building. Pedestrian access is designed to comply with the Australian Standard, while at the same time a ground floor level which accommodates a suitable finished level to allow for car access into the site from Marsh Road.

The ground floor level of the design includes all the "back of house", storage and administration rooms within an excavated zone underneath the purposed building so as to reduce the overall bulk and scale of the building when viewed from adjoining properties and each street frontage.

The design of the building involves 3 levels with a height at its highest point, being RL51.648 to natural ground level RL38.30. The maximum height of the building overall is 13.135m at its highest point.

The proposed Residential Aged Care Facility (RACF) has a height above existing ground level to the ceiling of the top most floor of RL48.5 to existing natural ground level at RL38.30 is some 10.2m.

The design of the RACF includes providing all of the floor space used for service activities below existing natural ground level underneath the building, and while it represents a storey, the design seeks to minimise this projection.

As such, the RACF presents as a 2 level building when viewed from Lang Road and the Hume Highway, and 3 level building when viewed from Marsh Parade and the corner of Marsh Parade with the Hume Highway.

The building setbacks from the site boundaries are shown in **Table 2** as follows:

Table 2: Summary of building setbacks from site boundaries

| Boundary | Proposed |
|----------------------------------|--|
| Northern (Marsh Parade) | Minimum 11.64m and 13.268m, and variable increase at level 1 by some 2.0m and a further approximate increase of 3.5m at level 2 to accommodate a terrace area at each level, and at the same time provide for façade articulation. |
| Eastern (74 Marsh Parade) | Minimum 7.22m and variable increases to approximately 10.5m with façade articulation and provision of landscaped area. |
| Eastern (9 Lang Road) | Minimum 6.2m and variable increases to approximately 7.16 to provide façade articulation and provision of landscaped area. |
| Southern (Lang Road) | Generally 6m with the exception of window at the end of corridors to each cluster with provision of landscaped areas and courtyards providing internal façade articulation. |
| Western (Hume Highway) | Minimum 7m and variable increases to 7.321m in part, 7.528m, and 11.307m for façade articulation. |

3.7 LAND USE AND FLOOR SPACE SUMMARY

When construction of the building has been completed CHL wishes to operate the site for the purposes of a residential aged care facility with the ancillary facilities shown in the drawings.

Based on the design by Group GSA the overall development has a Gross Floor Area of 7,953m² and is equivalent to a Floor Space Ratio (FSR) of 0.92:1 given the site area is 8,564m². This complies with the maximum permitted 1:1 FSR under the Seniors Housing SEPP.

The proposed uses and gross leasable floor area (GFA) of the proposed development are identified in Table 3.

Table 3: Summary of Land uses and gross leasable floor areas for the proposed development

| Land Uses | GFA |
|---|---------------------------|
| Ground Floor (excluding any floor space below ground level that is used for service activities provided by the facility) - RACF | 638m ² |
| Level 1 - RACF | 3,708m ² |
| Level 2 - RACF | 3,607m ² |
| Total | 7,953m² |

3.8 VEGETATION AND LANDSCAPING

The proposal does involve the removal of trees in the foot print of the proposed RACF building, and protection of trees around the perimeter so as significant existing trees will be integrated into the renewed landscape setting along the street-edges.

All trees, both within the subject site and those which may be impacted outside of the subject site, have been assessed by an arborist in terms of the proposed development, as detailed within the report included at **Appendix N**.

The subject site does not contain any threatened species or significant vegetation.

The Arborist Report as included at **Appendix N** of this SEE which advises in part:

ABSTRACT

The proposal will require five (5) streetscape trees to be preserved and protected, but all smaller vegetation and trees on site will be removed for the development. Noxious weeds, small plants and trees of value are included in this assessment. Seven (7) trees will remain T14, T15, T16, T83, T85, T86 and T87 being either streetscape on Lang Road and Marsh Parade Casula or within a neighboring property. These will be protected utilizing Tree fencing or trunk protection with mulch.

Of the Eighty-six (86) trees and small shrubs (including groups) assessed by the AQF level 5 arborists, Seventy nine (79) trees and shrubs will be impacted and removed. These trees will be replenished within the landscape plan which requires production of plans for comment. The trees removed will be replenished with thirty five (35) x 70mm & 45mm potted volume indigenous plants according to the Landscape MasterPlan and selected from indigenous plants in Appendix G. Forty low, moderate and high value planted trees are to be removed and five of these trees are not necessarily classified as trees but shrubs, succulent cacti and hedge plantings which have low value (T4, -Palm, T47&T74- toxic shrub, T53 hedge & T54 cacti-succulent).

...

1.7. Tree trunk protection would be specified for Trees numbered 14, 15, 16 & 83&85 (street trees) with 2 metre lengths of hardwood and hessian or underlay protecting the tree trunks. These hardwood lengths must be of 100mmx50mm and have a gap of 150mm to allow for aeration to the stem. It would also be advised to mulch within the Tree Protection zones of preserved trees on site with Certified clean Eucalyptus sp. mulch deposited at 75mm depth within the setback area.

1.8 Storage of materials and hoardings are kept out of the tree protection zones of preserved trees.

...

CONCLUSION

Remove seventy-nine (79) trees and replenish with thirty five (35) trees medium and large sized trees with and preserve and protect amenity value trees on the streetscape and the nature strip numbered 14,15,16, 83,85,86&,87planned for retention. The trees selected for removal are of moderate value or low value with one high value tree and one moderate to high value tree impacted and removed.

Given this assessment from the arborist, the applicant has prepared Landscape Concept Drawings and a Landscape Design Report (refer to **Appendix D**) for the site which includes replacement trees and vegetation in a coordinated renewal of the site, as recommended in the arborist report.

The proposal involves replacement trees in deep soils zones around the perimeter of the site and in suitable locations within courtyard areas.

A total of 2,277 square metres of landscaped open space is included in the proposed development which is equivalent to approximately 26.5% of the total site area.

3.9 STORMWATER MANAGEMENT

A stormwater management plan for the site is included in **Appendix E**. The proposed stormwater management plan has been designed to address Council's requirements. In addition, water quality has been considered in accordance with Council's DCP and a stormwater management report has been prepared which also includes MUSIC modelling.

Civil design drawings have been prepared to manage an existing overland stormwater flow which is adjacent to the eastern boundary of the site from the Lang Road frontage to the Marsh Parade frontage, with the proposed landscape design accommodating appropriate plantings to ensure overland flow is not adversely affected and at the same time provide for suitable privacy screening planting to grow. Please refer to the stormwater design drawings at **Appendix E**.

In addition, concept civil design drawings including cut and fill information have been prepared as included at **Appendix P**.

3.10 TRAFFIC, VEHICLE AND TRUCK ACCESS, AND PARKING

3.10.1 Pedestrian and disabled access

The proposed development includes pedestrian and disabled access off both Marsh Parade and Lang Road, and throughout each level of the RACF building via two lifts. Disabled access requirements of the Australian Standard required under the BCA have been considered for the RACF, and a BCA report is included in **Appendix I** in this SEE report.

3.10.2 Vehicle access and parking

One driveway is proposed off Marsh Parade to ground level car parking and servicing in the proposed development as shown in the appended architectural drawings.

The proposed development includes a total of 33 car spaces in an undercover parking area, along with two at-grade parking spaces should a mini-van for transporting residents to local facilities visit the site or an ambulance attend the site.

3.11 SITE MANAGEMENT

The proposed residential aged care facility will be owned, operated and managed by the applicant CHL. As residents will be located within the facility on a permanent basis as their home in the later stages of ageing, the RACF will operate 24 hours a day, 7 days a week.

3.11.1 Staffing

The residential aged care facility will employ a total of 41 staff in full-time, part-time and casual roles. Shift rotations will be staggered to ensure that change over periods minimise the movement of cars in the basement, ensure availability for staff to park and any associated impacts. This arrangement for staggered shift change over periods is in operation at existing CHL facilities and management practices work to ensure that no impact occurs to adjoining properties.

3.11.2 Waste management

An operational waste management plan is included in **Appendix L**. A waste management room is proposed in the ground floor level, and waste collection is proposed with private contractors within the access driveway and servicing area off Marsh Parade. Staff will be responsible for transferring waste from the RACF operational levels of the building to the storage room and waste collection area at the Marsh Parade frontage. In addition, a preliminary demolition and construction management plan is also included in **Appendix L**. A detailed demolition and construction management plan can be supplied by the appointed builder prior to the issue of a Construction Certificate.

3.11.3 Security and access control

The proposed development will be fitted with access controls including secure doors with electronic key access at all access points including both the pedestrian and disabled access points and vehicle access point.

3.11.4 Demolition and Tree Removal

Demolition of existing dwelling house buildings has already commenced on receipt of the CDC. This includes all remaining site structures including concreted areas, pathways, sheds and driveways.

3.12 SITE IDENTIFICATION SIGNAGE

CHL identification signage is proposed to be placed on the Marsh Parade frontage and at corner of Lang Road with Hume Highway. Both of these signs are flush to the wall, illuminated, include business identification information being the words “Catholic Healthcare” and the CHL logo with the following dimensions 3.209m x 1.000m.

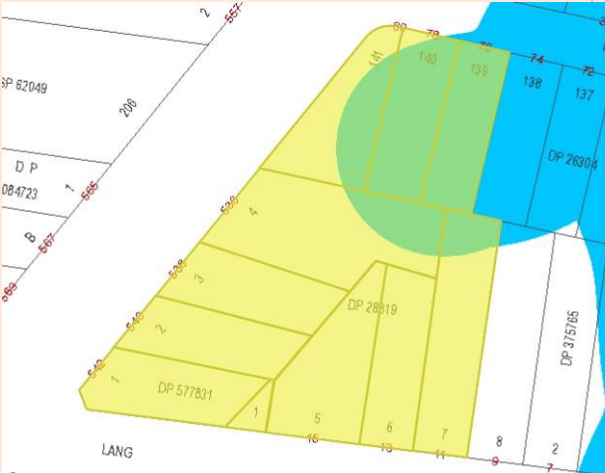
3.13 UTILITIES

The site has access to connections to existing utility service infrastructure including water, sewer, gas, electricity and telecommunications which can be augmented, as required.

3.14 PRE-LODGEMENT MEETING WITH COUNCIL

A pre-lodgement meeting was held with Council on 23 November 2016. A copy of the pre-lodgement meeting notes can be found at **Appendix R**. Table 4 below summarises the matters raised during the pre-lodgement meeting and the applicant’s responses in this DA package:

Table 4: Summary of Pre-lodgement meeting notes and Applicant Responses

| Council Meeting Notes | Applicant’s Response |
|---|---|
| <p>Statutory Planning</p> <ul style="list-style-type: none"> Pursuant to the SEPP (Housing for Seniors or People with a Disability) 2004 Clause 33(g), the proposed development should be designed so that no building is constructed in a riparian zone. Councils internal mapping system shows part of the site to be within an identified riparian corridor, as follows:  | <p>It has been clarified with Council that the site is adjacent to a “low point” in Marsh Parade roadway, and an overland stormwater flow path has been accommodated through the site. However, these are not identified as “riparian zones or corridors” for the purposes of definitions under the Senior Housing SEPP. Please refer to the Stormwater Management Report at Appendix E.</p> |
| <ul style="list-style-type: none"> Where the proposal does not comply with a SEPP (Housing for Seniors or People with a Disability) 2004 development standard, a request to vary a development standard pursuant to SEPP 1 is to be submitted with a DA. <p>Where the equivalent development standard in the LLEP 2008 is also breached, a separate</p> | <p>The proposed RACF seeks the minor variation of some of the provisions of the Seniors Housing SEPP.</p> <p>Please refer to Appendices S, T, U and V for Formal SEPP 1 objections to: storeys and ceiling height, distance to the bus stop for the forward journey to Liverpool City centre, and the landscaped area</p> |

| Council Meeting Notes | Applicant's Response |
|---|---|
| <p><i>Clause 4.6 Variation is also required to be submitted.</i></p> | <p>provision for each proposed room/bed under the Seniors Housing SEPP.</p> <p>The proposal involves an overall height of approximately 13.1m, which compared to the Height of Building maximum permitted control under the Liverpool Local Environmental Plan 2008.</p> <p>Please refer to Appendix W for a Clause 4.6 variation request to Clause 4.3 Height of Building control under the Liverpool Local Environmental Plan 2008, and Appendix X for a Clause 4.6 variation request to Clause 4.4 Floor Space Ratio control under the Liverpool Local Environmental Plan 2008</p> |
| <ul style="list-style-type: none"> <i>Details of internal floor layouts should be provided to demonstrate that there will be no conflicts created by pedestrian movements from the lifts to the bedrooms passing through the lounge/dining areas. This particularly applies to clusters 1 and 3.</i> | <p>Refer to architectural drawings at Appendix B and BCA Report at Appendix I.</p> |
| <ul style="list-style-type: none"> <i>Council has concerns in regard to solar access to the main garden/outdoor space areas given that these areas have a Southern orientation. Comprehensive shadow diagrams should be prepared and submitted to demonstrate an adequate solar access is available.</i> | <p>Refer to the architectural drawings at Appendix B and the architectural design report at Appendix C.</p> |
| <ul style="list-style-type: none"> <i>Car parking for the development shall comply with the requirements of the SEPP (Housing for Seniors or People with a Disability) 2004 Clause 48(d).</i> | <p>Car parking has been designed to comply with the minimum requirements of the Seniors Housing SEPP and is discussed within the Traffic and Parking Report included at Appendix K.</p> |
| <ul style="list-style-type: none"> <i>The proposed development includes residential rooms directly overlooking the existing dwellings and private open spaces located on the adjoining properties. The development would result in a loss of privacy to the adjoining properties. The DA should address privacy and amenity to adjoining residential properties.</i> | <p>The design includes the provision of privacy screen devices as detailed on the "eastern elevation" in drawing DA-3001 A to windows and the terraces, refer to Appendix B.</p> |
| <ul style="list-style-type: none"> <i>Clusters 2 and 3 are oriented to directly face each other. Measures should be implemented to eliminate opportunities for direct sight lines and overlooking into residents private rooms to maximise privacy and amenity for future residents.</i> | <p>The design includes information to address this matter within the architectural drawings included in Appendix B, the architectural design report at Appendix C and the landscape report at Appendix D.</p> |
| <ul style="list-style-type: none"> <i>The building should be broken up and articulated to avoid long building walls addressing frontages.</i> | <p>The design includes façade articulations along each elevation, as detailed within the architectural drawings at Appendix B and the architectural design report in Appendix C.</p> |

| Council Meeting Notes | Applicant's Response |
|---|--|
| <ul style="list-style-type: none"> <i>The prominent location of the site on the Hume Highway triggers the need to provide a high quality streetscape elevation and landscape design. Landscaping will play a significant role in breaking up the built form and providing a visual and acoustic buffer to the highway for residents of the facility. Landscaping should also be provided along adjacent residential property boundaries for privacy and to reduce the visual impact of the development on existing residential properties.</i> | <p>The design includes both fencing treatments and façade treatments to achieve a balance between achieving acoustic amenity and privacy for future residents while at the same time showcasing the architecture of the proposed building when viewed from the Hume Highway frontage. Please see the acoustic report at Appendix J which recommendations have been adopted for the project.</p> |
| <ul style="list-style-type: none"> <i>An acoustic report, prepared by a suitably qualified person, is to be submitted demonstrating compliance with the SEPP (Infrastructure) 2007 and relevant Australian Standards.</i> | <p>Please see the acoustic report at Appendix J which recommendations have been adopted for the project.</p> |
| <ul style="list-style-type: none"> <i>Where possible, trees and natural vegetation should be retained. Where this is impractical, replacement landscape planting should be provided, including a mix of native vegetation and semi-mature trees.</i> | <p>Please see the arborist report at Appendix N which recommendations have been adopted for the project.</p> |
| <ul style="list-style-type: none"> <i>The subject site is identified to contain Class 5 Acid Sulphate Soils and is located within 500m of an adjoining Class 1 Acid Sulphate Soils zone. Where works occur below 5m AHD by which the water table is likely to be lowered below 1m AHD, an Acid Sulphate Soils Management Plan is to be submitted.</i> | <p>This matter is discussed in more detail in Section 4 of this report and information is included within the Geotechnical report at Appendix M.</p> |
| <ul style="list-style-type: none"> <i>The applicant should consult with Sydney Water regarding the location of sewer mains and intensification of services prior to lodgement of a DA.</i> | <p>Noted, the applicant's design team have commenced liaising with Sydney Water.</p> |
| <ul style="list-style-type: none"> <i>The applicant should consult with Endeavour Energy regarding intensification of services.</i> | <p>Noted, the applicant's design team have commenced liaising with Endeavour Energy.</p> |
| <ul style="list-style-type: none"> <i>The DA shall include the details of any signage associated with the proposal. A compliance table addressing SEPP 64 should be included in the SEE.</i> | <p>Please see section 4 of this report.</p> |
| <p>Stormwater</p> <ul style="list-style-type: none"> <i>Stormwater drainage for the site must be in accordance with Council's Development Control Plan.</i> | <p>Refer to Appendix E</p> |

| Council Meeting Notes | Applicant's Response |
|---|--|
| <ul style="list-style-type: none"> A stormwater concept plan shall be submitted with the application. | Refer to Appendix E |
| <ul style="list-style-type: none"> The stormwater concept plan shall be accompanied by a supporting report and calculations. | Refer to Appendix E |
| <ul style="list-style-type: none"> On-Site Detention (OSD) may be required if there is an increase in impervious area. An assessment of the pre- development and post-development impervious area must be made as part of the DA submission. The OSD system must be within common property and accessible from the street without going through dwellings or private courtyards. | Refer to Appendix E |
| <ul style="list-style-type: none"> There is a defined overland flow path crossing the site. The applicant will need to demonstrate that the existing overland flow path is managed safely through the site without any impact to adjoining properties. | Refer to Appendix E |
| <ul style="list-style-type: none"> A water quality treatment device shall be provided in accordance with Council's Development Control Plan. | Refer to Appendix E |
| <ul style="list-style-type: none"> Music modelling and report for water quality treatment | Refer to Appendix E |
| Traffic and Access | Refer to Appendix K |
| <ul style="list-style-type: none"> A Traffic Impact Statement, prepared by a suitably qualified person, addressing traffic generation, impacts on the surrounding road network and parking provision is to be submitted. | |
| <ul style="list-style-type: none"> Parking provision of 1 parking space for each 10 beds in the residential care facility, and 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and 1 parking space suitable for an ambulance. | Refer to Appendix K |
| <ul style="list-style-type: none"> The access should be via a single driveway servicing the proposed development. | Refer to Appendix K and architectural drawings at Appendix B . |
| <ul style="list-style-type: none"> Driveway access, car parking and manoeuvring is to comply with the SEPP, DCP and AS2890. | Refer to Appendix K |
| <ul style="list-style-type: none"> The application shall be supported by turning paths in accordance with AS2890 clearly | Refer to Appendix K |

| Council Meeting Notes | Applicant's Response |
|---|----------------------------|
| <i>demonstrating satisfactory manoeuvring on-site and forward entry and exit to and from the public road.</i> | |
| <ul style="list-style-type: none"> • <i>Clear delineation of driveway access and internal circulation.</i> | Refer to Appendix K |
| <ul style="list-style-type: none"> • <i>A safe pedestrian walk way is to be provided.</i> | Refer to Appendix K |
| <ul style="list-style-type: none"> • <i>The proposed development shall be designed to be serviced by a Small Rigid Vehicle.</i> | Refer to Appendix K |
| Earthworks <ul style="list-style-type: none"> • <i>No retaining walls or filling is permitted for this development which will impede, divert or concentrate stormwater runoff passing through the site.</i> | Refer to Appendix P |
| <ul style="list-style-type: none"> • <i>Earthworks and retaining walls must comply with Council's Development Control Plan.</i> | Refer to Appendix P |
| <ul style="list-style-type: none"> • <i>The application is to be supported by a geotechnical report prepared by a suitably qualified person to address salinity.</i> | Refer to Appendix P |
| <ul style="list-style-type: none"> • <i>Proposed fill material must comply with Council's Development Control Plan.</i> | Refer to Appendix P |

4. ENVIRONMENTAL ASSESSMENT

4.1 COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT

The application is not considered to trigger a controlled action under the *Commonwealth Environment Protection and Biodiversity Conservation Act* (EPBC Act).

4.2 NSW ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (EP&A ACT)

The following section of this SEE report provides an assessment against the relevant provisions of the EP&A Act:

4.2.1 Section 23G of the EP&A Act - Joint Regional Planning Panels

Pursuant to Section 23G of the EP&A Act, the Minister by Order as published, constituted the District Panel to determine any DA with a Capital Investment Value (CIV) greater than \$20 million on land within the local government area of Liverpool City Council. The proposed development does involve works with a value of some \$27,727,960 (refer to **Appendix O** for CIV QS letter). Therefore the proposal has a CIV more than \$20 million, and does trigger the determining authority as the District Panel, rather than Council as the determining authority.

4.2.2 Section 79B of the EP&A Act - Concurrence

The proposed development does not trigger any concurrences.

4.2.3 Section 79C of the EP&A Act - Evaluation

This section of the SEE provides an assessment of the relevant environmental planning issues associated with the proposed development in accordance with Section 79C(1) of the EP&A Act, which states:

79C(1) Matters for consideration – general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

- that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

4.3 SECTION 79C(1)(A)(I) – ENVIRONMENTAL PLANNING INSTRUMENTS

The following environmental planning instruments have been considered in the assessment and preparation of this application:

- *Liverpool Local Environmental Plan 2008 (LLEP);*
- *Greater Sydney Regional Environmental Plan No. 2 – Georges River (No 2-1997);*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP);*
- *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP);*
- *State Environmental Planning Policy No. 1 – Development Standards (SEPP 1);*
- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55); and*
- *State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64).*

4.3.1 Liverpool Local Environmental Plan 2008

The main environmental planning instrument applying to the proposed development is Liverpool Local Environmental Plan 2008 (LLEP). The following sections undertake an assessment of the proposal against the relevant provisions of the LLEP.

4.3.1.1 Clause 2.1 – Land use zones

The subject site on which the proposed building and use are to be located on land zoned R3 Medium Density Residential under the LLEP Land Zoning Map, as shown in **Figure 6** below.

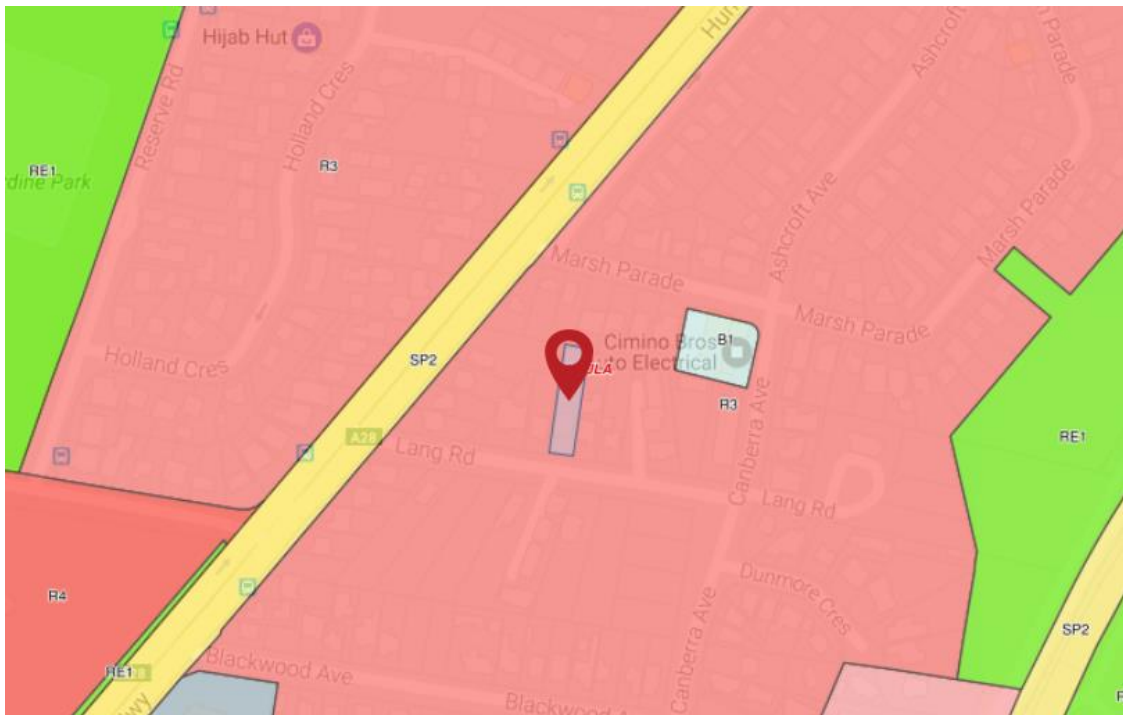


Figure 6: LLEP Land Zoning Map extract

Source: NSW Planning Portal

4.3.1.2 Land use table

The **Land use table** of the LLEP states as follows in relation to the R3 Medium Density Residential zone:

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for a concentration of housing with access to services and facilities.
- To provide for a suitable visual transition between high density residential areas and lower density areas.
- To ensure that a high level of residential amenity is achieved and maintained.

2 Permitted without consent

Home-based child care; Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Educational establishments; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home businesses; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Residential care facilities; Respite day care centres; Roads; Secondary dwellings; Semi-detached dwellings; Seniors housing; Shop top housing

4 Prohibited

Any development not specified in item 2 or 3

Under the dictionary for the LLEP 2008, the term “seniors housing” is defined as follows:

seniors housing means a building or place that is:

- (a) a residential care facility, or
 - (b) a hostel within the meaning of clause 12 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, or
 - (c) a group of self-contained dwellings, or
 - (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c),
- and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
 - (f) people who live in the same household with seniors or people who have a disability, or
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place,
- but does not include a hospital.

*Note. Seniors housing is a type of **residential accommodation**—see the definition of that term in this Dictionary*

It is considered that the proposed form of development could be defined as a “residential care facility”, being a type of seniors housing. While the R3 Medium Density Residential zoning does permit “seniors housing”, the proposed development will rely on the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP)* for permissibility and consequently the development standards under the Seniors Housing SEPP.

The proposed development is consistent with the objectives of the R3 Medium Density Residential zone, as demonstrated in **Table 5** below.

Table 5: Assessment of the proposed development against the zone objectives – R3 Medium Density Residential zone under the LLEP

| R3 Medium Density Residential zone - Comment objectives | |
|---|---|
| <ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a medium density residential environment.</i> | The research undertaken for CHL has identified as discussed previously the need for residential aged care in the form of development as proposed by the applicant being a RACF, being a medium density form of housing consistent with the objective. |
| <ul style="list-style-type: none"> <i>To provide a variety of housing types within a medium density residential environment.</i> | The form of development as a RACF is a type of “seniors housing” which is listed as a residential housing permitted within the R3 zone and is therefore consistent with the objective. |
| <ul style="list-style-type: none"> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> | The building includes ancillary uses as part of the overall support for the RACF to meet the day to day needs of future residents and their visitors being consistent with the objective. |
| <ul style="list-style-type: none"> <i>To provide for a concentration of housing with access to services and facilities.</i> | The proposed building has access to services and facilities. |
| <ul style="list-style-type: none"> <i>To provide for a suitable visual transition between high density residential areas and lower density areas.</i> | The design includes setbacks and privacy louvers, along with levels to accommodate the site topography to provide for a suitable transition. |
| <ul style="list-style-type: none"> <i>To ensure that a high level of residential amenity is achieved and maintained.</i> | The design seeks to provide for a high level of internal amenity as detailed in the architectural design report at Appendix C , which is consistent with the objective. |

As such, it is considered that Council can support the proposed development as a form of development permitted within the R3 Medium Density Residential zone subject to consent.

4.3.1.3 Clause 4.3 Height of buildings

The subject site is granted a maximum permissible building height of 8.5m under the LLEP Height of Buildings mapping where the designation I = 8.5m, as shown in extract from the Height of Building Mapping in **Figure 7**.

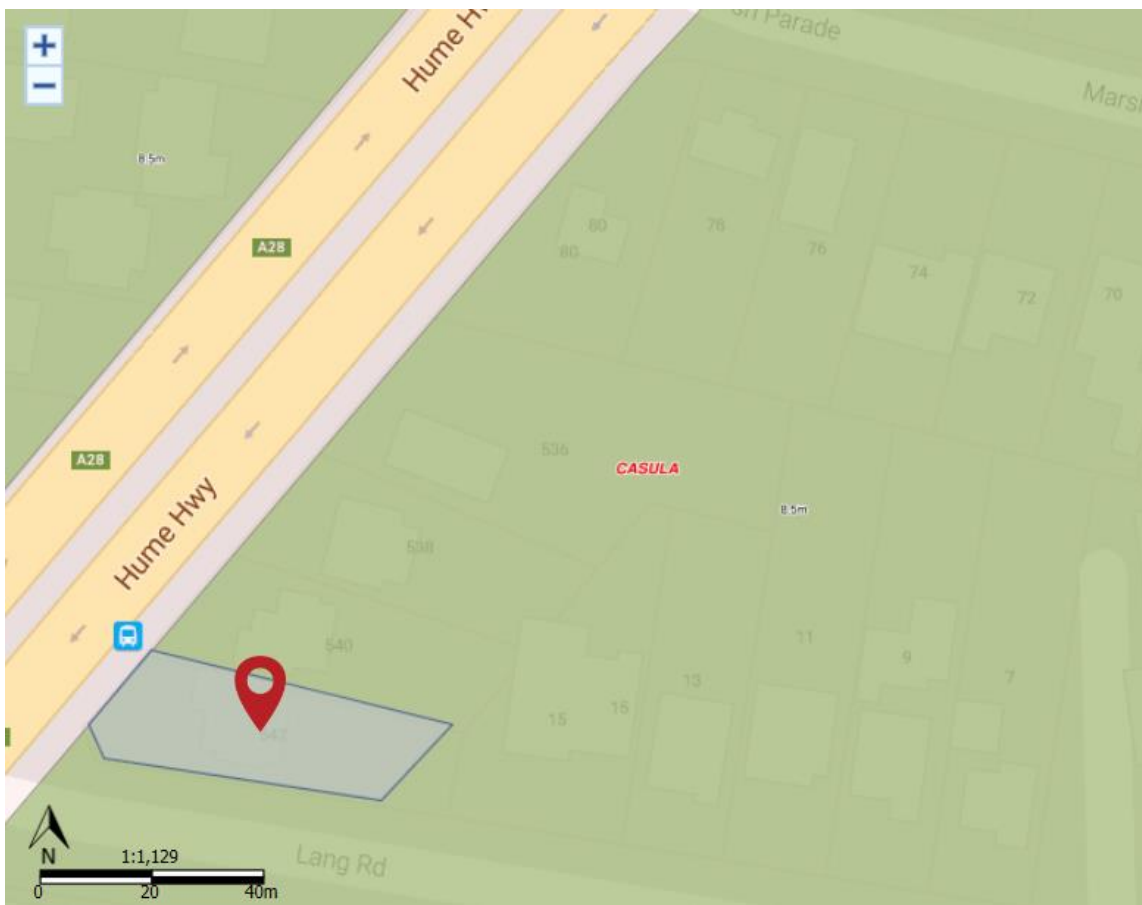


Figure 7: Extract from LLEP 2008 HOB map showing the 8.5m HOB control

Source: NSW Planning Portal

Clause 4.3 states as follows:

4.3 Height of buildings

(1) *The objectives of this clause are as follows:*

- (a) *to ensure the height of buildings is compatible with that of adjoining development and the overall streetscape,*
- (b) *to minimise the impact of overshadowing, visual impact, and loss of privacy on adjoining properties and open space areas.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The design of the building involves 3 levels with a height at its highest roof point, being RL51.648 to natural ground level RL38.30. The maximum height of the building overall is 13.135m.

It is considered that as the proposal involves a Residential Aged Care Facility under the provisions of the Seniors Housing SEPP, which includes design controls for the height of a building, which the provisions of the Seniors Housing SEPP prevail over the height control under the LLEP 2008. Despite this, a variation to the LLEP Height of Buildings control has been prepared under the provisions of Clause 4.6 of the LLEP 2008, is requested to vary the height control. Refer to **Appendix W**.

This has been discussed in detail with respect to the controls associated with the Seniors Housing SEPP in the following sections.

4.3.1.4 Clause 4.4 Floor Space Ratio

The maximum permitted Floor Space Ratio (FSR) for the site is 0.5:1 under the LLEP Floor Space Ratio map, as shown in **Figure 8**.

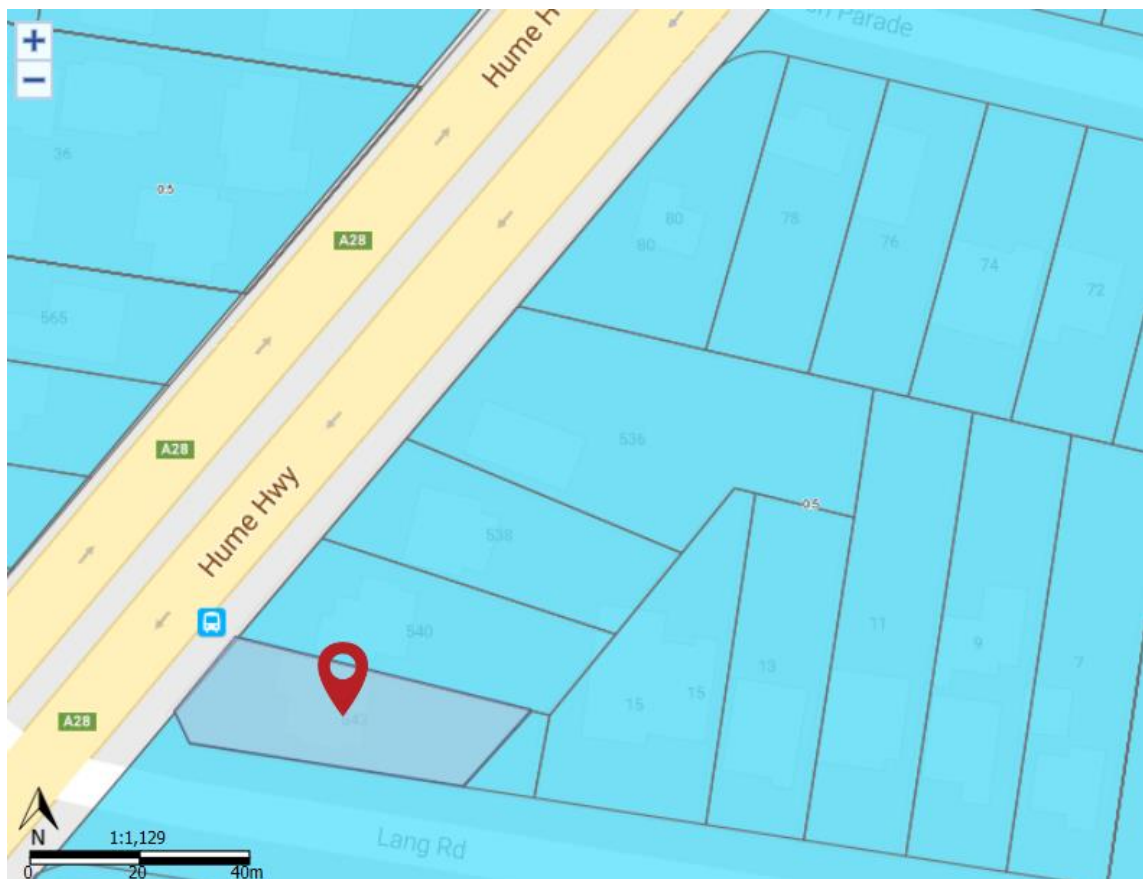


Figure 8: Extract from LLEP 2008 FSR map showing the 0.5:1 FSR control

Source: NSW Planning Portal

The design of the proposed development has had consideration of this control, and the proposal exceeds the 0.5:1 provision under the LLEP 2008.

It is considered that as the proposal involves a Residential Aged Care Facility under the provisions of the Seniors Housing SEPP, which includes design controls for the FSR of a building, the provisions of the Seniors Housing SEPP prevail over the FSR control under the LLEP 2008. The FSR of the proposed development has been calculated using the definition in the Seniors Housing SEPP at 0.92:1. Despite this, a variation to the LLEP FSR control has been prepared under the provisions of Clause 4.6 of the LLEP 2008, is requested to vary the FSR control. Refer to **Appendix X**.

4.3.1.5 Clause 5.9 Preservation of Trees or Vegetation

Clause 5.9 of the LLEP 2008 states:

5.9 Preservation of trees or vegetation

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

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

- (a) development consent, or*
- (b) a permit granted by the Council.*

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

- (a) that is or forms part of a heritage item or that is within a heritage conservation area, or*
- (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,*
unless the Council is satisfied that the proposed activity:
 - (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and*
 - (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.*

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

- (a) the clearing of native vegetation:*
 - (i) that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003, or*
 - (ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or*
- (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or*
- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or*
- (d) action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying and Spatial Information Act 2002, or*

(e) plants declared to be noxious weeds under the Noxious Weeds Act 1993.

Note. Permissibility may be a matter that is determined by or under any of these Acts.

An arborist has assessed all of the trees within the site, refer to **Appendix N**.

The Arborist Report as included at **Appendix N** of this SEE, advises in part:

ABSTRACT

The proposal will require five (5) streetscape trees to be preserved and protected, but all smaller vegetation and trees on site will be removed for the development. Noxious weeds, small plants and trees of value are included in this assessment. Seven (7) trees will remain T14, T15, T16, T83, T85, T86 and T87 being either streetscape on Lang Road and Marsh Parade Casula or within a neighboring property. These will be protected utilizing Tree fencing or trunk protection with mulch.

Of the Eighty-six (86) trees and small shrubs (including groups) assessed by the AQF level 5 arborists, Seventy nine (79) trees and shrubs will be impacted and removed. These trees will be replenished within the landscape plan which requires production of plans for comment. The trees removed will be replenished with thirty five (35) x 70mm & 45mm potted volume indigenous plants according to the Landscape MasterPlan and selected from indigenous plants in Appendix G. Forty low, moderate and high value planted trees are to be removed and five of these trees are not necessarily classified as trees but shrubs, succulent cacti and hedge plantings which have low value (T4, -Palm, T47&T74- toxic shrub, T53 hedge & T54 cacti-succulent).

...

1.7. Tree trunk protection would be specified for Trees numbered 14,15,16 & 83&85 (street trees) with 2 metre lengths of hardwood and hessian or underlay protecting the tree trunks. These hardwood lengths must be of 100mmx50mm and have a gap of 150mm to allow for aeration to the stem. It would also be advised to mulch within the Tree Protection zones of preserved trees on site with Certified clean Eucalyptus sp. mulch deposited at 75mm depth within the setback area.

1.8 Storage of materials and hoardings are kept out of the tree protection zones of preserved trees.

...

CONCLUSION

Remove seventy-nine (79) trees and replenish with thirty five (35) trees medium and large sized trees with and preserve and protect amenity value trees on the streetscape and the nature strip numbered 14,15,16, 83,85,86&87planned for retention. The trees selected for removal are of moderate value or low value with one high value tree and one moderate to high value tree impacted and removed.

Given this assessment from the arborist, the applicant has prepared Landscape Concept Drawings and a Landscape Design Report (refer to **Appendix D**) for the site which includes replacement trees and vegetation in a coordinated renewal of the site, as recommended in the arborist report.

The applicant will to accept conditions associated with the tree protections as detailed in the Arborist report.

Those trees located within the footprint of the development are proposed to be removed. A number of trees are also proposed to be retained. The arborist report has provided guidance to the architects within respect to the building setbacks to trees proposed to be retained. All trees within the Council road reserve will be retained. As such, the proposed development is considered to be consistent with the provisions of Clause 5.9 of the LLEP.

The design of the development in tandem with the retention of existing trees seeks to achieve a well vegetated landscape setting to integrate with the proposed RACF and the outdoor needs of future residents.

The application is willing to accept conditions associated with tree protection measures as detailed in the Arborist report.

4.3.1.6 Clause 5.10 Heritage conservation

The subject site is not identified as a heritage item under the LLEP, and is not identified as falling within a Heritage Conservation Area or adjoining a heritage item. The site is not in the vicinity of any heritage items.

4.3.1.7 Clause 7.7 Acid Sulphate Soils

The subject site is identified on the Acid Sulphate Soils Map as being Class 5 along its eastern boundary, as shown in **Figure 9** below.

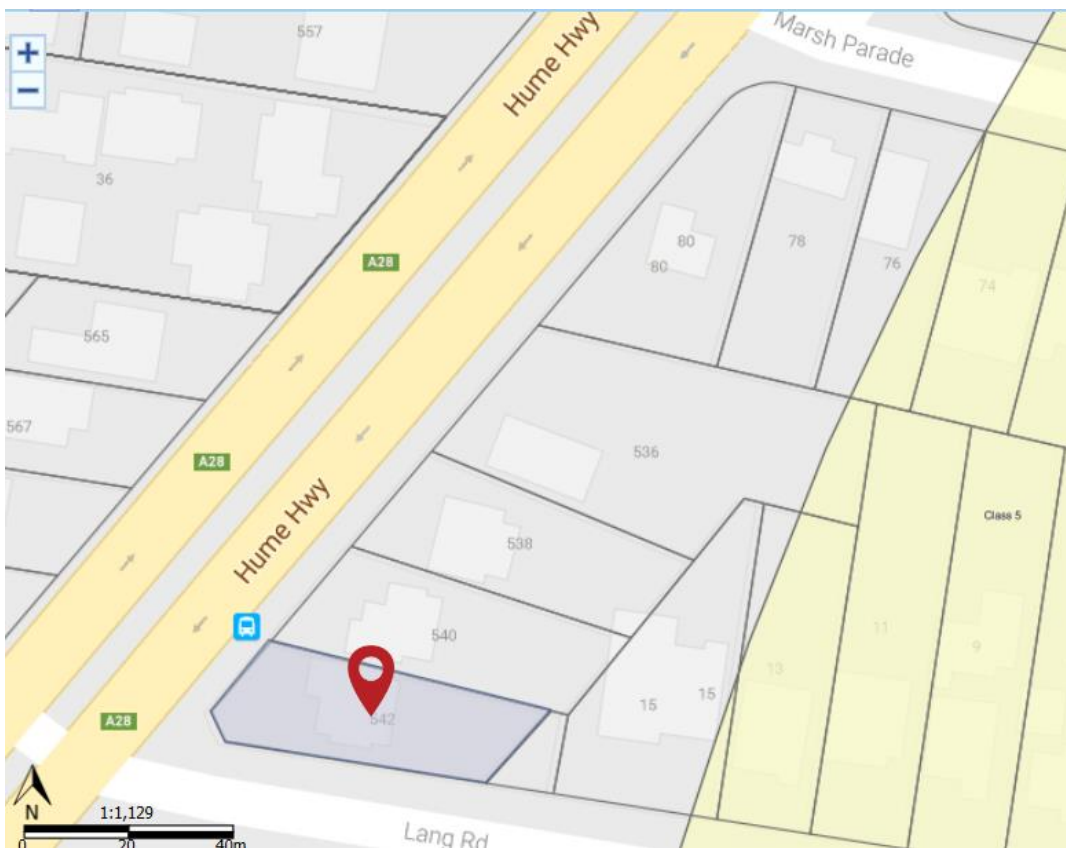


Figure 9: Extract from LLEP 2008 Acid Sulphate Soils Map showing the 8.5m HOB control

Source: NSW Planning Portal

As such, **Clause 7.7** of the LLEP 2008 applies, which states:

7.7 Acid sulfate soils

- (1) *The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*
- (2) *Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works, except as provided by this clause.*

...

- | | |
|---|--|
| 5 | <i>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</i> |
|---|--|

The proposed development involves excavation for the ground floor level and triggers the provisions of **Clause 7.7** of the LLEP 2008. The applicant has prepared a geotechnical report which includes assessment against the acid sulphate soils requirements which can be found at **Appendix M**, which advises with respect to construction methods and equipment types to use as part of the excavation and construction phases.

4.3.1.8 Clause 7.31 Earthworks

Clause 7.31 of the LLEP 2008 states as follows:

7.31 Earthworks

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
 - (b) *to allow earthworks of a minor nature without requiring a separate development consent.*
- (2) *Development consent is required for earthworks unless:*
 - (a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
 - (b) *the earthworks are ancillary to other development for which development consent has been given.*
- (3) *Before granting development consent for earthworks, the consent authority must consider the following matters:*
 - (a) *the likely disruption of, or any detrimental effect on, flooding or drainage patterns and soil stability in the locality of the development,*
 - (b) *the effect of the proposed development on the likely future use or redevelopment of the land,*
 - (c) *the quality of the fill or the soil to be excavated, or both,*
 - (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
 - (e) *the source of any fill material and the destination of any excavated material,*
 - (f) *the likelihood of disturbing relics,*
 - (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,*
 - (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Note. *The National Parks and Wildlife Act 1974, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.*

The proposed development involves earthworks to allow for the construction of the lower level and back of house services. Bulk earthworks drawings are included in **Appendix P**.

The existing overland flow of water from uphill properties towards the ridgeline along the Hume Highway and Lang Road, collects at a low point in Marsh Parade (refer to the Stormwater Management Report at **Appendix E**) and this development will not impact on that existing drainage pattern.

The proposed development will test excavated material prior to its disposal as outlined in the Waste Management Plan at **Appendix L**.

Dilapidation surveys of immediately adjoining properties is recommended in the geotechnical report prior to work commencing. The site has been modified over the years with the construction of the existing dwellings and their access driveways, and as a result the land has already been disturbed. No known relics are located on the land. The proposed earthworks can be well managed during the preliminary stage of construction and not result in an adverse impact on adjoining properties via the imposition of standard conditions, and the applicant is willing to accept conditions associated with the construction stage. As such, it is considered that the proposal is consistent with the provisions of Clause 7.31.

4.3.1.9 Clause 7.8 Flood Planning

The subject site is not indicated as being affected by the Flood Planning mapping, and therefore the provisions of **Clause 7.8** are not triggered.

4.3.1.10 Clause 7.6 Environmentally Significant Land

The subject site is not indicated as being affected by any biodiversity mapping, and therefore the provisions of **Clause 7.6** are not triggered.

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

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) was developed to encourage the development of high quality accommodation which is in keeping with the local neighbourhood for our ageing population and for people who have disabilities. The name of this policy was changed from SEPP (Seniors Living) 2004 to SEPP (Housing for Seniors or People with a Disability) 2004 effective on 12 October 2007.

4.3.3 Type of Seniors Housing Proposed under the SEPP

The proposed form of development is considered to constitute a “residential care facility” under the terms of the Senior Housing SEPP which states under Clause 3 “Interpretation”:

***residential care facility**—see clause 11.*

The provisions of Clause 11 under the Seniors Housing SEPP state:

11 Residential care facilities

In this Policy, a residential care facility is residential accommodation for seniors or people with a disability that includes:

- (a) meals and cleaning services, and*
 - (b) personal care or nursing care, or both, and*
 - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,*
- not being a dwelling, hostel, hospital or psychiatric facility.*

Note. *The Aged Care Act 1997 of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.*

The proposed development is a “residential care facility”, will include all of the items at (a) to (c) and will be licensed in accordance with the *Aged Care Act 1997* (Cth) as administered by the Commonwealth when operational.

4.3.4 Permissibility under the SEPP

The provisions of the Senior Housing SEPP outline when a “residential care facility” is permitted, despite the list of permitted uses listed under the local plan zoning (in this case the LLEP 2008) which also makes the proposed form of development permitted, as follows.

The provisions of Clause 4(1) under the Seniors Housing SEPP are triggered, as “dwelling houses” are permitted on the land.

4 Land to which Policy applies

(1) General

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

- (a) development for the purpose of any of the following is permitted on the land:*
 - (i) dwelling-houses,*
 - (ii) residential flat buildings,*
 - (iii) hospitals,*
 - (iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries,*
or
- (b) the land is being used for the purposes of an existing registered club.*

The proposed development is to be located on land which has been developed for, and permits development for the purposes of dwelling houses, as detailed at Section 3.2.1 above. Therefore as, “dwelling houses” are permitted in the zone, the subject site can be described as “land zoned primarily for urban purposes” which is consistent with the provisions of Clause 4 of the Senior Housing SEPP.

The intention of the Seniors Housing SEPP is to apply to land which is zoned for urban purposes which the subject site triggers. It is noted that the provisions of Clause 4(1) uses a distinction between “*land zoned for urban purposes or land that adjoins land zoned for urban purposes*”. Notwithstanding that the land adjoins land zoned for urban purposes, the subject site is zoned **for urban purposes** and therefore, the provisions that apply to the category of seniors housing on “land zoned for purposes” will apply. Any provisions applying to seniors housing on “land that adjoins land zoned for urban purposes” will not apply.

The provisions of Clause 4(2) to (11) have also been considered as follows:

(2) Land that is not zoned primarily for urban purposes

For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land that is within any of the following zones under another environmental planning instrument:

- (a) a zone that is identified as principally for rural uses,*
- (b) a zone that is identified as principally for urban investigation,*
- (c) a zone that is identified as principally for residential uses on large residential allotments (for example, Zones R5 Large Lot Residential and RU6 Transition referred to in the standard instrument for principal local environmental planning instruments prescribed by the Standard Instrument (Local Environmental Plans) Order 2006).*

The subject site does not trigger the provisions of Clause 4(2) as detailed above.

(2A) For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land to which Warringah Local Environmental Plan 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under that plan.

The subject site is not located within the Local Government Area of Warringah Shire Council for which this clause applies to certain lands.

- (1) Nothing in subclause (2) or (2A) operates to make any land not referred to in those subclauses land that is zoned primarily for urban purposes.*

The provisions of this subclause are noted.

(4) Land that adjoins land zoned primarily for urban purposes

For the purposes of this Policy, land that adjoins land that is zoned primarily for urban purposes includes (but is not limited to) land that would directly adjoin land that is zoned primarily for urban purposes but for the presence of a public road to which there is direct vehicular and pedestrian access from the adjoining land.

The above provisions do not apply, see commentary above.

- (5) Application of Policy to land zoned for special uses and existing registered clubs**
For the purposes of this Policy (and for the avoidance of doubt), a consent authority must not treat:

- (a) land on which development for the purposes of special uses is permitted, or*
- (b) land that is being used for the purposes of an existing registered club,*
- as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes.*

The subject site is not zoned for special uses or an existing registered club.

(6) Land to which Policy does not apply

This Policy does not apply to:

- (a) land described in Schedule 1 (Environmentally sensitive land), or*
- (b) land (other than land to which Warringah Local Environmental Plan 2000 applies) that is zoned for industrial purposes, or*
- (c) (Repealed)*
- (d) the land to which Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989) applies, or*
- (e) the land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies.*

The applicant has obtained Section 149(2) and (5) zoning certificates for each of the properties which form the subject site. The subject site does not trigger any of the above matters.

- (7) Nothing in subclause (6) (a) or Schedule 1 operates to preclude the application of this Policy to land only because:*
 - (a) the land is identified under State Environmental Planning Policy No 71—Coastal Protection, or*
 - (b) in the case of land that is used for the purposes of an existing registered club—the land is described in another environmental planning instrument as:*
 - (i) private open space, or*
 - (ii) open space where dwellings or dwelling-houses are permitted.*

The subject site is not considered to trigger any of the matters under subclause 7.

(8) (Repealed)

(9) Application of Policy to certain land in Sutherland Shire

For the purposes of this Policy (and despite anything to the contrary in subclause (1), (2) or (5)), the land that is shown with heavy edging on the map marked “Map 32 Cronulla Sutherland Leagues Club, Captain Cook Drive” in Schedule 7 to Sutherland Shire Local Environmental Plan 2000 is taken to be land that is zoned primarily for urban purposes.

Note. *Clause 7 (2) (a) of Sutherland Shire Local Environmental Plan 2006 continues the application of Sutherland Shire Local Environmental Plan 2000 to the land referred to in this subclause.*

The site is not located within the Sutherland Shire, therefore the subclause does not apply.

- (10) For the purposes of this Policy (and despite anything to the contrary in subclause (1) or (4)), any land that adjoins the land referred to in subclause (9) is not to be treated as being land that adjoins land zoned primarily for urban purposes.*

The site is not located within the Sutherland Shire, therefore the subclause does not apply.

- (11) Subclause (6) does not apply in relation to:*

- (a) the land referred to in subclause (9), or
- (b) land in Alexander Avenue, Taren Point, being Lot 2, DP 1026203, or
- (c) an application to carry out development for the purposes of a residential care facility on land in any of the following zones under Sutherland Shire Local Environmental Plan 2006:
 - (i) Zone 4—Local Housing,
 - (ii) Zone 5—Multiple Dwelling A,
 - (iii) Zone 6—Multiple Dwelling B,
 - (iv) Zone 7—Mixed Use—Kirrawee,
 - (v) Zone 8—Urban Centre,
 - (vi) Zone 9—Local Centre,
 - (vii) Zone 10—Neighbourhood Centre.

(12), (13) (Repealed)

The site is not located within the Sutherland Shire, therefore the subclause does not apply.

The following provisions of “Chapter 3 Development for seniors housing” under the Seniors Housing SEPP have also been considered as follows.

Part 1 General

14 Objective of Chapter

The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

Noted. The proposed residential care facility development represents an opportunity for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

15 What Chapter does

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

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

Due to the trigger under the provisions of Clause 4(1) making the subject site “land zoned primarily for urban purposes”, the proposed development seeks to rely upon the provisions of Clause 15(a) as the land is zoned primarily for urban purposes and the proposed development is a form of Seniors Housing being a “residential care facility”.

16 Development consent required

Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.

This DA has been prepared to seek a determination by the District Panel, as the consent authority, due to the Capital Investment Value (CIV) exceeding \$20 million being \$27,727,960. Refer to **Appendix O** for a CIV Certificate prepared by a QS.

17 Development on land adjoining land zoned primarily for urban purposes

(1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

- (a) a hostel,*
- (b) a residential care facility,*
- (c) serviced self-care housing.*

As detailed above, the subject site is land primarily zoned for urban purposes and therefore Clause 17 does not apply to this DA.

(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided:

- (a) for people with a disability, or*
- (b) in combination with a residential care facility, or*
- (c) as a retirement village (within the meaning of the Retirement Villages Act 1999).*

Note. Clause 13 (3) defines **serviced self-care housing** as seniors housing that consists of self-contained dwellings where meals, cleaning services, personal care and nursing care are available on site. Clause 42 requires the consent authority to be satisfied that residents of such housing have reasonable access to services. Clause 42 also provides that if services are limited to those provided under Government provided or funded community based care packages, this does not constitute reasonable access to services.

The proposal does not involve “self-care housing” and therefore the provisions do not apply.

18 Restrictions on occupation of seniors housing allowed under this Chapter

(1) Development allowed by this Chapter may be carried out for the accommodation of the following only:

- (a) seniors or people who have a disability,*
- (b) people who live within the same household with seniors or people who have a disability,*
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.*

The applicant understands this requirement and the proposed development is considered to comply.

- (2) A consent authority must not consent to a development application made pursuant to this Chapter unless:
- (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and
 - (b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).
- (3) Subclause (2) does not limit the kinds of conditions that may be imposed on a development consent, or allow conditions to be imposed on a development consent otherwise than in accordance with the Act.

The applicant understands that conditions to effect the provisions of Clause 18 of the Seniors Housing SEPP will be imposed on any consent granted.

19 Use of seniors housing in commercial zones

Development allowed by this Chapter for the purposes of seniors housing does not include the use for residential purposes of any part of the ground floor of a building that fronts a street if the building is located on land that is zoned primarily for commercial purposes unless another environmental planning instrument permits the use of all of the building for residential purposes.

The proposed development is not on land located in a commercial zone.

20 (Repealed)

21 Subdivision

Land on which development has been carried out under this Chapter may be subdivided with the consent of the consent authority.

Note. Clause 5 (3) of this Policy ensures that subdivision on the land referred to in clause 4 (9) (b) is permitted by this clause with the consent of the consent authority despite the provisions of clause 65A of the former Sutherland Shire Local Environmental Plan 2000 (which continues to apply to the land by virtue of clause 7 (2) (a) of Sutherland Shire Local Environmental Plan 2006).

Noted.

22 Fire sprinkler systems in residential care facilities for seniors

Development for the purpose of the installation of a fire sprinkler system in a residential care facility for seniors may be carried out with development consent.

The applicant understands that conditions to effect the provisions of Clause 22 of the Seniors Housing SEPP will be imposed on any consent granted. Please refer to **Appendix I** for a BCA report assessment of the development with respect to the National Construction Code.

23 Development on land used for the purposes of an existing registered club

- (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that is used for the purposes of an existing registered club unless the consent authority is satisfied that:
- (a) the proposed development provides for appropriate measures to separate the club from the residential areas of the proposed development in order to avoid land use conflicts, and

- (b) *an appropriate protocol will be in place for managing the relationship between the proposed development and the gambling facilities on the site of the club in order to minimise harm associated with the misuse and abuse of gambling activities by residents of the proposed development.*

Note. *The Gaming Machines Act 2001 and the regulations made under that Act provide for gambling harm minimisation measures.*

- (2) *For the purposes of subclause (1) (a), some of the measures to which a consent authority may have regard include (but are not limited to) the following:*

- (a) *any separate pedestrian access points for the club and the residential areas of the proposed development,*
- (b) *any design principles underlying the proposed development aimed at ensuring acceptable noise levels in bedrooms and living areas in the residential areas of the proposed development.*

Note. *See also clause 34 in relation to noise minimisation design principles.*

The proposed development does not trigger the provisions of Clause 23 of the Seniors Housing SEPP as it is not proposed on land used for an existing registered club.

Part 1A Site compatibility certificates

24 Site compatibility certificates required for certain development applications

- (1) *This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if:*

- (a) *the development is proposed to be carried out on any of the following land to which this Policy applies:*

- (i) *land that adjoins land zoned primarily for urban purposes,*
- (ii) *land that is within a zone that is identified as “special uses” under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),*
- (iii) *land that is used for the purposes of an existing registered club, or*

- (b) *the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.*

- (1A) *Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.*

- (2) *A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General’s opinion:*

- (a) *the site of the proposed development is suitable for more intensive development, and*
- (b) *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).*

Note. *Clause 50 (2A) of the Environmental Planning and Assessment Regulation 2000 requires a development application to which this clause applies to be accompanied by a site compatibility certificate.*

(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, or*
- (b) otherwise limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.*

Note. *Nothing in this clause affects a consent authority's duty to give effect to non-discretionary standards set out in this Policy. See, for example, clauses 48, 49 and 50.*

(4) (Repealed)

The proposed development does not fall within the categories of development identified in clause 24(1)(a)(i) – (iii) above and therefore, no site compatibility certificate is required under the provisions of the Seniors Housing SEPP.

It is not the intention of the Seniors Housing SEPP to require a site compatibility certificate for all forms of seniors housing in all instances, for example, seniors housing proposed in an urban zone, as is the case here. Rather, a site compatibility certificate will be required in circumstances where a seniors housing development is located on land that:

- Is zoned for special uses (other than land for which a hospital is permitted);
- Is land that is used for an existing registered club; or
- Is land that adjoins land that is zoned primarily for urban purposes.

The site does not fall into any of these categories.

25 Application for site compatibility certificate

(1) An application for a site compatibility certificate for the purposes of clause 24 may be made to the Director-General:

- (a) by the owner of the land on which the development is proposed to be carried out, or*
- (b) by any other person, with the consent of the owner of that land.*

(2) An application must be:

- (a) in writing, and*
- (b) in the form (if any) approved by the Director-General from time to time, and*
- (c) accompanied by such documents and information as the Director-General may require.*

Note. *Clause 262A of the Environmental Planning and Assessment Regulation 2000 provides for the maximum fee for an application for a site compatibility certificate.*

*(3) Subject to subclause (4) (b), the Director-General must provide a copy of the application to the General Manager of the council for the area in which the development concerned is proposed to be carried out (the **relevant General Manager**) within the period of 7 days after the application is made.*

(4) Subject to subclause (5), the Director-General:

- (a) may determine the application by issuing a certificate or refusing to do so, and*
- (b) if the Director-General refuses to issue a certificate at any time within the period of 7 days after the application is made—is not required to comply with subclause (3).*

(5) The Director-General must not issue a site compatibility certificate unless the Director-General:

- (a) has taken into account the written comments (if any) concerning the consistency of the proposed development with the criteria referred to in paragraph (b) that are received from the relevant General Manager within 21 days after the application for the certificate was made, and*
- (b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:*
 - (i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,*
 - (ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,*
 - (iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,*
 - (iv) in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development,*
 - (v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,*
 - (vi) if the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the Native Vegetation Act 2003—the impact that the proposed development is likely to have on the conservation and management of native vegetation.*
- (6) Without limiting subclause (4) (a), the Director-General may refuse to issue a certificate if the Director-General considers that the development is likely to have an adverse effect on the environment.*
- (7) A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate.*
- (8) The Director-General must, if it is reasonably practicable to do so, determine an application within 35 days after it is lodged.*
- (9) A certificate remains current for a period of 24 months after the date on which it is issued by the Director-General.*
- (10) The provisions of subclauses (3) and (5) (a) do not apply in relation to the determination of an application for a site compatibility certificate if the Director-General has delegated the function of determining the application to the council for the area in which the development concerned is proposed to be carried out.*

Note. Section 23 of the Act enables the Director-General to delegate to a council any of the functions of the Director-General imposed or conferred by or under the Act or any other Act.

The provisions of Clause 25 of the Seniors Housing SEPP are not triggered by the proposed development of the subject site as no compatibility site certificate is required.

4.3.5 Design Considerations under the SEPP

Part 2 Site-related requirements

Note. Information and assessment guidelines may be issued by the Department of Planning from time to time to provide assistance to councils in assessing locations and the provision of services.

26 Location and access to facilities

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

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) the practice of a general medical practitioner.

(2) Access complies with this clause if:

(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or

(b) in the case of a proposed development on land in a local government area within the Sydney Statistical Division—there is a public transport service available to the residents who will occupy the proposed development:

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
- (iii) that is available both to and from the proposed development at least once between 8am and 12pm per day and at least once between 12pm and 6pm each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the public transport services to the facilities and services referred to in subclause (1)) complies with subclause (3), or

(c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and

(iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

Note. Part 5 contains special provisions concerning the granting of consent to development applications made pursuant to this Chapter to carry out development for the purpose of certain seniors housing on land adjoining land zoned primarily for urban purposes. These provisions include provisions relating to transport services.

(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:

(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,

(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,

(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

(4) For the purposes of subclause (2):

(a) a **suitable access pathway** is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and

(b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

(5) In this clause:

bank service provider means any bank, credit union or building society or any post office that provides banking services.

The provisions of Clause 26 are noted and have been considered carefully by the applicant when undertaking a site selection process.

The Social Impact Comment at **Appendix F** includes information to assist with the evaluation with respect to the criteria detailed at Clause 26 which states in part:

...

The proposed development is adjacent to a high frequency bus service operating along the Hume Highway providing access to extensive services in Liverpool CBD on routes 870, 871, 872, 855, 856 and 857. A bus service is typically available six times an hour on weekdays and Saturdays, and three times an hour on Sundays. Services operate between 6.00 am and 10.00 pm. Access to the southbound bus stop (buses coming from Liverpool) is good, with the bus stop located 100 metres along a concrete footpath from the proposed pedestrian entry to the complex. Access to the northbound bus stop (buses to Liverpool) is problematic, with the nearest bus stop 200 metres away, but across six lanes of the Hume Highway (noting the availability of a wide grassed median to assist in crossing). The nearest northbound bus stop accessible using a signalised crossing of the Hume Highway is 530 metres to the north outside Casula Shopping Centre, near the intersection with Ashcroft Avenue. By comparison, SEPP (Housing for Seniors and People with a Disability) 2004 adopts an access criteria of 400 metres to the nearest bus stop along a suitable access path.

Casula Railway Station is 750 metres from the proposed development by foot. Access to the station is quite steep, with the pedestrian path from Canberra Avenue to the station containing 95 steps.

Access to the regional road network is available on the adjacent Hume Highway.

Shops and facilities are available on:

- *Marsh Road, 200 metres by concrete footpath with shops including a hairdresser, day spa and butcher;*
- *Hume Highway near Casula Road, 340 metres by concrete footpath with shops including a newsagent and cheesecake shop;*
- *Casula Shopping Centre near De Meyrick Avenue, 450 metres by concrete footpath and signalised pedestrian crossing of the Hume Highway with shops including fruit market, fish market, mixed business, take away food, food market, butcher, baker, newsagent and chemist.*

While there are extensive parklands and bushland along Glenfield Creek and Georges River, pedestrian access is problematic due to distance and steepness, being similar to the access to Casula Railway Station described above.

The development will provide a range of onsite services as listed previously. Outdoor space will be provided as part of the development.

The impacts of poor physical accessibility to public transport would be less relevant if the residents of the aged care facility are not ambulatory or are significantly disabled.

...

The proposed development is located on land which is more than 400m away from the facilities specified in Clause 26(1)(a) to (c) for the forward journey to all of the range of the facilities and services in the Liverpool City Centre from the bus stop on the opposite of the site near the corner of Kurrajong Road with the Hume Highway, being some 622m. However, the gradients of this route via the pathways within the streets comply with those detailed above or can be made to comply. The return journey from the Liverpool City Centre alights at a bus stop immediately at the street frontage of the site on the Hume Highway near the corner with Lang Road being some 77m.

Due to the average age of residents for which the proposed residential care facility will provide a home (being between 83 and 85 years of age), most persons on-site will not have the capacity to independently leave the site to access the services and facilities outlined in Clause 26 above. The criteria is more suited to a self-care style of Seniors Housing which this proposed development does not involve.

In any event, the proposed development complies with the objectives of this clause and provides access to facilities by a superior means to those identified in clause 26(2).

For example, CHL as the managers of the proposed residential care facility seeks to provide superior services on-site which will include:

- Physiotherapy,
- Hairdressing salon;
- Cafe;
- Strategically located lounge and dining areas for residents to enjoy outlooks to the landscaped gardens;

- Nurse stations at each residential level;
- On-site facilities for provision of catering with full commercial kitchen and refrigeration/store rooms;
- On-site linen services;
- Plant areas;
- Storage areas;
- Staff amenities;
- Lift access to each level of the building for residents with a separate service lift access for “back-of-house” functions;

With respect to the provisions of Clause 26, should CHL be successful in receiving Residential Aged Care Places in the 2016-17 ACAR, it is anticipated that residents will generally be from the surrounding localities and local government area. Given this, residents will be able to continue to access their existing local treating doctor and therefore will not place any greater burden on existing medical services in the area.

The NSW Land and Environment Court (the Court) considered whether the provisions of Clause 26 act as a prohibition or whether they are a development standard in the recent case of *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde* [2016] NSWLEC 153 .

This matter involved an appeal of a decision of the Sydney East Region Joint Regional Planning Panel to refuse a development application prepared by the applicant Principal Healthcare Finance Pty Ltd. The development application sought approval to demolish an existing nursing home facility with 72 beds and construct a new ‘high care’ residential aged care facility with 141 beds in West Ryde. On 8 June 2016, Pain J of the Land and Environment Court of NSW ordered that the Court independently deal with the question of whether clause 26 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP HSPD) is a development standard amenable to clause 4.6 of the *Ryde Local Environmental Plan 2014* or a prohibition, prior to the commencement of the main hearing. This decision considers that separate question.

In its submission to the Court, the applicant argued that clause 26 of the Seniors Housing SEPP is a development standard, as distinct from a prohibition. The applicant submitted that the matters set out in the Seniors Housing SEPP were not essential preconditions, but rather a set of standards relating to how the permissible use (that being seniors living, or the use of the site as a residential care facility) is to be carried out.

The Court considered a number of clauses in the Seniors Housing SEPP and reiterated clause 26 should be considered in the context of the instrument as a whole. The Court applied the ‘two-step’ approach as outlined in the case of *Strathfield Municipal Council v Poynting* (2001) 116 LGERA 319 which required firstly, a consideration of whether the proposed development is prohibited under any circumstances pursuant to clause 26 of Seniors Housing SEPP, and secondly, if it is not prohibited, a consideration of whether clause 26 of Seniors Housing SEPP specifies a requirement or imposes a standard in relation to an aspect of the proposed development.

In relation to the first step, the Court confirmed that despite clause 26 of the Seniors Housing SEPP having the flavour of a prohibition, it was not so when read in the context of the whole instrument. It was noted that the Seniors Housing SEPP does not act to prohibit developments, but rather permits them when certain criteria are met.

The Court also found that the criteria in clause 26 of the Seniors Housing SEPP are not essential conditions, and to consider them so would defeat the purpose of the Seniors Housing SEPP by discouraging the establishment of RACF as a type of seniors housing facilities.

The definition of ‘seniors housing’ contained in clause 10 of the Seniors Housing SEPP as detailed previously in this SEE report, covers a wide range of developments, from self-contained dwellings to residential aged care facilities, each established for residents with different needs.

With this in mind, the Court found that the criteria in clause 26 of the Seniors Housing SEPP does not necessarily cater for those who would reside in the applicant’s proposed “residential aged care facility”, i.e. frail persons not capable of independent living.

It should be noted that the applicant in this case, CHL proposes a RACF at Casula which will cater for frail persons who are not capable of independent living, and thus is consistent with the first step.

With respect to the second step, the Court highlighted that the definition of ‘development standards’ in section 4 of the *Environmental Planning and Assessment Act 1979* (NSW) essentially has three elements. Firstly, the relevant provision must be in relation to the carrying out of development. Secondly, the relevant provision must specify requirements or set standards in respect of an aspect of the development. In relation to these elements, the Court indicated that the empirical criteria contained in clause 26 of the Seniors Housing SEPP (i.e. the gradient measurements and minimum access distance of 400m), both specify requirements and set standards for the proposed development. According to the Court, the third element was also satisfied, adding further comfort. The Court therefore determined that clause 26 of Seniors Housing SEPP both falls within the definition of ‘development standard’, and confirmed that it meets the second step in the two-step test.

As the proposed CHL RACF measures at a distance of some 622m to the bus stop on the opposite side of the Hume Highway near the traffic signal controlled intersection with Kurrajong Road for the forward journey to facilities and services in the Liverpool City Centre, a formal objection under *State Environmental Planning Policy No. 1 - Development Standards* (SEPP 1 Objection) has been prepared to seek a variation of the development standard in Clause 26 of the Seniors Housing SEPP included at **Appendix U**.

The request to vary the development standard is considered to be reasonable in the circumstance as the proposal involves a RACF whose future residents are of an age they no longer independently seek out public transport services by themselves or unassisted given the duty of care required to be provided by CHL. As such, strict application of the development standard is unreasonable and unnecessary in this circumstance.

27 Bush fire prone land

- (1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.*
- (2) A consent authority, in determining a development application made pursuant to this Chapter to carry out development on land in the vicinity of land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer”, must take into consideration the general location of the proposed development, the means of access to and egress from the general location and other relevant matters, including the following:*
 - (a) the size of the existing population within the locality,*
 - (b) age groups within that population and the number of persons within those age groups,*
 - (c) the number of hospitals and other facilities providing care to the residents of the facilities within the locality, and the number of beds within those hospitals and facilities,*
 - (d) the number of schools within the locality and the number of students at those schools,*
 - (e) existing development within the locality that has been carried out under this Policy or State Environmental Planning Policy No 5—Housing for Older People or People with a Disability,*
 - (f) the road network within the locality and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the locality in the event of a bush fire,*
 - (g) the adequacy of access to and from the site of the proposed development for emergency response vehicles,*
 - (h) the nature, extent and adequacy of bush fire emergency procedures that are able to be applied to the proposed development and its site,*
 - (i) the requirements of New South Wales Fire Brigades.*
- (3) In exercising its functions under subclause (1) or (2), a consent authority must consult with the NSW Rural Fire Service and have regard to its comments.*

The provisions of Clause 27 of the Seniors Housing SEPP are not triggered by the proposed development of the subject site.

28 Water and sewer

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*

- (2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.*

The provisions of Clause 28 of the Seniors Housing SEPP have been considered as part of this DA and the land currently has available sewer and water services for the site and it's development for a residential care facility will require these services to be augmented.

29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

- (1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.*

Note. Clause 24 (1) sets out the development applications to which that clause applies.

- (2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).*
- (3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.*

The provisions of Clause 29 of the Seniors Housing SEPP have been considered as part of the design development for this DA and a report on the site analysis, its context and the design evolution has been undertaken by Group GSA as the lead designers for the development and this can be found at **Appendix C**.

Part 3 Design requirements

Division 1 General

30 Site analysis

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.*
- (2) A site analysis must:*
- (a) contain information about the site and its surrounds as described in subclauses (3) and (4), and*
 - (b) be accompanied by a written statement (supported by plans including drawings of sections and elevations and, in the case of proposed development on land adjoining land zoned primarily for urban purposes, an aerial photograph of the site):*
 - (i) explaining how the design of the proposed development has regard to the site analysis, and*
 - (ii) explaining how the design of the proposed development has regard to the design principles set out in Division 2.*

The documentation for this DA includes a site survey (refer to **Appendix A**) which addresses a number of the items listed under subclause 3, including:

(a) **Site dimensions:**

length

width

(b) **Topography:**

spot levels and/or contour

north point

natural drainage

any contaminated soils or filled areas

(c) **Services:**

easements

connections for drainage and utility services

(d) **Existing vegetation:**

location

height

spread of established trees

species

...

(f) **Location of:**

buildings and other structures

heritage features and items including archaeology

fences

property boundaries

pedestrian and vehicle access

(g) **Views** to and from the site

(h) **Overshadowing** by neighbouring structures

The provisions of Clause 30(3) as follows:

(e) **Micro climates:**

orientation

prevailing winds

The micro-climates of the site have been shown in the architectural drawing included at **Appendix B** – refer to Drawing No. DA-1102, which is a Site Analysis Plan which includes prevailing winds, site's orientation in relation to solar access and the outlook.

In addition, the site context and design principles which have been analysed to form the basis of the design as submitted, have been summarised in the Architectural Design Statement prepared by Group GSA (refer to **Appendix C**) which also suitably addresses the items listed in subclause 3, above.

The provisions of Clause 30(4) have been considered, which state:

(4) The following information about the surrounds of a site is to be identified in a site analysis:

(a) Neighbouring buildings:

location
height
use
balconies on adjacent properties
pedestrian and vehicle access to adjacent properties

(b) Privacy:

adjoining private open spaces
living room windows overlooking site
location of any facing doors and/or windows

(c) Walls built to the site's boundary:

location
height
materials

***(d) Difference in levels* between the site and adjacent properties at their boundaries**

***(e) Views and solar* access enjoyed by neighbouring properties**

***(f) Major trees* on adjacent properties**

(g) Street frontage features:

poles
trees
kerb crossovers
bus stops
other services

***(h) The built form and character* of adjacent development (including buildings opposite on both sides of the street(s) fronted):**

architectural character
front fencing
garden styles

***(i) Heritage features* of surrounding locality and landscape**

(j) Direction and distance to local facilities:

local shops
schools
public transport
recreation and community facilities

(k) Public open space:

location

use

(l) Adjoining **bushland** or **environmentally sensitive land**

(m) **Sources of nuisance:**

flight paths

noisy roads or significant noise sources

polluting operations

(n) Adjoining **land uses and activities** (such as agricultural activities)

Section 2 of this SEE report includes information about neighbouring buildings, privacy, location of public open space, the existing built form and character of the area, adjoining land uses have been identified and discussed, street frontage features identified, differences in levels including site topography and drainage, direction to local services, location of major trees and the height of buildings in the immediate area surrounding the subject site. The site does not contain any heritage items, is not located in the vicinity of any heritage items and is not located in a heritage conservation area. The land is not located near any adjoining bushland or land identified as environmental sensitive. The subject site is not identified under any contour of the ANEF map for Sydney Airport as published to December 2016, and has frontage to the Hume Highway which is a noise source. An acoustic assessment accompanies this DA and can be found at **Appendix J**.

The architectural design statement by Group GSA at **Appendix C** explains how the design has had regard to the site analysis, established design principles and how the design has had regard to the design principles established. As such, the provisions of Clause 30 have been suitably addressed.

31 Design of in-fill self-care housing

In determining a development application made pursuant to this Chapter 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 Seniors Living Policy: Urban Design Guideline for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004.

The provisions of Clause 31 of the Seniors Housing SEPP are not triggered by the proposed development of the subject site as it does not involve an in-fill self-care housing development. Therefore, so too the provisions of the “Seniors Living Policy: Urban Design Guideline for Infill Development” do not apply.

32 Design of residential development

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

Noted.

Division 2 Design principles

33 Neighbourhood amenity and streetscape

The proposed development should:

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and*
- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and*
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:*
 - (i) providing building setbacks to reduce bulk and overshadowing, and*
 - (ii) using building form and siting that relates to the site's land form, and*
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and*
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*
- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) retain, wherever reasonable, major existing trees, and*
- (g) be designed so that no building is constructed in a riparian zone.*

The site, context analysis and design report at **Appendix C** have recognised the desirable elements of the location and demonstrate that the design (refer to reduced drawing set at **Appendix B**) will maintain a reasonable neighbourhood amenity and provide for an appropriate residential character when complete, in that the design includes:

- setbacks to reduce bulk and minimise overshadowing, refer to the shadow diagrams at **Appendix B**,
- the urban form and siting relate well to the land form and site topography in that two storeys will be viewed from Lang Road which is consistent with building scale permitted for multi dwelling housing,
- the building heights at the street frontages are compatible with the scale of building heights on adjoining properties and there is no abrupt change in the scale of the development in the streetscape,
- the front setback to each street frontage, are setback in sympathy with the setback of the existing development on the site with articulation to Marsh Parade, Lang Road and the Hume Highway,
- where possible retention of trees around the perimeter of the built form based on the guidance of an arborist (refer to the arborist report at **Appendix N**),

- will provide for additional plantings in the streetscapes and courtyard areas inclusive of formal and informal landscaping (refer to the landscape concept drawing and report at **Appendix D**), and
- given the proposed setbacks, height and siting will minimise adverse impacts on adjoining properties.

34 Visual and acoustic privacy

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

Note. *The Australian and New Zealand Standard entitled AS/NZS 2107–2000, Acoustics—Recommended design sound levels and reverberation times for building interiors and the Australian Standard entitled AS 3671—1989, Acoustics—Road traffic noise intrusion—Building siting and construction, published by Standards Australia, should be referred to in establishing acceptable noise levels.*

An acoustic assessment has been undertaken and submitted as part of this DA which can be found at **Appendix O**. The design seeks to ensure the acoustic privacy of adjoining properties by not locating plant in areas which would impact adjoining properties. In addition, windows in the elevations of the proposed development have been sited so as to maintain a reasonable level of visual privacy to adjoining properties and within the proposed development. The development can be built to comply with the standard referenced.

35 Solar access and design for climate

The proposed development should:

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

Note. *AMCORD: A National Resource Document for Residential Development, 1995, may be referred to in establishing adequate solar access and dwelling orientation appropriate to the climatic conditions.*

The design has been sited so as to minimise its shadow impact on adjoining properties and ensure adequate solar access and daylight to the main living areas and private open spaces of neighbours in the vicinity of the development. The shadow diagrams contained with **Appendix B** demonstrates the shadow impact at 9am, 12pm and 3pm of the shortest day of the year being 21 June and the impact on the properties at 9 Lang Road and 74 Marsh Parade.

36 Stormwater

The proposed development should:

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

The design will control and direct stormwater runoff so as it does not impact on adjoining properties and will implement measures for stormwater management as identified under the LLDCP. Refer to the stormwater management report and concept plans at **Appendix E**.

37 Crime prevention

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

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

CHL intends to implement a management regime similar to their existing facilities so as to provide appropriate personal property security for their residents and visitors. In addition the design (which does not involve dwellings but rather room accommodation) has implemented Safety by Design with an awareness of Crime Prevention Through Environmental Design (CPTED) principles which are discussed in more details at Section 4 of this report.

38 Accessibility

The proposed development should:

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

The design seeks to ensure the development provides for accessible outcomes. The Australian Standard for accessibility is a requirement under the BCA, refer to the BCA report at **Appendix I**, and accordingly, the provisions of Clause 38 have been satisfied.

39 Waste management

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

A waste management plan can be found at **Appendix L**.

Part 4 Development standards to be complied with

Division 1 General

40 Development standards—minimum sizes and building height

(1) General

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

(2) Site size

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

(3) Site frontage

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

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

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

(a) the height of all buildings in the proposed development must be 8 metres or less, and

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).*

(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

Note. *The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*

(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

The subject site on which the proposed residential care facility is to be located has a total site area of approximately 8,564 square metres and therefore complies with Clause 40(2) above.

The subject site has a frontage of some 31.885 metres to Marsh Parade and therefore complies with Clause 40(3) above.

Some portions of the proposed development exceeds the 8 metres maximum ceiling height permitted. Where 8 metres is measured from the ceiling height of the top-most floor to surveyed ground level of the site, where “ground level” and “height” are defined as:

ground level *means the level of the site before development is carried out pursuant to this Policy.*

height *in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.*

The height of the proposed development the drawings which can be found at **Appendix B**. Therefore the proposed development does not comply with Clause 40(4)(a), and a formal request to vary this development standard has been prepared and included in **Appendix T**, which concludes that the strict application of the standard is unreasonable and unnecessary and should be considered on its merits in this instance.

The proposed development involves a building which will have 3 storeys of residential accommodation above ground level when viewed from certain sides of the development. As such the proposed development does not comply with the provisions of Clause 40(4)(b), and it is requested that a variation of the storeys control via the formal objection submitted with this DA (which can be found at **Appendix S**) be accepted under the provisions of State Environment Planning Policy No. 1 – Development Standards (SEPP 1) on the basis that strict compliance with the development control is unreasonable and unnecessary in this circumstance. Also, please refer to the discussion under Section 3 of this report.

(5) **Development applications to which clause does not apply**
Subclauses (2), (3) and (4) (c) do not apply to a development application made by any of the following:

- (a) *the Department of Housing,*
- (b) *any other social housing provider.*

The development is not proposed by the NSW Department of Housing.

CHL is a Commonwealth registered not-for-profit organisation that provides housing to tenants, including concessional housing as a social housing provider. A non-profit organisation is an organisation that is not operating for the profit or gain of its individual members. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members. It is submitted that this is the case with CHL.

The housing provided by CHL will remain the property of CHL and will be made available to residents for a fee. Thus CHL provides rental housing to its tenants. As CHL is a Commonwealth registered not-for-profit organisation that provides housing to tenants, and this includes concessional housing as a social housing provider. Therefore CHL are a social housing provider and Clauses 40(2), (3) and (4)(c) do not apply to the project.

Division 2 Residential care facilities—standards concerning accessibility and useability

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

Noted. The proposed development has been designed with the accessibility requirements under the Commonwealth licensing provisions and the BCA (now known as the National Construction Code (NCC) refer to the report contained at **Appendix I**).

Part 7 Development standards that cannot be used as grounds to refuse consent

Division 1 General

46 Inter-relationship of Part with design principles in Part 3

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

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

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

The site context analysis and design report prepared by the designers from Group GSA can be found at **Appendix C** adequately demonstrate that the proposed development has been designed to have adequate regard to the principles set out in Division 2 of Part 3 of the Seniors Housing SEPP.

47 Part does not apply to certain development applications relating to heritage affected land

Nothing in this Part applies in relation to the granting of consent to a development application made pursuant to this Chapter for the carrying out of development on land to which an interim heritage order or listing on the State Heritage Register under the Heritage Act 1977 applies.

No heritage items are located on the site or adjoining the site in the immediate vicinity and therefore Clause 47 is not relevant.

Division 2 Residential care facilities

48 Standards that cannot be used to refuse development consent for residential care facilities

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

- (a) **building height:** if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or*
- (b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,*
- (c) **landscaped area:** if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,*
- (d) **parking for residents and visitors:** if at least the following is provided:*
 - (i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and*
 - (ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and*
 - (iii) 1 parking space suitable for an ambulance.*

Note. *The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.*

The proposed development has a height of 10.2m to the ceiling of the top-most floor, which does not comply with the provisions of Clause 48(a) above. The provisions of Clause 48(a) prevail over any other standard specified by another environmental planning instrument limiting development to 2 storeys. The design seeks approval for a 3 storey building. It is noted the LLEP 2008 does not specify a storeys control but rather a height of buildings control of 8.5m for the subject land. This DA is accompanied by a formal objection under State Environmental Planning Policy No.1 Development Standards to vary the development standard in Clause 48(a) of the Seniors Housing SEPP, refer to **Appendices S and T**.

Based on the definition of gross floor area (GFA) under the Senior Housing SEPP, the development has a GFA of some 7,953 square metres which compared to the site area of 8,564 square metres is equivalent to 0.92:1. The proposed development has a floor space ratio (FSR) of less than 1:1 which complies with the maximum permitted FSR under Clause 48(b) above.

The proposed residential care facility will provide up to 144 beds and therefore requires some 3,600 square metres landscaped area. The proposal provides for 2,277 square metres of landscaped area which is less than 25 square metres of landscaped area per residential care facility bed. The non-compliance is minor and a variation is considered reasonable in this instance.

The proposed development, while not strictly complying with the 25 square metres landscaped area per bed, seeks to off-set this small non-compliance by providing for increased resident amenity within the development itself by inclusion of a number of generously sized “lounge areas” internally. Each of the lounge areas has an attractive aspect overlooking the private landscaped areas of the proposed development. This DA is accompanied by a formal objection under State Environmental Planning Policy No.1 Development Standards to vary the development standard in Clause 48(c) of the Seniors Housing SEPP, refer to **Appendix V**.

Parking for the proposed development involves 35 car parking spaces within the ground level undercover parking area inclusive of disabled parking and two at-grade parking spaces which also provide dual functions for a mini bus van and ambulance if required to attend the site, which have been assessed as complying as a minimum of 35 spaces are required (refer to the report at **Appendix K**).

2 Aims of Policy

(1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:

- (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
- (b) make efficient use of existing infrastructure and services, and*
- (c) be of good design.*

(2) These aims will be achieved by:

- (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
- (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

Based on the assessment of the relevant provision of the Senior Housing SEPP as undertaken within this SEE report, it is considered that the development for the purposes of a residential care facility is suitable for the site and has been designed so as to ensure the correct fit for the land and locality. As such, it is considered that the proposed development is consistent with the aims of the Senior Housing SEPP.

4.3.6 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (GMREP) applies to certain land in the Greater Metropolitan Region including the Liverpool City local government area.

The aim of this plan is to protect the environment of the Georges River system by ensuring that the impacts of future land uses are considered in a regional context. It is considered that Council would have had regard to the planning strategies detailed under the GMREP at the time of preparation of LLEP 2008. The proposed development is considered to be consistent with the aims and controls of the GMREP, the DA includes environmental measures to mitigate the impacts of the proposed development in terms of its stormwater runoff and water quality as detailed in the report included at **Appendix E**.

4.3.7 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) aims to provide for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing. It assists the NSW Government, local councils and the communities they support by simplifying the process for providing infrastructure in areas such as education, hospitals, roads, railways, water and electricity. The ISEPP was created to support greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

4.3.7.1 Clause 101 Development with frontage to classified road

Clause 101 of *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)* specifies the following requirements for development with a frontage to a classified road as identified in the Roads and Maritime Services (RMS) *Schedule of Classified Roads and State & Regional Roads* ('the Schedule'). The subject site does not have a frontage to a classified road.

Clause 101 of the ISEPP states as follows:

101 Development with frontage to classified road

(1) The objectives of this clause are:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*

- (i) the design of the vehicular access to the land, or*
- (ii) the emission of smoke or dust from the development, or*
- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

It is noted that the subject site does not proposed any vehicular access to or from a classified road, and therefore the proposed development satisfies subclause 2(a) above.

As such, the proposed development is compliant with **Clause 101** of the ISEPP.

4.3.7.2 Clause 104 Traffic-generating development

Clause 104 of the ISEPP specifies the following requirements for development that falls within the criteria in Schedule 3, and in this instance the RACF does not trigger clause 104 and no access is proposed to the Hume Highway which is a classified road.

104 Traffic-generating development

- (1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*
 - (a) new premises of the relevant size or capacity, or*
 - (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*
- (2) In this clause, "relevant size or capacity" means:*
 - (a) in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
 - (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection-the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*
- (3) Before determining a development application for development to which this clause applies, the consent authority must:*
 - (a) give written notice of the application to the RTA within 7 days after the application is made, and*
 - (b) take into consideration:*
 - (i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
 - (ii) the accessibility of the site concerned, including:*
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

(iii) *any potential traffic safety, road congestion or parking implications of the development.*

(4) *The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.*

The proposed development seeks approval for 7,953m² of RACF. Therefore, overall the proposed development is not of a size or capacity to trigger the criteria of under Schedule 2 of the ISEPP, or Schedule 3.

Council may decide to notify and take into account any submission by the RMS on the DA in accordance with **Clause 104(3)** of the ISEPP.

A Traffic and Parking Impact Assessment prepared by TTPA is included at **Appendix K**.

The proposed development will not result in an adverse impact to the efficiency of the classified road, will not result in unsafe ingress or egress movements, and will not result in unacceptable traffic and parking implications under the ISEPP. The number of car parking spaces on the site is sufficient for the proposed development in accordance with the car parking rates required by the Seniors Housing SEPP.

The District Panel as the consent authority does not need to notify and take into account any submission by the RMS in accordance with clause 104(3) of the ISEPP 2007. The accessibility of the site and potential traffic and parking implications of the proposed development are addressed below in **Section 4.9.6** of this SEE and in a Traffic impact assessment report at **Appendix K** in satisfaction of clause 104(3)(b) of SEPP (Infrastructure) 2007.

4.3.8 State Environmental Planning Policy No. 1 – Development Standards

State Environmental Planning Policy No. 1 – Development Standards (SEPP 1) allows for flexibility in the application of development standards. It allows a consent authority to approve a development proposal that does not strictly comply with a set standard where it can be shown that strict compliance is unreasonable or unnecessary in that particular instance.

The application seeks a variation of the provision of Clause 48(a) and (c) of the Senior Housing SEPP as indicated in the architectural drawings as the proposed development involves (in part) a 3 storeys building and a ceiling height of 10.2m, distance to the transport services and the landscaped area per bed, under formal SEPP 1 objections submitted to Council which can be found at **Appendices S, T, U and V**.

It is considered that the strict application of the ceiling, storey and landscaped area standards for the redevelopment for a RACF, in this instance have been demonstrated to be unreasonable and unnecessary on a number of grounds. The redevelopment will not impact on the level of amenity enjoyed by properties adjacent to the subject site; and the proposed development is consistent with the stated objectives of the standard and the stated objectives of the zoning.

The proposed redevelopment satisfies the SEPP 1 tests established by the Land and Environment Court.

For the reasons set out above, the proposed departure from the development standard is well founded.

Compliance with the development standard is therefore unreasonable in the circumstances of the case, and refusal of the development application on this ground is not warranted.

4.3.9 State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) relates to the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected and requires councils to be notified of all remediation proposals. The *Managing Land Contamination: Planning Guidelines* were prepared to assist councils and developers.

Clause 7 of SEPP 55 states as follows:

7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

- (a) land that is within an investigation area,*
- (b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

A detailed Stage 2 Environmental Site Investigation has been conducted and prepared in accordance with the requirements of the EPA, SEPP 55 and the associated guidelines, which is included at **Appendix H**. This assessment investigated the potential risk for widespread soil and groundwater contamination at the site, assessed the potential risk to human health and the environment posed by the contaminants, and provides comments on the suitability of the site for the proposed development. The Phase 2 report concludes:

All chemical laboratory results for the site were within the adopted SAC and indicated low potential for contamination. The fragment of ACM from the near surface at BH9 confirmed the presence of chrysotile and amosite asbestos. Screening for asbestos in soil did not record asbestos concentrations above the laboratory reporting limit of 0.1 g/kg. It is considered likely that the ACM fragment found in BH9 is due to current and past structures on the site which are known to contain asbestos. In this regard, it should be noted that there is the potential for asbestos fragments to be present sporadically across the site, in particular around existing structures and within the near surface materials and hence appropriate management measures should be adopted to manage this during construction (e.g. appropriate demolition and clearance of structures, unexpected finds protocol, etc). The low chemical concentrations and the presence of bonded asbestos are considered to be consistent with the historical use of the site and the findings in DP's HAZMAT survey (DP, 2016).

With respect to the preliminary waste classification, the lead concentrations in four filling samples were at or above the CT1 criteria for general solid waste without TCLP analysis. Analysis for these samples for TCLP recorded low leaching characteristics and were within the general solid waste criteria with TCLP analysis.

All results from the natural soils were within the adopted background ranges.

Given this, the preliminary waste classification for the soils on the site is summarised as follows:

- *Brown and grey silty clay and silt filling/topsoil with ironstone gravel and inclusions of rootlets, brick, tile is preliminarily classified as General Solid Waste (non-putrescible);*
- *The brown silt clay filling/topsoil with some gravel, and inclusions of rootlets and asbestos around BH9 and the existing structures is preliminarily classified as Special Waste (asbestos) General Solid Waste (non-putrescible); and*
- *The red brown and grey clay and silty clay natural soils with inclusions of ironstone, and the grey and brown siltstone and bedrock are preliminarily classified as Virgin Excavated Natural Material (VENM).*

Based on the field and analytical results presented in this report it is considered the site can be made suitable for the proposed residential aged care facility development, subject to the implementation of the following:

- *An unexpected finds protocol;*
- *Surface inspection, and if necessary sampling, following demolition of the existing structures and stripping of the grass coverage to assess the presence of asbestos in the filling material which is to be retained on the site; and*
- *Confirmation of the preliminary waste classifications, including delineation for the presence of asbestos around BH9.*

As such, it is considered the site is suitable for the proposed RACF development and can be supported in satisfaction of Clause 7 under SEPP 55.

4.3.10 State Environmental Planning Policy No. 64 – Advertising and signage

State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64) aims to ensure that signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.

The SEPP was amended in August 2007 to permit and regulate advertisements on road and railway corridors and provide appropriate design and safety controls for these advertisements. Complementing the provisions of SEPP 64 is the *Transport Corridor outdoor Advertising and Signage Guidelines* (DP&I July 2007) which outlines the best practice for the planning and design of outdoor advertisements in transport corridors such as along or adjacent to classified roads, transitways, railway corridors and rail overpasses.

The proposed flush wall signs will identify the name and logo of CHL on the site, as such is considered to be defined as a business identification signs under SEPP 64 which states:

business identification sign means a sign:

(a) that indicates:

(i) the name of the person, and

(ii) the business carried on by the person,

at the premises or place at which the sign is displayed, and

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

As such the provisions of Part 3 of SEPP 64 do not apply to the proposed signage by virtue of Clause 9 which states:

9 Advertisements to which this Part applies

This Part applies to all signage to which this Policy applies, other than the following:

(a) business identification signs,

(b) building identification signs,

(c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,

(d) signage on vehicles.

Therefore, the DA does not require concurrence from the RMS for any signage proposed under Part 3 of SEPP 64. The proposed signage is of a high quality design and finish that incorporates elements of the proposed building on the site thus making it compatible with the amenity and visual character of the locality and effectively communicates the name of the businesses on site. Therefore, the signage is consistent with the aims of the SEPP as set out in Clause (3)(1)(a).

The proposed development is consistent with the assessment criteria included in Schedule 1 of SEPP 64. An assessment of the proposal against these criteria is provided in the following table.

Table 6: Assessment of proposed signage against Schedule 1 of SEPP 64

| Assessment Criteria | Proposed Signage |
|--|--|
| Character of the area | <p>The proposed signage is compatible with the existing and desired future character of the area as the subject site is located in an area which is characterised by a mix of small services businesses on Marsh Parade, multi dwelling and residential uses. The proposed signage seeks to provide flush wall signs to display business identification signage for CHL on the proposed building on the subject site. Furthermore, the proposed signage will be of a high quality finish and will complement the existing signage located within the surrounding area and the materials and colours used for the proposed building. The proposed signage will provide visual interest and is consistent with the bulk and scale of other flush wall signs used for similar purposes.</p> |
| Special areas | <p>It is considered that the proposed signage will not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.</p> <p>The subject site is located in an established urban area, and as such does not contain any environmentally sensitive areas. The residential areas north, west and south of the site will not be impacted by the proposal given the location of the building will provide buffering and no signage faces directly towards a residential property.</p> |
| Views and Vistas | <p>The proposed signage will not obscure or compromise any important views or vistas from or to the site.</p> <p>The location and scale of the proposed signage is such that it will respect the viewing rights of other advertisers by not blocking the line of sight of any existing advertising and will not be visually dominant.</p> |
| Streetscape, setting or landscape | <p>The scale, proportion and form of the proposed signage is appropriate for the streetscape, as the subject site is located within an established urban area.</p> <p>The proposed signs will contribute to the visual interest of the streetscape, as the signage will be of a high quality design and appearance and will complement existing signage located within the surrounding area.</p> <p>The proposed signage will not protrude above the buildings, proposed roof structures or tree canopies in the area and will not require ongoing vegetation management.</p> |

| Assessment Criteria | Proposed Signage |
|--|--|
| Site and building | The proposed signage is complementary in scale and proportion of the proposed building. The proposed signage demonstrates innovation in design thought, by optimising the location with view corridors along the Hume Highway for the purposes of “way-finding” whilst not impacting on traffic movements into and out of Casula and not impacting on the advertising opportunities of other businesses. The proposed signage has been designed to respect important features of the site and existing buildings in Casula in a simple yet efficient design. |
| Associated devices and logos with advertisements and advertising structures | The proposed signage contains a backlight to illuminate LED and these backlights have been designed as an integral part of each signage structure. The illumination of the signage is not considered likely to impact on residential properties as these are remote from the site or users of the Hume Highway. |
| Illumination | The locations of illumination of the proposed signage will be designed so as not to detract from the amenity of any residences. All illumination will comply with the light emission criteria of SEPP 64 and has been designed in accordance with Australian Standards for illumination. Furthermore, the illumination of the proposed signage is not considered likely to adversely impact on adjoining properties. |
| Safety | <p>Traffic movements to and from the site and surrounding the site will not be affected by the proposed signage.</p> <p>The proposed signage has been designed to avoid any potential issues relating to the safety of pedestrian vehicular traffic, and will not obstruct driver sightlines or pedestrian view lines. Furthermore, the construction and installation of the signage will be structurally sound.</p> |

4.4 SECTION 79C(1)(A)(II) ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT

There are no specific draft environmental planning instruments affecting the proposed development.

4.5 SECTION 79C (1) (A) (III) DEVELOPMENT CONTROL PLANS

The Liverpool Development Control Plan (DCP) applies to all land within the LGA. However, the DCP does not include specific provision to assist with designing a RACF form of development as proposed under the Seniors Housing SEPP.

With respect to the application of the DCP we note that an LEP is a legal document prepared by the Council and made by the State Government to regulate land use and development. A DCP provides detailed planning and design guidelines to support the planning controls in the LEP. In the past the Land and Environment Court progressively increased the role and importance of DCPs. Courts have also held that DCPs which have been applied more consistently should be given greater weight. As a result, Councils felt obligated to treat DCPs as inflexible documents, which must be consistently applied when considering development applications. This strict approach led to increased concerns in the development industry.

In 2013 the NSW Government made legislative amendments aimed at restating the strength of DCPs. The amendments have returned the DCPs status to what was initially intended, being a 'flexible guideline' that would complement the development controls provided by the legally binding LEP. The amendments also provide that during the decision making process, the Council is required to (s.79C(3A)):

- *Use a flexible approach in applying DCP standards,*
- *Not to enforce more onerous standards than those contained in the standards of the LEP.*

Therefore, strict compliance with a DCP is not the intention of the application of a DCP.

The DCP has been considered in relation to technical considerations such as stormwater management and water cycle and quality management (refer to **Appendix F and S**), and similar matters such as trees (refer to **Appendix O** for an arborist report, landscape concept design and report refer to Appendix D), in the DCP.

The proposed development has had regard to the stormwater management provisions and water quality provisions of the DCP as a suitable basis to achieve an appropriate design, refer to the report and drawings contained within **Appendices F, H and Q**. In addition, as a guide the setbacks suggested from street frontages for a multi-dwelling housing development in the form of "town houses" in Part 3.6 "Multi Dwelling Housing in the R3 and R4 zones" have also guided the siting of the proposal.

4.6 SECTION 79C (1) (A) (IIIA) PLANNING AGREEMENTS

There is no Planning Agreement in force relevant to this DA or site.

4.7 SECTION 79C (1) (A) (IV) ANY MATTER PRESCRIBED BY THE REGULATION

Clause 92 of the *Environmental Planning and Assessment Regulation 2000* specifies that in the case of a development application for the demolition of a building, the provisions of Australian Standard AS 2601—1991: *The Demolition of Structures*, published by Standards Australia, and as in force at 1 July 1993 are a prescribed matter for the purposes of section 79C (1) (a) (iv) of the EP&A Act. A CDC has already been issued to address demolition.

4.8 SECTION 79C (1) (A) (IV) ANY COASTAL ZONE MANAGEMENT PLAN

Not applicable. The site is not located in the coastal zone and not subject to any coastal zone management plan.

4.9 SECTION 79C (1) (B) IMPACTS OF DEVELOPMENT

Pursuant to Section 79C (B) of the Act, *‘the likely impacts of that development’* have been considered as follows:

4.9.1 Proposed Height, Bulk and Scale

The overall bulk of the proposed building is limited by the maximum Floor Space Ratio (FSR) applicable being 1:1 under the provisions of the Seniors Housing SEPP. The proposal will have an FSR of some 0.92:1 and therefore complies with the maximum bulk and scale permitted under the Seniors Housing SEPP.

The proposed height of the building is considered to be consistent with the underlying objectives of the standards despite the minor variations requested under the Seniors Housing SEPP.

Therefore, it is considered that the height, bulk and scale of the proposed building is suitable for the site and will not result in any unacceptable adverse impacts to adjoining properties.

4.9.2 Shadow Impacts

Shadow diagrams have been prepared for the proposed building which indicates that the proposed development will not result in significant adverse impacts on the available solar access to adjoining properties.

4.9.3 Context and setting

The proposed development constitutes an appropriate and compatible land use in the R3 Medium Density Residential zoning of the locality.

The proposed development will contribute to the character of Casula and support the needs of the local community in a location close to public transport.

The existing setting is characterised by a mix of modest older style original dwellings which are transitioning to new residential multi-dwelling housing in the form of townhouse development as are the case in Lang Road, which will form a predominant part of the local setting. The proposed development has been designed having regard to the characteristics, topography, and orientation of the site and its relationship to neighbouring land as well as future development earmarked for the locality. As such, the subject site is considered an appropriate context and setting for the proposed development being consistent with the desired future character of the locality.

4.9.4 Public Domain

The proposed RACF development can make a contribute to the amenity of the public domain by significantly improved streetscape presentations to each of the street frontages refer to the Architectural Design Statement at **Appendix C**. If deemed necessary by Council, provide improved access around the perimeter of the site in consultation with the applicant.

The proposed development will also contribute to the safety of the public domain through passive surveillance from the development and into the development.

4.9.5 Social Impact Comment

The applicant's consultants have prepared a Social Impact Comment in accordance with Council's requirements for a RACF, which can be found at **Appendix F**.

As indicated in Section 3.3, CHL has undertaken their own research which demonstrates there is a need to commence "planning" now for the significant shift in the ageing population cohort which this RACF will make a significant contribution including the provision of 40% concessional places.

Overall, the proposal will result in a positive social impact in that the development will provide for new aged care facilities in the Casula locality, and will result in activation and overall improvements to the public domain.

4.9.6 Heritage

The subject site is not identified as a heritage item, and does not immediately abut an item of heritage significance.

There are no heritage items on or adjoining the subject site has identified in the LLEP and the site is not located within a heritage conservation area.

4.9.7 Bushfire Considerations

The subject site is not identified as being impacted by Bushfire Prone Land Vegetation on the bushfire maps available on Council's website.

4.9.8 Geotechnical and Soil Salinity Management

Refer to **Appendix M** for a geotechnical and soil salinity management report. It is unlikely that the construction or development of the site as envisaged will have adverse impacts on soil quality subject to appropriate management regimes to be met at the construction phase to manage any acid sulphate soils encountered. It should be noted that excavation works do not involve a depth which triggers the need for further reporting at this stage on acid sulphate soils. The development can implement during the construction phase the use of building materials to manage soil salinity. Council could recommend the imposition of conditions on any development consent granted to require an acid sulphate soils management plan if necessary, and can require construction methods comply with those outlined in the DWE publications.

4.9.9 Access, traffic and parking

Vehicular access to the site will be from Marsh Parade as described previously in this SEE report.

Pedestrian access to the site has been designed into the site from Marsh Parade and an alternate access via Lang Road to traverse to the nearest bust stop in front of the site on the Hume Highway frontage.

A detailed traffic and parking assessment report has been prepared by TTPA and concludes the proposal will be satisfactory, which is included at **Appendix K**.

The traffic, transport and parking assessment for the proposed RACF at Casula confirms that the development will:

- *not present any unsatisfactory traffic capacity, safety or environmental related implications*
- *incorporate a suitable and appropriate parking provision for the nature of the development proposed*
- *incorporate suitable vehicle access internal circulation and servicing arrangements*

4.9.10 Air and microclimate

The proposed development is not considered likely to give rise to a change in the existing microclimate.

4.9.11 Noise

An Acoustic Report has been prepared and is included at **Appendix J**. This report assessed the potential for noise impact associated with the proposed development. Based on its assessment and the location of the site adjacent to the Hume Highway, the proposal will be acceptable for the RACF with the inclusion of the recommended design measures which have been implemented in this DA.

The applicant's acoustic consultant has prepared a report at **Appendix J**, which indicates:

...

8. COMPLIANCE WITH NCC BCA

Partition and floor specifications will be included in the detailed design stage, and it should be noted that for compliance with NCC BCA the following is required:

- *Internal walls separating sole-occupancy units from other sole-occupancy units, bathrooms, sanitary compartments (not being an associated en-suite), plant room or utilities room are to have airborne sound insulation rating not less than Rw 45.*
- *Internal walls separating sole-occupancy units from a kitchen or laundry shall have airborne sound insulation rating not less than Rw 45, and discontinuous construction, as described in section 3.4.1.*
- *Internal floors separating sole occupancy units shall have airborne sound insulation rating not less than Rw 45.*
- *Plumbing and duct work between residences will be insulated so that the background noise levels in residences are compliant with noise criteria specified in AS 2107 and NCC BCA.*

9. COMPLIANCE WITH AUSTRALIAN STANDARDS

9.1 AS 2107:2000-Acoustics - Recommended design sound levels and reverberation times for building interiors

The design criteria for background noise levels and reverberation time recommended by AS 2107:2000 are outlined in section 3.5 of this report.

Background noise levels should be minimised in the design of the building and mechanical services, walls and glazing.

9.2 AS 2021:2015-Acoustics - Aircraft noise intrusion - Building siting and construction

The proposed development is not expected to be affected by aircraft noise. The proposed ANEF contours for Badgery's Creek Airport are placed such that the Aged Care Facility will be in a zone of below 20 ANEF.

10. CONCLUSION

This report forms part of the development application submission for the proposed development of the Residential Aged Care Facility located at the corner of Lang Rd and Hume Hwy, Casula NSW 2170.

Operator attended and long term measurements were conducted at the site. The results of the measurements are presented in this report, and initial glazing design for compliance with SEPP for rail and roads have been specified. The noise criteria derived from the measurements using NSW INP methodology at the nearest affected receiver are to be quantified.

Noise and vibration may occur during the construction phase and can be managed by the restriction in the hours permitted during the construction phase.

4.9.12 Natural and Technological Hazards

The site is not subject to any known natural or technological hazards which would preclude the DA.

4.9.13 Stormwater Management

A concept stormwater management plan and design has been prepared and is included at **Appendix E** of this report. The stormwater management concept has been designed to maximise the use of water permeable surfaces on the site having regard to the soil characteristics affecting on-site infiltration of water. The stormwater management concept has also been designed to include on-site water detention.

The stormwater management report included at **Appendix E** includes measures to manage water infiltration, water quality using a MUSIC model with details included and quantity discharge designed to accord with the standards of Council.

4.9.14 Soils

It is unlikely that the construction or development of the site will have adverse impacts on the soil quality of the site subject to the appropriate management regimes being met at the construction phase to manage geotechnical considerations refer to **Appendix M** for a Geotechnical and Salinity Management Reports.

4.9.15 Waste Management

A demolition and construction Waste Management Plan using Council's template is included in **Appendix L**. Further a separate Operational Waste Management Plan is included at **Appendix L**. This includes the measures proposed for managing waste in the operation of the proposed RACF development according to waste management principles and priorities of:

- Reduce wastes at the source;
- Reuse materials, where possible;
- Recycle wastes, where practical;
- Removal of all waste from the site; and
- Dispose of wastes appropriately and responsibly.

4.9.16 Flora and Fauna

An arborist report with aboricultural impact appraisal and method statement has been prepared and is included at **Appendix N**. The report provides an analysis of the impact of the development proposal on trees with additional guidance and appropriate management and protective measures.

The proposed development includes a number of measures that mitigate potential impacts and protect nearby stormwater system which lead to the Georges River including erosion and sediment control plan, stormwater management plan, and waste management plan.

4.9.17 Erosion and Sedimentation

An erosion and sedimentation assessment and management plan prepared for the subject site is included at **Appendix G**.

4.9.18 Contamination

Environmental Assessment reports are included at **Appendix H** which conclude that the site is be suitable for a RACF development.

4.9.19 Economic Impact

The proposed development will ensure that the new development is complementary to the existing nearby context and setting in Casula.

The proposed CHL RACF will employ 41 people.

The potential for additional jobs being generated as a result of support services such as kitchen functions and linen services beyond the boundaries of the site as a multiplier effect will also occur.

The proposed development will have a number of positive social and economic effects in the locality, which are considered to mitigate any adverse economic impacts, including:

- Meet the needs from the growing aged community of Casula and the wider LGA;
- provide aged care facilities with a wide range of services to support home care functions in the LGA provided by CHL;
- generates permanent employment with direct jobs on-site in the development and indirect flow-on jobs;
- generates construction employment with direct and indirect jobs; and
- provides for a new public domains and streetscapes as a location for social activity that contributes to building a sense of place, identity, community and social cohesion.

4.9.20 Safety, Security and Crime Prevention

The proposed CHL RACF at Casula will employ a number of passive and active crime prevention measures as part of Crime Prevention through Environmental Design (CPTED). The proposed development has been designed for safety and security of site users and to accord with the principles of CPTED including the following:

- natural surveillance with clear sight lines and avoidance of blind corners and sightline obstructions across trafficable parts of the site and between activity areas;
- active CCTV surveillance and security services;
- access control for administration functions, back-of-house and loading dock areas, and for outside visitor operating hours throughout the proposed RACF;
- durable building design and materials for the proposed CHL RACF at Casula with development of management practices associated with operations that contribute to territorial reinforcement.

Overview

Table 7 provides a summary of the proposed development's design response against the four CPTED principles, being surveillance, access control, territorial reinforcement and space management.

Table 7: *Design response of the proposed development against the CPTED Principles*

| CPTED PRINCIPLE | DESIGN RESPONSE |
|----------------------------------|--|
| Surveillance | Sight lines between corners and entrances of the building's entry for pedestrians and vehicular entry and access points have been designed to minimise hiding opportunities. This has been achieved through the removal of unnecessary walls/obstructions, the use of clear glazing where possible, as well as maximising sight lines from the entrances of the proposed building to the street frontages. The use of CCTV cameras will also be a technical surveillance addition used throughout the building where deemed necessary by CHL. |
| Access Control | <p>The use of security shutters/swipe card and code controlled access to the residential components of the RACF building including offices, utilities, store rooms and loading dock are proposed throughout. All areas that are restricted will be kept locked at all times, with employees given access to these areas through security clearances.</p> <p>It is necessary to ensure the effective use of physical and symbolic barriers to attract, channel or restrict the movement of people to minimise opportunities to commit crime. Additionally, the design and location of the ground level of the proposed administration office functions will be such that it allows the opportunity for staff surveillance to the reception and lobby areas.</p> |
| Territorial Reinforcement | The design of the proposed development incorporates aspects which define and distinguish areas strictly for private use/access from the areas utilised for public and semi-public purposes. All proposed lighting and signage has been designed accordingly. Where appropriate, the utilisation of signage, site furnishings and paving detailing to delineate between public and private spaces has been included. |
| Space Management | The creation of well-kept and attractive spaces will help to attract more people, and thus reduce the likelihood of crime occurring through increased passive surveillance. The use of quality design combined with the implementation of an appropriate management, upkeep and cleaning strategies will reinforce perceptions of safety. |

Design Considerations Relationship between Design and Crime

Crime Prevention: Aims to prevent crime and anti-social behaviour before it occurs.

Social prevention: Aims at addressing socio-economic causes of crime.

Situational prevention: Seeks to reduce opportunities for crime and anti-social activity through changing the environment

Examples:

- A typical offender will assess the potential crime location before committing a crime.
- Building design or use can create an environment that is not conducive to crime.
- Building design should seek to address both actual crime and fear of crime.
- Good design should encourage an open society, open space and freedom of movement.

A fear of crime leads to reduced participation in civil society. This also leads to a self-fulfilling prophesy, that is if an area is perceived as unsafe, people retreat into homes, surveillance is reduced and crime is encouraged.

Holistic Approach

Crime Prevention for development – a holistic approach involving:

- CPTED (Crime Prevention through Environmental Design) principles;
- Engineering and physical measures. E.g. CCTV, security doors, security patrols, mirrors;
- Management strategies. E.g. Security Management Plan.

Crime Prevention through Environmental Design

Crime Prevention through Environmental Design (CPTED) aims to reduce crime and change perceptions of crime through changing the physical environment.

- CPTED increases risk for criminals by increasing chance of detection, challenge and capture;
- Increases effort required to commit crime by increasing the time, energy and resources needed to be expended;
- Removes conditions that create confusion about behaviour norms;

The CPTED Principles

There are four principles that need to be used in the assessment of development applications to minimise the opportunity for crime:

- Surveillance;
- Access Control;
- Territorial Reinforcement;
- Space Management.

Particular consideration has been given to the incorporation of these principles concerning entrances, sight lines, vehicular access and exit onto the premises and from the ground floor level car park, opportunities for technical and passive surveillance, interrelationships with parking areas, and loading dock facilities, lighting, legibility and accessibility, ownership and space management, security and safety, and minimisation of 'entrapment' opportunities.

4.9.21 Utility services

The subject site has access to essential utility services including water, sewerage, electricity, telephone and gas with a capacity to accommodate the proposed development for a RACF and will be augmented as required.

4.9.22 BCA and ESD performance of proposed building

The proposed building will be constructed in accordance with the Building Code of Australia under the National Construction Code which requires buildings of this classification to comply with Part J energy efficiency requirements. Refer to the BCA Report prepared at **Appendix I**.

4.9.23 Construction Impacts

A Construction Management Plan can be prepared as part of a Construction Certificate once a builder has been appointed and prior to the commencement of works to manage potential impacts of construction activities including site safety, security and access control, construction vehicles, soil and water management, waste management, noise and construction hours.

4.10 SECTION 79C(1)(C) SITE SUITABILITY

Section 79C(c) of the act requires consideration of the suitability of the site for the development. The primary matters under Section 79C (C) are whether the proposal fits into the locality and if the site attributes are conducive to development.

The site and surrounding locality do not present any significant physical, ecological, technological or social constraints on the development of the site for the proposed building. In summary, there are limited constraints on the development of the site and minimal conflicts will occur with surrounding land uses.

4.11 SECTION 79C(1)(E) THE PUBLIC INTEREST

Section 79C(D) and (E) of the EP&A Act require that any public submissions made in accordance with the Act or the public interest be considered in the development assessment process.

The proposed development will not significantly impact on the environment, will improve consumer choice for aged care housing in the locality including provision of 40% concessional housing, will result in a good design outcome and is generally consistent with the applicable planning controls and strategic documents for the site. It is therefore considered to be in the public interest.

4.12 SECTION 91A OF THE EP&A ACT - INTEGRATED DEVELOPMENT

The provisions of Section 91 of the EP&A Act states:

91 What is “integrated development”?

(1) Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the following approvals:

Under the provisions of Section 91A of the EP&A Act, where a proposed development triggers the requirements for an approval from a State Government department, agency or authority a proposal is integrated.

The site of the proposed development does not trigger an item under Section 91 of the EP&A Act. Therefore, the DA does NOT require an integrated referral to ANY State Government Department, Agency or Authority.

4.13 SECTION 94 OF THE EP&A ACT – REQUEST FOR EXEMPTION TO CONTRIBUTIONS

Liverpool City Council Section 94 Development Contributions Plan titled “Liverpool Contributions Plan 2009 (March 2011)” applies to all new residential and commercial development including seniors housing in the form of a RACF throughout the LGA.

Ministerial Direction issued under S94E of the EP&A Act dated 14 September 2007 advises certain exemptions apply to seniors housing provided by a social housing provider from a contribution. A social housing provider is defined to mean any of the following:

- (a) the New South Wales Land and Housing Corporation,*
- (b) the Department of Housing,*
- (c) a community housing organisation registered with the Office of Community Housing of the Department of Housing,*
- (d) the Aboriginal Housing Office,*
- (e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,*
- (f) the Department of Ageing, Disability and Home Care,*
- (g) a local government authority that provides affordable housing,*
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.***

CHL is a Commonwealth registered not-for-profit organisation that provides housing to tenants. A non-profit organisation is an organisation that is not operating for the profit or gain of its individual members. Any profit made by the organisation goes back into the operation of the organisation to carry out its purposes and is not distributed to any of its members. It is submitted that this is the case with CHL.

The housing provided by CHL will remain the property of CHL and will be made available to residents for a fee. Thus CHL provides rental housing to its tenants. Consequently, there is no form of Section 94 Contribution under the adopted plan that can be levied for this development.

5. SUMMARY AND CONCLUSION

This SEE report has been prepared to assess a proposed development which seeks approval for the construction and operation of a Residential Aged Care Facility under the Seniors Housing SEPP at 11-15 Lang Road, 76-80 Marsh Parade & 536-542 Hume Highway, Casula, which has been identified as suitable for such a development.

The aim of this report has been to provide the following:

- Description of the site and locality;
- Description of the proposed development;
- Assessment of relevant environmental planning matters for consideration under Section 79C of the EP&A Act including compliance with planning instruments and controls, environmental impacts, site suitability and the public interest; and
- A conclusion with respect to the proposal.

In summary, the proposed development is appropriate within the context of the subject site and is generally consistent with the statutory and policy requirements of both Council and the State government.

The development is in accordance with the planning instruments relevant to the site. No significant impacts are envisaged to occur upon the amenity of surrounding properties. The proposal will result in a development which exhibits a high level of amenity for future residents and is expected to have a positive economic and social impact on the locality.

Having regard to the analysis and assessment within this report, it is therefore recommended that the application be supported.

APPENDIX A

Site Survey (Reduced)

APPENDIX B

Architectural Drawings (reduced)

APPENDIX C

Architectural Design Statement

APPENDIX D

Landscape Concept Drawings (reduced) and Report

APPENDIX E

Stormwater Management Report and Design Measures Drawings (reduced)

APPENDIX F

Social Impact Comment

APPENDIX G

Sedimentation and Erosion Control Plans

APPENDIX H

Contamination Report

APPENDIX I

BCA Report

APPENDIX J

Acoustic Assessment Report

APPENDIX K

Traffic and Parking Assessment Report

APPENDIX L

Waste Management Plans

APPENDIX M

Geotechnical and Salinity Management Reports

APPENDIX N

Arborist Report

APPENDIX O

QS Letter

APPENDIX P

Concept Civil Designs including cut and fill information – Engineering drawings (reduced)

APPENDIX Q

Wastewater/Recycled Water Management Statement

APPENDIX R

Pre-lodgement Meeting Notes

APPENDIX S

**Formal Objection under State Environmental Planning Policy No. 1 –
Development Standards – Storeys Control (Seniors Housing SEPP)**

APPENDIX T

**Formal Objection under State Environmental Planning Policy No. 1 –
Development Standards – Height Control (Seniors Housing SEPP)**

APPENDIX U

**Formal Objection under State Environmental Planning Policy No. 1 –
Development Standards – Distance under Clause 26 (Seniors Housing SEPP)**

APPENDIX V

**Formal Objection under State Environmental Planning Policy No. 1 –
Development Standards – Landscaped Area (Seniors Housing SEPP)**

APPENDIX W

**Clause 4.6 Request to vary Clause 4.3 Height of Building Mapping Control
under Liverpool Local Environmental Plan 2008**

APPENDIX X

**Clause 4.6 Request to vary Clause 4.4 Floor Space Ratio Mapping Control
under Liverpool Local Environmental Plan 2008**

