

## COUNCIL ASSESSMENT REPORT

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSHCC-274 – DA 16-2023-707-1
<b>PROPOSAL</b>	Seniors housing development (independent living units) comprising 172 dwellings, a community centre, recreation facilities, open space, site works and associated infrastructure
<b>ADDRESS</b>	LOT: 105 DP: 614883 & LOT: 4 DP: 823114 4A Vardon Road FERN BAY & 4 Vardon Road FERN BAY
<b>APPLICANT</b>	Principle Living PTY LTD
<b>OWNER</b>	Newcastle Golf Club Ltd
<b>DA LODGEMENT DATE</b>	31 January 2024
<b>APPLICATION TYPE</b>	Integrated Development
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 2 of Schedule 6 as it comprises general development with a capital investment value exceeding \$30 million
<b>CIV</b>	\$98,795,880 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	N/A
<b>KEY SEPP/LEP</b>	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> <i>State Environmental Planning Policy (Housing) 2021</i> <i>State Environmental Planning Policy (Industry and Employment) 2021</i> <i>State Environmental Planning Policy (Planning Systems) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <i>Port Stephens Local Environmental Plan 2013;</i>
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY</b>	1 Submission was received which raised 3 key issues.

<b>ISSUES SUBMISSIONS</b>	<b>IN</b>	
<b>DOCUMENTS SUBMITTED CONSIDERATION</b>	<b>FOR</b>	<ul style="list-style-type: none"> <li>• Attachment 1: Recommended Conditions of Consent</li> <li>• Attachment 2 - Architectural Plans</li> <li>• Attachment 3 - Access Report</li> <li>• Attachment 4 - Detail Site Survey</li> <li>• Attachment 5 - Aboriginal Cultural Heritage Assessment Report</li> <li>• Attachment 6 - Civil Engineering Plans</li> <li>• Attachment 7 - Concept Flooding &amp; Stormwater Report</li> <li>• Attachment 8 - Preliminary Utility Services Report</li> <li>• Attachment 9 - Landscape Plan</li> <li>• Attachment 10 - Arborist Report</li> <li>• Attachment 11 - Bushfire Threat Assessment Report</li> <li>• Attachment 12 - Operational Management Plan</li> <li>• Attachment 13 - BASIX Certificate</li> <li>• Attachment 14 - Comprehensive Social Impact Assessment</li> <li>• Attachment 15 - Cost of Development Report</li> <li>• Attachment 16 - Crime Prevention Through Environmental Design Report</li> <li>• Attachment 17 - Preliminary Dewatering Management Plan</li> <li>• Attachment 18 - Preliminary Site (Contamination) Assessment</li> <li>• Attachment 19 - Urban Design and Visual Impact Study</li> <li>• Attachment 20 - Waste Management Plan</li> <li>• Attachment 21 - Urban Design Panel Minutes - September 2021 and March 2024</li> <li>• Attachment 22 - Biodiversity Management Plan</li> <li>• Attachment 23 – BDAR</li> <li>• Attachment 24 - Acoustic Assessment</li> <li>• Attachment 25 - Traffic Impact Assessment</li> <li>• Attachment 26 - Housing SEPP Assessment Tables</li> <li>• Attachment 27 - DCP Chapter C5 Assessment</li> <li>• Attachment 28 – Flood Emergency Response Plan</li> </ul>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>		Yes - Housing Productivity Contributions Apply
<b>RECOMMENDATION</b>		Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>		Yes
<b>SCHEDULED MEETING DATE</b>		1 April 2025
<b>PREPARED BY</b>		Mathew Egan – Development Planning Coordinator
<b>DATE OF REPORT</b>		25 March 2025

## EXECUTIVE SUMMARY

This development application (16-2023-707-1) seeks consent for a seniors housing development (independent living units) comprising 172 dwellings, a community centre, recreation facilities, open space, site works and associated infrastructure.

The site is located at 4 and 4A Vardon Road, legally known as Lot 4 DP 823114 and Lot 105 DP 614883. The site is located within the Port Stephens Local Government Area (LGA) and has an area of 77 hectares. The site has frontage to Nelson Bay Road and is accessed via Vardon Road.

The proposal was notified and advertised during the assessment of the application in accordance with the Port Stephens Council's Commutation and Engagement Strategy. The notification period was from 8 February 2024 until 22 February 2024. One submission was received during the notification period.

The key issues with respect to the assessment of this application were related to ecological impacts, traffic impacts and flood impacts. To address these matters, a number of specialist studies were submitted in support of the application. This included a Biodiversity Development Assessment Report, Traffic Impact Assessment, Concept Flood and Stormwater Report and Flood Emergency Response Plan. All the issues have been addressed through the assessment of the application and recommended conditions of consent.

The proposal is referred to the Hunter and Central Coast Regional Planning Panel (HCCRPP) for determination pursuant to Section 2.19(1) and Clause 2 of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 which declares the proposal regionally significant development as the development has a capital investment value of more than \$30 million.

The development has been assessed under Section 4.15 of the EP&A Act and is considered satisfactory. Accordingly, pursuant to Section 4.16(1)(b) of the EP&A Act, it is recommended that the application be approved subject to conditions of consent contained in **Attachment 1**.

### 1. THE SITE AND LOCALITY

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#### 1.1 The Site

The development is proposed on 4A Vardon Road across two irregular shaped lots known legally as Lot 4 DP823114 & Lot 105 DP614883, as shown in **Figure 1** below. The two lots comprise the site area and cover a combined area of approximately 77.6ha. The site currently contains an 18 hole golf course and associated clubhouse and car park known as the 'Newcastle Golf Course'. The clubhouse and associated facilities are located in the south west corner of the site with vehicular access via a driveway accessible from Vardon Road.

The site is zoned RE2 Private Recreation. The site is moderately vegetated, particularly in its north eastern portion which contains old growth vegetation of high environmental value. The site's topography varies significantly across the site with several peaks measuring between 8 and 11.5m AHD and various low points measuring 1m AHD. The site is not burdened by any easements, covenants or restrictions that preclude the proposed development.



**Figure 1:** Satellite image overview of the site

The proposed seniors housing development is located on the western extent of the site, fronting Nelson Bay Road. The seniors housing development is proposed within an area measuring 6.3ha, as shown in **Figure 2** below. This area will herein be referred to as 'the site'. The site is currently occupied by a grassed fairway with mature trees on either side. The seniors housing development site contains 2ha of native vegetation, as identified in the Biodiversity Assessment Report (BDAR) submitted with the application.





**Figure 2:** Development location on the western extent of the site

The site forms part of the Fern Bay and North Stockton Strategy. The site is located within the area defined as 'original Fern Bay' in the plan. The strategy identifies Newcastle Golf Club as a key site noting that it has a significant land holding with opportunities to support future residential development. Seniors living was specifically the identified use on the site in the strategy.

The site is subject to a number of environmental and heritage constraints (as mapped on Council's GIS system) including:

- Weed Infestations – Chinese Violet
- Bushfire Prone Land – Vegetation Buffer, Category 1 and 2
- Acid Sulfate Soils – Class 2, 3 and 4
- Koala Habitat – link over cleared, preferred, buffer of cleared, buffer over supplementary, clear and supplementary.





The nearest commercial centre includes land recently rezoned for commercial purposes (E1 Local Centre zone) at 42 Fullerton Cove Road, 1.5km from the site. A DA for a supermarket and other retail premises (DA16-2023-685-1) was approved by the Hunter and Central Coast Regional Planning Panel at this location in January 2025. A further commercial centre is located in the suburb of Stockton located 4.5km to the south of the site in the Newcastle LGA. A small neighbourhood shop and café is located on Nelson Bay Road, a walkable distance of approximately 200m from the southern site boundary. A DA (DA16-2023-690-1) for a 232 lot residential subdivision, known as the 'Rifle Range Development', is currently under assessment by Council situated 200m from the site's southern boundary.

The Fern Bay area is serviced by Hunter Valley Buses and Port Stephens Coaches. Bus services connect residents to Newcastle City, Stockton, Newcastle Airport and Nelson Bay. Nelson Bay Road to the west of the site provides a major connection between Nelson Bay to the north and Kooragang to the south. It forms part of the regional road network and carries a high volume of traffic between Newcastle and the Port Stephens LGA, including Newcastle Airport / Williamstown RAAF base.

## **2. THE PROPOSAL AND BACKGROUND**

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### **2.1 The Proposal**

The proposed development is for a seniors housing development comprising 172 independent living units, a community centre, recreation facilities, open space, site works and associated infrastructure, as shown in **Figure 4** below. The development will be known as 'Apperly Village'. Specifically, the proposal includes the following key elements:

- Site preparation and establishment works including vegetation clearing, demolition of existing golf course holes and bulk earthworks including compensatory cut;
- Construction of three (3) apartment buildings containing 125 serviced self-care dwellings;
- Forty seven (47) single storey serviced self-care dwellings;
- Car parking including 310 spaces across the site with each dwelling being provided with a double garage (94 spaces) and 177 basement car parking spaces within the three apartment buildings and 39 at grade car parking spaces located in parking bays adjacent to the access roads through the site;
- A combined entry/egress driveway connecting to Vardon Road and required intersection works;
- Line marking and sealing of golf course parking area near Vardon Road driveway;
- Demolition of golf course maintenance shed near Vardon Road entrance;
- Establishment of a Community Centre including games room, pool, cinema, dining room, bar, lounge areas, offices, lap pool, gymnasium, multi-use rooms;
- Recreation facilities including lawn bowls facility, open space, landscaping, picnic shelter, public art, open lawn area for passive recreational activities and formal striking planting;
- Civil works including internal access roads, pedestrian linkages to Nelson Bay Road and the golf club and stormwater infrastructure;
- Connection to Country 'Keeping Place';
- Extension and enhancement of physical infrastructure utilities.



**Figure 4: Site Plan**



**Figure 5: Apartment Building 1 Perspective**





**Figure 6:** Apartment Building 2 Perspective



**Figure 7:** Apartment Building 3 Perspective





**Figure 8:** Community Facilities and Apartment Building



**Figure 9:** Typical Detached Dwelling

The key elements of the proposal are discussed in greater detail in the following section.

### **Site Preparation and Establishment Works**

The seniors housing development footprint contains 2.01ha of native vegetation which comprises four (4) plant community types (PCTs) of varying condition. Removal of 1.8ha of native vegetation is proposed to facilitate the proposed development, as identified in the BDAR submitted with the application. A total of 852 trees were assessed as part of an Arborist Report submitted with the application, which concluded that 435 require removal due to factors associated with tree health and safety, and to facilitate the proposed development. A further 8 trees (of the 35 assessed) will be removed for the Vardon Road entrance works. All trees and shrubs cleared will be mulched onsite and re-used in site landscaping. A tree removal and retention plan is shown in **Figure 10** below.



**Figure 10:** Tree removal and retention plan

The proposed development includes bulk earthworks to facilitate the proposed basement levels of the three apartment buildings, level building pads, roads, at grade car parking, reticulated service installation, stormwater infrastructure and landscaping. All material cut is proposed to be re-used on the site. The estimated cut and fill volumes include the following:

- Topsoil Strip 13,319m<sup>3</sup>
- Bulk Cut 40,988m<sup>3</sup>
- Bulk Fill 38,601m<sup>3</sup>
- Balance Cut/Fill 2,387m<sup>3</sup>

A compensatory excavation is proposed in the northern part of the development site to provide offset flood storage capacity lost from the fill works proposed as part of the development. The compensatory cut and an associated upstream bund are proposed at an elevated location which shifts flood impacts away from the neighbouring lot to the north to low-lying areas of the golf course. The compensatory cut area is proposed to be revegetated as part of the Biodiversity Management Plan (BMP) associated with the approved golf course redevelopment (DA16-2022-413-1) once civil works are complete.

### **Apartment Buildings**

The proposal includes three (3) five-storey apartment buildings positioned along the western boundary to Nelson Bay Road in the southern portion of the site. The height of each building is approximately 18m. The apartment buildings are set back between 8.6m and 55m from the Nelson Bay Road frontage, allowing for landscaping and preservation of existing trees, improving the outlook of the development from the road.

The apartment buildings have been designed and sited to take advantage of key sight lines to the east (golf course and ocean) and west (Hunter River). The upper levels are recessed to reduce the perceived bulk and scale of the building.

The colours and material selection of the apartments consist of muted tones intended to be sympathetic to the site's natural setting. The use of sandstone cladding, copper-coloured façade panels, concrete spandrels and natural finished timber improve visual interest.

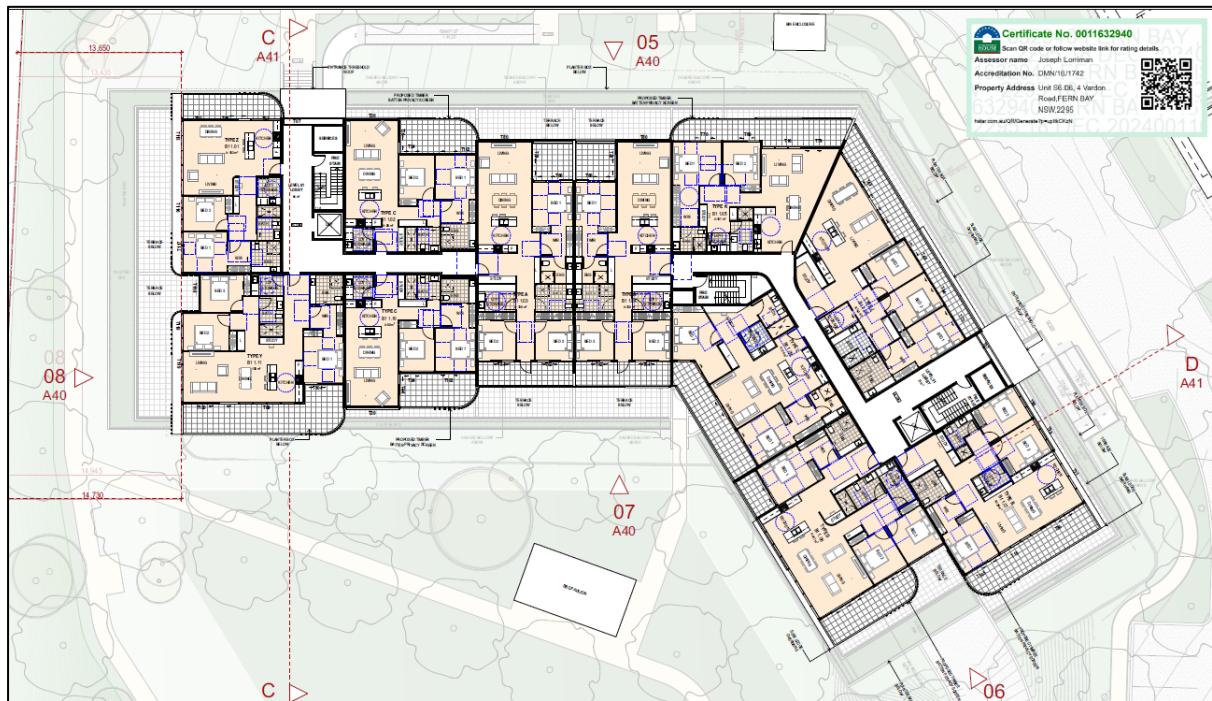


## Apartment Building 1

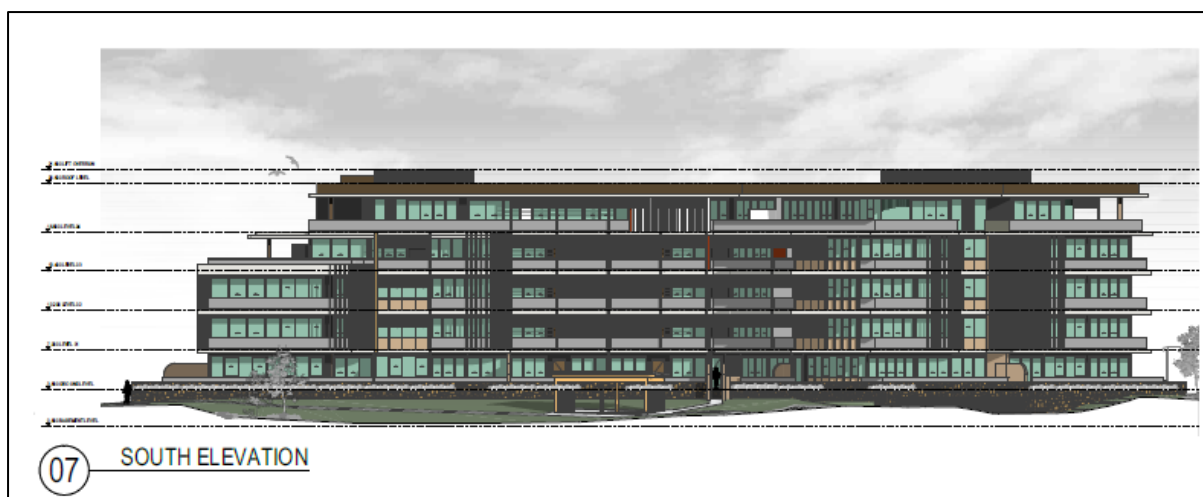
Apartment Building 1 is located on the northern side of the main site entrance and consists of five (5) storeys and a basement level car park. The apartment mix of Apartment 1 is shown in **Table 1** below and the apartment design in **Figures 11** and **12** below.

**Table 1: Apartment Building 1 Breakdown**

Level	3 Bedroom Units	2 Bedroom Units	Total GFA
Ground	6	5	1,339m <sup>2</sup>
One	6	5	1,339m <sup>2</sup>
Two	6	5	1,339m <sup>2</sup>
Three	6	3	1,136m <sup>2</sup>
Penthouse	4	-	826m <sup>2</sup>
Common Areas			762m <sup>2</sup>
<b>Total</b>	<b>28</b>	<b>18</b>	<b>6,741m<sup>2</sup></b>
<b>Car Parking</b>	<b>64 spaces</b>		



**Figure 11: Apartment 1 Typical Floorplate (Level 1 & 2)**



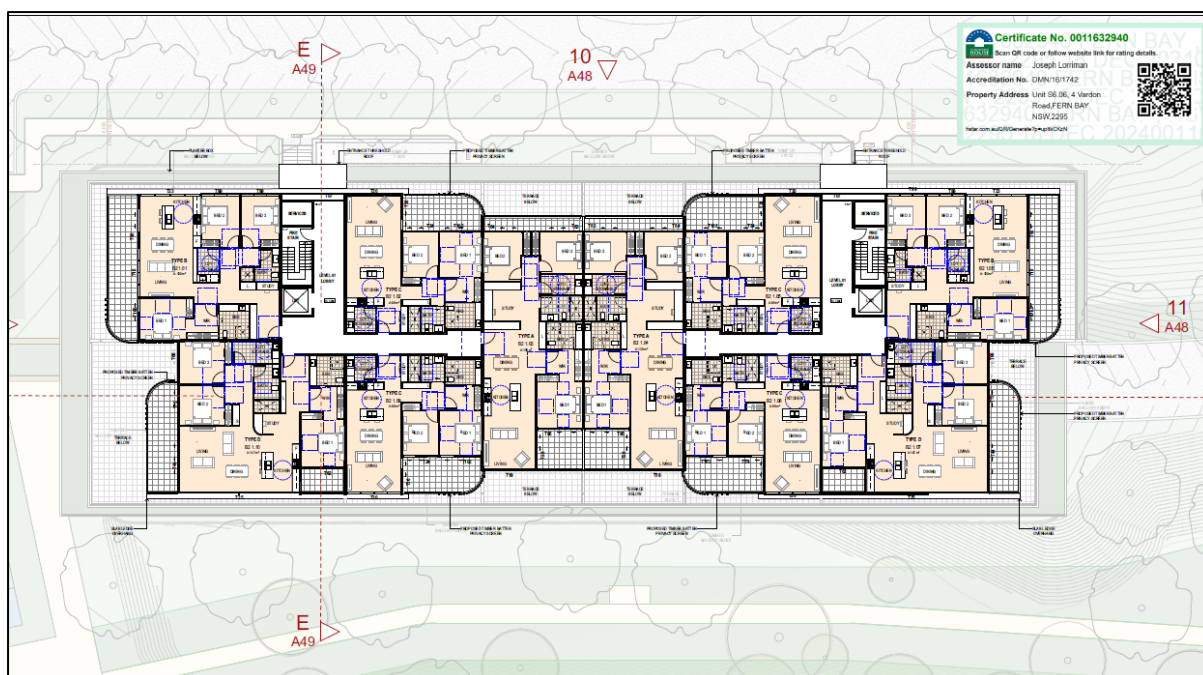
**Figure 12:** Apartment 1 Elevations

### Apartment Building 2

Apartment Building 2 is located to the southern side of the community centre and consists of five (5) storeys and a basement level carpark. The apartment mix of Apartment 2 is shown in **Table 2** below and the apartment design in **Figures 13** and **14** below.

**Table 2: Apartment Building 2 Breakdown**

Level	3 Bedroom Units	2 Bedroom Units	Total GFA
Ground	6	4	1,218 m <sup>2</sup>
One	6	4	1,218 m <sup>2</sup>
Two	6	4	1,218m <sup>2</sup>
Three	6	4	1,3218m <sup>2</sup>
Penthouse	4	-	807m <sup>2</sup>
Common Area			355m <sup>2</sup>
<b>Total</b>	28	16	6,034m <sup>2</sup>
<b>Car Parking</b>	64 spaces		



**Figure 13: Apartment 2 Typical Floorplate (Level 1-3)**



**Figure 14: Apartment 2 Elevations**

### Apartment Building 3

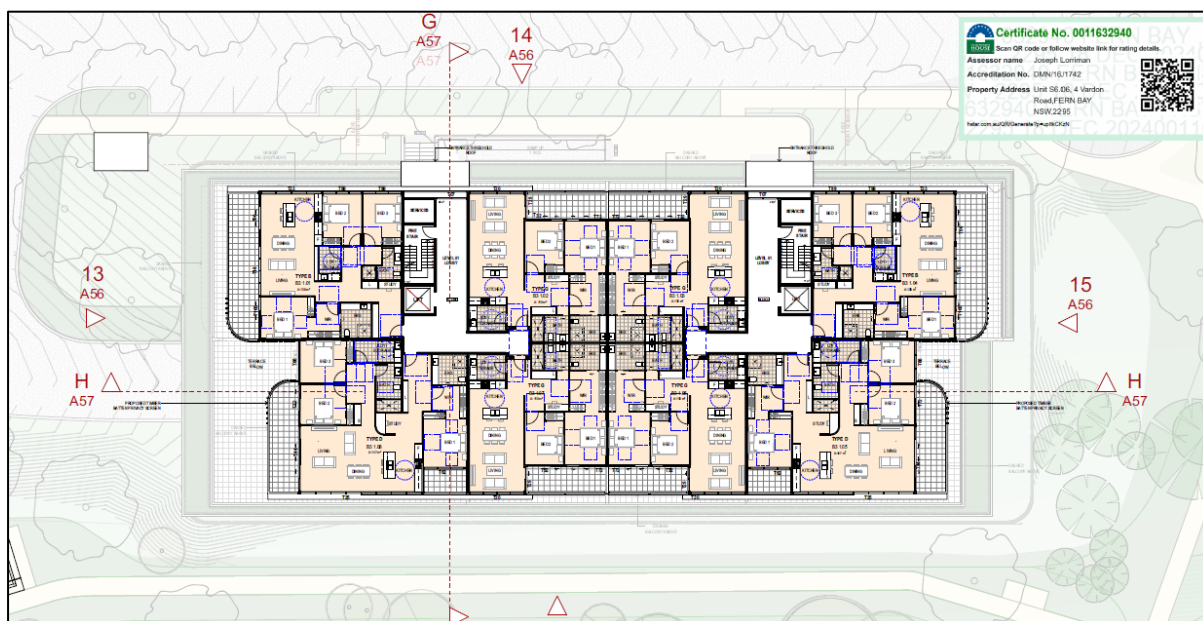
Apartment Building 3 is located to the south of Apartment Building 2 and consists of five (5) storeys and a basement level car park. Apartment Building 3 is the smallest of the three apartment buildings. The apartment mix of Apartment 3 is shown in **Table 3** below and the apartment design in **Figures 15** and **16** below.

**Table 3: Apartment Building 3 Breakdown**

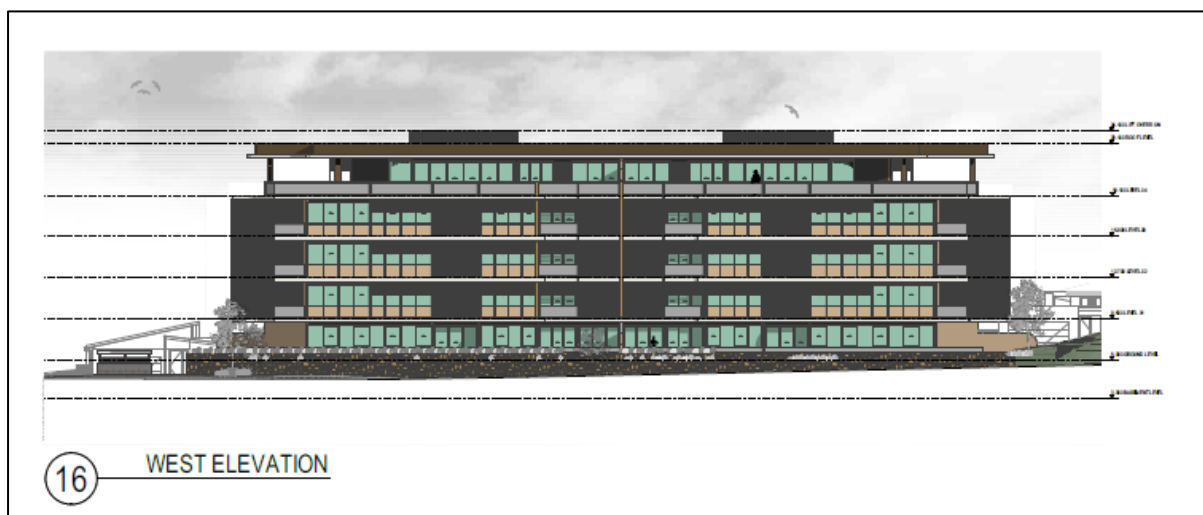
Level	3 Bedroom Units	2 Bedroom Units	Total GFA
Ground	4	4	987m <sup>2</sup>
One	4	4	987m <sup>2</sup>



Two	4	4	987m <sup>2</sup>
Three	4	4	987m <sup>2</sup>
Penthouse	3		585m <sup>2</sup>
Common Area			270m <sup>2</sup>
<b>Total</b>	<b>19</b>	<b>16</b>	<b>4,813m<sup>2</sup></b>
<b>Car Parking</b>	<b>49 spaces</b>		



**Figure 15:** Apartment 3 Typical Floorplate (Level 1-3)



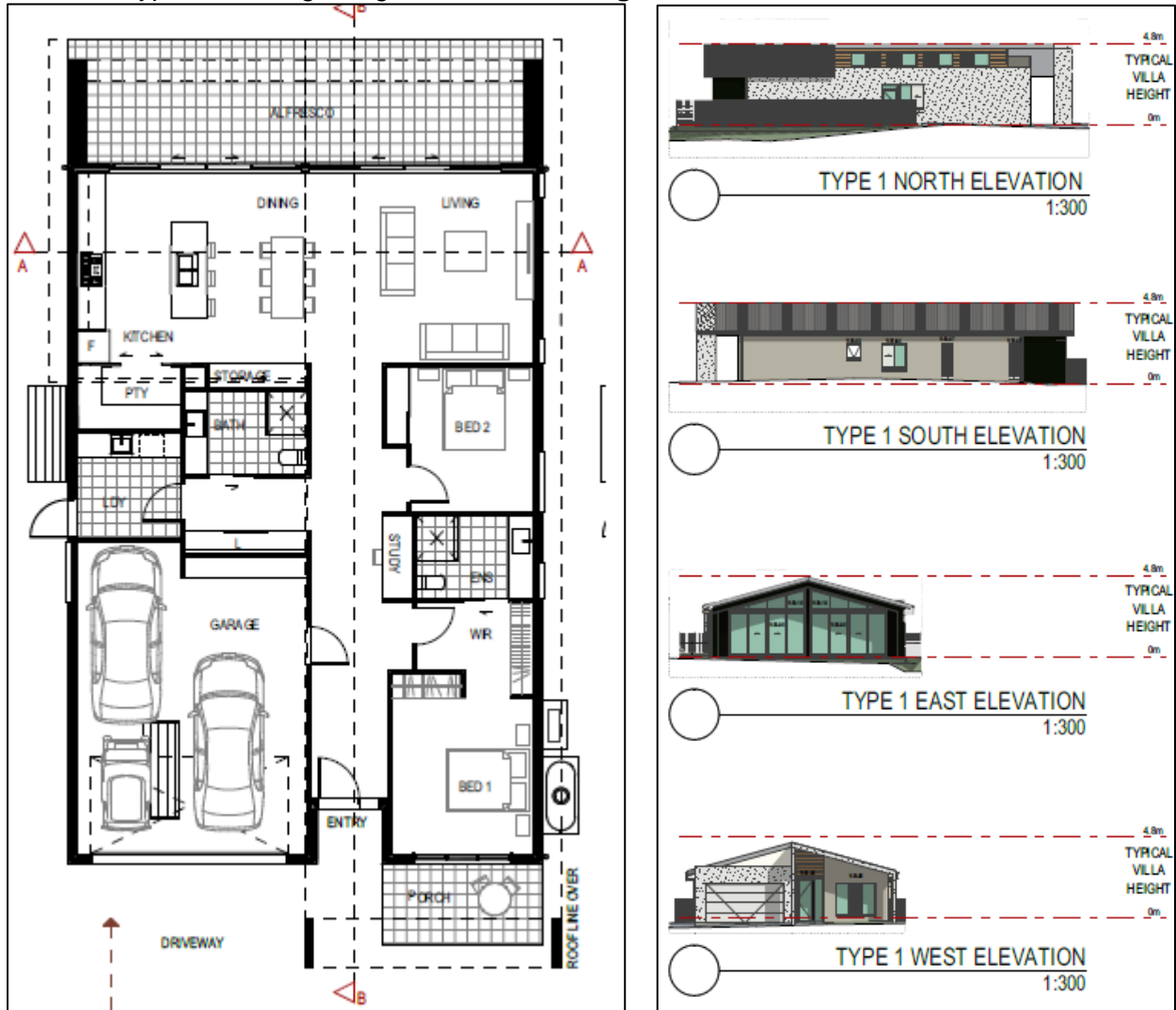
**Figure 16:** Apartment 3 Elevations

### Single Storey Self-Care Dwellings

The proposal includes 47 single-storey dwellings, specifically including the following:

- 35 golf frontage detached dwellings (Villas) in 2 and 3 bedroom configurations;
- 2 Nelson Bay Road detached dwellings (Townhouses) in a 3 bedroom configuration; and
- 5 dual occupancies (10 dwellings) in a 3 bedroom configuration.

The three typical dwelling designs are shown in **Figures 17-20** below.

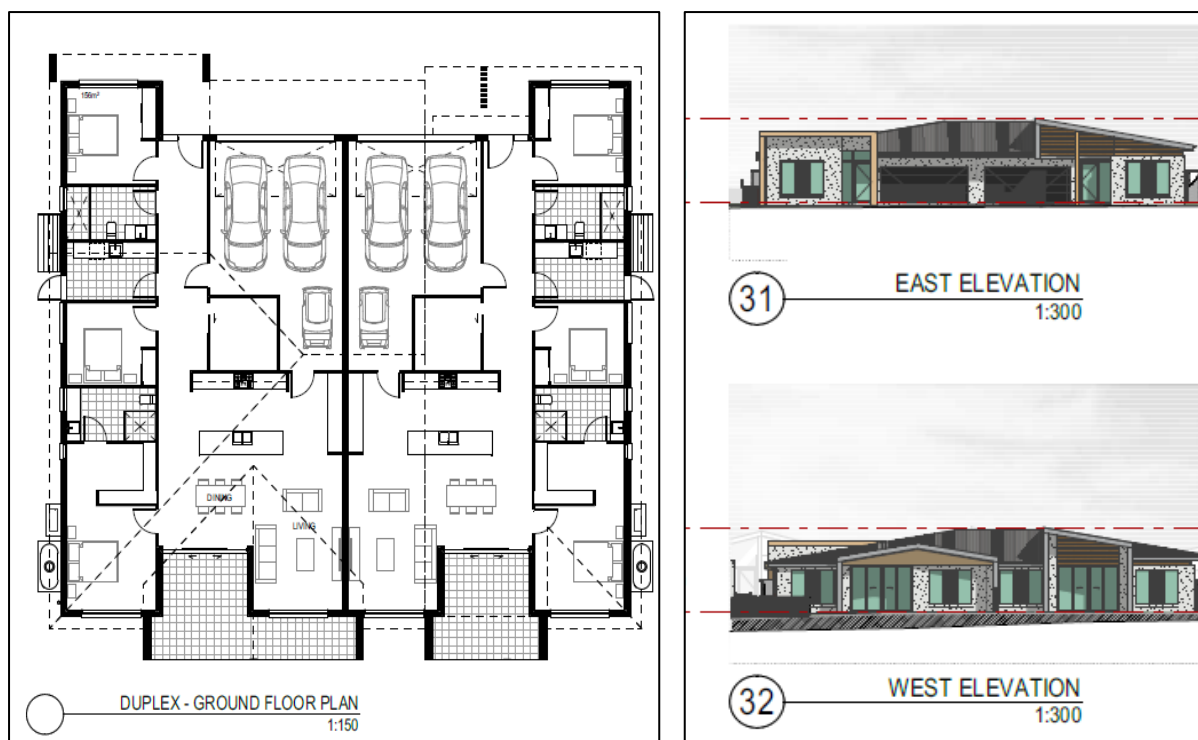


**Figure 17:** Typical 2 Bedroom Detached Dwelling Design



**Figure 18:** Typical 3 Bedroom Detached Dwelling Design





**Figure 19:** Typical Dual Occupancy Design

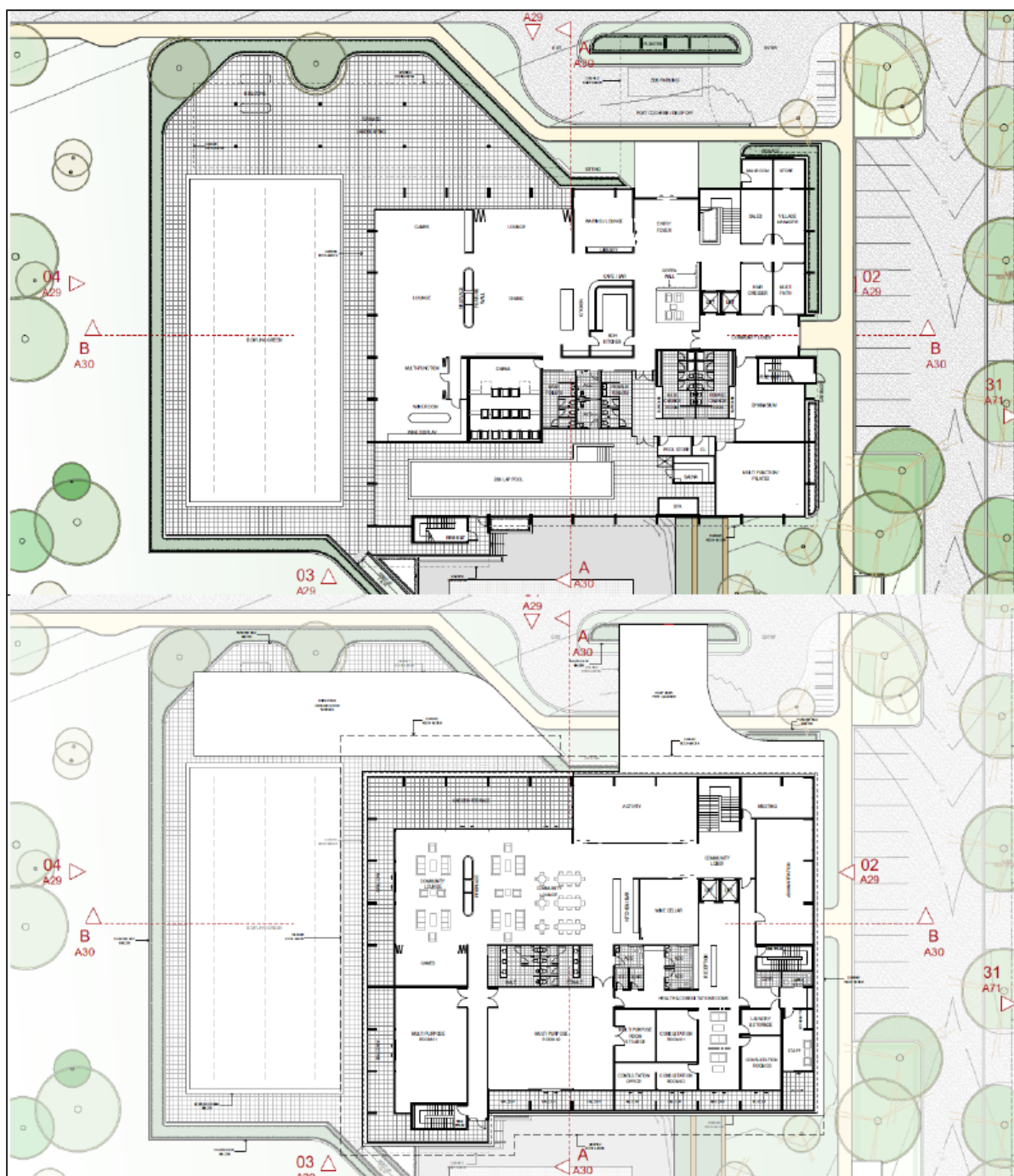
## Community Facilities

A two storey community centre is proposed at the centre of the site. The proposed building is of a similar design aesthetic to the proposed apartment buildings and dwellings, ensuring it harmoniously integrates with the remainder of the development. The proposed community centre includes the following facilities:

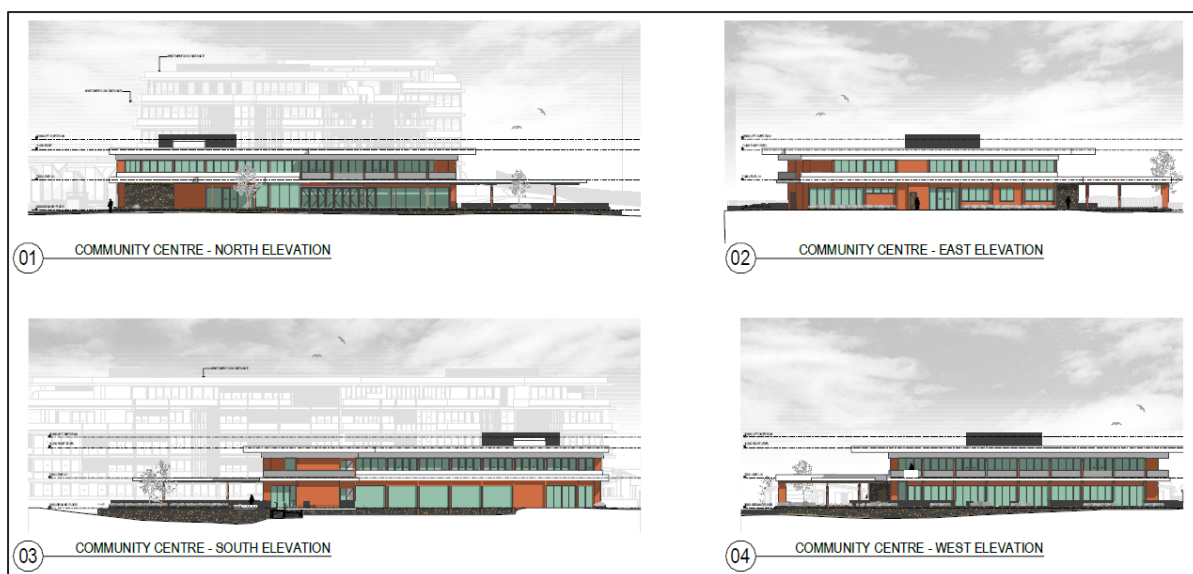
- Reading lounge
- Dining areas
- Lounge areas
- Cinema
- Wine room and wine cellar
- Multi-function areas
- Gymnasium
- Pilates room
- Communal kitchen
- Meeting rooms
- Health and consultation rooms
- Site administration and management rooms
- Expansive landscaped terrace

The community centre has a total gross floor area (GFA) of 3,100m<sup>2</sup> as shown in **Figure 20** below. The community centre is proposed to be open to residents of the development only.

The communal facilities will be accessible 24 hours a day to residents. The management office in the community centre is proposed to be open from 9am to 5pm Monday to Friday.



**Figure 20: Community Centre Floor Plan**



**Figure 21: Community Centre Elevations**

The proposal also includes a number of outdoor recreation facilities throughout the site area to enhance residents' physical health and social well-being. Specifically, the development includes the following recreational facilities:

- Bowling Green (see Figure 20 above).
- Multi-Purpose Outdoor Courts
- Outdoor Exercise Equipment
- Kids Play Areas
- Integrated Shelters
- Walkways

### **Car Parking**

Each of the 47 dwellings includes a double garage to cater to the parking needs of the residents, resulting in a total of 94 spaces.

The three (3) apartment buildings each include basement car parks with a total of 177 car parking spaces. The apartment basement parking is designed with lift access directly to all residential floors, providing an additional layer of security.

An additional 39 at-grade parking located adjacent to the internal roadway, ensuring adequate parking capacity to meet the demands of both residents and visitors.

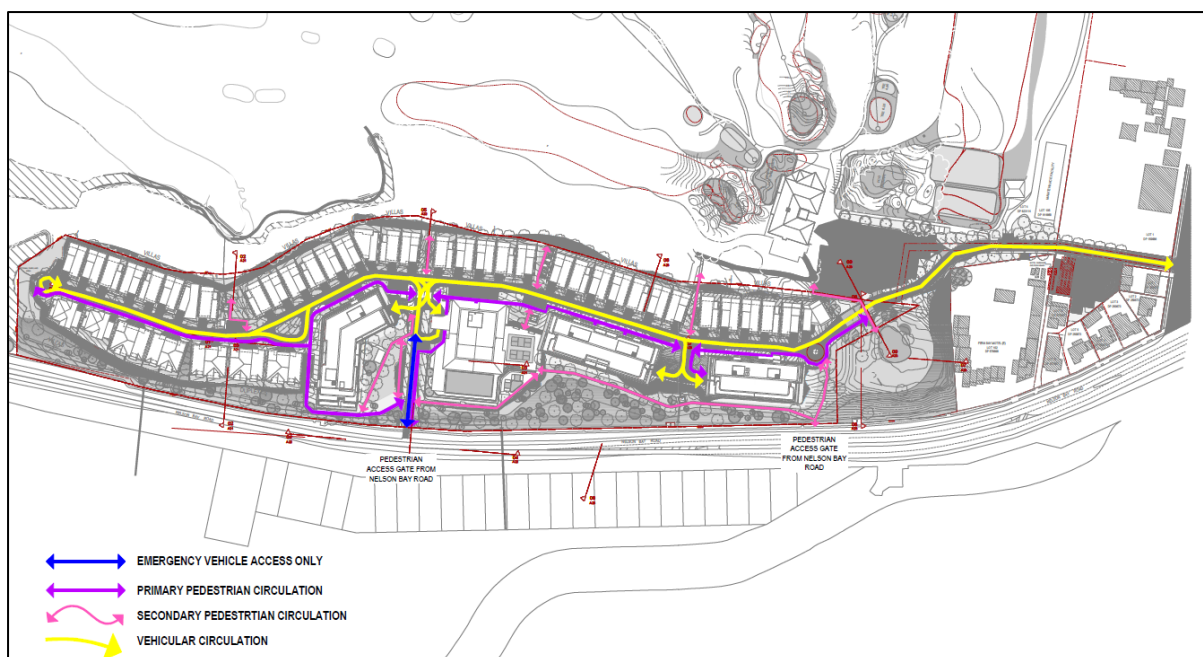
The proposal provides for a total of 310 car parking spaces.

### **Pedestrian Network**

Council is currently constructing a shared path along the site's Nelson Bay Road frontage, extending from Seaside Boulevarde in the north to Vardon Road in the south.

Internally to the site, a dedicated pedestrian link will traverse the entirety of the development and connect the three resident parks located across the site, as shown in **Figure 22** below.





**Figure 22: Proposed Movement Network**

## Landscaping

The proposal includes landscaping of 36% of the site area equating to 22,652m<sup>2</sup>. Of the site area, 14% consists of deep soil planting, equating to 8,985m<sup>2</sup>.

The landscape species selection primarily consists of a mix of drought tolerant native species, providing for low maintenance and compatibility with the existing natural features of the site. Deep soil planting areas consist of large shade trees offering improved amenity for residents and reduced urban heat island effects. Street trees are proposed on all internal roads, offering further shade coverage of hardstand areas. Retention of existing trees is proposed throughout the site area, including a large quantity on the site's frontage to Nelson Bay Road.

## Nelson Bay Road Driveway

There is a construction access proposed via Nelson Bay Road, whilst the development is being constructed. Once the development is complete, that access will be gated and only serve as an emergency entry/egress point for the site.

## Water Quality

The proposed stormwater drainage strategy involves the conveyance of stormwater from hardstand areas to natural and bio-retention areas, providing water quality treatment measures.

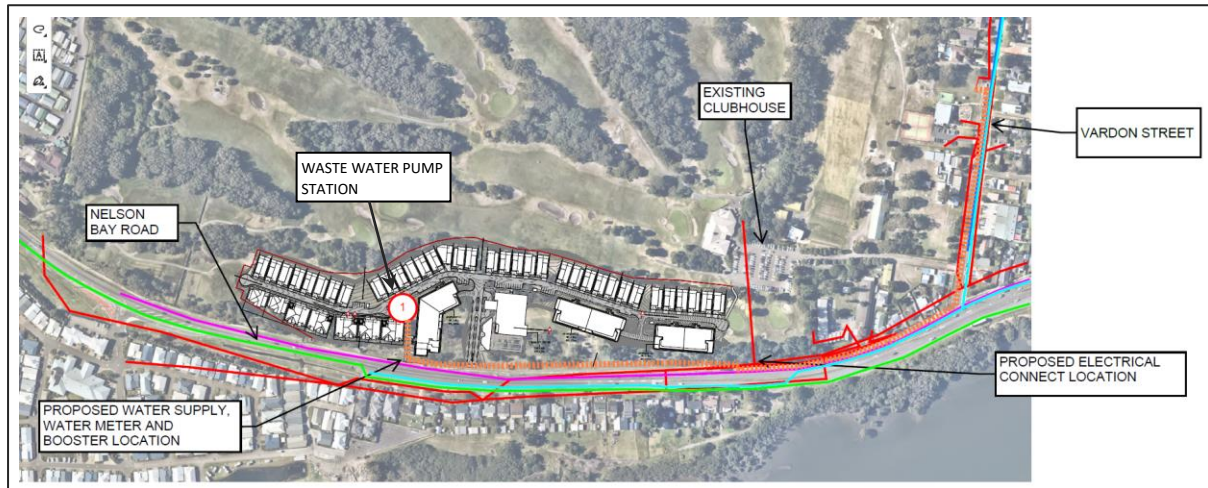
## Connection to Country 'Keeping Place'

The Aboriginal Cultural Heritage Assessment Report (ACHAR) submitted with the application identifies priority conservation areas for Aboriginal Cultural Heritage within the site. In line with the ACHAR findings, the development includes a priority conservation area that has been designated as a 'Keeping Place' where Aboriginal cultural material recovered

during test excavation, salvage excavation, monitoring and community collection will be relocated.

### Extension and enhancement of physical infrastructure utilities

The proposed development requires the extension of reticulated services to service the development including sewer, water, electricity and telecommunications. The application includes a Utility Servicing Report that describes the necessary civil works required to extend relevant services. The proposed service connection plan is shown in **Figure 23** below.



**Figure 23:** Proposed Service Connections

Connection to the reticulated water supply is proposed through existing infrastructure in the Nelson Bay Road corridor. Specifically, an extension of water services from Nelson Bay Road and through the development site adjacent to the internal roads is proposed. The size of the site servicing main is expected to be between 100 to 150mm in diameter and a water booster/meter is to be located adjacent to the site entry access road.

Connection to sewer is proposed at a wastewater pump station located on Council owned land at 8A Vardon Road Fern Bay. The proposed connection route runs through the Vardon Road reserve for approximately 480m and through the site's access handle on Vardon Road. A wastewater pump station is proposed within the site area immediately to the north of Apartment 1. The proposed sewer connection point and new wastewater pump station are shown in **Figure 23** above.

Connection to electricity is proposed via the extension of high voltage Ausgrid infrastructure in the Nelson Bay Road Reserve. The proposed path of connection is in proximity to the existing golf course overhead connection which is at the southern extent of the site area, as shown in **Figure 23** above.

Telecommunications are proposed to be extended from the Nelson Bay Road reserve, where NBN and Telstra assets already are located.

### Signage

Entry signage is proposed at the vehicle access proposed at Vardon Road. The proposed signage is shown in **Figure 24** below.



**Figure 24:** Proposed Signage

## Waste Management

The application includes a Waste Management Plan that includes management procedures to deal with construction and operational waste.

The Construction Management Plan includes measures to minimise construction waste, including re-use and recycling of materials where possible. All excavated material is proposed to be re-used on site rather than exported off site.

The proposed operational waste management plan includes the provision of each dwelling with a 240L general waste garbage bin. Comingled recycling and green waste bins are proposed to service the entire development. Waste collection is proposed via a private contractor with a weekly service for general waste, fortnightly service for comingled recycling and monthly service for comingled green waste. Waste generated at the community facility will be managed by the site manager and collected via a private contractor.

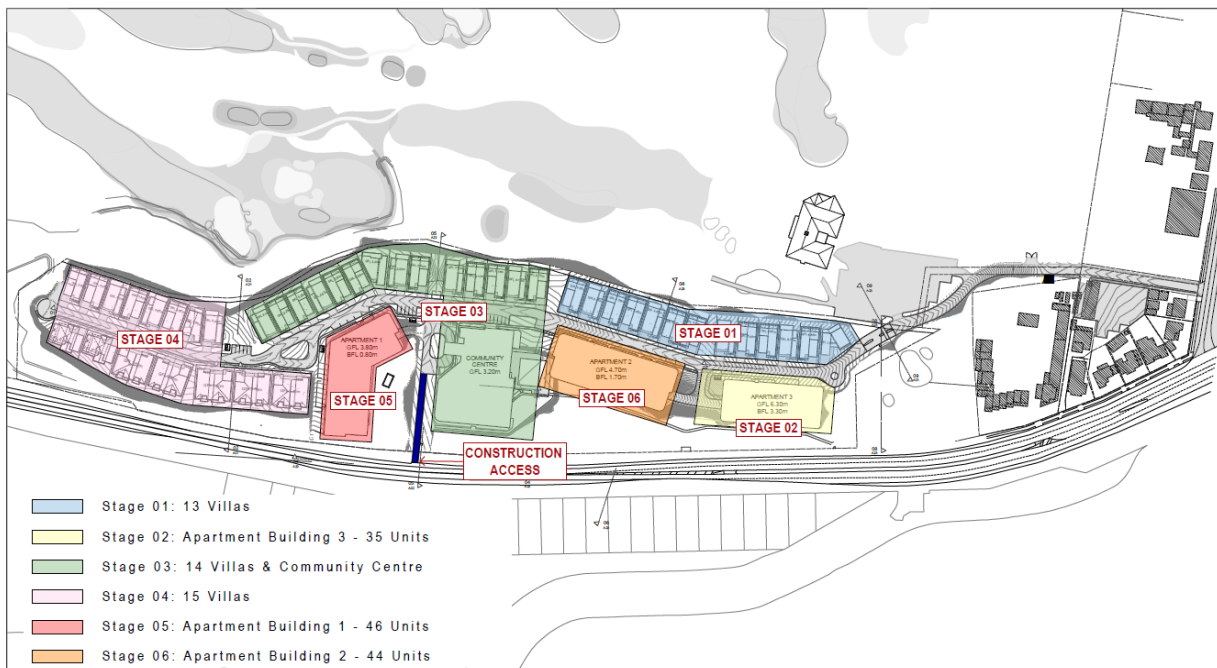
## Staging

The development is proposed to take place across 6 stages (see **Figure 25** below). The proposed stages include the following:

- Stage 1: 13 single storey dwellings, utility trunk mains for all stages, main stormwater infrastructure for all stages, Vardon Road entry works. Associated civil works, services, landscaping and entrance sign are also proposed in this stage.
- Stage 2: Apartment Building 3 (35 units) and associated civil works, services and landscaping.
- Stage 3: 14 single storey dwellings, community centre and associated civil works, services and landscaping.
- Stage 4: 20 single storey dwellings, community centre and associated civil works, services and landscaping.



- Stage 5: Apartment Building 1 (46 units) and associated civil works, services and landscaping.
- Stage 6: Apartment Building 2 (44 units) and associated civil works, services and landscaping.



**Figure 25: Proposed Staging Plan**

**Table 2: Development Data**

Control	Proposal
Site area	77ha
Development Area	63,015m <sup>2</sup>
Apartment GFA	17,588m <sup>2</sup>
Villas Townhouses and Dual Occupancy GFA	7,110m <sup>2</sup>
Commerical/ Community GFA	3,100m <sup>2</sup>
FSR	0.44:1
Clause 4.6 Requests	No
No of apartments	172
Max Height	17.8m
Landscaped area	22,652m <sup>2</sup> (36% site area)
Car Parking spaces	310
Tree Removal	443 trees removed 452 trees retained



## 2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 27 December 2022 where the key issues associated with the development were discussed. A summary of the key issues and how they have been addressed by the proposal is outlined below:

- Biodiversity impacts;
- Bushfire threat;
- Aboriginal heritage and the need for an Aboriginal Cultural Heritage Assessment Report;
- Flooding;
- Stormwater drainage;
- Access and traffic;
- SEPP 65 and apartment design;

A pre-lodgment Urban Design Panel meeting was held on two occasions, including 12 August 2021 and 9 September 2021. The key issues discussed in these meetings include:

- Holistic site assessment factoring in any consequences on the design and operation of the golf course and the need for greater attention to be given to the surrounding landscape context.
- The UDP indicated a preference for high density apartment buildings rather than sprawling low scale dwellings in order to provide more meaningful landscaping.
- A reduction in unnecessary hardstand areas and grade car parking was encouraged to improve landscape coverage and reduce urban heat island effects. Dedicated pedestrian paths throughout the site were encouraged instead.
- The transition between single storey dwellings and apartments is stark at some locations.
- Opportunities for northern winter sunlight access to living areas and private open spaces should be pursued for as many residences as possible.
- A tailored wayfinding strategy should be considered in future design development that reflects the character of the village and is legible for the visually impaired.
- The need for acoustic protection of the rear (west facing) duplexes was identified.
- Safety concerns relating to stray golf balls must be addressed with safety netting and screening.
- Retention of significant trees was encouraged.

The development application was lodged on **31 January 2024**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

**Table 1: Chronology of the DA**

Date	Event
<b>31 January 2024</b>	DA lodged
<b>8 February 2024</b>	Exhibition of the application
<b>8 February 2024</b>	DA referred to external agencies

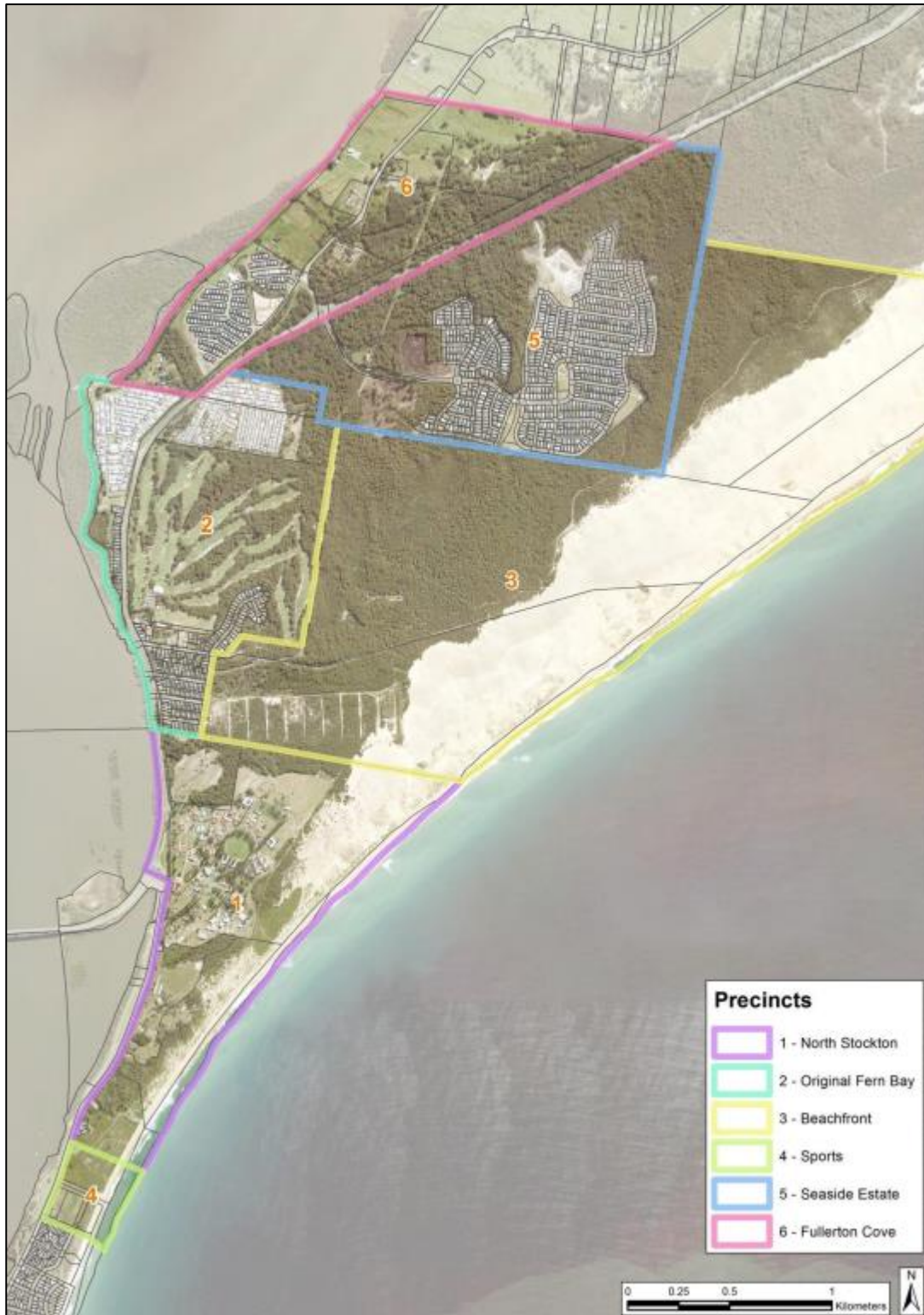
<b>23 February 2024</b>	First request for information (RFI) from Council to applicant relating to planning and engineering matters.
<b>27 February 2024</b>	HCCRPP Panel briefing
<b>14 March 2024</b>	Urban Design Panel Briefing
<b>18 April 2024</b>	Second RFI from Council to applicant relating to urban design and environmental related matters.
<b>24 June 2024</b>	Partial response to RFI including flooding, stormwater and urban design related matters.
<b>16 October 2024</b>	HCCRPP Panel briefing
<b>30 December 2024</b>	Response to panel comments including site access, flood impacts/emergency management and dewatering plan
<b>4 March 2025</b>	Third RFI from Council relating to outstanding environment and engineering matters
<b>17 March 2025</b>	Response addressing all outstanding matters

### 2.3 Site History

The site supports 2 existing development approvals in preparation for the lodgement of the seniors housing proposal. The first DA was for a boundary adjustment approved by Council in June 2021 under DA16-2021-220-1, to subdivide the seniors housing development area from the golf course. The boundary adjustment under DA16-2021-220-1 has not been registered. The seniors housing development is not contingent on the boundary adjustment under DA16-2021-220-1 being registered.

A DA for alterations and additions to the golf course was approved in October 2023 under DA16-2022-413-1. The approved alterations and additions involved the redesign of 12 holes and the relocating of 6 holes to make way for the seniors housing development. The proposed seniors housing development is not contingent on the golf course alterations and additions being completed as part of DA16-2022-413-1.

The site forms part of the Fern Bay and North Stockton Strategy (the Strategy) which was adopted by Council on 14 April 2020. The Strategy seeks to identify opportunities for Fern Bay and North Stockton to create a pedestrian focused place that offers housing diversity, a mixed-use town centre, connected open spaces and community facilities. The Site Area for the strategy and precincts is shown in **Figure 26** below.



**Figure 26:** Fern Bay and North Stockton Strategy Area and Precincts

The site is located within the area defined as 'original Fern Bay' in the plan. The strategy identifies Newcastle Golf Club as a key site noting that it has a significant land holding with opportunities to support future residential development. Seniors living was specifically the identified use on the site in the strategy.



The Strategy and the proposed development are aligned with and will contribute to achieving key goals of the Hunter Regional Plan 2041 and the Greater Newcastle Metropolitan Plan 2036.

### **3. STATUTORY CONSIDERATIONS**

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (i) *any environmental planning instrument, and*
  - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed 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 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, 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.*

These matters are further considered below.

The proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Requiring concurrence/referral (s4.13)

The proposal is not considered to be:

- Designated Development (s4.10)
- Crown DA (s4.33) - written agreement from the Crown to the proposed conditions of consent must be provided

#### **3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

**(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2021*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Port Stephens Local Environmental Plan 2013;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 2: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p><u>Chapter 2: Vegetation in non-rural areas</u>  Section 2.6 provides that a person must not clear vegetation in a non-rural area of the State to which Part 3 applies.</p> <p>Section 2.10 provides that Council may issue a permit for tree removal.</p> <p>The proposal includes the removal of 435 trees within the development footprint. The creation of the Vardon Road access will require a further 8 trees to be removed. The proposal includes the retention of a significant proportion of the trees. In addition, 9,120m<sup>2</sup> of deep soil planting is provided for onsite with these to feature native/endemic species to compensate for the tree removal.</p> <p><u>Chapter 4: Koala Habitat Protection 2021</u>  Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site. The relevant plan of management in Port Stephens is the Comprehensive Koala Plan of Management.</p> <p>The proposed development is considered to satisfy the assessment performance criteria contained within the CKPoM. With consideration to the state of the existing site (partially cleared and disturbed), its location within the developed landscape, provisions for tree retention, proposed koala food tree planting and conservation of connectivity to the larger areas of Secondary Koala Habitat and Primary Koala Habitat, it has been found that the</p>	Y

	development will not compromise the quality or integrity of surrounding habitat, impede or hinder Koala movement or fragment habitat to a significant or adverse extent.	
State Environmental Planning Policy (Sustainable Buildings) 2022	<u>Chapter 2 Standards for residential development—BASIX</u> A valid BASIX certificate has been submitted with the development application which demonstrates that the water, thermal performance and energy requirements for the proposal have been achieved.	Y
State Environmental Planning Policy (Housing) 2021	<p><u>Chapter 3: Diverse Housing</u> The proposal is for seniors housing and the provisions of this chapter apply. The proposed development is consistent with the design and accessibility related requirements of this section.</p> <p><u>Chapter 4: Design of residential apartment development</u> This chapter applies to the proposed development as it comprises a residential flat building, being a new building that is at least 3 stories and contains at least 4 dwellings.</p> <p>As per s145 of this chapter, the application has been referred to the Port Stephens Design Review Panel. The UDP supported the proposed development.</p> <p>An assessment against Schedule 9 of this policy and the Apartment Design Guide has been undertaken and the proposal has been found to be generally compliant with the requirements. Refer to <b>Attachment 26</b>.</p>	Y
State Environmental Planning Policy (Industry and Employment) 2021	<p><u>Chapter 3: Advertising and Signage</u> The proposal includes a single identification sign at the entrance of the development and therefore the provisions of this chapter are applicable.</p> <p>Section 3.6 lists the matters for consideration relating to signage, including the objectives of this chapter and the assessment criteria within Schedule 5 of this SEPP. The proposed signage has been assessed as compliant with the provisions of this section.</p>	Y
State Environmental Planning Policy (Planning Systems) 2021	<u>Chapter 2: State and Regional Development</u> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it comprises general development with capital investment value exceeding \$30 million.	Y
SEPP (Resilience & Hazards)	<p><u>Chapter 2: Coastal Management</u> Section 2.8(1) applies to development on land in proximity to coastal wetlands or littoral rainforests.</p> <p>The proposed development is located within proximity of Coastal Wetlands with the majority of such land being located within the 'Priority Conservation Area' and the</p>	Y



	<p>Nelson Bay Road setback. Stormwater from the development site will be captured and managed via a 'treatment train' as outlined in the Concept Water Management Plan resulting in water quality improvements. Consequently, Council can be satisfied that there will be no impacts on the coastal wetlands west of the development site through drainage and stormwater measures.</p> <p>The proposal satisfies the objectives of Chapter 2 of this SEPP.</p> <p><u>Chapter 4: Remediation of Land</u> Section 4.6 requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.</p> <p>Contamination and remediation have been considered in the Contamination Report. Sampling of soil and water, onsite, found no concentrations of hydrocarbons, metals, pesticides, herbicides or PFAS which may pose a risk to human health or the environment.</p> <p>The proposal satisfies the objectives of Chapter 4 of this SEPP.</p>	
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p><u>Chapter 2: Infrastructure</u> Section 2.48(2) requires consultation with the local power authority – Ausgrid, where development involves works in proximity to electrical utility infrastructure. The application was referred to Ausgrid, requesting comments about potential safety risks for adjacent electrical assets. Ausgrid provided general comments in relation to ongoing/construction matters that will be further considered as part of the construction process. Ausgrid did not object to the development.</p> <p>Section 2.118 requires TfNSW concurrence for certain development on a classified road. No direct access is proposed subsequent to design amendments removing the access from Nelson Bay Road at the request of Council and TfNSW.</p> <p>Section 2.119 provides that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the matters listed under Section 2.119(2) have been satisfactorily addressed. The proposed development was referred to TfNSW and the matters listed under this section were satisfactorily addressed, subject to removal of the Nelson Bay Road access.</p>	Y

	<p>Section 2.120 - Impact of road noise or vibration on non-road development applies to development adjacent to any road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW). The application includes an Acoustic Impact Report that finds road noise can be adequately attenuated subject to noise attenuating construction methods being incorporated in the design of the proposal.</p> <p>Section 2.122 provides that the consent authority must refer traffic generating developments to TfNSW for comment and consider the matters listed under Section 2.122(4)(b).</p> <p>The proposed development is traffic generating development and therefore was referred to TfNSW. In response, the proposal has been amended to remove direct ongoing vehicular access to Nelson Bay Road. Varden Road will now provide the only access to the proposed development.</p>	
Proposed Instruments	None relevant.	N/A
LEP	<p><u>Port Stephens Local Environmental Plan 2013</u></p> <ul style="list-style-type: none"> <li>• Permissibility and zone objectives (Cl 2.3)</li> <li>• Heritage Conservation (Cl 5.10)</li> <li>• Flood planning (Cl 5.21)</li> <li>• Clause 5.22 Special flood considerations (Cl 5.22)</li> <li>• Acid sulphate soils (Cl 7.1)</li> <li>• Earthworks (Cl 7.2)</li> <li>• Essential Services (Cl. 7.6)</li> <li>• Wetlands (Cl. 7.9)</li> </ul> <p>The proposal is generally consistent with the LEP.</p>	Y
DCP	<p><u>Port Stephens Development Control Plan 2014</u></p> <ul style="list-style-type: none"> <li>• B1 – Tree Management</li> <li>• B2 – Natural Resources</li> <li>• B3 – Environmental Management</li> <li>• B4 – Drainage and Water Quality</li> <li>• B5 – Flooding</li> <li>• B6 – Williamstown RAAF Base – Aircraft Noise and Safety</li> <li>• B7 – Heritage</li> <li>• B8 – Road Network and Parking</li> <li>• C5 – Multi dwelling housing or seniors housing</li> </ul> <p>The proposal is generally consistent with the DCP.</p>	Y

Consideration of the relevant SEPPs is outlined below.

## ***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

### **Chapter 2: Vegetation in non-rural areas**

State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 Vegetation in Non-Rural Areas, aims to protect the biodiversity values and preserve the amenity and other vegetation in non-rural areas of the State. The SEPP works in conjunction with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.

Part 2.3 of the chapter contains provisions similar to those contained in the former (now repealed) clause 5.9 of Port Stephens Local Environmental Plan 2013 and provides that Council's Development Control Plan can make declarations with regard to certain matters. The chapter further provides that Council may issue a permit for tree removal if it does not exceed the Biodiversity Offsets Scheme (BOS) threshold. If a development does seek to exceed the BOS threshold, clearing must be approved by the Native Vegetation Panel. As per Clause 2.13 of this policy, the Native Vegetation Panel may delegate its functions to the Council. Council has delegations under this Clause and therefore is the consent authority for vegetation removal exceeding the BOS threshold in non-rural areas as part of a Part 4 assessment.

The development requires the removal of vegetation that exceeds the BOS clearing threshold. As such, a Biodiversity Development Assessment Report (BDAR) was prepared for the proposal by Anderson Environment & Planning. The BDAR identified that a total of 1.8ha of vegetation requires removal to facilitate the proposed development within the seniors housing footprint (see **Figure 27** Avoid and Minimisation Plan). Despite the vegetation removal for the seniors housing development, extensive areas of mature growth and native vegetation have been retained within the entire golf course site area. These areas will be preserved as part of both the golf course redevelopment and seniors living development.

Two Threatened Ecological Communities (PCT 3963 and PCT 4006) were identified on site.

The proposed removal of the above vegetation and impacts on nominated threatened fauna species requires offsetting. The BDAR calculated the offsets required to be retired or purchased through the Biodiversity Offsets Scheme. A condition has been included on the consent requiring the applicant to retire biodiversity credits prior to the commencement of works or removal of vegetation to offset the residual impact on biodiversity values.

The removal of vegetation is discussed further in the assessment of the proposal against Chapter B2 of the DCP in a subsequent part of the report.





**Figure 27:** Avoid and Minimisation Plan – BDAR Assessment

## **Chapter 4: Koala Habitat Protection 2021**

This Chapter aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. This SEPP replaces the former State Environmental Planning Policy No 44 - Koala Habitat Protection.

The development control provisions of the SEPP apply to development applications relating to land within Port Stephens Council and:

1. Where there is an approved Koala Plan of Management for the land, the development application must be consistent with the approved koala plan of management that applies to the land.

2. Where there is no approved Koala Plan of Management for the land,
  - a. if the land is identified on the Koala Development Application Map, and
  - b. has an area of more than 1 hectare, or
  - c. has, together with any adjoining land in the same ownership, an area of more than 1 hectare, whether or not the development application applies to the whole, or only part, of the land.

The land is greater than 1 hectare and is mapped as “Marginal” and “Mainly Cleared” in the Koala Habitat Planning Map as part of the Port Stephens Koala Plan of Management. Nonetheless, the Comprehensive Koala Plan of Management (CKPoM) applies to the land and therefore, the proposal must be consistent with the CKPoM.

The application included a Biodiversity Development Assessment Report, prepared by AEP, dated March 2025 which confirms that 4 preferred koala feed trees will be removed as part of the seniors housing development. The removal of koala feed trees is minor for the purpose of the seniors housing development.



**Figure 27: Koala Feed Tree Removal and Planning**



Supplementary koala feed trees will be planted to offset those that are removed within the site and revegetation areas.

On this basis, the proposal is consistent with the Port Stephens Comprehensive Koala Plan of Management (CKPoM), which constitutes compliance with Chapter 4 of this SEPP.

### ***State Environmental Planning Policy (Sustainable Buildings) 2022***

Section 2.1(1) State Environmental Planning Policy (Sustainable Buildings) 2022 requires that BASIX affected residential development be accompanied by a BASIX certificate. A valid BASIX certificate has been submitted with the development application to demonstrate that the water, thermal performance and energy requirements for the proposal have been achieved. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development.

The application is accompanied by BASIX Certificate No. 1730063M-03, prepared by Evergreen Energy Consultants Pty Ltd committing to environmentally sustainable measures. The Certificate demonstrates the proposed development satisfies the relevant water, thermal and energy commitments as required by the BASIX SEPP. The proposal is consistent with this SEPP subject to the recommended conditions of consent.

Under Section 3.2(1), development for non-residential development which includes the erection of a new building with an estimated development cost of \$5 million or more, or alterations, extension, or enlargement of an existing building with an estimated development cost of \$10 million or more. However, it is noted that this chapter does not apply to development to which chapter 2 applies. As the proposed community component does not have an estimated development cost of \$5 million or more, and Chapter 2 applies to this proposal, chapter 3 is not applicable in this instance.

### ***State Environmental Planning Policy (Housing) 2021***

#### **Chapter 3: Diverse Housing - Part 5 housing for seniors and people with a disability**

The proposed development is for seniors housing, and therefore, the provisions of Part 5 of the Housing SEPP apply. The provisions applicable to the proposal are assessed below.

#### **Division 1 Land to which Part applies**

##### **Section 79 - Land to which Part applies**

The site is located within the RE2 Private Recreation zone pursuant to the Port Stephens Local Environmental Plan 2013, where part 5 of SEPP Housing applies.

##### **Section 81 - Seniors housing permitted with consent**

Seniors housing is permitted with consent in accordance with this section if the site is located within the land to which Part 5 of SEPP Housing applies. As outlined in Section 79 above, the site is located within land to which Part 5 of SEPP Housing applies.

#### **Division 3 Development Standards**

##### **Section 84 - Development Standards – General**

The proposed development is consistent with Section 84 in that the proposal is for the erection of a building and:

- The two lots comprise the site area and cover a combined area of approximately 77.6ha which exceeds the 1000m<sup>2</sup> requirement.
- The site frontage to Nelson Bay Road is approximately 900m, which exceeds the 20m minimum requirement.
- The development is not proposed on land in a residential zone and therefore Section 84(c) is not applicable.
- Subject to conditions, the proposed servicing equipment is fully integrated into the design of the roof and suitably screened from the Nelson Bay Road frontage. The proposed servicing equipment does not take up more than 20% of the surface area of the roof and does not result in the building having a height of more than 11.5m. The proposal is for 3 five storey apartment buildings each with a height of no greater than 18m. The servicing equipment on the roof does not result in the building having a height of more than 11.5m, as it already exceeds 11.5m.

#### Section 85 - Development standards for hostels and independent living units

Section 85 provides that development consent must not be granted for development for the purposes of a hostel or an independent living unit unless the hostel or independent living unit complies with the relevant standards specified in Schedule 4. An assessment against Schedule 4 is provided in **Attachment 26**.

A condition of consent has been recommended requiring the requirements of Schedule 4 be complied with.

#### Section 86 - Development standards for seniors housing—Zones RE2, SP1, SP2 and RU5

The proposal is located on land that is zoned RE2 Private Recreation and supports and existing registered club, being the Newcastle Golf Club.

The land adjoins land to the west and south zoned R2 Low Density Residential which is a prescribed zone under Section 79.

#### Section 87 - Additional floor space ratios

Residential flat buildings and shop top housing are prohibited land uses in the RE2 zone under the Port Stephens LEP 2013, therefore Section 87 is not applicable.

#### Section 88 - Restrictions on occupation of seniors housing

A condition of consent is recommended requiring that the development only be occupied by seniors or people who have a disability, within the meaning of the SEPP.

#### Section 89 - Use of ground floor of seniors housing in business zones

The site is not located within a business zone and therefore Section 89 is not applicable.

#### Section 90 - Subdivision

Section 90 provides that development consent may be granted for the subdivision of land on which development has been carried out under this Part. Subdivision is not proposed as part of this development application and therefore Section 90 is not applicable.

#### Section 91 - Fire sprinkler systems in residential care facilities

The proposal is not a residential care facility and therefore Section 91 does not apply.



## Section 92 - Development on land used for the purposes of an existing registered club

Section 92 provides that consent must not be granted for development under this Part on land used for the purposes of an existing registered club unless the consent authority is satisfied that—

- (a) the development includes appropriate measures to separate the club from residential areas to avoid land use conflicts, and
- (b) an appropriate protocol will manage the relationship between the seniors housing and the gambling facilities on the site of the club to minimise the harm associated with the misuse and abuse of gambling activities by residents of the seniors housing.

Newcastle Golf Club does not play live music or hold functions. The operations of the club, combined with the separation distances between the club and the proposed seniors housing development, is sufficient to avoid any land use conflicts. The Newcastle golf club does not have gambling machines and therefore, there is no associated risk of gambling activity abuse by future residents.

## **Division 4 Site-related requirements**

### Section 93 - Location and access to facilities and services—independent living units

The application includes an Operational Plan, prepared by Principle Living, dated October 2023. The Operational Plan includes details for the provision of a community bus which is proposed to operate at least two daily trips between 8am – 12pm and 12pm – 6 pm. Residents will not be required to book the community bus in advance.

The bus routes include Mayfield, and Stockton each day as well as Kotara Westfield twice a week. Each of these locations offers facilities and services compliant with the requirements of Section 93, including shops, retail, commercial services, community services, recreation facilities and general medical practitioners.

In addition, public bus stops are located on both sides of Nelson Bay Road. Bus routes on Nelson Bay road travel north to the Newcastle airport and Nelson Bay and south to the Newcastle CBD.

### Section 95 - Water and sewer

Extension of the existing sewer and water mains offsite is proposed and the environmental impacts of the extension have been assessed throughout this report.

### 96 Bushfire prone land

A consent authority must not consent to development under this Part on relevant bushfire prone land unless the consent authority is satisfied and the development complies with the requirements of Planning for Bushfire Protection.

The application was referred to the NSW Rural Fire Service (RFS) as integrated development as the development is for a special fire protection purpose. In response RFS issued a bushfire safety authority on 7 March 2025, confirming that the development complies with Planning for Bushfire Protection 2019.

## **Division 5 Design Requirements**

### Section 97 - Design of Seniors Housing

In determining a development application for development for the purposes of seniors housing, a consent authority must consider the Seniors Housing Design Guide, published by the Department in December 2023 and the design principles set out in Schedule 8 of the SEPP.

An assessment against the Seniors Housing Design Guide and Schedule 8 of this policy has been conducted, refer to **Attachment 26**.

### **Division 7 Non-discretionary development standards**

#### **Section 108 - Non-discretionary development standards for independent living units—the Act, s 4.15**

The objective of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

The table below provides an assessment against the non-discretionary development standards in relation to development for the purposes of independent living units.

<b>Development Standard</b>	<b>Assessment</b>
No building has a height of more than 9.5m, excluding servicing equipment on the roof of a building.	The development has a maximum height of 17.8m which exceeds the 9.5m development standard. The height of building is acceptable as there is no height limit for the site as outlined elsewhere in this report.
(b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m—  (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and  (ii) is limited to an area of no more than 20% of the surface area of the roof, and  (iii) does not result in the building having a height of more than 11.5m,	As above, the development has a maximum height of 17.8m. Servicing equipment is suitably screened from view from public spaces and is limited to no more than 10% of the surface area of the roof. Servicing equipment does not result in the building having a height of more than 9.5m or 11.5m.
The density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.	The proposal has a floor space ratio (FSR) of 0.44:1 which is compliant with this standard.
For a development application made by a social housing provider—at least 35m <sup>2</sup> of landscaped area per dwelling,	N/A.
If paragraph (d) (above) does not apply—at least 30% of the site area is landscaped.	The proposal includes landscaping of 36% of the site area equating to 22,652m <sup>2</sup> .
A deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if	14.25% deep soil planting, equating to 8,985m <sup>2</sup> is proposed. This is a minor non-

practicable, at least 65% of the deep soil zone is located at the rear of the site,	compliance with this requirement however, is considered acceptable in this regard.
At least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces,	70% (87/125) of the apartments receive a minimum of 3 hours of solar access to living areas between 9am and 3pm in mid-winter, and 91% of apartments receive direct sunlight. The proposal exceeds the development standard.
For a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building—  (i) at least 15m <sup>2</sup> of private open space per dwelling, and  (ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor	All units have 15m <sup>2</sup> of private open space accessible from a living area with dimensions of 5m x 3m which exceeds the development standard, with the exception of Unit B1 G.09. The unit has a private open space area of 14m <sup>2</sup> rather than 15m <sup>2</sup> and a minimum depth of 2m instead of the required 3m. The private open space is accessible from the living area and is considered to be suitably sized for the apartment and still provides appropriate residential amenity, therefore meeting the objectives of this control.
For a dwelling in a multi-storey building not located on the ground floor—a balcony accessible from a living area with minimum dimensions of 2m and—  (i) an area of at least 10m <sup>2</sup> , or  (ii) for each dwelling containing 1 bedroom—an area of at least 6m <sup>2</sup>	All dwellings above ground level private open spaces have a minimum 2m dimension, are a minimum of 10m <sup>2</sup> in area and are accessible from the living area of the dwellings.
(j) for a development application made by, or made by a person jointly with, a social housing provider—at least 1 parking space for every 5 dwellings,  (k) if paragraph (j) does not apply—at least 0.5 parking spaces for each bedroom.	A total of 444 bedrooms are proposed to be provided and therefore 222 car parking spaces are required to be provided. A total of 310 car parking spaces are provided across the site with each dwelling/villa being provided with a double garage (94 spaces), 177 basement car parking spaces within the three apartment buildings and 39 at grade car parking spaces located in parking bays adjacent to the access roads through the site. This proposal is therefore compliant with this control.

As outlined in the table above, some of the non-discretionary standards are not complied with. However, as they are non-discretionary standards to which the consent authority cannot impose a more onerous standard, Section 4.15(3) of the EP&A Act 1979, provides that consent may still be granted if a non-discretionary development standard is not complied with.

## **Chapter 4: Design of residential apartment development**

Chapter 4 of this policy aims to improve the quality of residential apartment development and provides an assessment framework ('the Apartment Design Guide') to facilitate the assessment of 'good design'. The proposal includes 3 apartment buildings which are subject to the requirements of this chapter.

Section 145 requires that before determining an application for a residential flat building, the consent authority must refer the application to the design review panel for the local government area. The proposed development was referred to the Port Stephens Urban Design Panel (UDP) on three occasions, two at the pre-lodgement stage and another following lodgement. The minutes from these meetings are provided in **Attachment 21**. This is discussed further below.

Section 147(1)(a) requires that the consent authority considers the design principles for residential apartment developments set out in Schedule 9 of the policy. An assessment against the design principles has been undertaken, refer to **Attachment 26**.

Section 147(1)(b) requires the consent authority to consider the Apartment Design Guide (ADG). An assessment of the application against the ADG has been undertaken, refer to **Attachment 26**.

Section 147(1)(c) requires the consent authority to consider any advice received from the design review panel. As noted above, the proposed development was considered by the Port Stephens UDP on three occasions, two at the pre-lodgement stage and another following lodgement.

Pre-lodgement Urban Design Panel meetings were held on two occasions, including 12 August 2021 and 9 September 2021. The key issues discussed in these meetings included:

- Holistic site assessment factoring in any consequences on the design and operation of the golf course and the need for greater attention to be given to the surrounding landscape context.
- The panel indicated a preference for high density apartment buildings rather than sprawling low scale dwellings in order to provide more meaningful landscaping.
- A reduction in unnecessary hardstand areas and grade car parking was encouraged to improve landscape coverage and reduce urban heat island effects. Dedicated pedestrian paths throughout the site were encouraged instead.
- The transition between single storey dwellings and apartments is stark at some locations.
- Opportunities for northern winter sunlight access to living areas and private open spaces should be pursued for as many residences as possible.
- A tailored wayfinding strategy should be considered in the future design development that reflects the character of the village and is legible for the visually impaired.
- The need for acoustic protection of the rear (west facing) duplexes was identified. This should take into consideration the probability that Nelson Bay Road will at some stage be widened to accommodate two lanes in each direction.
- Safety concerns relating to stray golf balls must be addressed with safety netting and screening.
- Retention of significant trees was encouraged.



Following lodgement of the application, the proposal was reviewed by Council's UDP on 14 March 2024. The UDP concluded that:

*“The design of this substantial proposal has progressed positively. Recognition of the significance of the steep vegetated dune at the south western corner of the site has been a very positive progression. The use of this landform as a Keeping Place is supported. Recommended revisions and design development does not require major site planning, but are needed to achieve a good level of site planning, landscape and quality dwelling design, that is fully capable of Panel support.”*

The UDP's recommended design revisions included the following:

- The pathway network could be further enhanced to prioritise pedestrians over vehicles, and paths need to provide a continuous route.
- Concern was raised with regard to proximity of northern most apartment building (Building 1) to Nelson Bay Road, which is setback only 7.2m from the boundary with limited landscape screening.
- Usability of outdoor spaces around the community centre is limited. Given the south-facing and west-facing aspects, further landscape enhancement to improve amenity is required. The outdoor exercise equipment location could be better placed to improve its relationship to the community facility.
- The off-leash dog area is quite close to houses, which could potentially generate conflict. Co-locating dog friendly areas with the community building may be a more manageable outcome.
- The Panel identified an opportunity to include community facilities on the roof of Buildings 2 and 3. This would assist given the topographical challenges at ground level. However, the addition of such facilities should not contribute to building's bulk and be well setback within the floorplate.
- The single storey dwellings are quite large, in part due to very large garages, and would appear more appropriate in the setting if some greater variety and increased separations were provided.
- The duplexes and dwellings closets to Nelson Bay Road should have larger setbacks to improve acoustics and privacy due to the limited buffer and open style fencing proposed. Other strategies to assist road impacts could include variation in the design of each dwelling and their placement of windows and bedrooms. A small number of villas and duplexes may need to be dropped to better site the low-scaled dwellings in the context, and to provide a greater buffer from road noise impacts from Nelson Bay Road.
- The Panel raised concern in respect to the extent of benched fill that is near, and in some cases beyond the site boundaries on both the Nelson Bay Rd (western) and fairway (eastern) side of the spur on which the low-scaled residences are situated. No sections are provided through the embankments, and it is difficult to gain a full appreciation of their steepness. Maintenance of these embankments will be an ongoing requirement.
- Provision for PV generation and EV charging at completion, along with capacity to expand EV charging points substantially in the future as demand increases was strongly recommended. Electric heat-pump water heating and induction cooktops are recommended.

- Western facing and eastern facing glazing and balconies should be provided with external summer shading, to ensure comfortable use of private outdoor spaces and reduce summer heat loads on glazing.
- The large communal area outside the northernmost apartment building 1 would benefit from a more considered design that responds directly to the needs of the seniors residents, provides more opportunities for outdoor passive and active recreation (eg. gardening, smaller walking loops) and incorporates more canopy planting. Communal areas should incorporate less turf and more endemic planting.
- The scale and character of trees proposed around villas is very important so that a canopy can be achieved that bridges the strong contrast between the villas and the apartment buildings.
- The play/fitness area should be relocated to the west of the tennis courts and bowling green so that it is further away from the road and improves interface with the adjoining open space.
- The landscape buffer fronting Nelson Bay Road should be optimised in respect to filtering the visual and acoustic impacts of the road, to the extent permissible whilst observing the bushfire requirements for asset protection.
- Internalised Study spaces in the apartment buildings provide poor aspect, and in some instances are internal rooms – which are not permissible under the ADG.
- Fully glazed balcony balustrades are quite hot, and provide minimal privacy.
- Material selection is important for durability, maintenance and appearance. In particular, imitation timber usually involves a printed surface that often fades in the Australian sun after a short time, and in the case of faux stone, the material often weathers poorly and becomes unsightly.

In response, the applicant revised the design. The amended design incorporated the following changes:

- The configuration of apartments in Building 1 were amended to allow for a greater setback from Nelson Bay Road, increasing from:
  - Ground floor: 7.2m to 9.2m.
  - Levels 1-2: 5.5m to 8.6m.
  - Level 3: 9.5m to 14.7m.
  - Level 4: 9.5m to 14.7m.

This was achieved by converting a 3 bedroom apartment into a 2 bedroom apartment on the ground level and levels 1 and 2. The balconies on levels 1 and 2 were also reduced in size on the southern elevation.

- Further variety in dwelling types was not provided. However, an increase in separation between the villas from 1.8m – 2.4m was provided.
- Additional landscaping has been provided throughout the site, particularly within the setback between the dwellings and Nelson Bay Road.
- The landscape design around the communal area has been improved.
- Additional pedestrian pathways have been provided throughout the site.
- A communal area roof terrace has been provided for Building 1, although has not been provided for the remaining apartment buildings. Notwithstanding, additional areas of outdoor communal space have been provided adjacent to the community building and throughout the site including barbeque areas, recreational spaces and a communal garden.

- The off-leash dog areas were removed.
- Additional timber privacy screening and a reduction in fully glazed balconies have been provided to the site's western elevation to reduce summer heat loads as recommended by the UDP.
- Solar has not been included on the roof of apartment buildings, although has been recommended in a condition.

Council is satisfied that the proposal meets and suitably addresses the comments made by the UDP. Therefore, the proposal was not referred back to the UDP for further review. Notwithstanding, the advice from the UDP has been considered in the assessment of this application, as required by s147(1)(c) of this policy.

Overall, the proposal is consistent with the requirements of this policy.

### ***State Environmental Planning Policy (Industry and Employment) 2021***

#### **Chapter 3: Advertising and Signage**

The proposal includes a single identification sign at the entrance of the development and therefore the provisions of this chapter are applicable.

Section 3.6 lists the matters for consideration relating to signage, including the objectives of this chapter and the assessment criteria within Schedule 5 of this SEPP. The proposed signage has been assessed against the Assessment Criteria and deemed to satisfy the prescribed criteria (see Table 4 below) with the provisions of this section.

**Table 4: Signage Assessment**

<b>Criteria</b>	<b>Comments</b>	<b>Satisfied</b>
Character of the Area	The proposed signage is incorporated into the entry treatment of the seniors living development. It has been designed to contribute to the envisaged character of the development and surrounding area.	Y
Special Areas	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.	Y
Views and vistas	The proposed signage is incorporated into the entry treatment of the seniors living development. As such it will not impact on any views, or dominate the skyline or the viewing rights of other advertisers.	Y
Streetscape, setting or landscape	The proposed signage forms part of the entry treatment to the site and as such has been considered as an integral part of the landscape design.	Y
Site and building	The proposed signage is compatible with the scale and design of the site and buildings. It has	Y

	taken design cues from the architectural features of the built and natural environment.	
Associated devices and logos with advertisements and advertising structures	Not Applicable	Y
Illumination	The lighting will have minimal impact and not affect the safety of pedestrians, vehicles or aircraft.	Y
Safety	The proposed sign will not impact/reduce the safety of vehicles/motorists, pedestrians or children.	Y

***State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')***

**Chapter 2: State and Regional Development**

The proposal is regionally significant development pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development for general development of \$30 million. Accordingly, the Hunter and Central Coast Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

***State Environmental Planning Policy (Resilience and Hazards) 2021('the Resilience and Hazards SEPP')***

**Chapter 2: Coastal Management**

Section 2.8 provides that, development consent must not be granted to development on land identified as 'proximity area for coastal wetlands' unless the consent authority (Council) is satisfied that the proposed development will not significantly impact the biophysical or ecological integrity of the adjacent coastal wetland of the quantity/quality of surface and groundwater flows to and from the adjacent wetland.

The mapped wetland to which the site is within proximity to Fullerton Cove. The proposed physical works are remote to the wetland and as such will not impact the ecological integrity of Fullerton Cove.

The provided Stormwater Management Plan (Concept Flooding and Water Management Report- Northrop December 2024) outlines how stormwater will be captured and managed via a 'treatment train'. The proposed development will incorporate 5 vegetated swales conveying water from the pit and pipe network to a constructed wetland. The constructed wetland will have an area of 11,760m<sup>2</sup>. The modelling results demonstrate that the provided water quality management system will result in:

- 93.1% reduction in Total Suspended Solids
- 93.1% reduction in Total Phosphorus
- 93.1% reduction in Total Nitrogen
- 100% reduction in Gross Pollutants



The Preliminary Dewatering Management Plan concludes that temporary dewatering is considered feasible with minimal impact on the broader groundwater system. The report suggests installing monitoring bores and conducting aquifer testing and ongoing groundwater monitoring to ensure compliance with quality standards and validate the findings of the report. Additionally, preliminary water treatment measures are proposed before discharge into the local stormwater system, with trigger levels set for groundwater levels, quality, and volume to monitor potential environmental impact. Noting the above, the proposal is considered to be consistent with Section 2.8.

As per Section 2.10 of Chapter 2 of the SEPP, development consent must not be granted for development within the coastal environment area unless the consent authority has considered whether the development will impact the integrity of the biophysical and ecological environment, the values and natural coastal processes, marine vegetation, native vegetation and fauna and existing public open space and access to and along the foreshore.

The proposed development seeks to remove vegetation to facilitate the proposed development. The proposal includes significant replanting/landscaping measures which will assist in mitigating the impacts on the coastal environment. The provided BDAR provides an assessment of the impacts on the ecology of the area and actions to avoid minimise and offset these. Similarly as noted above appropriate stormwater management measures have been incorporated into the proposal. In regard to impacts from nearby public open space, the Visual Impact Assessment demonstrates that design responses that have been included in the proposal to minimise impacts. It is also noted that the proposal will not restrict access to the water frontage.

Noting the above, the proposal is considered to be consistent with Section 2.8.

As per Section 2.11 of Chapter 2 of the SEPP, development consent must not be granted for development unless the consent authority has considered existing and safe access to and along the foreshore, overshadowing and loss of views, visual amenity and scenic qualities and heritage values. The consent authority must also be satisfied that the development is designed and sited to avoid adverse impacts and to ensure the development has taken into account the surrounding built environment in its design.

The proposed development will not impact the existing access to the nearby foreshore. The buildings themselves have been designed to be appropriately located and scaled. As such they do not result in any overshadowing, loss of views or impact on scenic qualities of or from the surrounding public spaces/foreshore.

Section 2.12 of Chapter 2 of the SEPP requires consideration of whether the development would increase the risk of coastal hazards. The proposed development is suitably designed and located to not increase the risk of coastal hazards.

As outlined above, the application would generally comply with the aims of the SEPP and the other matters for consideration stipulated under Sections 2.8, 2.10, 2.11 and 2.12, and can therefore be supported.

#### **Chapter 4: Remediation of Land**

Section 4.6 of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

The application includes a Preliminary Site Investigation for Contamination Assessment (PSI) prepared by RCA Australia, reference 15442-401/2 and dated 30 November 2023. The PSI includes desktop examination and results of soil sampling from 14 test locations across the site area and 2 water sample tests.

The site has been used since before 1915 as part of the Newcastle Golf Course and with the possible exception of localised filling and use of chemicals for the maintenance of the course, it was not considered likely to be significantly contaminated due to the historical site use. Notwithstanding, soil and water sampling was undertaken which found no concentrations of hydrocarbons, metals, pesticides, herbicides or PFAS were detected in the soil at concentrations that may pose a risk to human health or the environment. Overall, no indications of contamination were identified at the site either during the contamination Assessment. However, foam was generated during the geotechnical processing of samples, indicating the potential presence of PFAS, despite the site not being located in the PFAS Management area associated with RAAF Base Williamtown.

Further fieldwork was undertaken in the areas in which the foam generating samples were collected, as well as other areas of the site. Samples were also collected of the surface water in two (2) locations to assess the potential for this to be the source of PFAS. PFAS was not identified in the collected samples. No contamination which may pose a risk to human health or the environment was identified in any of the soil samples and as such, the PSI prepared by RCA considers that the site is suitable for the proposed development without further assessment, remediation or formal management.

## ***State Environmental Planning Policy (Transport and Infrastructure) 2021***

### **Chapter 2: Infrastructure**

Section 2.48(2) requires consultation with the local power authority – Ausgrid, where a development involves works in proximity to electrical utility infrastructure. The application was referred to Ausgrid, requesting comments about potential safety risks for adjacent electrical assets. In response, Ausgrid has provided some recommendations relating to the supply of electricity, proximity to existing network assets, and overhead powerline clearance. Ausgrid's response will be included in the determination as an advice note.

Section 2.118 provides that consent may only be granted with the concurrence of TfNSW for development on a proposed classified road with a capital investment value is in excess of \$185,000. The proposal includes development on a classified road, including the upgrade of the Nelson Bay Road and Vardon Road intersection. The capital investment value of the proposed upgrade is in excess of \$185,000 and therefore the application was referred to TfNSW.

TfNSW supported the amendment to the proposal to have principal access to the development from Vardon Road. It is noted that this will require the upgrading of the Nelson Bay Road and Vardon Road intersection to be signalised. As per TfNSW advice, where road works are required on Nelson Bay Road, TfNSW will require the developer to enter into a Works Authorisation Deed (WAD) with TfNSW. TfNSW will exercise its powers and functions as the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Roads Act, as applicable, for all works under the WAD. The TfNSW advice will be included in the determination as an advice note.

Section 2.119 provides that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the matters listed under Section 2.119(2) have been satisfactorily addressed, including the following:

- (a) where practicable and safe, 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.*

Section 2.120 - Impact of road noise or vibration on non-road development applies to the development as the site has frontage to Nelson Bay Road and the proposal is for seniors housing, which is a type of residential accommodation.

To address the impacts of road noise on the development, an acoustic report was submitted with the application, prepared by RAPT Consulting, reference no. 2221324\_231025 and dated October 2023. Based on the monitoring results inclusive of road traffic, natural sounds and the information provided regarding the development, it is expected compliance with all noise goals can be achieved, provided noise-reducing building materials are utilised in the construction of the development, consistent with the Department of Planning Guideline “Development near Rail Corridors and Busy Roads – Interim Guideline”. A condition of consent is recommended requiring construction of the development accords with this guideline and the recommendations of the acoustic report.

Section 2.122 provides that the consent authority must refer traffic generating developments to TfNSW for comment. In addition, Section 2.122 (4) requires the consent authority to take into consideration the following:

- Any TfNSW comments;
- The efficiency of movements to and from the site and extent of multi-purpose trips;
- The accessibility of the site; and
- Any potential traffic safety, road congestion or parking implications of the development.

The application is considered traffic generating development and was referred to TfNSW. In response, TfNSW provided the following comments:

- TfNSW continued preference is for all access servicing the development to be via Vardon Road as it provides safe access to the existing intersection at Nelson Bay Road.
- The proposed additional right turn movement on Nelson Bay Road increases the risk of crashes and is not congruous to a safe system approach to road safety and design.
- TfNSW does not support the newly proposed right turn lane due to the high likelihood of rear-end crashes caused by residents turning right southbound past the end of the

proposed median. The proposed location is at the start of the overtaking lane. Trailing traffic may interpret turning vehicles as overtaking vehicles with no expectation of vehicles stopping to turn right immediately after the end of the median to access their properties on the opposite side of Nelson Bay Road. The proposed intersection treatment and median restrict opportunities for residents to safely turn right.

- The duplication of Nelson Bay Road at this location is not committed or funded, however, is planned in the medium term. The future project will seek to consolidate access points on Nelson Bay Road and direct traffic to controlled intersections, to enable safe turning movements.
- As previously advised, the proposed isolated Left In / Left Out access on Nelson Bay Road does not provide any road network benefit.

In response to these comments, the proposal has been amended to directly address TfNSW feedback as follows:

- Vardon Road is now proposed as the primary/only access to the proposed development.
- The proposal to facilitate a right turn movement on Nelson Bay Road has been removed.
- The left in left out proposal has been removed. Direct access from Nelson Bay Road will be retained for emergency purposes only. Access will be managed via a locked gate.

In addition to the above, the development will provide for private bus routes including Mayfield, and Stockton each day as well as Kotara Westfield twice a week.

Council is satisfied that the amendments address TfNSW comments and as such address the requirements of Section 2.122

Permissibility for the proposed sewer and water service works is also gained through SEPP (Transport and Infrastructure) 2021. Section 2.125(7) provides that 'development for the purpose of sewage reticulation systems may be carried out with consent on any land. Regarding water supply, Section 2.161(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021 provides that development for the purpose of water reticulation systems may be carried out by any person with consent on any land.

### ***Port Stephens Local Environmental Plan 2013***

The relevant local environmental plan applying to the site is the *Port Stephens Local Environmental Plan 2013* ('the LEP').

#### ***Preliminary (Part 1)***

The aims of the LEP include the following:

- (a) *to cultivate a sense of place that promotes community well-being and quality of life,*
- (b) *to provide for a diverse and compatible mix of land uses,*
- (c) *to protect and conserve environmental values,*
- (d) *to facilitate economic growth that contributes to long-term employment,*
- (e) *to provide opportunities for housing choice and support services tailored to the needs of the community,*
- (f) *to conserve and respect the heritage and cultural values of the natural and built environments,*



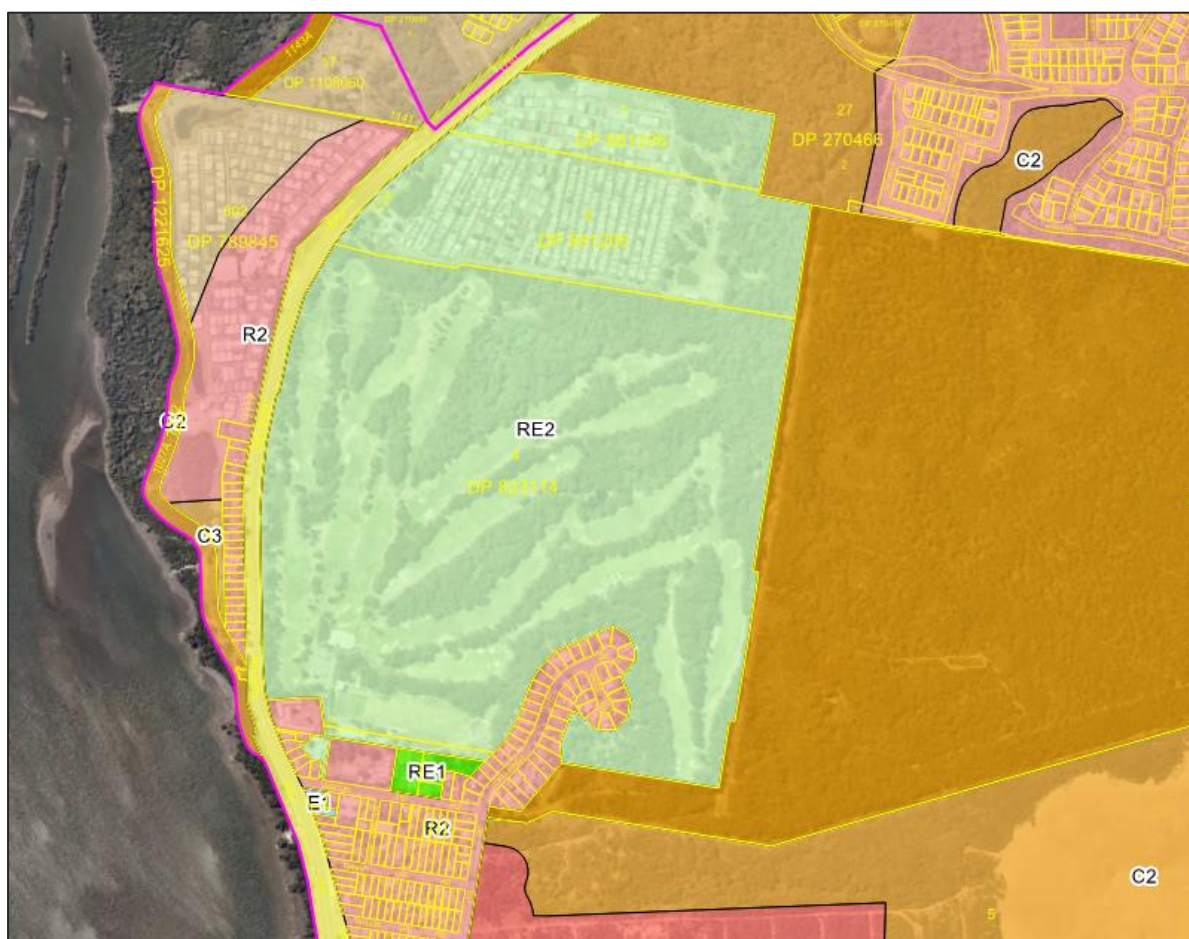
- (g) to promote an integrated approach to the provision of infrastructure and transport services,
- (h) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts.

The proposal is consistent with these aims as the proposal will create a well located new housing serviced by its own communal facilities and open spaces. The form of the housing will support a particular sector of the community.

The Aboriginal and European heritage values of the site have been appropriately conserved as detailed within the Aboriginal Cultural Heritage Assessment and Statement of Environmental Effects submitted with the application. The proposal includes suitable vehicular, and pedestrian connections as well as access to scheduled communal and public transport. The proposal includes a generous provision of communal facilities which could be utilised by residents for arts and cultural activities.

### *Zoning and Permissibility (Part 2)*

The site is located within the RE2 Private Recreation Zone pursuant to Clause 2.2 of the LEP, as shown in **Figure 28** below.



**Figure 28:** Site Zoning Map

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of 'seniors housing' which is a permissible use with consent in the RE2 Private Recreation Zone by virtue of Housing SEPP provisions.

The proposed development also includes road works within land zoned SP2 Infrastructure (Classified Road), which is permissible with consent in the SP2 zone.

In accordance with Section 2.125(7) of SEPP (Transport and Infrastructure) 2021 'development for the purpose of sewage reticulation systems may be carried out with consent on any land. Regarding water supply, Section 2.161(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021 provides that development for the purpose of water reticulation systems may be carried out by any person with consent on any land.

### RE2 Private Recreation zone

The zone objectives for the RE2 Private Recreation zone include the following (pursuant to the Land Use Table in Clause 2.3):

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The development addresses the objectives of the zone by providing a seniors housing development that is compatible with nearby recreational land uses, including the adjoining Newcastle Golf Club. The development includes extensive landscape areas to cater for the open space and recreation requirements of future residents. The large expanses of area landscaped with native plantings provide a natural environment suitable for recreational purposes.

### R2 Low Density Residential Zone

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To protect and enhance the existing residential amenity and character of the area.*
- *To ensure that development is carried out in a way that is compatible with the flood risk of the area.*

The proposed reticulated water and sewer extension traverses offsite through the R2 Low Density Residential zone, in order to connect to the existing main infrastructure.

Water reticulation systems are permitted with consent in the R2 zone and also in accordance with Section 2.161(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021, which provides that development for the purpose of water reticulation systems may be carried out by any person with consent on any land. The proposed sewer extension is permissible on any land in accordance with Section 2.125(7) of SEPP (Transport and Infrastructure) 2021.

The proposed sewer and water extension is consistent with the R2 zone objectives as they provide an essential service to support the development of the site for residential purposes. Being located underground, the proposed infrastructure would not cause any impact on

residential amenity or character and is of a flood compatible design, consistent with the zone objectives.

### Zone SP2 Infrastructure

The objectives of the SP2 Infrastructure zone are:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

The proposed development also includes road works within land zoned SP2 Infrastructure (Classified Road), which is permissible with consent in the SP2 zone. A portion of the required sewer and water upgrades will also be required within the land zoned SP2.

In accordance with Section 2.125(7) of SEPP (Transport and Infrastructure) 2021 'development for the purpose of sewage reticulation systems may be carried out with consent on any land. Regarding water supply, Section 2.161(1) of State Environmental Planning Policy (Transport and Infrastructure) 2021 provides that development for the purpose of water reticulation systems may be carried out by any person with consent on any land.

### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered below.

### Clause 4.3 – Height of Buildings

The objectives of this clause are as follows —

- (a) to ensure the height of buildings is appropriate for the context and character of the area,*
- (b) to ensure building heights reflect the hierarchy of centres and land use structure.*

The site is not subject to a maximum building height under the PSLEP. The villas and dual occupancies are consistent with the surrounding residential areas, being predominantly single storey design. The building height for each proposed residential flat buildings is no greater than 18m.

The proposed height of the buildings is comparatively larger than the surrounding lower-scaled buildings in the immediate area. Despite the height, disparity between the proposal and the lower scaled buildings in the surrounding area, the height of the proposal and siting of the development is compatible with the context and character of the area.

Design elements such as recessing of the upper floors have also been used to reduce the bulk and scale of the development.

Noting the above, it is considered that the proposal is consistent with this clause.

### *Clause 5.10 – Heritage conservation*

The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Port Stephens,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

In accordance with Clause 5.10 (4) the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

The site does not contain any local heritage or state listed heritage items listed in Schedule 5 of the LEP. However, the site is adjacent to Local Heritage Item – I34 Stockton Beach Dune System, including Aboriginal site and shell middens, shipwrecks, WWII Ramparts, tank traps, proofing range, rifle range and tin huts. The proposed development is located approximately 700m from the heritage item curtilage and would not be visible to or from the heritage site. As a result, no impacts would occur on the significance of the heritage item.

The site contains recorded Aboriginal sites on the Aboriginal Heritage Management Information Systems (AHIMS) register and Aboriginal Sensitive Landscape Features including a coastal sand dune and waterways. The Aboriginal Cultural Heritage Assessment assessed the project's potential impacts on Aboriginal Cultural Heritage. It included a description of the existing environment with reference to the potential for Aboriginal Cultural Heritage, provided a summary of the results of an archaeological survey of the study area and details the results of a program of test excavations carried out across the study area under AHIP 4869.

The ACHAR concluded the proposed design would avoid impacts across large parts of the study area. The design of the seniors living village was redesigned following consultation with the RAPs to avoid areas of high sensitivity in the southwest of the study area. Additionally, the entry road to the seniors living area has been moved north, and the apartment buildings have been moved away from the Nelson Bay Road frontage (>50m from the centre line of the road) which was requested by the RAPs through the ACHAR process. A condition has been included that works undertaken satisfy the recommendations and management actions from the Extent Heritage Pty Aboriginal Cultural Heritage Assessment Report.

These actions are considered to have addressed the requirements of Clause 5.10.

#### *Clause 5.21 – Flood Planning*

Clause 5.21(3) requires that in considering whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) the intended design and scale of buildings resulting from the development,*
- (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*



The proposed development is located on land mapped as a Flood Planning Area. The flood planning level relevant to the land is RL 2.9 metres AHD. The development plans submitted with the proposal show the finished floor level of the development at or above RL 2.9 metres AHD. Flood free access above the 1% AEP level is provided to Nelson Bay Road.

The development includes flood-free land above the PMF for both the local and riverine flood mechanisms. This provides an option of last resort for refuge in the event of a flood for future residents.

In addition to the design measures, the application includes a Flood Emergency Response Plan (FERP). The FERP includes a number of measures that the development will implement to prepare for, respond to, and recover from any major flood event.

The FERP and Flood Impact Report prepared by Northrop demonstrates that there would be no adverse offsite impacts to local flooding characteristics and the development appropriately mitigates risk to life and property.

On this basis, the proposed development is considered to have addressed the requirements of Clause 5.10.

#### *Clause 5.22 – Special Flood Considerations*

Clause 5.22 applies to sensitive and hazardous development and land between the flood planning area and the probable maximum flood. Seniors housing is nominated in the clause as being a sensitive development type.

Clause 5.22(3) requires that in considering whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) will affect the safe occupation and efficient evacuation of people in the event of a flood, and*
- (b) incorporates appropriate measures to manage risk to life in the event of a flood, and,*
- (c) will adversely affect the environment in the event of a flood*

As noted above, the proposal includes flood design measures and emergency evacuation planning to ensure the potential impacts of flooding on the development are mitigated and the risks are appropriately managed. This includes both design responses and management plans.

These measures are considered to have addressed the requirements of Clause 5.22.

#### *Clause 7.1 – Acid Sulfate Soils*

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

The site is mapped as containing potential Class 3 and 4 ASS, and the offsite infrastructure works are mapped as Class 2 and 4 ASS. Accordingly, the application includes a Preliminary Acid Sulfate Soil Investigation, prepared by RCA Australia. The Preliminary Acid Sulfate Soil Investigation undertaken as part of the Geotechnical Investigation indicate that potential acid sulfate soils were present and all the samples tested exceeded the action criteria. As such, the proponent has prepared an Acid Sulfate Soil Management Plan.

A Precautionary Acid Sulfate Soil Management Plan (PASSMP) was prepared by RCA. The PASSMP incorporates requirements for design, management and contingency planning to address the potential impacts to and from PASS during works at the site. It is considered that the implementation of this PASSMP will be suitable to prevent any environmental harm from the PASS presumed to be situated at the site.

The proposal therefore meets the requirements of this Clause.

#### *Clause 7.2 – Earthworks*

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

The development proposes earthworks and retaining associated with apartment basement construction and retaining, roads, drainage and service installation. The proposed earthworks involve a maximum cut of approximately 4.2m and fill up to 2m.

Clause 7.2(3) provides matters that before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider. An assessment of each of the listed matters is provided below.

*(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*

The proposed development would not obstruct or fill any natural water courses nor cause any detrimental effect on drainage patterns. Drainage of the site is appropriately catered for in the proposed stormwater management plan which has been reviewed by Council's engineering section and found to be acceptable. In addition, conditions of consent to manage erosion and sediment control are recommended to ensure soil stability is maintained.

*(b) the effect of the development on the likely future use or redevelopment of the land,*

The application proposes earthworks and retaining associated with apartment basement construction and retaining, roads, drainage and service installation. The proposed earthworks would not adversely affect any likely future use or redevelopment of the land, noting a development application has already been granted to relocate the existing golf course holes, ensuring the site can continue to be used for private recreation, consistent with the zone objectives.

*(c) the quality of the fill or the soil to be excavated, or both,*

A Geotechnical Investigation has been undertaken by RCA for the proposed development. The geotechnical investigation concluded that the soil/fill on site was suitable for the indented works.

*(d) the effect of the development on the existing and likely amenity of adjoining properties,*

The scale of cut and fill proposed, including a maximum cut of 4.2m and fill up to 2m, is achieved through battered slopes and low level retaining walls which would have a negligible visual impact when viewed from neighbouring properties.

The impacts of the development during construction could be limited through conditions of consent which limit construction work hours. Subject to the aforementioned conditions, the application is satisfactory in regard to noise management.

Dust generated during construction is expected to be minimal, subject to conditions of consent requiring erosion and sediment control be carried out in accordance with the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

*(e) the source of any fill material and the destination of any excavated material,*

Conditions of consent have been recommended relating to sediment and erosion control, stockpiling of materials, dewatering, quality of imported/exported fill materials and disposal of excavated materials in accordance with the EPA's Waste Classification Guidelines.

*(f) the likelihood of disturbing relics,*

As outlined in the assessment against clause 5.10 above, the likelihood of disturbing relics can be managed through the implementation of the recommendations in the ACHAR and Aboriginal Heritage Impact Permit.

*(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*

The proposed development would not obstruct or fill any natural water courses nor cause any detrimental effect on drainage patterns. Stormwater quality is appropriately catered for in the proposed stormwater management plan which has been reviewed by Council's Engineering section and found to be acceptable. The site is not located in a drinking water catchment.

*(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The impacts of the development during construction could be limited through conditions of consent which limit construction work hours. Subject to the aforementioned conditions, the application is satisfactory in regard to noise management.

Dust generated during construction is expected to be minimal, subject to conditions of consent requiring erosion and sediment control be carried out in accordance with the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

Conditions of consent have been recommended relating to sediment and erosion control, stockpiling of materials, dewatering, quality of imported/exported fill materials and disposal of excavated materials in accordance with the EPA's Waste Classification Guidelines.

#### *Clause 7.6 – Essential Services*

Cause 7.6 provides that development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required. The essential services include the following:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*

*(e) suitable vehicular access.*

Connection to water, sewer, electrical (including kiosks), telecommunications and gas is proposed. Services are proposed to be generally contained underground within the existing and proposed road reserves.

Extension of the existing sewer and water mains offsite is proposed and the environmental impacts of the extension have been assessed throughout this report. The applicant has provided evidence of consultation with Hunter Water Corporation which confirms the proposed sewer and water extensions will be provided to the site.

The Traffic Impact Assessment was submitted with the application. As noted above, the proposal now provides for access from Vardon Road and is consistent with advice received from TfNSW and satisfies Council's requirements.

The proposal is considered to be generally consistent with Clause 7.6.

#### *Clause 7.9 – Wetlands*

The objective of this clause is to ensure that wetlands are preserved and protected from the impacts of development. In accordance with subclause (3), before determining a development application for development on land to which this clause applies, the consent authority must consider—

- (a) whether or not the development is likely to have any significant adverse impact on the following—*
  - (i) the condition and significance of the existing native fauna and flora on the land,*
  - (ii) the provision and quality of habitats on the land for indigenous and migratory species,*
  - (iii) the surface and groundwater characteristics of the land, including water quality, natural water flows and salinity, and*
- (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Sub-clause (4) of Clause 7.9 provides that Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The site is mapped as containing several wetland areas. Two of the mapped areas overlap the area of the proposed work as shown in **Figure 29** below.





**Figure 29:** LEP wetlands mapping

The development has been designed to minimise the impact on the mapped wetland areas. The BDAR provides a comprehensive assessment of the proposal's impact with respect to Clause 7.9 (a)(i) & (ii) and (b), noting that only 1.97% of the mapped wetlands are impacted.

The BDAR demonstrates that the proposal is not expected to have any impacts on surface and groundwater characteristics of the land, including water quality, natural water flows and salinity. The impacts are also localised and will not adversely impact the broader wetland areas of the site. No threatened fauna in the wetland mapped area will be impacted by the development. On this basis, the development has been designed to manage and minimise impacts to the small local wetland mapped area.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments that have been the subject of public consultation under the EP&A Act, that are relevant to the proposal.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

Port Stephens Development Control Plan 2014

*Section B1 – Tree Management*

This chapter applies to the removal or pruning of trees or other vegetation within non-rural areas and gives effect to SEPP (Biodiversity and Conservation) 2021 by listing those trees or other vegetation that require approval.

The proposal seeks to remove native vegetation within a non-rural area and therefore this Chapter applies. The chapter provides that Council may issue a permit for tree removal if it does not exceed the Biodiversity Offsets Scheme (BOS) threshold. If a development does seek to exceed the BOS threshold, clearing must be approved by the Native Vegetation Panel. As previously discussed, the Native Vegetation Panel may delegate its functions to the Council. Port Stephens Council has delegations and therefore is the consent authority for vegetation removal exceeding the BOS threshold in non-rural areas.

The DA seeks consent for the removal of vegetation that exceeds the BOS clearing threshold. As such, a BDAR was prepared for the proposal by Anderson Environment & Planning. The BDAR identified that a total of 1.8ha of native vegetation requires removal to facilitate the proposed development.

The BDAR calculated the offsets required. A condition has been included on the consent requiring the applicant to retire biodiversity credits prior to the commencement of works or removal of vegetation to offset the residual impact on biodiversity values. The removal of vegetation is discussed further in the assessment of the proposal against Chapter B2 of the DCP below.

### *Section B2 – Natural Resources*

This chapter applies to development located within 500m of environmentally sensitive areas, development that contains koala habitat, noxious weeds or development that is seeking to use biodiversity credits.

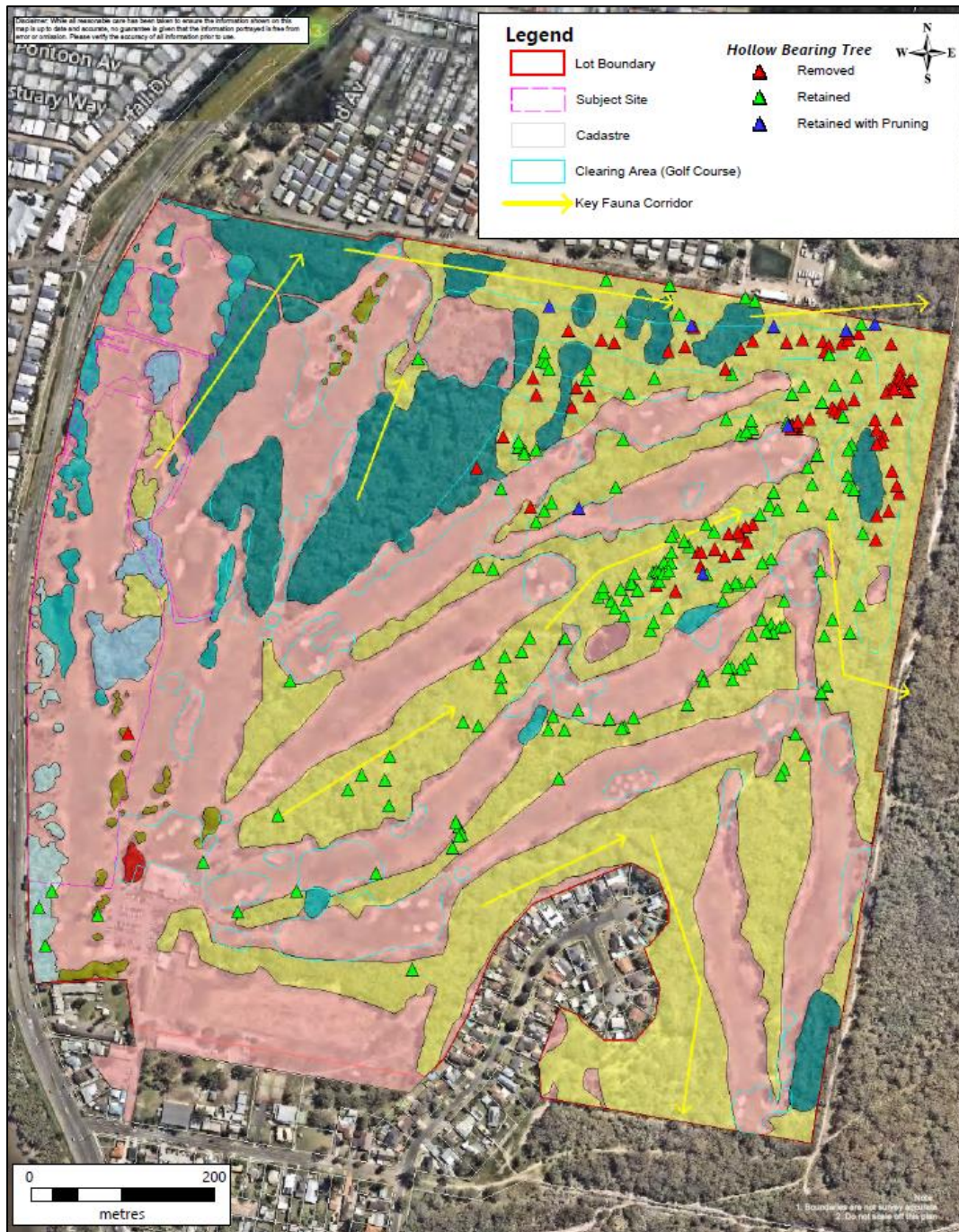
The proposal seeks consent for the removal of native vegetation that exceeds the BOS clearing threshold. As such, a BDAR was prepared for the proposal by Anderson Environment & Planning dated March 2025 (Document No, 313.02, Revision 5).

Site surveys were undertaken between September 2019 to April 2021 to confirm the flora and fauna present in the impact area and broader site. Additional surveys were undertaken in September 2022, March 2023, August/September 2023 and March 2025.

Site surveys found that the native vegetation on the site is in varying condition comprised of the following Plant Community Types (PCT):

- PCT 3544 - Coastal Sands Apple-Blackbutt Forest, this PCT is not associated with a Threatened Endangered Community (TEC);
- PCT 3788 - Coastal Fore-dune Wattle Scrub, this PCT is not associated with a TEC
- PCT 3963 - Estuarine Reedland, this PCT is associated with a TEC;
- PCT 4006 - Northern Paperbark-Swamp Mahogany Saw-sedge Forest, this PCT is associated with the TEC.

A total of 254 Hollow-bearing trees (HBTs) were identified in the study area across the entire site, 80 of these trees are proposed to be removed as part of the golf course redevelopment (approved under DA16-2022-413-1). Only 1 HBT is proposed for removal within the seniors living development footprint. The proposal includes the retention of 164 HBTs across the entire site. At the time of the field surveys, no hollows were observed to be occupied with the HBT proposed for removal within the seniors housing development footprint.



**Figure 30: HBT Removal/Retention**

Fauna surveys identified a total of one hundred and eighteen (118) species within the study area, consisting of eighty-eight (88) bird, twelve (12) mammal, twelve (12) reptiles and six (6) amphibian species. Of these 118 species, four are not native to Australia.

The most notable records are three (3) threatened fauna species recorded within the subject site:

- *Crinia tinnula* (Wallum Froglet);
- *Myotis macropus* (Southern Myotis); and
- *Petaurus norfolcensis* (Squirrel Glider)



Based on the timing of survey work, Council's Environmental Planner advised that the Red Helmet Orchid and Mahony's Toadlet are not able to be excluded with certainty, and as such presence is assumed and credit obligations will be applied. Neither is a SAIL listed species.

The site is greater than 1 hectare and is mapped as "Marginal" and "Mainly Cleared" in the Koala Habitat Planning Map in the Port Stephens Koala Plan of Management. Nonetheless, the Comprehensive Koala Plan of Management (CKPoM) applies to the land and therefore, the proposal must be consistent with the CKPoM.

The BDAR, prepared by AEP, confirms that 4 preferred koala feed trees will be removed as part of the seniors housing development. A total of 52 koala feed trees will be planted to offset those that are removed across both the golf course redevelopment and seniors housing development. The replanting will occur as part of the Biodiversity Management Plan (BMP) associated with the golf course redevelopment. A condition has been recommended requiring the BMP associated with DA16-2022-431-1 to be approved prior to works commencing for the seniors housing development.

Other restoration and revegetation works are proposed as part of the golf course redevelopment under the BMP, which includes restoration works around the seniors housing compensatory cut area once the civil works have been completed. Whilst the BMP is a minimisation measure associated with the golf course redevelopment, conditions have been recommended that the BMP restoration works be completed progressively with the seniors housing development to minimise impacts on local biodiversity across the site.

Requests for further information were issued from Council due to concern that the proposal had not appropriately avoided native vegetation removal as required by the BC Act. The BDAR was subsequently updated to provide additional information on the proposed extent of the impact on native vegetation, including additional impact assessment on the koala and also the avoidance and minimisation strategy. Based on the amended BDAR, a condition has been included on the consent requiring the applicant to retire biodiversity credits prior to the commencement of works to offset the residual impact on biodiversity values.

### *Section B3 – Environmental Management*

Section B3 contains provisions relating to noise, air quality and earthworks.

The proposed subdivision is not a development type likely to produce offensive noise. The impacts of the development during construction could be limited through conditions of consent which limit construction work hours and mitigate noise derived from construction activities. Subject to the aforementioned conditions, the application is satisfactory in regard to noise management.

Air quality impacts, including dust generated during construction, are expected to be minimal, subject to conditions of consent requiring erosion and sediment control be carried out in accordance with the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). The ongoing residential use of the land would not cause any ongoing air quality impacts during the operational phase of the development.

As discussed in the Clause 7.2 assessment above, the proposed development involves earthworks on the site to achieve appropriate flood immunity and a level building platform



through the use of balanced cut and fill. Additional cut is required to facilitate the connection of services and the proposed drainage infrastructure including infiltration basins.

A bulk earthworks plan has been provided which demonstrates that a total of 30,459m<sup>3</sup> of cut and 30,103m<sup>3</sup> fill is proposed. The POEO Act and B3 of the DCP require fill to be virgin excavated natural material (VENM). The proposal seeks to utilise fill from the cut on the site. The Preliminary Site Investigation (PSI) found no contamination that may pose a risk to human health or the environment was identified in any of the soil samples. A Preliminary Acid Sulfate Soil Management plan has also been provided. The recommendations of these reports will be implemented during construction via conditions of consent to mitigate the impacts of the proposed earthworks.

The proposal is therefore consistent with the requirements outlined in Council's DCP relating to earthworks.

#### *Section B4 – Drainage and Water Quality*

This section applies to development that:

- Increases impervious surfaces; or
- Drains to the public drainage system; or
- Involves a controlled activity within 40m of waterfront land.

A stormwater management plan was submitted with the application and includes adequate quality and quantity controls in accordance with the requirements of this section. The stormwater drainage plan has been assessed as being consistent with Council's Infrastructure Specification and a condition of consent has been included in the consent requiring the provision of detailed engineering plans, prior to the issue of a construction certificate.

#### *Section B5 – Flooding*

This section applies to all development on flood prone land. The subject land is mapped as being within the Flood Planning Area. Following the discussion against Clause 5.21 and Clause 5.22 of the PSLEP above, the proposed development is considered acceptable with regard to flooding.

Figure BI of the DCP identifies the suitability of land uses by flood hazard category. The flood categorisation of the site ranges from High Hazard Flood Storage to flood-free. Figure BI nominates sensitive and hazardous development as not suitable in high hazard flood areas. The footprint for the seniors housing development has been designed to the appropriate flood planning level with emergency response measures included as part of the Flood Emergency Response Plan (FERP). Given the range of flood categories across the site, along with flood design measures incorporated to address the risk through earthworks, it is considered that the proposed development is suitable for the site.

The proposed earthworks will ensure that all dwellings are located at or above RL 2.9 meters AHD which is the flood planning level. Portions of the site will be located above the PMF with flood free access above the 1% AEP level provided to Nelson Bay Road.

The site includes flood-free land above the PMF for both the local and riverine flood mechanisms. This provides an option of last resort for refuge in the event of a flood.

In addition to the flood design measures, the application includes a Flood Emergency Response Plan (FERP). The FERP includes a number of measures that the development will implement to prepare for, respond to, and recover from any major flood event.

These actions are considered to have addressed the requirements of Clause 5.10. The Northrop Flood Study demonstrates that there would be no adverse offsite impacts to local flooding characteristics. In addition to this, the FERP addresses Council's requirement to appropriately mitigate risk to life and property.

Council's Development Engineer has provided conditions of consent consistent with the above. As such is considered that the proposal is consistent with this section of the DCP.

As per control B5.9, a Flood Impact and Risk Assessment is required for any fill on land identified as a floodway or a storage area. The provided Northrop Flood Report demonstrated that in a local catchment 1% AEP event, there is a decrease in the water surface level in the flood storage area to the north of the subject site. Decreases are also observed in the Nelson Bay Road reserve corridor and downstream drainage corridor as a result of the compensatory cut works. For the 1% AEP 2100 event sensitivity analysis, there is a similar decrease in the water surface level of the flood storage area, and downstream of Nelson Bay Road. The increases on the north-eastern portion of the course are commensurate with those approved as part of the golf course redevelopment. The compensatory cut works recommended as part of the Northrop Stormwater and Flood Study, therefore, improve the management of floods within the local area.

A Flood Emergency Response Strategy has been provided within the Flood Study. The site is subject to potential flooding from both the Hunter Rive/Fullerton Cove and the local catchment. Riverine flooding is expected to have an extended warning, with flood water expected to rise relatively slowly and remain elevated for an extended period. Local catchment flooding is expected to peak quickly with rainfall and recede relatively soon after rainfall ceases.

Local Catchment Flooding will occur within six hours of rainfall commencing and the warning for this mechanism is likely to come from Bureau of Meteorology forecasts the day before. The site is not inundated even in extreme events with the proposed floor level providing suitable refuge. Isolation in these events is also expected to be less than six hours.

Riverine Flooding will occur with a warning time of between 12 and 18 hours (the Bureau of Meteorology quotes a target warning time of 18 hours). The site is not inundated even in extreme events with the proposed floor level providing suitable refuge. Isolation in these events is also expected to be for an extended period of time (3-7 days) and would trigger the evacuation of the site prior to the event occurring.

Based on the site evacuation access, flood compatible design, and the lack of adverse offsite flooding impacts, overall the proposal is compatible with the flood function.

#### *Section B6 – Aircraft Noise and Safety*

This section applies to development that is situated within the 2025 Australian Noise Exposure Forecast (ANEF), bird strike zone, extraneous lighting area or the Royal Australian Air Force (RAAF) Base Williamtown Obstacle Limitation map.

The proposed development is located within the Bird Strike Groups A and B. The application was referred to the Department of Defence in accordance with the requirements of this

chapter. In response, Defence did not object to the proposal subject to the inclusion of conditions relating to the storage of organic waste to minimise bird strike risk.

The proposal does not involve any structures that would penetrate the RAAF Base Williamtown Obstacle Limitation map.

### *Section B7 – Heritage*

This section applies to development that is situated on land that contains a heritage item or within a heritage conservation area.

The site does not contain any local heritage or state listed heritage items listed in Schedule 5 of the LEP. However, the site is adjacent to the Local Heritage Item – I34 Stockton Beach Dune System, including Aboriginal site and shell middens, shipwrecks, WWII Ramparts, tank traps, proofing range, rifle range and tin huts. The proposed development is located approximately 700m from the heritage item curtilage and would not be visible to or from the heritage site. As a result, no impacts would occur on the significance of the heritage item.

The site contains recorded Aboriginal sites on the Aboriginal Heritage Management Information Systems (AHIMS) register and Aboriginal Sensitive Landscape Features including a coastal sand dune and waterways. The Aboriginal Cultural Heritage Assessment prepared by Extent Heritage confirmed that the project will have potential impacts on Aboriginal cultural heritage and as such will require an AHIP will be prior to the undertaking of any works onsite. AHIP 5268 has been issued on 5 December 2024 to cover the works proposed in this development application.

### *Section B8 – Road Network and Parking*

This section applies to development with the potential to impact the existing road network or create demand for on-site parking. It is noted that seniors housing is excluded from the car parking requirements. Notwithstanding, the proposal has been reviewed against the key requirements to assess compliance.

The application includes a Traffic and Parking Assessment, prepared by SECA. The key findings from the report are outlined below:

- The provision of 310 car parking spaces for 172 units is considered adequate. The villas, townhouses and duplexes are all provided with an average of 2 car parking spaces. The 3 bedroom units are provided with an average 2 spaces per unit and 2 bedroom units are provided with 1 space per unit. An additional 39 visitor park spaces are also provided.
- The proposal has demonstrated that service vehicles are able to move through the site.
- The surrounding road network has capacity to cater for the proposed development.
- Access to parking areas will be within the development and not impact any public roads.
- The proposed driveway access complies with Councils Infrastructure Specification.

The golf course parking areas will be maintained around the clubhouse as part of the seniors housing development. Overflow golf course parking will be provided as part of grading and line marking works at the informal parking area located near the Vardon Road driveway as shown on the Civil Plans prepared by Northrop.

Given the increase in traffic volumes associated with the seniors housing development, Council's Development Engineer has recommended the Vardon Road and Nelson Bay Road intersection be upgraded to be a signalised intersection. This upgrade will be conditioned as part of this development. The signalised intersection upgrade is considered required given the reduced Level of Service (LoS), queuing and traffic safety implications associated with the proposed seniors housing development.

Council is satisfied that the proposal addresses the requirement of Section B8.

#### *Chapter C – Development Types*

The proposed development is for a seniors housing development and therefore Section C5 of the PSDCP is applicable. An assessment Against Section C5 is provided at **Attachment 27**.

#### *Chapter D – Specific Areas*

The site is not located in an area within which Chapter D applies.

#### *Port Stephens Local Infrastructure Contributions Plan*

The Port Stephens Local Infrastructure Contributions Plan is the relevant Plan pursuant to Section 7.18 of the EP&A Act. This Contributions Plan has been considered and included the recommended draft consent conditions.

#### **(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and no draft planning agreements are being proposed for the site.

#### **(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are not relevant to the proposal.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

### **3.2 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

## Social and Economic Impacts

There are a number of potential social impacts that may arise from the proposed development including, short-term construction related impacts on the immediate locality, such as noise, safety, dust and vibration, and location of the temporary facilities. These impacts are considered to be appropriately managed in accordance with the recommendations of the Noise Impact Assessment and implementation of the Construction Management Plan. The physical safety of residents in the vicinity of the golf course will be appropriately managed through the Operational Plan of Management.

The proposed development provides positive impacts including, the ability to retain the 18-hole golf course as a recreation asset, the addition of critical housing stock to meet demand for seniors living options, additional on-site facilities, improvement of the golf course areas creating additional opportunities for social recreation and entertainment and the creation of additional employment opportunities within the locality through the operational aspects on site for the overall development.

Most critically, the proposal provides additional seniors housing accommodation in the locality to service the needs of the community and satisfy the housing demand of the nation's ageing population.

The construction of the proposed development will also provide economic benefits through employment opportunities during the construction phase and the attraction of more residents to the Port Stephens area. This will have direct monetary input to the local economy, and the increased number of residents in the locality that will provide ongoing economic input through daily living activities. The co-locating of houses on the golf course will also enhance the ongoing viability of the Newcastle Golf Club and achieve the orderly and economic continuation of the use of the land.

On balance, the proposal will have a positive social and economic impact.

## Impacts on the Built Environment

The height of the development has been carefully considered within the context of the golf course and surrounding area. The proposal includes three (3) five-storey apartment buildings positioned along the western boundary to Nelson Bay Road in the southern portion of the site. The apartment buildings have been set back between 8.6m and 55m from the Nelson Bay Road frontage respectively, allowing for landscaping and preservation of existing trees, improving the outlook of the development from the road. The upper levels of the apartment buildings have then been recessed to reduce the perceived bulk and scale of the building.

The colours and material selection of the apartments consist of muted tones intended to be sympathetic to the site's natural setting. The use of sandstone cladding, copper-coloured façade panels, concrete spandrels and natural finished timber improve visual interest. The overall bulk and scale are considered appropriate and will not have any adverse impact, particularly on prominent view corridors across the site from surrounding lands.

It is acknowledged that the proposed intensification of development on this site is considerable. However, the merits of the design and built form are considered compatible within the context of the site and setting. In addition, the nature of the land use is for seniors housing which is known to be a compatible land use with golf courses.



### Impacts on the Environment

The proposed development seeks to remove native vegetation as discussed in this report. Whilst the proposal seeks to remove 1.8ha hectares of native vegetation, extensive replanting will occur through the implementation of the Landscape Plan and over 9,000m<sup>2</sup> of deep soil planting.

A Biodiversity Management Plan (BMP) has also been prepared for the approved golf course redevelopment which identifies management procedures regarding the ongoing maintenance and management of the retained vegetation including replanting, regeneration and weed removal.

Where impacts have not been avoided or minimised, credit offsets have been conditioned in accordance with the NSW BOS to ensure the proposal provides a net positive outcome for the environment.

### Access and Traffic

The proposal has undergone significant changes in regards to the access to the site. The proposal is now for the site to be accessed only via Vardon Road. The proposed access arrangement will provide for safe entry/egress for residents but will also ensure the ongoing safe operation of Nelson Bay Road pedestrian network.

Given the increase in traffic volumes associated with the seniors housing development, Council's Development Engineer has recommended the Vardon Road and Nelson Bay Road intersection be upgraded to be a signalised intersection. This upgrade will be conditioned as part of this development. The signalised intersection upgrade is considered required given the reduced Level of Service (LoS), queuing and traffic safety implications associated with the proposed seniors housing development.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.3 Section 4.15(1)(c) - Suitability of the site**

The site is considered to be suitable for the proposed development for the following reasons:

- The proposal is consistent with the Port Stephens Local Housing Strategy and Housing Supply Plan which nominates the site as a precinct for new housing,
- The site is conveniently located in close proximity to existing residential and new/emerging commercial/retail development which is easily accessible,
- The development has been designed with consideration for impacts from local constraints (flooding, bushfire and heritage),
- The development is generally compatible with the existing and future character, bulk, scale and massing of development in the immediate area.

Based on the above, the site is suitable to accommodate the proposal.

### **3.4 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 5 of this report.

### **3.5 Section 4.15(1)(e) - Public interest**

The development provides for additional seniors housing accommodation in the Fern Bay locality that will service the needs of the community and the housing demand of an aging population. The commercial premises will positively contribute to the streetscape, provide additional employment opportunities, and provide an additional service for the area.

The proposed development has been designed to positively contribute to the built environment of the area and to reflect the context of the surrounding area. The proposed height variation is considered to be acceptable, and the scale is appropriate for the area in accordance with the ADG and LEP. Additionally, the proposal is consistent with Council's strategic direction for the area.

Overall, the development is consistent with the relevant environmental planning instruments and adopted strategic planning policies as outlined in this report. The proposal has demonstrated how the site constraints can be managed/addressed and the potential environmental impacts are proposed to be minimised and offset.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

**Table 3: Concurrence and Referrals to Agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements</b> (s4.13 of EP&A Act)			
Transport for NSW	Section 2.118 provides that consent may only be granted with the concurrence of TfNSW for development on the classified road with a capital investment value is in excess of \$185,000. The proposal includes development on a classified road, including the upgrade of the Nelson Bay Road and Vardon Road intersection. The capital investment value of the proposed upgrade is in excess of \$185,000.	The application was referred to Transport for NSW as traffic generating development. During the assessment of the application, TfNSW issued a number of requests for information. The matters raised by TfNSW were resolved through the re-design of the entryway.	Y
<b>Referral/Consultation Agencies</b>			

Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	A referral was received from Ausgrid providing advice in regard to the supply of electricity.  Compliance with the Ausgrid referral comments has been included as a recommended condition.	Y
Transport for NSW	Section 2.122 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	The application was referred to Transport for NSW as traffic generating development. During the assessment of the application, TfNSW issued a number of requests for information. The matters raised by TfNSW were resolved through the re-design of the entryway.	Y
Department of Defence	B6.D - <i>Port Stephens Development Control Plan 2014</i> The site is located in a bird strike zone.	A referral was received from the Department of Defence who raised no concern with the proposal. Defence noted the site is within a bird strike area and therefore waste should be stored appropriately. An advice note has been recommended which notes the requirements for sites within a Bird Strike zone.	Y
Design Review Panel	CI 28(2)(a) – SEPP 65  Advice of the Design Review Panel ('DRP')	Council is satisfied that the proposal suitably addresses the comments made by the UDP and therefore did not refer the application back for further review. The advice from the DRP has been considered in the assessment of this application, as required by s147(1)(c) of this policy.	Y
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	The New South Wales Rural Fire Service (NSW RFS) provided General Terms of Approval under Division 4.8 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under section 100B of the	Y

		Rural Fires Act 1997, were issued subject to conditions.	
Department Of Primary Industry - Water	S91 – <i>Water Management Act 2000</i> for a controlled activity approval under Part 3 of Chapter 3	N/A	N/A
Water NSW	S89 or 90 for a water use approval or water management work approval under Part 3 of Chapter 3.	<p>The applicant provided a Preliminary Dewatering Management Plan (DMP) (Tetratex Coffey 11 Nov 2024) to investigate the development's impact on groundwater.</p> <p>The DMP outlined dewatering would be required and may meet the threshold (more than 3 megalitres of extracted groundwater) to require a water access license from Water NSW.</p> <p>The applicant will be required to obtain a water access licence should dewatering thresholds be reached.</p>	NA
Heritage NSW	S90 of the National Parks and Wildlife Act 1974 for an Aboriginal Heritage Impact Permit.	<p>Supported.</p> <p>An amended AHIP 5268 was issued (as one already existed on site for the works to realign the gold course) on 5 December 2024 to cover the works proposed in this development application.</p>	Y

## 4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined in **Table 6**.

**Table 4: Consideration of Council Referrals**

Officer	Comments	Resolved
Development Engineering	The application was referred to Council's Development Engineering team to review the proposal from a traffic, access, stormwater and flooding perspective. Several requests for	Y

	<p>information were issued throughout the assessment of the application where responses were provided from the applicant.</p> <p>Council's Development Engineer has provided conditions that have been included in the recommended conditions of consent.</p>	
Building Certification	Supported unconditionally.	Y
Environmental Health	Supported with conditions.	Y
Waste Management	Supported unconditionally.	Y
Natural Systems	Council's Environmental Planner raised concerns with regard to surveys, impact assessment and other matters in the original BDAR. A revised BDAR was submitted by the applicant to address the referral comments. Conditions have been imposed by Council accordingly in response to the amended BDAR.	Y
Vegetation Management/Landscaping	Supported with conditions.	Y
Development Contributions	<p>The application was referred to Council's Contribution team to review the proposal. Council's Local Contribution Plan applies to the proposed development.</p> <p>Council's Contribution Planner has provided conditions that have been included in the recommended conditions of consent.</p>	Y
Spatial Services	Supported unconditionally.	Y
Heritage	Supported with conditions.	Y

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

### 4.3 Community Consultation

The proposal was notified in accordance with the DCP/Council's Community Participation Plan from 8 February 2024 until 22 February 2024. The notification included the following:

- An advertisement in the local newspaper Port Stephens News of the Area and Port Stephens Examiner;
- Notification letters sent to adjoining and adjacent properties (approximately 85 letters);
- Notification on the Council's website.

The Council received a total of 1 unique submission, comprising objecting to the proposal. The issues raised in these submissions are considered in **Table 7**.



**Table 5: Community Submissions**

<b>Issue</b>	<b>No of submissions</b>	<b>Council Comments</b>
Traffic and safety of people during operation – The concerns primarily relate to cumulative impacts and safety.	1	<p>Subsequent amendments to the access arrangement should address these issues. The requirement for access to be via Vardon Road and the construction of a new signalised intersection will provide for safe egress into the site.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended conditions of consent (<b>Attachment 1</b>).</p>
Traffic and safety of people during operation – The concerns primarily relate to parking and access.	1	<p>During construction, there will be a specific construction management plan that will be implemented to manage traffic movement, parking and access.</p> <p>The site has the capacity for onsite parking during this period which will limit impacts on surrounding areas. .</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended conditions of consent (<b>Attachment 1</b>).</p>
Engagement during the preparation of the SIA and cumulative impact assessment.	1	<p>Council has reviewed the SIA and is satisfied with the methodology and the process undertaken in its preparation. Given the nature of the development is to provide critical residential housing on a strategically located site, the social benefits are considered to outweigh the negative. The SIA is also not a jurisdictional matter that would preclude the HCCRPP from supporting the development on merit.</p> <p>It is noted that the proposal was widely notified following lodgement with only a single submission made.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed.</p>

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 Access

The original concept included direct access to and from Nelson Bay Road which raised a number of safety concerns for both Council and TfNSW. This issue was fundamental to the suitability of the site with neither authority able to support a proposal that retained Nelson Bay Road as the primary access.

As a result, the proposal has undergone amendments in regard to site access. The proposal for the site to be accessed only via Vardon Road is a significant improvement and will provide for not only safe entry/egress for residents but will also ensure the ongoing safe operation of Nelson Bay Road.

Access will still be allowed for construction traffic from Nelson Bay Road in part to minimise the impacts on Vardon Road. Once the development is complete, this access will be retained to allow for emergency entry/egress with access via a locked gate.

With the amendment of the plans to provide access via Vardon Road, there is also now a requirement to upgrade the Nelson Bay Road/Vardon Road intersection. This will ensure the ongoing safe operation of the intersection. This will involve the upgrading of the existing to a signalised intersection. This is considered to be needed given the reduced Level of Service (LoS), queuing and traffic safety implications associated with the proposed seniors housing development.

Resolution: The issue has been resolved through the recommended conditions of consent as outlined in **Attachment 1**.

## **5.2 Ecology**

The BDAR and associated assessment of the site has required updating through the assessment process. Particular concerns have been raised regarding the species that are thought to be onsite but have not been identified through surveys. This relates specifically to the Red Helmet Orchid and Mahony's Toadlet.

The BDAR was updated to provide additional information on the proposal avoidance and minimisation strategy and additional surveys were completed. While efforts have been made to identify the above species, Council are not able to exclude them with certainty and as such are assumed to be present. Credit obligations for these species were applied accordingly. Neither species is listed as an SAI affected species, accordingly presence is able to be assumed with minimal local biodiversity impacts.

Based on the amended BDAR, a condition has been included on the consent requiring the applicant to retire biodiversity credits prior to the commencement of works to offset the residual impact on biodiversity values.

Resolution: The issue has been resolved through the recommended conditions of consent as outlined in **Attachment 1**.

## **6. CONCLUSION**

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The proposal has been appropriately designed to respond to the key features of the site, including natural hazards such as flooding and ecology and will not cause any adverse impacts to local heritage items or conservation areas. The proposed access is designed to not cause any adverse impacts surrounding the site and provide safe movement for vehicles and pedestrians.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment 1**.

## **7. RECOMMENDATION**

That the Development Application DA 16-2023-7707-1 for 'seniors housing development (independent living units) comprising 172 dwellings, a community centre, recreation facilities, open space, site works and associated infrastructure' at 4 Vardon Road Fern Bay be APPROVED pursuant to Section 4.16(1)(a) or (b) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment 1: Draft Notice of Determination
- Attachment 2 - Architectural Plans
- Attachment 3 - Access Report
- Attachment 4 - Detail Site Survey
- Attachment 5 - Aboriginal Cultural Heritage Assessment Report
- Attachment 6 - Civil Engineering Plans
- Attachment 7 - Concept Flooding & Stormwater Report
- Attachment 8 - Preliminary Utility Services Report
- Attachment 9 - Landscape Plan
- Attachment 10 - Arborist Report
- Attachment 11 - Bushfire Threat Assessment Report
- Attachment 12 - Operational Management Plan
- Attachment 13 - BASIX Certificate
- Attachment 14 - Comprehensive Social Impact Assessment
- Attachment 15 - Cost of Development Report
- Attachment 16 - Crime Prevention Through Environmental Design Report
- Attachment 17 - Preliminary Dewatering Management Plan
- Attachment 18 - Preliminary Site (Contamination) Assessment
- Attachment 19 - Urban Design and Visual Impact Study
- Attachment 20 - Waste Management Plan
- Attachment 21 - Urban Design Panel Minutes - September 2021 and March 2024
- Attachment 22 - Biodiversity Management Plan
- Attachment 23 – BDAR
- Attachment 24 - Acoustic Assessment
- Attachment 25 - Traffic Impact Assessment
- Attachment 26 - Housing SEPP Assessment Tables
- Attachment 27 - DCP Chapter C5 Assessment
- Attachment 28 – Flood Emergency Response Plan