

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSNTH-3
<b>DA Number</b>	DA2019 - 481.1
<b>LGA</b>	Port Macquarie-Hastings
<b>Proposed Development</b>	Staged Residential Aged Care Facility including Clause 4.6 Objection to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011
<b>Street Address</b>	211 High Street, Wauchope Lot 1 & 2 DP 1260518
<b>Applicant/Owner</b>	Applicant: Bundaleer Care Services Ltd Owner: Horizon Beach Development Corp Pty
<b>Date of DA lodgement</b>	4 July 2019
<b>Number of Submissions</b>	1
<b>Recommendation</b>	Consent subject to conditions
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	General Development over \$30 million
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Koala Habitat Protection) 2019</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• Port Macquarie-Hastings Local Environmental Plan 2011</li> <li>• Port Macquarie-Hastings Council Development Control Plan 2013</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Plans</li> <li>• Clause 4.6</li> <li>• Proposed Conditions</li> </ul>
<b>Report prepared by</b>	Chris Gardiner - Development Assessment Planner
<b>Report date</b>	3 March 2020

### Summary of s4.15 matters

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

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

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

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**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

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

## Executive summary

This report considers a development application for a residential aged care facility with 140 beds and an ancillary indoor hydrotherapy facility for residents.

The proposal includes a variation to the height of buildings development standard in Clause 4.3 of the Port Macquarie-Hastings Local Environmental Plan 2011.

The development is Integrated Development as it requires a Bush Fire Safety Authority from the NSW Rural Fire Service in accordance with Section 100B of the Rural Fires Act 1997.

The proposal has been notified and advertised in accordance with the requirements of the Port Macquarie-Hastings Council Development Control Plan 2013. Following exhibition of the application, one (1) written submission was received.

The assessment of the application has also considered written advice from the following public authorities:

- NSW Rural Fire Service;
- NSW Roads and Maritime Services.

The Applicant has made minor amendments to the proposal through the assessment process to improve access within the facility and to external services, and to manage potential noise impacts. The changes were of a nature that did not require re-notification of the application.

This report provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979. The consent authority must be satisfied in relation to a number of provisions in relevant environmental planning instruments applicable to the proposal before granting consent to the development. A detailed assessment of the relevant clauses is noted within the report. A summary is also provided below:

- **Clause 7 of SEPP No 44 – Koala Habitat Protection (applicable due to savings provisions in SEPP (Koala Habitat Protection) 2019).** Council officers are satisfied that the land is not potential koala habitat. The consent authority is therefore not prevented from granting consent because of this Policy.
- **Clause 7 of SEPP No 55 – Remediation of Land.** The land is known to have previously been used for a purpose referred to in Table 1 of the contaminated land planning guidelines. Appropriate investigations have been carried out as part of the subdivision creating the lots and remediation is required to make the land suitable for the proposed use. With the recommended conditions of consent Council officers are satisfied that the land will be remediated before the use commences.
- **Clause 18 of SEPP (Housing for Seniors or People with a Disability) 2004.** Consent must not be granted unless a condition is imposed restricting occupation to the types of people identified in the clause. A condition has been recommended confirming this requirement.
- **Clause 26 of SEPP (Housing for Seniors or People with a Disability) 2004.** Council officers are satisfied that residents of the facility would have appropriate access

to facilities and services. The consent authority is therefore not prevented from granting consent because of this Policy.

- **Clause 32 of SEPP (Housing for Seniors or People with a Disability) 2004.** Council officers are satisfied that adequate regard has been given to the Division 2 design principles. The consent authority is therefore not prevented from granting consent because of this Policy.
- **Clause 4.6 of the Port Macquarie-Hastings LEP 2011.** Council officers have considered a written request from the Applicant and are satisfied that the written request adequately addresses the matters required to be demonstrated by subclause (3), and that the development will be in the public interest because it is consistent with the objectives of the zone and the development standard. The consent authority is therefore not prevented from granting consent because of this Clause.
- **Clause 7.13 of the Port Macquarie-Hastings LEP 2011.** Clause 7.13 requires the consent authority to be satisfied that any services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 7.13 of the LEP.

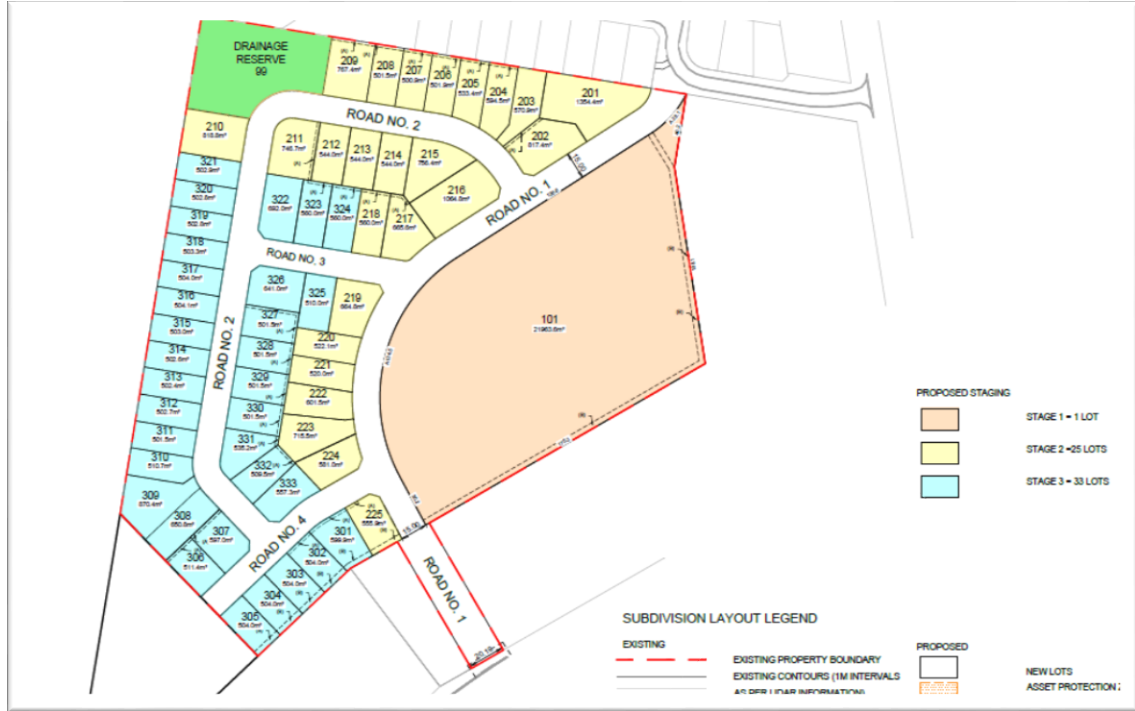
In summary, the assessment of the proposed development has adequately addressed all consent considerations required by the above environmental planning instrument clauses. It is therefore considered that the Panel can proceed with determining the application, subject to the recommended conditions of consent.

The Applicant has been provided with a copy of the draft conditions for review. There are no matters of disagreement in relation to the draft conditions.

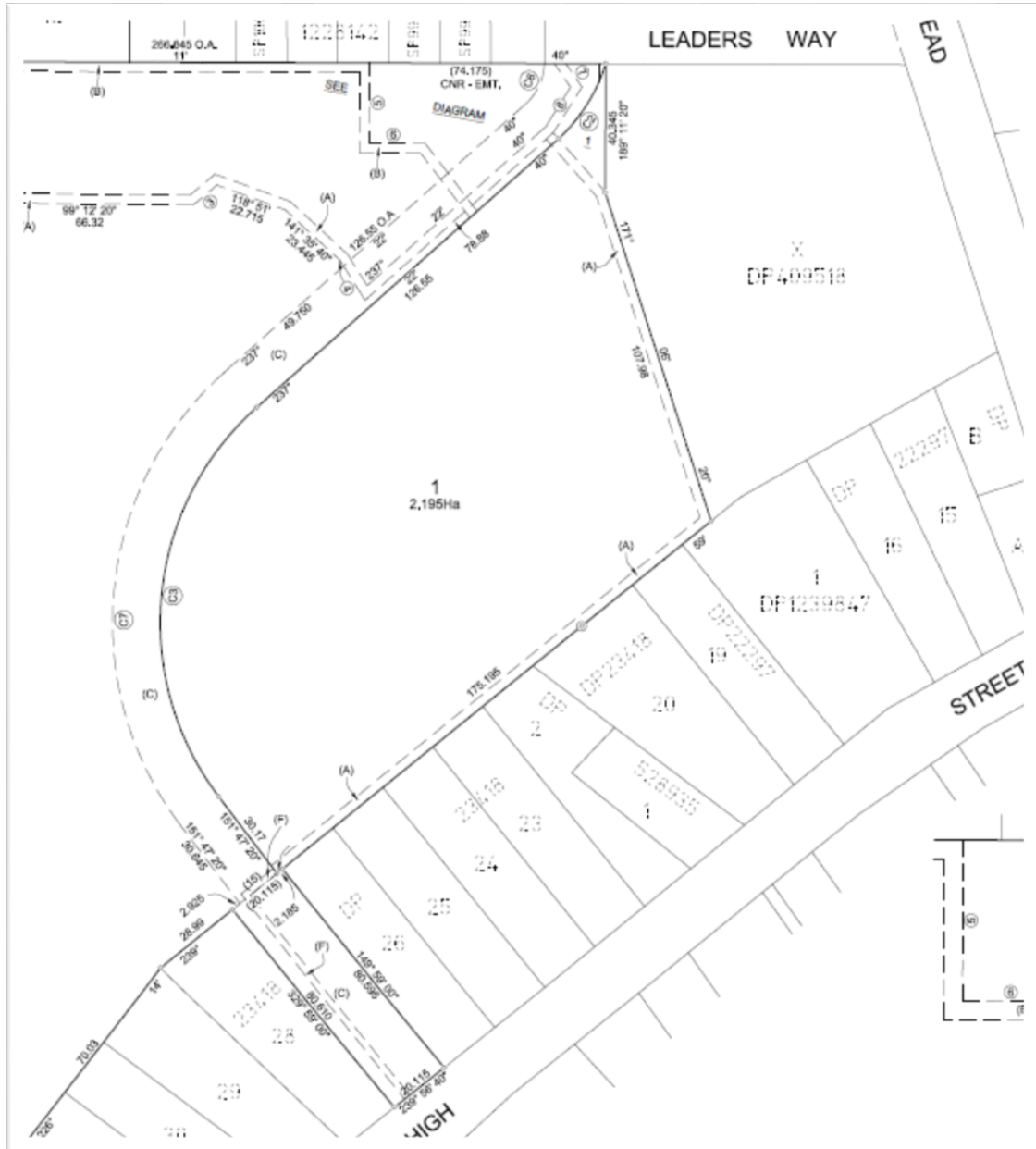
## 1. BACKGROUND

### Existing sites features and surrounding development

The site is located on Lot 1 DP 1260518 and has an area of 2.196 hectares. The lot was created in the first stage of an approved residential subdivision under DA1991 - 485.2 (see overall subdivision layout below).



The subdivision created easements for roads and services, which will allow the residential care facility to construct the required service connections in the event that Stage 2 of the subdivision does not commence.



The site is zoned R1 General Residential in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:





## 2. DESCRIPTION OF DEVELOPMENT

The proposal is to carry out development for the purpose of a residential aged care facility and ancillary hydrotherapy facility for residents. The development is proposed to be carried out in two stages.

Stage 1 comprises the construction of 140 residential units for aged care accommodation, with associated nursing stations, dining rooms, landscaping, and parking. Stage 1 will also include the construction of roads and essential services if such work has not been completed as part of the parent subdivision.

Stage 2 comprises the construction of an indoor hydrotherapy centre with additional parking for use by residents.

Plans of the proposal are included in the attachments to this report.

### Integrated Development

The development is also 'Integrated Development' as it requires a Bush Fire Safety Authority from the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997.

## 3. STATUTORY ASSESSMENT

The provisions (where applicable) of:

### (a)(i) Any environmental planning instrument

State Environmental Planning Policy (Koala Habitat Protection) 2019



Clause 15 - A development application made, but not finally determined, before the commencement of this Policy in relation to land to which this Policy applies must be determined as if this Policy had not commenced. The application was made and not finally determined prior to the commencement of this policy, and the application is therefore required to be assessed under the relevant provisions of State Environmental Policy No 44 - Koala Habitat Protection. See assessment comments below.

#### **State Environmental Planning Policy No. 44 - Koala Habitat Protection**

The subject land has an area greater than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP must be considered.

The site does not contain the vegetation composition to meet the definition of 'potential koala habitat' and therefore no further consideration of the SEPP is required.

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

The site was previously used as a plywood factory that was developed post World War 2 (late 1940's to early 1950's) and operated through until approximately the early 1980's. The previous land use is a potentially contaminating activity in accordance with the Contaminated Land Planning Guidelines.

The Applicant has submitted a Stage 2 Site Contamination Assessment prepared by Regional Geotechnical Solutions and dated 20 August 2019 as part of a recently modified subdivision of the subject land (DA1991 - 485.2). The investigations revealed concentrations of chemicals of concern (including asbestos, lead, hydrocarbons, nickel, copper and formaldehyde) exceeding the adopted health investigation criteria for a Residential A site in several locations.

The report concluded that the site is able to be made suitable for the proposed residential use, subject to appropriate remediation of the contaminated parts of the site. The conditions of consent on DA1991 - 485.2 require a Remediation Action Plan (RAP) to be submitted prior to remediation commencing, and a Validation Report to be submitted to Council prior to the issue of the Subdivision Certificate.

A condition is recommended requiring evidence of registration of the plan of subdivision for Stage 2 of the approved subdivision prior to the issue of a Construction Certificate for the residential care facility. This will provide certainty that the required remediation and validation have been satisfactorily completed prior to works commencing.

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

The following assessment table provides an assessment against specific requirements of this SEPP:

<b>Applicable clauses for consideration</b>	<b>Comments</b>	<b>Satisfactory</b>
10 Seniors housing	The proposal is a form of seniors housing, being a residential care facility.	Yes
11 Residential care facilities	The proposal is consistent with the definition: <i>residential care facility is residential accommodation for</i>	Yes

	<p><i>seniors or people with a disability that includes:</i></p> <p><i>(a) meals and cleaning services, and</i></p> <p><i>(b) personal care or nursing care, or both, and</i></p> <p><i>(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.</i></p>	
16 Development consent required for Seniors Housing	This application seeks the required consent.	Yes
<p>18(1) Development allowed by this Chapter may be carried out for the accommodation of the following only:</p> <p>(a) seniors or people who have a disability,</p> <p>(b) people who live within the same household with seniors or people who have a disability,</p> <p>(c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.</p> <p>(2) A consent authority must not consent to a development application made pursuant to this Chapter unless:</p> <p>(a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and</p> <p>(b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the <a href="#">Conveyancing Act 1919</a>, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).</p>	Conditions recommended confirming restriction on occupation in accordance with clause 18(2).	Yes
21 Subdivision Land on which development has been carried out under this Chapter may be subdivided with	The proposal does not include subdivision of the land.	N/A

<p>the consent of the consent authority.</p>		
<p>26 Location and access to facilities (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to: (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and (b) community services and recreation facilities, and (c) the practice of a general medical practitioner.</p>	<p>The residential aged care facility is located within 400m of a bus stop in High Street. A public bus service (Route 335W) provides access from the bus stop to the Timbertown Shopping Centre, Wauchope Town Centre and Port Macquarie. All the required resident services are available in these locations. The service operates more than once each weekday during daylight hours.</p> <p>A footpath connection will be provided from the site to the High Street bus stop via proposed Road No. 1 of the proposed subdivision under DA1991 - 485.2.</p> <p>Condition recommended requiring details of compliant grade with the application for a Construction Certificate.</p>	<p>Yes</p>
<p>27 Bush fire prone land</p>	<p>The Applicant has submitted a bushfire assessment, which has been referred to the Rural Fire Service in accordance with Section 100B of the Rural Fires Act 1997. See comments under Bushfire later in this report.</p> <p>The broader subdivision of the land under DA1991 - 485.2 has also considered the bushfire hazard. It is noted that the majority of the mapped vegetation hazard to the west of the site has already been removed in accordance with that consent. The site has more than one public road access and the standard of the roads will be sufficient to accommodate evacuation of residents in the locality in the event of a bushfire.</p>	<p>Yes</p>
<p>28 Water and Sewer</p>	<p>See comments later in this report under Water Supply Connection and Sewer Connection. The land has connection to reticulated water supply and sewerage and adequate capacity available to</p>	<p>Yes</p>

	service the proposed development.	
<p>29 Consideration of certain site compatibility criteria. (2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</p> <p><i>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</i></p> <p><i>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</i></p> <p><i>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</i></p>	<p>Impacts of the proposed development on environmental values, resources and hazards are considered throughout this report and are considered to be acceptable.</p> <p>Adequate infrastructure and services are (or can be made) available to the site. The developer will be responsible for the cost of providing necessary infrastructure to serve development and the ongoing costs of providing on-site services and facilities.</p> <p>The proposed development is in a location characterised by single storey dwellings and light industrial buildings. The residential subdivision adjoining the site has a height limit of 8.5m and is expected to accommodate a mix of one and two storey buildings in the future.</p> <p>The proposal is for a two and three storey building with the upper floor stepped back from proposed Road No. 1 to reduce the scale of the building. The proposal includes substantial building setbacks and landscaping. The bulk and scale of the proposal is considered acceptable in this context.</p>	Yes
<p>32 Design of residential development A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the principles set out in Division 2.</p>	<p>Noted. See comments under clauses 33 - 39 below addressing Division 2 design principles.</p>	Yes
<p>33 Neighbourhood amenity and streetscape The proposed development should:</p>	<p>The site is in a location undergoing transition. The design is considered to be compatible with existing development and</p>	Yes

<p>(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and</p> <p>(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and</p> <p>(c) maintain reasonable neighbourhood amenity and appropriate residential character by:</p> <p>(i) providing building setbacks to reduce bulk and overshadowing, and</p> <p>(ii) using building form and siting that relates to the site's land form, and</p> <p>(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and</p> <p>(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and</p> <p>(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and</p> <p>(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and</p> <p>(f) retain, wherever reasonable, major existing trees, and</p> <p>(g) be designed so that no building is constructed in a riparian zone.</p>	<p>the expected future character of one and two storey buildings.</p> <p>There are no heritage items located in proximity to the site and the land is not within a heritage conservation area. The former use of the site as a sawmill retains some historical significance, but the sawmill buildings do not provide any design elements that are desirable for future residential uses.</p> <p>The proposal is for a two and three storey building with the upper floor stepped back from proposed Road No. 1 to reduce the scale of the building. The proposal includes substantial building setbacks and landscaping.</p> <p>The development will essentially establish the building line on the eastern side of proposed Road No. 1. Typical front setbacks for residential development in the locality would be expected to be 4.5m having regard to the DCP controls. The majority of the proposed building would be setback in excess of 20m, and is not expected to compromise the streetscape.</p> <p>The concept landscaping plan is considered to provide a satisfactory streetscape setting noting that there is no established landscaping character in the locality.</p> <p>No buildings are proposed in a riparian zone.</p>	
<p>34 Visual and acoustic privacy The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p> <p>(a) appropriate site planning, the location and design of windows and balconies, the use of</p>	<p>Visual and acoustic privacy for residents and adjoining property satisfactorily addressed through site planning, building design, separation distance, screening, and landscaping.</p>	<p>Yes</p>

<p>screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.</p>		
<p>35 Solar access and design for climate The proposed development should: (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	<p>The Applicant has submitted shadow diagrams demonstrating that the development would not reduce solar access to adjoining living areas and private open space.</p> <p>The design of the facility provides for good solar access and natural ventilation throughout the facility.</p>	<p>Yes</p>
<p>36 Stormwater The proposed development should: (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	<p>See comments under Stormwater later in this report.</p>	<p>Yes</p>
<p>37 Crime Prevention The proposed development should provide personal property security for residents and visitors and encourage crime prevention by: (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and (b) where shared entries are required, providing shared entries</p>	<p>The building has a central entry, which is easily located at the front of the site and highly visible. The lobby area is capable of being monitored by reception staff and there are also activity generators (café and library/sitting area) adjacent to this space. Doors are lockable at the appropriate times.</p>	<p>Yes</p>

<p>that serve a small number of dwellings and that are able to be locked, and (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>		
<p><b>38 Accessibility</b> The proposed development should: (a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.</p>	<p>The design provides for footpath facilities around the perimeter of the building with connections to the off-street parking areas and the public road. The primary pedestrian access point is proposed to the public road adjacent to the main building entrance. A secondary pedestrian access is also provided to the western side of the lot and would provide a shorter path of travel for residents and visitors to access public transport and local facilities.</p>	<p>Yes</p>
<p><b>39 Waste management</b> The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.</p>	<p>Bin storage room identified on the submitted plans adjoining the loading area. The Statement of Environmental Effects indicates that provision will be made for recycling facilities consistent with the existing facility operated by Bundaleer Care Services.</p>	<p>Yes</p>
<p><b>40 Development standards - minimum sizes and building height</b> <b>(2) Site size</b> The size of the site must be at least 1,000 square metres.  <b>(3) Site frontage</b> The site frontage must be at least 20 metres wide measured at the building line. <b>(4) Height in zones where residential flat buildings are not permitted</b> If the development is proposed in a residential zone where residential flat buildings are not permitted— (a) the height of all buildings in the proposed development must be 8 metres or less, and Note. Development consent for development for the purposes of</p>	<p>The site of the proposed aged care facility has an area of 2.196 hectares and exceeds the minimum lot size.  The site frontage exceeds 20m at the building line.  Residential flat buildings are permitted with consent in the zone and the provisions in subclause (4) are not applicable.</p>	<p>Yes</p>

<p>seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).</p> <p>(b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and Note.</p> <p>The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.</p> <p>(c) a building located in the rear 25% area of the site must not exceed 1 storey in height.</p>		
<p>48 Standards that cannot be used to refuse development consent for residential care facilities</p> <p>A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a residential care facility on any of the following grounds:</p> <p>(a) <b>building height:</b> if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or</p> <p>(b) <b>density and scale:</b> if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,</p> <p>(c) <b>landscaped area:</b> if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,</p> <p>(d) <b>parking for residents and visitors:</b> if at least the following is provided:</p> <p>(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and</p>	<p>The proposed building exceeds 8m in height in some locations. See discussion later in this report regarding the merits of the proposed building height under clauses 4.3 and 4.6 of the Port Macquarie-Hastings Local Environmental Plan 2011.</p> <p>The proposed FSR is 0.56:1.</p> <p>The proposal is to have a landscaped area of 11,550m<sup>2</sup> which complies with the 140 (beds) x 25 = 3,500m<sup>2</sup> SEPP requirement.</p> <p>Proposal has 140 beds and the Statement of Environmental Effects indicates that there would be a maximum of 44 staff on site at any time. The development therefore requires a minimum of 36 spaces, plus 1 parking space suitable for an ambulance.</p> <p>The submitted plans show a total of 52 spaces, plus two ambulance spaces under the porte cochere. Seven (7) of these spaces will be constructed as part of Stage 2 and not be available initially. However, the</p>	<p>Yes</p>



<p>(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and (iii) 1 parking space suitable for an ambulance.</p>	<p>45 spaces to be constructed in Stage 1 still exceed the minimum requirements of the SEPP.</p>	
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### State Environmental Planning Policy (Infrastructure) 2007

The application has been referred to the NSW Roads and Maritime Service (RMS).

The RMS advice and other matters requiring consideration under clause 104(3)(b)(ii) and (iii) are discussed in the assessment of access, traffic and parking impacts addressed later in this report.

### State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 - The proposal is regionally significant development identified in Schedule 7 (general development with capital investment value of more than \$30 million). The Regional Planning Panel is the consent authority.

### Port Macquarie-Hastings Local Environmental Plan 2011

The proposal is consistent with the LEP having regard to the following:

- Clause 2.2 - The subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the proposed development for a residential care facility is a permissible landuse with consent. The Statement of Environmental Effects indicates that the additional services in the development (including café, hairdresser, theatre/chapel, and hydrotherapy pool) will be for the use of residents only and are therefore considered to be ancillary to the residential care facility.

The objectives of the R1 zone are as follows:

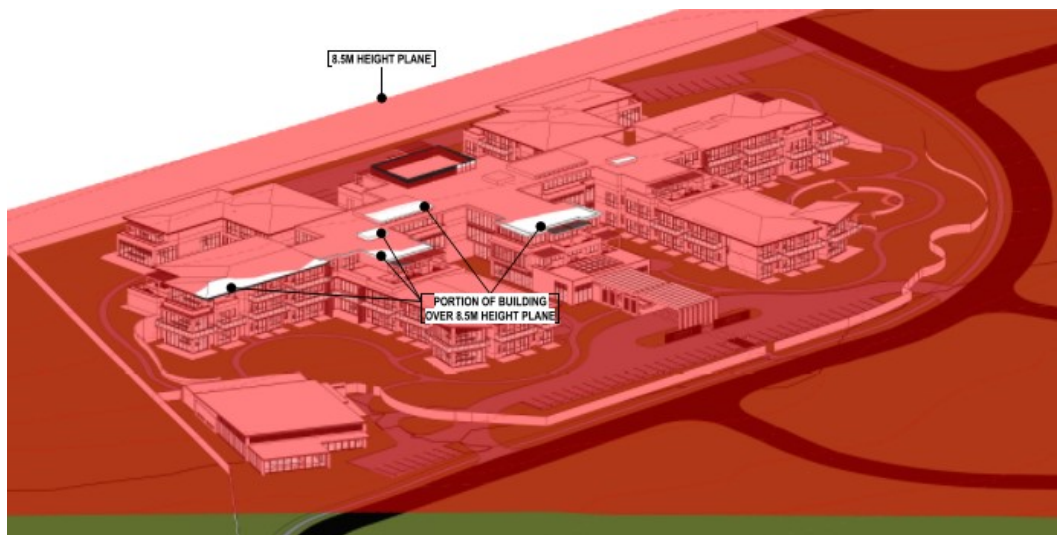
- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Clause 2.3(2) - The proposal is consistent with the zone objectives having regard to the following:

- The proposal provides housing choice for seniors and people with a disability.
- The development incorporates services to meet the day to day needs of residents of the facility.
- Clause 4.3 - This clause establishes the maximum “height of a building” (or building height) that a building may be built to on any parcel of land. The term “building height (or height of building)” is defined in the LEP to mean “*the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*”. The term “ground level (existing)” is also defined in the LEP to mean “*the existing level of a site at any point*”.

The building height limit for the site is identified on the Height of Buildings Map as being 8.5m. The proposed development has a maximum overall height of 9.2m, which represents a variation of 8.2%. The submitted plans have identified the parts

of the building that exceed the height limit. An extract of the plans showing the height variation is shown below:



The variation to building height is addressed under the following clause 4.6 section of this report.

- Clause 4.4 - The floor space ratio of the proposal is 0.56:1 which complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 4.6 – This clause establishes a degree of flexibility for certain development standards in certain circumstances which have demonstrated that a better planning outcome will occur from that flexibility. In this regard, the proposal seeks a variation to the building height standard. Assistance on the approach to variation to this standard is also taken from NSW Land and Environment Court and NSW Court of Appeal decisions in:
  1. *Wehbe v Pittwater Council (2007) NSW LEC 827 (Wehbe);*
  2. *Four2Five Pty Ltd v Ashfield Council (2015) NSWLEC 1009; and*
  3. *Al Maha Pty Ltd v Huajun Investments Pty Ltd (2018) NSWCA 245*

Having regard to specific requirements of clause 4.6(3) and 4.6(4) the following assessment comments are provided:

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

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

Comments: The Applicant has submitted a request in writing to justify the contravention of the building height standard for the following reasons (as summarised):

- Compliance with the development standard is unnecessary in the circumstances of the case as the proposal satisfies the objectives of Clause 4.3 notwithstanding the numerical variation.
- The variation to the standard is only up to 300mm in relation to the roof itself, with a variation up to 700mm in relation to the screening of rooftop plant and equipment.
- The variation does not impact on overshadowing, does not create elevated areas of overlooking, and does not adversely impact on view lines.
- The building bulk is already reduced via the building design which separates the building into different wings or houses, as well as the incorporation of a large landscaped area of the property.

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3),*

In *Wehbe* five methods have been developed to test whether compliance with a development standard is unreasonable or unnecessary:

1. The objectives of the standard are achieved notwithstanding the non-compliance with the numerical standard and therefore compliance is unnecessary.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying object or purpose of the standard would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting a consent to proposals departing from the standard and hence compliance is unreasonable and unnecessary.
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land.

The proposal relies upon the first test and it is considered that the Applicant's written request had satisfactorily demonstrated that that the proposed

development will achieve the objectives of the height of building development standard despite the numerical non-compliance.

There are considered to be sufficient environmental planning grounds to justify contravening the development standard on the following basis:

1. The proposed variation relates to a small part of the roof and a plant screen generally located where the building steps up from 2 storeys to 3 storeys with the slope of the land.
2. The additional height is located centrally to the site and would not result in any adverse amenity impacts to neighbouring property.
3. The height variation does not result in the development achieving any additional floor area compared with a compliant proposal.
4. The building has substantial landscaped setbacks from the street and side and rear boundaries, which would reduce any perceived increase in bulk and scale of the building.

On the basis of the above, it is considered that the Applicant's clause 4.6 variation has adequately addressed the matters required to be demonstrated by clause 4.6(3).

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,*

The consistency of the proposal with the zone objectives has been discussed above under Clause 2.3. Consideration of the proposal's consistency with the objectives of height of buildings standard (Clause 4.3) is provided as follows:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*

Comments: The subject site is located within an approved subdivision that is yet to be developed. It is expected that the future character of the subdivision would predominantly be a mix of single and two storey dwellings. To the south of the site are larger lots containing single storey dwellings and outbuildings, and some light industrial uses. The residential lots have a maximum permissible building height of 8.5m, while the light industrial land permits buildings up to 14.5m high.

The proposed building is predominantly two storey, and only includes a small section of 3 storey construction in the central part of the building, where it steps up the slope. The 3 storey part of the building is substantially setback from the street and the development incorporates generous landscaping forward of the building.

The proposal is considered to be compatible with the height, bulk and scale of the existing and desired future character of the area.

- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,*

Comments: The impact of the building is considered satisfactory for the following reasons:

1. The main variations are located in the central part of the building where they are not visually prominent from the street or adjoining properties.
2. The development includes substantial building setbacks and landscaping.

3. The proposal will not result in the disruption of any significant views.
4. The location of the parts of the building that exceed the height limit is such that they would not contribute to any loss of solar access to adjoining property.
5. Potential privacy impacts are considered under the relevant provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 above and have been satisfactorily addressed in the building design.

*(c) to minimise the adverse impact of development on heritage conservation areas and heritage items,*

Comments: The site does not contain any known heritage items or sites of significance.

*(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.*

Comments: The site is largely surrounded by land with similar zoning and building heights. However, at the south-east corner of the site, the permitted building height increases to 14.5m. In this regard, a slight increase in built form on the subject site could provide a transition to the adjoining land.

The development is consistent with the zoning and height objectives of the LEP 2011 and is unlikely to have any implications on State related issues or the broader public interest.

*(b) the concurrence of the Secretary has been obtained.*

Comments: In accordance with Planning Circular PS 18-003, the Secretary's concurrence can be assumed for regionally significant development. A public register of decisions on variations must be maintained by Council and reported quarterly to the NSW Department of Planning, Industry & Environment.

Having regard to the above requirements it is recommended that the height variation using clause 4.6 be supported.

- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

**(a)(ii) Any proposed instrument that is or has been placed on exhibition**

No draft instruments apply to the site.

**(a)(iii) Any DCP in force**

**Port Macquarie-Hastings Development Control Plan 2013:**

<b>DCP 2013: General Provisions</b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline:	The submitted Statement of Environmental Effects adequately addresses CPTED.	Yes

	<ul style="list-style-type: none"> <li>Casual surveillance and sightlines</li> <li>Land use mix and activity generators</li> <li>Definition of use and ownership</li> <li>Lighting</li> <li>Way finding</li> <li>Predictable routes and entrapment locations</li> </ul>		
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	<p>The proposal includes cut and fill of up to approximately 3m more than 1m from the external walls of the building. The proposal includes curved retaining walls that are visually integrated with the building and include appropriate landscaping. Privacy would not be compromised due to the location of the earthworks and the intended use. The retaining walls would not adversely impact stormwater management.</p> <p>A condition has been recommended requiring engineering certification of the structural adequacy of the retaining walls.</p>	No, but acceptable.
2.3.3.2	1m max. height retaining walls along road frontages	None proposed along road frontage.	Yes
	Any retaining wall >1.0 in height to be certified by structural engineer	Condition recommended requiring engineering certification of retaining walls.	n/a
2.3.3.8 onwards	Removal of hollow bearing trees	None proposed to be removed.	n/a
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint)	None proposed to be removed.	n/a
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	The proposal includes access from the new public road (Road No. 1) in the subdivision approved under DA1991 - 485.2. The connection of Road No. 1 to the Oxley Highway	Yes

		(High Street) has been considered in that application. RMS have been consulted in relation to the likely impacts of the development on the classified road.	
2.5.3.11	Section 94 contributions	Refer to main body of report.	

Based on the above assessment, the variations proposed to the provisions of the DCP are considered acceptable and the relevant objectives have been satisfied. Cumulatively, the variations do not amount to an adverse impact of a significance that would justify refusal of the application.

**(a)(iii)(a) Any planning agreement or draft planning agreement**

No planning agreement has been offered or entered into relating to the site.

**(a)(iv) The regulations**

No matters prescribed by the regulations are applicable to the proposal.

**(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality**

**Context & Setting**

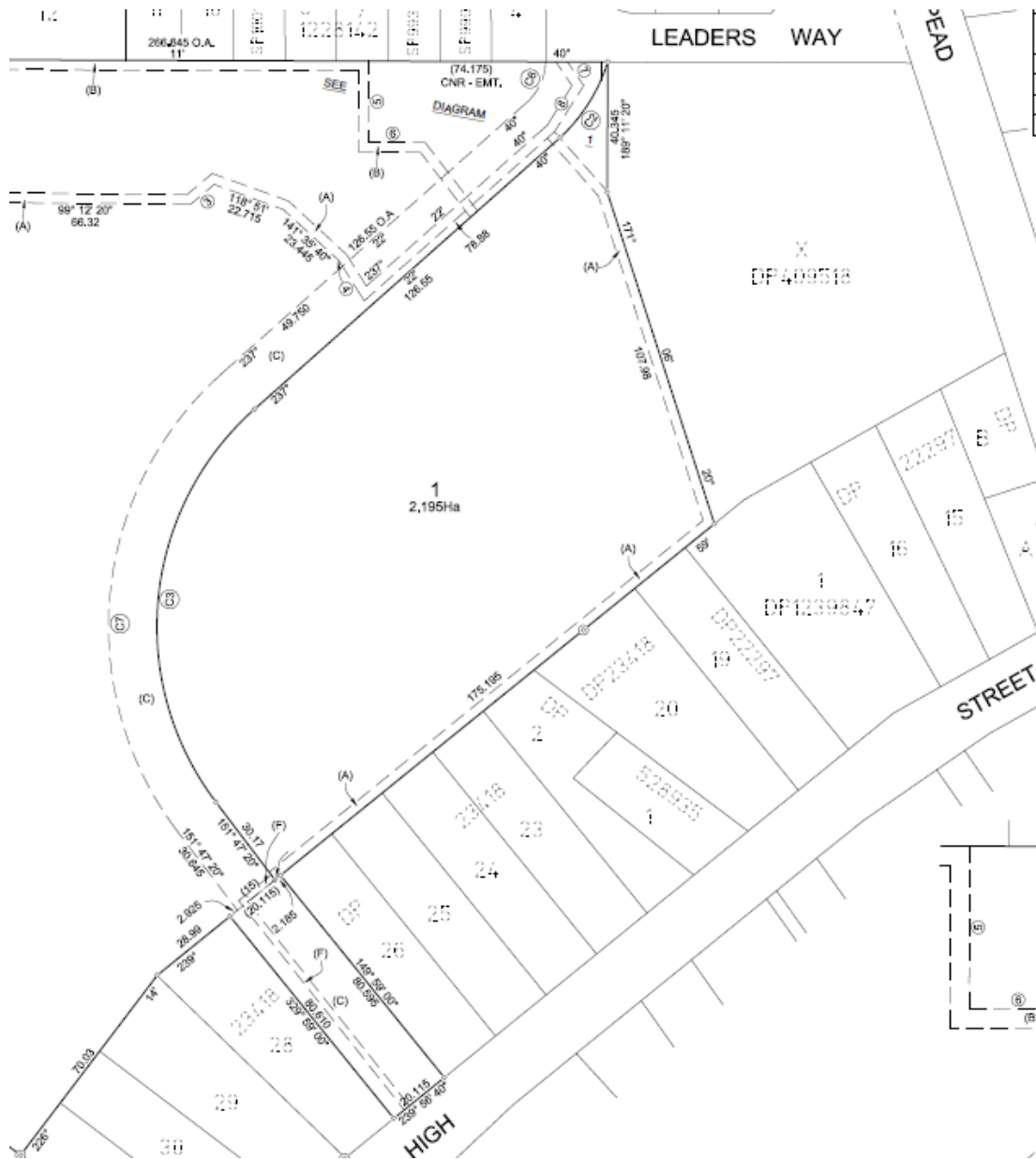
The site has a general northerly and westerly street frontage orientation to proposed Road No. 1 of the subdivision approved under DA1991 - 485.2. Land to the north and west of Road No. 1 is proposed to be residential lots. Adjoining the site to the east is undeveloped residential land. Adjoining the site to the south is a mix of residential and light industrial uses with frontage to High Street.

The proposal will not have any significant adverse impacts on existing and likely future development in the locality, and the siting and design of the building has had regard to the context. The setbacks of the development are consistent with those that would be expected for a residential flat building. The proposal is considered to be compatible with other development in the locality and adequately addresses planning controls for the area.

**Roads**

The lot was created by an approved subdivision under DA1991 - 485.2, which includes residential lots and construction of public roads as part of subsequent stages. Once Stage 2 of the subdivision is completed, the subject site will have road frontage to "Road 1" which will be classified as a local road with a 9m wide pavement to permit parking on the residential side of the road.

The registered Stage 1 of the subdivision currently provides access to the development lot via a right of access between High Street and Leaders Way on the alignment of future "Road 1" (see below).



The terms of the easement allow for this work to be carried out by the owner of Lot 1 if necessary. However, the Applicant has chosen to rely upon the works being completed as part of the subdivision development and a condition has been recommended deferring the commencement of construction until the subdivision works have been completed.

The parent subdivision has road frontage to High Street and Leaders Way. High Street is an RMS classified road under the care and control of RMS. High Street has a road formation width of approximately 12m within a road reserve width of approximately 21m. There is parallel parking available both sides of the road. The road includes SA kerb and gutter, with 1.2m wide footpath on the southern side of the road.

Leaders Way is a relatively new local road under the care and control of Council. Leaders Way has a road formation width of approximately 6.5 - 7m within a road reserve width of approximately 15m. The road includes SE kerb and gutter.

### Traffic and Transport



The application includes a Traffic Impact Assessment from SECA Solution dated 13 September 2019. The study addressed the combined impacts of the residential subdivision development and the proposed aged housing. Findings of the study determined:

*“From the site work completed and the above assessment, the additional traffic generated by the residential subdivision and proposed residential aged care facility will have a minimal and acceptable impact upon the surrounding road network with no change to the existing level of service or operation of High Street, or its intersection with Pead Street.*

*Whilst no turn treatments are proposed at the intersection of High Street / Pead Street or the new access off High Street, given the low speed environment, adequate sight lines on each approach, consistency with other intersections along this corridor and no history of rear end crashes involving right turning vehicles slowing or stopping within the through lanes on High Street, it is concluded that these are not required on road safety or capacity grounds.”*

Traffic Counts:

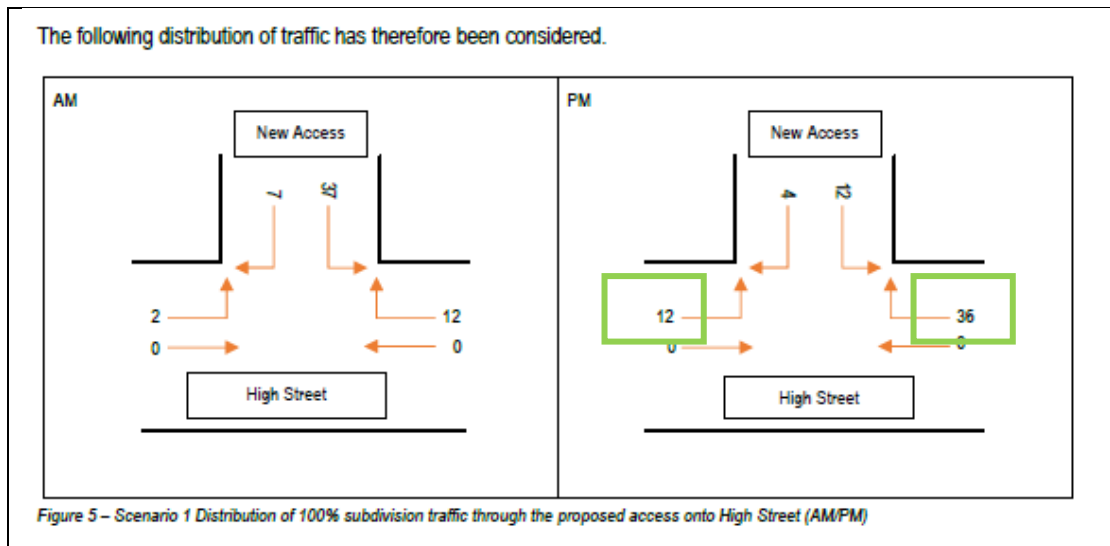
<b>SECA Traffic Counts (two-way flow)</b>	<b>Council Traffic Counts (two-way flow)</b>
Peak Hour Traffic =714vph morning 730 vph evening	Peak Hour Traffic =747vph morning 765 vph evening

Traffic Generated from Development:

<b>SECA</b>	<b>Council (RMS Guide to Traffic Generating Development)</b>
<p><b>Residential</b> 0.71 vph (vehicles per hour) AM peak 0.78 vph (vehicles per hour) PM Peak 7.4 vpd (vehicles per dwelling)</p> <p><u>Original DA = 82 lots</u> (traffic generated from development)</p> <ul style="list-style-type: none"> <li>• Peak Traffic 82 x 0.78 = 63.96 vph, and</li> <li>• Daily Traffic 82 x 7.4 = 606.8 vpd</li> </ul> <p><b>140 Bed Residential aged care</b> (traffic generated from development)</p> <p>Seca didn't refer to traffic generated by the residential care.</p>	<p><b>Residential</b> 0.71 vph (vehicles per hour) AM peak 0.78 vph (vehicles per hour) PM Peak 7.4 vpd (vehicles per dwelling)</p> <p><u>Original DA = 82 lots</u> (traffic generated from development)</p> <ul style="list-style-type: none"> <li>• Peak Traffic 82 x 0.78 = 63.96 vph, and</li> <li>• Daily Traffic 82 x 7.4 = 606.8 vpd</li> </ul> <p><b>140 Bed Residential aged care</b> (traffic generated from development)</p> <p>Peak Traffic 0.1- 0.2 vph Daily 1-2 vpd</p> <ul style="list-style-type: none"> <li>• Peak Traffic 140 x 0.15 = 21 vph,</li> <li>• Daily Traffic 140 x 1.5 = 210 vpd</li> </ul> <p><b>Total Development; 60 Residential lots PLUS 140 bed aged care</b> (traffic generated from development)</p>

<p><b>SECA has stated Aged Care will increase the traffic as follows:</b></p> <ul style="list-style-type: none"> <li>• Peak Traffic Increase by 9vph</li> <li>• Daily Traffic Increase by 116 vpd</li> </ul>	<ul style="list-style-type: none"> <li>• Peak Traffic (60 x 0.78) + (140 x 0.15) = 67.8 vph,</li> <li>• Daily Traffic (60 x 7.4) + (140 x 1.5) = 654 vpd</li> </ul> <p><b>Therefore comparing back to the original DA for 82 residential the aged care will increase the figures as follows:</b></p> <ul style="list-style-type: none"> <li>• Peak Traffic Increase by 4vph</li> <li>• Daily Traffic Increase by 47.2 vpd</li> </ul>
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The SECA report has assessed the turning movements into and out of the development as follows, assuming 100% traffic through new road off High Street (refer to Figure 5 below).



Assessing the SECA traffic counts of 714vph morning / 730 vph evening, with the turn movements into and out of the development (Figure 5 above) the warrants for turn treatments can be assessed. The left and right turn movement were assessed using the information below:

Year	SECA	COUNCIL
2019	730vph	800 vph (i.e. 765 x 1.5% growth factor)
2029	981vph	928 vph (assuming 1.5% growth factor)

The warrants for this development indicate that a CHR treatment is required for the right turn, but there is no requirement for a left turn treatment.

The conditions of consent for DA1991 - 485.2 require the intersection upgrades to be carried out as part of the Stage 2 works, and the intersection will therefore be suitable for the residential care facility following completion of these works.

**Roads and Maritime Services (RMS)**

In accordance with State Environmental Planning Policy (Infrastructure) 2007, the proposal was referred to the RMS on 8 July 2019. A response was received from RMS,

which included the following combined comments on the subject proposal and also the modified subdivision under DA1991 - 485.2:

- The proposed modification will amend the subdivision layout, including the configuration of lots and internal roads, with no increase in the approved number of allotments. The amendment is not an enlargement or extension of the development pursuant to Clause 104 of the ISEPP, however it is noted that the approved subdivision is of a scale considered to be traffic generating development. Whilst the development has commenced, it has been 28 years since the approval was granted and it is recommended that Council take into consideration any potential traffic safety, road congestion or parking implications of the development under current and future conditions.
- It is understood that the design of internal roads will be consistent with Council's Subdivision Code. We note that connection of Road 1 to the Oxley Highway will require approval under Section 138 of the Roads Act for works within the Oxley Highway road reserve. Roads and Maritime will require the Developer to enter into a Works Authorisation Deed (WAD) to obtain approval of the detailed design and construction of these works.
- The proposed amendments to the approved subdivision include a secondary access connection to Pead Street, which generates changes in the distribution of trips generated by the subdivision. It is recognised that trips via the Pead Street and Oxley Highway intersection are likely to be a small proportion of overall development traffic, and are likely to contribute a small minor increase in peak hourly movements at the intersection. The majority of traffic generated by the approved subdivision will access the Oxley Highway via Road No.1 and future dwellings will be reliant on this connection.
- Roads and Maritime support Council's proposal to include a condition clarifying the required scope of treatment at the Oxley Highway and Road No. 1 intersection, having regard for the likely opening and future traffic volumes at the intersection. The assessment of recent traffic count data identifies that a channelised right-turn (CHR) and an auxiliary left-turn (AUL) treatments are warranted in accordance with the Austroads Guidelines. The installation of this treatment will require suitable pavement in the existing parking lanes to carry through traffic movements, sufficient storage length for vehicles turning during peak periods and all associated lighting, signage and delineation. The design will need to have consideration for existing driveway accesses and changes to on-street parking. We understand that development is to provide connectivity for active and public transport users. We recommend the intersection design incorporate a suitable pedestrian refuge linking footpaths to public transport services travelling in both directions along the Oxley Highway.
- For all works required in the Oxley Highway road reserve, the Developer will be required to enter into a Works Authorisation Deed (WAD) with Roads and Maritime prior to the issue of any Civil Construction Certificate. All works under the WAD are to be completed to the satisfaction of Roads and Maritime. Written advice from Roads and Maritime of practical completion of all works under the WAD is to be provided to Council prior to issue of any Subdivision Certificate. All works under the WAD are to be designed and constructed in accordance with current Austroads Guidelines, Australian Standards and Roads and Maritimes Supplements. The Developer will be responsible for all costs associated with the works and administration for the WAD. It is recommended that developers familiarise themselves with the requirements of the

WAD process. Further information can be accessed using the following link:  
<http://www.rms.nsw.gov.au/projects/planning-principles/index.html>

The advice from RMS has been taken into account in the assessment of intersection treatments, as discussed under Traffic and Transport above. The relevant intersection upgrades will need to be completed by the subdivision developer prior to the issue of a Construction Certificate for the residential care facility.

### **Site Frontage & Access**

Vehicle access to the site is proposed through multiple access driveways to future Road 1. All accesses shall comply with Council AUSPEC and Australian Standards, and conditions have been recommended to reflect these requirements.

High Street is a Roads and Maritime Services (RMS) classified road and will require concurrence and/or a Works Authorisation Deed (WAD) from the RMS prior to works on this road. Details shall be provided as part of a Roads Act (Section 138) application to Council.

Due to the type and size of development, additional works are required to include:

- Concrete footpath paving along the full frontage of Road 1;
- Concrete footpath paving along High Street providing connection to local bus-stops, both into and out of town.

Appropriate conditions have been recommended in relation to the above works.

### **Parking and Manoeuvring**

A total of 52 off-street parking spaces (including 2 disabled spaces) have been proposed. Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been recommended to reflect these requirements.

Car park circulation is required to enable vehicles to enter and exit the site in a forward manner. Site plans show adequate area is available and conditions have been recommended to reflect these requirements.

### **Water Supply Connection**

Council records indicate that the development site is not currently serviced with reticulated water. Connection of this site to Council's water supply reticulation is required as part of the Stage 2 works for the residential subdivision approved under DA1991 - 485.2. In the event that the subdivision does not proceed, appropriate easements are in place to allow the proponent to extend water supply infrastructure through the adjoining property.

Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development. Fire service and backflow protection requirements must be addressed in accordance with AS 2419.

Conditions have been recommended in relation to the design and construction of this infrastructure to Aus-Spec requirements.

### **Sewer Connection**

Council records indicate that the development site is not currently serviced with reticulated sewer. Connection of this site to Council's sewerage reticulation is required as part of the Stage 2 works for the residential subdivision approved under DA1991 - 485.2. In the event that the subdivision does not proceed, appropriate easements are in place to allow the proponent to extend water supply infrastructure through the adjoining property.

Conditions have been recommended in relation to the design and construction of this infrastructure to Aus-Spec requirements.

### **Stormwater**

The site naturally grades towards the north west and is currently un-serviced. The site is proposed to be serviced by a piped drainage network discharging to a bio-retention basin on the north-west corner of Lot 2 DP 1260518 as part of development consent DA1991 - 485.2. If the subdivision development does not proceed, appropriate easements are in place to allow the proponent to construct the required basin and piped drainage infrastructure.

A detailed site stormwater management plan will be required to be submitted for assessment with the Section 68 application and prior to the issue of a Construction Certificate. In accordance with Councils Aus-Spec requirements, the following must be incorporated into the stormwater drainage plan:

- On site stormwater detention facilities, designed to discharge at pre-development flows rates;
- Water quality controls on the development site. The downstream basin shall not be used for water quality treatment of this development.
- Provision of inter-allotment drainage to allow the proposed development to drain to the nominated point of discharge via a single suitably sized conduit.

Refer to recommended conditions of consent.

### **Other Utilities**

Telecommunication and electricity services are available to the site. A condition has been recommended requiring any electricity substation to be located within the site and not on the public road.

### **Heritage**

No known items of Aboriginal or European heritage significance exist on the property. The site is considered to be disturbed land due to historical land uses.

As a precaution, a condition of consent has been recommended that works are to cease in the unexpected event heritage items are found. Works can only recommence when appropriate approvals are obtained for management and/or removal of the heritage item.

### **Other land resources**

The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

### **Water cycle**

The proposed development will not have any significant adverse impacts on water resources and the water cycle.

### **Soils**

The proposed development will not have any significant adverse impacts on soils in terms of quality, erosion, stability and/or productivity subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction.

### **Air and microclimate**

The construction and/or operations of the proposed development will not result in any significant adverse impacts on the existing air quality or result in any pollution. Standard precautionary site management condition recommended.

### **Flora and fauna**

Construction of the proposed development will not require any removal/clearing of any native vegetation and therefore does not trigger the biodiversity offsets scheme. Part 7 of the Biodiversity Conservation Act 2016 is considered to be satisfied.

### **Waste**

The proposal includes a waste storage room with access from the loading area on the southern side of the building. The application has demonstrated that a garbage collection vehicle is able to manoeuvre in the loading area. A private waste collection service will be required for the development.

Standard precautionary site management condition recommended for construction phase of the development.

### **Energy**

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of Section J of the Building Code of Australia. No adverse impacts anticipated.

### **Noise and vibration**

The proposal is for a residential land use and the property adjoins light industrial land uses in the south-west corner of the site. An acoustic assessment was carried out by Matrix Thornton as part of a modification to the parent subdivision (DA1991 - 485.2). The assessment concluded that the lot would achieve satisfactory noise levels with the provision of a 1.8m high Colorbond or lapped and capped timber fence along the common boundary of Lot 1 DP 1239847. A condition is recommended requiring completion of such fencing prior to the issue of an Occupation Certificate.

The design of the residential care facility provides additional acoustic protection with the units in House 10 and House 12 oriented with openings facing away from the noise source and corridors located closest to the boundary. The design also provides separation and landscaping in this location.

The aspects of the development considered most likely to generate noise which may affect nearby residential properties and the loading area and access road, and the proposed hydrotherapy facility.

The Applicant is proposing to construct a new 1.8m high boundary fence for the full length of the southern boundary and the access road and loading area are proposed to be excavated slightly below the existing ground level at the boundary. With the fencing proposed and a restriction on delivery hours to between 7.00am and 6.00pm, it is considered that satisfactory noise levels would be achieved.

The hydrotherapy facility will be restricted to use by staff and residents and the Applicant has indicated that the facility will only be used between the hours of 8.00am to 5.00pm. On this basis, it is not expected that there will be any unacceptable noise impacts.

Conditions have been recommended restricting the hours of use of these two facilities and confirming the requirement for completion of fencing along the southern boundary. A standard precautionary site management condition is also recommended restricting construction hours.

### **Bushfire**

The site is identified as being bushfire prone.

In accordance with Section 100B of the Rural Fires Act 1997, the application proposes development for a special fire protection purpose. The Applicant has submitted a bushfire assessment, which has been reviewed by the NSW Rural Fire Service. A Bushfire Safety Authority for the development has been issued on 18 October 2019. The conditions of the Bush Fire Safety Authority have been incorporated into the recommended conditions of consent.

#### **Safety, security and crime prevention**

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The development will improve natural surveillance within the locality. Appropriate access control and CCTV surveillance are also proposed.

#### **Social impacts in the locality**

The Port Macquarie-Hastings area has a high proportion of aged residents compared with averages for regional NSW, and the proposed development will contribute to meeting the demand for assisted living in Wauchope. The provision of additional modern facilities is considered to be of considerable social benefit.

The application has demonstrated that residents of the facility will have access to the appropriate services and facilities for which there is likely to be a demand.

#### **Economic impact in the locality**

The proposal is not considered to have any significant adverse economic impacts on the locality. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as expenditure in the area.

The residential care facility is anticipated to create employment opportunities for 44 full time equivalent staff, as well as the additional benefits of associated contracts services (including linen, waste collection, cleaning, etc).

#### **Site design and internal design**

The proposed development design satisfactorily responds to the site attributes and will fit into the locality.

#### **Construction**

Construction impacts are considered capable of being managed, standard construction and site management conditions have been recommended.

#### **Cumulative impacts**

The proposed development is not considered to have any significant adverse cumulative impacts on the natural or built environment or the social and economic attributes of the locality.

#### **(c) The suitability of the site for the development**

The proposal will fit into the locality and the site attributes are conducive to the proposed development.

Site constraints have been adequately addressed and appropriate conditions of consent recommended.

#### **(d) Any submissions made in accordance with this Act or the regulations**

Following exhibition of the application in accordance with DCP 2013, one submission was received. Comments on the issues raised in the submission are included in the below table.

Issue	Comment
Loss of privacy to residents in Kookaburra Place, Colonial Circuit, Leaders Way, and Pead Street due to the development exceeding the LEP height controls.	The proposed development is located in excess of 100m from properties in the referenced streets. The separation distance is considered adequate to maintain privacy.
Potential for commercial noise pollution.	Potential noise impacts have been considered under 'Noise and Vibration' earlier in this report. With the recommended conditions regarding fencing and hours of operation for the loading area and hydrotherapy facility it is considered that satisfactory noise levels would be maintained.
The amount of car parking proposed is inadequate for the anticipated number of staff and visitors to the facility.	The proposed car parking exceeds the minimum requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. Clause 48(d) of the SEPP prevents the consent authority from refusing consent on the basis of parking where the minimum requirements are satisfied.
The footpath connections between the facility and local services are inadequate and not suitable for mobility scooters.	<p>The proposal includes provision of a footpath connection between the proposed development and bus stops in High Street. The footpath will be constructed at grades suitable for mobility scooters.</p> <p>The public bus service provides access to local services in Wauchope and Port Macquarie and meets the minimum requirements in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.</p>

#### **(e) The public interest**

The proposed development will be in the wider public interest with provision of appropriate additional assisted living opportunities.

The proposed development satisfies relevant planning controls and will not have any significant adverse impacts on the wider public interest.

#### **Ecologically Sustainable Development and Precautionary Principle**

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes.

The four principles of ecologically sustainable development are:

- the precautionary principle,
- intergenerational equity,



- conservation of biological diversity and ecological integrity,
- improved valuation, pricing and incentive mechanisms.

The principles of ESD require that a balance needs to be struck between the man-made development and the need to retain the natural vegetation. Based on the assessment provided in the report and with recommended conditions of consent, it is considered an appropriate balance has been struck.

### **Climate change**

The proposal is not considered to be vulnerable to any risks associated with climate change.

## **4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.

Development contributions will be required in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979 towards the provision, extension or augmentation of public amenities or public services.

## **5. CONCLUSION**

The application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact. It is recommended that the application be granted consent, subject to the recommended conditions of consent provided in the attachment section of this report.