



13 January 2023

THE DIRECTOR
Industry Assessments, Planning and Assessment
Department of Planning, Industry and Environment

Dear Sir/Madam,

Subject Uniting Charlestown Development

27 Tiral Street, CHARLESTOWN NSW 2290

Thank you for the opportunity to comment on the proposed Uniting Charlestown seniors housing, residential flat building and subdivision development.

In reviewing the Environmental Impact Statement (EIS) and supporting documentation, Council is generally supportive of the proposed concept subject to consideration of several items as outlined below.

Department of Planning and Environment (the Department) is requested to give due consideration to the following matters in the assessment and determination of the development application.

Legislative context

The site is zoned R3 Medium Density Residential and B4 Mixed Use in Lake Macquarie Local Environmental Plan 2014. It is noted the proposed Residential Age Care (RAC) building (Building A) and Independent Living Units (ILU) buildings (Buildings B and C) meet the LMLEP 2014 definition of a '*residential care facility*' and '*independent living units*' respectively. Residential care facilities and independent living units are both types of '*seniors housing*', as defined by the LMELP 2014.

In accordance with Part 5, Division 1, Section 81 of *State Environmental Planning Policy (Housing) 2021* of SEPP (Housing), development for the purpose of '*seniors housing*', including ancillary uses, is permissible with development consent in the R3 Medium Density Residential and B4 Mixed Use Zone. The proposed seniors housing uses within Buildings A, B and C are therefore permissible within the site.

While SEPP (Housing) provides permissibility for the proposed seniors housing component of the proposed development, it is noted that seniors housing is also a permissible land use within the R3 and B4 zone in accordance with the LMLEP 2014.

The RFB component of the proposed development (Building D) meets the LMLEP 2014 definition of a 'Residential Flat Building'. Development for the purpose of a 'Residential Flat

Building' is permissible with consent in the R3 Medium Density Residential and B4 Mixed Zone under the LMLEP 2014.

Building height

The variation to building heights detailed in this proposal are supported, as the height and massing of the buildings are consistent with the desired character and the transition to the surrounding area. It is acknowledged that the revised scheme to the DCP block controls results in an improved outcome from a massing and overshadowing perspective.

Strategic context

The development site is located within the Charlestown strategic economic centre. A diversity of housing types, including aged care and supporting services to support a growing population are consistent with the desired future character of Charlestown as articulated within the Lake Macquarie Local Strategic Planning Statement.

Council has recently undertaken a review of the planning framework for Charlestown. A planning proposal has been prepared to amend LEP zones and development standards and a revised DCP Area Plan prepared to amend the built form controls. These plans have been endorsed by Council for exhibition, although exhibition has not yet commenced.

The development site is proposed to be rezoned to R4 High Density Residential and the development proposal is consistent with the objectives of this zone.

The maximum permitted height of buildings for the residential zoned parts of the site will be retained under the revised planning controls for Charlestown.

The draft DCP Area Plan contains similar massing concepts in relation to the boundary setbacks and street edge as the current DCP, but does not include the indicative block plans.

The draft DCP Area Plan includes a greater emphasis on retention of existing trees and provision for additional deep soil zones to support new planting. The massing of buildings closer to James Street allowing for retention and enhancement of the landscaping along Tiral and James Street is consistent with the draft DCP Area Plan. The design provides a suitable transition to the surrounding low and medium density residential areas and is preferred over a design that is consistent with the indicative block plan in the current area plan.

The development proposal will provide a positive contribution to the growth of Charlestown strategic economic centre, and is supported from a strategic context.

Aboriginal Heritage

The subject site is affected by Sensitive Aboriginal Cultural Landscape under LM LEP 2014 and as mapped in the Lake Macquarie Aboriginal Heritage Management Strategy.

The subject proposal includes an Aboriginal Cultural Heritage Assessment Report by Apex Archaeology, dated June 2022.

The report was undertaken in accordance with Heritage NSW requirements, in particular in regard to consultation.

The heritage assessment is supported, and endorses the recommendations in the report including appropriate management protocols.

Landscape Design

Landscaping is encouraged to utilise species associated with PCT 1638 – Smooth-barked Apple - Red Bloodwood - Scribbly Gum grass - shrub woodland on lowlands of the Central Coast as it has been identified within the regional area.

The large brick retaining walls along will provide a canvas for graffiti and provides an adverse visual impact to the streetscape. It is recommended to explore landscaping/green walls to reduce the risk of graffiti and to soften the hardscape features onto the streetscape.

All hardscape and softscape (including street trees) must be designed in accordance with the requirements of the Charlestown Streetscape Masterplan and Technical Guidelines.

A public works certificate will be required for all works on Council's road reserve.

Acoustic privacy

The acoustic assessment provides recommendations for the control of noise from the proposed development, some of which include unreasonable management controls for the loading docks and Building A driveway. It appears that assumptions have been made regarding the glazing of adjoining receiver windows and anticipations that windows will be closed at times of use of the loading docks.

Further information should be provided confirming that noise disturbance exceedances are appropriately mitigated.

Contamination

The contamination assessment determined remediation of the site is required and, onsite containment with ongoing management and monitoring of the containment cell would be the plan of remediation.

It is recommended Council is provided with a copy of the Long-term Environmental Management Plan prior to occupation of the development.

Preservation of trees and vegetation

The submitted Arboricultural Impact Assessment (AIA) provides a detailed impact assessment of proposed construction activity and is deemed suitable for this development.

The AIA demonstrates which trees can be incorporated into layout and design, and clearly show which trees require removal, and others that are located outside the developable footprint that can be retained and protected.

It appears there is the potential to retain a greater extent of native vegetation along the southern boundary of the site. All effort where feasible should be made to avoid impacts on native vegetation within the site.

It is requested that a Vegetation Management Plan be adopted as part of any consent. This is to include compensatory revegetation and weeding within the retained B4 zoned land and

the ongoing management of this land until such times it to be developed. This may be secured through a legally binding mechanism such as an 88E instrument.

The Arboricultural Impact Statement identifies the removal of two (2) public street trees and twelve (12) additional street trees as being threatened by the proposed development. Clarification of proposed excavation and construction work within close proximity of the threatened street trees should be determine if their removal is necessary.

If construction of public footpaths is to be included along the road verges within the public domain then the 'threatened' trees will likely require removal.

Council's Natural Assets will support the removal of established street trees, pending the inclusion of compensatory street tree plantings in the landscape design plans. Revised landscape plans identifying the inclusion of street tree plantings along the road verge of all adjacent roads (James St, Tiral St & Dudley Road) is recommended.

Councils Urban Greening Strategy tree planting prioritisation tool identifies the adjacent road reserves as medium-high street tree planting locations therefore, street tree planting should be included in the landscape design plans and should be consistent with the Charlestown Streetscape Master Plan.

The AIA also includes a category of 'threatened trees', where up to 76 trees within the developable footprint can (potentially) be retained, pending minor modifications and root sensitive construction techniques are adopted into the final design and construction phases.

Considering the history and significant diversity of the species that were originally planted as part of the horticultural education institution, an emphasis on retaining as many of the 'threatened trees' should be applied.

This will likely require the ongoing involvement of the Project Arborist, who will need to provide specialist advice, assistance and direction, specifically in accordance with the Recommendations component of the AIA.

Stormwater drainage

The proposal is shown constructing new drainage structures to convey public road water from Tiral Street to James Street via an underground and overland flow drainage system. These drainage structures are to be built within an easement in favour of Council. The new drainage structures and easement are influenced by building encroachments and multiple landscaping features that will need to be considered further. Concerns are raised by any overland flowing in conjunction with the pedestrian walkways across this easement. The stormwater management plan should address these encroachments.

These features will impose onerous maintenance and replacement responsibilities on Council.

Further to the above, Council Assets request the applicant create a Public Positive Covenant over the site of the proposed easement. Conditions of the covenant are to include.

1. The Registered Proprietor of the lots hereby burdened will in respect of the drainage system and overland flow path/paths (which expression shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins, and surfaces designed to control the surface flows as constructed in accordance with the Development Consent:

- (a) Keep the system clean and free from silt, rubbish and debris.
 - (b) Maintain and repair at the sole expense of the Registered Proprietors the whole of the system so that it functions in a safe and efficient manner.
 - (c) Permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant.
 - (d) Comply with the terms of any written notice issued by the Council in respect of this covenant within the time stated in the notice.
2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
- (a) In the event that the Registered Proprietor fails to comply with the terms of the written notice issued by Council as set out above the Council or its authorised agents may enter the land with all necessary equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in Part 1 (d) above.
 - (b) The Council may recover from the Registered Proprietors in a court of competent jurisdiction:
 - i. Any expense reasonably incurred by it in exercising its powers under subparagraph (a) hereof together with costs, reasonably estimated by the Council for the use of machinery, tools, and equipment in conjunction with the said work. Such expense shall include without limitation reasonable wages for the work and administering the said work.
 - ii. Legal cost on an indemnity basis for issue of the said notices and recovery of the said cost and expenses together with the cost and expenses of registration of a covenant charged pursuant to Section 88F of the Act or providing any certificate required pursuant to Section 88F of the Act or obtaining any injunction pursuant to Section 88H of the Act.

Social Impact Assessment

the SIA identifies the most significant impacts (both positive and negative), and identifies the measures that have been or are proposed to be incorporated into the proposal to mitigate the negative impacts and enhance the positive benefits.

Ample community space has been provided throughout the development to encourage residents to gather, socialise and build social connections. This is vital for developing a sense of belonging as well as social capital (residents supporting each other and the local community) and reducing negative outcomes associated with isolation.

However, it is unclear as to what access to communal spaces the residents of the residential Flat Building (Building D) will have access to, as well as how the development is proposed to be managed (see condition below). This should be addressed to the satisfaction of the assessing officer.

In order to clarify the management practices of the facility, and who is able to access the provided services and facilities, Council recommends that a Plan of Management (PoM) is developed and lodged prior to the issuing of an Occupation Certificate (or interim certificate). The PoM is to include as a minimum:

- How the facility is proposed to be managed in accordance with the Retirement Villages Act 1999, and the Retirement Villages Regulation 2017
- Details of the social elements of the facility's operations, including any on-site or off-site management
- Provision of information to residents which includes details and outlines village issues and procedures (including how residents have the opportunity to participate in decision making processes, or raise issues, and how these are addressed);
- Provision of personal care services associated with domestic duties and accessing other services;
- Housekeeping / cleaning services;
- Provision of home delivered meals as required;
- Provision of transport services;
- How the communal spaces are proposed to be managed;
- Activity / social programs available to the residents to build relationships between new and existing residents;
- Maintenance and management of communal / public areas within the site; and
- Emergency response / assistance processes and procedures

Safety and Security

The crime activity of significance identified by the review local crime statistics (NSW Bureau of Crime Statistics and Research, criminal activity in vicinity of suburb of Warners Bay for the period July 2020 – June 2022) identifies the following crime that may impact on the proposed facility:

- Steal from moto vehicle / motor vehicle theft;
- Malicious damage to property
- Intimidation, stalking & harassment / assault (non-domestic violence)

Council refers to the subject application and advises that the Crime Risk Assessment Report prepared by Harris Crime Prevention Services (August 2022) for the proposal identifies and addresses areas of crime risk associated with the development. The report identifies a number of strategies to mitigate risk and to ensure that the proposed development is designed / constructed in accordance with CPTED principles. Council concurs with the measures identified in the report regarding surveillance, access control, territorial reinforcement, activity and space management, building design, lighting, access, car parking, fencing and landscaping. The recommendations of this report should form part of any consent given.

Waste management

Council's Waste Planning and Policy Officer notes the design is relying on many times per week collections of wastes because it has little waste storage space. The following notes are provided for further consideration:

- Correction to typing error in submission: Building A total for food waste calculates as $1954.8L + 1441 = 3,395.8L/\text{week}$. This must be all food and nothing for garden waste. Further information is needed to confirm if garden waste has been included, and if so, how will this be managed.
- Volumes of garbage, combined recyclables and garden/food wastes for the ILUs and RFB in Buildings B, C and D have been calculated per unit at 55L per unit garbage and 55L per unit combined recycling (and 110L/unit garden and food waste). Subsection 3.3.1 of the 2019 Lake Macquarie Waste Management Guidelines recommends 60L per unit per week for garbage, recycling and green waste. Further details are needed to confirm the source of data for calculating 55L per unit instead.
- The applicant must confirm that the proposed 1100L food and green waste bins (for buildings B, C and D) are available from private waste service providers and provide this in writing, as Council cannot provide this service (due to the weight of wet food in bins which would require a heavy-duty bin design and strength of the lift function in the waste collection vehicle).
- All other buildings (B, C and D) have allowed 110L/week per unit for green waste, which would include garden waste as well as food waste. If the buildings B, C and D were forced to have 120L* food waste bins, to provide for 110L of garden and food waste per unit would require the following, for which space has been identified as being allocated:
 - 93 x 120L bins emptied weekly (or 14 x 120L bins emptied daily) for building B, and
 - 110 x 120L bins emptied weekly (or 16 x 120L bins emptied daily) for building C, and
 - 122 x 120L bins emptied weekly (or 18 x 120L bins emptied daily) for building D.
 - (Note*: Council's size are 140L)
- The daily collection of two 1100L food waste bins shown in the bin numbers calculations only allows for 12L per week of food/garden waste for Building B residents, 14L per week of food/garden waste for Building C residents, and 16.6L per week of food/garden waste for Building D residents. Relying on daily collection can be risky (in case of a day's failure to collect) and very expensive. 20L per unit may also be a better estimate for allowing for peak times, but it could be as high as 40L per unit if they prepare from raw ingredients or waste a lot of food. In this scenario, all garden wastes would have to be removed by contractors, separate from the residents' green waste bins.
- The varied number of collections per week from one building to another (and especially with Buildings B and C together) may cause logistic issues for the building management and the contractor collecting the bins.
- With bin capacity so constrained by small storage space, if the bins are not closely managed, then overflows will be a problem, particularly with the chute operation which must have a garbage catch bin underneath.

- **Building A: Total bins drawn on plans: 5 x 1100L**

Suggestion: 2 x 1100L garbage, 2 x 1100L recycling and 1 x 1100L food waste (if possible) – collected FOUR TIMES per week, or enlarge the waste storage area to hold 2 times more bins (10 x 1100L) for TWICE weekly collection.

- **Building B: Total bins drawn on plans: 14 x 1100L**

Suggestion: 3 x 1100L garbage, 3 x 1100L recycling and 1 x 1100L food (if possible) – collected TWICE weekly, aligning with Building C collection frequency and allowing two Building C bins to be stored in Building B area.

- **Building C: Total bins drawn on plans: 9 x 1100L**

Suggestion: 4 x 1100L garbage, 4 x 1100L recycling and 3 x 1100L food (if possible) – collected TWICE weekly (except food is weekly) = 11 bins, and store 1 of the spare 1100L garbage and 1 of the recycling in building B.

- **Building D: Total bins drawn on plans: 16 x 1100L**

Suggestion: 7 x 1100L garbage, 7 x 1100L recycling and 3 x 1100L food (if possible) – collected weekly if enlarged to accommodate 1 more bin, or 4 x 1100L garbage, 4 x 1100L recycling and 2 x 1100L food = 10 bins collected TWICE weekly.

- Further information on where Building C's bins will be stored awaiting collection near Building B's dock. It is unknown if the waste collection driver will be expected to move all the Building C bins. Further details should be sought confirming what mechanism will be required to move bins over the distances greater than 3m and ramps which are to limit issues for health and safety.
- Details should be provided confirming if there are cupboards in which the recycling and food waste bins will be located next to the garbage chutes on each residential floor in Buildings B, C and D, or if the bins will not be obstructing the corridor space.

Transport Planning and Operations

A Transport and Accessibility Assessment has been provided. While providing an adequate assessment of the level of service (LOS) of existing transport facilities, it does appear to consider how residents or staff will access the site apart from the use of private motor vehicles, or provide any analysis of facilities that may be required to encourage safe and accessible access to public transport and nearby trip attractors.

While discussing the traffic capacity of adjacent intersections, there is no discussion the operation of these intersections or upgrades that may be required to improve safety as a result of the increase in traffic generation attributable to the development. Safety is considered to be a higher consideration in respect to the adjacent road network than capacity, and the impact of a development on safety is a critical issue for assessment.

The traffic generation rates for the residential aged care and the independent living unit appear satisfactory. The traffic generation rates for the residential flat building appear low. Regional rates should be used from the Guide to Traffic Generating Development - Updated Traffic Surveys – 2013 – (TDT 2013/04a). The examples used in this TDT are from the

Hunter and Illawarra regions and are a suitable rate for the site. The higher rates should be used, being 0.67 trips per unit.

It is not clear if any of commercial premises proposed for the site have been included in the traffic generating calculations. If so, the appropriate traffic generation should be included in the assessment.

Updates to the Transport and Accessibility Assessment are recommended to address the issues raised in the assessment below, and to incorporate the improvements required in the referral advice to prioritise safe, accessible active and public transport use by staff and residents:

- In the absence of a safety assessment, it is considered the additional traffic utilising intersection of James and Dudley Road will result in unsafe conditions for motorists and pedestrians. In particular, the intersection is poorly aligned and complex, and operates at an unsafe speed to ensure pedestrian safety or safety for the additional vehicles turning right out of James Street during peak hour generated by the development.

It is likely the intersection will require upgrading to improve safety and accessibility. Discussions with TfNSW are required to determine if Traffic Control Signals should be provided at this location to operate in conjunction with the Pacific Highway/Dudley Road intersection

- In the absence of any analysis of pedestrian desire lines generated from the site, it is considered major pedestrian routes are likely to consist of walking from the development to the Charlestown Swim centre via Dickenson Street, and walking to Charlestown medical precinct via Smith Street, a route that can also be used to walk to the Economic Centre and Charlestown Square

It is considered crossing facilities will be required to ensure the safety of residents and staff utilising these routes, which will also provide safe access to the James Street bus stop on the northern side. An assessment of potential pedestrian volumes is required to determine the appropriate facilities, however they will likely be either (or a combination of) raised pedestrian crossings with kerb extensions, or pedestrian refuges with kerb extensions. These facilities will be required on James Street at both Dickinson Street and Smith Street. The crossing located near Dickinson Street will also need to incorporate cyclist facilities as it is on the proposed cycleway route.

There is no footpath on Dickinson Street to enable access to the Charlestown Swim Centre. A footpath is required on the eastern side of Dickinson Street from James Street to the car park entrance at the centre to support this access. The footpath is to be in accordance with the requirements of the Charlestown Streetscape Masterplan and Technical Guidelines, and be at least 3m wide to support the proposed cycleway route.

- It is unclear from the plans provided what footpath upgrades are proposed as part of the development on the immediate street frontages. Footpath is to be provided to all street frontages (Tiral Street, Dudley Road and James Street) in accordance with the requirements of the Charlestown Streetscape Masterplan and Technical Guidelines.

- It is noted the landscape plans indicate pedestrian crossings to be marked across the driveway crossovers. This is not supported, rather the footpath treatments are to be continuous through the driveways to indicate and support the legal pedestrian priority. Adequate sightlines to oncoming pedestrians must be provided at all driveways when entering and exiting the development. Sightlines must not be obscured by vegetation or building elements.
- The following bus facilities are to be provided:
 - The provision of a bus shelter, level boarding point and connecting footpath to transport stop 2290433 on the southern side of James Street.
 - The provision of a bus shelter and level boarding point to transport stop 229060 on the southern side of the Pacific Highway.
 - The provision of a bus shelter, level boarding point and connecting footpath to transport stop 229054 on the northern side of the Pacific Highway.

Keolis Downer are to be consulted with to determine if the current transport stop locations are the optimal locations for future operations and with consideration of demand generated from the development

The facilities outlined above are required to promote and support safe, accessible public and active transport use by staff and residents, in accordance with the Engagement Outcomes Report. As an example, a response to traffic and transport issues raised and summarised in table 7 states that *“the report will also outline preliminary green travel strategies. This will aim to encourage staff to access the site by walking, cycling or public transport once constructed.”*

- The Council road reserve on the eastern side of the site is approximately 4.5m – 5.0m wide, and all of this width is required for the proposed shared pathway. The site has a fence encroachment into the site, with the assessment referring to it as a “2m wide strip of land” It is not certain how wide the strip is on the plans provided, however this must be confirmed to ensure the encroachment is rectified at the planning stage of the development.

Development contributions

Development contributions have been calculated in accordance with a multi residential and subdivision assessment.

As per Section 2.8.1 in Councils Charlestown contribution, development undertaken by a Social Housing Provider for purposes of Seniors Housing under SEPP (Housing for Seniors/Disability) is exempt from contributions.

The EIS advises that Uniting is a registered Community Housing Provider and advises that the use of Buildings A, B and C meet the definition of Seniors Housing under the SEPP.

If the assessing authority determines the above to be correct, then contributions will not be applicable to these components (Stage 1 and Stage 2) of the proposal.

Contributions will however apply to the proposed Subdivision and Residential Flat Building under Stage 3 (Building D).

Subdivision – 1 into 3 lots torrens title (enables 2 additional lots however no credit applied for B4 portion nor is a 3rd lot levied)

RFB breakdown (total of 133 units, as understood):

51 x 1 bedroom units

71 x 2 bedroom units

11 x 3 bedroom units

Staged application

This application will be staged as follows:

Stage	Application	Contributions due
Stage 1 – as above, Building A and B	TBD	Nil - exempt
Stage 2 – Building C	TBD	Nil - exempt
Stage 3 – Building D	TBD	\$2,258,272.11

It is requested that any changes to the unit yield be notified to Council for a review of applicable contributions.

The following fee information is calculated under Council's Development Contributions Plan, (15) CHARLESTOWN plan and is valid until the next date of indexation.

CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
CCB-Open Space & Recreation Facilities-Capital-CPI	\$1,270,949.87
CCB-Open Space & Recreation Facilities-Land-LVI	\$530,821.38
CCB-Roads-Capital-R001/R002/R003/R004-CPI	\$49,663.92
CCB-Public Transport Facilities-CPI	\$3,931.60
CCB-Community Facilities-Capital-CPI	\$236,645.01
CCB-Community Facilities-Capital-LVI	\$102,528.79
CCB-Plan Preparation & Administration-CPI	\$63,731.54

TOTAL \$2,258,272.11

Council welcomes further engagement on this matter/these matters.

Summary

Thank you again for the opportunity to provide comment. Council welcomes further engagement on this development if you have any further questions or wish to clarify any matters identified in this correspondence.

Should you require further information, please contact the undersigned on 4069 0012 or by e-mail on sfatches@lakemac.nsw.gov.au.

Yours faithfully

A handwritten signature in dark ink, appearing to be 'S. Fatches', with a long horizontal stroke extending to the right.

Scott Fatches
Development Planner
Development Assessment and Certification