

## **DA 2010/678 - Affordable Rental Housing, Tallow Wood Place, Lennox Head**

<b>JRPP Reference</b>	2010NTH016
<b>File Reference</b>	DA 2010/678
<b>Applicant</b>	Greenwood Grove Estate Pty Ltd
<b>Property</b>	Lot 8 DP 1122975, Tallow Wood Place & DP 258095, No. 56 Greenfield Road, Lennox Head
<b>Proposal</b>	Affordable Rental Housing under the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 comprised of 74 dwellings, 74 car parking spaces, associated landscaping and infrastructure and a two lot boundary adjustment
<b>Report By</b>	Kerry Gordon – Kerry Gordon Planning Services
<b>Purpose of Report</b>	Peer review of development assessment report prepared by Ballina Shire Council (Regulatory Services Group)

## **EXECUTIVE SUMMARY**

### **Purpose of Report**

This report is a peer review of the development assessment report prepared by Ballina Shire Council (Regulatory Services Group) that has been requested in response to the subject site being in close proximity to a property owned by a staff member of Ballina Shire Council. As such, the report provides an independent peer review and is intended to be read in conjunction with the assessment report prepared by Ballina Shire Council (Regulatory Services Group).

### **Review of Ballina Shire Council (Regulatory Services Group) Report**

The peer review of the assessment report prepared by Ballina Shire Council (Regulatory Services Group) (Council's report) has concluded that the proposed development raises significant issues that for the most part cannot be appropriately addressed by conditions of consent. In this regard the conclusions and recommendations of the report prepared by Council are generally concurred with and supported.

The issues of concern raised in this peer review in relation to the application are addressed in detail throughout this report and are summarised following.

- The proposal relies on works on adjoining properties which do not form part of the application and no owner's consent has been provided for the proposed

offsite works including the drainage infrastructure and asset protection zones. As such the application is not complete and cannot be granted consent.

- The site is not located in reasonable proximity to a centre offering shopping and community facilities, and is not considered to be an appropriate location for an affordable housing estate of the size proposed and as such is considered to be an inappropriate site for the development proposed.
- The proposal is considered to be an overdevelopment of an inappropriately located and sensitive site. The location of the site distant from a shopping centre results in the need to provide more parking than would normally be associated with a development of this nature (double the amount required as a minimum under State Environmental Planning Policy (Affordable Rental Housing)). The number of dwellings proposed and the extent of parking provided results in the following poor design choices:
  - An inability to provide for appropriate asset protection zones on the subject site, with asset protection zones proposed within the landscaped buffer to the Endangered Ecological Community (Littoral Rainforest) and on the adjoining property.
  - An inability to provide for sufficient onsite stormwater treatment, relying upon adjoining properties for the placement of the infrastructure and inappropriately providing infrastructure in sensitive areas within the site.
  - Inadequate protection of onsite Endangered Ecological Community (Littoral Rainforest) and Hairy Joint Grass due to a lack of provision of a 10m buffer clear of required asset protection zones and inappropriately located drainage infrastructure.
  - Inadequate separation distance from the onsite vegetation to the dwellings in order to provide for passive mosquito treatment, with the proposed active mosquito treatment methods considered a poor and uncertain alternative.
  - Provision of bulky buildings of excessive length in close proximity and with inadequate setbacks from some side boundaries, resulting in a lack of onsite landscape provision and detrimental visual impacts as viewed from adjoining properties.
  - The provision of some inappropriately bulky buildings which are not characteristic of the area.
  - Inadequate landscaping of front setback areas due to inappropriately located garbage structures and parking resulting in an unacceptable streetscape presentation.
  - Inappropriate dwelling orientation resulting in the overlooking of adjoining properties.
  - Poor onsite amenity due to inappropriately designed and located dwellings which will have poor visual and aural privacy and will be impacted by headlight glare.
- External catchment flows have not been considered in the water quality assessment notwithstanding that the development of the site will remove any benefit to water quality from infiltration of those flow on the subject site prior to their travelling to the onsite Endangered Ecological Community (Littoral Rainforest) and the nearby SEPP 14 wetland.

- The application fails to provide for an appropriate treatment train for runoff from Satinwood Place and the runoff is to be diverted, untreated, into the onsite Endangered Ecological Community (Littoral Rainforest).
- No assessment has been made of the impact upon the onsite Endangered Ecological Community (Littoral Rainforest) of the untreated upstream flows or of the change in quantity and velocity of flows.
- The flora and fauna report indicates it is predicated on the following, which is inconsistent with the information provided with the application and as such the conclusions of the report appear to be falsely based:
  - The stormwater runoff from the upstream urban drainage system will be treated, thus protecting the important habitats; and
  - That the development footprint is separated from the “core littoral rainforest remnant” on site by a 10m buffer and an additional width buffer of asset protection zone that has a minimum width of 7m.
- No assessment has been made within the flora and fauna report of the impact of the location of the asset protection zone and the proposed stormwater treatment basin within the protection area for the Hairy Joint Grass.
- A poor level of amenity is provided for some of the future residents of the estate due to the following poor design choices:
  - The location of some of the parking areas and internal roads immediately adjoining bedrooms of dwellings provides for inadequate protection of visual and aural privacy and from headlight glare;
  - The location of some communal pathways immediately adjoining bedrooms will result in unacceptable visual and aural privacy impacts;
  - The distance from some dwellings (up to 160m) to the garbage storage areas is inappropriate; and
  - The access arrangements for some dwellings are inappropriately designed requiring residents to travel unnecessary distances and up and down stairs.
- The bulk and scale of several buildings, particularly in relation to their length, is inappropriate to the character of the area.
- The proposed development is designed poorly with regard to protection of privacy of adjoining properties.

## Conclusion

In the conclusion, it is my opinion that the location of the site for such a large affordable housing estate is inappropriate. The proposal constitutes an overdevelopment of the site which has not been designed with due regard to the constraints of the site and would potentially have unacceptable impacts upon the onsite and nearby remnant Endangered Ecological Community (Littoral Rainforest) and SEPP 14 Wetland. The development would also have unacceptable impacts upon the character and amenity of the locality and would provide for an unacceptably low level of amenity for residents within the development.

I am of the opinion that the above concerns with the proposal are significant and cannot be addressed by conditions of consent, or even necessarily by a redesign unless it involved a substantial reduction in the density and potentially a change in the type of development proposed, and that subsequently I cannot support the granting of consent to the application.

## **PEER REVIEW REPORT**

### **1.0 Preparation of Report**

During the preparation of the peer review the following documentation was reviewed:

- All documentation submitted with the development application
- Additional information, dated 30 July 2010, submitted in response to Council's letter of 9 July 2010
- Additional information, dated 7 October 2010, submitted in response to Council's letter of 27 August 2010
- Submissions to notification of application
- Internal Council Staff referral responses
- NSW Rural Fire Service bushfire safety authority dated 29 July 2010
- Documents related to Development Consent 2004/605 for a 19 lot subdivision
- Relevant legislation, etc including, in particular
  - Environmental Planning and Assessment Act, 1979 (EP&A Act)
  - State Environmental Planning Policy (Affordable Rental Housing) (ARHSEPP)
  - Ballina Local Environmental Plan 1987 (BLEP)
  - Draft Ballina Local Environmental Plan 2010 (DBLEP)
  - Ballina Shire Combined Development Control Plan (BDGP)

A site inspection was carried out in the presence of Council officers and Council officers made themselves available to answer queries that arose during the peer review process.

In order to maintain the independence of the peer review process, an assessment of the application was made and conclusions determined prior to reading the Council's report or having discussions in relation to Council's assessment.

As such the assessment and conclusions contained in this report were arrived at independently and whilst they are generally consistent with the conclusions of Council's report, there are some difference in the assessment and conclusions.

In order to keep the contents of this report as concise as possible and to avoid needless repetition, the report format will not follow a traditional development application assessment report which is legislation led. In this regard, I am of the opinion that the report prepared by Council adequately addresses the legislative requirements of the Act in this regard.

Similarly, there is no purpose in repeating the description of the site or proposal or the development history of the site, which can be read in Council's report, given this report is intended to be read in conjunction with the report which it reviews.

Rather, the report will be issues based and will address each issue of relevance to the assessment of the application and will then conclude as to whether, in my opinion, the application should be supported. In this regard, the report is designed to review the assessment report and provide additional information that may assist the Joint Regional Planning Panel (JRPP) in making its determination of development application No. 2010/678.

For the purposes of this report, a reference to the subject site is a reference to the proposed subdivided allotment upon which the development is sought, being Approved Lot 1 in Development Consent 2010/677 for a boundary adjustment between Lot 8, DP 1122975 and Lot 11, DP 2598095. A reference to Approved Lot 2 is a reference to the second allotment within this subdivision containing the dwelling currently located at Lot 11, DP 2598095, No. 56 Greenfield Road.

## **2.0 Inclusion of Land in Application/Owner's Consent**

As is discussed in detail in the Bushfire Protection section of this report, the NSW Rural Fire Service (RFS) bushfire safety authority granted for the development is reliant upon a number of conditions, one of which requires a 10m wide asset protection zone to be established and maintain for the full length of the northern boundary of the site and for the western boundary with Precinct 1.

As such an asset protection zone, upon which any consent for the development is dependent, must be established and maintained at the commencement of works related to the proposal. The asset protection zone is to be provided along the eastern boundary, adjoining the subject site, of Approved Lot 2, along the eastern boundary, adjoining the subject site, of Lot 1 in DP 1070446 and along the southern boundary, adjoining the subject site, of Lot 1 in DP 829277 and Lot 99 in DP 755684.

The application form indicates that development consent is sought for development on Lot 11 in DP 258095 and Lot 8 in DP 1122975 and as such does not cover the works necessary to construct the asset protection zone or stormwater works on Lot 99 in DP 755684, upon which the development relies. Further, no owner's consent has been provided for the proposed offsite works including the drainage infrastructure and asset protection zones and as such the application is not complete and cannot be granted consent.

In my opinion, a condition cannot be included in any consent burdening other properties that are not the subject of the application and for which no owner's consent has been received, requiring the creation of easements and the carrying out of works.

Therefore, as the application is reliant upon those other properties for stormwater works and asset protection zones, the application does not make adequate provision for stormwater disposal or bushfire safety and in my opinion cannot be supported.

### 3.0 Permissibility

The application seeks approval for the erection of 74 dwellings for the purpose of affordable rental housing under the provisions of ARHSEPP and a boundary adjustment under the provisions of BLEP 1987.

Council's report indicates that the site is zoned 2(a) – Living Area pursuant to BLEP. The provisions of clause 10 permit in-fill affordable housing, which the development is defined as, on land zoned R1 – General Residential or its equivalent zone. Council's report indicates that the Department of Planning has identified the 2(a) zone under BLEP as being equivalent to the R1 General Residential zone. As such the proposed affordable housing is permissible with consent.

Subdivision of land is permissible with consent pursuant to clause 10 of BLEP.

As such, I concur with the assessment contained in Council's report that the proposed development is wholly permissible with consent.

### 4.0 Legislative Requirements

The affordable housing component of the application is primarily defined for the purposes of ARHSEPP, by virtue of the provisions of clause 4(2), pursuant to the definition contained in the Standard Instrument as series of residential flat buildings. The definition of residential flat building under the Standard Instrument is as follows:

***“residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.”*

Attached dwellings are defined following, and the proposal does not satisfy the definition, involving dwellings located above other dwellings and not providing each dwelling on a separate lot.

***“attached dwelling** means a building containing 3 or more dwellings, where:*

- (a) each dwelling is attached to another dwelling by a common wall, and*
- (b) each of the dwellings is on its own lot of land (not being an individual lot in a strata plan or community title scheme), and*
- (c) none of the dwellings is located above any part of another dwelling.”*

Multi dwelling housing is defined following, and the proposal does not satisfy the definition as not all of the dwellings have a separate access at ground level.

*“multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land (not being an individual lot in a strata plan or community title scheme) each with access at ground level, but does not include a residential flat building.”*

Residential flat development is a permissible use within the 2(a) – Living Area zone under BLEP, not being an identified prohibited use and therefore being an innominate permissible use. As the housing component of the application is defined as residential flat development under BLEP (see the following definition), the provisions of clause 11(a) of ARHSEPP are not applicable to the application as residential flat buildings are permissible in the zone, however the provisions of clause 11(b) are applicable.

*“residential flat development means a building or development containing 2 or more dwellings on a single parcel of land.”*

Accordingly clause 13 of ARHSEPP sets a maximum FSR for development of the existing maximum FSR contained in BDCP plus 0.5:1, giving a maximum FSR of 1:1, which the development satisfies.

However, as the development is not development referred to in clause 11(a) of ARHSEPP, the provisions of clause 14(1) are not applicable. Clause 14(1) of ARHSEPP sets a series of numerical standards, which if met cannot be used as reasons for refusal, including density and scale, site area, landscaped area, deep soil zones and solar access.

Clause 14(2) of ARHSEPP, however, is applicable to all development under Division 1 and as such is applicable to the application and it sets numerical standards for parking and dwelling size (which the application satisfies), which if met cannot be used as reasons for refusal.

I note that in this regard, in relation to the interpretation of the applicable provisions of ARHSEPP, I concur with the assessment contained in Council's report.

## **5.0 Suitability of the Site**

Council's report indicates that the site is located within an established low density residential precinct which is characterized by single dwelling houses located on large allotments and immediately adjoins land zoned for rural purposes. Council's report indicates that Council currently has a rezoning application for the adjoining rural land seeking a rezoning for low density residential purposes.

Further, the report indicates that the site is located approximately 2.3km (travelling by car) from Lennox Head Village Centre and 13km from Ballina Central Business District, with the nearest passenger bus service being located 1.2km away.



As such the site is located at the edge of the residential area and is isolated from public transport connections, which would make residents of the estate heavily reliant upon private transport (ie cars).

ARHSEPP contains criteria for the location of affordable infill housing in the Sydney Metropolitan Region based on the distance of a site from a transport stop, setting a maximum 800m walking distance to a train station and a maximum 400m distance to a bus stop or light rail stop. The Affordable Housing Fact Sheet indicates that these criteria are set to ensure affordable housing is developed in areas that are accessible by public transport.

No such controls are set in regional areas, however the need to ensure affordable housing is developed in areas that are reasonably accessible by public transport is still relevant to regional areas, particularly given the large scale of the estate being proposed. I am of the opinion that large scale and densely developed infill affordable housing developments, such as the one proposed, are most appropriately located in close proximity to either a village shopping centre or a public transport stop to minimize the potential for isolation of low income families.

In this regard, low income families are more likely to have no or limited access to private vehicles as a means of transport and if they have a car, they are less likely to own more than one car, which would potentially result in significant isolation of one or more members of the families within the proposed development.

It is acknowledged that the application provides one parking space for each dwelling, presumably in response to the isolated location of the site, whereas ARHSEPP only requires the provision of 1 space per 2 dwellings, presumably due to an assumption that public transport will be a significant form of transport for the occupants of affordable rental housing. However, the extra provision for onsite parking does not resolve the concern with the distance of the site from a public transport stop or shopping centre.

I am of the opinion that the 1.2km walk necessary to reach the nearest bus stop is unacceptably long, particularly for parents who must travel with children or for older residents and therefore I am of the opinion that the site is inappropriately located, being too isolated, for such a large scale and densely developed affordable housing estate.

I note that in this regard, in relation to the unsuitability of the site for a large scale affordable housing development, I concur with the assessment contained in Council's report.

## **6.0 Stormwater Treatment**

The Conceptual Stormwater Management Plan submitted with the application indicates a proposed suite of treatment methods for stormwater to address quality and quantity impacts as a result of the development.

In this regard, bio-retention basins and vegetated buffers are to be utilized to filter runoff from hardstand areas and the dwellings prior to sheet flow into the environmental buffer areas. The upstream flows are to be concentrated in pipes and overland flow paths which are to be discharged either to the Endangered Ecological Community (Littoral Rainforest) onsite or onto adjoining properties.

Concerns are raised with the proposed stormwater management plan in that upstream flows are to be concentrated and discharged across a downstream property without satisfactory treatment to prevent erosion on the adjoining property. The Plan indicates that discussions have been had with the adjoining property owner to allow a 10m x 10m scour protection zone to be constructed on the adjoining property to ensure the runoff does not erode that property. This work does not appear to form part of the application (not being on the subject site) and no owner's consent has been provided. Accordingly, if approved, the development would result in downstream property damage by soil erosion based on the information contained in the Plan. All treatment for stormwater flowing through the subject site should be located on the subject site and any inability of the applicant to do so is indicative of an overdevelopment of the site.

It is also noted that the approved 19 lot subdivision does not appear to have satisfactorily competed required stormwater treatment works according to Council's report. As such, water from upstream properties does not currently appear to be appropriately treated in terms of quality or rate of flow, though the subject site currently appears to contribute to some form of treatment due to infiltration. It would appear that additional treatment and/or detention works were intended to be provided on the subject site for the 19 lot subdivision and have not occurred and that the development of the subject site in the manner proposed would preclude those works from being carried out in the future, ultimately resulting in unacceptable impacts upon downstream properties.

Concern is also raised that the upstream runoff from Satinwood Place (which appears not to be treated) is to be discharged via an overland flow path across the driveway to Precinct 2 into the Endangered Ecological Community (Littoral Rainforest) on the site. No assessment appears to have been carried out in the Flora and Fauna report of the impact of this water entering the Endangered Ecological Community (Littoral Rainforest) in relation to either water quality or water quantity.

Finally, concern is raised that several drainage structures appear to be inappropriately located in relation to the retention of significant vegetation on the site, with

- a bio-retention basin proposed in the protection area for the Hairy Joint Grass;
- a bio-retention basin proposed within 10m of the Endangered Ecological Community (Littoral Rainforest), and hence within the 10m buffer indicated as necessary in the flora and fauna report, adjacent to Building F; and

- a bio-retention basin proposed within 10m of the Endangered Ecological Community (Littoral Rainforest), and hence within the 10m buffer indicated as necessary in the flora and fauna report), adjacent to Building K.

As is noted in the flora and fauna section of this report, the flora and fauna assessment is based on a 10m landscaped buffer being provided around the Endangered Ecological Community (Littoral Rainforest) to ensure its appropriate protection and no assessment has been made of the proposed drainage structures within that buffer area.

I note that in this regard, in relation to the adequacy of the stormwater treatment proposed and its location, I concur with the assessment contained in Council's report.

An inability to provide for sufficient onsite stormwater treatment, relying upon adjoining properties for the placement of the infrastructure and inappropriately providing infrastructure in sensitive areas within the site is, in my opinion, indicative of an overdevelopment of the site and that the design of the development has not had due regard to the constraints of the site.

## **7.0 Bushfire Protection**

The proposed bushfire measures contained within the Bushfire Threat Assessment Report have been assessed as being satisfactory by the RFS, with the issuing of a bushfire safety authority. However, the bushfire safety authority is subject to the provision of a number of conditions, including the provision of managed asset protection zones on adjoining properties and the provision and maintenance of inner protection zones of the distances shown in the table on page 3 of that Report.

The reliance on the creation of an inner protection zone on adjoining land is unacceptable, as the land does not form part of the application and no owner's consent has been given for the works. As such there is no power to require the works to be carried out or to require the ongoing maintenance of the asset protection zone by way of condition.

Secondly, concern is raised that some of the asset protection zone distances shown in the table on page 3 of that Report conflict with the provision of a 10m vegetated buffer to the Endangered Ecological Community (Littoral Rainforest), which is identified in the flora and fauna report as being necessary to protect the area. In this regard parts of the 10m buffer would need to be maintained as an inner protection area, including adjacent to Building K, Building I and Building G. No assessment has been made in the flora and fauna report of the reduction in efficacy of the buffer in protecting the Endangered Ecological Community (Littoral Rainforest) as a result of portions of the buffer being required to be maintained as an inner protection area.

It is therefore my opinion that the application in its current form will not be able to comply with the conditions of the bushfire safety authority and that compliance with the requirements of the Report may result in the degradation of the Endangered Ecological Community (Littoral Rainforest).

In this regard, I concur with the assessment in Council's report that the proposed bushfire protection measures are unacceptable in their current form.

I am also of the opinion that the inability of provision of the required inner protection zones on the site and without impact upon a 10m buffer around the remnant littoral rainforest is indicative that the proposal constitutes an overdevelopment of the site and that the design of the development has not had due regard to the constraints of the site.

## **8.0 Impact on Flora and Fauna**

The Flora and Fauna Assessment that forms part of the application identifies that the site contains Littoral Rainforest which is listed as an Endangered Ecological Community, within which five threatened plant species (Stinking Laural, Arrow-head Vine, White Lace Flower, Rough-shelled Bush Nut and Xylsoma) exist. The site also contains a vulnerable species on the north-western portion of the site (Hairy Joint Grass).

In its introduction on page 9 of the Assessment the report states that:

*"The development footprint has been located wholly on grassland of little ecological value. However, littoral rainforest of high conservation value occurs proximal to the development footprint. The littoral rainforest has been restored over the past few years and a 10m buffer planted around its perimeter. The development is separated from the core littoral rainforest remnant by the 10m planted buffer and an additional variable width buffer which comprises the asset protection zone (APZ) (Fig.1)."*

Figure 1 shows the Endangered Ecological Community (Littoral Rainforest) and coincides with the indication on the Site Plans shown by a symbol of dashes and circles. It is noted that an area around this line is shown coloured dark green on the site plans and is marked "line of existing vegetation" and presumably relates to the 10m buffer noted above (though it is of variable width) and then distance measures are shown on the plan to indicate the asset protection zone which are shown in a lighter green.

Further, at pages 32 and 37 under the section addressing the impact of the development upon the flora, the Assessment indicates the following:

*"An additional threatened plant, hairy-joint grass, occurs in the far north-western portion of the site. This area has been identified as hairy-joint grass restoration area (Figure 1). It is proposed to combine hairy-joint grass restoration works with ongoing rainforest management using trained bushland regenerators."*

*"The EEC Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner Bioregions occurs at the site. All littoral rainforest remnants have been plotted by survey and several years of restoration work completed. Restoration and management includes the planting and maintenance of rainforest buffer plantings (Plates 1-5). The proposed development will be spatially separated from buffer plantings by at least 7m. Thus, it will not have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction nor will any proposed action substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction."*

I therefore note that the assessment appears to be predicated on the basis of the Endangered Ecological Community (Littoral Rainforest) being separated from the development footprint by a 10m vegetated buffer plus an additional minimum 7m asset protection zone, allowing a minimum 17m separation.

However, the site plans show that this level of buffer and separation is not proposed by the development, with Buildings G, I and K all being located closer than 17m from the Endangered Ecological Community (Littoral Rainforest), with separations of only 13m, 13.5m and 12m respectively. Further, the access driveway to Buildings L and K is separated by as little as 6m from the Endangered Ecological Community (Littoral Rainforest) and the asset protection zones required for Buildings G, I and K all intrude into the 10m vegetated buffer. Finally, a bio-retention basin is proposed within the protection area for the Hairy Joint Grass and two more are proposed within the 10m buffer adjoining Buildings F and K.

Further, page 27 of the Assessment states the following of the Stormwater Management Plan:

*"It is clear from the Cardno results that the proposed development will substantially treat and reduce nutrient loads passing from nearby urban drainage systems through the site. This will mitigate any potential impacts on natural habitats located north of the site."*

However, my reading of the Plan is that upstream stormwater is not to be treated within the site at all and as such no consideration appears to have been made in the Assessment of the impact of rerouting untreated upstream water through the site to discharge near the natural habitats to the north of the site. Similarly, no consideration appears to have been made within the Assessment of the impact of untreated stormwater flows from Satinwood Place over the driveway to Buildings K and L into the Endangered Ecological Community (Littoral Rainforest).

Given the above, I am not satisfied that the development has been designed appropriately to protect the endangered and vulnerable species on the subject site, the Endangered Ecological Community (Littoral Rainforest) or the sensitive wetland environments to the north of the site. In this regard I concur with the assessment contained in Council's report.

I am also of the opinion that the apparent inability to provide the specified 10m buffer plus minimum 7m asset protection zone within the site to protect the Endangered Ecological Community (Littoral Rainforest) and to provide drainage structures clear of the buffer plantings and the Hairy Joint Grass protection area is indicative that the proposal constitutes an overdevelopment of the site and that the design of the development has not had due regard to the constraints of the site.

## **9.0 Mosquito Protection**

The Mosquito Impact Assessment lodged with the application identifies that the site is impacted by several mosquito species, including ones known to carry serious viruses.

The Assessment indicates at page 1 in the Design Philosophy section that *“Maximum use of passive control and minimum use of active mosquito control has been adopted for risk minimization within this report.”*

In the Results Discussion section of the Assessment at page 7 the following is recommended.

*“Relatively narrow areas of open exposed ground (vegetated by mown grass only) 20m wide have been shown to have a significant disruption in dispersal of Ve funereal. It would be recommended that Greenwood Chase will require such buffers adjoining the two areas of rehabilitated vegetation (trap sits 1 and 2). These may superimpose on asset protection zones and access roadways as appropriate.”*

Design and management strategies are recommended within the Assessment to address the hazard caused by stormwater structures such as rainwater tanks.

In response to Council officers raising concerns that the design did not provide for the specified 20m separation zone a supplementary report was provided by the applicant that indicated that *“There are a number of opportunities to consider ways of achieving acceptable management of mosquito related risks without the absolute reliance on a 20m wide clear buffer.”* The report identifies the potential to use active strategies for control given the site would be operated on the basis of a strata subdivision with body corporate control over common properties. The strategy identified as a *“commonly used technique”* is to reduce exposure to mosquitoes by an active program of application of an approved residual insecticide which is said to be as or more effective than the previously recommended passive separation strategy.

I concur with the Council report that the ongoing requirement to manage mosquitoes is an inferior outcome to one where the design provides for passive measures, for the reasons given in that report.

This is particularly the case where the source of mosquitoes will remain (ie the Endangered Ecological Community (Littoral Rainforest) and nearby wetland) and will not be removed or reduced significantly in the future by other developments. In such a case where the active treatments were likely to be for a short or medium term until future development occurred, they may be considered appropriate. However, as this is not the case and as the residents who would be affected by the mosquitoes have no control over the active management (as they are tenants not owners) it may be difficult to ensure ongoing treatments.

I am also of the opinion that the apparent inability to provide the specified 20m buffer for passive management of mosquitoes is indicative that the proposal constitutes an overdevelopment of the site and that the design of the development has not had due regard to the constraints of the site.

## **10.0 Bulk and Scale**

The area in which the development is proposed is located at the edge of a low density, large lot, single dwelling precinct and a rural zone and as such is characterized by either one to two storey dwellings (some quite large) located in landscaped gardens or open grassland and remnant native vegetation.

Whilst the provisions of ARHSEPP allow for a significantly higher density of development on the site than the provisions of BLEP and BDCP, the ARHSEPP requires that assessment of the design of an infill affordable housing development must have regard to the provisions of *Seniors Living Policy: Urban Design Guidelines for Infill Development* to the extent that the provisions are consistent with ARHSEPP.

The Guidelines require consideration of the development's "fit" within the character of the area in terms of building bulk, landscape provision and rhythms of building separation and in particular seek to reduce the density of development in back yard areas (in this case next to adjoining properties).

In my opinion elements of the design are contradictory to the Guidelines and inconsistent with the character of the area, both when considered having regard to the current zonings and also in the light of the potential rezoning of the adjoining property to allow residential uses (likely to be low density, large lot residential according to Council's report). In this regard the following elements are considered to be inappropriately designed:

- The proximity of Building L to the rear yard of the adjacent dwelling to the south, given its 23m length.
- The proximity and length of development, with only small separations which will not allow for the planting of any substantial vegetation to soften the built form, to the rear yard of the adjacent dwelling to the south of Buildings D, E and F.

- The provision of parking forward of the building line related to Building M and the provision of garbage storage structures adjacent to the frontage which prevents the provision of traditional front yard landscaping.
- The provision of access paths between the parking areas severely limits the opportunities to provide trees within the parking area to provide shade and soften the visual impact of the parking area.
- The length of Building H, at almost 40m, is uncharacteristic of the built form in the area and will present an unacceptable bulk when viewed from within the site and from the likely future residential area to the north of the site.
- The length of Building M, at 30m, is uncharacteristic of the built form in the area and will present an unacceptable bulk when viewed from Satinwood Place.

In this regard, I concur with the assessment in Council's report that the proposed bulk and scale of the development is inappropriate.

I am also of the opinion that the bulk and scale of the proposed buildings, lack of provision for landscaping to soften the built form and lack of appropriate streetscape presentation is indicative that the proposal constitutes an overdevelopment of the site and that the design of the development has not had due regard to the character of the area.

## **11.0 Amenity Impacts on Surrounding Development**

The proposal has unacceptable impacts upon the surrounding development due to its bulk and scale, lack of setback for landscaping and the design of the dwellings. The bulk and scale impacts and the lack of setback for appropriate landscaping have been addressed above.

Other impacts which occur as a result of the proposed development relate to privacy and of concern is the design of the following elements of the proposal:

- The balcony to Dwelling 16 directly overlooks the adjoining residential property to the east.
- The balcony to Dwelling 30 directly overlooks the adjoining residential property to the west.
- The living room window of Dwelling 68 directly overlooks the adjoining residential property to the south.
- The balcony to Dwellings 58 and 62 directly overlook the adjoining residential property to the east.
- The kitchen window to Dwellings 52 and 54 directly overlook the adjoining residential property to the west.
- The balconies of all 22 dwellings within Buildings G, H and K overlook the potential future residential land to the north of the subject site.



I am also of the opinion that the design of the proposed buildings and lack of privacy measures to protect the amenity of adjoining properties is indicative that the proposal constitutes an overdevelopment of the site and that the design of the development has not had due regard to the constraints of the site.

## **12.0 Amenity Afforded to Future Residents**

The proposed design will afford an unacceptable level of amenity to some of the dwellings within the development and of concern is the design of the following elements of the proposal.

- A poor level of acoustic and visual privacy will be experienced by the residents of Dwellings 2-3, 7-8, 31, 37, 40-42, 44, 49, 55-56, 58 (unless allocated the adjoining space), 69 and 74 (unless allocated the adjoining space) due to the proximity to the internal road and/or parking spaces to their bedroom windows.
- A poor level of amenity due to headlight glare will be afforded to the bedrooms of Dwellings 2-3, 7-8, 37, 40-42, 44, 49, 55-56, 69 and 74 due to their location in relation to the internal road and/or elevated parking areas.
- A poor level of acoustic and visual privacy will be experienced by the residents of Dwellings 36-37, 41-42 and 56 due to the proximity to the communal pathways and stairs to their bedroom windows.
- The distance from some dwellings (up to 160m) to the garbage storage areas is inappropriate, making disposal of garbage and recyclable material problematic.
- The access arrangements for Dwellings 44, 55-56, 59-60 and 69-72 from the parking areas are inappropriately designed requiring residents to travel unnecessary distances and or up and down stairs unnecessarily.
- A poor level of visual privacy within the development is provided, with no detail of how privacy will be achieved to the ground level living areas and terraces of Dwellings 1-3, 7-8, 14, 19-20, 23-24, 27, 27, 31, 51 and 63-66.

In regard to privacy, the schematic typical landscape plan is inadequate to ascertain whether a suitable level of privacy will be afforded to the dwellings.

## **13.0 Landscaping**

The schematic typical landscape plan is considered to be inadequate to assess the suitability of the landscape provision of a development of this size, particularly given

- the lack of setback and the bulk of the development to some boundaries with adjoining properties.
- the proliferation of driveways, garbage structures and parking spaces forward of the building line and the small frontages to the streets.

- the lack of provision shown on the site plans for landscaping of the car parking areas.
- the proximity of car parks and communal paths to habitable rooms.

For a development of this scale the minimum acceptable information related to landscaping would be a concept design for the whole site showing the location of trees, shrubs and ground covers, with a species list addressing the bushfire prevention guideline requirements.

## **14.0 Overdevelopment of the Site and Suitability of Design**

The proposal is considered to be an overdevelopment of an inappropriately located and sensitive site. The location of the site distant from a shopping centre results in the need to provide more parking than would normally be associated with a development of this nature (double the amount required as a minimum under State Environmental Planning Policy (Affordable Rental Housing)). The number of dwellings proposed and extent of parking provided, together with the site constraints related to the onsite flora and mosquito problem and bushfire risks results in the following poor design choices:

- An inability to provide for appropriate asset protection zones on the subject site, with asset protection zones proposed within the landscaped buffer to the Endangered Ecological Community (Littoral Rainforest) and on the adjoining property.
- An inability to provide for sufficient onsite stormwater treatment, relying upon adjoining properties for the placement of the infrastructure and inappropriately providing infrastructure in sensitive areas within the site.
- Inadequate protection of the onsite Endangered Ecological Community (Littoral Rainforest) and Hairy Joint Grass due to a lack of provision of a 10m buffer clear of required asset protection zones and inappropriately located drainage infrastructure.
- Inadequate separation distance from the onsite vegetation to the dwellings in order to provide for passive mosquito treatment, with the proposed active mosquito treatment methods considered a poor alternative.
- Provision of bulky buildings of excessive length in close proximity and with separation and setbacks from some side boundaries, resulting in a lack of onsite landscape provision and detrimental visual impacts of the development as viewed from adjoining properties.
- The provision of some inappropriately bulky buildings which are not characteristic of the area.
- Inadequate landscaping of front setback areas due to inappropriately located garbage structures and parking resulting in an unacceptable streetscape presentation.
- Inappropriate dwelling orientation resulting in the overlooking of adjoining properties.
- Poor onsite amenity due to inappropriately designed and located dwellings which will have poor visual and aural privacy and will be impacted by headlight glare.

## CONCLUSIONS

The peer review of the assessment report prepared by Ballina Shire Council (Regulatory Services Group) (Council's report) has concluded that the proposed development raises significant issues that for the most part cannot be appropriately addressed by conditions of consent. In this regard the conclusions and recommendations of the report prepared by Council are generally concurred with and supported.

The issues of concern raised in this peer review in relation to the application are addressed in detail throughout this report and are summarised following.

- The proposal relies on works on adjoining properties which do not form part of the application and no owner's consent has been provided for the proposed offsite works including the drainage infrastructure and asset protection zones. As such the application is not complete and cannot be granted consent.
- The site is not located in reasonable proximity to a centre offering shopping and community facilities, and is not considered to be an appropriate location for an affordable housing estate of the size proposed and as such is considered to be an inappropriate site for the development proposed.
- The proposal is considered to be an overdevelopment of an inappropriately located and sensitive site. The location of the site distant from a shopping centre results in the need to provide more parking than would normally be associated with a development of this nature (double the amount required as a minimum under State Environmental Planning Policy (Affordable Rental Housing)). The number of dwellings proposed extent of parking provided results in the following poor design choices:
  - An inability to provide for appropriate asset protection zones on the subject site, with asset protection zones proposed within the landscaped buffer to the Endangered Ecological Community (Littoral Rainforest) and on the adjoining property.
  - An inability to provide for sufficient onsite stormwater treatment, relying upon adjoining properties for the placement of the infrastructure and inappropriately providing infrastructure in sensitive areas within the site.
  - Inadequate protection of onsite Endangered Ecological Community (Littoral Rainforest) and Hairy Joint Grass due to a lack of provision of a 10m buffer clear of required asset protection zones and inappropriately located drainage infrastructure.
  - Inadequate separation distance from the onsite vegetation to the dwellings in order to provide for passive mosquito treatment, with the proposed active mosquito treatment methods considered a poor and uncertain alternative.
  - Provision of bulky buildings of excessive length in close proximity and with inadequate setbacks from some side boundaries, resulting in a lack of onsite landscape provision and detrimental visual impacts as viewed from adjoining properties.
  - The provision of some inappropriately bulky buildings which are not characteristic of the area.

- Inadequate landscaping of front setback areas due to inappropriately located garbage structures and parking resulting in an unacceptable streetscape presentation.
  - Inappropriate dwelling orientation resulting in the overlooking of adjoining properties.
  - Poor onsite amenity due to inappropriately designed and located dwellings which will have poor visual and aural privacy and will be impacted by headlight glare.
- External catchment flows have not been considered in the water quality assessment notwithstanding that the development of the site will remove any benefit to water quality from infiltration of those flow on the subject site prior to their travelling to the onsite Endangered Ecological Community (Littoral Rainforest) and the nearby SEPP 14 wetland.
  - The application fails to provide for an appropriate treatment train for runoff from Satinwood Place and the runoff is to be diverted, untreated, into the onsite Endangered Ecological Community (Littoral Rainforest).
  - No assessment has been made of the impact upon the onsite Endangered Ecological Community (Littoral Rainforest) of the untreated upstream flows or of the change in quantity and velocity of flows.
  - The flora and fauna report indicates it is predicated on the following, which is inconsistent with the information provided with the application and as such the conclusions of the report appear to be falsely based:
    - The stormwater runoff from the upstream urban drainage system will be treated, thus protecting the important habitats; and
    - That the development footprint is separated from the “core littoral rainforest remnant” on site by a 10m buffer and an additional width buffer of asset protection zone that has a minimum width of 7m.
  - No assessment has been made within the flora and fauna report of the impact of the location of the asset protection zone and the proposed stormwater treatment basin within the protection area for the Hairy Joint Grass.
  - A poor level of amenity is provided for some of the future residents of the estate due to the following poor design choices:
    - The location of some of the parking areas and internal roads immediately adjoining bedrooms of dwellings provides for inadequate protection of visual and aural privacy and from headlight glare;
    - The location of some communal pathways immediately adjoining bedrooms will result in unacceptable visual and aural privacy impacts;
    - The distance from some dwellings (up to 160m) to the garbage storage areas is inappropriate; and
    - The access arrangements for some dwellings are inappropriately designed requiring residents to travel unnecessary distances and up and down stairs.
  - The bulk and scale of several buildings, particularly in relation to their length, is inappropriate to the character of the area.

- The proposed development is designed poorly with regard to protection of privacy of adjoining properties.

In the conclusion, it is my opinion that the location of the site for such a large affordable housing estate is inappropriate. The proposal constitutes an overdevelopment of the site which has not been designed with due regard to the constraints of the site and which would potentially have unacceptable impacts upon the onsite and nearby remnant Endangered Ecological Community (Littoral Rainforest) and SEPP 14 Wetland. The development would also have unacceptable impacts upon the character and amenity of the locality and would provide for an unacceptably low level of amenity for residents within the development.

This review therefore supports the conclusions and recommendations of Council's report and concludes that the deficiencies with the application cannot be appropriately ameliorated by conditions of consent. Accordingly, I am unable to support the application.

I am of the opinion that the above concerns with the proposal are significant and cannot be addressed by conditions of consent, or even necessarily by a redesign unless it involved a substantial reduction in the density and potentially a change in the type of development proposed, and that subsequently I cannot support the granting of consent to the application.