

## Assessment Report and Recommendation

PREPARED BY GLN PLANNING FOR CENTRAL COAST COUNCIL

For The Hunter Central Coast Regional Planning Panel (HCCRPP)

### SUMMARY

An application has been received for

Applicant	Central Coast Council
Owner	Central Coast Council
Application No	DA/919/2018
Description of Land	Lot 1 DP 371647, Lot 1 DP 375712, Lot 1 DP 376264, Lot 41 DP 1200210, Lot 51 and 52 DP 561032 and Lot 54 and 55 DP 7527. 99 -107 Sparks Road and Hakone Road Woongarah
Proposed Development	160 Lot Subdivision as Stages 6 and 7, amended February 2020 to 92 residential lots., 1 Mixed Use lot, 2 residue lots and 1 temporary easement and basin lot in Stages 6 and 7.
Site Area	23.84ha
Zoning	B2 Local Centre Wyong LEP 2013
Existing Use	Carpark and road with existing closed road
Estimated Value	\$11,200,000

### RECOMMENDATION

- 1 *That the Regional Planning Panel refuse the application subject to appropriate reasons for refusal detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other relevant issues.*

**PRECIS:**

Proposed Development	Torrens title subdivision (Stages 6 & 7) creating 92 residential lots, one commercial lot, and 3 residue residential lots of which one is a temporary easement and basin.
Permissibility and Zoning	The site is zoned R1 General Residential, B2 Local Centre, B4 Mixed Use, RE1 Public Recreation, E2 Environmental Conservation and E3 Environmental Management and the proposal is permissible as subdivision of land and ancillary works. The RE1 land does not form part of this application and is subject to a separate development application.
Relevant Legislation	<ul style="list-style-type: none"><li>• State Environmental Planning Policy (State and Regional Development) 2011</li><li>• State Environmental Planning Policy 55 – Remediation of Land</li><li>• State Environmental Planning Policy (Infrastructure) 2007</li><li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li><li>• State Environmental Planning Policy 44 – Koala Habitat Protection</li><li>• Wyong Local Environmental Plan 2013</li><li>• Wyong Shire Development Control Plan 2013<ul style="list-style-type: none"><li>- Chapter 1.2 – Notification of Development Proposals</li><li>- Chapter 2.1 – Dwelling House and Ancillary Structures</li><li>- Chapter 2.3 – Dual Occupancy</li><li>- Chapter 2.11 – Parking and Access</li><li>- Chapter 3.1 – Site Waste Management</li><li>- Chapter 3.6 – Tree and Vegetation Management</li><li>- Part 4 - Subdivision</li><li>- Chapter 5.5 – Warnervale Town Centre</li></ul></li></ul>
Current Use	Vacant and vegetated land within Warnervale Town Centre
Integrated Development	Yes
Submissions	Nil Submissions

## Assessment

This application has been assessed using the heads of consideration specified under Section 4.15 of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 10.7 Certificate details.

### Summary of Non Compliance/Variations

DCP	WDCP 2013 – Part 5.5 Warnervale Town Centre
Clause	3.2 Street Hierarchy and Design
Standard	Street network inconsistent with the street hierarchy map at Figure 3.1 and street types map at Figure 3.2.
Departure basis	Alternate layout and reduced road reserves and carriageways.

Other areas of non-compliance arise as a result of this variation and are discussed in further detail later in the report.

## THE SITE AND SURROUNDING DEVELOPMENT

The proposal is located within the Warnervale Town Centre and is Stage 6 & 7 of the Town Centre Development. A separate development application has been lodged for Stages 8, 9 & 10 (DA/1310/2018). The site (including Stages 8, 9 & 10 – Separate DA) has frontage to Sparks Road to the south and Hakone Road to the North. The south eastern boundary adjoins Mackillop Catholic College Warnervale. (refer **Figure 1**)

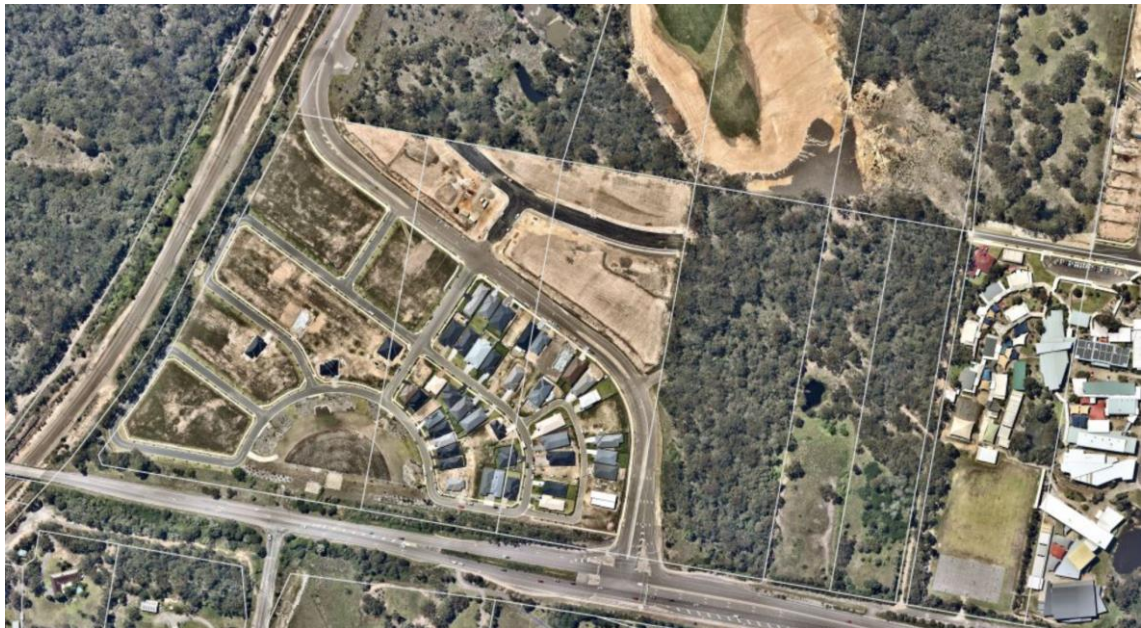


**Figure 1** Aerial photo of stages 6 & 7.

The land was rezoned via a State Significant Development proposal in 2008, the site was rezoned for urban purposes and the Warnervale Town Centre Development Control Plan formulated with the development guidelines.

The site was Biodiversity certified on 30 January 2014 for a period of 25 years.

Stages 1 -5 to the west of the subject site have been approved under earlier applications and currently under constructions and completed.



**Figure 2 Existing Stages 1 – 5 aerial photograph 4 November 2020**

### **The Proposed Development**

The current development application proposes a Torrens title subdivision (Stages 6 & 7) creating 92 residential lots, one commercial lot, and 3 residue residential lots of which one is a temporary easement and basin road construction and associated works in 2 stages. The proposed development is to staged as follows:

#### Stage 6 – central portion of site

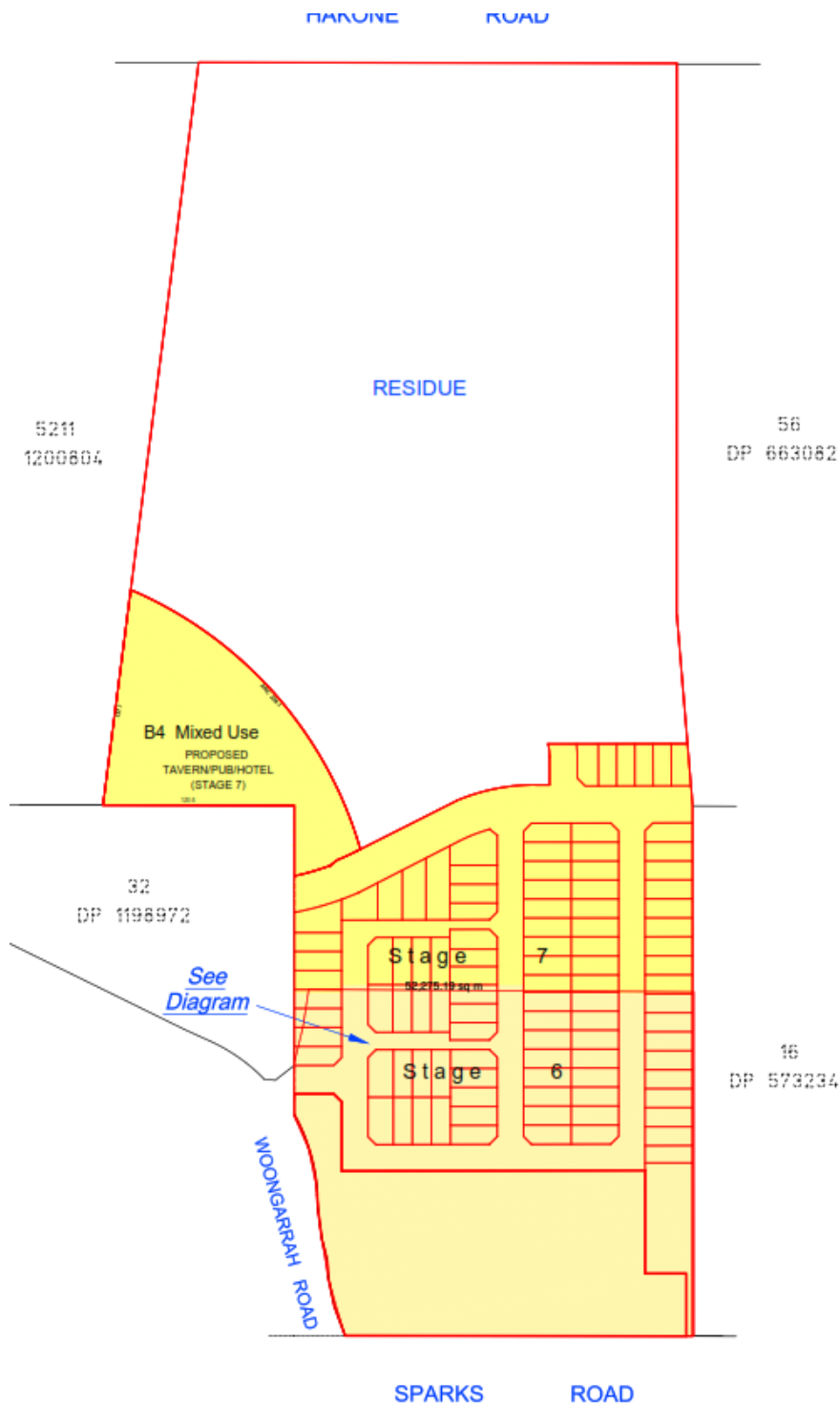
- 49 residential lots with access from Woongarra Road to the west and an extension of Mataram Rd to the north. The proposed residential lots vary in size from 316m<sup>2</sup> to 360m<sup>2</sup>.
- 1 (Lot 601) residue lot for future development with frontage to Sparks and Woongarra Roads, access to be obtained from the proposed subdivision roads.
- 1 (Lot 651) easement and basin lot of 2253m<sup>2</sup>

#### Stage 7 – to the north of Stage 6

- 1 mixed use lot zoned B4 (1.422ha) for future development

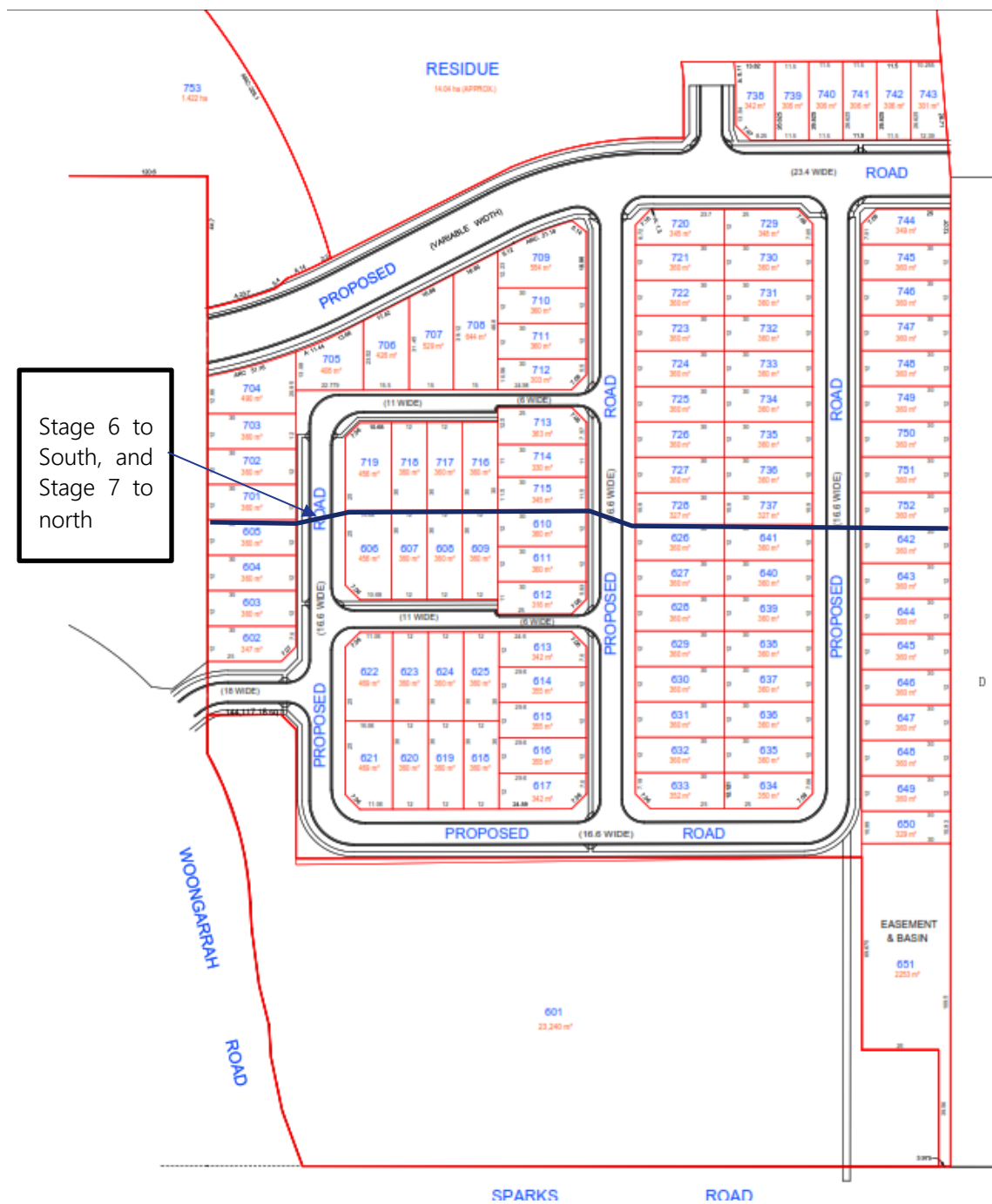
- 43 residential lots varying in size 301m<sup>2</sup> to 644m<sup>2</sup>

The residue of the site comprises 14.04ha and will be the subject of future assessment within Stage 8, 9 and 10.



**Figure 3 Proposed staging plan**





**Figure 4** Proposed Stages 6 & 7 subdivision

### Any Submission Made in Accordance with this Act or Regulations

Section 4.15 (1)(d) of the EP&A Act 1979 requires consideration of any submissions received during notification of the proposal.

## **Public Submissions**

The application was notified in accordance with WDCP 2013 – Chapter 1.2 Notification of Development Proposals with no submissions received during the notification period.

## **Internal Referrals**

The application was referred within Council to the following officers and the issues raised in the referral process are discussed below and in other relevant areas of the report.\

### Ecology

Council's Ecologist has reviewed the plans and the accompanying Flora and Fauna Assessment Reports and the Vegetation Management Plan prepared by raises no objections to the works within Stages 6 and 7 subject to conditions.

### Traffic and Transportation Engineer

The proposed subdivision has been amended to provide an alternate road layout than that identified in Part 5.5 of WDCP (refer **Figure 5** below). The residential land within Stages 6 & 7 is identified by the red outline.



FIGURE 2.8 TOWN CENTRE PRECINCTS

## **Figure 5                      WDCP Town Centre Precincts**

Council's engineers have raised concerns regarding the proposed intersections of the north south internal roads with Mataram Road and grades particularly the central north south road as identified by the circled intersection and the widths of northern and central east west roads as identified by the ovals in Figure 6 below.





## Engineering

In light of the areas of non-compliance conditions of consent relating to standard matter of drainage, road construction and servicing cannot be prepared by Council staff. It is anticipated that these matters could be resolved should appropriate amendments to the proposal be made.

## Environmental Health

Council's Environmental Health Officer - Environmental Protection reviewed the preliminary contamination assessment and the acoustic report and raised no objection to the proposal subject to suitable conditions implementing the recommendations provided in both reports.

## **External Referrals**

### NSW Rural Fire Service

The original application was referred to the NSW Rural Fire Service (RFS) under Section 4.46 of the Environmental Planning and Assessment Act 1979. A Bushfire Safety Authority (BSA) was granted by the RFS dated 12 October 2019. The amended plans were referred to the RFS and an amended BSA was not received due to the RFS seeking further advice as to the need to refer the application and submission of a bushfire assessment report. An amended bushfire assessment report was not submitted with the amended plans. It is anticipated that this is a matter that could be resolved with further information.

### Transport for NSW (TfNSW)

The application was referred to the TfNSW for comment who advise that no objection is raised in regards to the proposed development, subject to standard advices regarding access. As the amendments made no changes to the proposed access points to RMS controlled roads, the amended application was not referred for comment.

### NSW Police Force

The application was referred to the NSW Police Force for consideration. As no response has been received from the NSW Police Force, it is considered that NSW Police Force has no objection to this proposal

## **Ecologically sustainable principles**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered capable of incorporating satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

## Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope / combat / withstand these potential impacts. In this particular case, the following matters are considered to warrant further discussion, as provided below:

- Sustainable design: The proposed lots in the subdivision have not been designed to maximise the most energy efficient orientation to allow for sustainable house designs to be accommodated. The proposed lot configuration as amended fails to provide a mix of lot sizes as identified in Figure 7.1 of part 5.5 of WDCP. It is noted that the application as submitted provided an acceptable lot configuration than that of the current amended proposal.
- Bushfire Protection: The proposed development is integrated development under Section 4.46 of the Environmental Planning and Assessment Act 1979 given subdivision of the land is proposed. The application was referred to the NSW Rural Fire Service (RFS) for consideration under Section 100B of the Rural Fires Act 1997. The RFS supported the proposed development subject to the development complying with the Bushfire Safety Authority issued by the RFS. An updated Bushfire Safety Authority dated would be capable of being obtained as part of a consent.

## THE PROVISIONS OF RELEVANT INSTRUMENTS/PLANS/ POLICIES

### a) Threatened Species Conservation Act 1995 (TSC Act) and Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

The ecological impact of the proposed development in accordance with section 126I of the Threatened Species Conservation Act 1995 (**TSC Act**) and the Environment Protection and Biodiversity Conservation Act (EPBC Act) have been previously assessed under DA/1273/2017.

The land is bio certified and consideration of the likely impact of the development on biodiversity values listed under the TSC Act is not required. The certification in effect switches off the need to assess impacts on matters protected under the NSW Threatened Species Conservation Act.

However, the biodiversity certification does not cover threatened species or ecological communities listed under the EPBC Act.

An EPBC Act ecological assessment, prepared by Travers bushfire ecology concluded “that the proposed subdivision is unlikely to result in a significant impact on any Commonwealth listed threatened or migratory species, population to threatened ecological communities. The proposed action will not have any significant impact on any matters of National Environmental Significance (NES). As such no further assessments or referrals are required under the Environment Protection and Biodiversity Conservation Act 1999” (Travers Bushfire and Ecology 2018, page 13).

## **b) Relevant State Environmental Planning Policies (SEPPs)**

### **State Environmental Planning Policy (State and Regional Development) 2011 (SEPP SRD)**

The proposal constitutes development with a CIV exceeding \$5 million and Council related regional development under Clause 3 of SEPP SRD. As such, the determining authority for the development application is the Hunter and Central Coast Regional Planning Panel.

### **State Environmental Planning Policy 55 – Remediation of Land**

Under the provisions of State Environmental Planning Policy (SEPP) 55 – Remediation of Land, contamination and remediation are to be considered in determining a development application. Clause 7(1) of State Environmental Planning Policy 55 requires that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if contaminated, that the land is suitable in its contaminated state (or will be suitable, after remediation) for the development proposed to be carried out.

The site is identified as containing part of the former landfill area located within the RE1 zoned land and is not the subject of any proposed works under the terms of this development application.

The site is identified in Wyong DCP Chapter 5.5 – Warnervale Town Centre as being potentially contaminated given its former use as a landfill site. A preliminary site investigation for contamination was submitted in October 2020. This report has been reviewed by Council and considered satisfactory. Suitable conditions could be applied as part of a consent ensuring that the recommendations provided within the contamination report prepared by Coffey are undertaken.

DA/188/2015 was approved for the remediation of the site which includes a monitoring period. Remediation works aim to transform the area into a future public park, known as Hilltop Park, that will service the Warnervale Town Centre. The former landfill site and land requiring remediation is located within the subject site, these lands are not part of Stages 6 and 7 and are identified as residue lands.

### **S.1.7 – Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994**

Section 1.7 of the Act gives effect to *Part 7 - Biodiversity assessment and approvals* under Planning Act of the *Biodiversity Conservation Act 2016* (BC Act 2016). The BC Act 2016 commenced on 25 August 2017.

The subject application was lodged on 15 August 2018. Clause 28 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* provides that the former planning provisions continue to apply to “pending or interim planning applications”. There are various types of pending or interim planning applications. The applicable clause for the Central Coast is subclause 27(1)(f1):

*“in the case of development (except State significant development) within an expired interim designated area under subclause (3)—an application for development consent under Part 4 of the [Environmental Planning and Assessment Act 1979](#) (or for the modification of such a development consent) made on or before 24 November 2018 (but only if any species impact statement that is to be submitted in connection with the application is submitted on or before 24 May 2019)”*

Accordingly, a development application that was lodged before 24 November 2018 and does not require a Species Impact Statement and is within an expired interim designated area (which includes the Central Coast LGA) is a pending or interim planning application, to which the former planning provisions apply.

The development application is supported by two separate flora and fauna assessments which address the provisions of the former S.5A of the Act and it is considered that development will not have a significant impact on threatened species and a Species Impact Statement is not required in this instance.

#### State Environmental Planning Policy No. 44 – Koala Habitat Protection

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverses the current trend of koala population decline.

This Policy applies to the Central Coast Local Government Area (LGA), as per Schedule 1 of the SEPP, and as required, the likelihood of the Site to be 'potential koala habitat' has been assessed.

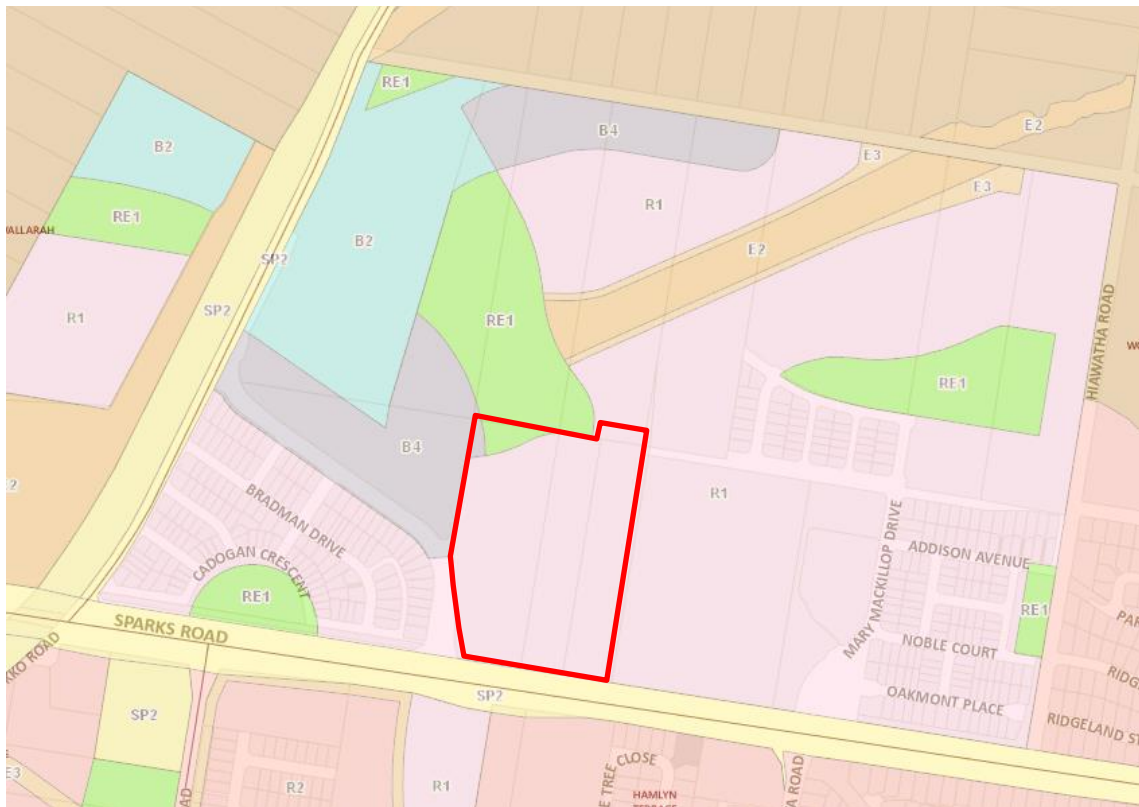
The subject site is biodiversity certified therefore an assessment of the likely impact of the development on biodiversity certified land is not required for the purposes of Part 4 of the Environmental Planning and Assessment Act 1979.

No further investigation is required.

#### **b) Wyong Local Environmental Plan 2013**

##### Permissibility

The Site is zoned R1 General Residential, B2 Local Centre, B4 Mixed Use, RE1 Public Recreation, E2 Environmental Conservation and E3 Environmental Management. The proposed Stages 6 and 7 subdivision predominantly involves the R1 General Residential land and one B4 Mixed Use allotment. The RE1 land will remain within the northern residue allotment until the lot is excised from the Site (being managed by the landowner). The subdivision of the E2 and E3 zones will be addressed in Stages 8 – 10, a Vegetation Management Plan has been submitted which proposes management of the retained vegetation within these zones only.



**Figure 6 Zoning extract WLEP 2013 Stages 6 & 7 identified in red outline**

The objectives of the R1 General Residential zone are:

- *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.*
- *To promote “walkable” neighbourhoods.*
- *To ensure that development is compatible with the scale and character of the local area and complements the existing streetscape.*

The objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.*
- *To permit residential accommodation while maintaining active retail, business and other non residential uses at street level.*
- *To encourage development that supports or complements the primary office and retail functions of the zone.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

The objectives of the R1 and B4 zones will be achieved as the proposed subdivision will provide residential allotments that will provide housing needs in accordance with the strategic vision of the



area. The B4 zoned allotment will provide for a range of permissible uses that are in harmony with the B4 mixed use zone. The establishment of use on the B4 lot will be subject to a separate development application.

The objectives of the E2 zones are:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*
- *To protect endangered ecological communities, coastal wetlands and littoral rainforests.*
- *To enable development of public works and environmental facilities if such development would not have a detrimental impact on ecological, scientific, cultural or aesthetic values.*

The objectives of the E3 zones are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

The section of the site for the purposes of the residential subdivision is zoned R1 General Residential under the Wyong Local Environmental Plan 2013 (WLEP). Under Clause 2.6 of the WLEP land may be subdivided with the consent of Council. The remaining element of the subject site zoned E2 & Environmental Conservation and E3 Environmental Management is not being subdivided and will be contained within a residual lot.

The following definitions are relevant to the proposal:

**Subdivision of land** means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition.

**Road** means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

**Earthworks** means excavation or filling.

The development satisfies the above definitions, as the development comprises Torrens Title subdivision, which is permissible with consent of Council in R1 General Residential zone. Additionally, development for the purposes of roads and earthworks is permissible within the R1 General Residential zone.

### Clause 2.3 – Permissibility and Zone Objectives

Subclause 2.3(2) of the WLEP 2013 requires the consent authority to have regard for the objectives for development in a zone when determining a development application. The objectives of the R1 General Residential zone are as follows:

- *To provide for the housing needs of the community within a low density environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain and enhance the residential amenity and character of the surrounding area.*
- *To provide a residential character commensurate with a low density residential environment.*

The proposal provides housing needs for the community by providing a variety of housing within a low density residential environment that maintains residential amenity and character within the surrounding area.

### Clause 4.1 – Lot size

The LEP map does not provide a minimum lot size for the R1 zoned land. The proposed lot sizes are:

#### Stage 6

Lot 601 – residue lot – 23137m<sup>2</sup>

Lots 602 – 650 – Residential lots varying in size from 316 – 469m<sup>2</sup>

Lot 651 – Temporary Stormwater Basin 2253m<sup>2</sup>

#### Stage 7

Lots 701 – 752 – Residential lots varying in size from 301- 644m<sup>2</sup>

753 – Residue Lot

Proposed Lot 651 consists of an area of 2253m<sup>2</sup> and is a residue lot which will contain a temporary Stormwater basin. Proposed Lots 601, 753 and 651 are proposed as residue lots. Any future development on these lots will be assessed under a separate application.

### Clause 5.10 – Heritage Conservation

Clause 5.10 requires Council to consider the conservation of items of Aboriginal and European heritage.

An assessment was undertaken with a search of the NSW Office of Environment and Heritage (AHIMS) services (AHIMS – Aboriginal Heritage Information Management System) and no Aboriginal sites were recorded in or nearby the subject site or have been declared in or nearby the subject site.

A due diligence assessment under Section 8 of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales concluded that an AHIP application is not necessary and works can proceed with caution, as the site is deemed to be disturbed land as it has been the subject of human activity that has significantly changed the subject lands surface. Nevertheless, appropriate

conditions have been provided as part of the consent to ensure that should any Aboriginal artefacts be found on site during construction that they are protected.

#### Clause 6.1 – Arrangements for Designated State Public Infrastructure

Clause 6.1 of WLEP 2013 requires that development consent must not be granted for the subdivision of land in an urban release area unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that land.

The site is shown on the urban release map. However subclause (5) states that the clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area as per Schedule 4 of the Act. The Warnervale Town Centre is identified in Schedule 4 as a special contributions area and clause 6.1 does not apply to the land.

#### Clause 6.2 Public utility infrastructure

Clause 6.2 requires that development consent must not be granted unless it is satisfied that adequate arrangements have been made for essential public utility infrastructure. The proposed development will require extension of all services, including water supply, electricity, telecommunications and sewerage in accordance with the servicing strategies adopted for that purpose.

Arrangements can be made for the servicing of the new lots for electricity, the provision of vehicular access and satisfactory storm water management subject to conditions. Each allotment will also have newly constructed road frontage allowing for formalised vehicular access and storm water drainage. Any utility infrastructure will require a redesign to provide a road pattern and widths consistent with Parts 4 and 5.5 of WDCP.

Water and sewer contributions would be applicable to the development in accordance with the Shire Wide charges.

#### Clause 7.9 – Essential Services

In accordance with Clause 7.9, Council is required to ensure that services for water, sewer, electricity, stormwater drainage and road access can be adequately provided. The site has access to required essential services.

### **c) The provisions of any draft environmental planning**

#### **Draft Central Coast Local Environmental Plan 2018**

The proposal has been considered against the provisions of the Draft Central Coast Local Environmental Plan 2018 (**DDCLEP**). The land within Stages 6 & 7 of site is remains predominately zoned R1 General Residential under Draft CCLEP.

Many of the existing zones in both former Local Government Areas will readily translate into equivalent zones in the Central Coast LEP (**CCLEP**). The draft CCLEP is generally the same as WLEP 2013 in respect to the issue of the land use permissibility/prohibition of the current application with a few small changes. Draft CCLEP 2018 was not deemed to be imminent at the time which this report was prepared therefore the existing planning controls under WLEP 2013 continue to apply.

There are no other clauses under the draft plan that would require further assessment.

#### **d) Relevant DCPs**

##### **Wyong Development Control Plan 2013 (DCP)**

###### Chapter 3.1: Site Waste Management

A waste management plan could be required to be submitted prior to the release of the Construction/Subdivision Works Certificate.

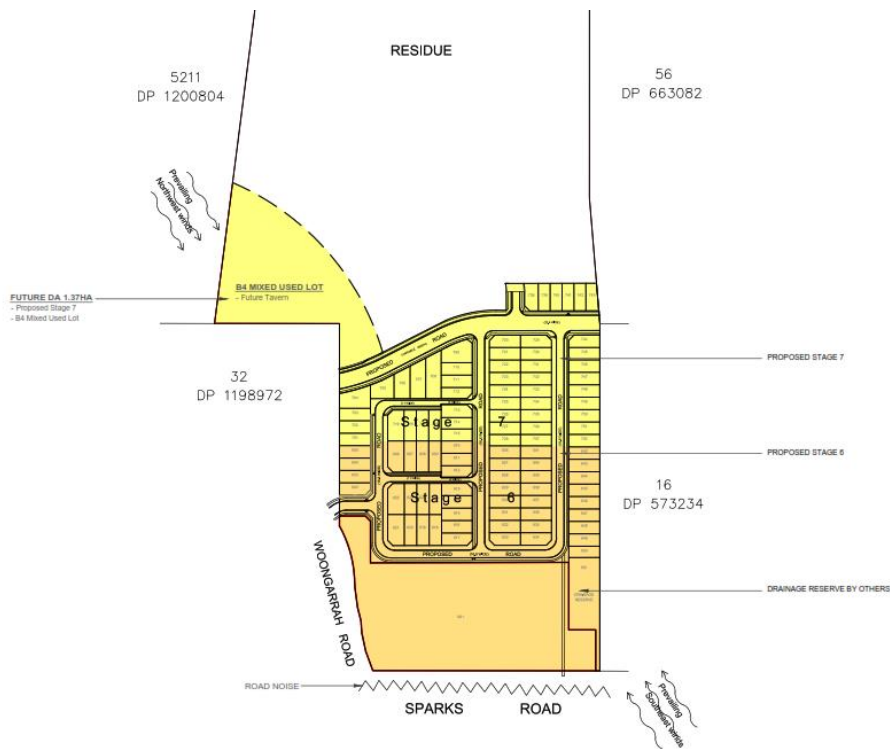
###### DCP 2013, Part 4 – Subdivision

Chapter 5.5 provides a comprehensive set of controls for the development of the Warnervale Town Centre and pursuant to clause 1.4 of chapter 5.5 that chapter prevails over all other DCP's or local policy instruments and to the extent to which the provisions of Part 4 of WDCP 2013 apply to the development, the proposal is considered unacceptable.

A table of compliance is included with this report as Attachment No. 1.

###### Clause 2.2 Site Analysis

The submitted site analysis plan is inadequate to identify the opportunities and constraints of the site. As the proposed development seeks to provide for an alternate road layout than anticipated by WDCP it would be reasonable to explain the proposed variations by reference to the factors that give rise to the requirement variations. The submitted plan does not indicate connections and relationship to adjoining development nor a possible lot layout for proposed Lot 601.



**Figure 7 Extract submitted Site Analysis Plan**

Source: Site Analysis and Site Plan prepared by Conus Landscape Architecture, dated 26/02/2020

#### Clause 2.4 – Service Plan

The Revised SEE dated 28/02/2020 indicates that the servicing plans are provided in part in report June 2018 prepared by Qalchek as contained in Appendix J and K of the Revised SEE. Both of these supporting reports and associated plans were prepared prior to the February 2020 amended plans and would require updating. Further details are indicated with Appendix L of the Revised SEE, this is the engineering details which provide road construction, stormwater drainage and proposed earthworks. An appropriate service plan which reflects the proposed development has not been submitted.

#### Clause 3.3 - Cut Fill and Earthworks

The land has significant fall across the site. A concept bulk earthworks plan has been submitted for the site. The proposed subdivision requires areas of cut to facilitate the road network and significant volumes of fill material within the body of the proposed lots. Sedimentation and erosion controls will be implemented during construction works. Earthworks to bench the individual sites will be required to be undertaken with the development of each lot, no details have been provided.

The applicant was asked by HCCPP to “clearly depict the extent of cut and fill at the boundaries of the site and the boundary treatments/conditions. Additional detail has been provided which does not provide a suitable resolution of the issues raised. As a result of the size and shape of the lots, it is considered necessary and appropriate to provide additional detail as to the proposed levels to



ensure appropriate connection to adjoining development and access and suitable building platforms for the future residential dwellings.

In response to the Panel's request for additional details in relation to the development to the adjoining school and the consideration of larger lots and boundary treatments, the following was provided

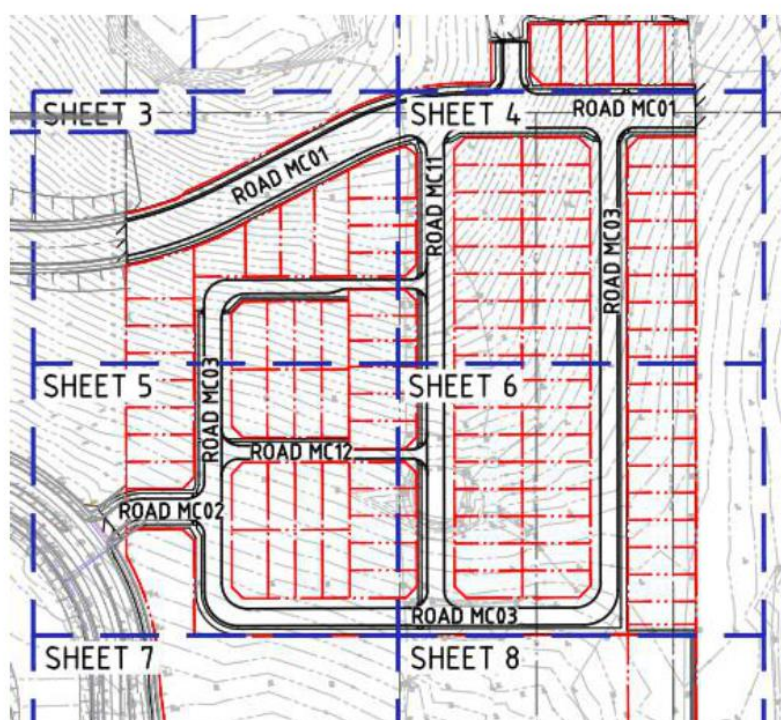
- *The applicant's eastern boundary adjoining the school (the "Boundary") runs essentially in a north-south direction," commencing at Sparks Road and running due north for approximately 335m.*
- *The first 135m of the Boundary from Sparks Road has 3 all-weather concrete basketball courts and open playing fields*
- *with a wood vegetation zone contained immediately east of the Boundary and situated on the school land.*
- *The vegetation zone comprises of essentially well-established mature trees and bushes up to 25 metres wide.*
- *That wide vegetation zone provides both an acoustic and visual barrier from stage 6 across the Boundary to the school*
- *playing fields and basketball courts.*
- *The remaining 200m northern section of the Boundary is lined, on the school side of that boundary, with a series of*
- *buildings situated on the school grounds, located 0m-8.5m from the Boundary (other than 1 specific point where there is a*
- *slight curvature away from the buildings). It is notable however that the aforesaid vegetation zone continues along the northern boundary so as to continue to create an acoustic and visual barrier , which ends abruptly where the rear (or western) walls of the buildings are situated.*
- *It is critical to bear in mind that the first 109.5m of stages 6-7 will remain undeveloped, for the purposes of this application comprise of a large residual lot only which is not the subject of any separate residential subdivision application or building application currently before the council or the HRCCPP.*
- *Accordingly, for the first 109.5m of the Boundary, there is no activity and no construction plan (other than a retention*
- *basin without any structures thereon) on that parcel of land which adjoins a screened-off school play area on the other*
- *side of the wide vegetation barrier situated on the Boundary. The proposed residential lots will have rear lapped and*
- *capped timber fencing (imposed on the individual resultant lots via the s88B instrument) and immediately across the Boundary there are only rear walls of buildings and a further vegetation zone with mature established trees, bushes and plants.*
- *Accordingly, with no activity possibly interacting with, or impacting upon, the school's adjacent playing fields, the existence of the significant vegetation corridor on the school's western boundary, and the existence of substantial buildings along most of the northern part of the Boundary, all clearly result in there being no impact or no impact of any concern, of the proposed subdivision on the adjoining school land to the east of the proposed subdivision.*

The additional detail does not detail the proposed levels, which are indicated at up to 1m at the rear of the site and up to 1m of cut for the front portion of the site. There are no details of any retaining walls or new/replacement boundary fencing which may be required.

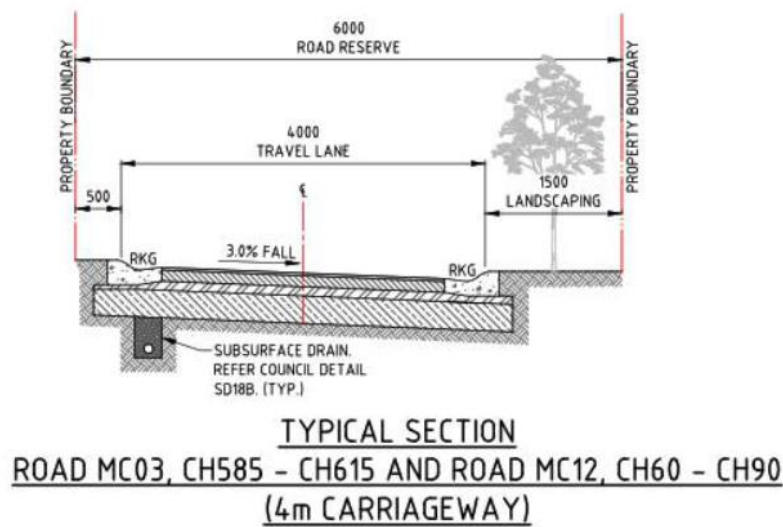
#### Clause 3.4 Street Layout and Design

The proposed road layout seeks variation from the identified road pattern and also for minimum widths as compared to the requirements of WDCP. These matters have been raised with the applicant who have advised:

- *MC01 is consistent with the Warnervale DCP, Type 6, and is consistent with the approved Stage 5 subdivision.*
- *MC02 is consistent with the existing stubb that has been constructed off Woongarah Road*
- *MC03 (in part) is consistent with the Warnervale DCP, Type 11*
- *MC03 (in part) & MC12 is consistent with the Warnervale DPC, Type 12*
- *MC04 is consistent with the Warnervale DCP, Type 9*
- *MC11 is consistent with the Warnervale DCP, Type 11*
- *A very minor, but legally permissible variation to the DCP is proposed for the short one-way link roads between MC03 & 12 and MC11, see cross section below. (refer Figure 9).*
- *This very minor variation has been provided to reduce traffic movements in this area to create a safer secluded residential zone ideal for young families. It has also been discussed to include 'residents only' signage at the intersection of MC02 and MC03 to further reduce traffic movements in this area. It also provides some variety in road design, creates a safer traffic flow, and reduces ambient noise. It enhances services facilitation, and is a much more intelligent and efficient design all round.*



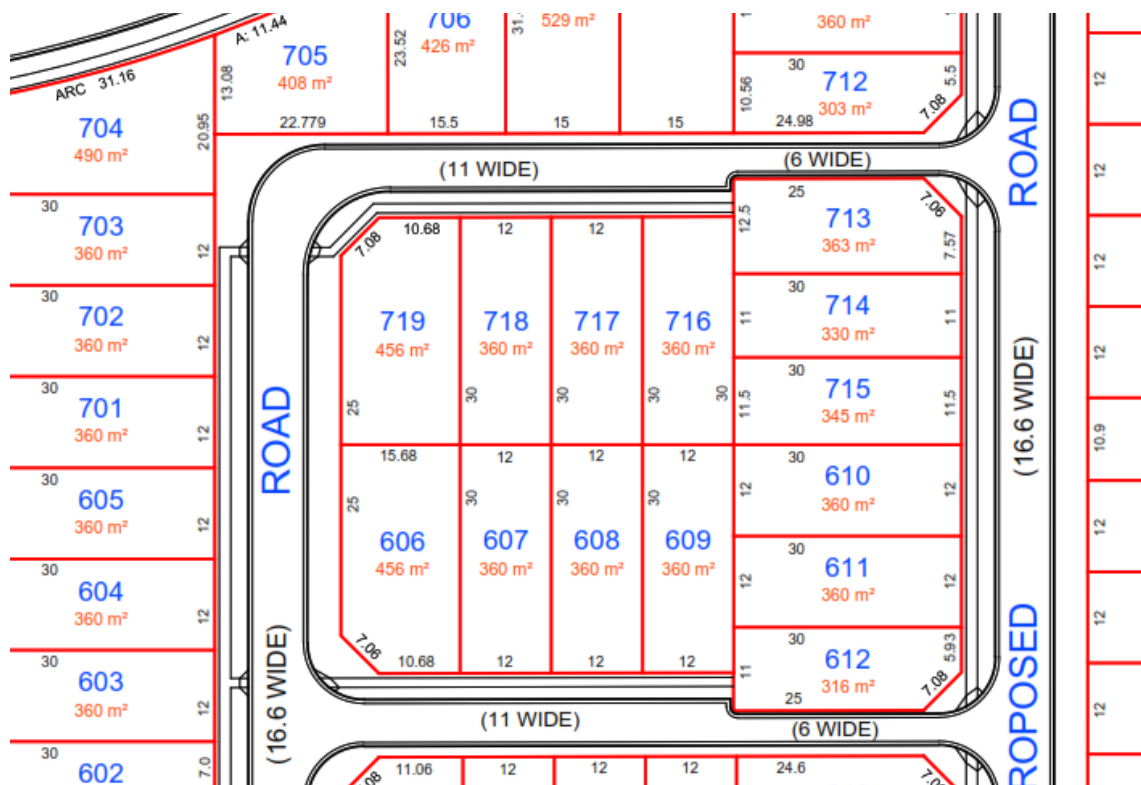
**Figure 8** Proposed street pattern and roads identified.



**Figure 9 Section referenced in additional information**

The proposed variations to road layout are not supported by Council's engineers for reasons beyond the road layout and include below minimum or out of context minimum widths and corners and intersections which are required to be widened to accommodate turning paths. The section proposed and contained in **Figure 9** above does not provide any width to accommodate the provision of utilities. The applicant contends the proposed narrower road widths act as traffic measures, which Council's engineers indicate can be delivered in an alternative manner to provide a better outcome.

In addition on planning grounds most relevantly the future resolution of streetscape are not successfully resolved by the proposed 4m carriageway widths. These lots namely Lots 713 and 612 (refer **Figure 10** below) do not provide sufficient frontage or access within the 363m<sup>2</sup> and 316m<sup>2</sup> respectively for driveways for future dwellings. Proposed footpaths terminate at the rear fences of these lots which will require pedestrians to access the road at the road intersections. No on street parking will be available for proposed lots 712, 713, 612 and 613 in the immediate vicinity of the associated frontages. Further these corner allotments are not larger lots to accommodate additional setbacks. The amended road and lot pattern prevents the provision of pedestrian access to the school along the eastern boundary of the site.



**Figure 10 Extract of Proposed subdivision plan**

The proposal does not satisfactorily address the matters identified in Section 3.4 of Part 4 of WDCP and does not warrant variation in this instance. Compliance with the minimum road reserve widths should be maintained.

### 3.5 Footpaths and Cycleway

The proposal does not provide for carriageway widths in accordance with WDCP. The reduced widths limit the opportunity for the provision of footpaths and cycleways and the typical sections locate the services beneath the proposed footpaths which will result in additional costs to service providers in the future to rectify paths when maintenance works are required.

### 3.6 Street Trees and Landscaping

Subdivisions are to incorporate street tree plantings at a minimum rate of one (1) semi-advanced tree per 15 metres of frontage. Greater consideration of the proposed location of street trees is required to ensure retention of the trees and access to the lots can be achieved. Access to the proposed corner lots may be difficult to achieve. (refer **Figure 11** below). The below minimum road reserves will prevent the co-location of street trees, water mains, street lights, concrete footpaths etc. A services plan has not been submitted which limits the ability to rely on the plans as submitted as being capable of being delivered.



**Figure 11 – Proposed Street Tree Plan**

### 3.10 Community Safety and Security

Insufficient detail is available to ensure that access by emergency service vehicles can be obtained to the proposed 4m carriageway widths proposed.

### 4.1 – Lot Size

The lots within the proposed subdivision are predominately 360m<sup>2</sup> with 12m frontages. Whilst there is not a minimum lot size within the R1 General Residential zone to provide for flexibility, the proposal fails to adequately consider and address the provisions in relation to lot size within the DCP. Additional area for corner sites is not provided, nor a building platforms or levels for the lots provided which can provide greater certainty as to the likely built form of future dwellings. Additional details are required to be submitted to support the proposed lot sizes.



#### 4.2 Street Orientation and Lot Design for Solar access

The subdivision proposed has not adequately address the street orientation and solar access for the proposed lots. The amended street layout increases the east west lots proposed at the expense of north south lots. No provisions have been made to consider the objectives and requirements of Clause 4.2.

#### Cut and Fill

Clause 6.1 of Chapter 2.1 restricts the amount of cut and fill to 1000mm within 1m of the boundary. The proposed non-complying cut and fill (benching) is greater than 1000mm within the site. The proposal generally complies with this requirement.

A concept bulk earthworks plan has been submitted for the site. The proposed subdivision requires large areas of fill to facilitate the proposed lots and the earthwork volumes indicates fill will be required to be imported to the site. Sedimentation and erosion controls will be implemented during construction works. Majority of earthworks to bench the individual sites are proposed to be undertaken with the development of each lot. As detailed above, due to the small lot nature of the proposed subdivision, concern as to the likely built form outcomes is raised.

#### DCP Chapter 5.5 – Warnervale Town Centre

This DCP Chapter was originally adopted by the Director-General of the Department of Planning and Infrastructure on 11 November 2008. A revised version was adopted on 7 September 2012. The land the Chapter covers is known as the Warnervale Town Centre (**WTC**) as shown in the diagram below.



**Figure 12 Warnervale Town Centre boundary**

Some of the key objectives of Part 5.5 include creating a vibrant, pleasant safe town centre with housing, jobs, services, community facilities and entertainment and encouraging the use of walking, cycling and buses. The WTC is made up of various precincts of which the subject site is located within 3 Southern residential.

The population target for the WTC is 4,200 people and 1,646 dwellings. A mix of housing types and forms are to be provided across the WTC. The WTC is also to provide for retail, business and bulky goods uses and employment objectives. The site is predominantly zoned R1 General Residential with a small part B4 Mixed Use. The proposed subdivision will allow for the development of residential dwellings to meet the dwelling target.

The proposal consists of the subdivision of the parcel of land and the associated roads. The relevant sections of the Chapter that apply to the proposal have been addressed in Attachment 2 to this report.

A variation is proposed in relation to the road layout hierarchy and design construction widths.

### Road Layout and Hierarchy

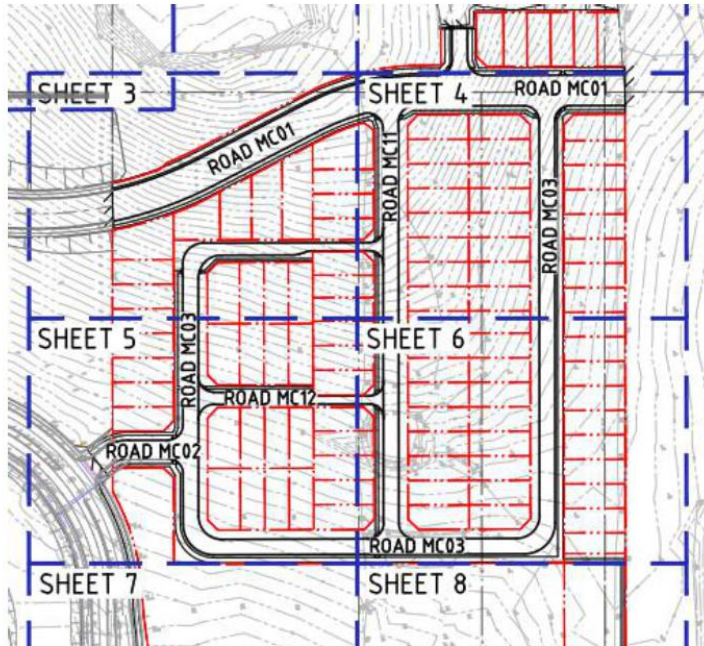
The proposal seeks a non numerical variation to Clause 3.2 of the DCP which relates to the road layout and hierarchy.



FIGURE 3.2 STREET TYPES

### **Figure 13 WDCP Road Layout and Street Types**

The proposal seeks a non numerical variation to Clause 2.4 of the DCP which relates to the road layout and street types. The internal roads proposed which are identified as being Type 11 are all proposed to be varied from the DCP standards. The north south Type 11a road is deleted along the eastern boundary of the site.



**Figure 14 Proposed Road Pattern**

The proposed variation to the road layout pattern is not supported as detailed earlier in this report.

#### **e) Relevant Regulations**

There are no other matters for consideration under applicable regulations directly relevant to the proposal.

### **THE LIKELY IMPACTS OF THE DEVELOPMENT**

#### **a) Built Environment**

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken in terms of DCP compliance and in terms of the submission received.

##### Roads and Access

The road/street hierarchy for the Warnervale Town Centre DCP 2012 has been previously determined by the NSW Department of Planning Part 3A approval process. The proposed amendments to the layout and road typology are not supported. It is not anticipated that the amendments would give rise to a superior planning outcome than that anticipated by Part 5.5 of WDCP.

##### Engineering Matters

The civil design of the proposal has not been the subject of detailed consideration by Council's engineers as a result of lacking information during the course of the assessment and the amended proposal providing for an unacceptable road layout. All civil engineering design will be required to be amended to address the adopted road layout plan within Part 5.5 of WDCP

## Earthworks

Earthworks will be required to generally consist of cut and fill to form design levels for the proposed lots and roads. A concept bulk earthworks plan has been submitted for the site. The earthworks volumes indicate a need to import fill material. Sedimentation and erosion controls will be implemented during construction works.

The subdivision layout is inconsistent with the design envisaged for the WTC and while there will be some impacts during construction, these can be addressed by standard conditions of consent. The extent of the variations proposed do not warrant support of the proposal in this instance.

### **b) Natural Environment**

There will be no significant impact upon the natural environment as a result of the proposal, not anticipated by the planning controls and biodiversity certification of the site. The subject site within Stages 6 and 7 will be largely cleared. Ecological Assessments prepared by Travers were submitted to Council as part of the proposed development which provided an acceptable Assessment of Significance under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and demonstrated that the proposed development will not have a detrimental impact on the ecology within the site. The effects on the vegetation and ecology on the site and within the adjoining sites are considered reasonable and could be addressed by conditions of consent. There would be no significant impact upon the natural environment as a result of the proposal.

### **c) Access and Transport**

The impact of the proposal on access, parking and the road network is not considered satisfactory for the reasons previously discussed in the report.

### **d) Context and Setting**

The site is located within the R1 General Residential zone under WLEP 2013, and the proposal is for a residential subdivision which is a permissible development within the zone. The impacts of the proposal have been considered in the assessment of the application. The proposal is considered to be inconsistent with the desired future character of the urban release area.

### **e) Economic Impacts**

The proposed development if greater compliance with the WDCP requirements for the WTC would be capable of representing a positive opportunity to improve the local economy by providing additional housing within the local area.

### **f) Social Impacts**

The proposal is capable of delivering public benefit to the community by providing additional housing for the needs of the community within a planned urban release environment. All other relevant issues regarding the likely impacts of the development have been discussed throughout this report. In general, it is considered that the property is suitable for a residential subdivision and dwellings subject to compliance with the provisions of WLEP, WDCP and when supported by appropriate technical reports.

#### **S. 4.15 (1)(c) of the EP&A Act: Suitability of the site for the development**

The proposed development is located within an urban release area. The site is suitable for the proposed subdivision. As discussed within this report, the subject proposal does not adequately address the DCP requirements relating to road layout and access and will compromise the ability of Council to ensure the delivery of the remainder of the WTC as anticipated.

#### **Other Matters for Consideration**

##### Development Contribution Plan

The land is located within the Warnervale District Contributions Plan and the Shire Wide Infrastructure, Services and Facilities Development Contributions Plan). The applicable contribution amount was calculated and imposed as a condition of consent requiring the contribution to be paid prior to the release of the Subdivision Certificate. The site is a greenfield site and does not receive a credit for the existing lot. Contribution totals could be calculated should the granting of a consent be considered warranted.

##### Regional Planning Policies

The Central Coast Regional Strategy was adopted by the NSW Government providing a strategy direction for population and employment growth for the Central Coast for the period from year 2006 – 2031. The strategy promotes the same ideals as the R1 zone objectives in promoting residential opportunities in the urban areas.

#### **Political Donations**

During the assessment of the application there were no political donations declared by the applicant, applicant's consultant, owner, objectors and/or residents.


#### **Conclusion**

The application seeks approval for a 94 lot subdivision, 3 residue lots, road construction and associated works in 2 stages. The proposal includes a variety of unsupported variations to Wyong DCP Part 4 (Subdivision) and , WDCP Chapter 5.5 (WTC) predominately in relation to the adopted road layout and road types. For the reasons outlined within the report, the proposed variations are considered unreasonable and are not supported.

The proposed development of the site is within an urban release area and is of a form that is consistent with strategic and future planning for the area to provide more residential housing for the public. The site is considered to be in a suitable context for the nature, scale and type of development if proposed achieving greater compliance with the WDCP requirements.

Accordingly, the application is recommended for refusal pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979.






Annexure A – GLN Planning Assessment Report

Annexure B – Draft Refusal

Annexure C – Development Plans

Attachment 1 – DCP – Part 4 compliance table

Attachment 2 – DCP – Part 5.5 compliance table



## **Annexure B – Draft Refusal**

### **Recommended Reasons for Refusal**

1. The proposed development is identified as bushfire prone land, Bushfire Safety Authority (BSA) specific to the proposal as amended has not be issued by the Rural Fire Service, as the application is not supported by a Bushfire Risk Assessment Report reflecting the 2020 amended plans.
2. The proposal fails to demonstrate consistency with the provisions of Wyong Development Control Plan 2013 in accordance with the provisions of Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the following matters have not been addressed and satisfied”
  - i. Part 5.5 Clause 3.2 – the proposed street hierarchy and design is inconsistent with the adopted DCP requirements in figures 3.1 and 3.2.
  - ii. The submitted site analysis does not provide sufficient detail to indicate that the site opportunities and constraints have been adequately considered.