

Report to the Northern Regional Planning Panel on an application for a site compatibility certificate – State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

SITE: The site compatibility certificate (SCC) application applies to part of Lot 10 DP 1088869, John Oxley Drive, Port Macquarie. The proposed development is to be located only on the part of the lot south of the Oxley Highway (Figure 1). The southern portion of the site is vacant except for a 1.2ha area being used by the adjoining landscape supplies business for storage.



Figure 1: Locality map.

The subject site is approximately 5km by road south-west of the Port Macquarie CBD. The whole of Lot 10 DP 1088869 is approximately 36ha in area, with the area for the SCC being approximately 11.9ha. The land is zoned RU1 Primary Production under the Port Macquarie-Hastings Local Environmental Plan (LEP) 2011 (Figure 2).

Land immediately adjoining the site to the north-east is occupied by a seniors living development (with an extension under construction) known as Sienna Grange. To the north of Sienna Grange and adjoining the northern corner of the site is land zoned B5 Business Development, on which a Bunnings Warehouse is under construction. Immediately to the north of the site is the Oxley Highway and further beyond is the remainder of Lot 10.

The area immediately adjoining the site east and south, on the northern side of John Oxley Drive, is zoned for rural purposes and comprises dwellings on large parcels of land and a small business area. On the opposite side of John Oxley Drive is a residential estate.

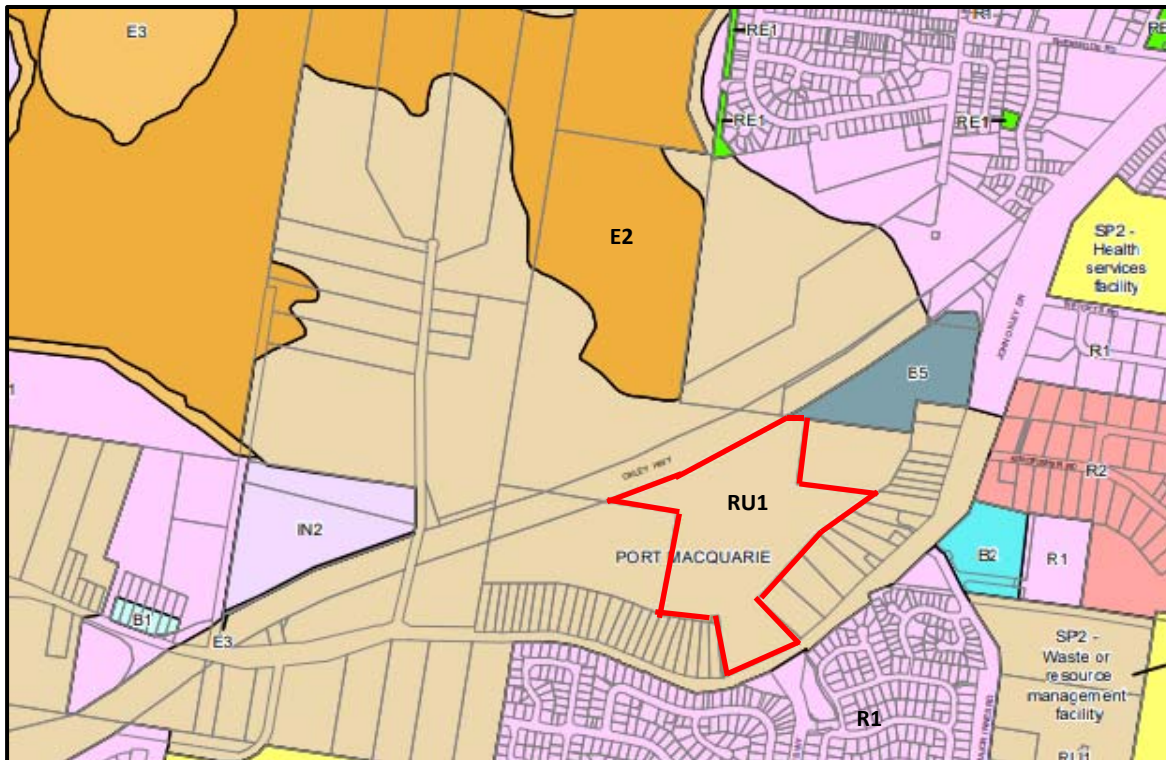


Figure 2: Zoning under the Port Macquarie-Hastings LEP 2011.

APPLICANT: Land Dynamics Australia

PROPOSAL: The proposal is for serviced self-care housing comprising approximately 525 dwellings (25% – one-bedroom, 25% – two-bedroom and 50% – three-bedroom). The height of the proposed buildings varies from two to six storeys, with the highest buildings located in the centre of the subject site (Figures 3 and 4). The proposed development will also include community facilities such as a swimming pool and playground and possibly a shop or a café (**Attachments D1–D4 and DA–DK**).

LGA: Port Macquarie-Hastings



Figure 3: Proposed dwelling configuration.

PERMISSIBILITY STATEMENT

The subject site is zoned RU1 Primary Production under the Port Macquarie-Hastings Local Environmental Plan (LEP) 2011. Seniors housing is not a permitted land use in the RU1 zone under the LEP or on land identified as environmentally sensitive under the SEPP. Part of the site is within the proximity area to a coastal wetland, as mapped under State Environmental Planning Policy (Coastal Management) 2018, for bushfire asset protection zone purposes, recreation, ancillary and stormwater uses (Attachment G).

Advice has confirmed that an SCC cannot be issued for land within the mapped wetland proximity area as:

- the Coastal Management SEPP makes no distinction between land that is coastal wetland or littoral rainforest and land that is in proximity to this area. All land identified on the coastal wetlands and littoral rainforests area map under the SEPP is part of the coastal wetlands and littoral rainforests area; and
- considering the above, the description of land as part of the coastal wetlands and littoral rainforests area under the Coastal Management SEPP is a 'like term' to that of 'natural wetland' under schedule 1 of the Seniors Housing SEPP. As such, the Seniors Housing SEPP would not apply to land identified as part of the coastal wetlands and littoral rainforests area under the Coastal Management SEPP.

Development on this site for seniors housing requires an SCC under clause 24 of the Seniors Housing SEPP. The provisions under clause 4(1) of the SEPP provide that an SCC can be issued for the site, other than the proximity area to the coastal wetland, as:

- dwelling houses are permissible in the RU1 Primary Production zone under the Port Macquarie-Hastings LEP 2011; and
- the site adjoins land zoned for urban purposes, being the R1 General Residential zone (Attachment F).

PREVIOUSLY ISSUED SITE COMPATIBILITY CERTIFICATE ON THE LAND

No previous SCCs have been issued for the subject site.

PROXIMITY OF SITE TO WHICH THERE IS A CURRENT SITE COMPATIBILITY CERTIFICATE, OR AN APPLICATION HAS BEEN MADE BUT NOT YET DETERMINED

There are no current SCCs on land within a 1km radius of the subject site.

CLAUSES 24(2) AND 25(5)

The panel must not issue a certificate unless the panel:

- (a) has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made; and
- (b) is of the opinion that:
 - (i) the site of the proposed development is suitable for more intensive development; and
 - (ii) the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).

CLAUSE 25(2)(C)

A cumulative impact study is not required under the Seniors Housing SEPP Amendment 2018.

COUNCIL COMMENTS

The SCC application was received on 12 October 2018 and the application and supporting information were referred to Council on 15 October 2018. Comments were received from Council on 5 November 2018 (**Attachment H**).

Council has advised that it does not support the issuing of an SCC for the proposed development until the strategic planning work currently being undertaken for the Port Macquarie Health and Education Precinct, which includes the subject site, is completed.

Council comments reinforced the issues Council staff raised at a development application pre-lodgement meeting with the proponent on 21 August 2018. The main areas of concern raised by Council at this meeting were:

- work is being undertaken to prepare a masterplan for the Port Macquarie Health and Education Precinct, which includes the subject site. No outcome for the masterplan is available. It is recommended that an SCC not be sought until the outcomes of this strategic planning process are finalised. It is recommended that the proponent engage in this strategic planning process;
- on merit, without any formalised strategic planning policy in place, the scale of the development is a significant change of character for the locality and would be difficult to justify without the broader strategic planning work being completed. It is considered unlikely that a future structure plan will recommend a 5-6-storey building in this precinct;
- given the nature of the proposed seniors housing, the development must meet the provisions of clause 7.4 of the LEP. In this regard, the development must be assessed against the probable maximum flood. A flood impact assessment, flood risk assessment and flood evacuation plan will be required to support the development;
- given the scale of the buildings, proposed significant separation shall be provided from the boundaries of the existing development; and
- the potential for land-use conflict between the proposal and the non-residential uses operating on the adjoining eastern properties fronting John Oxley Drive is to be addressed.

Council also detailed a list of issues that would need to be addressed in any development application. These included:

- SEPP 44 Koala Habitat Protection;
- noise and bushfire;
- flooding;
- sewer and water access (modelling would be required to determine whether the existing facilities can facilitate the additional loading);
- traffic impact; and
- stormwater management (a local drainage investigation is needed as the site is subject to localised flooding and has public and private infrastructure draining into it).

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The panel must not issue a certificate unless the panel is of the opinion that the site of the proposed development is suitable for more intensive development (clause 24(2)(a)):

1. The site of the proposed development is suitable for more intensive development (clause 24(2)(a))

The subject site is in Innes Lake, which is approximately 5km south-west of the Port Macquarie CBD and less than 2km from the Port Macquarie Base Hospital. The area is characterised mainly by residential development but also has a variety of other land uses such as industrial, retail, education, health and aged care.

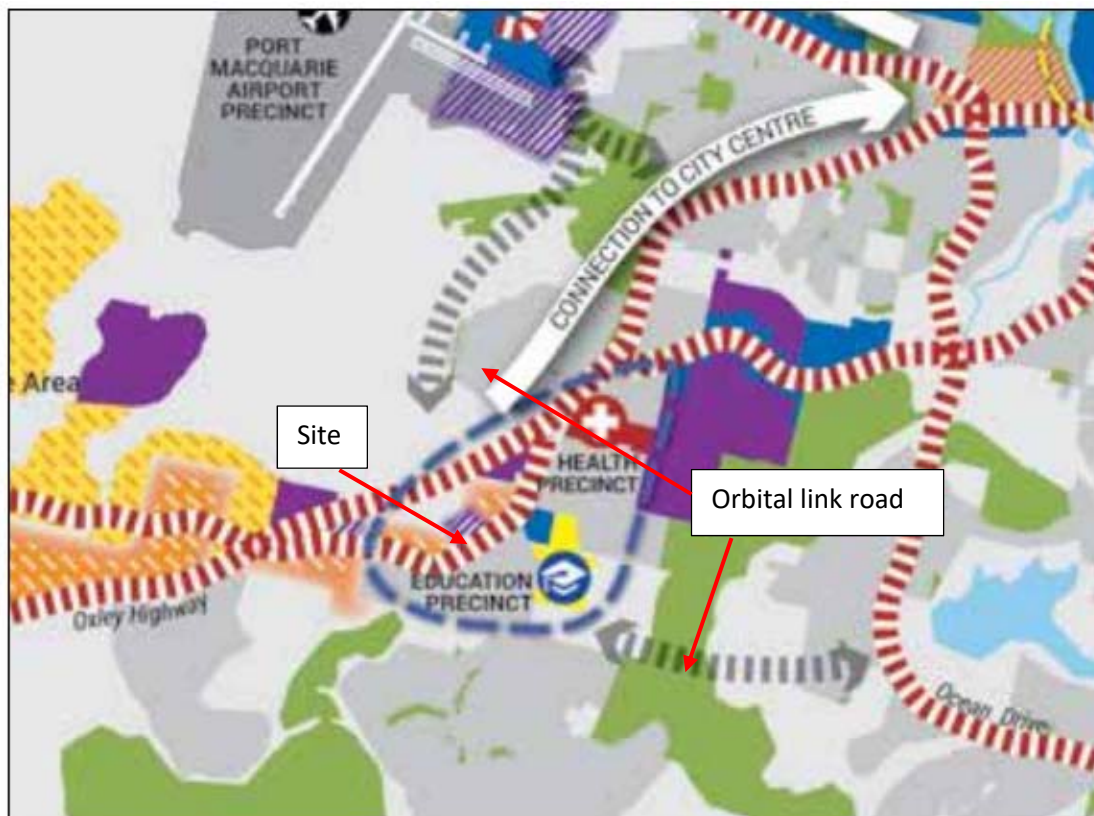


Figure 5: North Coast Regional Plan 2036.

The subject site has several potential constraints including:

- the Coastal Management SEPP wetland and proximity area;
- coastal floodplain endangered ecological communities;
- flooding;
- bushfire-prone land;
- noise from the adjoining Oxley Highway;
- water and sewer system capacity;
- potential contamination; and
- identification in the North Coast Regional Plan 2036 and Council's Department-approved Urban Growth Management Strategy (UGMS) 2017-2036 as being bisected by a potential orbital link road between Port Macquarie Airport and Ocean Drive (Figures 5 and 6).

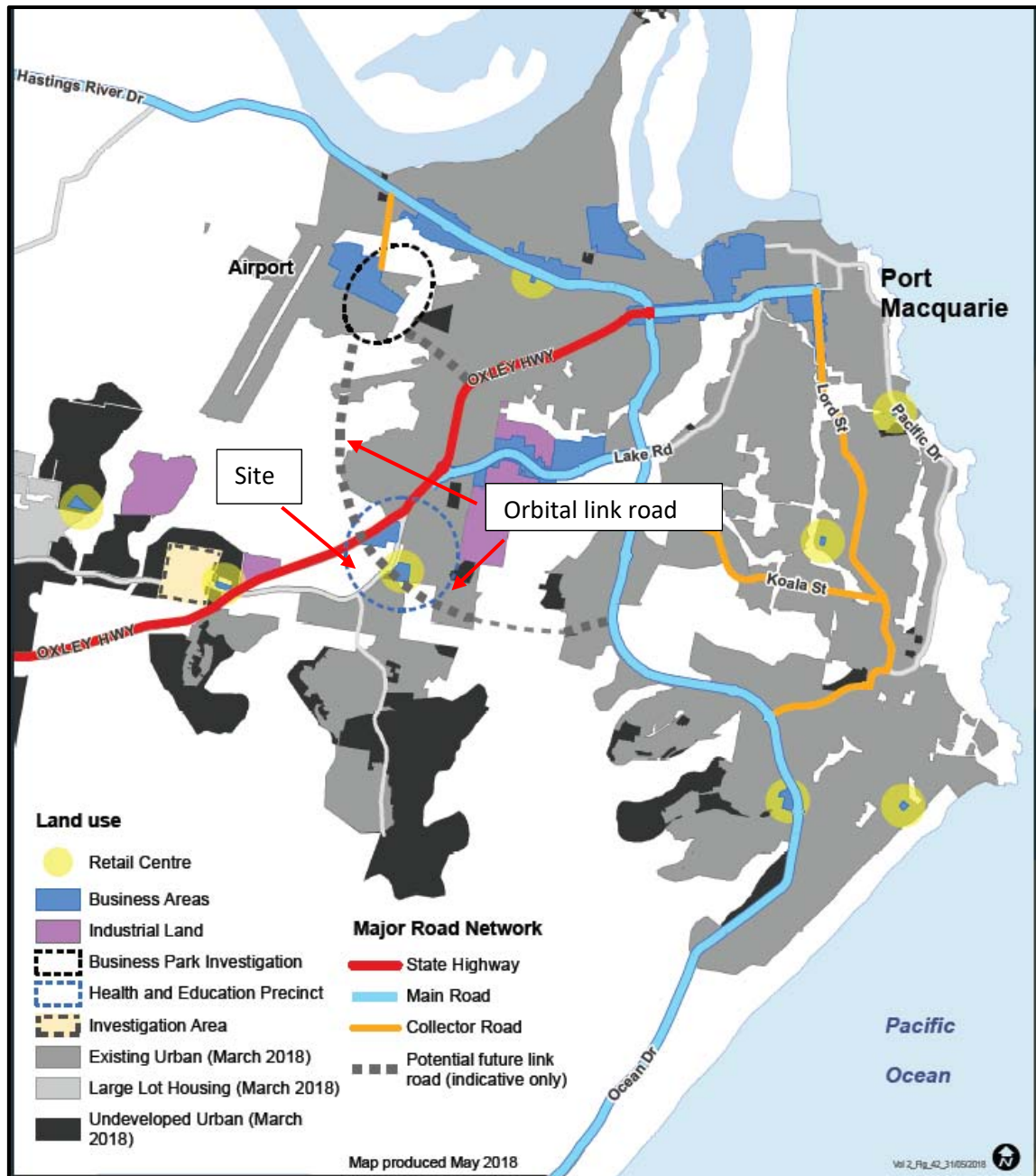


Figure 6: Port Macquarie-Hastings UGMS 2017-2036.

The highly constrained nature of the site was identified in Council's John Oxley Drive Precinct Structure Plan endorsed by the Department in November 2012 (as an amendment to Council's former UGMS 2011). That plan noted the site had major flooding and environmental conservation constraints. For this reason, no development was identified in the structure plan and it was noted that should owners wish to develop, they would need to prepare detailed planning proposals that demonstrate satisfactory outcomes in relation to the land constraints.

As discussed further in this report, it is considered that the current SCC application does not provide sufficient detail or evidence to confirm that the site is suitable for the proposed development regarding flooding, potential contamination, infrastructure, building height or the proposed orbital link road. While some constraints could be satisfactorily addressed through appropriate design responses at the development application stage should an SCC be issued, it is considered that any development of the site for more intensive purposes would be premature until Council finalises the masterplan for the area. It is understood that the masterplan will

consider the broader locality objectives and establish a clear vision that will ensure development of the site is compatible and integrates appropriately, including with key infrastructure such as the proposed orbital link road. This proposed link road has been identified by Council as a key driver of economic prosperity and liveability for the broader Port Macquarie area. The proponent has subsequently provided further information (**Attachment D4**) to support the proposal and Council's work regarding the health and education precinct masterplan and the proposed orbital road.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES

The panel must not issue a certificate unless the panel is of the opinion that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the following criteria (clause 25(5)(b)) and clause 24(2)(b)):

1. The natural environment (including known significant environmental values, resources or hazards) and the existing and approved uses of land in the vicinity of the proposed development (clause 25(5)(b)(i))

Site constraints

Flora and fauna

The subject site has been highly modified from its original Swamp Sclerophyll Forest state. Ongoing rural management, combined with stormwater drainage from the surrounding development, has contributed to the degradation or continued stalled recovery of the site to its natural state. The site is characterised by scattered vegetation, pasture dominated by exotics and a mix of wetland species.

A vegetation assessment of the site found no threatened flora or fauna, and no threatened flora or fauna are likely to depend on the site's habitats for critical life cycle stages. The site was not considered to act as key habitat or vegetation corridor.

Despite its modified state, much of the site qualifies as containing coastal floodplain endangered ecological communities (EEC) under the *Biodiversity Conservation Act 2016* (shown in green and green hatch in Figure 7). The western boundary of the subject area is mapped as coastal wetlands and proximity area for coastal wetlands under the Coastal Management SEPP (shown in blue and blue hatch in Figure 7).

The proposal shows that the development footprint will impact significantly on areas of the identified EEC (Figures 3, 7 and 8) by bushfire asset protection zones, recreational and community uses, accommodation buildings, internal roadways and stormwater uses. To offset any potential adverse environmental impacts, the proposal seeks to regenerate on-site approximately 2.9ha of EEC (shown in green and light green in Figure 8).

As discussed previously, the Department's position is that an SCC cannot be issued for the area identified as proximity to the Coastal Management SEPP wetland in accordance with clause 4(6) and schedule 1 of the Seniors Housing SEPP. Should the panel determine to support the issuing of an SCC for the site, it is recommended that it include a requirement to clarify that the footprint of the development and any associated works must be located outside the coastal wetland proximity area.

The ongoing use of the land for rural purposes will prevent the land from recovering to its natural Swamp Sclerophyll Forest state and could continue to degrade the remaining EEC. On that basis, the development, and the regeneration of 2.9ha, has the potential to deliver positive environmental outcomes. Whether these outcomes are sufficient to offset any adverse impacts can be determined at the development application stage should an SCC be issued.

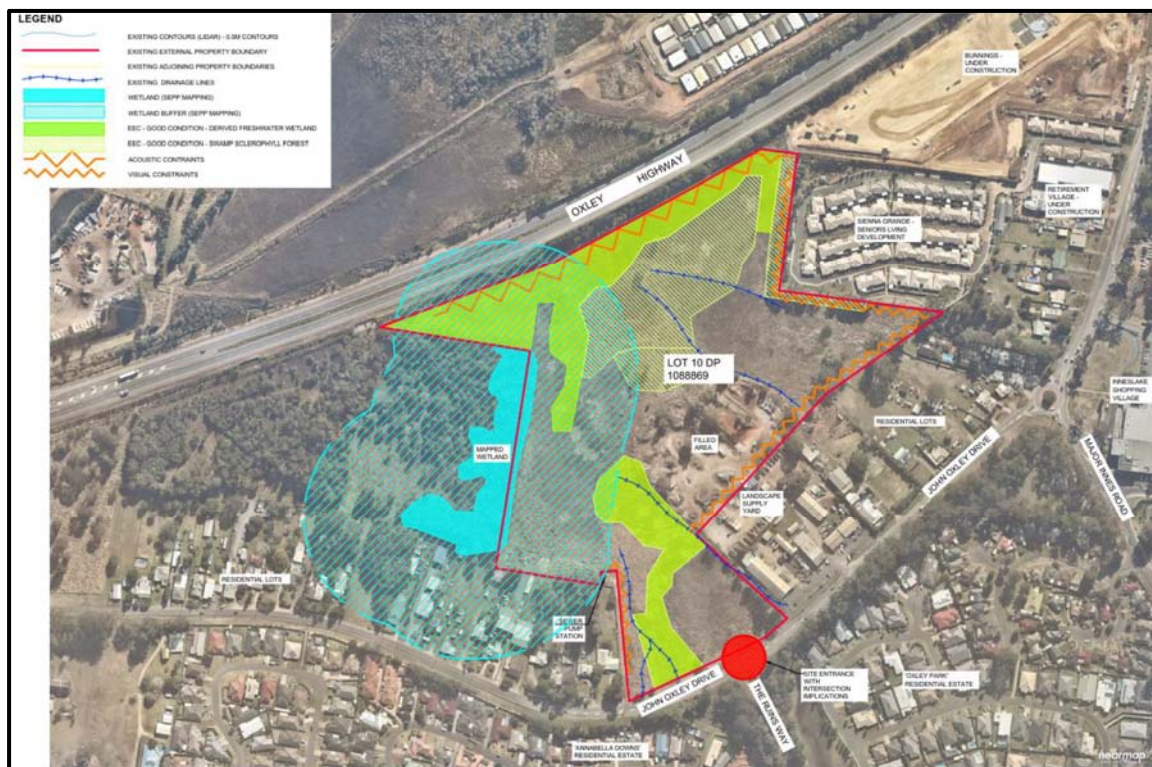


Figure 7: Wetland areas.

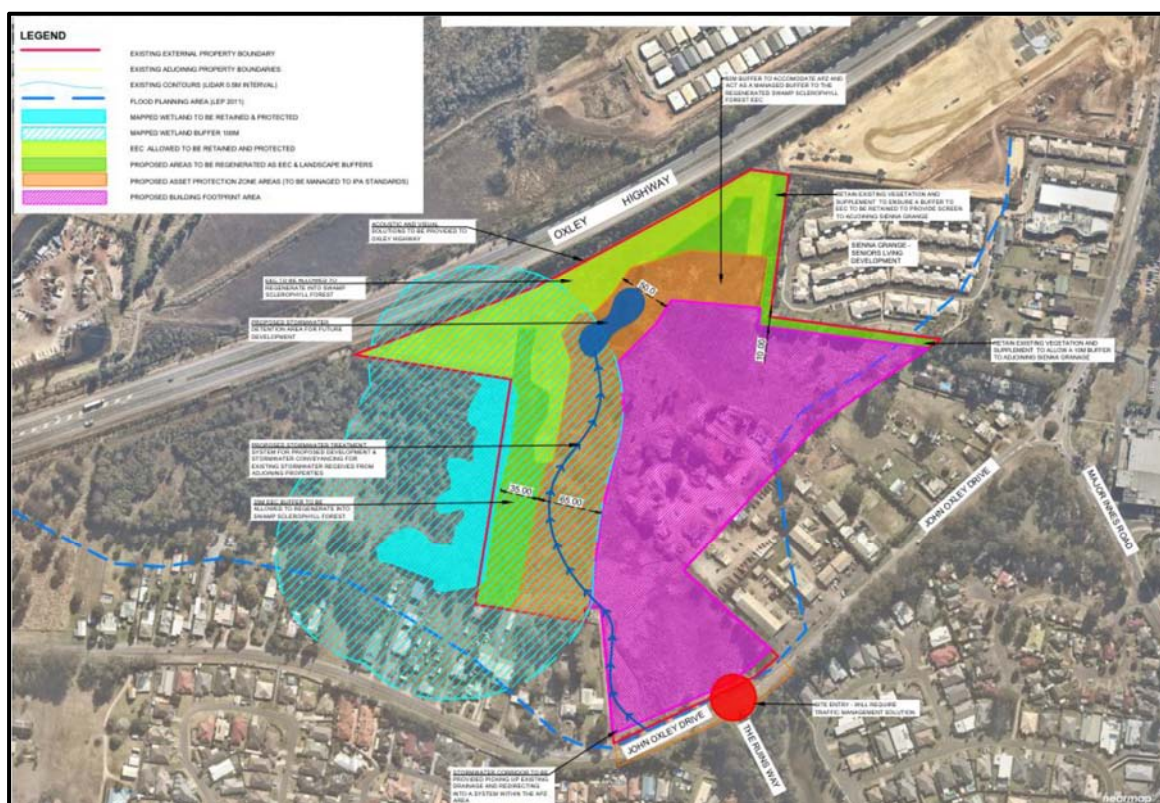


Figure 8: Development areas.

The site has also been found to contain koala feed trees as listed in schedule 2 of SEPP 44 – Koala Habitat Protection. While the site qualifies as potential koala habitat under the SEPP, a preliminary investigation has concluded that it is unlikely to constitute core koala habitat as a site inspection found no evidence of koalas on the site. It is considered that this matter can be appropriately considered and addressed at the development application stage should an SCC be issued.

Bushfire

Only a small part of the site is mapped as bushfire-prone land (Figure 9). A bushfire assessment has been conducted by the proponent for the site and concludes that the bushfire risk is manageable.

As discussed above, bushfire asset protection zones have been identified as being located within the mapped proximity to coastal wetland area. Should the proposal proceed, any asset protection zones would need to be relocated outside the proximity area and would likely require the size and scale of the proposal to be reduced. As the proposal is a special fire protection purpose under the *Rural Fires Act 1997* and consultation and approval from the NSW Rural Fire Service will be required before a development can proceed, it is considered that this matter can be adequately addressed at the development application stage should an SCC be issued.

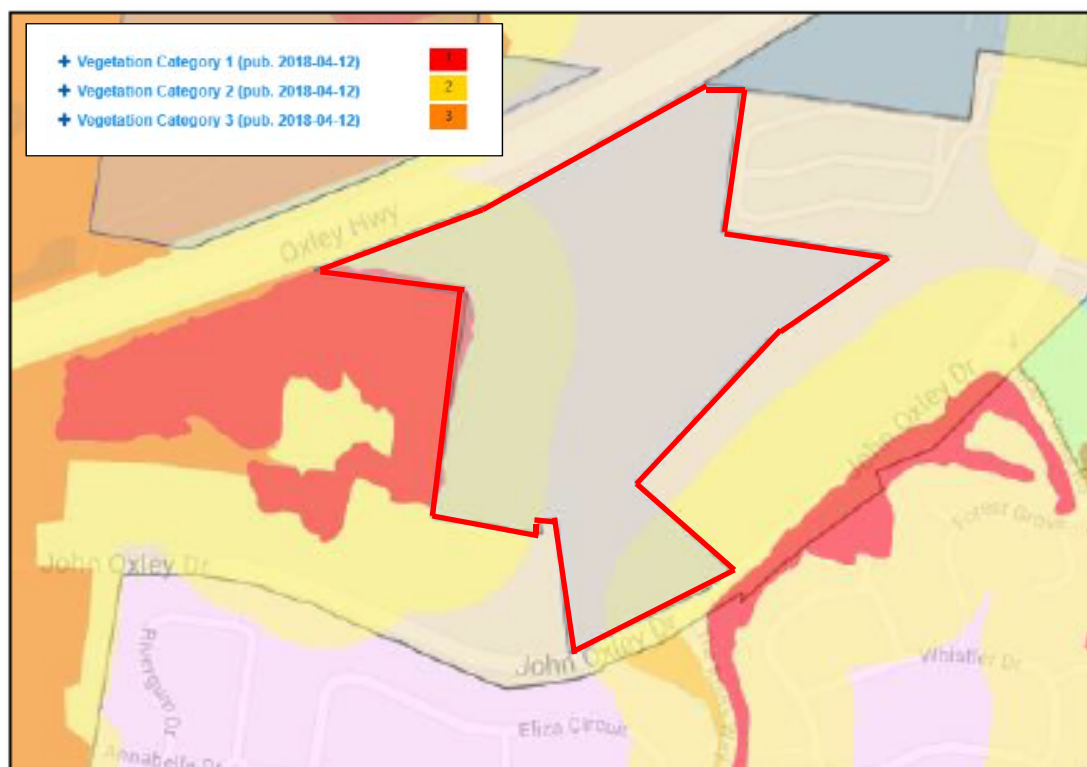


Figure 9: Bushfire-prone land.

Flooding

The subject site is subject to flooding and is mapped as being within a flood planning area under the Port-Macquarie Hastings LEP 2011 (Figure 10).

Council has advised that given the nature of the proposed seniors housing, and clause 7.4 Floodplain risk management of Council's LEP which specifically identifies residential care facilities as a sensitive use that must incorporate appropriate measures to manage risk to life from flooding, that:

- the development must be assessed against the probable maximum flood and be supported by a flood impact assessment, flood risk assessment and flood evacuation plan;
- any development on the site would need to comply with the Port Macquarie-Hastings flood policy and have a finished floor level at or above the probable maximum flood (PMF) (6.60m AHD); and

- evacuation from the site will be critical given the nature of the proposed land use and the proposed evacuation route, which is subject to inundation on flood events up to and including the PMF.

Preliminary flood investigations have been undertaken by the applicant to support the proposal and have concluded that the land primarily consists of flood storage or flood fringe areas (Figure 11). The applicant has advised that all habitable areas and any essential services will be located above the flood planning level and proposes that detailed flood modelling will be undertaken to support a development application to consider on-site and off-site impacts, along with appropriate flood evacuation and flood warning procedures.



Figure 10: Port Macquarie-Hastings LEP 2011 flood map.

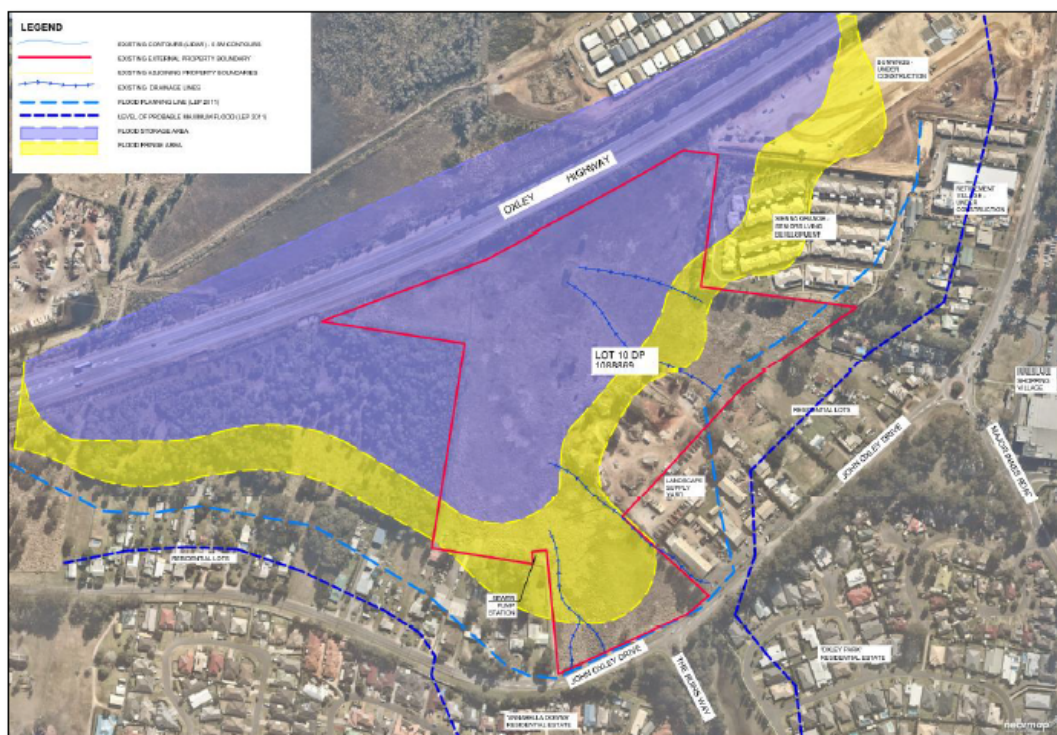


Figure 11: Preliminary flooding constraints map.

Given the extensive nature of flooding on the site, including access roads being affected by the PMF, the potential off-site impacts from displaced water, and the nature of the proposed seniors living development and the likely need for assisted evacuation, it is considered that the SCC application contains insufficient information to confirm the suitability of the site for the proposed development regarding this issue.

Geotechnical and contamination

A preliminary desktop stage 1 contaminated site and geotechnical assessment has been undertaken to support the proposal. The assessment identified several areas of concern in relation to potential contamination, including:

- an approximate 1.2ha area on the southern boundary of the lot that has been used for stockpiling of mixed fill materials, including soils and building waste, by the adjoining landscaping business;
- presence of unknown imported fill; and
- surface waterflow from the road corridor and adjacent industrial/agricultural businesses.

The assessment concludes that the site is likely to be suitable for the aged care development pending the results of a stage 2 assessment. As this has not been undertaken, it is considered that the SCC application contains insufficient information to confirm the suitability of the site for the proposed development regarding this issue.

In relation to geotechnical and acid sulfate soil issues, while the site has significant water table/drainage issues and is identified as consisting primarily of class 5 acid sulfate soils by the Port Macquarie-Hastings LEP 2011, it is considered that both issues can be appropriately considered and addressed as required at the development application stage should an SCC be issued.

Existing and approved uses in the vicinity

The Sienna Grange seniors living development is directly to the north-east of the subject site. To the north of Sienna Grange and adjoining the northern corner of the site is a Bunnings Warehouse under construction. Further to the north-east is the Lake Innes Shopping Centre and the Port Macquarie Base Hospital. Immediately to the north of the site is the Oxley Highway, while to the east and south are residential dwellings and a small business area. The area is considered to be undergoing transition for more intensive purposes. The proposal is considered to be generally consistent with the existing and approved uses in the locality.

2. The impact that the proposed development is likely to have on the uses that, in the opinion of the panel, are likely to be the future uses of that land (clause 25(5)(b)(ii))

The subject site is zoned RU1 Primary Production under the Port Macquarie-Hastings LEP 2011.

As noted above, the locality is undergoing a transition to more intensive uses. To support and appropriately guide this transition, Council is preparing a masterplan for the Port Macquarie Health and Education Precinct, which includes the subject site. This is an action under Council's Department-approved Urban Growth Management Strategy (UGMS) 2017-2036.

Council staff, at a pre-lodgement meeting with the applicant, recommended that an SCC not be sought until the outcomes of the strategic planning process are finalised and that the applicant engage in this strategic planning process. Council also believes that, on merit, without any formalised strategic planning policy in place, the height of the proposed development is a significant change of character for the

locality and would be difficult to justify without the broader strategic planning framework being completed.

Preliminary strategic planning associated with the UGMS also shows the subject site being bisected by a potential key orbital link road between the airport and Ocean Drive. Council recently commenced notifying and consulting with landowners who would potentially be affected by the orbital road.

It is considered that approving an SCC for the site would be premature given the strategic planning work that is yet to be undertaken by Council and the implications the proposal could have on the viability of the proposed orbital road if land in and adjoining the road corridor is developed. It is also noted that if the proposal is supported prior to Council finalising the long-term masterplan for the locality, and the masterplan identifies the retention of the business area directly adjoining the site, this could likely be a source of conflict and incompatible with the proposed seniors housing in the long term. Until this masterplan is completed, the likely compatibility of the proposal is unable to be determined.

3. The services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision (clause 25(5)(b)(iii))

Retail, community and medical services

The SCC application confirms that the proposed development is for serviced self-care housing. This is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals; cleaning services; personal care; and nursing care. The proposed development will also include community facilities such as a swimming pool and playground and possibly a shop or a café.

Approximately 400m from the subject site is the Lake Innes neighbourhood shopping centre, which includes a supermarket and specialty shops including a doctor, a dentist, a café, a bakery, a butcher, takeaway food premises and a travel agent (Figure 12). Regular bus services are available from two bus stops on John Oxley Drive, connecting to the Port Macquarie CBD (with buses running approximately every 30-60 minutes in the morning and every 60 minutes in the afternoon), which has a wide range of retail, community and medical services (Figure 13). As these bus stops are further than 400m from the site, the proponent has advised that a private bus service for residents will be incorporated into the development. This meets the requirements of clause 26(2)(c) of the Seniors Housing SEPP.

It is understood that the gradient of the access route to the neighbourhood shopping centre also meets the requirements of clause 26(2)(c) of the Seniors Housing SEPP. However, a suitable access pathway would need to be formed.

It is considered that these matters can be appropriately considered and addressed at the development application stage should an SCC be issued.

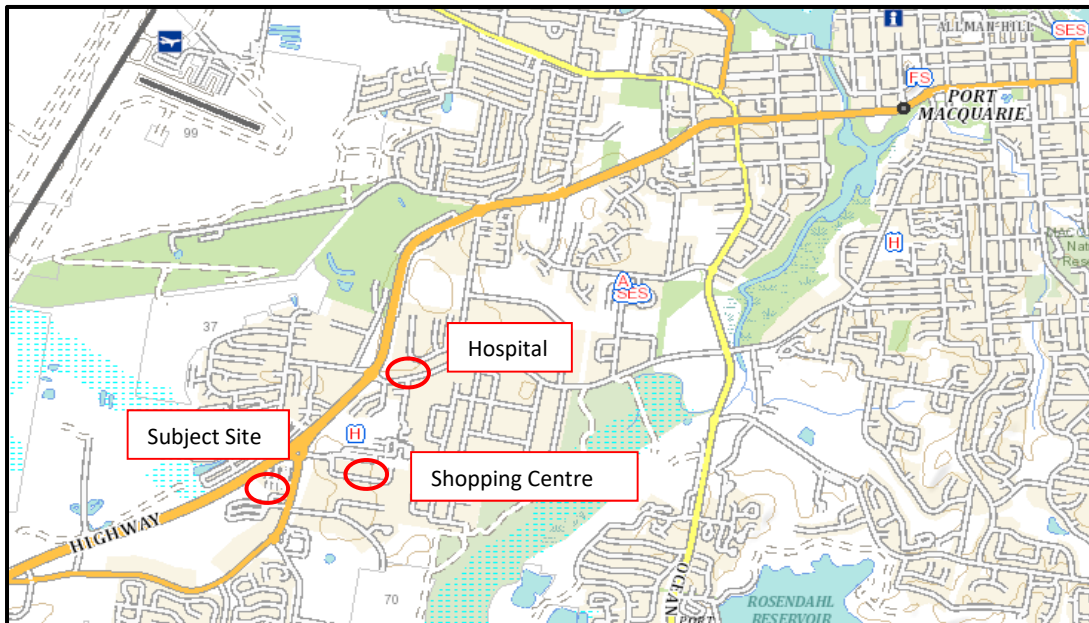


Figure 12: Location of services.

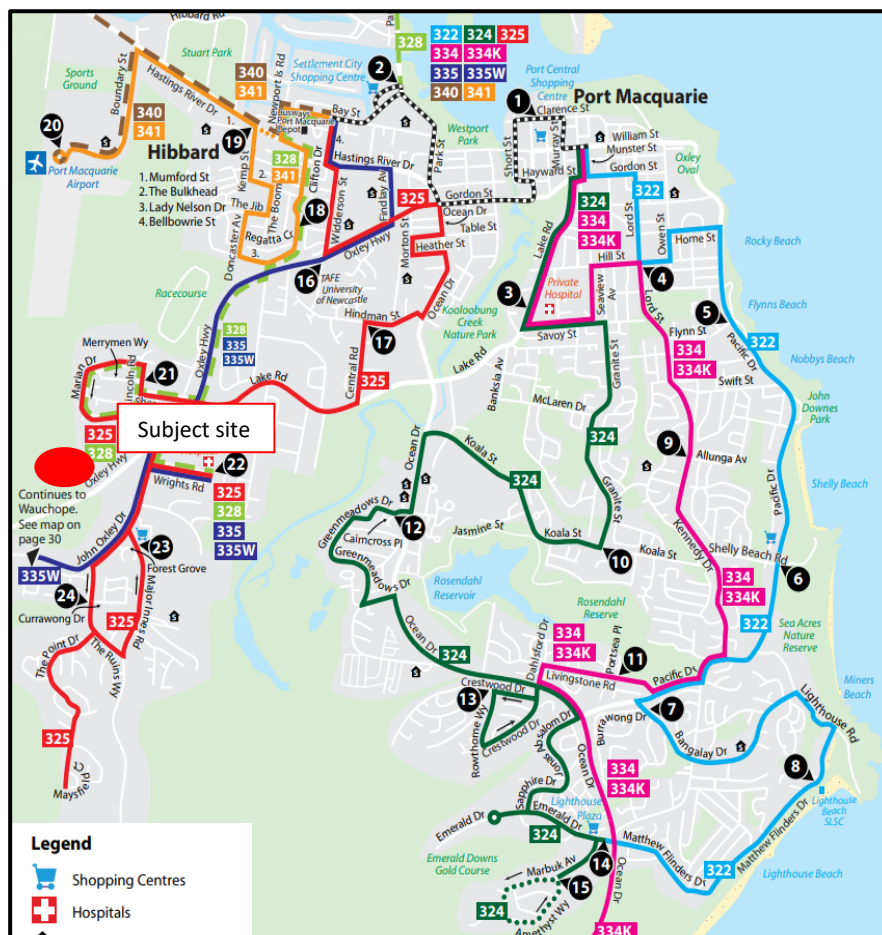


Figure 13: Public bus routes.

Infrastructure provisions

Infrastructure including water, sewer, electricity and telecommunications are available to the surrounding development. Council has advised that any proposed development will require water supply and sewer computational modelling to determine whether the existing facilities can facilitate the additional loading. This assessment has not been undertaken.

Council also identified that the site had significant stormwater management and localised flooding issues (as public and private infrastructure drain into it) and that a local drainage investigation study would be needed. This assessment has not been undertaken. A traffic assessment was not submitted as part of the SCC application. The concept plan for the proposed development indicates that vehicular access will be obtained from John Oxley Drive opposite the Ruins Way intersection. John Oxley Drive is proposed to be upgraded to four lanes and Council is undertaking area-wide traffic investigations, with some works underway as part of the nearby Bunnings Warehouse development.

A development of this size could have serious implications for the local road network, which is understood to have capacity issues at some intersections at peak times. Noise from the Oxley Highway north of the site has also been identified as a potential issue for the proposal. However, due to the large setback, it is considered likely that this matter can be appropriately considered and addressed at the development application stage should an SCC be issued.

It is considered that the SCC application contains an inadequate level of information to assess the potential impacts of the proposed development and the capacity of the infrastructure to support the proposal.

4. In the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development (clause 25(5)(b)(iv))

The subject land is not zoned for open space or special uses.

5. Without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development (clause 25(5)(b)(v))

A site inspection of the subject land confirmed that the surrounding development includes a variety of uses such as industrial, residential, retail, educational, health and aged care. Residential and industrial uses directly adjoin the site. The area is transitioning, with several newer buildings (i.e. Charles Sturt University, new aged care and a Bunnings Warehouse under construction) interspersed with several older and less substantial buildings. The scale of the older buildings and the residential buildings is generally single-storey, while some of the newer commercial/educational/aged care buildings are 2-3 storeys (Figure 14).

Site	Height
Bunnings	Part 8.5m and 11.5m 9.83m high pylon sign
Sienna Grange - Original	1 storey
Sienna Grange Addition	2 & 3 storey / 12m maximum
Coles Supermarket	10.45m
Charles Sturt University	3 storeys
Businesses facing John Oxley Drive	1 storey Signage structure approx. 7-8m
Dwellings facing John Oxley Drive	1 storey
Dwellings in Annabella Downs facing John Oxley Drive	Generally 1 storey

Figure 14: Height of surrounding development.

The SCC application concept drawing (Figure 15) shows that the proposed development will transition from two to three storeys along the southern and eastern boundaries to four to six storeys in the centre of the subject area.



Figure 15: Proposed development height layout.

While the area is currently transitioning towards more intensive uses, the height and scale of recent developments in the area have been in a maximum range of 2 to 3 storeys (Figure 14). The proposal to erect a number of buildings of between 4 to 6 storeys on the site is inconsistent with the current character of the area and would be a major departure from the existing and approved surrounding built form. Council in its pre-lodgement comments raised concerns over the inconsistency of the proposed development in terms of bulk and scale, and the character of the area, and believed it would be difficult to justify such heights at the present time.

The proposed height of the development is considered to be out of character with the existing and known proposed uses in the vicinity. Until Council completes the Port Macquarie Health and Education Precinct masterplan, the likely compatibility of the proposal in terms of its bulk, height and size, and whether it could contribute positively to the future locality, is unable to be determined. The current SCC application is therefore considered to be premature regarding this issue.

6. If the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the *Native Vegetation Act 2003*—the impact that the proposed development is likely to have on the conservation and management of native vegetation (clause 25(5)(b)(vi))

The Native Vegetation Act 2003 has been repealed and no longer applies to the proposal.

In terms of vegetation, much of the site is characterised by highly modified wetlands, with scattered trees and pasture dominated by exotics.

As discussed above, the subject site has been highly modified from its original Swamp Sclerophyll Forest state. Ongoing rural management, combined with stormwater drainage from the surrounding development, has contributed to the degradation or continued stalled recovery of the site to its natural state.

Despite its modified state, much of the site qualifies as coastal floodplain EEC under the *Biodiversity Conservation Act 2016*. The ongoing use of the land for rural purposes will prevent the land from recovering to its preferred state of Swamp Sclerophyll Forest and could continue to degrade the remaining EEC. The development of part of the land, and the regeneration of 2.9ha, therefore has the potential to result in positive environmental outcomes. Whether these outcomes are sufficient to offset any adverse impacts can be appropriately determined at the development application stage should an SCC be issued.

The site contains some elements which could be considered remnant vegetation under the *Native Vegetation Act 2003*. It is considered that concerns regarding native vegetation, the appropriate level of clearing and any offsets that may be required in accordance with the requirements of the *Biodiversity Conservation Act 2016* can be considered and managed at the development application stage should an SCC be issued.

7. The impacts identified in any cumulative impact study provided in connection with the application for the certificate (clause 25(5)(b)(vii))

As there are no issued SCCs or undetermined applications for an SCC within a 1km radius of the site, a cumulative impact study is not required to address the impacts of multiple SCCs within the vicinity.

CONCLUSION

The site is considered unsuitable for more intensive development for the purposes of seniors living because:

- the SCC application contains insufficient information supporting the suitability of the site regarding flooding, potential contamination and infrastructure issues;
- the scale and built form of the proposed development is out of character with the surrounding development; and
- development of the site for more intensive purposes would be premature until Council finalises its masterplan process for the area to ensure development of the site is compatible and integrates appropriately with the longer-term strategic planning for the area and the proposed orbital link road.

ATTACHMENTS

Attachment B – Draft determination letter to Council

Attachment C – Draft determination letter to applicant

Attachments D1–D4 and DA–DK – SCC application package

Attachment E – Site map

Attachment F – Zoning map

Attachment G – Coastal SEPP map

Attachment H – Council comments

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