Site Compatibility Certificate Application Report

Part Lot 10 DP 1088869,
John Oxley Drive, Port Macquarie

Proposed Senior's Living Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

11 October 2018

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Disclaimer

This report was prepared in accordance with the scope of works set out in correspondence between the client and Land Dynamics Australia. To the best of Land Dynamics Australia's knowledge, the report presented herein accurately reflects the Client's intentions when the report was printed. However, it is recognised that conditions of approval at time of consent, post development application modification of the proposals design, and the influence of unanticipated future events may modify the outcomes described in this report.

Land Dynamics Australia used information and documentation provided by external persons, companies and authorities. Whilst checks were completed by Land Dynamics Australia to ensure that this information and/or documentation was accurate, it has been taken on good faith and has not been independently verified. It is therefore advised that all information and conclusions presented in this report apply to the subject land at the time of assessment, and the subject proposal only.

Contents

Introduction

This document forms part of the application for a Site Compatibility Certificate (SCC) which is required to be obtained from the Department of Planning under the provisions of Clause 25 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Living) prior to lodgement of the development application.

The proposal is for development of Part Lot 10 DP 1088869, John Oxley Drive, Port Macquarie as a senior's living development under SEPP Seniors Living. The development is proposed on the southern portion only of the site (not the northern portion on the other side of the Oxley Highway). This report only relates to the portion of the site south of the Oxley Highway.

The subject site is located on land zoned RU1 Primary Production and is adjoined to the south-east by residential zoned land. The land immediately adjoining to the north-east is an existing senior's living development (and extension under construction) known as Sienna Grange.

A Site Compatibility Certificate is required for the proposal as Seniors Housing is not permissible within the RU1 Primary Production zoning applying to the subject site and as the subject land adjoins land zoned primarily for urban purposes, being residential land located to the south-east, on the opposite side of John Oxley Drive.

This report accompanies the application form for a SCC and includes attachments comprising preliminary concept plans and specialist reports. The purpose of this report is to address the planning requirements associated with the proposal and specifically to provide a response to the SCC assessment criteria specified within SEPP Seniors Living.

C1 DEVELOPMENT PROPOSAL INFORMATION

1. Context

The site is identified as Lot 10 DP 1088869, John Oxley Drive, on the southern portion only (not the northern portion on the other side of the Oxley Highway), as shown below. Any reference to the land or site relates to this southern portion, notwithstanding the legal title extends to the north, but is not included in this development.

The site is irregular in shape and is approximately 11.9 hectares in size and located 5km west of the centre of Port Macquarie on the northern side of John Oxley Drive, opposite The Ruins Way and in close proximity of Lake Innes Village Shopping. The site has a direct frontage to John Oxley Drive, approximately 128m wide. The site then fans out to extend beyond properties which remain fronting the road. The site is vacant, managed land which has previously been utilised for agricultural purposes and essentially is devoid of vegetation. A small portion of this site is currently utilised for the purposes of landscape supplies, which has overflowed from the adjoining site.

The Oxley Highway transects the site and the development is proposed on the southern portion only. Vehicular access to the site is via John Oxley Drive, opposite The Ruins Way.

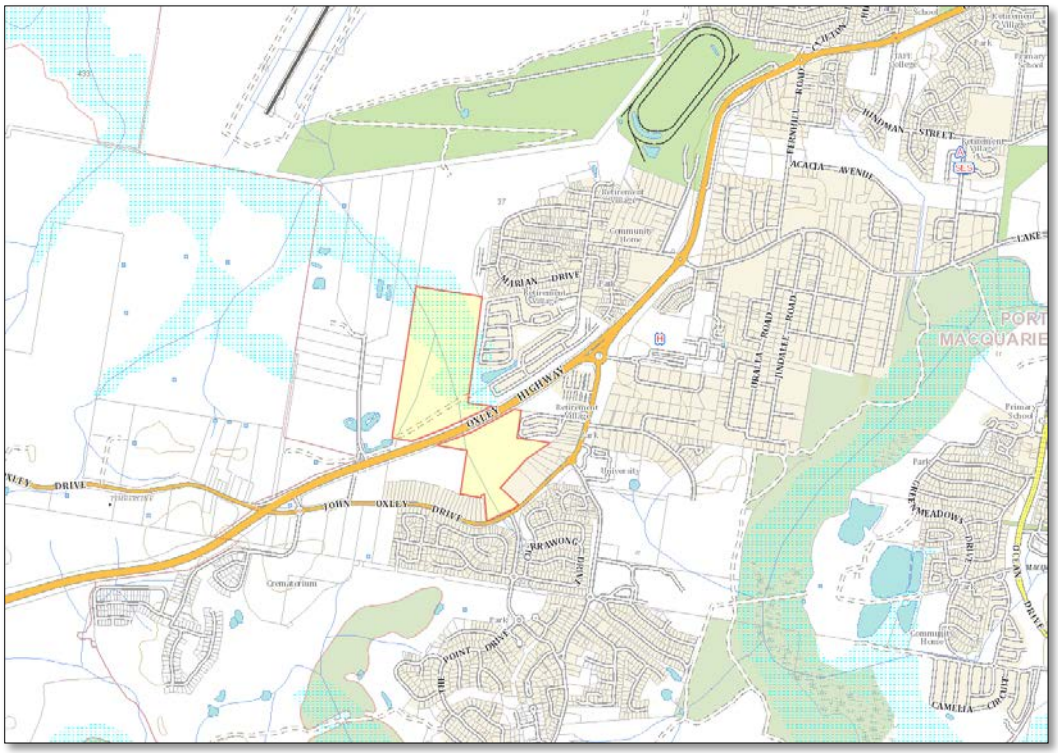

Figure 1: Location of the subject land (source: www.sixmaps.nsw.gov.au)

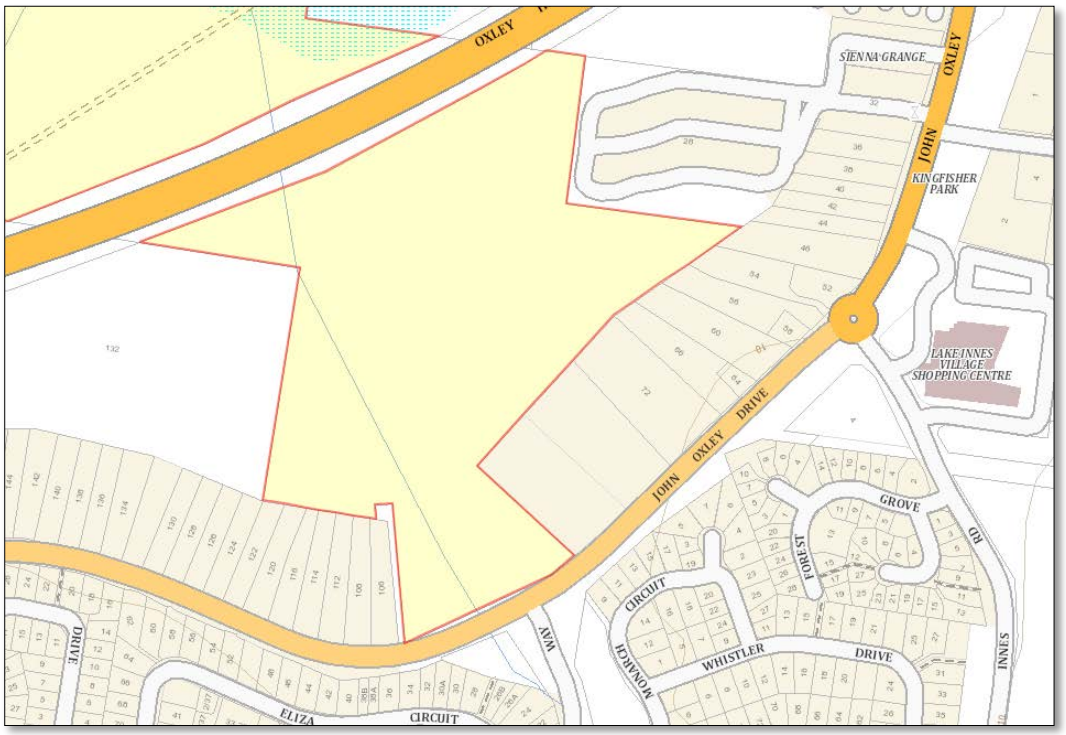

Figure 2: Close Up – Southern Portion only - Location of the subject land (source: www.sixmaps.nsw.gov.au)

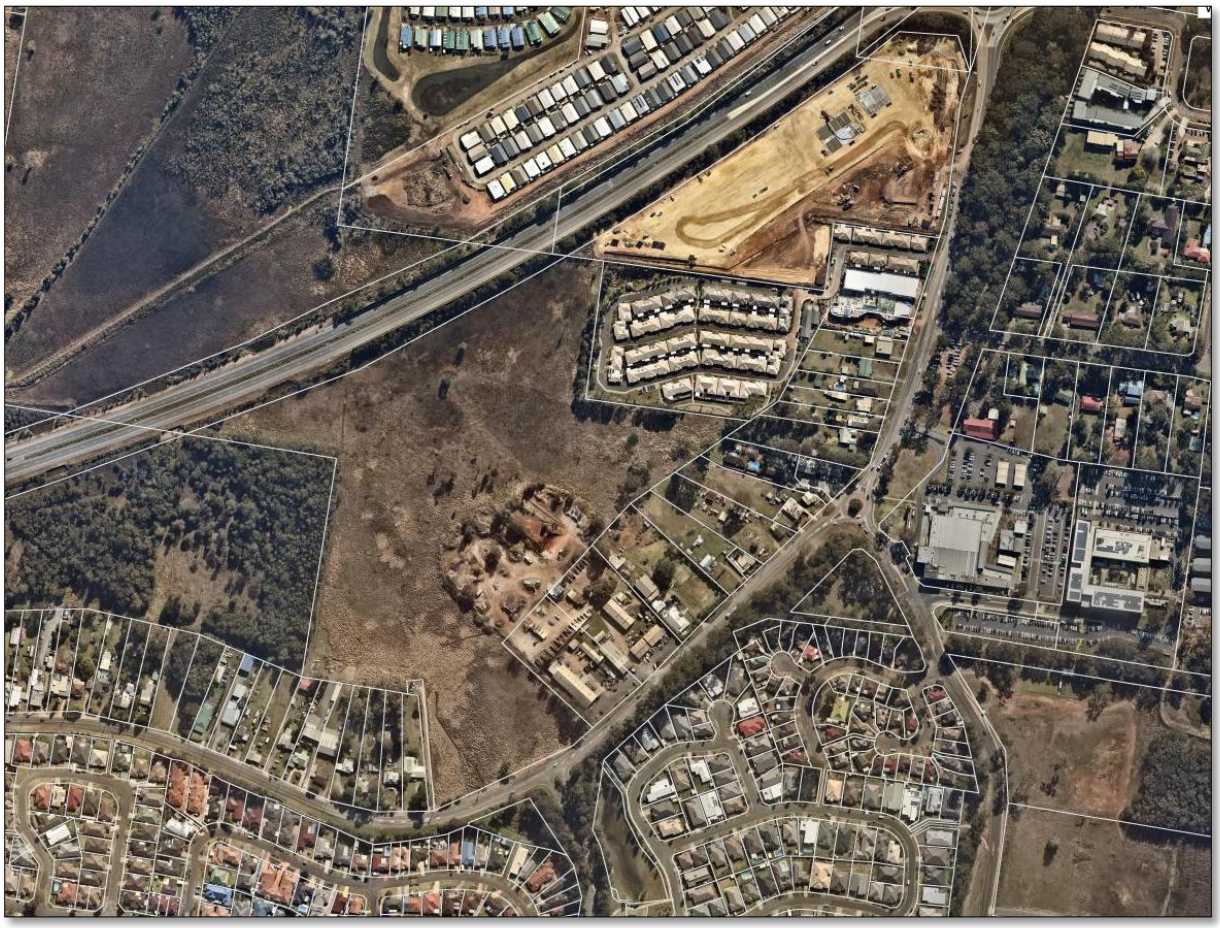

Figure 3: Aerial Photograph dated 23 July 2018 (source: www.nearmap.com)

The land immediately adjoining to the north-east is an existing senior's living development (and 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 which is a bulky goods development under construction as part of DA2015/600. Immediately to the north of the subject portion of the land is the Oxley Highway and further beyond is the remainder of legal portion of the land.

The area to the immediately adjoining east and south, on the northern side of John Oxley Drive, is also zoned for rural purposes and comprises dwellings on large parcels of land and a small business component which includes a rural lands supply business.

On the opposite side of John Oxley Drive is the residential area of Lake Innes, in particular Annabella Downs. This comprises standard residential allotments and adjoins land zoned primarily for urban purposes, being land zoned R1 General Residential, on the opposite side of the road.

The land to the immediate west is vacant and well vegetated.

The site is located within an area of Port Macquarie known as Innes Lake. This area is predominantly a residential area, well serviced by buses and contains a private Anglican School and associated child care centre. Port

Macquarie Base Hospital is located approximately to the 400 metres north, off Wrights Road, as well as a medical university facility and specialist medical rooms.

To the east of the site is an established neighbourhood shopping centre, which includes a supermarket and speciality tenancies including doctor, dentist, café, bakery, butcher, takeaway food and travel agent, amongst others. Immediately adjacent to the shopping village is Chares Sturt University.

The locality plan above shows a blue line through the site; however, this is indicative only of a man-made drainage line and not a natural watercourse. The site has been heavily disturbed by surrounding residential development and the construction of the Oxley Highway. Our previous discussions with NSW Water to ascertain whether a blue line is classified as a watercourse revealed that the department would act upon the advice of an engineer in determining whether it is a watercourse for the purposes of the Act and not on the basis of a line on a map, which is often inaccurate. Given the disturbed nature of the site with a new highway now transecting and surrounding residential development providing detention basins to the south of the site, which disperse into this site, our Engineer has advised that it is reasonable to determine that this is not a natural drainage channel, but rather a conveyance channel, with any natural watercourse highly modified both upstream and downstream. Consideration was also given to the Water Management Act 2000 and the definition of "waterfront land". Having regard to this definition, the man-made channel does not appear to fit within the definition and as such, a controlled activity approval is not required for works within 40m.

The site is identified as being bushfire prone land and is also classified as Special Fire Protection Purposes (SFPP) pursuant to the Rural Fires Act 1997, and appropriate asset protection zones have been considered in determining the developable footprint.

A preliminary ecological assessment of the site has identified that the site has been substantially modified from its original state in order to establish pasture as part of its historical rural usage. Ongoing management plus inputs from stormwater from surrounding residential development has further contributed to degradation of the site. While the site qualified over most of its extent as a complex of Coastal Floodplain EEC in various levels of condition, existing use rights prevent the EEC from recovering to its preferred state i.e. Swamp Sclerophyll Forest. No threatened flora or fauna were found.

As part of the proposed development it has been considered that 2.9 ha could be allowed to regenerate which would enhance local habitat linkages and increase the extent of remnant forested wetland vegetation.

Below are photographs of the site, corresponding to the marked up plan in Figure 4.

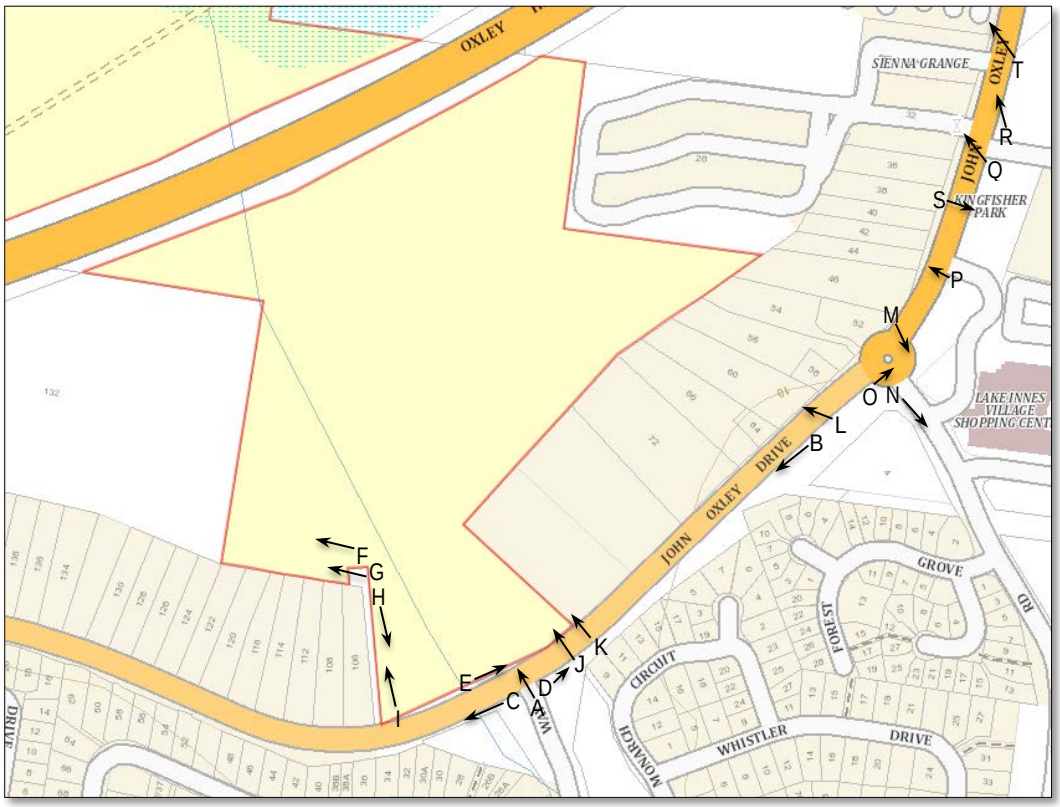

Figure 4: Area Map identifying location of photographs.

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Photographs of the site – September 2018

Clause 26 of the Seniors Housing SEPP requires that services and facilities be located within 400m of the site or accessed via public transport which is located no more than 400m from the site via a suitable access pathway. The proposed Seniors Living development is located within 400m of the site within the neighborhood retail and commercial area of Innes Lake and Grace Church. In addition, access to a larger range of retail and commercial services, community and recreational facilities is available through regular bus transportation to the Port Macquarie CBD and shopping precinct. Existing bus stops are available out the front of Sienna Grange on the same side of the road, as well as outside of Grace Church on the opposite side. A new town centre is also commencing construction at Sovereign Hills, Thrumster to the west, which is accessed via John Oxley Drive.

From a review of public documents for surrounding applications, below is a summary of the height of the surrounding developments to establish the context:

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

Overhead power lines exist along John Oxley Drive, along the frontage of the site. Vegetation is established along the southern side of John Oxley Drive.

There is a diversity of uses within the immediate area, which reflects the transitioning nature of the area and Council has advised they are in the preliminary stages of structure planning for this area as a health and education precinct. Council has also advised that there are no details of road upgrades along John Oxley Drive or to the wider network, other than the improvement currently under construction in the vicinity of Bunnings and Sienna Grange further north as part of the approved developments.

2. The Proposal

The proposal is for development of Part Lot 10 DP 1088869, John Oxley Drive, Port Macquarie as a senior's living development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The development is proposed on the southern portion only of the site (not the northern portion on the other side of the Oxley Highway). This report only relates to the portion of the site south of the Oxley Highway.

A Site Compatibility Constraints Analysis has been prepared which maps various environmental factors, namely bushfire, flooding and ecology, which have been taken into account to derive the resultant potential developable areas for future Seniors Living housing. Below are constraints plans, preliminary planning analysis/concept plan and building zone mapping which identifies constraints and possible building locations.

Given the location of the site between John Oxley Drive and Oxley Highway, the seniors housing developments to the east and residential to the south, and the location in close proximity to Lake Innes Shopping Village and the Hospital, the site is considered ideal for the proposed development and can accommodate the height and density proposed.

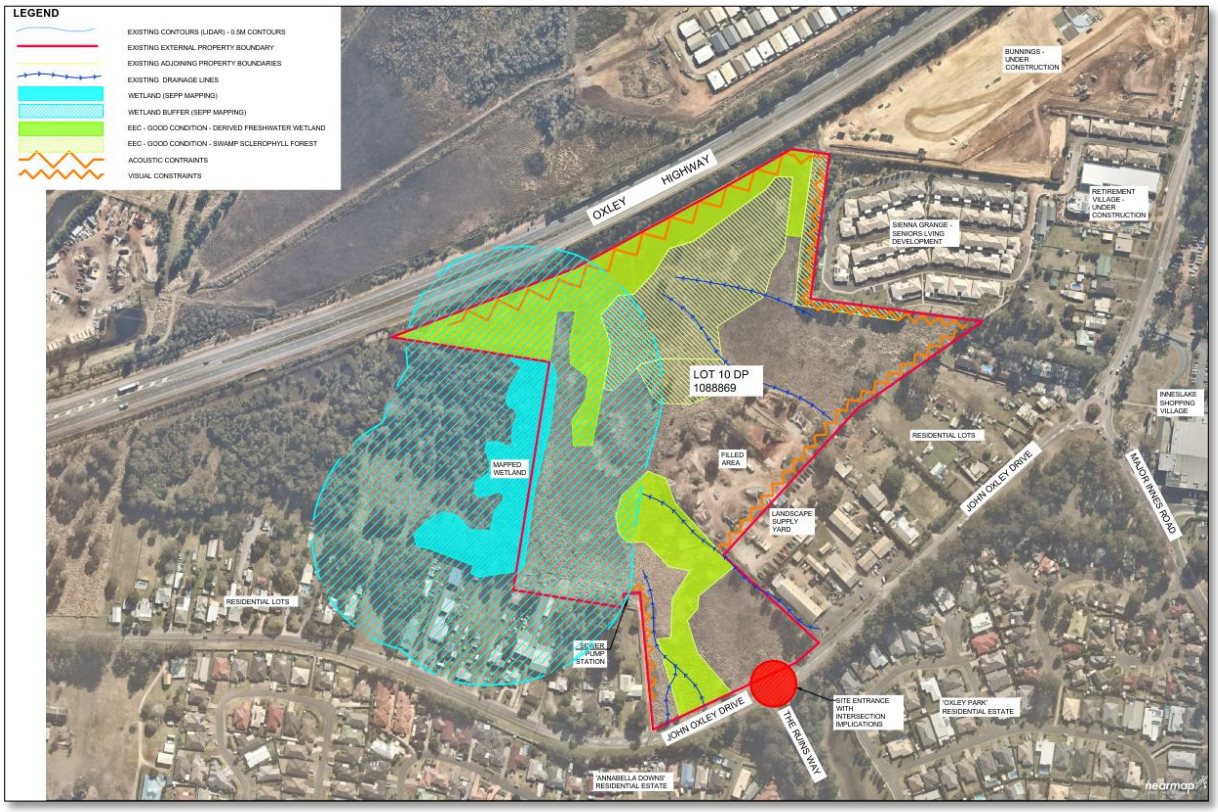

Figure 5: Preliminary Constraints Plan

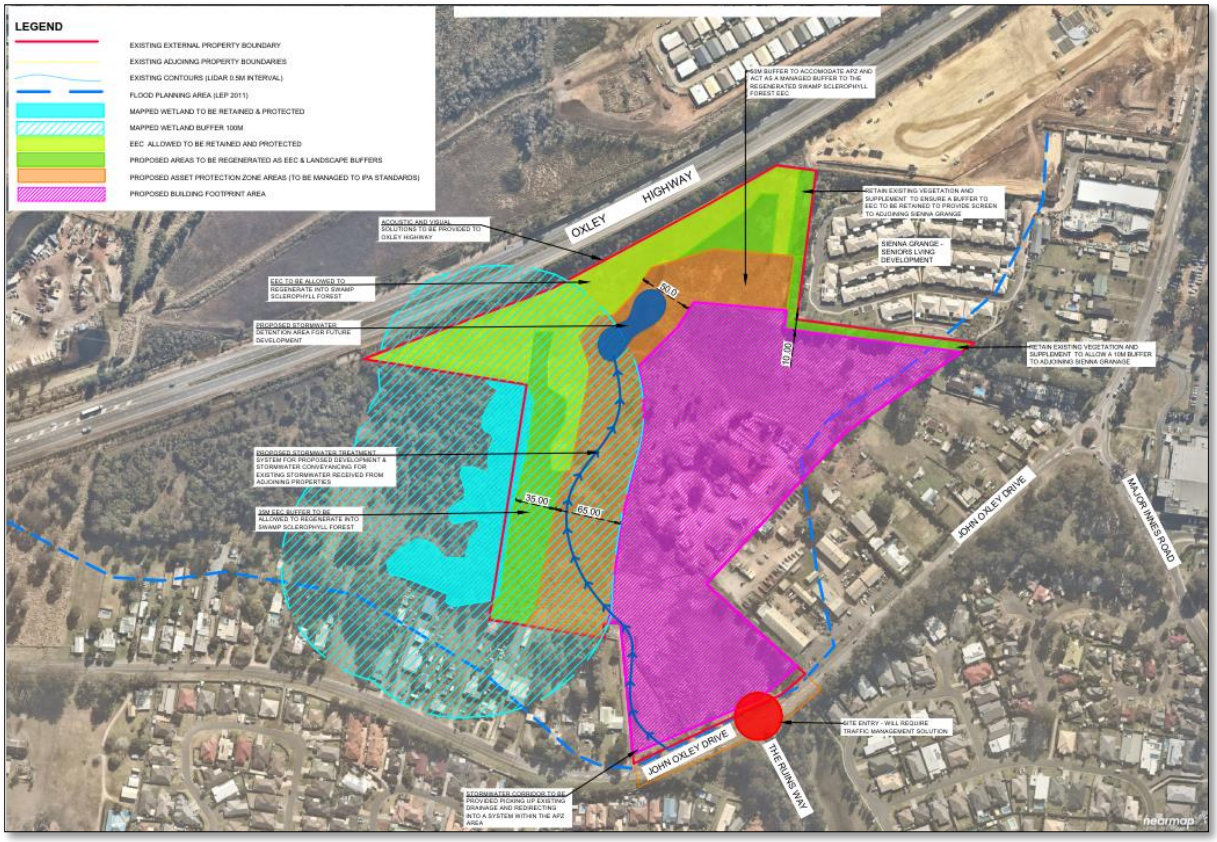

Figure 6: Preliminary Planning Analysis

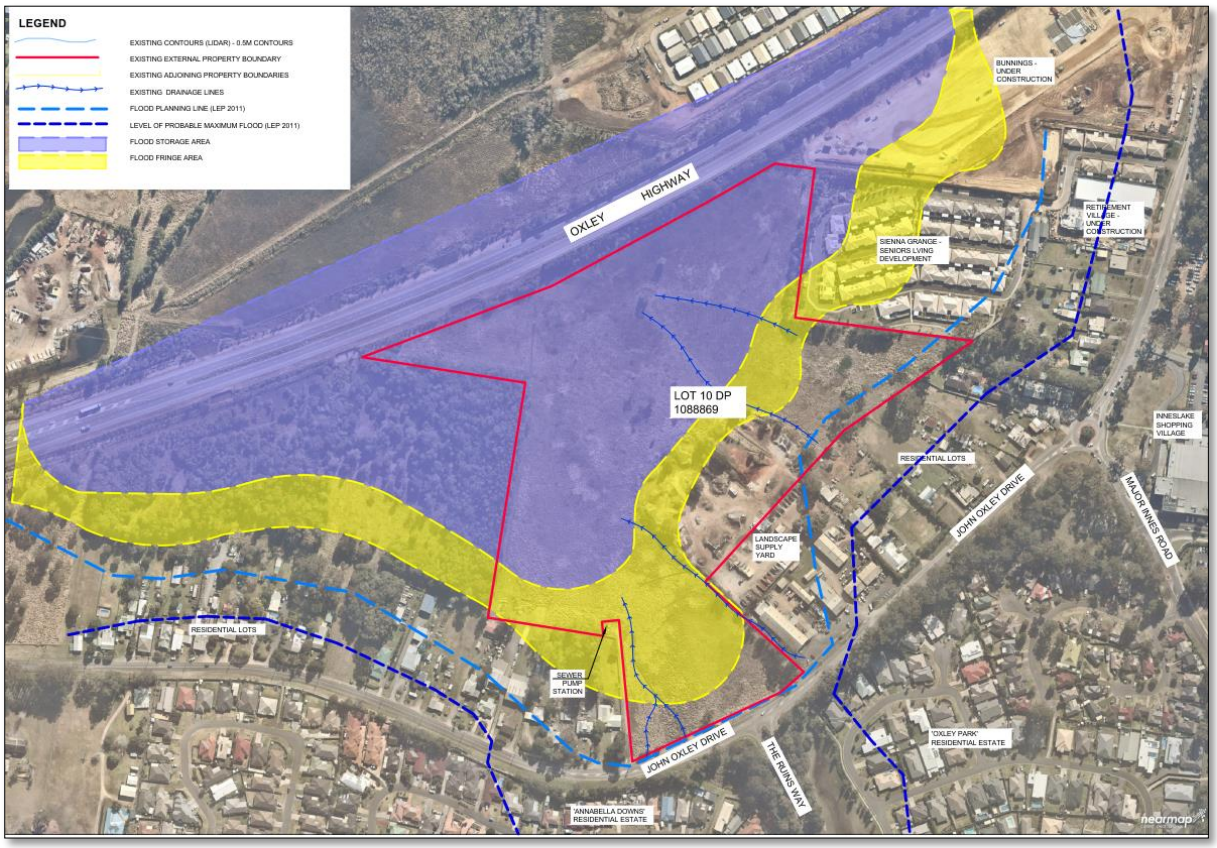

Figure 7: Preliminary Flooding Constraints Plan

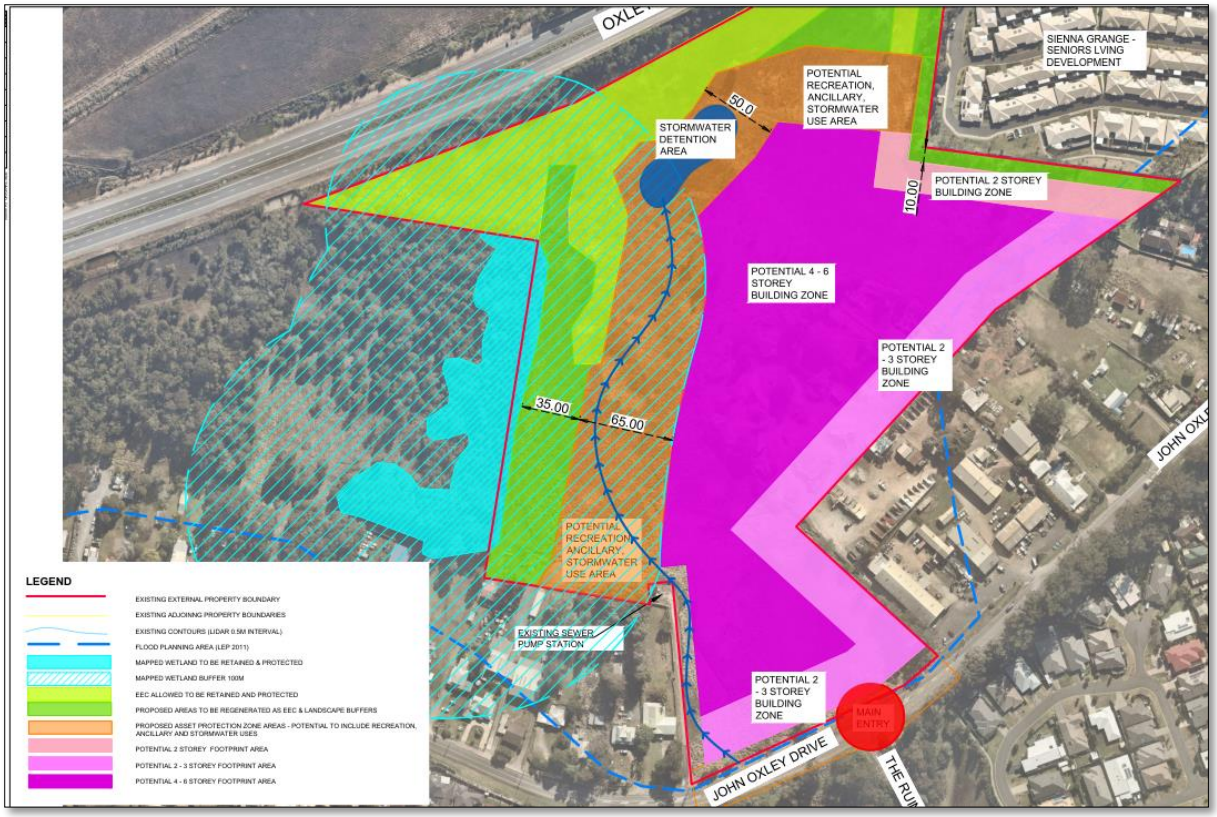

Figure 8: Recommended Building Zones Plan

The form of seniors housing is serviced self-care housing and will operate as a as a retirement village (within the meaning of the Retirement Villages Act 1999).

The proposal will include specific services such as the option for the provision of meals, cleaning, and personal/nursing care. These services will be predominantly offered to future residents in their homes and will be based on site in the area identified for community buildings. The development therefore constitutes self-contained dwellings (serviced self-care housing) in conjunction with a residential care facility as per the relevant definitions from SEPP Seniors Living.

Preliminary Architectural Plans (Figure 9) have been prepared for this application are preliminary only as detail design will be refined further for the Development Application. Below is an extract of the plans, including the concept, layout and indicative building elevations. Based on advice from the Department of Planning, the Architects have been instructed not to undertake full detailed design until the SCC is issued. The plans and details provided are sufficient to undertake an informed review of the suitability of the site for seniors housing.

Figure 9: Architectural Plans

The key characteristics of the proposal include:

- Provision of a group of buildings containing serviced self-care housing for seniors within a landscaped setting. The height of the proposed buildings varies between 2 to 6 storeys, transitioning into the increased height being contained in the central portion of the site, having regard to the surrounding development and the likely future use, noting that there is currently no height limit on the site.

- Vehicular access is from John Oxley Drive and an internal private driveway network is proposed. The final intersection treatment was unknown at the pre-lodgement discussions and subject to further discussions with Council.

- Community facilities are proposed as the centre of the development in the northern portion, adjacent to the detention basin. This area may also include ancillary facilities for the residents, such as a shop or café, which is common in seniors housing and would offer daily conveniences.

- The western and northern portion of the site has been left undeveloped, having regard to ecological features. Adjoining this natural area, a drainage swale and pipe network is proposed from John Oxley Drive, leading into a detention basin, which will also have dual use as a visual feature adjacent to the facilities. It is also envisaged that this portion of the site will be utilized by residents as informal recreation, with a formal area identified to the east of the macrophyte swale. The identified wetlands area has been retained without disruption and the buffer utilised for drainage swales and detention basin, pathways and passive recreation activities by the future residents.

- All habitable floor levels of buildings are proposed having regard to the flood affectation and all buildings have been sited clear of land required for bushfire protection zones, and ecologically sensitive areas.

- To provide the landscape setting and provide screening from nearby development and the Oxley Highway, new trees and landscaping is proposed along the boundaries as a buffer and between the built form enhancing visual appeal and amenity at the site.

- A series of landscaped meeting areas comprising covered shelters and planting is proposed which will provide an outside recreation and meeting area, as well as provide separation between buildings and an attractive outlook for residents of the buildings. The final design of these areas and extent of facilities will be included in the detailed design, however they form an important role in providing separation between buildings and a sense of openness throughout the development.

- A substantial setback has been proposed to the Oxley Highway to the north to ensure adequate separation to minimise amenity impacts for residents, including acoustically. The northern portion of the development site will be enhanced with new vegetation for screening, and it is envisaged that buildings in the vicinity of the Highway may require some form of acoustic treatment by way of construction standards.

- A private bus service will be incorporated into the development for residents.

The height of the buildings has been proposed as follows, with a brief explanation as to the reasoning behind the chosen height.

Boundary	Proposed Height	Adjoining Site	Adjoining Height
North	3 storeys plus 10m landscape buffer	Bunnings	Part 8.5m and 11.5m 9.83m high pylon sign
	2 storeys plus 10m landscape buffer	Sienna Grange - Original	1 storey
	5-6 storeys plus landscape buffer	Oxley Highway	The highway is elevated above the ground level of the site.
East	2 & 3 storeys plus 5- 10m landscape buffer	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
South	2 & 3 storeys plus 5-10m landscape buffer	Dwellings facing John Oxley Drive & in Annabella Downs	1 storey
West	4-6 storeys plus landscape buffer		

When reviewing the aerial photograph of the site and surrounds in Figure 3, it is noted that the single storey Sienna Grange to the north has a denser footprint as a result of the lower height. The subject development however has been designed to provide larger areas of open space and in doing so has provided a transition of heights from the boundaries, with the increased height contained in the centre of the site, to minimise amenity impacts for existing and future residents.

It is further noted that the recent Sienna Grange addition is three storeys in height, adjacent to the existing surrounding single storey dwellings. As the area is and will be continuing to undergo significant transition over the coming years as part of the health and education precinct, increased height is expected and the design being 2-3 storeys with a substantial landscaped buffer adjoining single storey is appropriate. The approval of the Bunnings development has set the change in character for the area and increased height and density.

3. Strategic Justification

3.1 Strategies

Within the North Coast Regional Plan 2036 and Urban Growth Management Strategy 2017-2036 recently adopted, this area is identified as being within a Health and Education Precinct. The Regional Plan identifies this area as having good future road connections. Extracts of both the Regional Plan and UGMS are shown below.

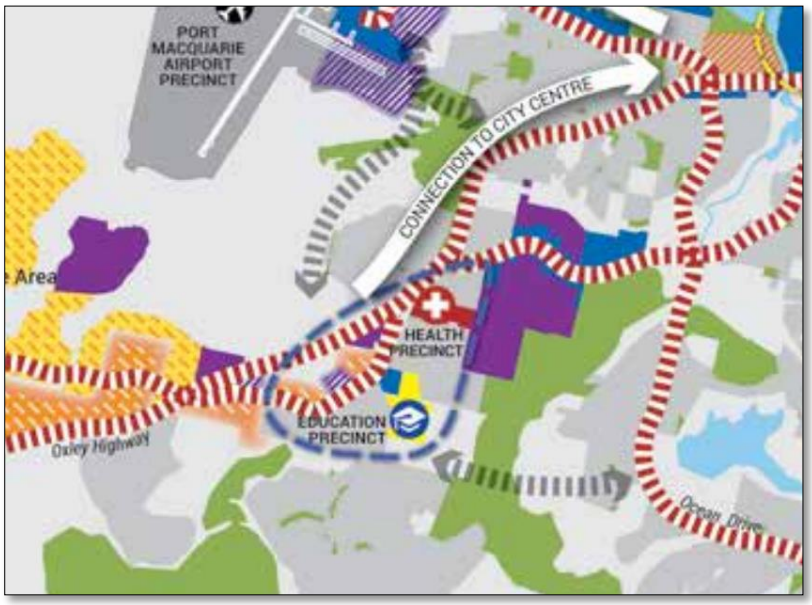

Figure 10: Extract - North Coast Regional Plan 2036

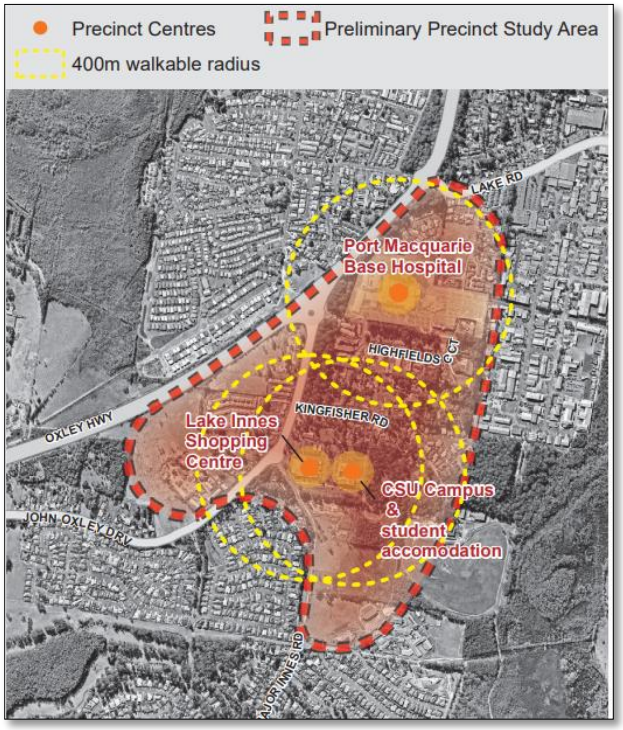

Figure 11: Extract – UGMS 2017-2036

The UGMS recognises that the Port Macquarie-Hastings local government area includes an increasingly ageing population with a higher proportion of people aged 65 and over in comparison to the Australian population. The UGMS also recognises the demand for a greater range of housing types, including for the ageing population. The UGMS states on page 7:

> *"This growth is expected to be concentrated in our major towns and villages, particularly in Port Macquarie, which provides a wide range of jobs, services and entertainment. The number of people aged over 60 is forecast to reach 37,000 by 2036, or 36% of the population. This is significantly higher than the NSW State average."*

Further, page 10 states:

> *"We aim to promote a range of housing types between detached houses and high rise apartments in central, well-connected locations, like the proposed Health and Education Precinct in Port Macquarie.*
>
> *The aim is to ensure that we have a range of housing options to meet the needs of residents at different stages of their lives and to help retain options for future growth in the longer term by limiting the need for new 'greenfield' growth."*

The Health & Education Precinct is specifically identified, and this site falls within this precinct and provides a form of housing which provides for people over 55 years of age and does not result in loss of greenfield land, with the site located within the Lake Innes, in close proximity to the hospital and existing medical, shops and services.

Following the Pre-lodgement meeting with Council held with respect to the proposal, contact has been made with Council's Strategic Planning Section as it is understood that preliminary structure planning has commenced for the Health and Education Precinct. A copy of the emails accompanies this report and confirm that:

> *"We are making progress on the preparation of a draft Master Plan for the Health and Education Precinct, which includes the area to the west of John Oxley Dve and at least part of the land that you are looking at. As you note the Master Plan is being prepared for Council by Architectus. It will be based on engagement undertaken this year. The aim is to report the draft Master Plan to the October Council meeting and then exhibit soon after in November 2018.*
>
> *In the meantime, the adopted John Oxley Dve Precinct Structure Plan provides a framework for Council planning. This is under review as part of the Master Plan preparation. The land in question forms part of sub-precincts 2, 3 and 6 in the Structure Plan."*

The Structure Plan is discussed later in this report. The proposed seniors living development remains consistent with the North Coast Regional Plan 2036 and Urban Growth Management Strategy 2017-2036 recently adopted and is keeping with this area is identified as being within a Health and Education Precinct.

3.2 Biodiversity Conservation Act

The Native Vegetation Act 2003 has been repealed and essentially replaced with the Biodiversity Conservation Act 2016 (BC Act). Under the BC Act, an assessment will be required for the Seniors Living development, and preliminary investigations have been undertaken by JB Enviro to establish the approximate context of development impacts and conservation opportunities within the framework of the proposed development configuration. From these investigations, the developable land area of the site was identified.

It is considered that a viable Seniors Housing development is achievable based on the ecological investigations undertaken and the disturbed nature of the site given the surrounding development.

In summary these preliminary investigations concluded that the subject site has been substantially modified from its original state in order to establish pasture as part of its historical rural usage. Ongoing management plus inputs from stormwater from surrounding residential development has further contributed to degradation of the site. While the site qualified over most of its extent as a complex of Coastal Floodplain EEC's in various levels of condition, existing use rights prevent the EEC from recovering to its preferred state i.e Swamp Sclerophyll Forest. No threatened flora or fauna were found or are considered to depend on the site's habitats for critical life cycle stages. The site is also not a key part of an intact remnant of vegetation or function as a corridor.

As part of the proposed development it has been considered that 2.9ha could be allowed to regenerate which would enhance local habitat linkages and increase the extent of remnant forested wetland vegetation.

3.3 State Environmental Planning Policies

State Environmental Planning Policy No 44 — Koala Habitat Protection

As the area of the subject land is greater than 1ha and is located within the Port Macquarie Hastings Local Government Area, SEPP 44 –Koala Habitat Protection is applicable. A SEPP 44 Koala Habitat Assessment (completed by a qualified ecologist) will accompany the development application.

Preliminary investigations have concluded that it is unlikely that the site currently forms part of a Core Koala Habitat. Although a number of Schedule 2 tree species were found on the site no scats were found and no koalas were observed. Koalas have a very low potential to use the site particularly due to the fact that it sits on the outermost fringe of known koala habitat and its location between the Oxley Highway and John Oxley Drive makes it difficult to navigate. Formal assessment will be required however in a future Development Application

State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 aims to "*promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment*". The land is primarily cleared and has remained vacant for a number of years. Preliminary investigations have been undertaken by Regional Geotechnical Solutions Pty Ltd,

including a desktop Stage 1 Contaminated Site and Geotechnical Assessment for the proposed aged care development in the southern portion of Lot 10 DP1088869, John Oxley Drive, Port Macquarie. The report states:

> *"The assessment found the site is likely to be appropriate for the proposed aged care development from a site contamination perspective provided the recommendations and advice of this report are adopted. Recommendations include undertaking a Stage 2 Contaminated Site Assessment targeting identified Areas of Environmental Concern.*
>
> *The assessment found the site is also likely to be appropriate for the proposed aged care development from a geotechnical perspective, however, geotechnical investigation of the site will be required prior to construction to assist earthworks, foundation and pavement design once the layout and details of the proposed development is known."*

State Environmental Planning Policy (Infrastructure) 2007

The application will be reviewed against the requirements of State Environmental Planning Policy (Infrastructure) 2007. This Policy contains State-wide planning controls for developments adjoining rail corridors and busy roads. The development is located immediately adjacent to a classified road to the north, being the Oxley Highway, but has no direct access.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Schedule 1 of the Environmental Planning and Assessment Regulation (2000) sets out the requirement for a BASIX certificate to accompany any *BASIX affected building*, being *any building that contains one or more dwellings, but does not include a hotel or motel.* BASIX Certificates will be required to accompany any application.

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

The application will be made under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The Architectural Plans to accompany the Development Application will be designed against the requirements of the SEPP, noting that the site is located within the required distance of shops and services at Lake Innes Village and nearby bus stops.

Seniors Housing is permissible subject to the property being immediately adjoining R1 General Residential zoned land.

The site is zoned RU1 Primary Production under PMH LEP 2011. Seniors housing is not permissible in this zone, however, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 allows seniors housing on land that adjoins land zoned primarily for urban purposes under Clause 17.

Clause 17 states:

"17 Development on land adjoining land zoned primarily for urban purposes

(1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

(a) a hostel,

(b) a residential care facility,

(c) serviced self-care housing.

(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided:

(a) for people with a disability, or

(b) in combination with a residential care facility, or

(c) as a retirement village (within the meaning of the Retirement Villages Act 1999).

Note. Clause 13 (3) defines serviced self-care housing as seniors housing that consists of self-contained dwellings where meals, cleaning services, personal care and nursing care are available on site. Clause 42 requires the consent authority to be satisfied that residents of such housing have reasonable access to services. Clause 42 also provides that if services are limited to those provided under Government provided or funded community based care packages, this does not constitute reasonable access to services."

Clause 4, stated below, provides clarification regarding the land to which this SEPP applies.

"4 Land to which Policy applies

(1) General

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

(a) development for the purpose of any of the following is permitted on the land:

(i) dwelling-houses,

(ii) residential flat buildings,

(iii) hospitals,

(iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or

(b) the land is being used for the purposes of an existing registered club.

(2) Land that is not zoned primarily for urban purposes

For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land that is within any of the following zones under another environmental planning instrument:

(a) a zone that is identified as principally for rural uses,

(b) a zone that is identified as principally for urban investigation,

(c) a zone that is identified as principally for residential uses on large residential allotments (for example, Zones R5 Large Lot Residential and RU6 Transition referred to in the standard instrument for principal local environmental planning instruments prescribed by the Standard Instrument (Local Environmental Plans) Order 2006).

(2A) For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land to which Warringah Local Environmental Plan 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under that plan.

(3) Nothing in subclause (2) or (2A) operates to make any land not referred to in those subclauses land that is zoned primarily for urban purposes.

(4) Land that adjoins land zoned primarily for urban purposes

For the purposes of this Policy, land that adjoins land that is zoned primarily for urban purposes includes (but is not limited to) land that would directly adjoin land that is zoned primarily for urban purposes but for the presence of a public road to which there is direct vehicular and pedestrian access from the adjoining land.

(5) Application of Policy to land zoned for special uses and existing registered clubs

For the purposes of this Policy (and for the avoidance of doubt), a consent authority must not treat:

(a) land on which development for the purposes of special uses is permitted, or

(b) land that is being used for the purposes of an existing registered club,

as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes.

(6) Land to which Policy does not apply

This Policy does not apply to:

(a) land described in Schedule 1 (Environmentally sensitive land), or

(b) land (other than land to which Warringah Local Environmental Plan 2000 applies) that is zoned for industrial purposes, or

(c) (Repealed)

(d) the land to which Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989) applies, or

(e) the land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies.

(7) Nothing in subclause (6) (a) or Schedule 1 operates to preclude the application of this Policy to land only because:

(a) the land is identified under State Environmental Planning Policy (Coastal Management) 2018, or

(b) in the case of land that is used for the purposes of an existing registered club—the land is described in another environmental planning instrument as:

(i) private open space, or

(ii) open space where dwellings or dwelling-houses are permitted.

(8) (Repealed)

(9) Application of Policy to certain land in Sutherland Shire

For the purposes of this Policy (and despite anything to the contrary in subclause (1), (2) or (5)), the land that is shown with heavy edging on the map marked "Map 32 Cronulla Sutherland Leagues Club, Captain Cook Drive" in Schedule 7 to Sutherland Shire Local Environmental Plan 2000 is taken to be land that is zoned primarily for urban purposes.

Note. Clause 7 (2) (a) of Sutherland Shire Local Environmental Plan 2006 continues the application of Sutherland Shire Local Environmental Plan 2000 to the land referred to in this subclause.

(10) For the purposes of this Policy (and despite anything to the contrary in subclause (1) or (4)), any land that adjoins the land referred to in subclause (9) is not to be treated as being land that adjoins land zoned primarily for urban purposes.

(11) Subclause (6) does not apply in relation to:

(a) the land referred to in subclause (9), or

(b) land in Alexander Avenue, Taren Point, being Lot 2, DP 1026203, or

(c) an application to carry out development for the purposes of a residential care facility on land in any of the following zones under Sutherland Shire Local Environmental Plan 2006:

(i) Zone 4—Local Housing,

(ii) Zone 5—Multiple Dwelling A,

(iii) Zone 6—Multiple Dwelling B,

(iv) Zone 7—Mixed Use—Kirrawee,

(v) Zone 8—Urban Centre,

(vi) Zone 9—Local Centre,

(vii) Zone 10—Neighbourhood Centre.

(12) Application of Policy to certain land in Hornsby Shire

For the purposes of this Policy (and despite anything to the contrary in subclause (1), (2) or (6)), the land comprised by each of the following is taken to be land that adjoins land zoned primarily for urban purposes:

(a) 599–607 Old Northern Road, Glenhaven (being Lot 2, DP 1123753),

(b) 589–593 Old Northern Road, Glenhaven (being Lot 1, DP 135398 and Lots 2 and 3, DP 225754).

(13) (Repealed)"

With respect to point 1, dwelling houses are permitted in the zone.

With respect to point 4, the land directly opposite to the south is zoned R1 General Residential, except for a road, as shown below. This is the same approach taken by Sienna Grange to the north-east when obtaining a SCC.

With respect to Point 6, this has been the point of numerous discussions with the Department of Planning to clarifying that the mapping of wetlands along the western boundary, and on the other portion of the site to the north, does not preclude development of the unmapped land. We have sought legal advice which has confirmed permissibility and that the SEPP applies to the land. A copy of this confidential legal advice is attached and the addition of Clause 7(a) also confirms this.

Below is Clause 17 of the SEPP which states:

"17 Development on land adjoining land zoned primarily for urban purposes

(1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

(a) a hostel,

(b) a residential care facility,

(c) serviced self-care housing.

(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided:

(a) for people with a disability, or

(b) in combination with a residential care facility, or

(c) as a retirement village (within the meaning of the Retirement Villages Act 1999).

Note. Clause 13 (3) defines serviced self-care housing as seniors housing that consists of self-contained dwellings where meals, cleaning services, personal care and nursing care are available on site. Clause 42 requires the consent authority to be satisfied that residents of such housing have reasonable access to services. Clause 42 also provides that if services are limited to those provided under Government provided or funded community based care packages, this does not constitute reasonable access to services."

It is proposed that the development will operate as a retirement village and therefore satisfy this clause.

The proposed development will include serviced self-care housing as per the definitions provided within the SEPP, which will provide meals and cleaning services and personal/ nursing care. Therefore, the proposal satisfies Clause 17(1) and (2) through the type of senior's accommodation proposed as well as the site location immediately adjoining urban zoned land.

In regard to Schedule 1 of the SEPP where certain 'environmentally sensitive lands' are excluded from the policy, it is noted that whilst the land is identified as a 'flood planning area' under Port Macquarie Hastings LEP, the land is not identified in any Environmental Planning Instrument (EPI) as a 'floodway' or 'high flooding hazard' or by any like descriptions. Furthermore, the land is not identified on the bush fire evacuation risk map as land excluded from the policy under Clause 4(6).

This application is accompanied by legal advice regarding permissibility under SEPP Seniors Living.

This legal advice concludes that *"the provisions of the Seniors SEPP apply to the development for Seniors housing on the Site, provided the elements of that housing accord with cl 17 of that Policy. The corollary of that opinion is that the Site is not excluded from the operation of the Policy bey operation of cl4.6(a) and Sch 1."*

The development standards and provisions of the SEPP have been considered in the preliminary design and will be addressed in the final design as part of a future development application, including design principles, accessibility, crime prevention, waste management and height. It is noted that the height exceeds the SEPP requirements, however a request to vary the development standard will accompany the Development Application given the transitioning nature of the area.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65) aims to improve the design quality of residential flat development. SEPP 65 does not contain numerical standards but refers to the Apartment Design Guide (the Guide). The Guide provides additional detail and guidance for applying the design quality principles outlined in SEPP 65 and the final plans will be designed by the Architects having regard to both SEPP 65 and the Guide.

State Environmental Planning Policy (Coastal Management) 2018

The Coastal Management SEPP applies to all land. Below is an extract of the relevant map, relating to wetland, which shows an affectation on the western boundary of the southern portion. The northern portion of the site is also affected but not subject to development. The proposed development will be clear of the affected wetlands as mapped.

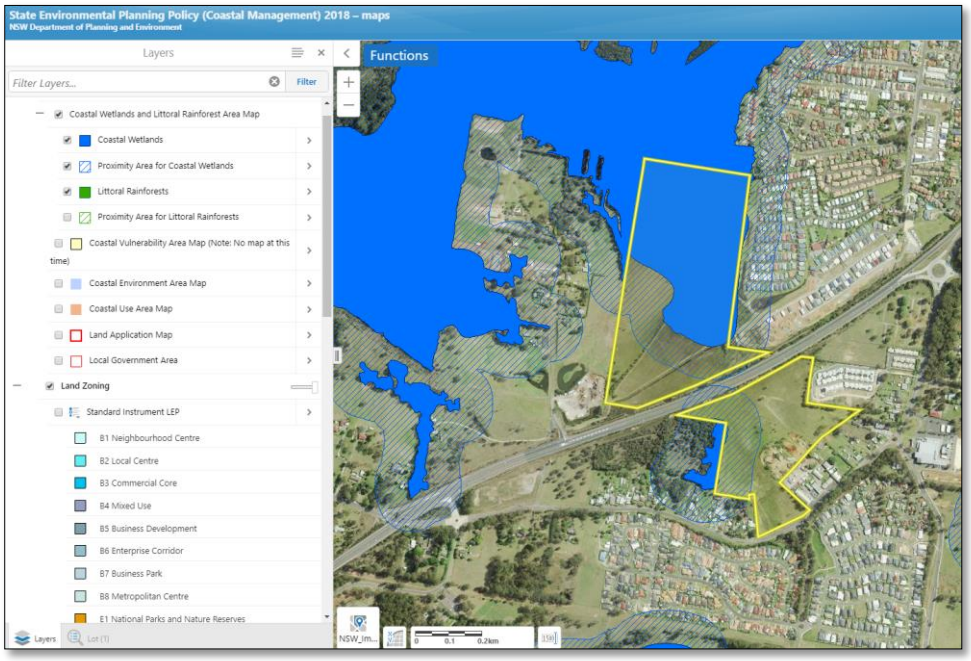

Figure 12: Coastal Management SEPP Extract dated 26 July 2018

Clause 11 of the SEPP states:

> *"11 Development on land in proximity to coastal wetlands or littoral rainforest*
>
> *Note. The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" or both.*
>
> *(1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests*

Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:

(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

(2) This clause does not apply to land that is identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map."

This Clause allows works in the proximity area where it does not significantly impact upon the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or groundwater. The minimal works comprise passive recreation, drainage swale and landscaping in the proximity area are unlikely to impact upon these areas identified by the SEPP.

3.4 John Oxley Drive Precinct Structure Plan

The key guiding principles in the implementation of the Structure Plan are identified as:

- *"Consider options for business investigation development (or other economic initiative), as proposed in Council's Urban Growth Management Strategy 2011- 2031,*
- *Recognise the intended function of John Oxley Drive as a sub-arterial road,*
- *Minimise potential land use conflicts (e.g. through development control measures),*
- *Provide for compatible land uses within existing fragmented lots,*
- *Avoid urban development on land subject to environmental hazards or other significant constraints,*
- *Enhance Lake Innes Shopping Centre as a neighbourhood hub,*
- *Facilitate good urban design,*
- *Facilitate co-ordinated and efficient provision of infrastructure,*
- *Assume all properties, excluding Sienna Grange Retirement Village, are available for redevelopment. (This does not presume that all owners wish to redevelop in the near future)."*

The site is included in the John Oxley Drive Precinct Structure Plan and is identified as site 6, which encompasses the subject Lot 10 and the adjoining Lot 12. The Plan identified that there will be flooding and environmental constraints but acknowledges that the owners wish to achieve development and states:

"The owners would like to achieve development. Accordingly there is the option for submission of detailed proposals that demonstrate satisfactory outcomes in relation to the constraints and the development of the land. Filling may be possible west of areas 2 and 3, allowing extension of these areas".

Having regard to the key principles, the proposed seniors living development is compatible with the surrounding land uses and future desired uses, avoids significant environmental constraints and this site is available for redevelopment.

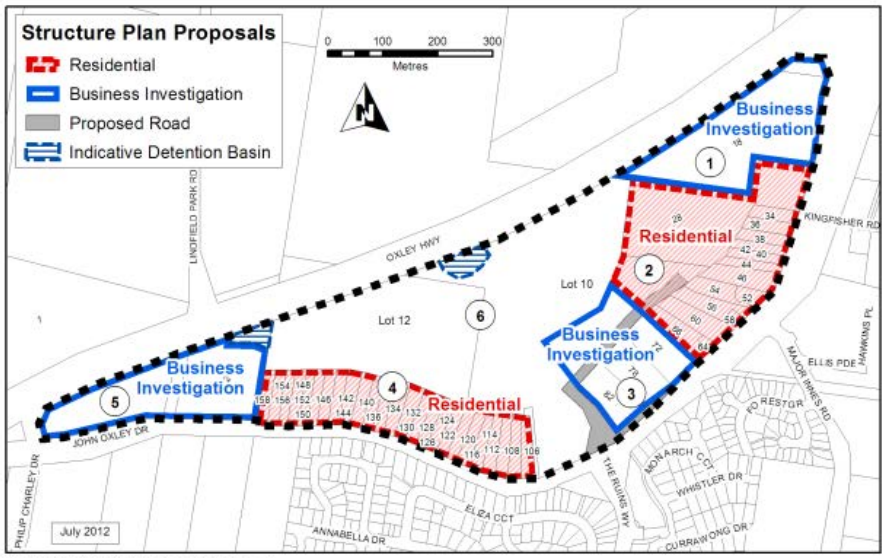

Figure 13: Extract from Structure Plan

The proposed seniors living development is generally compatible with the identified land uses and the detailed design will address the ecological and flooding investigations. It is expected that the existing businesses along John Oxley Drive will be redeveloped over time, consistent with the Structure Plan, however the proposed design for this site does not include a business component as indicatively indicated above. The vehicular access however is consistent with the figure.

It is noted that a detention basin is shown indicatively closer to the Oxley Highway, however due to ecological constraints, the basin is located in the general vicinity, but away from the area of ecological value.

It is expected that the Structure Plan will be refined further as part of the Health & Education Precinct planning expected to be commenced shortly. Given the large amount of work already undertaken to date on the Structure Plan and that the Regional Plan and UGMS reinforce this area for Health & Education purposes, it can be reasonably expected that any new plan will remain similar to identified above, yet respond the recent development in the area and surrounding, with the opportunity to ensure that this site and proposed seniors living is included in the changes.

The existing Structure Plan provides comment regarding traffic and possible future road links. These links are indicatively identified on the site, however along the western portion at the rear of the existing dwellings is not desirable given the wetlands constraints. The intent of vehicular connections through the precinct can still be met notwithstanding this development, albeit in a marginally altered location to be contained on adjoining sites, noting that the Structure Plan is indicative only.

With respect to flooding, the Plan acknowledged that:

> "*It may be possible for some development to take place within land subject to flooding, where it is assessed that the development is above the flood planning level (e.g. due to land filling) and there are no adverse impacts elsewhere (i.e. from increased flood levels or water velocities). Council does not propose to investigate this. However, there is scope for landowners to fund professional assessments that could allow consideration of development of land excluded here."*

Having regard to these comments, development of the site is supported subject to developer funded investigations. Refer to comments regarding flooding.

Given the proximity to services and facilities, existing and emerging urban release areas, and the significant change to the area, the development is consistent with the Structure Plan and can easily be included in any future amendment and remain consistent with the key principles and play a key role in the area.

3.5 Port Macquarie Hastings LEP 2011

Zoning

The subject portion of the land is zoned RU1 – Primary Production under Port Macquarie Hastings LEP 2011. Ppermissibility is being sought under the SEPP rather than the LEP.

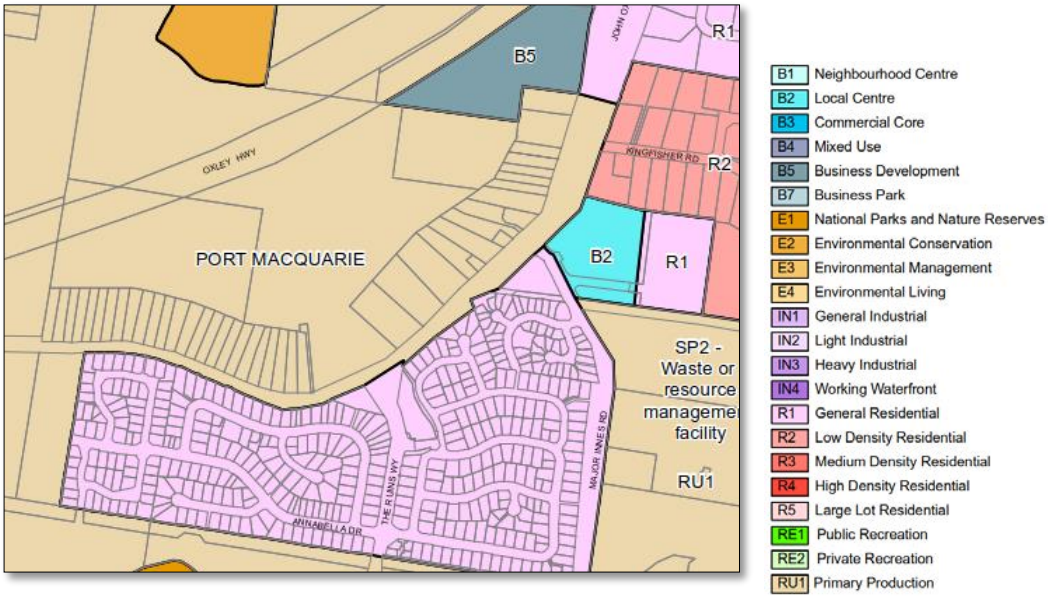

Figure 14: Zoning Plan Extract - Port Macquarie Hastings LEP 2011

Maps

The relevant LEP maps applicable to the site has shown below and a comment provided.

Minimum Lot Size

The LEP has a minimum lot size requirement of 40ha. No subdivision is envisaged as part of this proposal.

Acid Sulfate Soils

The site is identified on the LEP maps as being affected by Acid Sulfate Soils Class 5. This is a manageable constraint and would be considered further in the detailed design.

Floor Space Ratio

The site is not identified on the LEP maps as being affected by Floor Space Ratio.

Height

The site is not identified on the LEP maps as being affected by Height of Buildings. The proposed heights have resulted from a review of surrounding developments, future likely character and feedback from Council at the pre-lodgement meeting.

Acoustic Controls

The site is not identified as "*Subject to acoustic controls*" on the Acoustic Controls Map. However, consideration will be given to the noise impact on the future residents from the Oxley Highway adjoining to the north and a substantial separation and vegetation will assist in this regard.

Flooding

The site is identified on the LEP maps as being affected by flooding.

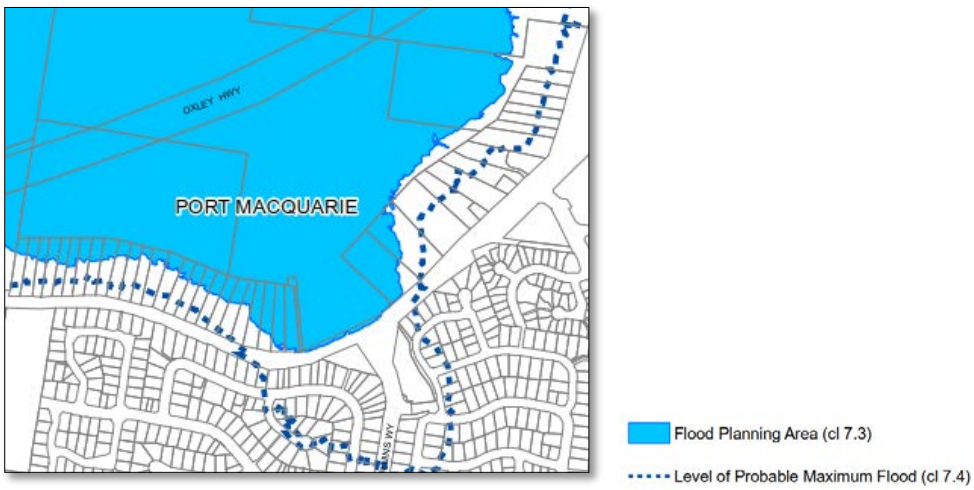

Figure 15: Flooding Map Extract - Port Macquarie Hastings LEP 2011

Port Macquarie Hastings Council (PMHC) flood policy 2015 allows for development in flood affected areas providing that the applicant demonstrates compliance with this policy. As is evident from Figure 15 the site is affected by flood however is largely flood storage and some flood fringe areas. The PMHC's flood policy objectives aims to achieve sound flood management when assessing development and these objectives are outlined in the table hereunder together with the proposal's intent on how to meet these.

PMHC Flood Policy 2015 – Primary Objectives

Objective	Development Intent
To maintain the existing Flood regime and flow conveyance capacity	The site is at the edge of a very large flood storage area and will have little impact on existing flood regimes from a storage perspective. Upstream flows will be formalized and channeled to a purpose-built bio retention basin prior to release into the downstream flood storage area.
to reduce the impact of Flooding and Flood liability on individual owners and occupiers of Flood prone property	Detailed flood modelling will be undertaken at development application stage to ensure both onsite and off-site flood impacts are minimized. Minimization will be achieved through design elements such as raised (piers) building construction and limit filling as far as possible.
to reduce private and public losses resulting from Floods	All infrastructure will be constructed to withstand any flood impacts and where possible/practical be located above the flood planning level.
to increase public safety with respect to Flood events	All infrastructure accessible by the general public will be located at suitable levels as dictated by flood modelling at DA stage. All habitable and serviceable areas will be located above the flood planning levels.
to protect the operational capacity of emergency services and emergency response facilities during Flood events	The development will be designed to negate reliance on emergency services by providing flood habitable and service areas above the flood planning levels as well as provide evacuation routes above the flood planning levels.

Objective	Development Intent
to increase public awareness of the potential for Flooding across the range of Flood events up to the Probable Maximum Flood level	A flood evacuation and flood warning manual/procedures will be introduced as part of the DA process.
to inform the community of Council's policy in relation to the use and Development of Flood Prone Land	The development will be placed on exhibition
to ensure that planning and Development of essential services and land use makes appropriate provision for Flood related risk	All habitable areas and any essential services will be located above the flood planning level. Building construction will be cognitional of flood impacts/constraints.
to utilise best engineering practice for determination of Flood conditions, impact and risk	Modelling of the proposed development will be undertaken by specialist hydraulic professionals familiar with PMHC's flood policy and requirements.
to utilise ecologically positive methods of Flood protection wherever possible	All stormwater and flooding structures will be designed to ecological sustainable and best practice.
to ensure that any New Development or modifications to existing Development must, as far as practical, result in a reduction in the existing Flood Risk, and in no circumstances should the Flood Risk be made worse; and	The development will be designed to minimize any impacts on adjoining properties as well as minimize the risks to persons/property on the development site.
to deal equitably and consistently with all matters requiring Council approval on land affected by potential Floods, in accordance with the principles contained in the NSW Government's Floodplain Development Manual (2005)	The flood modelling/assessment will be undertaken in consultation with the current NSW state/council policies and best practice. The DA will address all matters for consideration in relation to flood impacts.

As is evident from the table above the development intent will satisfy the objectives of the PMHC flood policy 2015 and refinement of the objectives will be achieved through flood modelling and subsequent assessment.

3.5 Bushfire

The subject site is classified as bushfire prone on the Bushfire Prone Land Mapping available on the NSW Planning Portal. A bushfire hazard assessment report accompanies this application. The proposal is considered to be

'Integrated Development' under Section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and a Bushfire Safety Authority would be required from the NSW Rural Fire Service (RFS). The proposed development is also classified as Special Fire Protection Purposes (SFPP) pursuant to the Rural Fires Act 1997, and appropriate asset protection zones have been considered in determining the developable footprint.

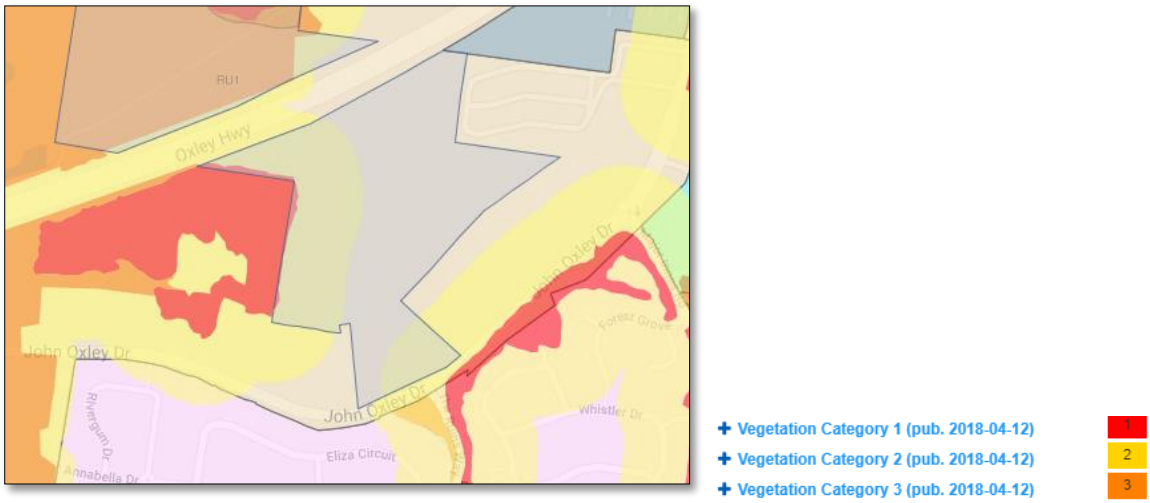

Figure 16: Bushfire Prone Land Extract (source: www.planningportal.nsw.gov.au)

The bushfire report prepared by David Pensini that accompanies this Site Compatibility Certificate demonstrates that the bushfire risk is manageable for the proposed seniors living development. It also concludes that the impact of bushfires to property and community will be significantly reduced beyond that which currently exists.

4 Pre-lodgement with Council

Land Dynamics attended a Pre-Lodgement meeting with Council on 21 August 2018. Attached to this application is a copy of the Pre-Lodgement minutes.

Whilst there was no in principle objection to a seniors living development on the site, it was suggested at the meeting that the application was premature given the planning which has commenced for the precinct and it was suggested that we be involved in the planning. Subsequent to the meeting, we contacted the Manager Strategic Planning to obtain information regarding the precinct planning and indicated our willingness to be involved. A copy of the emails are attached to this application.

It appears that there is currently no information available and that it will be many months, if not years, until the precinct planning progresses.

It was also suggested that the indicative scale of 6 storeys was out of character with the locality and difficult to justify without broader stricture planning occurring. Notwithstanding that the site currently has no height limit, the

comment regarding 6 storeys has been taken on board and a transition of heights from 2 storey up to 5-6 storeys in the centre of the site has been proposed in the preliminary plans, and incorporation of landscaped buffers along boundaries. The final detail will be finalized in the detailed architectural plans to be submitted with the Development Application.

Flooding was discussed at the meeting and information provided by Council considered in the preliminary review. Refer to earlier discussion regarding flooding.

Comments regarding scale, land use conflict, bushfire and acoustics have been considered in the preliminary constraints mapping and plans and will be refined in the final plans for DA lodgement.

C2 STATEMENT ADDRESSING SEPP SITE COMPATABILITY CIRITERIA

1 Existing Environment & Approved Uses

As detailed earlier in this report, the main environmental constraints are bushfire, ecological and flooding. The constraints mapping and development plans have been developed based on the preliminary investigations of these constraints and include areas of ecological significance to be avoided and appropriate Asset Protection Zones and floor levels to be incorporated into the design and layout. Refer to earlier comments within the report regarding flooding, ecological and bushfire constraints and the accompanying details.

Detailed studies will be undertaken when preparing the Development Application to fully address all relevant legislation as well as relevant Council plans and policies. The proposed use is not inconsistent with surrounding zonings and existing or likely future land uses, as detailed earlier in consideration of the UGMS and Structure Plan.

The area is under transition, with the recent development of the University, Bunnings and Sienna Grange extension altering the rural character of the area of the area, as well as the site's characteristics being significantly altered when the Oxley Highway was constructed through the overall site.

The layout has regard to the existing development, views to the Mountains to the west and proximity to the Oxley Highway.

2 Impact on Future Uses

The site is located within the John Oxley Drive Precinct which is identified as a Health and Education Precinct. Whilst currently zoned rural land, the strategies clearly identify this area as a transitioning area and is located within a pocket which remains between the future South Lindfield Release Area, the medical area containing the hospital and associated services, seniors housing known as Sienna Grange, commercial uses including Coles and Bunnings (under construction), and the University.

The future uses surrounding the site will include primarily residential and a small pocket of commercial.

The Architectural Plans have had regard to the existing and future land uses and the heights of buildings have been transitioned to provide the height within the centre of the site, and landscaped buffers incorporated along boundaries.

John Oxley Drive is proposed to be upgraded to four (4) lanes and Council is undertaking area wide traffic investigations, noting works currently underway as a part of the Bunnings development consent to the north. No details have been forthcoming from Council at this stage, however there is ample room to accommodate intersection treatment and is likely to include a round-a-bout at the entry to the site.

3 Availability of Services & Infrastructure

The subject site is located in close proximity to facilities including the Port Macquarie Base Hospital and Lake Innes Village Shopping Centre.

Two bus stops exist to the north-east of the site (in front of Sienna Grange and Grace Church) providing connection to the centre of Port Macquarie.

Infrastructure including water, sewer, electricity and telecommunications are easily extended to the site given the adjoining development, presence of overhead power lines along the frontage and location of a SPS adjacent. The Pre-Lodgement meeting notes are detailed with respect to water and sewer and these issues are not seen as constraints and easily incorporated into the development.

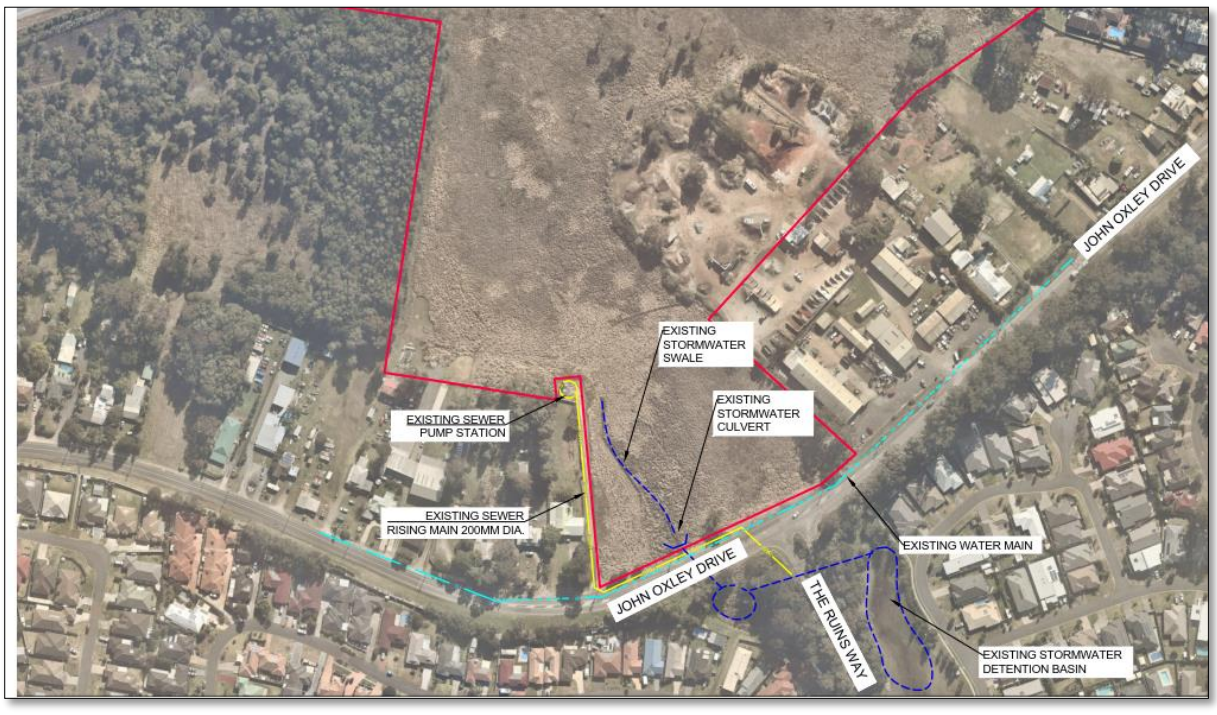

Figure 17 - Existing Services Infrastructure

Stormwater can be dealt with in an ecologically sustainable way. Upstream flows shall be dealt with through formalisation of a stormwater swale through the site along the western portion. Ecologically positive means of achieving best practice for water quality and groundwater recharge shall be utilised. Stormwater runoff generated by the development site shall be detained by suitable design structures and suitably treated prior to release into tail water. Runoff is to be reused as best as possible for any reclaimed water reuse. Any runoff from adjoining properties shall be formalised in a similar manner and treated appropriately prior to releasing to tail water conditions.

It is well established by the RMS that Seniors Living Developments are not typically high traffic generators. As such, it is acknowledged that the proposal has potential to impact on the existing road network within the vicinity of the site.

A traffic impact assessment will accompany the Development Application. Information was sought from Council at the Pre-Lodgement meeting regarding Council's traffic investigations to date, but no information was forthcoming. As such, consideration has been given to the knowledge that works have commenced in the vicinity of the site on John Oxley Drive as part of the Bunnings development immediately to the north and also the Sienna Grange extension to the north.

Council in the past has indicated that intersection works will occur at the John Oxley Drive / Major Innes Drive intersection. At the Pre-Lodgement meeting, Council confirmed that some intersection works will be required as part of this development at the John Oxley Drive / The Ruins Way intersection and may include a round-a-bout.

We are also aware that Council has been working on an Area Wide Traffic Study, however no public information is available, and Council would not provide details when questioned at the Pre-Lodgement meeting.

4 Impact on Open Space and Special Use Provisions

Not applicable.

5 Impact on Bulk, Scale, Built Form & Character

The area is clearly under transition from rural to urban purposes, with a variety of built form and no consistent height or character. There have been a number of developments constructed or under construction in the vicinity which have changed the character of the area over the recent years.

Given the size of this development, being a major parcel of land in the precinct, the proposal has been designed to set the tone for future development and provide a high quality, Architecturally designed seniors living

development with larger areas of open space and in doing so, has provided a transition of heights from the boundaries, with the increased height contained in the centre of the site, to minimise amenity impacts for existing and future residents. The siting of buildings responds to the street frontage, the surrounding and future development, the ecological constraints and the noise and visual impact from the Oxley Highway.

It is further noted that the recent Sienna Grange addition is three storeys in height, adjacent to the existing surrounding single storey dwellings. As the area is and will be continuing to undergo significant transition over the coming years as part of the health and education precinct, increased height is expected and the design along the boundary being 2-3 storeys with a substantial landscaped buffer adjoining single storey is appropriate. The approval of the Bunnings development, with large structures and hard stand areas, has set the change in character for the area and increased height and density.

Notwithstanding that the site currently has no height limit, the comment from Council at the Pre-lodgement meeting regarding 6 storeys has been taken on board and a transition of heights from 2 storey up to 5-6 storeys in the centre of the site has been proposed in the preliminary plans, and incorporation of landscaped buffers along boundaries. The final detail will be finalized in the detailed architectural plans to be submitted with the Development Application.

The constraints mapping and consideration of adjoining current and future land uses has resulted in buildings being setback from boundaries and landscaped buffers incorporated. The bulk and scale of the built form is of low proportions consistent with the likely future scale of buildings on surrounding properties earmarked for commercial, as well as the highway immediately to the north.

It is expected that the strategic direction, based on the recently approved Bunnings development, will include increased height from the current development.

With respect to character, the Department of Planning & Environment have released a Planning Circular dated 16 January 2018. Having regard to this circular, the following points are provided:

- Development should have regard to the desired future character statement for the area.
- Compatibility is key for new development, which can co-exist together with the existing form, but it does not need to be the same development.
- Respecting character does not preclude development.
- The values of the neighbourhood should be built on by the proposed development.
- Consider built form, bulk, scale, height, landscaping and good design.
- Place based, responds to local character and community aspirations.
- Local character should be considered at all stages of planning.

Council does not have a desired future character statement for the area. This is discussed earlier in this statement in considering the strategies for the area.

The character of the area is still undergoing transition. This site specifically was altered when the RMS constructed the Oxley Highway through the centre of the overall site, severing into two. Specifically, with respect to character and compatibility, the Circular states:

> "*Compatibility is different from sameness, as it allows for many different features to coexist together harmoniously."*

This is an important comment to note that the character of the health and education precinct can be, and is being, respected by the proposed development, notwithstanding its varied form and not being the same as the existing varied form in the area. The Bunnings development under construction is a prime example of a mix of land uses in this area remaining compatible with the future desired character whilst respecting the existing development. This circular is consistent with the Planning Principle above and the comments in that section.

The subject site is essentially the last relatively unconstrained large parcels of land in one ownership in the immediate area and this development is an opportunity to provide a focal point not only for the precinct, but the wider area. The site will be visible from the Oxley Highway, and as such will inform the bulk, scale, built form and character of the developing area.

6 Impact on Conservation and Management of Native Vegetation

As discussed earlier in this report, the ecological considerations have heavily informed the planning for development of this site.

While the site qualified over most of its extent as a complex of Coastal Floodplain EEC in various levels of condition, existing use rights have prevented the EEC's from recovering to their preferred state i.e. Swamp Sclerophyll Forest.

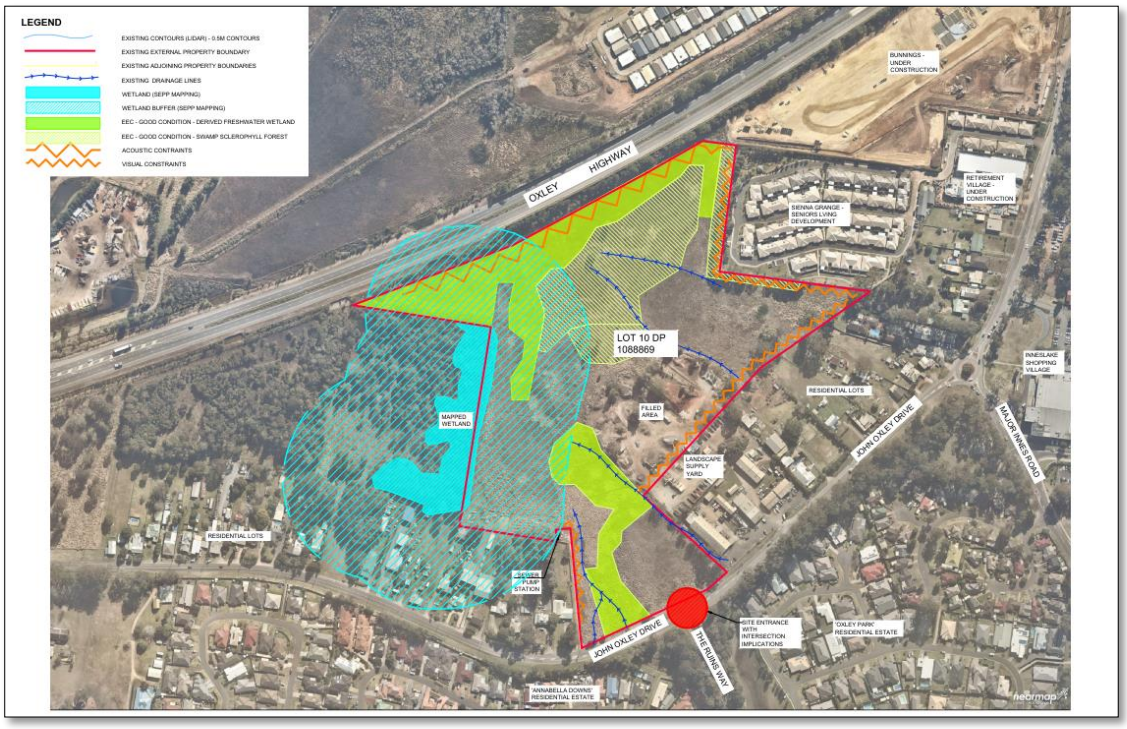

Figure 18 - Ecological Constraints

In establishing the sites ecological constraints the areas of EEC identified as being 'least modified' or 'disturbed have been retained and protected. These are predominantly located within the north west portion of the subject site and on the adjoining western site. A buffer zone has been proposed around these selected areas ranging from 30-.50 m wide This buffer will enable natural regeneration and therefore extension of Swamp Sclerophyll Forest.

The site in not currently an effective corridor for wildlife. Allowing the western and north western portions to regenerate back to forested wetlands will restore this connectivity to the west

The Planning Analysis plan below clearly identifies the areas of EEC proposed to be protected and retained and the buffer areas to be provided (light green and green). The orange portion can also be deemed a buffer (required as an APZ) but will be under a management regime providing opportunity for passive recreational activities.

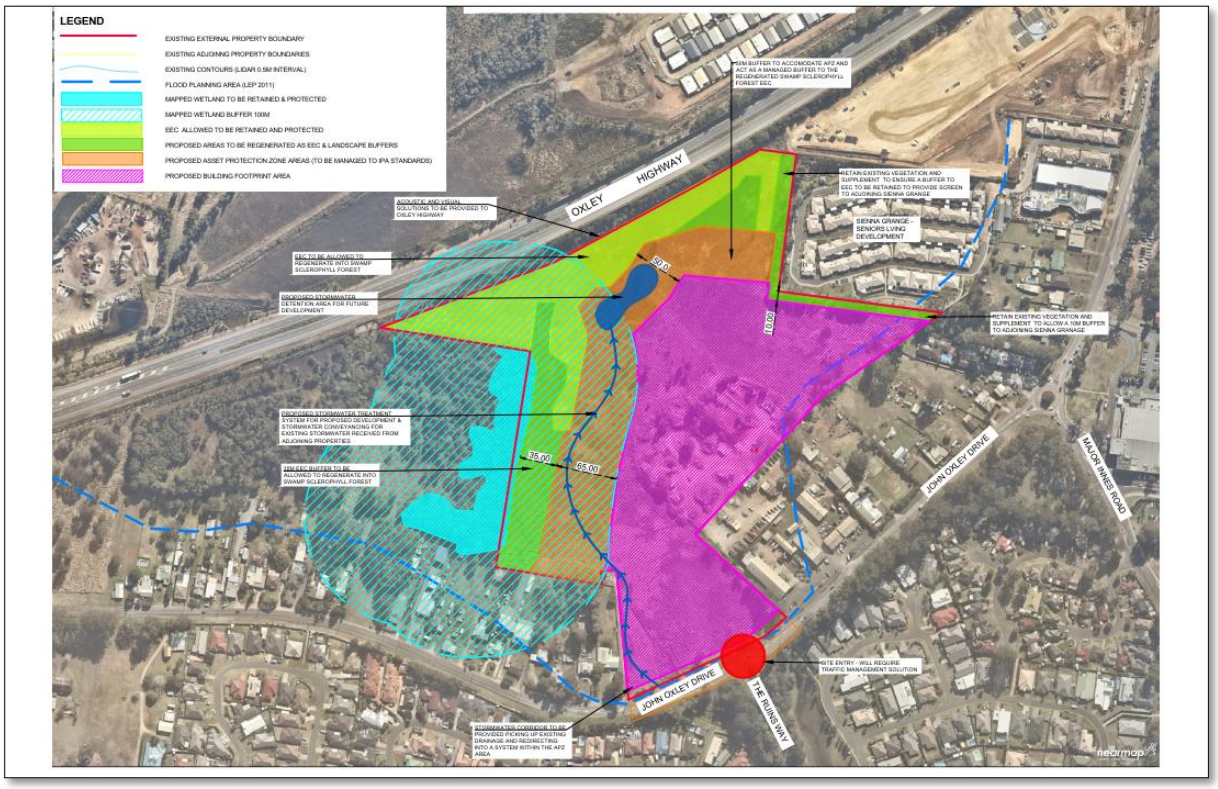

Figure 19 Planning Analysis Plan

C3 ADDITIONAL COMMENTS

The UGMS recognises that the Port Macquarie-Hastings local government area includes an increasingly ageing population with a higher proportion of people aged 65 and over in comparison to the Australian population. The UGMS also recognises the demand for a greater range of housing types, including for the ageing population. This development responds to that need.

Further, Council's strategic policies indicates that this area is ideal for a health and education precinct due to its proximity to services, hospital and transport links.

In this regard, the proposed Seniors Living facility will provide significant benefits to the local community and be in keeping with the desired future character of the area, as well as the existing and emerging development.

From a national, State and regional policy context, it is noted that there is a trend that housing affordability is declining, and housing supply is falling behind theoretical demand. A proposal such as that proposed under this application would assist in the provision of affordable Seniors Housing in the region.

Conclusion

This report has been prepared to accompany an application to the Department of Planning and Environment for a Site Compatibility Certificate under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The site is zoned RU1 – Primary Production under Port Macquarie Hastings LEP 2011 and immediately adjoins land zoned primarily for urban purposes on the opposite side of John Oxley Drive, being R1 General Residential.

Furthermore, the proposal includes 'serviced self-care housing' which, consistent with the requirements of the SEPP.

As detailed within this report, the proposed senior's accommodation and associated community facilities will contribute to an attractive residential environment for over 55s in a locality that has been identified as having not only a growing population but also a higher proportion of older people when compared to the national and State averages.

The primary constraints to development on the site in terms of the natural environment are existing EECs and wetlands, flooding and bushfire. The constraints mapping has had regard to these constraints, as well as the existing and desired future development of the area.

The proposal will include high quality, architecturally designed accommodation and community facilities for seniors or people with a disability that is compatible with adjoining uses and the natural environment.

The site is located within close proximity to relevant local retail shopping village, services, facilities and amenities with access to regular bus services (both private and public) to the nearby hospital and larger retail and commercial services, community and recreational facilities is available to the Port Macquarie CBD and shopping precinct. Existing bus stops are available out the front of Sienna Grange on the same side of the road, as well as outside of Grace Church on the opposite side. A new town centre is also commencing construction at Sovereign Hills, Thrumster to the west, which is accessed via John Oxley Drive.

The seniors living development will therefore result in a positive contribution to the emerging area, as well as the wider area of Port Macquarie.

Attachments:

A. SCC Preliminary Environmental Constraints Plan
B. SCC Preliminary Flood Constraints Plan
C. SCC Preliminary Planning Analysis Plan
D. SCC Recommended Building Zones Plan
E. SCC Preliminary Architectural Plans
F. SCC Preliminary Ecological Review
G. SCC Preliminary Bushfire Review
H. SCC Stage 1 Contaminated Site and Geotechnical Assessment
I. Pre-lodgement Report & Preliminary Plans
J. Pre-lodgement Minutes
K. Emails with Council regrading precinct planning
L. Servicing Diagrams
M. Legal Advice - CONFIDENTIAL

NSW GOVERNMENT Planning

SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004 DIRECTOR-GENERAL'S SITE COMPATIBILITY CERTIFICATE **APPLICATION**

Date received: ____/____/____

Site compatibility application no. _____

LODGEMENT

Instructions to users

This application form is to be completed if you wish to apply to the Director-General of the Department of Planning for a site compatibility certificate under Chapter 3, Part 1A of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (the SEPP).

A site compatibility certificate is required under section 50(2A) of the Environmental Planning and Assessment Regulation 2000 to accompany development applications for certain proposed developments under the SEPP. The types of development applications to which the Regulation applies are listed in clause 24 of the SEPP.

Before lodging this application, it is recommended that you consult with the Department of Planning concerning your development proposal, including whether a site compatibility certificate is required and what application fee will apply.

To ensure that your application is accepted, you must:

- complete **all** parts of this form, **and**
- submit **all** relevant information required by this form, **and**
- provide **3 copies** of this form and attached documentation,
- provide form and documentation in **electronic format** (e.g. CD-ROM).

NB: The Department of Planning may request further information if your application is incomplete or inadequate.

All applications **must be lodged** with the Director-General, by courier or mail. Applications can be lodged with the relevant regional office of the NSW Department of Planning. Please refer to www.planning.nsw.gov.au for contact details.

PART A — APPLICANT AND SITE DETAILS

A1 APPLICANT FOR THE SITE COMPATIBILITY CERTIFICATE

Company/organisation/agency: Land Dynamics Australia

☐ Mr ☒ Ms ☐ Mrs ☐ Dr ☐ Other

First name: Donna

Family name: Clarke

Street address — Unit/street no.: 77 — Street name: Lord St

Suburb or town: Port Macquarie — State: NSW — Postcode: 2444

Postal address (or mark 'as above') — PO Box or Bag: 2459 — Suburb or town: Port Macquarie

State: NSW — Postcode: 2444 — Daytime telephone: 6583 2677 — Fax:

Email: donna.clarke@ldynamics.com.au — Mobile: 0411 692 662

A2 SITE AND PROPOSED DEVELOPMENT DETAILS

Identify the land you propose to develop and for which you seek the Director-General's site compatibility certificate.

NAME OF PROPOSAL

Seniors Living development - John Oxley Drive, Port Macquarie

STREET ADDRESS

Unit/street no.: –

Street or property name: John Oxley Drive

Suburb, town or locality: Port Macquarie — Postcode: 2444 — Local government area: Port Macquarie - Hastings

NAME OF PROPERTY

–

REAL PROPERTY DESCRIPTION

Lot 10 / DP 1088869

Attach—map and detailed description of land. Refer to Attached Document

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands. Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposal applies to more than one piece of land, please use a comma to distinguish between each real property description.

DESCRIPTION OF PROPOSED DEVELOPMENT (as it is to appear on the Director-General's certificate) Refer to the proposed site layout by title or drawing number to enable reference in the certificate.

Proposed Senior's Living Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 comprising serviced self-care housing

Attach—copy of proposed site layout. Refer to Attached Document

PART B — PROPOSAL'S CONSISTENCY WITH THE SEPP

B1 THE PROPOSED SITE

Answer the following questions to identify whether the SEPP applies to the land you propose to develop.

1.1. Is the subject site land zoned primarily for urban purposes? ☐ Yes ☒ No
OR
1.2. Is the subject site land adjoining land zoned primarily for urban purposes? ☒ Yes ☐ No

Attach—copy of zoning extract or other evidence of zoning. Refer to Attached Document

If you have answered **no** to **both** questions 1.1 and 1.2, then the SEPP does not apply to the land and a site compatibility certificate will not be issued.

1.3. Are dwelling houses, residential flat buildings, hospitals or special uses permitted on the site? ☒ Yes ☐ No

Attach—copy of development control table. Refer to Attached Document

OR

1.4. Is the land being used for the purposes of an existing registered club? ☐ Yes ☒ No

If you have answered **no** to **both** questions 1.3 and 1.4, then the SEPP does not apply to the land and a site compatibility certificate will not be issued.

1.5. Is the subject site excluded from the application of the SEPP under clause 4(6)—*Land to which Policy does not apply*?

- Environmentally sensitive land (Schedule 1). ☐ Yes ☒ No
- Land that is zoned for industrial purposes (except Warringah LGA). ☐ Yes ☒ No
- Land in Warringah LGA located in localities identified in clause 4(6)(c) of the SEPP. ☐ Yes ☒ No
- Land to which Sydney Regional Environmental Plan No. 17—Kurnell Peninsula (1989) applies. ☐ Yes ☒ No

If you have answered **yes** to **any** subsection in question1.5, then the SEPP does not apply to the land and a site compatibility certificate will not be issued.

SECTION B1 — SUMMARY CHECK

Continue to fill out this application form **only** if you have answered:

☐ Yes to questions 1.1 and 1.2, **and**
☐ Yes to questions 1.3 and 1.4, **and**
☐ No to **all** subsections in question 1.5.

If you have satisfied the Summary Check—**proceed to Section B2.**

B2 SITE COMPATIBILITY CERTIFICATE REQUIRED FOR CERTAIN DEVELOPMENT APPLICATIONS

Identify the reason why you need to apply for a Director-General's site compatibility certificate.

2.1. Is the proposed development for the purpose of seniors housing permissible with consent on the land under the zoning of an environmental planning instrument? (*See* clause 24 [1A].) ☐ Yes ☒ No

2.2. Is the proposed development staged development of a kind saved under the savings provisions of the SEPP? (*See* clause 53.) ☐ Yes ☒ No

If you have answered YES to **either** question 2.1 **or** question 2.2 your proposal does not require a site compatibility certificate. You can submit your application directly to the relevant local council.

2.3. A site compatibility certificate is required because: (*see* clause 24[1])

- the land adjoins land zoned primarily for urban purposes ☒ Yes ☐ No
- the land is within a zone that is identified as 'special uses' (other than land on which hospitals are permitted) ☐ Yes ☒ No
- the land is used for the purposes of an existing registered club ☐ Yes ☒ No
- the proposed development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45. ☐ Yes ☒ No

If you have answered NO to **all** subsections in question 2.3, your proposal does not require a site compatibility certificate.

SECTION B2 — SUMMARY CHECK

Continue to fill out the application form **only** if you have answered:

☐ No to **both** question 2.1 and question 2.2, **and**
☐ Yes to **any** subsection in question 2.3 above.

If you have satisfied the Summary Check—**proceed to Section B3.**

B3 TYPES OF SENIORS HOUSING

Does the proposed development include any of the following?
If yes, please indicate in the appropriate space/s provided the number of beds or dwellings that are proposed

- A residential care facility ☐ Yes ☒ No _____ Beds
- A hostel ☐ Yes ☒ No _____ Dwellings
- Infill self-care housing (urban only and not dual occupancy) ☐ Yes ☒ No _____ Dwellings
- Serviced self-care housing ☒ Yes ☐ No _____ Dwellings
- A combination of these ☐ Yes ☒ No _____ Beds _____ Dwellings

If you answered **yes** to serviced self-care housing—**proceed to Section B4**. Otherwise—**proceed to Part C**.

B4 'GATEWAY' FOR SERVICED SELF-CARE HOUSING ON LAND ADJOINING URBAN LAND

If the proposed development includes serviced self-care housing on land adjoining land zoned primarily for urban purposes, will the housing be provided:

- for people with a disability? ☐Yes ☒No
- in combination with a residential care facility? ☐Yes ☒No
- as a retirement village within the meaning of the *Retirement Villages Act 1999*? ☒Yes ☐No

If you answered **no** to **all** questions in Section B4, it is unlikely that the proposal will satisfy the council when you submit a development application (*see* clause 17[2] of the SEPP) and also unlikely that a site compatibility certificate would be issued.

PART C — SITE COMPATIBILITY OF THE PROPOSED DEVELOPMENT

In this Part, please **attach** documentation to describe the development proposal, its context and strategic justification.

C1 DEVELOPMENT PROPOSAL INFORMATION

1. CONTEXT Refer to Attached Document

   The context for development can be presented through photos, maps at an appropriate scale and written evidence.
   - Location, zoning of the site and representation of surrounding uses
   - Description of surrounding environment:
     - built form
     - potential land use conflicts
     - natural environment (including known significant environmental values and resources or hazards)
   - Access to services and facilities and access (clause 26):
     - accessibility and interrelationships with the surrounding area—transport infrastructure and services, accessible pedestrian routes
     - location and description of available shops, banks and other retail and commercial services, community services and recreational facilities, medical facilities
   - Open space and special use provisions (if relevant)
   - Agricultural capability of the site and adjoining land if the proposal affects land not zoned primarily for urban purposes
   - Type, values and significance of native vegetation on site, if land is not located in an urban LGA or urban zone listed under Schedule 1 of the Native Vegetation Act 2003. (nb: separate Guideline available for further information)

2. PROPOSAL Refer to Attached Document

   The proposal can be presented through photos, maps and written evidence
   - Description of the proposal including the type(s) of seniors housing proposed including numbers of beds/units, community facilities and any ancillary development
   - Site description—natural elements of the site (including known hazards and constraints)
   - Building envelope—footprint and height relative to adjoining development/uses and indicative layout of proposed uses in relation to adjoining development/uses
   - proposed extent of native vegetation clearing, if land is not located in an urban LGA or urban zone listed under Schedule 1 of the Native Vegetation Act 2003

3. STRATEGIC JUSTIFICATION Refer to Attached Document

   Brief description of the proposed development—10 pages limit
   - Relationship with regional and local strategies
   - Public interest reasons for applying for seniors housing in this locality
   - Adequacy of services and infrastructure to meet demand

4. PRE-LODGEMENT CONSULTATION WITH THE CONSENT AUTHORITY (COUNCIL) AND INFRASTRUCTURE/SERVICE PROVIDERS Refer to Attached Document

   Attach evidence of pre-lodgement consultation
   - Evidence of consultation
   - Description of and response to issues raised in consultation

Note: Pre-lodgement discussion with the council and with agencies such as the Roads and Traffic Authority, Rural Fire Service and providers of infrastructure and services such as health, community, transport, electricity, water, and sewerage infrastructure and services, will assist in preparation and assessment of your application.

C2 STATEMENT ADDRESSING SEPP SITE COMPATIBILITY CRITERIA

Applicants should provide a statement demonstrating whether the site is suitable for more intensive development and is development for the purposes of seniors housing of the kind proposed in the application compatible with the surrounding environment, having regard to (at least) the following matters for consideration outlined under clause 25(5)(b) of the SEPP:

1. THE NATURAL ENVIRONMENT (INCLUDING KNOWN SIGNIFICANT ENVIRONMENTAL VALUES, RESOURCES, OR HAZARDS), AND THE EXISTING USES AND APPROVED USES OF LAND IN THE VICINITY OF THE PROPOSED DEVELOPMENT.

   Refer to Attached Document

2. THE IMPACT THAT THE PROPOSED DEVELOPMENT IS LIKELY TO HAVE ON THE USES THAT ARE LIKELY TO BE THE FUTURE USES OF THE LAND IN THE VICINITY OF THE DEVELOPMENT.

Refer to Attached Document

3. THE SERVICES AND INFRASTRUCTURE THAT ARE OR WILL BE AVAILABLE TO MEET THE DEMANDS ARISING FROM THE DEVELOPMENT (PARTICULARLY, RETAIL, COMMUNITY, MEDICAL, AND TRANSPORT SERVICES HAVING REGARD TO THE LOCATION AND ACCESS REQUIREMENTS SET OUT IN CLAUSE 26 OF THE SEPP) AND ANY PROPOSED FINANCIAL ARRANGEMENTS FOR INFRASTRUCTURE PROVISION.

Refer to Attached Document

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 OR SPECIAL USES IN THE VICINITY OF THE DEVELOPMENT.

N/A

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.

Refer to Attached Document

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 (NB: *THIS CRITERIA DOES NOT APPLY TO LAND IN URBAN LOCAL GOVERNMENT AREAS OR URBAN ZONES LISTED UNDER SCHEDULE 1 OF THE* NATIVE VEGETATION ACT 2003).

Refer to Attached Document

03 ADDITIONAL COMMENTS

As per discussions with the Department of Planning prior to preparation of the application, legal advice has been sought to confirm permissibility. A copy forms part of this application.

PART D — CHECKLIST, PAYMENT AND SIGNATURES

D1 APPLICATION CHECKLIST

Please check that you have provided all the information required for your application.

I have completed all sections of this application form.	☒ Yes	☐ No
I have attached supporting information. If yes, please check boxes below, as relevant.	☒ Yes	☐ No
Map and detailed description of land	☒	
A copy of proposed site layout	☒	
A copy of zoning extract or other evidence	☒	
A copy of development control table	☒	
Proposal information—context, proposal and strategic justification	☒	
Additional information for statements against site compatibility criteria (optional)	☒	
I have addressed the following SEPP site compatibility matters in **section C2** of the form.	☒ Yes	☐ No
1. Existing environment and approved uses	☒	
2. Impact on future uses	☒	
3. Availability of services and infrastructure	☒	
4. Impact on open space and special uses provision	☒	
5. Impact of the bulk and scale of the proposal	☒	
6. Impact on conservation and management of native vegetation	☒	
I have provided **three** hard copies of this form and all relevant supporting information	☒ Yes	☐ No
I have provided the application form and supporting information in electronic format	☒ Yes	☐ No
I have enclosed the application fee (see below for details)	☒ Yes	☐ No

D2 APPLICATION FEE

You are required to pay a fee for the assessment of an application for the Director General's certificate for site compatibly. This fee is based on the estimated number of beds of the SEPP Seniors Housing Facility. The Department may require that you pay a proportion of the total fee with this application. You should consult with the Department before lodging this application to determine the proportion to be paid. The maximum fee payable is **$5580**

Number of beds or dwellings

D3 CERTIFICATE APPLICANT'S AUTHORISATION

By signing below, I/we hereby:

- apply, subject to satisfying the relevant requirements under State Environmental Planning Policy ((Housing for Seniors or Persons with a Disability) 2004 for a Director-General's site compatibility application pursuant to clause 50(2A) of the Environmental Planning and Assessment Regulation 2000
- provide a description of the proposed seniors housing development and address all matters required by the Director-General pursuant to clause 25(5)(b) of the State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004
- declare that all information contained within this application is accurate at the time of signing.

Signature(s) Clarke

In what capacity are you signing if you are not the owner of the land: Applicant

Name(s): Donna Clarke

Date

D4 LANDOWNER'S CONSENT

As the owner(s) of the land for which the proposed seniors' housing development is located and in signing below, I/we hereby agree to the lodgement of an application for a Director-General's site compatibility certificate.

Signature: See attached

Name

Date

Signature

Name

PART D — CHECKLIST, PAYMENT AND SIGNATURES

D1 APPLICATION CHECKLIST

Please check that you have provided all the information required for your application.

I have completed all sections of this application form.	☒ Yes	☐ No
I have attached supporting information. If yes, please check boxes below, as relevant.	☒ Yes	☐ No
Map and detailed description of land	☒	
A copy of proposed site layout	☒	
A copy of zoning extract or other evidence	☒	
A copy of development control table	☒	
Proposal information—context, proposal and strategic justification	☒	
Additional information for statements against site compatibility criteria (optional)	☒	
I have addressed the following SEPP site compatibility matters in **section C2** of the form.	☒ Yes	☐ No
1. Existing environment and approved uses	☒	
2. Impact on future uses	☒	
3. Availability of services and infrastructure	☒	
4. Impact on open space and special uses provision	☒	
5. Impact of the bulk and scale of the proposal	☒	
6. Impact on conservation and management of native vegetation	☒	
I have provided **three** hard copies of this form and all relevant supporting information	☒ Yes	☐ No
I have provided the application form and supporting information in electronic format	☒ Yes	☐ No
I have enclosed the application fee (see below for details)	☒ Yes	☐ No

D2 APPLICATION FEE

You are required to pay a fee for the assessment of an application for the Director General's certificate for site compatibly. This fee is based on the estimated number of beds of the SEPP Seniors Housing Facility. The Department may require that you pay a proportion of the total fee with this application. You should consult with the Department before lodging this application to determine the proportion to be paid. The maximum fee payable is **$5580**

Number of beds or dwellings

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- provide a description of the proposed seniors housing development and address all matters required by the Director-General pursuant to clause 25(5)(b) of the State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004
- declare that all information contained within this application is accurate at the time of signing.

Signature(s)

In what capacity are you signing if you are not the owner of the land
Applicant

Name(s)
Donna Clarke

Date

D4 LAND OWNER'S CONSENT

As the owner(s) of the land for which the proposed seniors' housing development is located and in signing below, I/we hereby agree to the lodgement of an application for a Director-General's site compatibility certificate.

Signature

Name
JOHN MCEVOY - MIDWEST RADIO NOMINEE P/L
DIRECTOR

Date
5 OCTOBER 2010

Signature

Name

PART D — CHECKLIST, PAYMENT AND SIGNATURES

D1 APPLICATION CHECKLIST

Please check that you have provided all the information required for your application.

I have completed all sections of this application form.	☒ Yes	☐ No
I have attached supporting information. If yes, please check boxes below, as relevant.	☒ Yes	☐ No
Map and detailed description of land	☒	
A copy of proposed site layout	☒	
A copy of zoning extract or other evidence	☒	
A copy of development control table	☒	
Proposal information—context, proposal and strategic justification	☒	
Additional information for statements against site compatibility criteria (optional)	☒	
I have addressed the following SEPP site compatibility matters in **section C2** of the form.	☒ Yes	☐ No
1. Existing environment and approved uses	☒	
2. Impact on future uses	☒	
3. Availability of services and infrastructure	☒	
4. Impact on open space and special uses provision	☒	
5. Impact of the bulk and scale of the proposal	☒	
6. Impact on conservation and management of native vegetation	☒	
I have provided **three** hard copies of this form and all relevant supporting information	☒ Yes	☐ No
I have provided the application form and supporting information in electronic format	☒ Yes	☐ No
I have enclosed the application fee (see below for details)	☒ Yes	☐ No

D2 APPLICATION FEE

You are required to pay a fee for the assessment of an application for the Director General's certificate for site compatibly. This fee is based on the estimated number of beds of the SEPP Seniors Housing Facility. The Department may require that you pay a proportion of the total fee with this application. You should consult with the Department before lodging this application to determine the proportion to be paid. The maximum fee payable is **$5580**

Number of beds or dwellings

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By signing below, I/we hereby:

- apply, subject to satisfying the relevant requirements under State Environmental Planning Policy ((Housing for Seniors or Persons with a Disability) 2004 for a Director-General's site compatibility application pursuant to clause 50(2A) of the Environmental Planning and Assessment Regulation 2000
- provide a description of the proposed seniors housing development and address all matters required by the Director-General pursuant to clause 25(5)(b) of the State Environmental Planning Policy (Housing for Seniors or Persons with a Disability) 2004
- declare that all information contained within this application is accurate at the time of signing.

Signature(s)

In what capacity are you signing if you are not the owner of the land
Applicant

Name(s)
Donna Clarke

Date

D4 LAND OWNER'S CONSENT

As the owner(s) of the land for which the proposed seniors' housing development is located and in signing below, I/we hereby agree to the lodgement of an application for a Director-General's site compatibility certificate.

Signature

Name
JOHN MCEVOY - MIDWEST RADIO NETWORK P/L DIRECTOR

Date
5 OCTOBER 2010

Signature

Name

29 November 2018

Job No.5325

Department of Planning & Environment

Northern Region

Planning Services

Locked Bag 9022

GRAFTON NSW 2460

Attention: Gina Davis

Dear Gina,

Re: Further Information – Application for Site Compatibility Certificate - SCC_2018_PORTM_001_00 - Part Lot 10 DP1088869, John Oxley Drive, Port Macquarie

I refer to the current Application for Site Compatibility Certificate for serviced self-care housing that will operate as a retirement village, being SCC_2018_PORTM_001_00, at Part Lot 10 DP1088869, John Oxley Drive, Port Macquarie.

The application was submitted to the Department of Planning & Environment on 11 October 2018 and we have been advised that it is currently under assessment and will be reported to the Joint Regional Planning Panel.

The purpose of this letter is to advise the Department of two matters which are of relevance to the subject site that were considered at a recent meeting of Port Macquarie Hastings Council on 21 November 2018, being:

1. Health & Education Precinct – Item 11.05
2. Confidential report on Orbital Road Communications Strategy & Community Engagement

We note that both these two items are in their infancy and that our current SCC application can be considered in its current form notwithstanding the recent resolutions of Council. We also note that neither item involves a change to an environmental planning instrument as part of the report or resolution.

To assist in your understanding of the two items, each is addressed briefly separately below. We have considered the impact of the reports on the assessment of the current SCC application.

1. Health & Education Precinct – Item 11.05

The report indicates that Council commenced work on the Health & Education Precinct in April 2018 and have engaged Architectus to undertake an Enquiry by Design and Masterplan.

The subject site is identified as being within the precinct within the documentation forming the report and attachments. Council had previously advised this by email but did not seek any input, notwithstanding our request to be part of the investigations and the site being one of the largest land holdings in the precinct.

The site is shown on the plan below circled and located within the character area identified as:

"*The west – aged care, ancillary services, residential pocket".*

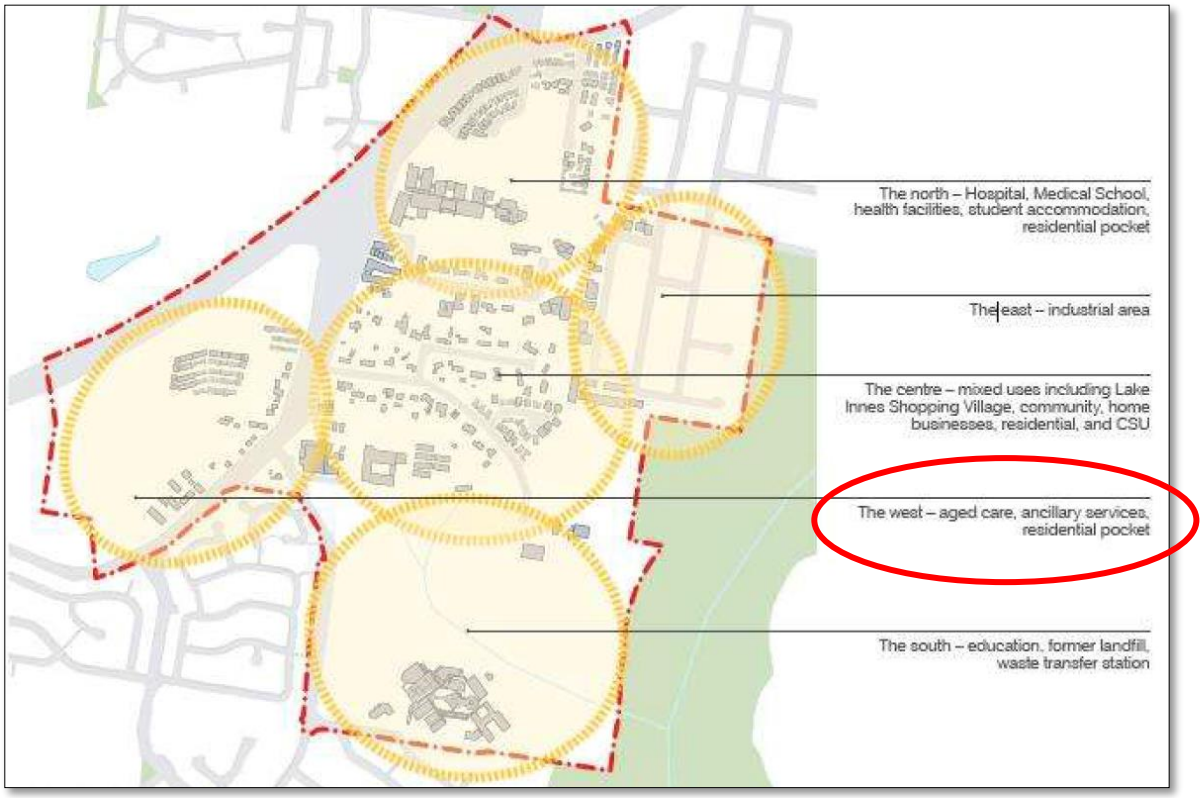


Figure 1: Five Character Areas Plans (source: www.pmhc.nsw.gov.au)

The resolution is as follows:

11.05 THE HEALTH AND EDUCATION PRECINCT DRAFT MASTER PLAN

RESOLVED: Cusato/Griffiths

That Council:

1. Place the draft Health and Education Precinct Master Plan on public exhibition for an extended period from 26 November 2018 through to the 21 February 2019.
2. Note a further report will be tabled at the April 2019 meeting of Council detailing the submissions received during the public exhibition period.

CARRIED: 8/0

FOR: Alley, Cusato, Dixon, Griffiths, Hawkins, Intemann, Levido and Pinson

AGAINST: Nil

The resolution indicates that the first initial exhibition of the documentation is to occur from now through to 21 February 2019 and a further report to Council in April 2019 regarding submissions. It is envisaged that further changes would then be required before any subsequent report with suggested planning instrument amendments.

The report to Council and attachment was not very detailed with respect to the subject site, with the main focus of the Precinct Planning focused further to the east, which is identified above as the centre. There was also discussion

of improving pedestrian and public transport movements within and around the precinct, which includes John Oxley Drive, which would support seniors living on the subject site.

The documentation included an implementation section with suggested future LEP amendments. Below is a summary of the key points:

- Range of uses complimentary to low and medium density residential uses in precinct.
- Maintain existing RU1 zoning and new B5 Business Development (no map).
- Proposed height limit of 11.5m on the site – see extract below.

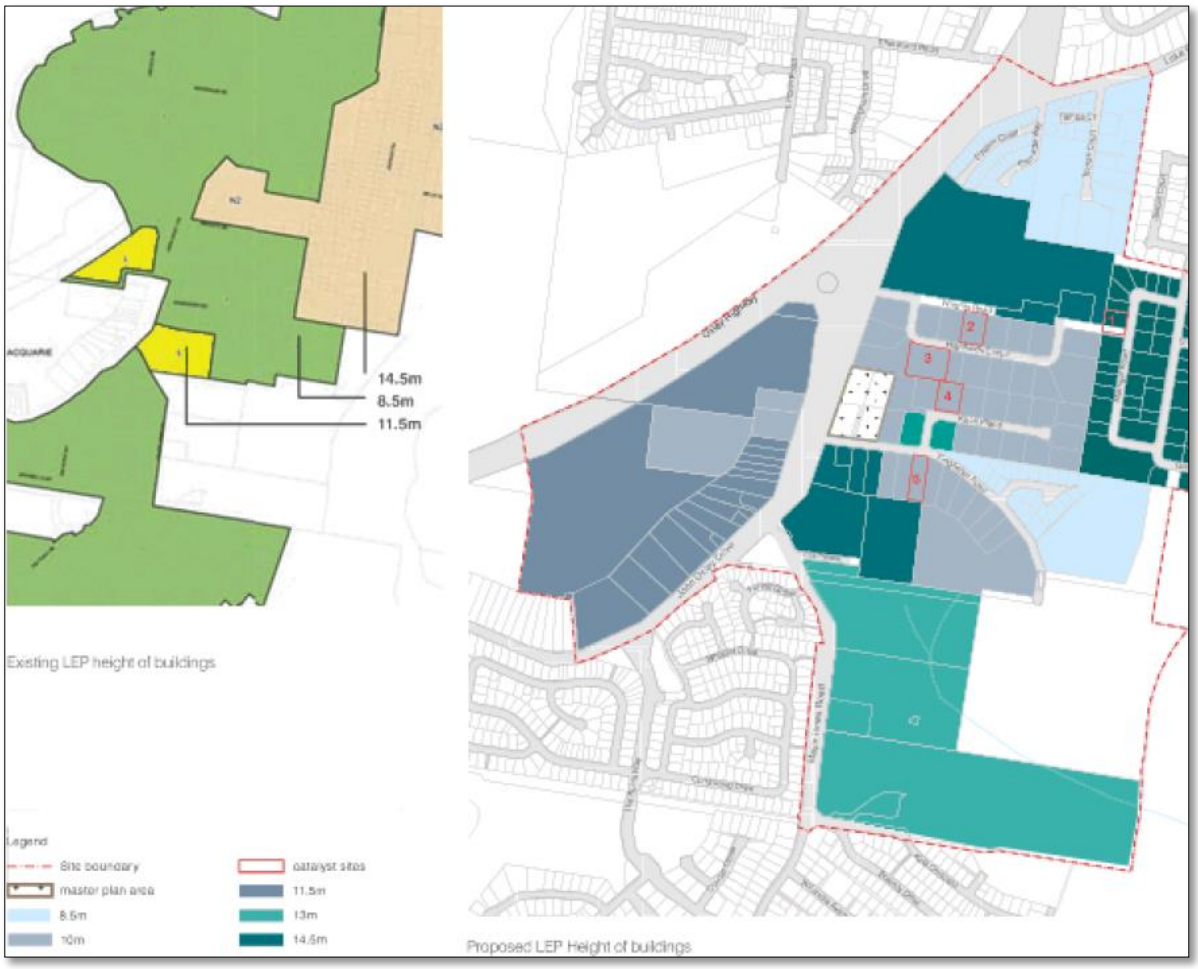


Figure 2: Proposed Height Change (source: www.pmhc.nsw.gov.au)

With regard to the second report below, the figure below from the attachment to the report makes a brief mention of the orbital with respect to subject site as shown below:

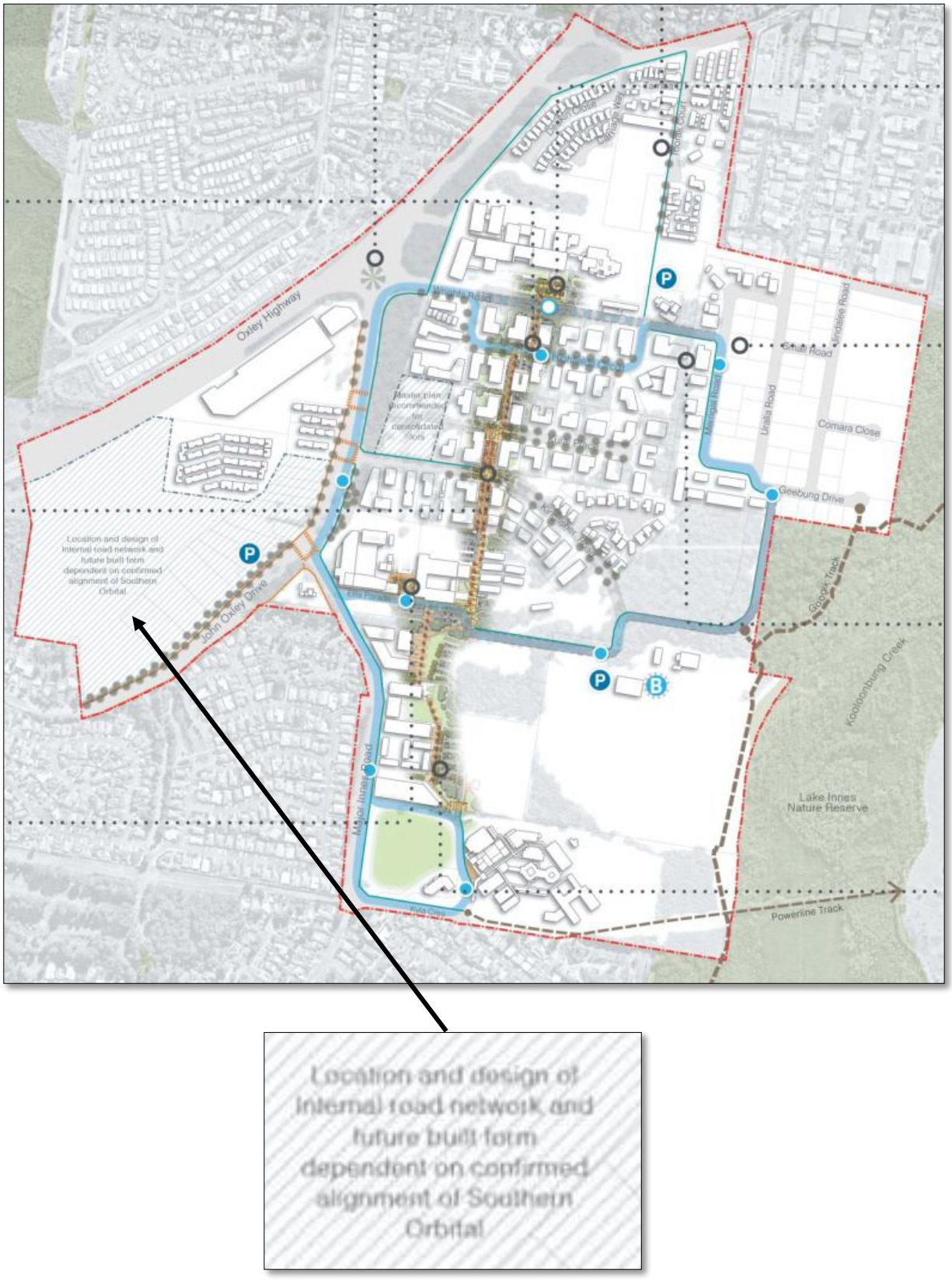


Figure 3: Extract from Attachment – Health & Education Precinct (source: www.pmhc.nsw.gov.au)

2. Confidential report on Orbital Road Communications Strategy & Community Engagement

The report on this matter was confidential and not available to be reviewed by the public. Prior to the meeting, Council Officers advised Land Dynamics that the report related to engagement only and no route was identified.

The resolution is as follows:

> Item 14.09 T-18-43 Orbital Road Communications Strategy and Community Engagement
>
> This item is considered confidential under Section 10A(2)(d(ii)) of the Local Government Act 1993, as it contains commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council.
>
> RECOMMENDATION
>
> That Council:
> 1. Accept the quote from RPS Manidis Roberts Pty Ltd trading as Straight Talk for Phase 2 of the Orbital Road Communications Strategy and Community Engagement project for $106,525.00 (inclusive of Project Management Fees- exclusive of GST).
> 2. Note that the total cost for engaging RPS Manidis Roberts Pty Ltd trading as Straight Talk for the Orbital Road Communications Strategy and Community Engagement project(Phase 1 and Phase 2) will total $181,275.00 (inclusive of Project Management Fees- exclusive of GST).
> 3. Pursuant to Section 55 (3) (a) of the Local Government Act 1993, resolve to not invite tenders for the Orbital Road Communications Strategy and Community Engagement project.
> 4. Affix the seal of Council to the necessary documents.
> 5. Maintain the confidentiality of the documents and consideration in respect of Tender T-18-43.
> 6. Request the General Manager to commence community and stakeholder engagement on the viable route options for the Orbital Road.
> 7. Request the General Manager to actively seek external funding for preconstruction activities required to progress the planning for the Orbital Road.

From the resolution above, no indication of exhibition period or further report to Council was mentioned.

On the day following the meeting, Council provided information regarding the Orbital corridor and released the following extract on its Facebook page (refer to Figure 4), with a link to their website and the corridor plan in Figure 5 below.

The corridor passes through a portion of the site identified for seniors living under our application, comprising dwellings, landscape buffer, recreation area and ecological area, as identified in Figure 6.

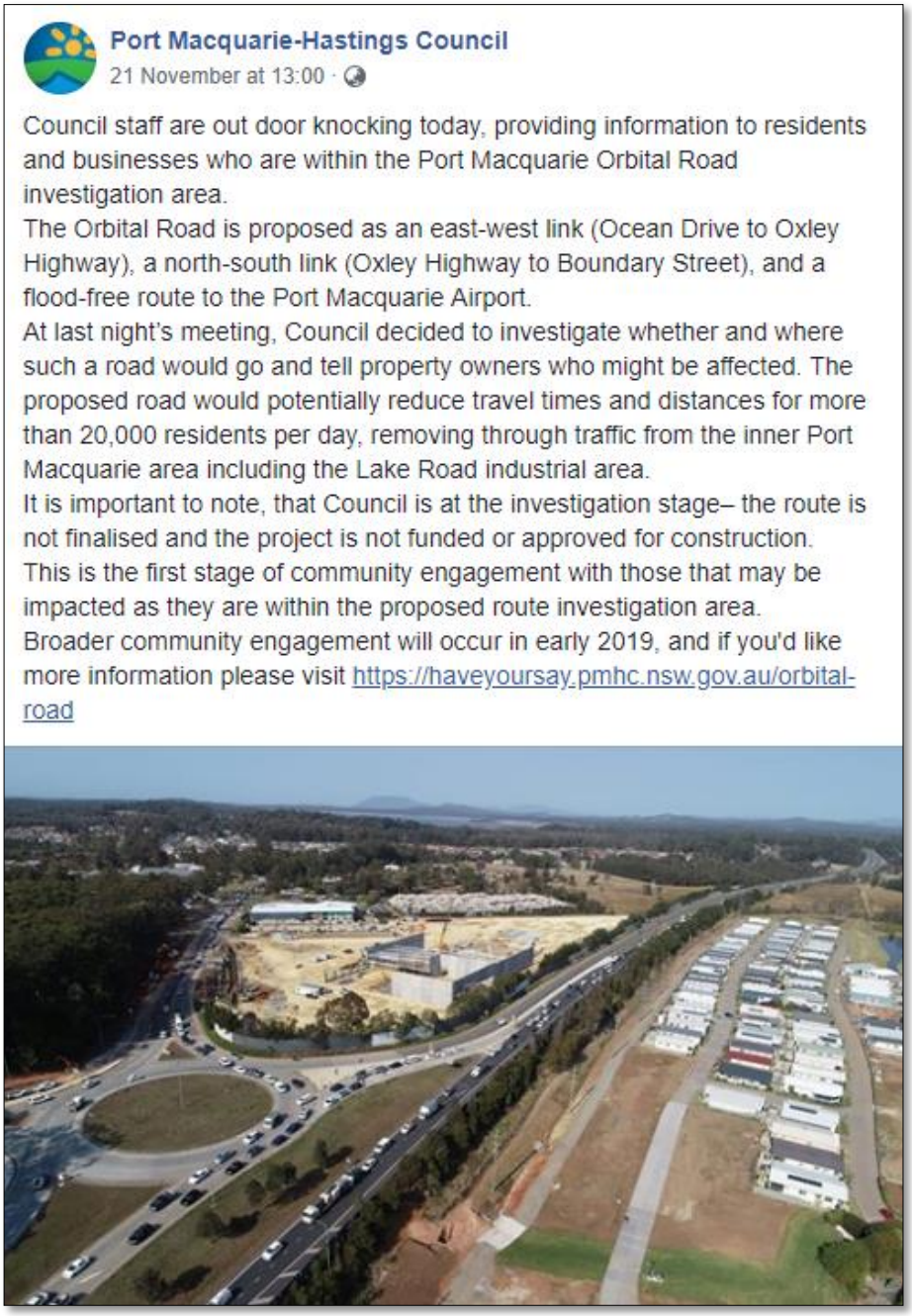


Figure 4: Extract from Council's Facebook page (source: https://www.facebook.com/pmhc2444/)

Figure 5: Proposed Orbital Road Investigation Corridor (source: www.pmhc.nsw.gov.au)

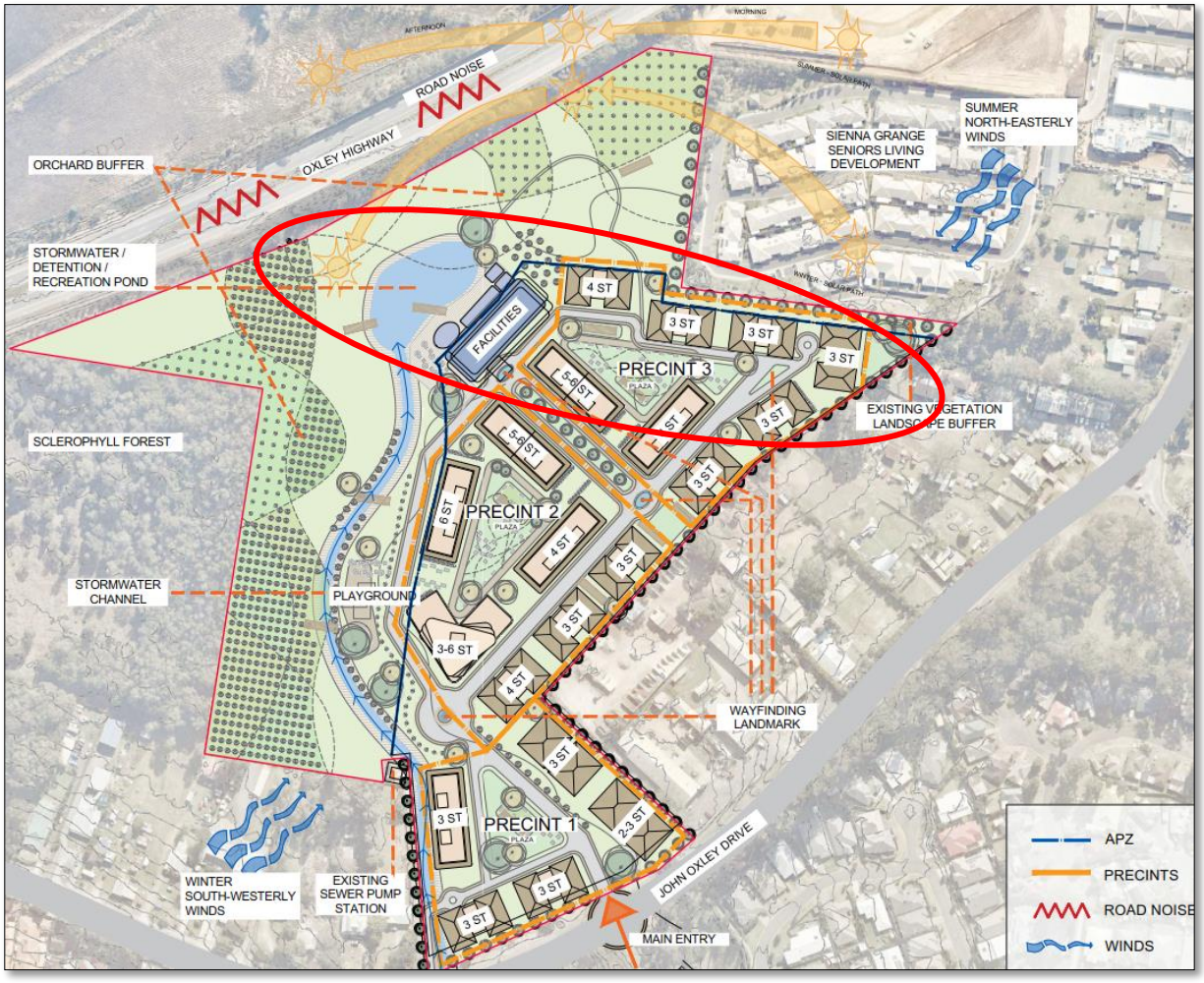


Figure 6: Proposed Orbital Road Investigation Corridor Identified Generally in Red on Site Plan

We particularly note the following from the post above:

> "*It is important to note, that Council is at the investigation stage– the route is not finalised and the project is not funded or approved for construction"*

and

> "*This is the first stage of community engagement with those that may be impacted as they are within the proposed route investigation area."*

Our client has received a generic letter from the Mayor at Council dated 22 November 2018, with no specific Lot /DP or address reference, which indicates:

> **Your property is within this identified investigation area. As the route is not finalised, we don't yet know how properties in the investigation area may be affected.**

A copy of the full letter is attached and also confirms that community engagement will commence in early 2019, however further states:

> "*The project is currently not funded, and likely timeframes are unknown at this stage*".

Council's website contains details of the Orbital Road investigations and notes that a full engagement program will commence in early 2019 and states:

> *"The most viable route has been identified, however as the project is in the early stages of development and the approval process is yet to begin, the final route is yet to be determined. Comprehensive technical and environmental investigations will be required before the final route is confirmed".*

It can reasonably be concluded from the limited publicly available information, that the corridor is still fluid in its location and timing. Having regard to Figures 5 and 6, the location through the subject site and immediately adjoining Sienna Grange to the north-east which is also bounded by Bunnings under construction, is not considered the most appropriate location from an amenity perspective. Further, it is reasonable to expect that the Orbital may occur in stages and it could be many years until the route is finalised or constructed.

3. Weight to be Given to Reports

We have sought legal advice from Pikes & Verekers Lawyers regarding the weight to be given to the two items when considering our SCC application. The advice states in part:

> The weight to be given to the structure planning for the health and education precinct and the area wide traffic planning will depend on when and in what format the final strategic documents are adopted.
>
> If the changes or part of them are incorporated into an environmental planning instrument, those provisions will be required to be considered pursuant to section 4.15(1)(a)(ii) once the environmental planning instrument has been put on exhibition.
>
> If the strategic changes or part of them are incorporated into a development control plan that plan will be required to be considered under section 4.15(1)(a)(iii) once the development control plan has been adopted.
>
> If the strategic changes or part of them are adopted as a policy, that policy may be considered pursuant to section 4.15 if it otherwise relates to matters for consideration under that section.
>
> If the traffic planning requires acquisition of land, it is likely that the environmental planning instrument proposing that acquisition will identify the land in the draft instrument. Submissions may be made in respect of that instrument when it is exhibited.
>
> Until the nature of the documents or instruments which enshrine the structure and traffic planning are released it is impossible to say what weight would be given to them. Any document is likely to be the subject of a public exhibition which would entitle your client as a relevant land holder to make submissions and in particular to request that any environmental planning instruments include transitional provisions which protect any development application lodged prior to the commencement of the instrument.

From a review of the reports and in the absence of a formal Planning Proposal on exhibition or resolution of Council regarding gateway determination, it is reasonable to assume that changes to an environmental planning instrument are not proposed at this stage for either project.

It is likely that the Health & Education Precinct Masterplan will inform future LEP and DCP amendments, which require further reporting to Council, exhibition and legislative approvals from the Department of Planning.

Given the uncertainty regarding timing and from the review of documentation publicly available and currently on exhibition, the timing of the orbital route is not expected to be in the short term and may not occur in its entirety.

Further, we consider the proposal subject of our SCC application to be generally consistent with the draft Masterplan for the Health & Education Precinct and the desired character of the area identified as "the west".

With respect to the Orbital, it is clear that the planning is still in its infancy, with substantial environmental reports and exhaustive community consultation to occur before a route can be determined.

We seek your confirmation that the assessment of the current SCC application for the subject site will not be delayed with respect to either of these points and we look forward to continued assessment of the application in this regard, in a timely manner.

We welcome the opportunity to provide any clarification required regarding any aspect of the proposed SCC application.

Should you have any questions or require any further information, please contact Donna Clarke of our office.

Yours faithfully

Graham Burns
Director – Land Dynamics Australia

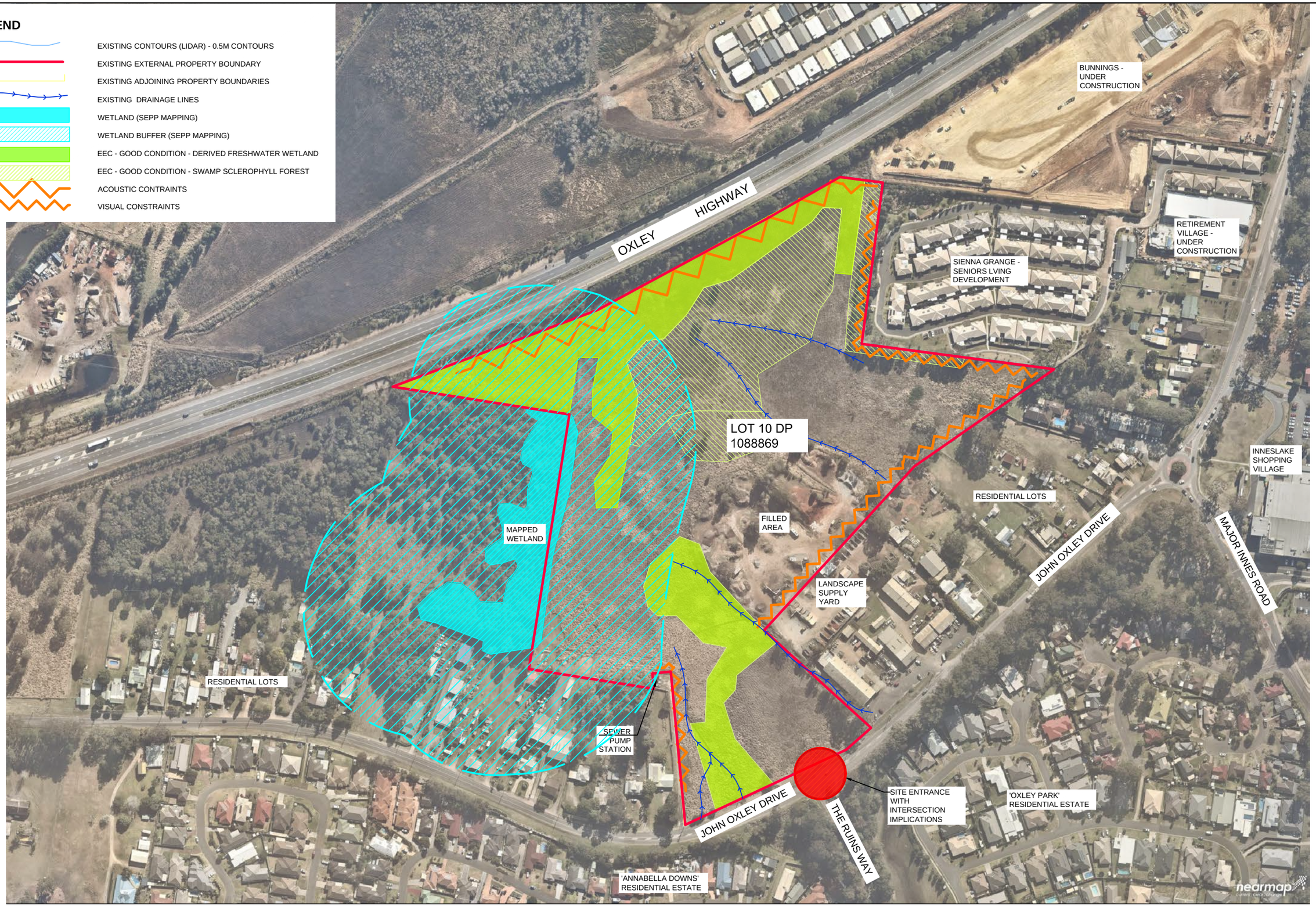
Attachments:

1. Letter to landowner

100mm AT ORIGINAL SIZE

LEGEND

- EXISTING CONTOURS (LIDAR) - 0.5M CONTOURS
- EXISTING EXTERNAL PROPERTY BOUNDARY
- EXISTING ADJOINING PROPERTY BOUNDARIES
- EXISTING DRAINAGE LINES
- WETLAND (SEPP MAPPING)
- WETLAND BUFFER (SEPP MAPPING)
- EEC - GOOD CONDITION - DERIVED FRESHWATER WETLAND
- EEC - GOOD CONDITION - SWAMP SCLEROPHYLL FOREST
- ACOUSTIC CONTRAINTS
- VISUAL CONSTRAINTS



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B	PRELIMINARY SUBMISSION	20.09.28	CM	CM	DC	
C	SC SUBMISSION	10.10.18	CM	CM	DC	

SCALES:
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Full Size 1:1500 ; Half Size 1:3000
Scale (m)

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CONTACT DIAL BEFORE YOU DIG PRIOR TO COMMENCING ANY EXCAVATION WORKS

PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

PROJECT:
SENIORS LIVING DEVELOPMENT

DRAWING TITLE:
LOT 10 DP 1088869 JOHN OXLEY DRIVE, PORT MACQUARIE
PRELIMINARY ENVIRONMENTAL CONSTRAINTS PLAN

ORIGINAL SIZE:	LAND DYNAMICS JOB No.:	DRAWING No.:	REV:
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100mm AT ORIGINAL SIZE

LEGEND

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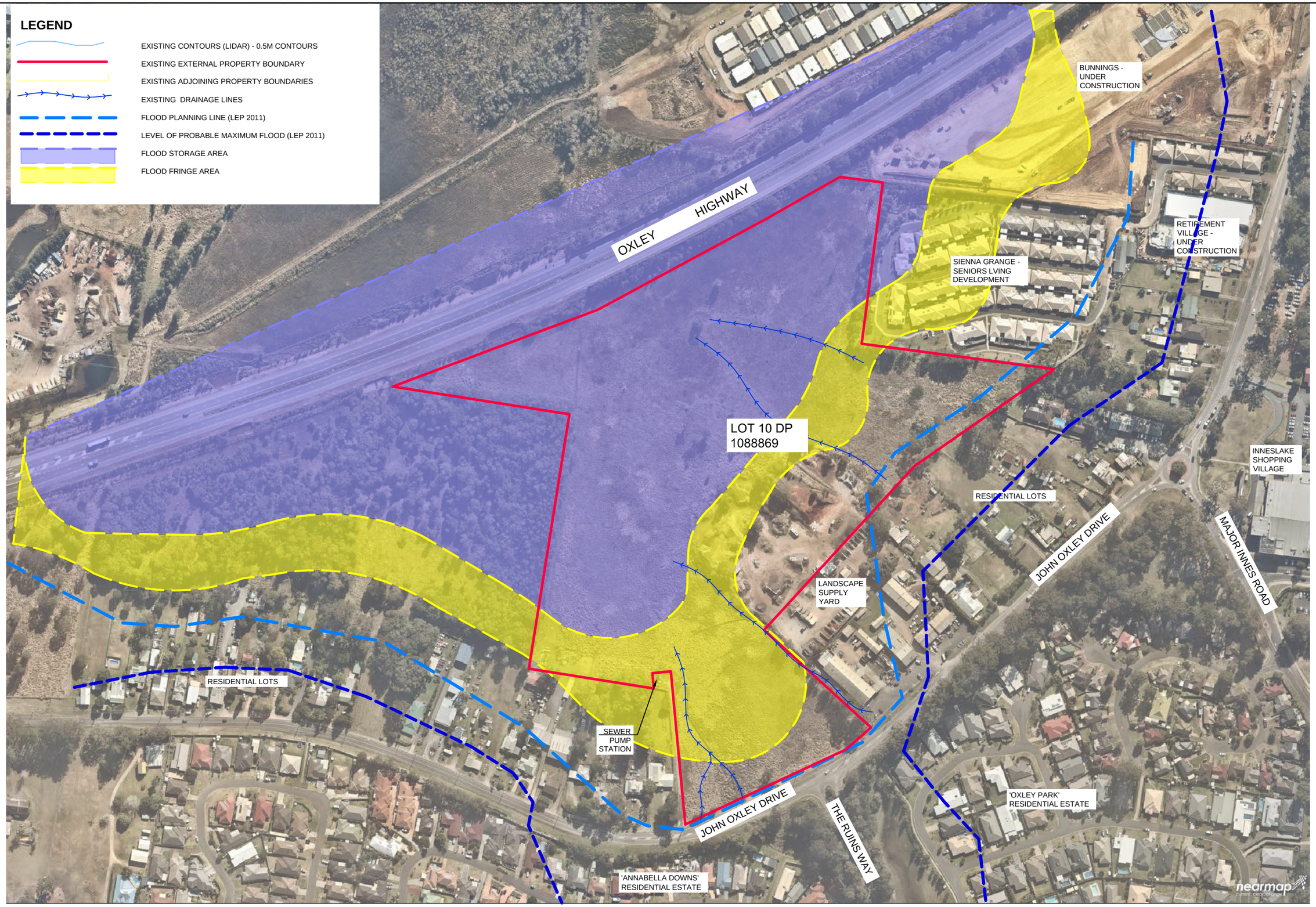
- EXISTING EXTERNAL PROPERTY BOUNDARY
- EXISTING ADJOINING PROPERTY BOUNDARIES
- EXISTING DRAINAGE LINES
- FLOOD PLANNING LINE (LEP 2011)
- LEVEL OF PROBABLE MAXIMUM FLOOD (LEP 2011)
- FLOOD STORAGE AREA
- FLOOD FRINGE AREA



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B	PRELIMINARY SUBMISSION	20.09.18	CM	CM	DC	
C	SC SUBMISSION	10.10.18	CM	CM	DC	

SCALES:
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Full Size 1:1500 ; Half Size 1:3000
Scale (m)

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PRELIMINARY ISSUE
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PROJECT:
SENIORS LIVING DEVELOPMENT

DRAWING TITLE:
LOT 10 DP 1088869 JOHN OXLEY DRIVE, PORT MACQUARIE
PRELIMINARY FLOOD CONSTRAINTS PLAN

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100mm AT ORIGINAL SIZE

LEGEND

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- EXISTING ADJOINNG PROPERTY BOUNDARIES
- EXISTING CONTOURS (LIDAR 0.5M INTERVAL)
- FLOOD PLANNING AREA (LEP 2011)
- MAPPED WETLAND TO BE RETAINED & PROTECTED
- MAPPED WETLAND BUFFER 100M
- EEC ALLOWED TO BE RETAINED AND PROTECTED
- PROPOSED AREAS TO BE REGENERATED AS EEC & LANDSCAPE BUFFERS
- PROPOSED ASSET PROTECTION ZONE AREAS (TO BE MANAGED TO IPA STANDARDS)
- PROPOSED BUILDING FOOTPRINT AREA

50M BUFFER TO ACCOMODATE APZ AND ACT AS A MANAGED BUFFER TO THE REGENERATED SWAMP SCLEROPHYLL FOREST EEC

RETAIN EXISTING VEGETATION AND SUPPLEMENT TO ENSURE A BUFFER TO EEC TO BE RETAINED TO PROVIDE SCREEN TO ADJOINING SIENNA GRANGE

OXLEY HIGHWAY

ACOUSTIC AND VISUAL SOLUTIONS TO BE PROVIDED TO OXLEY HIGHWAY

SIENNA GRANGE - SENIORS LVING DEVELOPMENT

EEC TO BE ALLOWED TO REGENERATE INTO SWAMP SCLEROPHYLL FOREST

50.0

PROPOSED STORMWATER DETENTION AREA FOR FUTURE DEVELOPMENT

10.00

RETAIN EXISTING VEGETATION AND SUPPLEMENT TO ALLOW A 10M BUFFER TO ADJOINING SIENNA GRANAGE

PROPOSED STORMWATER TREATMENT SYSTEM FOR PROPOSED DEVELOPMENT & STORMWATER CONVEYANCING FOR EXISTING STORMWATER RECEIVED FROM ADJOINING PROPERTIES

35.00

65.00

35M EEC BUFFER TO BE ALLOWED TO REGENERATE INTO SWAMP SCLEROPHYLL FOREST

JOHN OXLEY DRIVE

MAJOR INNES ROAD

SITE ENTRY - WILL REQUIRE TRAFFIC MANAGEMENT SOLUTION

JOHN OXLEY DRIVE

THE RUINS WAY

STORMWATER CORRIDOR TO BE PROVIDED PICKING UP EXISTING DRAINAGE AND REDIRECTING INTO A SYSTEM WITHIN THE APZ AREA

nearmap

REV	DESCRIPTION	DATE	DRAWN	DESIGN	CHECK	APPROVED
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B	PRELIMINARY SUBMISSION	20.09.18	CM	CM	DC	
C	SC SUBMISSION	10.10.18	CM	CM	DC	

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Scale (m)

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PROJECT:
SENIORS LIVING DEVELOPMENT

DRAWING TITLE:
LOT 10 DP 1088869 JOHN OXLEY DRIVE, PORT MACQUARIE
PRELIMINARY PLANNING ANALYSIS PLAN

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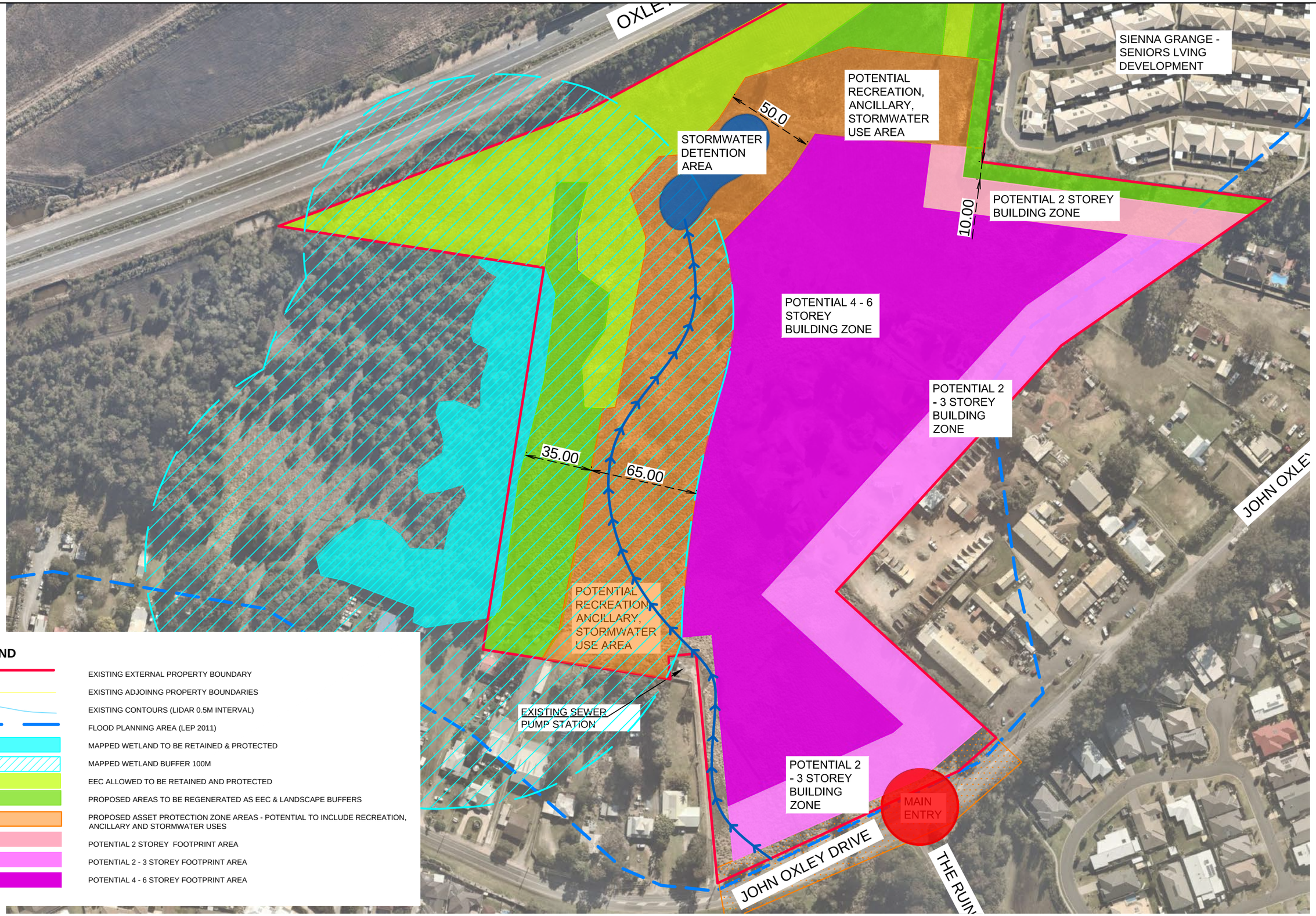

LEGEND

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- EXISTING ADJOINNG PROPERTY BOUNDARIES
- EXISTING CONTOURS (LIDAR 0.5M INTERVAL)
- FLOOD PLANNING AREA (LEP 2011)
- MAPPED WETLAND TO BE RETAINED & PROTECTED
- MAPPED WETLAND BUFFER 100M
- EEC ALLOWED TO BE RETAINED AND PROTECTED
- PROPOSED AREAS TO BE REGENERATED AS EEC & LANDSCAPE BUFFERS
- PROPOSED ASSET PROTECTION ZONE AREAS - POTENTIAL TO INCLUDE RECREATION, ANCILLARY AND STORMWATER USES
- POTENTIAL 2 STOREY FOOTPRINT AREA
- POTENTIAL 2 - 3 STOREY FOOTPRINT AREA
- POTENTIAL 4 - 6 STOREY FOOTPRINT AREA

REV	DESCRIPTION	DATE	DRAWN	DESIGN	CHECK	APPROVED
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B	SC SUBMISSION	10.10.18	CM	CM	DC	

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Full Size 1:1000 ; Half Size 1:2000
Scale (m)

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PROJECT:
SENIORS LIVING DEVELOPMENT

DRAWING TITLE:
LOT 10 DP 1088869 JOHN OXLEY DRIVE, PORT MACQUARIE
POTENTIAL BUILDING ZONE PLAN

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Sydney · Brisbane · Canberra · Melbourne · Adelaide · Perth
London · Kuala Lumpur · Auckland
ABN 20 098 552 151

TN MN

CLIENT
MIDWEST RADIO NETWORK PTY LTD

DRAWING TITLE
SITE ANALYSIS

PROJECT
94-112 JOHN OXLEY DRIVE
PORT MACQUARIE, NSW

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JOB	DRAWING	REVISION
18130	SCC 1.01	A

INDICATIVE YIELD

UNIT MIX						INDICATIVE FSR		
ONE BED	TWO BED	THREE BED	SUB TOTAL	CROSS VENT.	SOLAR ACCESS	TOTAL SITE m²	TOTAL GFA m²	FSR X:1
25%	25%	50%	525	60%	70%	119132	68750	0.58

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DRAWING TITLE
TYPICAL LEVEL

PROJECT
94-112 JOHN OXLEY DRIVE
PORT MACQUARIE, NSW

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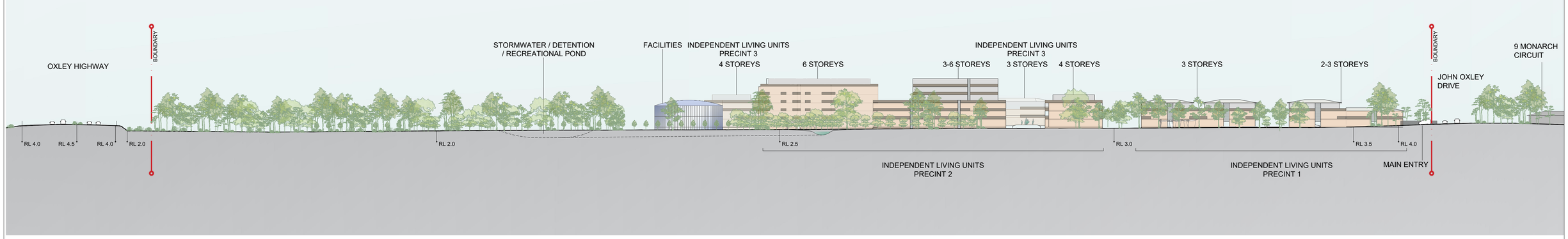
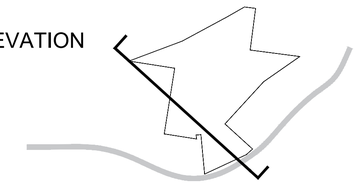


ELEVATION



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PROJECT
94-112 JOHN OXLEY DRIVE
PORT MACQUARIE, NSW

DRAWING TITLE
ELEVATION

SCALE	DATE	DRAWN	CHECKED
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JOB	DRAWING	REVISION
18130	SCC 1.03	A

October | 18

SENIORS HOUSING SEPP
SITE COMPATIBILITY CERTIFICATE
VEGETATION ASSESSMENT
Seniors Living Development Lot 10 DP 1088869, John Oxley Drive, Port Macquarie

Prepared For: **Land Dynamics Pty Ltd**
Port Macquarie

6 John St Port Macquarie NSW 2440
Phone: 6593 6178
Mobile: 0431 833 968
jbenvironsw@gmail.com

User Notice

This report is presented on an objective basis to fulfill the stated legislative obligations, consideration and requirements in order to satisfy the client's instructions to undertake the appropriate studies and assessments. It is not directly intended to advocate the proponent's ambitions or interests, but is to provide information required in the determination of development consent by the decision-making authority for the subject proposal.

To the best of our knowledge, the proposal described in this assessment accurately represents the proponent's intentions when the report was completed and submitted. However, it is recognised and all users must acknowledge that conditions of approval at time of consent, post development application modification of the proposal's design, and the influence of unanticipated future events may modify the outcomes described in this document. Completion of this report has depended on information and documents such as surveys, plans, etc provided by the proponent. While checks were made to ensure such information was current at the time, this consultant did not independently verify the accuracy or completeness of these information sources.

The ecological information contained within this report has been gathered from field survey, literature review and assessment based on recognised scientific principles, techniques and recommendations, in a proper and scientific manner to ensure thoroughness and representativeness. The opinions expressed and conclusions drawn from this report are intended to be objective, based on the survey results and this consultant's knowledge, supported with justification from collated scientific information, references/citations or specialist advice.

Furthermore, it is clarified that all information and conclusions presented in this report apply to the subject land at the time of the assessment, and the subject proposal *only*.

This report recognises the fact, and intended users must acknowledge also, that all ecological assessments are subject to limitations such as:

- Information deficits (eg lack of scientific research into some species and availability of information)
- Influences on fauna detectability eg season in which survey is undertaken
- Influences on species occurrence eg stage of lifecycle, migratory, etc
- Time, resource and financial constraints.

All users should take into account the above information when making decisions on the basis of the findings and conclusions of this report.

Version	Distribution	Date	Approved for DA	Approved by:
1	Land Dynamics	9/10/2018	Draft only	JB
2	Land Dynamics	10/10/2018	Final	JB

TABLE OF CONTENTS

LIST OF FIGURES

LIST OF TABLES

LIST OF PHOTOS

EXECUTIVE SUMMARY

The proposal is to establish a high density seniors living estate comprising 2-6 storey residential buildings and associated support facilities. The development footprint is proposed to about 5.87ha of the site, with another 2.5ha to dually act as an Asset Protection Zone (APZ), stormwater management and recreation area.

The residual approximately 2.9ha area to the west and north is to be allowed to naturally regenerate back into the original vegetation community which appears from adjoining remnants to be swamp forest.

The subject land has been substantially modified from its original state which was likely to have been swamp forest to establish pasture as part of historical rural usage consistent with its rural zoning. On-going management plus inputs of stormwater from the surrounding residential development has further contributed to degradation or stalled recovery, maintaining much of the site as a derived freshwater wetland with scattered trees and suppressed regrowth, to pasture dominated by exotics at times with a mix of wetland species.

While the site qualifies over most of its extent as a complex of Coastal Floodplain EECs in various levels of condition, existing use rights prevent the EEC from recovering to its preferred state ie. *Swamp Sclerophyll Forest on Coastal Floodplains*.

No threatened flora or fauna were found, and due to the disturbance regime of the site, no threatened flora or fauna are considered likely to depend on the site's habitats for critical life cycle stages. The site is also not a key part of an intact remnant of vegetation or function as a corridor, but regeneration of 2.9ha of the site as proposed in the development concept would enhance local linkages and increase the extent of remnant forested wetland vegetation.

1 INTRODUCTION

This firm has been requested to undertake a native vegetation assessment in-line with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP) Site Compatibility Certificate (SCC) Application Guidelines (2009) "*Consideration of native vegetation under the Seniors Living SEPP*" on Lot 10 DP 1088869, John Oxley Drive, Port Macquarie.

The Guidelines details the heads of consideration and assessment methodology to inform the Department of Planning and Environment (DPE) in their assessment of a SCC Application under Clause 25(b)(vi) of the SEPP.

The relevant aspect of this clause is to determine if the subject land would involve clearing of native vegetation that would require approval under section 12 of the *Native Vegetation Act 2003* (now repealed and replaced by the *Local Land Services Act 2013*).

If the SCC application is approved, consent under the *Native Vegetation Act 2003* for clearing of native vegetation is not required.

The Guideline have three sections addressed in this report:

- Section 1: Confirmation that the guidelines apply.
- Section 2: Vegetation information
- Section 3: DPE assessment criteria

In addition to the above Guidelines, the assessment has also been undertaken in accordance with the Ecological Consultants Association of NSW – Code of Ethics (2002) available at www.ecansw.org.au.

2 BACKGROUND INFORMATION

2.1 Proposal Description

A preliminary development concept is to shown in **Figure 2**.

The proposal is to establish a high density seniors living estate comprising 2-6 storey residential buildings and associated support facilities. The development footprint is proposed to about 5.87ha of the site, with another 2.5ha to dually act as an Asset Protection Zone (APZ), stormwater management and recreation area.

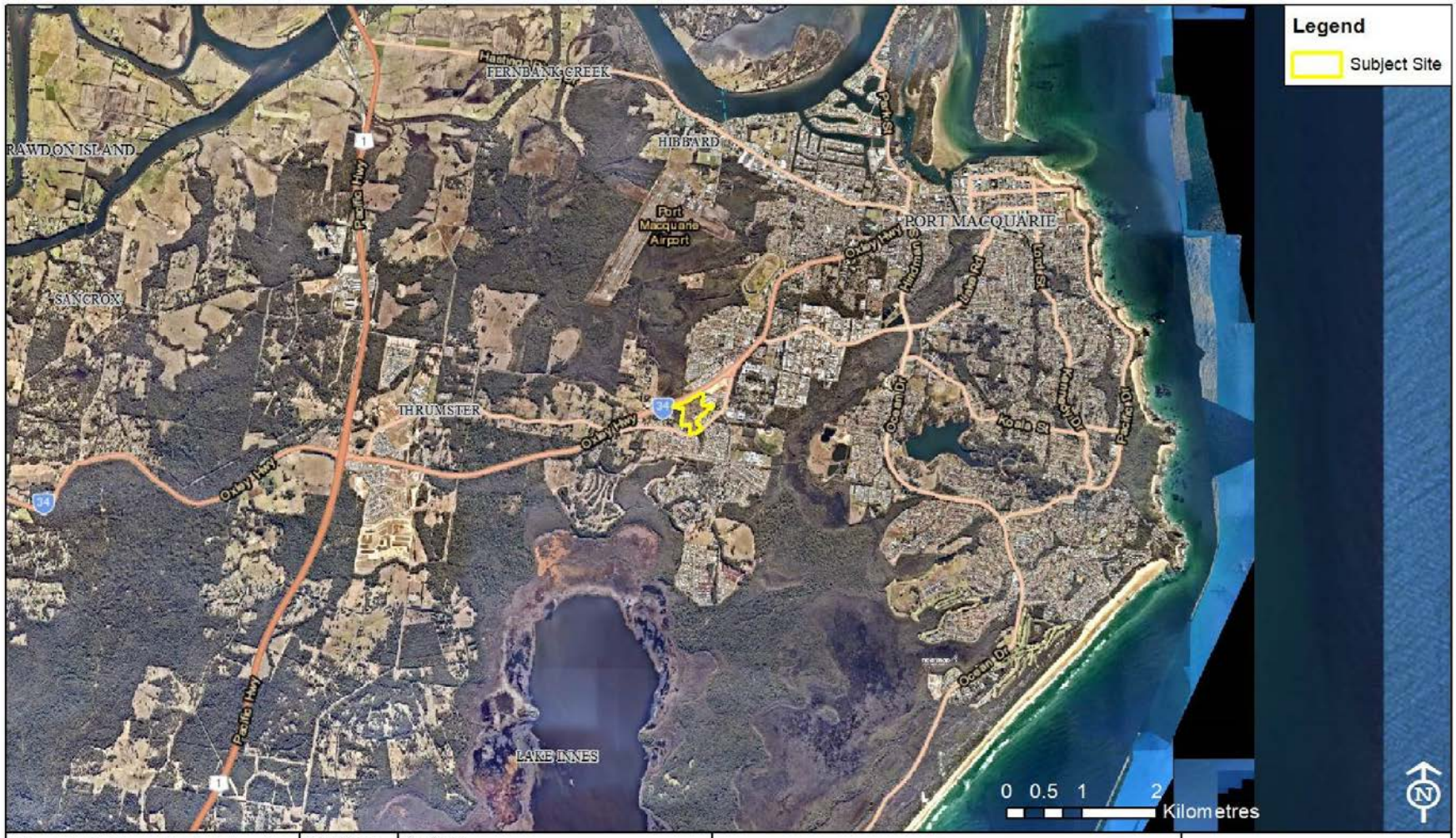
The residual 2.9ha area to the west and north is to be allowed to naturally regenerate back into the original vegetation community which appears from adjoining remnants with the same edaphics to be swamp forest.

2.2 Location of the Study Site and Key Definitions

See Figure 1 for location of the study site.

The **study site/subject land** is **Lot 10 DP 1088869**, John Oxley Drive, Port Macquarie, as shown in **Figure 1** and **2**. The **study area** is nominated as the land within 100m of the site. The **locality** is nominated as the land within a 10km radius of the site, except where the term refers to the 1.79km radius for landscape context.

Figure 1: Location of the study site



This mapping should be considered indicative only and all derivations (eg of areas of EECs and vegetation communities) are at best approximations and subject to errors including individual interpretation and reliance on information provided to JB Enviro which may not have been independently verified. All information is intended to be indicative only and no reliance for exrapolation, mapping etc should be placed upon this map without independent validation of the information by the user. JB Enviro takes no responsibility for any subsequent errors, losses, etc that may arrise from use of this data without independent verification.

Project Manager:	JB
Drawn By:	DK
Date:	25/08/2018
Map Projection:	MGA Zone56
Datum:	GDA94
Page:	1 of 1

Figure Name: Site Location

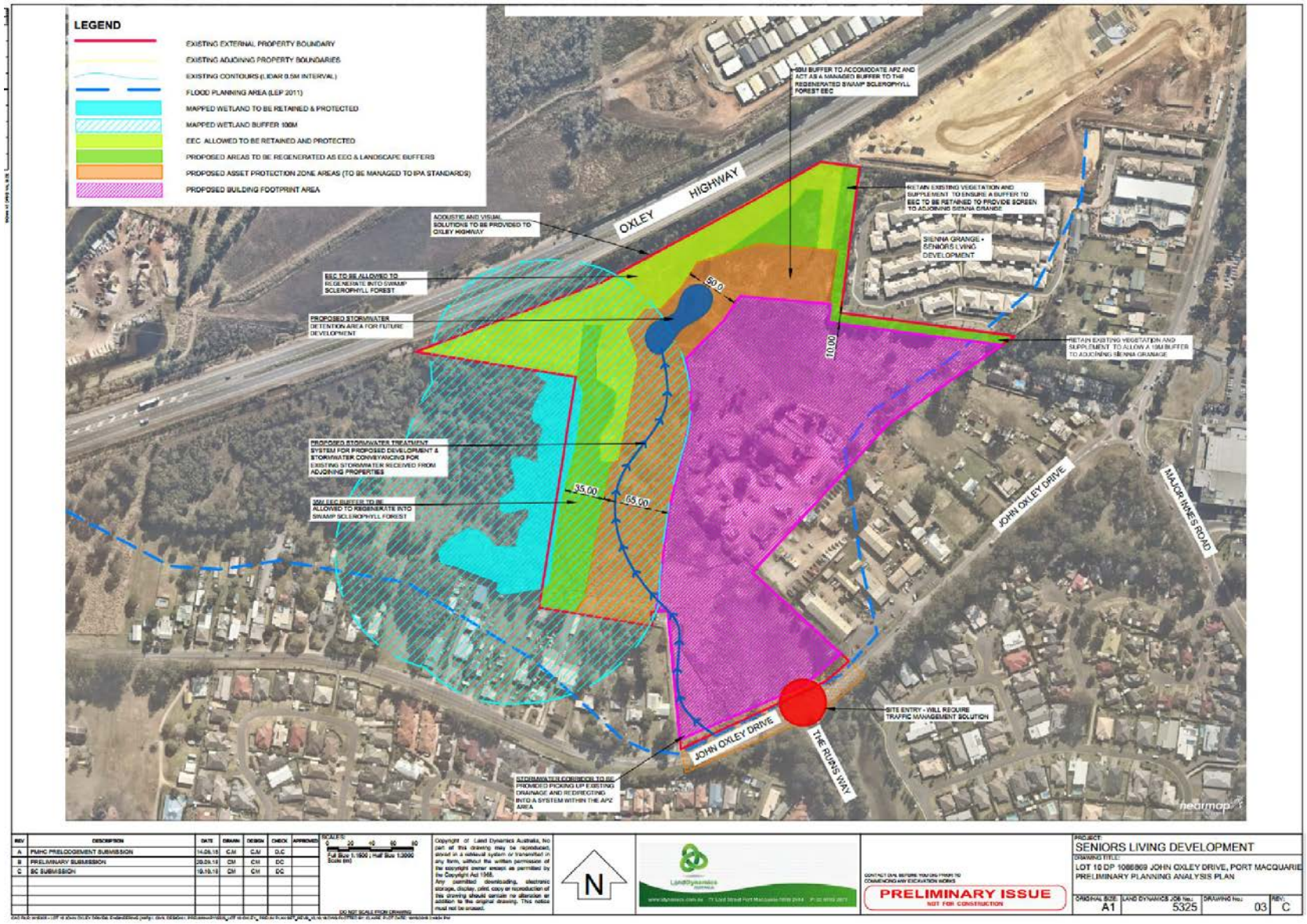
Site: Lot 10 DP 1088869, John Oxley Drive Port Macquarie

Client: Land Dynamics Pty Ltd

Aerial Imagery Source: Nearmap 23 July 2018

Scale:	Job Number:	Revision:
1:65,000	J2018-5	A

Figure 2: Development concept plan



2.2.1 Topography and Soils

Refer to the map in **Figure 3**.

The site is generally the southern end of a very large and broad drainage depression that extends north of the Oxley Highway to include a large wetland. It has a gentle rise in elevation to the west and east, with a gentle fall to the north, and while generally flat, has a complex micro-relief pattern which is a strong influence on vegetation floristics as detailed in section 3.3.

An artificial drainage has been cut for about 100m into the site from a stormwater pipe discharge point at John Oxley Drive, with flow then dispersing via laminar flow across the site. Small drains have been cut along part of the mid-western boundary and adjacent to the existing seniors living in the northeast, and along the common boundary of the industrial precinct adjunct to the southeast.

Troedson and Hashimoto (2004) map the site as the Quaternary soil landscape Qavf. This is a Quaternary undifferentiated alluvial plain. A soil survey of this landscape on adjacent land to the west (Hazelton 2009) has confirmed this mapping.

2.3 Landuse and Disturbance History

Part of the site (about 1.31ha) has been used for a landscape supplies business for over a decade. Associated within this development, this envelope has been filled and it is used for storage of soils and mulch. Some regrowth vegetation occurs around the edges of this development and on soil storage mounds.

The remainder of site has been historically cleared with regrowth managed by periodic slashing (pers. obs.).

Tree cover is limited to couple of Swamp Mahogany in the southern end; along the table drains on the southeast and northeast; a cluster of Swamp Mahogany just northwest of the landscaping supplies; and a couple of trees on the mid-eastern boundary.

Almost all areas of the site contain exotic pasture species with abundance depending on groundwater levels. The soil stockpiles on the edges and within the landscaping area are highly weed infested.

2.4 Adjacent Developments

The site is located on the edge of the southwestern residential precincts of Port Macquarie. The northern boundary is bound by the Oxley Highway deviation which began construction in 2010. Two sets of culverts provide both water flow and fauna movement passages from the site to the wetland to the north.

A seniors living development and a new Bunning's warehouse occur to the northeast, with long established large lot residential dwellings to the east, grading to a small local light industrial area. To the southeast and south are residential estates established in the last 20 years. Further southwest are older residential areas adjoining a small remnant rural lot which although largely forested, is periodically slashed.

Figure 3: Quaternary soil landscapes

3 SECTION 1: DO THE GUIDELINES APPLY?

For the Guidelines to apply, the answer must be no to all of the following questions:

1. **Question A: Is the land excluded under Schedule 1 of the *Native Vegetation Act*?**

No: The land is not within a listed Local Government Area (LGA) considered urban; and is not zoned residential, village, township, industrial or business.

2. **Question B: Does the proposed development retain all native vegetation on site?**

No. As shown in the development concept in **Figure 2**, the proposal will clearing of about two thirds of the site.

3. **Question C: Is the type of proposed vegetation clearing excluded from the *Native Vegetation Act,* exempt from approval or otherwise permitted under that Act?**

No. The site contains some elements which could be considered remnant vegetation eg. mature Tallowwood and Blackbutt, plus groundcover species which appear to have remained despite historical clearing of the original community and some level of pastoralism.

The proposal is not a Division 3 Permitted activity or Division 4 Excluded clearing.

Conclusion: The Guidelines apply to the proposal.

4 SECTION 2: VEGETATION INFORMATION

4.1 Vegetation to be Cleared

4.2 Survey Methods

The flora survey routinely consists of two components:

- Identification, description and mapping of the major vegetation communities and any Endangered Ecological Community listed under the *Biodiversity Conservation Act 2016* (BC Act), and *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

- Searches for, identification of, and (if found) mapping of any threatened species and their habitat.

- Condition assessment of the site vegetation as per Step 4 of the Guidelines.

4.2.1 Vegetation Mapping and Identification

The survey was undertaken in September 2018. As the study site is relatively small, full access to all areas was granted, and limited diversity in vegetation types: survey was undertaken via a random meander undertaken throughout the entire extent of the site vegetation stands to identify associations and structure, divide the site into vegetation zones, and compile a species list, with limited use of aerial photo interpretation. Plots (20 x 20m^2) were then set out based on the breakdown of the site in vegetation zones for qualitative analysis.

The advantages of this methodology are:

- Provides the most amount of information for given input.
- Provides a means to sample vegetation boundaries.
- Provides a means for assessing floristic diversity and possible presence of threatened species (Forest Fauna Surveys *et al* 1997).

4.2.2 Vegetation Classification and Species Identification

The vegetation communities were described from data collected by a combination of 20 x 20m quadrats and a random meander transects over the study site. Classification was based the OEH Plant Community Type (PCT) system. Mapping by Biolink (2013a) was also reviewed for site and study area classifications.

Species identification was made with the assistance of PlantNET, GTCC (2007), Bale (1993), Beadle (1982), Harden (1990, 91, 92, 93, 2000), Williams and Harden (1984), Williams and Harden (1980), Williams and Harden (unknown), Robinson (1994), and Brooker and Kleinig (1999). Plant species were identified to species or subspecies level and nomenclature conforms to that currently recognized by the Royal Botanic Gardens and follows Harden and PlantNET for changes since Harden (1990-1992, 2000).

Identification of possible Endangered Ecological Communities (EECs) was based on the data collected by the survey and review of the relevant listings on the Office of Environment and Heritage (OEH) website (OEH 2018b).

4.2.3 Threatened Flora Species Searches and Occurrence Assessment

4.2.3.1 Searches

Searches for threatened flora recorded in the Local Government Area (LGA) and/or in regionally similar habitats to that on the site were carried out over the entire area of the study site during specific targeted searches. These consisted of systematic inspection of all table drains, inspection of all Melaleucas and belt transects over wetland vegetation in good condition. The primary target species (all considered detectable at the time of survey) were:

- *Allocasuarina defungens*
- *Asperula asthenes*
- *Maundia triglochinoides*
- *Melaleuca biconvexa*

A total of 3 dedicated hours was spent on searches for threatened flora on the site during the survey.

4.2.3.2 Potential Occurrence Assessment:

Potential occurrence assessment of threatened flora species is considered in **section 4.4.2.** This section assesses all threatened species (BC Act 2016 and EPBC Act 1999) known to occur within the locality for their potential to occur on the site based on the following factors:

- Presence/absence of suitable habitat.
- Condition and disturbance history of habitat.
- Local and regional records (eg. OEH 2018a).
- Location of site within known distribution of the species.

4.2.4 Condition Assessment

A condition assessment is required under Section 2 of the Guidelines to determine if the site contains vegetation of high conservation significance. High conservations significance vegetation is that listed as Critically Endangered or Endangered under the *Threatened Species Conservation Act 1995* (repealed and replaced by the *Biodiversity Conservation Act 2016*), and is not in 'low condition'.

Section 2 Step 4 of the Guidelines provides the following definition to assess the condition of native vegetation in low condition:

- Native woody vegetation with an overstorey percent foliage cover that is less than 25% of the lower value of the overstorey percentage foliage cover benchmark for that vegetation type, and where:

  – less than 50% of the groundcover vegetation is indigenous species, or
  – more than 90% of the area is ploughed, or
  – more than 90% of the area is fallow, or
  – 90% of the groundcover vegetation is regrowth but not protected regrowth.

- Native grassland, wetland or herbfield where:

  – less than 50% of the groundcover vegetation is indigenous species, or
  – more than 90% of the area is ploughed, or
  – more than 90% of the area is fallow, or
  – 90% of the groundcover vegetation is regrowth but not protected regrowth.

The methodology used to assess the above was undertaken as follows:

1. Site broken down into Plant Community Types (PCTs) identified by dominant species and using the Bionet Vegetation Classification Tool (https://www.environment.nsw.gov.au/NSWVCA20PRapp/default.aspx).

2. PCTs broken down into Vegetation Zones (VZs) based on visual condition (eg. level of weed infestation) and floristic variations eg. dominant sedge species.

3. Projected Foliage Cover (PFC) per 20 x 20m^2 quadrats of all natives and exotics determined by field survey. Number of quadrats per VZ was based on the effort specifications in the NSW Biodiversity Assessment Methodology (BAM).

4.2.5 Limitations

The survey was conducted in early spring, following a prolonged dry period. Consequently, the survey is a snap-shot of conditions prevailing prior to and at the time eg. wetter and warmer seasons may influence floristic diversity and structure of the site. The site had also been slashed in the last 12 months as indicated by the limited development of woody vegetation.

A high proportion of the exotic grasses and some natives presented as dead or inactive at the time of survey, or were noted to have green shoots or stems. For the purposes of the condition assessment, the plants which were dormant but alive (stems alive but leaves dead) or shooting from stems to rhizomes were considered alive in their entirety.

4.3 Site Vegetation Communities

As shown in **Figure 4** and **Photos 1-10**, the vegetation on the subject land reflects a long disturbance history which clearly began with clearing of virtually all the original forest cover, and subsequent partial pastoralisation. The success of pastoralisation has been limited by the wide ranging hydrological patterns, with the area being predominantly subject to a high watertable which has maintained conditions for wetland species.

A species list is provided in **Appendix 3**. Sample photos follow:

4.3.1 Swamp Sclerophyll Forest A1

PCT	1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast
Biolink (2013)	Not mapped.
Extent (ha)	1.98
No. plots	4
Location	Regrowth on spoil from table drain along boundary with Sienna Grange in northeast, and a patch comprising three trees in the central north.
Description	(a) Canopy/Understorey: *Structure and Species*: The linear patch along the boundary of Sienna Grange is dominated by a single line of immature Broad-leaved Melaleuca (*Melaleuca quinquenervia*) occurring as the dominant species with Swamp Oak (*Casuarina glauca*). A few individual Forest Red Gum (*Eucalyptus tereticornis*) also occur, with some Snow-in-Summer (*Melaleuca linariifolia*). *M. styphelioides* and *M. nodosa* are also present in low abundance with juvenile canopy species in a sparse understorey. Height is around 5-10m with trunk diameter at breast height 10-30cm. The two trees in the second patch consist of a Swamp Oak, a Forest Red Gum and what appears to be a Bastard Tallowwood (*E. patentinervis*). These trees are older and taller (about 12-14m). (b) Shrub Layer: *Structure and Species*: This stratum has been suppressed by slashing and was generally <1m high at time of survey, apart from some Swamp Oak seedlings clustered at the base of the older tree in the main clump. It was better developed along the northeast boundary stand. In the main remnant, this stratum is dominated by *Leptospermum juniperinum, Melaleuca sieberi, M. thymifolia,* and an occasional *Callistemon pachyphyllus*. Forest Red Gum and Swamp Oak seedlings are common. *Pimelea ligustrina* is also common. *Pultenaea retusa* has a variable frequency but is overall not abundant. In the linear remnant, this stratum consists of the same species with a little bit of Lantana. (c) Ground Layer: *Structure and Species:* Varies with light availability, soil moisture content and disturbance. The linear strip has an at times high weed content, with **Setaria* spp. being dominant overall, with natives dominating the northern end. Common Paspalum (**P. dilatatum*), Vasey Grass (**P. urvillei*), **Hydrocotyle bonariensis*, Carpet Grass (**Axonopus*

	*fissifolius), *Bidens pilosa* and Whiskey Grass *(*Andropogon virginicus)* are the most common. A dense patch of Coral Fern (*Gleichenia dicarpa*) occurs in the northern end with sedges. A variety of native grasses and herbs may be found with an equal variety of common weeds. Most of the aforementioned weeds are also present in lesser abundance in the other remnant, but generally this stratum is dominated by sedges and herbs comprising Twig rush *(Baumea juncea), B. rubiginosa*, *Centella asiatica*, *Carex appressa*, Tussock Rush (*Juncus usitatus*), *Ranunculus inundatus, and Chorizandra cymbaria*. Swamp Millet (*Isachne globosa*) also occurs, at times common. (e) Lianas, scramblers, epiphytes, mistletoe etc.: Rare. Limited to single vines of Monkey Rope (*Parsonsia straminea*) and Native Raspberry (*Rubus moluccana*) in the linear remnant.
Comments	The main patch represents the last vestiges of the original plant community which dominated the site, as indicated by remnant vegetation west with identical edaphics and the regenerating canopy species. The linear band is regrowth on the spoil left when the drain was dug which has escaped slashing.

4.3.2 Swamp Sclerophyll Forest A2

PCT	1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast
Biolink (2013)	Not mapped.
Extent (ha)	1.57ha
No. plots	2
Location	Two patches. One in central northeast, other in central south-east.
Description	(a) Canopy/Understorey: *Structure and Species*: Restricted to a line along the table drain on the boundary with the landscaping supplies although two Swamp Mahogany in poor condition occur on the southwest fringe. Boundary line stand consists of a single line of Broad-leaved Melaleuca as the dominant species with single trees of Swamp Mahogany (*E. robusta*), Pink Bloodwood (*Corymbia intermedia*) and a couple of Blackbutt (*E. pilularis*) in the southernmost point. Height is around 5-15m with trunk diameter at breast height 10-50cm. (b) Shrub Layer: *Structure and Species*: This stratum has been suppressed by slashing and was generally <1m high at time of survey. Consists mostly of *Leptospermum juniperinum,* with a few *M. thymifolia* and *Callistemon pachyphyllus.* Swamp Mahogany and Swamp Oak seedlings are common in the southeast patch, with *M. sieberi* more common in the northern patch. In the linear band in the southeast, *Hibbertia diffusa, Pultenaea retusa* and *Acacia sophorae* was also present in low abundance, with the aforementioned species plus some *M. sieberi*. A single *Banksia spinulosa* was also noted. (c) Ground Layer: *Structure and Species:* Varies with soil moisture content and disturbance. Main area dominated by mix of exotics and natives, with the former being more common. Exotics mainly comprised **Setaria* spp. Vasey Grass, **Hydrocotyle bonariensis*, and Whiskey Grass *(*Andropogon virginicus)*. Natives comprised Twig

	Rush, *B. rubiginosa*, *Centella asiatica*, *Carex appressa*, *Ranunculus inundatus,* and Couch *(Cynodon dactylon). Xyris operculata* was locally common in the northeast patch. *Ranunculus lappaceus* also occurs in both patches in drier areas. Weeds were more common to dominant on the drain spoil, with some native hydrophytes in the drain eg. Frogsmouth (*Philydrum lanuginosum*) and Common Reed (*Phragmites australis*). Spiney-headed Matrush (*Lomandra longifolia*), *Dianella caerulea*, Bladey Grass (*Imperata cylindrica*) and Kangaroo Grass (*Themeda australis*) were also noted toward John Oxley Drive. (e) Lianas, scramblers, epiphytes, mistletoe etc.: Rare. Limited to single vines of Monkey Rope, Native Raspberry and *Glycine clandestina* in the linear remnant.
Comments	This VZ also represents a derivation of the original plant community which dominated the site, as indicated by the shrub and regenerating canopy species. The linear band is regrowth on the drain spoil which has escaped slashing due to the installation of the table drain. It appears to include an ecotone into the original dry sclerophyll forest upslope.

4.3.3 Swamp Sclerophyll Forest B

PCT	1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast
Biolink (2013)	Not mapped.
Extent (ha)	0.31ha
No. plots	1
Location	Comprises small patch of regrowth and planted native trees just northwest of the landscaping supplies storage area.
Description	(a) Canopy/Understorey: *Structure and Species*: Consists of a handful of mostly regrowth Swamp Mahogany and Bastard Tallowwood, Swamp Oak, and Forest Red Gum about 8-10m high (DBH 20-30cm), with a number younger trees 3-5m high (<15cm DBH). Most of the latter appear to be planted within the centre of old types intended to protect from slashing. A couple of young Camphor Laurel (**Cinnamonum camphora*) are also present with a single Snow-in-Summer. (b) Shrub layer Numerous young Swamp Mahogany, Bastard Tallowwood, Swamp Oak, and Forest Red Gum. Some *L. juniperinum* is present. About 0.5-2m high. (c) Ground Layer: *Structure and Species:* Varies with soil moisture content and disturbance. Most of this community has a groundcover with a high level of exotics, which is why is it separated from the other swamp forest VZs, as well as the local clumping of trees in various growth stages which sets it apart from other areas. Groundcover is dominated by **Setaria* spp., Vasey Grass, **Hydrocotyle bonariensis*, Whiskey Grass, Fleabane (**Conyza* spp.), Common Dock (**Rumex crispus)* and Torpedo Grass *(*Panicum repens)*. Natives occurred in localised depressions with higher groundwater levels and comprised mainly *Centella asiatica*, Twig Rush, *B. rubiginosa, Carex appressa*, Tussock Rush, *Carex appressa*, Couch, *Persicaria* spp.

	and *Ranunculus inundatus*. (d) Lianas, scramblers, epiphytes, mistletoe etc.: Rare. Limited to single vines of Monkey Rope.
Comments	This VZ is a mix of regrowth and planted trees of what originally occurred, but has a high weed content due to its local relief advantaging the exotics.

4.3.4 Tallowwood – Blackbutt Dry Sclerophyll Forest

PCT	690 Blackbutt - Tallowwood dry grassy open forest of the central parts NSW North Coast Bioregion
Biolink (2013)	Not mapped.
Extent (ha)	0.79ha
No. plots	1
Location	Single patch in east-northeast on land gently rising to the east
Description	(a) Canopy/Understorey: *Structure and Species*: Consists of a single mature Blackbutt and Tallowwood, and a couple of young Forest Red Gum and Pink Bloodwood, with some planted Swamp Mahogany on the boundary fence. (b) Shrub Layer: *Structure and Species*: Absent. (c) Ground Layer: *Structure and Species:* Varies with soil moisture content and disturbance. Main area dominated by mix of exotics with some natives (most commonly Bladey Grass). Carpet Grass, **Setaria* spp. Vasey Grass, **Plantago lanceolata*, Purpletop (**Verbena* spp.) and Whiskey Grass *(*Andropogon virginicus)* are the most common. Natives comprised *Centella asiatica*, Couch, Kangaroo Grass and *Ranunculus lappaceus*. Spiney-headed Matrush, *Dianella caerulea*, Couch, Bladey Grass and Kangaroo Grass were more common in localised areas around the two mature trees. (e) Lianas, scramblers, epiphytes, mistletoe etc.: Rare. Limited to *Glycine clandestina*.
Comments	This VZ represents the last vestiges of the PCT which originally dominated the residual soil landscape to the east, which has long been cleared for residential development. This PCT comprises most of the nearby dry sclerophyll remnants to the east.

4.3.5 Freshwater Wetland (*Baumea*)

PCT	No matching PCT – appears to be derived from 1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast (same groundcover in patches of adjoining forest to west where watertable is locally higher)
Biolink (2013)	Not mapped.
Extent (ha)	1.9ha
No. plots	3
Location	Occurs in the northern boundary and largely infilled residual channel in the central northwest. This community generally occurs in an area of localised low relief adjacent to the highway underpasses and may reflect ponding due to the barrier effect of the highway.
Description	(a) Canopy/Understorey: *Structure and Species*: Absent. (b) Shrub Layer: *Structure and Species*: Sparse *L. juniperinum* and an occasional *Callistemon pachyphyllus*. Swamp Oak seedlings are common in western end due to adjacent swamp forest. (c) Ground Layer: *Structure and Species:* Varies with soil moisture content and disturbance. Heavily dominated by sedges, especially *Baumea articulata*, Twig Rush, *Chorizandra cymbaria* and *B. rubiginosa*, and *Schoenus brevifolius. Persicaria* spp and *Juncus* spp also present at times in local abundance. *Carex fascicularis, Centella asiatica*, *Carex appressa*, Tussock Rush, and *Ranunculus inundatus* are more common in the western end. Swamp Millet (*Isachne globosa*) also occurs, at times common. Frogsmouth occurs rarely. *Hydrocotyle bonariensis* and Water Plantain (**Alisma plantago-aquatica*) occur in varying frequency with Vasey Grass and Setaria at times in low frequency, with a localised dominant patch of Torpedo Grass. (d) Lianas, scramblers, epiphytes, mistletoe etc.: Absent
Comments	This community is derived from clearing of the original 1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast, or possibly PCT 1235 Swamp Oak swamp forest of the coastal lowlands of the NSW North Coast Bioregion (which occurs on land to the north of the Oxley Highway). Unmanaged, this area is expected to be capable of regenerating to a forested wetland displacing the current freshwater wetland structure. Floristic diversity depends on hydrological regime.

4.3.6 Freshwater Wetland (Cumbungi)

PCT	1737 Typha rushland (possibly artificial – derived from changes to hydrology from 1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast)
Biolink (2013)	Not mapped.
Extent (ha)	1.09ha
No. plots	3
Location	Dominates the artificial drain and the localised depression in the central southern area of the site.
Description	(a) Ground Layer: *Structure and Species:* Varies with soil moisture content and disturbance. Heavily dominated by Cumbungi (*Typha* spp), with other natives limited to *Ranunculus inundatus, Persicaria* spp. and Swamp Millet. This occurs in a complex mosaic with patches of roughly 50:50 mix of Vasey Grass and Setaria. **Hydrocotyle bonariensis, Persicaria* spp. and Water Plantain (**Alisma plantago-aquatica*) occur in varying frequency.
Comments	This community appears likely to have been established by installation of the drain and more frequent deposition of water from the surrounding urbanised catchment with elevated nutrients. *Typha* spp is well known for its nutrient uptake, and personal observations have noted its spread over the site since initial establishment at the stormwater discharge from the basin filled with this plant across the road. It probably displaced pasture due to prolonged saturation in the localised low elevation. Floristic diversity spatially and temporally here depends on hydrological regime.

4.3.7 Pasture A

PCT	Non-applicable. Probably originally 1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast
Biolink (2013)	Not mapped
Extent (ha)	1.71ha
No. plots	4
Location	Occurs on land generally of locally higher relief in the southwest, with an 'island' and a strip adjacent to the northwest of the landscaping business. Also in the southeast on the road verge on site and adjacent.
Description	(a) Canopy: Single Swamp Mahogany and Snow-in-Summer on southern boundary. (b) Shrub Layer: Consists of number of seedlings of trees on spoil on edge of southeast boundary, absent elsewhere. (c) Ground Layer: *Structure and Species*: Dominated by a simple mix Vasey Grass and Setaria with a spattering of other weeds (eg. Fleabane, Common Dock, Purpletop, Plantago), in a

	complex pattern with micro-relief ie. where depressions occurred, these were dominated by wetland species, specifically **Hydrocotyle bonariensis, Persicaria* spp. and *Ranunculus inundatus.* Some very small localised patches also included *Baumea* sedges.
Comments	This community is the most disturbed portions of the site, and again is derived from clearing of the original swamp forest.

4.3.8 Pasture B

PCT	Non-applicable. Probably originally 1724 Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast
Biolink (2013)	Not mapped
Extent (ha)	1.39ha
No. plots	2
Location	Occurs in an area of complex micro-relief in the central west.
Description	(a) Ground Layer: *Structure and Species*: This community is an eclectic mix of Pasture A and the Freshwater Wetland (*Baumea*) due to the complex micro-topography here. *Baumea* species, particularly *B. articulata*, dominates localised small depressions plus *Hydrocotyle bonariensis, Persicaria* spp. and *Ranunculus inundatus,* but exotic grasses (Vasey Grass and Setaria) dominate the more elevated areas. Overall, the community presents as an ecotone of Pasture A to the Freshwater Wetland (*Baumea*).
Comments	This community comprises of the most disturbed portions of the site where native species have been able to persist due to periods of prolonged elevated watertable, and again is derived from clearing of the original swamp forest as evident by forest within 50m west on the identical edaphics.

4.3.9 Existing Industrial Area

This comprises the storage yard of the landscape and agricultural supplies business adjacent to the southeast corner of the site, fronting John Oxley Drive.

This area has been filled and contains a complex mosaic of soil and mulch fill piles, some of which have some immature native tree regrowth (Swamp Oak and Forest Red Gum) along the edges or a mix of weeds. Two near mature Forest Red Gums also occur in this area.

Photo 1: Swamp Forest A1 – main remnant

Photo 2: Swamp Forest A2 view to A1 linear regrowth

Photo 3: Swamp Forest A2

Photo 4: Swamp Forest B

Photo 5: Tallowwood-Blackbutt Dry Sclerophyll Forest

Photo 6: Freshwater Wetland (*Baumea*)

Photo 7: Freshwater Wetland (Cumbungi)

Photo 8: Pasture A

Photo 9: Pasture B

Photo 10: Existing industrial area fringe

4.4 Other Significant Vegetation Values

4.4.1 Threatened Ecological Communities

4.4.1.1 BC Act 2016

4.4.1.1.1 PMHC EEC Mapping

Biolink (2013) undertook LGA wide mapping of vegetation communities and identified EECs based on this mapping. This was refined by Darkheart (2014) with correlation to the 1:25 000 Quaternary soil landscape mapping.

The site is not mapped as an EEC under this mapping. The remnant forest to the west is mapped as the following EECs:

- *Swamp Oak Floodplain Forest on Coastal Floodplains* (NSWSC 2004b)
- *Swamp Sclerophyll Forest on Coastal Floodplains* (NSWSC 2004d).

The *Swamp Sclerophyll Forest* EEC mapping is correct, but should have extended to include the area mapped as Swamp Oak Floodplain Forest. The latter is actually on slightly higher ground, becoming more ecotonal with Forest Red Gum common.

4.4.1.1.2 Site Evaluation

The site occurs on mapped alluvial soil landscapes (see **Figure 4**) and is below the 1:100 ARI, hence it qualifies as Coastal Floodplain (*CBD Prestige Holdings Pty Ltd v Lake Macquarie City Council [2005] NSWLEC 367, Gales Holdings Pty Limited v Tweed Shire Council [2008] NSWLEC 209, Motorplex (Australia) Pty Limited v Port Stephens Council [2007] NSWLEC 74*). All Coastal Floodplain vegetation communities are listed as Endangered Ecological Communities under the BC Act 2016 (NSWSC 2004a - e).

All the Determinations also recognise highly modified forms of these EECs, and that these EECs may form complex intergrades due to edaphic sequences (eg. elevation and groundwater level changes), artificial drainage and other disturbances.

The two wetland communities on site at the time of the survey would currently qualify as the EEC – *Freshwater Wetlands on Coastal Floodplains* due to minimal or no woody vegetation. The remainder of the site excluding the Tallowwood-Blackbutt dry sclerophyll forest would qualify as a highly modified *Swamp Sclerophyll Forest on Coastal Floodplains* EEC.

The Tallowwood-Blackbutt dry sclerophyll appears likely to occur on residual soils as neither species is listed as an indicative species of the EEC – *Subtropical Floodplain Forest on Coastal Floodplains*, which Forest Red Gum is an indicator species of, but it also grows on residual soils. These trees are simply the last remnants of the original community which dominates the nearby residual soil landscape, whereas the Forest Red Gums are regrowth.

Prior to the original clearing event, and based on vegetation to the west and north in similar or identical edaphics, the original site vegetation would've predominantly been the EEC – *Swamp Sclerophyll Forest,* with an ecotonal shift to *Swamp Oak Floodplain Forest* EEC in the north due to the higher watertable, as indicated by remnants to the adjoining west and north of John Oxley Drive. This would've graded east and south over an ecotone indicated by Forest Red Gum in the merge zone from alluvial to residual geomorphological processes to the locally dominant Blackbutt-Tallowwood forest.

Figure 4: Vegetation communities and alluvial soil landscapes

In the absence of slashing, all swamp forest and the *Baumea* freshwater wetland communities would eventually regenerate via dispersal of seeds from the adjoining remnants (as indicated by juveniles over the site) into fully structured forested wetland communities. The Cumbungi wetland and pasture would take much longer due to current weed content, but canopy and shrub species could eventually colonise over time as the edaphics favour these species.

4.4.2 Threatened Flora

4.4.2.1 Local Records

The following threatened flora species have been recorded within 10km of the site (OEH 2018a).

Table 1: Threatened flora species recorded in the locality

Scientific Name	Common Name	Legal Status
Acronychia littoralis	Scented Acronychia	E-BCA, E-EBPCA
Asperula asthenes	Trailing Woodruff	V-BCA
Allocasuarina defungens	Dwarf Heath Casuarina	E-BCA, E-EPBCA
Chamaesyce psammogeton	Sand Spurge	V-BCA
Cynanchum elegans	White-flowered Wax Plant	E-BCA, E-EPBCA
Dendrobium melaleucaphilum	Spider Orchid	E-BCA
Eucalyptus nicholii	Narrow-leaved Black Peppermint	V-BCA, V-EBPCA
Marsdenia longiloba	Slender Marsdenia	E-TSCA, V-EPBCA
Maundia triglochinoides	-	V-BCA
Melaleuca biconvexa	Biconvex Paperbark	V-BCA, V-EPBCA
Oberonia titania	Red-flowered King of the Fairies	V-BCA
Peristeranthus hillii	Brown Fairy-chain Orchid	V-BCA
Senna acclinis	Rainforest Cassia	E-BCA
Sophora tomentosa	Silverbush	E-BCA

Key: E - Endangered, V – Vulnerable, BCA – BC Act, EPBCA – EPBC Act

Narrow-leaved Black Peppermint is not endemic to coast, being found in the New England Tableland (PlantNET 2018). Its occurrence in Port Macquarie is as introduced exotic plantings.

Despite targeted searches, no threatened plants were recorded on the study site.

4.4.2.2 Potential Occurrence Assessment

Many of the above records are found in Sea Acres Nature Reserve, Kooloonbung Creek/Lake Innes Nature Reserve, and major remnant habitat (often along riparian zones) within or west of Port Macquarie. No records occur in adjacent habitat to the site apart from *Allocasuarina defungens* which is locally common in the wetland close to the airport.

The vegetation on site shows at times intensive disturbances including complete clearing, as well as dominance of the ground stratum in many areas by non-indigenous and exotic species. This combined with lack of proximate records or suitable habitat disqualifies any species known or locally occurring to potentially occur on site.

4.4.3 EPBC Act 1999

The only relevant EEC to the site is the EEC – *Coastal Swamp Oak (Casuarina glauca) Forest of New South Wales and South East Queensland*.

This EEC does not currently occur on-site on site but occurs on land north of the Oxley Highway. The area mapped as this EEC to the west by Biolink (2013) could be argued to not be this EEC due to other canopy species being co-dominant.

4.5 Condition Assessments

4.5.1 Projected Foliage Cover

Table 2 shows the native vs exotic PFC groundcover scores per vegetation community and zone. As evident in the table, all communities and zones contain exotic species with the following being <50% native and hence in low condition according to the Guidelines:

- Swamp Sclerophyll Forest A2
- Dry Sclerophyll Forest
- Pasture A
- Pasture B.

Table 2: Composition calculations for groundcover PFC

Community/Vegetation Zone	Area	Plot	Species	Total number	Total PFC (%)	Dominant cover (native or exotic?)	Low Condition (<50% natives)
Swamp Sclerophyll Forest A1	1.96ha	1	Native	18	82.3%	Native	No
			Exotic	4	13%		
		2	Native	15	67%	Native	No
			Exotic	7	30.3%		
		3	Native	12	67.1%	Native	No
			Exotic	8	32.9%		
		4	Native	13	64.4%	Native	No
			Exotic	6	35.6%		
Swamp Sclerophyll Forest A2	0.88ha	1	Native	14	40%	Exotic	Yes
			Exotic	5	52.5%		
		2	Native	15	27.9%	Exotic	Yes
			Exotic	10	72.1%		
Swamp Forest B	0.31ha	1	Native	9	58.02%	Native	No
			Exotic	10	41.8%		

Community/Vegetation Zone	Area	Plot	Species	Total number	Total PFC (%)	Dominant cover (native or exotic?)	Low Condition (<50% natives)
Dry Sclerophyll Forest	0.8ha	1	Native	8	40.9%	Exotic	Yes
			Exotic	9	44.5%		
Freshwater Wetland A (Cumbungi)	0.95ha	1	Native	7	57.4%	Native	No
			Exotic	3	42.1%		
		2	Native	7	51.5%	Native	No
			Exotic	3	44.8%		
		3	Native	7	52.6%	Native	No
			Exotic	4	46.4%		
Freshwater Wetland B (*Baumea*)	1.9ha	1	Native	8	61.7%	Native	No
			Exotic	3	35.01%		
		2	Native	10	51.5%	Native	No
			Exotic	6	40.6%		
		3	Native	15	94.7%	Native	No
			Exotic	1	1%		
Pasture A	1.45ha	1	Native	6	10.5%	Exotic	Yes
			Exotic	6	65.8%		
		2	Native	10	6.8%	Exotic	Yes
			Exotic	6	75.5%		
		3	Native	7	26.3%	Exotic	Yes
			Exotic	6	63.9%		
		4	Native	4	60%	Exotic	Yes
			Exotic	2	40%		
Pasture B	1.39ha	1	Native	5	43.9%	Exotic	Yes
			Exotic	6	56.1%		
		2	Native	6	60.7%	Exotic	Yes
			Exotic	6	39.3%		

The Cumbungi dominated wetland has a high weed content and forms a complex micro-topography as well as linear distribution which both increased edge effects and also provided habitat for exotic grasses. If not for the large structural growth form of Cumbungi, this vegetation zone would have qualified as low condition.

4.5.2 Overstorey Benchmark

The overstorey benchmark for PCT 1724 is 33%. This is only met for the linear band of Swamp Forest A1.

If all other vegetation zones are considered as highly disturbed PCT 1724, then they would all be below benchmark. The PCT 690 Blackbutt-Tallowwood dry grassy open forest of the central parts NSW North Coast Bioregion on site is also well below benchmark.

Table 3: Overstorey benchmark assessment

Community/Vegetation Zone	Area	Plot	Total PFC (%)	Benchmark	Low Condition (<25%)
Swamp Sclerophyll Forest A1	1.96ha	1	0	33%	Yes
		2	0	33%	Yes
		3	0	33%	Yes
		4	35.6%	33%	No
Swamp Sclerophyll Forest A2	0.88ha	1	0	33%	Yes
		2	0	33%	Yes
Swamp Forest B	0.31ha	1	2.1%	33%	Yes
Dry Sclerophyll Forest	0.8ha	1	0	82%	Yes
Freshwater Wetland A (Cumbungi)	0.95ha	1	0		Yes*
		2	0		Yes*
		3	0		Yes*
Freshwater Wetland B (*Baumea*)	1.9ha	1	0		Yes*
		2	0		Yes*
		3	0		Yes*
Pasture A	1.45ha	1	0		Yes*
		2	0		Yes*
		3	0		Yes*
		4	0		Yes*
Pasture B	1.39ha	1	0		Yes*
		2	0		Yes*

*if considered to be disturbed PCT 1724

4.6 Landscape Position

Figure 5 shows the site has a 1st order stream mapped on it. This is not clearly discernible on the site (no distinct channel). It could have been infilled by *Typha* and perhaps sediment from upstream development over time; and the pattern of true wetland vegetation does not follow the flow path shown. In essence the topography is typical of an open drainage depression, rather than a drainage line as typical of a 1st order stream.

Slopes are very gentle, hence the site does not occur on >20^{o} slope.

It is above a Coastal Wetland to the north and adjacent to a Coastal Wetland to the west. Current drainage from the site ultimately directs to the mapped wetland in the north.

The proposal will contain stormwater facilities to manage its stormwater which essentially will see a watercourse established close to that mapped; and approximately 2.9ha of the site on the north and west will be protected and allowed to regenerate into forested wetland. This includes the wetland proximity zone to the west. This will provide an additional buffer to the downstream Coastal Wetland.

4.7 Landscape Value

4.7.1 Remnant vegetation

Figure 6 shows the remnant vegetation within a 1.79km radius as per the guidelines. This mapping is sourced from Biolink (2013a), using the formation level. The following additions have been made:

- Forested Wetlands – Disturbed: This area was mapped as cleared by Biolink (2013a) as for agricultural pasture to pasture (native and exotic) with an open woodland as cleared land. This unit is added for a comparison of the amount of similar habitat/vegetation to that currently on site in the 1.79km radius.
- Tallowwood-Blackbutt dry sclerophyll forest on site: Added to Wet Sclerophyll Forest formation for calculations.
- Lake Innes Nature Reserve (LINR): Vegetation communities in State Forests and conservation areas were not mapped, hence the portion of LINR in the radius was mapped from personal knowledge as swamp forest.

In terms of remnant (intact and native) vegetation, the site is not mapped as such in this figure as it lacks true structure of the original formation over most of its extent as noted above, has an element of exotic species at times dominant, and is not considered a true herbaceous wetland due to its propensity to alter its form in the absence of regrowth suppression. The nearest significant remnant of largely intact vegetation is the small fragmented patch to the west which itself is isolated by John Oxley Drive and long established residential lots to the south and the Oxley Highway to the north from other forest.

As shown in **Figure 5** and **6**, the site is not part of any mapped remnant forested wetland formation, but is in effect a gap between such remnants to the west and north. As detailed in the following section, this limits its value as a corridor in the locality context, and linkage between similar habitats at the site context.

North of the highway, the current derived wetland, which is very similar to the northern end of the site, is stalled from regenerating into a forested wetland again by periodic slashing. This grades to a complex of forested wetland to shrubland/wet heath dominating the Coastal Wetland.

In terms of vegetation in similar condition in the 1.79km locality, it forms part of an area of disturbed forested wetland that comprises the site and a similar sized area to the north, with another smaller area of similar vegetation off Major Innes Drive (in total about 24.01ha of disturbed forested wetland). The site comprises 40.56% of such vegetation in the locality.

In terms of the forested wetland formation in the locality, if the site were to be allowed to completely regenerate to the forested wetland formation, it would comprise approximately 8.8% of this formation in the locality. Such regeneration however is unlikely to occur given current zoning and existing landuses unless the site were to be reserved under a stewardship site agreement to offset impacts eg. under the *Biodiversity Conservation Act 2016*.

In terms of all mapped remnant vegetation in the 1.79km radius and counting the site and other disturbed forested wetland vegetation as remnant forested wetland, the site forms 5.79%.

Similarly the minor elements of the Blackbutt-Tallowwood dry sclerophyll do not form part of any forest remnant.

Proposed regeneration of the western and northern side of the site (2.9ha) will expand the extent of remnant vegetation and interlink to the narrow band of forest on the northeast side of the site.

4.7.2 Corridor values

4.7.2.1 Regional and Sub-regional Corridors

Regional corridors are typically >500m wide and provide a link between major and/or significant areas of habitat in the region. Ideally they are of sufficient size to provide habitat in their own right and at least twice the width of the average home range area of fauna species identified as likely to use the corridor (OEH 2018c, Scotts 2003). Sub-regional corridors connect larger landscaped features and are of sufficient width to allow movement and dispersal (generally >300m), but may not provide substantial species habitat (OEH 2018c, Scotts 2003).

The site and study area is not part of a modelled regional or sub-regional corridor.

4.7.2.2 Local Corridors and Habitat Links

Local corridors provide connections between remnant patches of habitat and landscape features. Due to their relatively small area and width (they may be <50m) these corridors are subject to edge effects (OEH 2018c, Scotts 2002). Habitat links are evaluated in this report as links from habitat on-site directly to similar habitat on adjacent land. These would be used by fauna, which depend solely or at least partially on the site for all of their lifecycle requirements, and/or dispersal (Gibbons and Lindenmayer 2002). Local corridors provide connections between remnant patches of habitat and landscape features. Due to their relatively small area and width (they may be <50m) these corridors are subject to edge effects (Gibbons and Lindenmayer 2002).

Figure 7 shows the site has key barriers to the north and south provided by major roads (John Oxley Drive to the south and the Oxley Highway deviation to the north), with residential development to the east. Connectivity for terrestrial species north is limited by a series of culverts which as shown in **Photo 11** appear to permanently hold water (about 15cm deep at time of survey) as they have been sunk low. This may pose a barrier to fauna which avoid swimming.

Arboreal fauna in the adjacent remnant to the west are expected to be low in abundance and diversity, limited to generalists capable of persisting in peri-urban remnants via moving across residential areas, due to the lack of suitable connectivity to other forest habitats. The site would

have no significant linkage values for such species to move from urban woodland in the east to the remnant to the west due to the few trees present.

The site has value for frogs, and these may potentially move through the underpasses to and from the site over their lifecycle. The site however is likely be the terminus of such movement given residential areas dominate to the south.

Photo 11: Water in fauna underpasses under Oxley Highway

Figure 5: Landscape position constraints

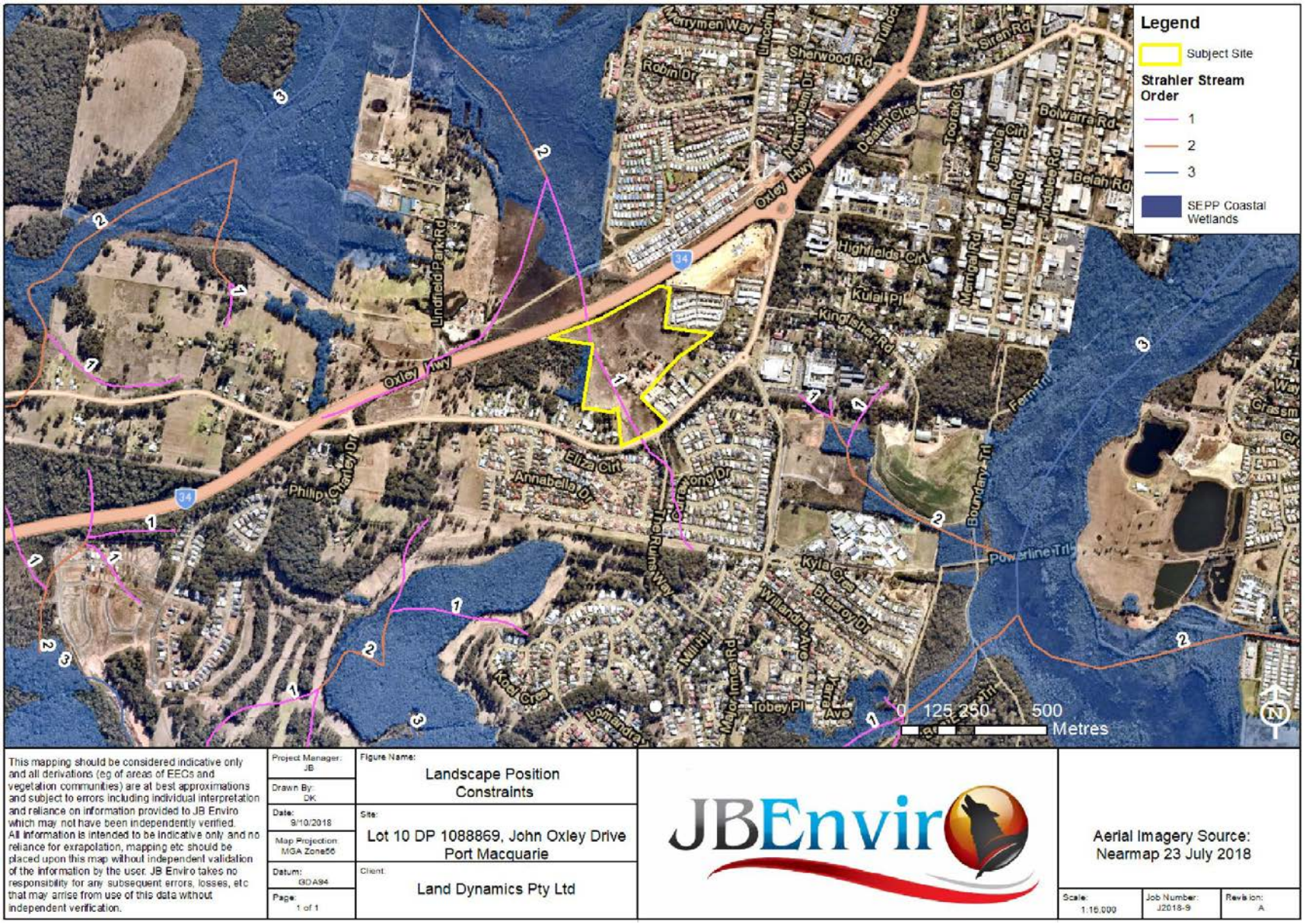


Figure 6: Remnant native vegetation formations within 1.79km radius

Figure 7: OEH Regional corridors

4.8 Threatened Fauna Values

4.8.1 Fauna Habitat Description and Evaluation

Table 4: Habitat evaluation summary

Habitat attribute	On-site values	Significance
Aquatic/wetland habitat	Despite being subject to a high watertable and periodic flooding, frog breeding opportunities are limited due to limited open water. The drain dominated by *Typha* has some small pools but these had extremely high detritus levels and hence prone to stagnation. Some breeding potential may occur in localised depressions and the Baumea wetland in very wet periods, especially if the downstream wetland has high levels leading to water being held on site. Plague Minnow noted in the permanent water in the underpasses. Dense sedgeland offers excellent frog habitat otherwise, especially the Typha when alive.	Black-necked Stork never observed on site but potential to occur as part of non-breeding foraging range. Wallum Froglet recorded downstream in large wetland and on edge of adjacent remnant to west prior to construction of Oxley Highway Deviation, but not recorded in the Deviation footprint or adjacent during local flooding during construction in 2010 (Darkheart 2010a-c). Possibly extinct south of Highway now due to isolation and degradation of habitat to west by slashing. Green and Golden Bell Frog recorded in early 2000s (White 2006) in stormwater basin to south that drains to site, and in nearby landscaping supplies to northwest, but not recorded since (Darkheart 2010a-c). Typha wetland offers potential habitat (when alive) and perhaps in wetter years when surface water is more extensive, but no suitable breeding habitat (too shallow). Lack of records since discovery (including local flooding during Oxley Highway construction) strongly suggests small population has gone extinct. Potential foraging habitat for some migratory birds eg. Latham's Snipe which use natural and modified wetlands.
Marine/estuarine habitats eg estuarine, rocky foreshores, open beaches, open ocean.	Absent	N/A
Caves, cliffs, overhangs, culverts etc	Absent on site. Some of adjacent culverts inspected for bat roosts but while some suitable gaps, all appear highly moist and probably unsuitable.	N/A
Logs and stumps	Absent	N/A

Habitat attribute	On-site values	Significance
Groundcover/shrub layer/undergrowth	No significant undergrowth for passerine birds. If allowed to regenerate, groundcover could offer habitat for native rodents. Currently sparse and low, so House Mouse and Black Rat are probably only small terrestrial mammals present, associated with the adjacent urban fringe.	Dense sedgeland/heathy groundcover if allowed to develop could offer potential habitat for the Eastern Chestnut Mouse, which was recorded in the Oxley Highway footprint prior to construction but not during construction (RMS strategically slashed the habitat to intentionally displace the species). Also previously recorded in remnant to west which has since been subject to slashing and is isolated from other habitat to north. Given isolation and degradation of this and site habitat south of Oxley Highway, possibly now locally extinct, persisting only north of the Highway. No significant habitat for small native mammals which may offer prey due to slashing, which also limits potential value for Eastern Grass Owl which has been locally recorded.
Leaf Litter	Leaf litter was well developed due to slashing as well as self-mulching. Offers excellent refuge for invertebrates, frogs and small reptiles.	Not preferred habitat for dependent fauna.
Wattles, Melaleucas, Callistemons and Banksias (shrub layer)	Absent or only very rare.	No specific significance to any threatened species.
Yangochiropteran bat habitats	In general, the site forms part of a wider modified landscape which contains of a mosaic of small areas of remnant forest and urban woodland to open paddocks. The site itself has limited value to bats which use low grassland via flying over the sward or foraging on the forest – pasture interface.	Little and Eastern Bent-wing Bats, East-coast Freetail Bat, Greater Broad-nosed Bat considered low to moderate chances of using site and study area as minor portion of their wider local range.
Fruiting species	Absent	No potential foraging habitat for Wompoo Fruit-dove, Rose-crowned Fruit-dove and Barred Cuckoo Shrike.
Nectar sources (canopy and understorey)	Forest Red Gum and Swamp Mahogany are generally key nectar sources due to flowering in winter-spring. Pink Bloodwood flowers in late summer-early autumn. Broad-leaved Paperbark flowers from late January to June and is also a key food source. These are however very low in abundance and/or immature on site.	Species present preferred by Squirrel Glider, Grey Headed Flying Fox, Yellow-Bellied Glider and Little Lorikeet, plus passerine birds, but very limited habitat and urban fringe context indicates only most common species or most tolerant would use these resources eg. Grey Headed Flying Fox.

Habitat attribute	On-site values	Significance
Sap sources	Pink Bloodwood and Forest Red Gum are potential preferred sap sources for the Yellow-bellied Glider (Lindenmayer 2002, NPWS 1999, Smith et al 1995, NPWS 2002c, Gibbons 2002) and Squirrel Glider (pers. obs.). Limited to handful of trees.	No sap incisions noted. Isolation of site, very limited habitat adjacent, and lack of accessible hollows precludes these species.
Allocasuarinas	These oaks generally provide nesting material for birds, and useful quantities of leaf litter, but their greatest value is to the Glossy Black Cockatoo, whose diet in this region is primarily based on Black She-oak and Forest Oak (NPWS 1999, OEH 2018b, Clout 1989, Birds Australia 2018, pers. obs.). Only *C. glauca* on site which is not a preferred food species.	The site does not offer any potential value to this bird.
Tree hollows	Limited to a stag in the northern part of Pasture B where its isolation would limit its use eg. by microchiropteran bats or common lorikeet/rosella.	Key constraint on threatened species occurrence.
Decorticating bark	Forest Red Gum and Blackbutt are only decorticating species, but no significant aggregations within boughs were noted which may be used for roosting or denning by bats or gliders. The bark is also used by gliders as a foraging substrate.	No significant value for threatened species such as Yangochiropteran bats. No significant value as foraging substrate for gliders as overall unsuitable habitat.
Prey species	Expect low diversity and abundance of arboreals and native terrestrials. Passerine birds likely to be in low diversity and abundance.	No significant support for threatened raptors such as the Square-tailed Kite or forest owls. Unless groundcover allowed to develop over swamp forest area to provide best prey habitat, unsuitable for Grass Owl.

4.8.2 Observed fauna

As to be expected by the condition and types of habitats present, as well as periodic high level noise and artificial lighting, a very limited number of species were detected by this survey.

The only birds observed were Magpies (*Gymnorhina tibicen*) and a Kookaburra (*Dacelo novaeguineae).* No frogs were recorded, and only a single reptile - *Lampropholis guichenoti* was recorded.

4.8.3 Koala Survey and SEPP 44

Due to presence of Schedule 2 tree species, SEPP 44 – *Koala Habitat Protection* applies. The site contains at least 1ha of these species where they constitute >15% of the upper or lower stratum (eg. Swamp Forest B). Hence assessment for Core Koala Habitat will formally be required in a future Development Application.

All Koala food trees (except those within the landscaping supplies yard) were searched for scats around the base of trees as part of this assessment. No scats were found. No Koalas were incidentally observed on site.

Koalas have very low potential to use the site habitat as they would need to navigate across John Oxley Drive and then large yards (often with dogs) to utilise habitat which is on the outermost fringe of known habitat within urban remnants and woodland in the Lake Innes to western Port Macquarie area (Biolink 2013b).

Koala activity was also not detected in the adjacent remnant west (Darkheart 2009) or a woodland with numerous Forest Red Gums immediately west of that by another survey (Naturecall 2015).

It is thus considered unlikely that the site currently forms part of Core Koala Habitat.

4.9 Potential Occurrence Assessment

4.9.1 Overview

Database searches were made of Bionet (OEH 2018a) and the EPBC Act Protected Matters tool (DotEE 2018a). These combined with a literature review of previous ecological studies provided a list of known locally recorded threatened fauna. In addition, a number of regionally recorded species are considered potential occurrences in the locality. In total, these species were evaluated for potential to occur. Potentially occurring migratory species listed under the EPBC Act 1999 were also assessed.

4.9.2 Potential Occurring Threatened Species

Habitat for the majority of the above listed species does not occur on near the site due to the identified habitat limitations and isolation.

Due to potential habitat on and/or adjacent to the site, the following are considered at least low potential occurrences on the site:

Table 5: Threatened species potentially occurring on site

Species	Legal Status	Occurrence type and likelihood
Little Lorikeet	V-BCA	Low at best forming small portion of foraging habitat within adjacent forest, falling within a wider foraging range. No potential nest sites.
Grey Headed Flying Fox	V-BCA, V-EPBCA	High chance of use of flowering trees as minute fraction of local range. No potential to roost.
Little and Eastern Bent-wing Bats	V-BCA	Low chance of foraging on edge of remnant to west as minute portion of large foraging territory with extensive potential habitat beyond study area. No potential roosts on site.

Species	Legal Status	Occurrence type and likelihood
Yellow-bellied Sheathtail Bat	V-BCA	Low chance of foraging on edge of remnant to west as minute portion of large foraging territory with extensive potential habitat beyond study area. Marginal potential to roost in single hollow-bearing tree
East-coast Freetail Bat	V-BCA	Low chance of foraging on edge of remnant to west as minute portion of large foraging territory with extensive potential habitat beyond study area. Marginal potential to roost in single hollow-bearing tree
Greater Broad-nosed Bat	V-BCA	Low chance of foraging on edge of remnant to west as minute portion of large foraging territory with extensive potential habitat beyond study area. Marginal potential to roost in single hollow-bearing tree.

The Eastern Chestnut Mouse, Common Planigale, Wallum Froglet and Green and Golden Bell Frog are considered very low to unlikely potential occurrences due to the habitat limitations of the site and study area. Targeted survey will be required for a future Development Application to confirm this.

5 SECTION 3: ASSESSMENT

Table 6 provides as assessment of the heads of consideration under Section 3

Table 6: Assessment of Section 3 heads of consideration.

Head of Consideration	Significance on Site
Native vegetation will be retained in key locations on the site to avoid land and water degradation (e.g. retaining vegetation along waterways and steep slopes).	The site is mapped as containing a 1st order stream, but there is no true riparian vegetation remaining (long removed by historical clearing). The proposal will see cessation of slashing in the west and north of the site. This will allow regeneration of this area back to a forested wetland, restoring the original vegetation community. This will enhance linkage between remnant forested wetland habitats south of the Oxley Highway.
The proposal is likely to maintain ecosystem connectivity by minimising impacts on vegetation corridors.	The site is not an effective corridor for any threatened species, much in part due to increased isolation by construction of the Oxley Highway as well as historical clearing which fragmented adjacent remnants. Connectivity north is maintained for terrestrial species by underpasses which are permanently inundated hence may be ineffective for some terrestrial fauna. Linkage from the remnant of forest to the limited forest east of the site is also constrained by the lack of forest on site. This is to be remediated by allowing the western and northern sides to regenerate back to forested wetland, restoring connectivity and increasing carrying capacity.
The proposal is likely to avoid impacts on vegetation of 'high conservation significance' (i.e. 'critically endangered' or 'endangered' under the Threatened Species Conservation Act 1995 in good condition)	The majority of the site qualifies as an EEC under NSW legislation, but most of it is in highly disturbed condition from its original state. The northern area currently presents as a Freshwater Wetland in good condition, but this will revert to the EEC – *Swamp Sclerophyll Forest* if slashing ceases in the long term (as proposed as an offset to the development). Existing uses will however prevent the EEC from ever fully recovering, and with an increasingly urbanised catchment, weeds are expected to progressively increase in context over the site regardless of the development proceeding or not, especially in the Cumbungi area as evidenced by high levels of exotics here.
The proposal is likely to minimise impacts on other vegetation of conservation significance (e.g. large remnant vegetation communities).	The site vegetation is not part of a large intact native vegetation remnant but is in fact the result of clearing of the original forested wetland vegetation. At present, the best condition areas present as a derived EEC. While the EEC – *Freshwater Wetland* has endured major losses across NSW and hence has high conservation value when it presents in good condition, the occurrence on site is a derived form subject to increasing pressures from the catchment, and if not slashed, would revert back to forested wetland which is more resilient to such pressures. It is not thus remnant Freshwater Wetland. The proposal will see about 2.9ha vegetation allowed to fully regenerate to the EEC – *Swamp Sclerophyll Forest on Coastal Floodplains*, improving connectivity and carrying capacity of the adjacent remnant.

6 CONCLUSION

The subject land has been substantially modified from its original natural state to establish pasture as part of historical rural usage. On-going management plus inputs of stormwater from the surrounding residential development has further contributed to degradation or stalled recovery to its preferred state, maintaining much of the site as a complex of derived freshwater wetland, scattered trees with suppressed regrowth, to pasture.

While the site currently qualifies over most of its extent as a complex of Coastal Floodplain EECs in various levels of condition, existing use rights prevent the EEC from recovering to its preferred state ie. *Swamp Sclerophyll Forest on Coastal Floodplains*. The EEC's condition is not expected to improve in the long term under the current management regime and zoning.

No threatened flora or fauna were found, and due to the historical, recent and ongoing disturbance regime of the site, no threatened flora or fauna are considered likely to depend on the site's habitats for critical life cycle stages. The site is also not a corridor or key part of any remnant native vegetation in the locality, but regeneration of 2.9ha of the site as proposed in the development concept would enhance local linkages and increase the extent of remnant vegetation.

7 REFERENCES

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DAVID PENSINI
Building Certification and
Environmental Services

BUSHFIRE HAZARD ASSESSMENT

PROPOSED SENIORS LIVING DEVELOPMENT

PART OF LOT 10 DP 1088869
94 – 112 JOHN OXLEY DRIVE,
PORT MACQUARIE

CLIENT:
MIDWEST RADIO NETWORK PTY LTD

OCTOBER 2018

3 Blair Street, Port Macquarie NSW 2444 – PO Box 5581, Port Macquarie NSW 2444 – Phone 0434 166 150 – Email kdpensini@bigpond.com
ABN 55 183 050 741

This report has been prepared by David Pensini - Building Certification and Environmental Services with all reasonable skill, care and diligence for Midwest Radio Network Pty Ltd.

The information contained in this report has been gathered from discussions with representatives of Midwest Radio Network Pty Ltd, a review of the plans provided by representatives of Midwest Radio Network Pty Ltd and experience.

No inspection or assessment has been undertaken on other aspects of the proposed development outside the scope of this report.

This report does not imply, nor should it be implied, that the proposed development will comply fully with relevant legislation.

The report shall not be construed as relieving any other party of their responsibilities or obligations.

David Pensini - Building Certification and Environmental Services disclaims any responsibility Midwest Radio Network Pty Ltd and others in respect of any matters outside the scope of this report.

The report is confidential, and the writer accepts no responsibility of whatsoever nature, to third parties who use this report, or part thereof is made known. Any such party relies on this report at their own risk.

For and on behalf of David Pensini - Building Certification and Environmental Services.

Prepared by: *David Pensini*

Signed: 

Dated: *11th October 2018*

Version	**Date**	**Information relating to report**			
		Reason for issue			
1.0	2nd September 2018		Preliminary Planning Information		
2.0	11th October 2018		Final Report Issued to Client		
			Prepared by	**Verified by**	**Approved by**
		Name	David Pensini		David Pensini
		Signature			

Table of Contents

1.0 INTRODUCTION

As requested a Bushfire Hazard Assessment has been carried out for a proposed senior living development on part of land which is known as Lot 10 DP 1088869, 94 – 112 John Oxley Drive, Port Macquarie.

The proposed seniors living development concept for the site provides for twenty (20) separate residential accommodation buildings which will contain a range of residential sole occupancy units. The proposed development also incorporates open space areas, community facilities, swimming pool, playground and plaza areas. Indicatively the proposed development provides for approximately four hundred and twenty-four sole occupancy units. The development concept also provides for new public road infrastructure, internal access roads, stormwater management infrastructure and the provision of utility services.

The purpose of this report is to demonstrate that the bushfire risk is manageable for the proposed seniors living development and to determine the bushfire protection management measures which are applicable to the development of the subject site.

This report is based on site assessments carried out on 8th October 2018.

It is noted that seniors living developments are integrated development under Section 91 of the *Environmental Planning & Assessment Act, 1979* and a Special Fire Protection Purpose (SFPP) development which requires a Bushfire Safety Authority under Section 100B of the *Rural Fires Act 1997.*

This report has been prepared with all reasonable skill, care and diligence.

The information contained in this report has been gathered from field survey, experience and has been completed in consideration of the following legislation.

1. Rural Fires Act 1997.
2. Environmental Planning and Assessment Act 1979.
3. Building Code of Australia (BCA).
4. Council Local Environment Plans and Development Control Plans where applicable.
5. NSW Rural Fire Services, Planning for Bushfire Protection, 2006.
6. AS 3959-2009, Construction of Buildings in Bushfire Prone Areas.

The report recognizes the fact that no property and lives can be guaranteed to survive a bushfire attack. The report examines ways the risk of bushfire attack can be reduced where the site falls within the scope of the legislation.

The report is confidential, and the writer accepts no responsibility of whatsoever nature, to third parties who use this report, or part thereof is made known. Any such party relies on this report at their own risk.

2.0 OBJECTIVES

The objective of this report is to;

- Ensure that the proposed seniors living development can achieve compliance with the Special Fire Protection Purpose (SFPP) requirements as provided for by NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006; and

- Reduce the risk to property and the community from bushfire.

3.0 LEGISLATIVE FRAMEWORK

Any proposal to construct seniors living accommodation will be subject to compliance with the Special Fire protection Purpose, (SFPP), requirements of NSW Rural Fire Services, ***Planning for Bushfire Protection*****,** 2006. Additionally, this form of development would require the issuing of a Bush Fire Safety Authority under Section 100B of the *Rural Fires Act 1997*.

Accordingly, any development application which is submitted to Port Macquarie-Hastings Council is an Integrated Application requiring referral to the Rural Fire Service for their assessment and concurrence to the issuing of a Bush Fire Safety Authority.

Proposals involving SFPP must demonstrate that compliance with the relevant requirements of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 is possible for the proposed development. Key aspects of compliance with NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 include;

- Suitable and appropriate APZ's can be provided to the subject development.
- Buildings can be constructed in accordance with the requirements of AS 3959-2009.
- An adequate supply of water is available for firefighting purposes and services such as electricity will be available.
- Adequate and suitable access and egress is available to and from the subject site.
- Emergency and evacuation planning.

As per the Rural Fire Service's Fast Fact of 01/10 all development on bushfire prone land in NSW should also comply with the requirements of Addendum Appendix 3 and other bushfire protection measures identified within NSW Rural Fire Services, ***Planning for Bushfire Protection*****,** 2006.

This report therefore examines the relevant provisions of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 to determine the bushfire protection measures required to be implemented in conjunction with the proposed development.

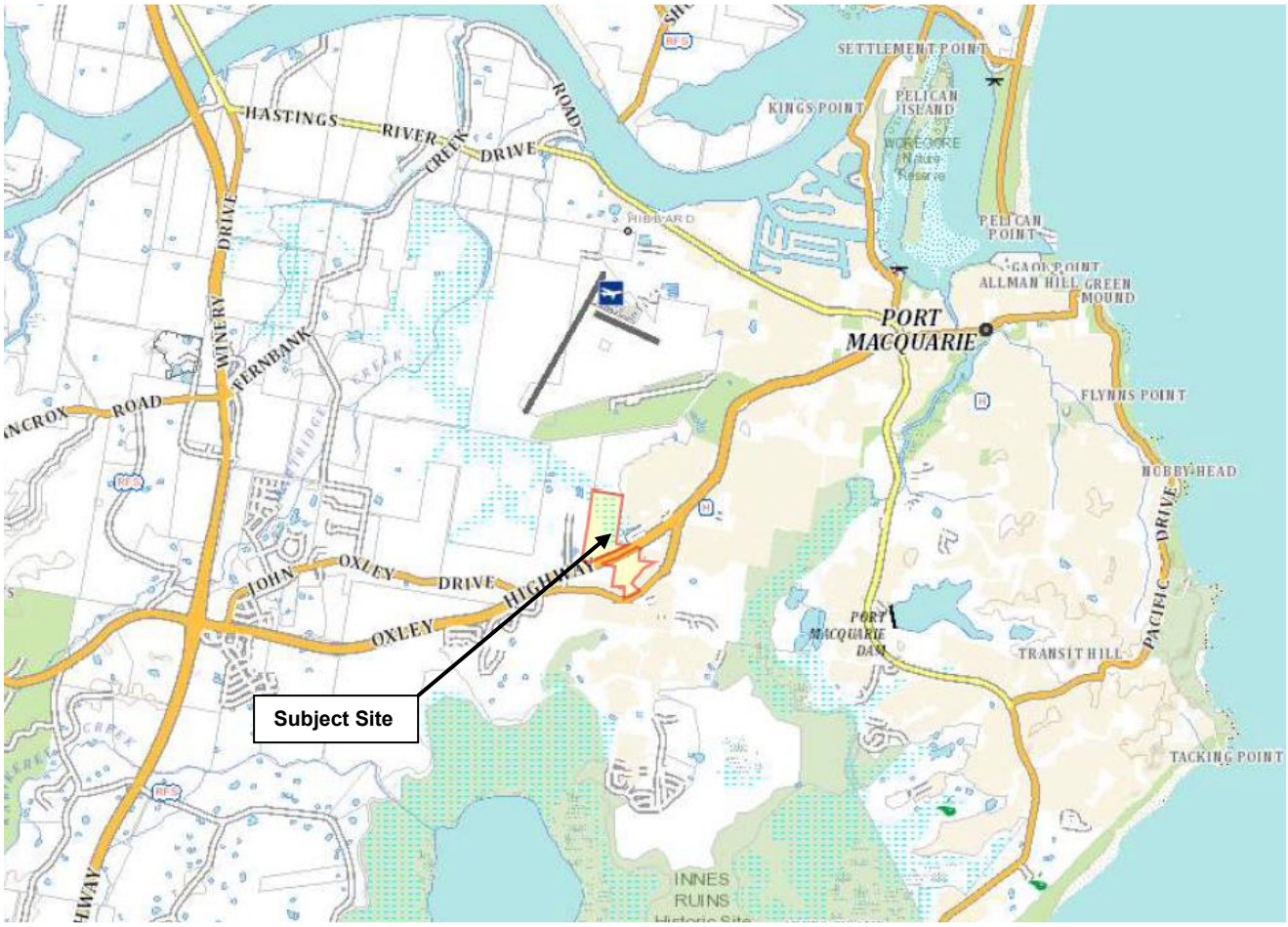
In NSW, the bushfire protection provisions of the Building Code of Australia, (BCA), are applied to Class 1, 2, 3, Class 4 parts of buildings, some Class 10 buildings and Class 9 buildings that are Special Fire Protection Purposes, (SFPP's). It is noted that the proposed development is subject to the Special Fire Protection Purpose provisions of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006. The BCA references AS3959 – 2009 as the Deemed-to-Satisfy (DTS) solution for construction requirements in bushfire prone areas for NSW.

4.0 LOCATION DESCRIPTION

The site of the proposed development is known as Lot 10 DP 1088869, 94 – 112 John Oxley Drive, Port Macquarie and is situated within the Port Macquarie-Hastings Council Local Government Area.

The area in which the subject site is located is locally known as Lake Innes. Lake Innes is a predominately residential area which is situated approximately 4.0km southwest of the Port Macquarie Central Business District, refer to **Figure 1** below.

Figure 1 - Site Location



Land use and character in the area of the development site is mixed with the subject site being located on the north-western fringe of the urban footprint of Port Macquarie.

Vacant rural and rural residential land dominate land use to the north of the subject site although a large Manufactured Housing Estate is present to the northeast. To the east of the subject site is a mix of historic residential lots and some small light industrial/commercial land uses together with an aged care development. The Lake Innes Shopping Centre and Charles Sturt University are also present to the east of the subject site together with a large commercial development, (Bunnings Warehouse), which is under construction.

Residential lots and supporting infrastructure dominate land use to the south of the subject site whilst historic large lot residential properties together with larger undeveloped parcels of land extend to the west of the subject site.

It is noted that the Oxley Highway road reserve transects the subject site thereby creating two separate areas. In this regard, it is the southern portion of the subject site which is the subject of the proposed development and is the focus of this report. Therefore, for the purposes of this report the southern portion of Lot 10 DP 1088869, John Oxley Drive, Port Macquarie is referred to as the subject site.

Land use in the context of the area of the subject site which is the subject of this report can be seen in **Figure 2** below;

Figure 2 – Land-use Relationships

With an irregular shape and a size of approximately 5.8 hectares, access to the subject site is gained off John Oxley Drive which adjoins the subject site along portion of its southern property boundary. John Oxley Drive is a main connecting road within the Lake Innes residential area.

The subject site has been cleared of the majority of native vegetation in the past with grasses, sedges and some scattered and clusters of trees on the subject site. A narrow band of remnant Forested Wetland has been retained within the southern fringes of the Oxley Highway road reserve, (to the north of the development site), with areas of grassland and Forested Wetland extending to the north of the Oxley Highway road reserve. Managed vegetation associated with residential lots and supporting infrastructure are present to the south of the subject site although some narrow bands of remnant Wet Sclerophyll Forest have been retained within the reserves of some of the public road infrastructure in this aspect.

Vegetation on adjoining and adjacent land to the east comprises managed vegetation associated with the commercial properties, residential lots and seniors living development in this aspect whilst vegetation to the west consists of managed vegetation associated with the developed residential lots together with areas of Forested Wetland on undeveloped parcels of land which adjoin the subject site to the northwest.

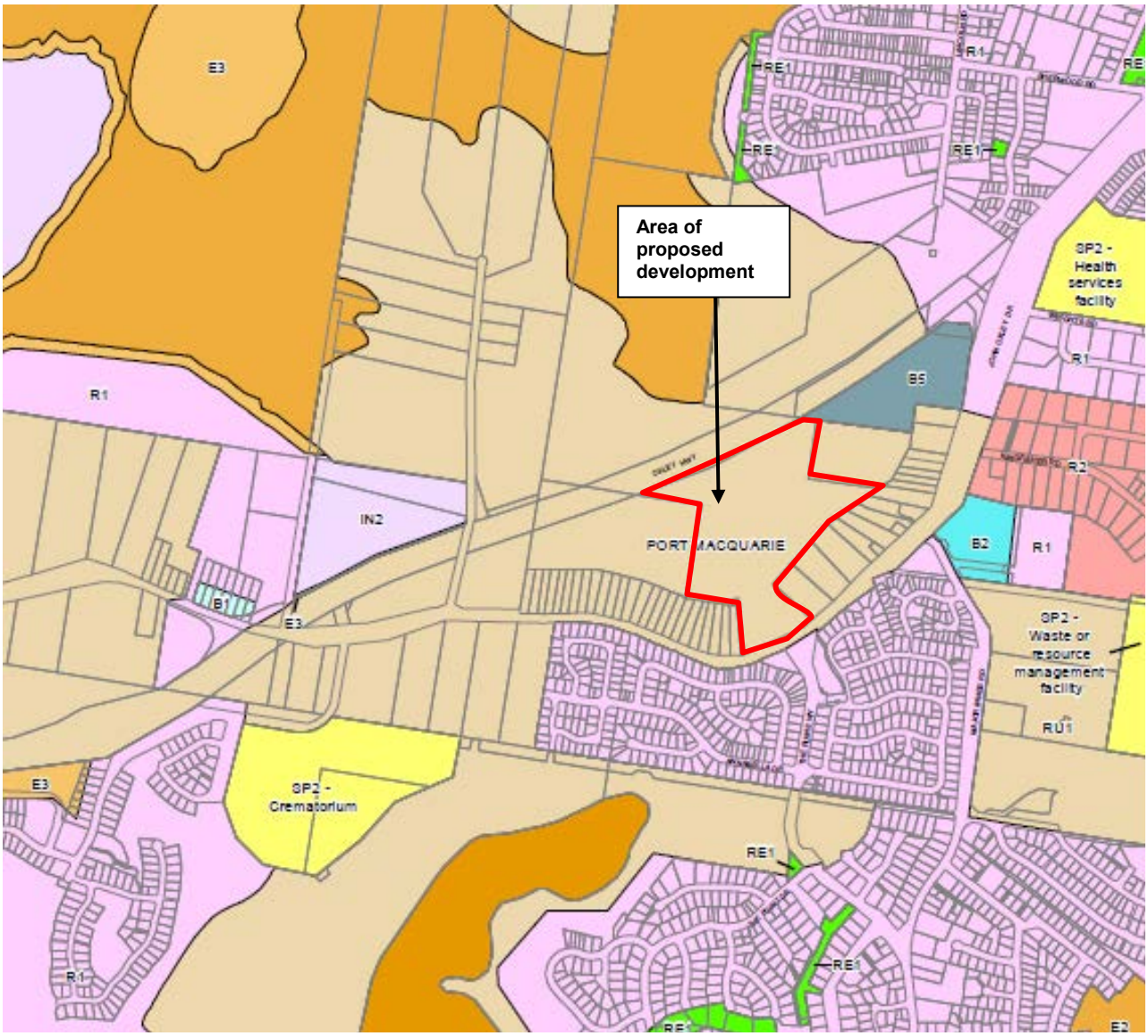
The topography of the subject site and adjoining and adjacent land is dominated by a small ridgeline the crest of which is located at distance to the south with the subject site being located on the foot slopes of the of the ridgeline. Accordingly, very gentle south to north downslopes are present on the subject site and on adjoining and adjacent land although flat conditions are present in the northern portion of the subject site. It is noted that the topography of the eastern central portion of the subject site has been altered due to the

filling of land. This filling has resulted through the extension of some commercial/industrial operations onto the subject site from adjoining commercial/industrial premises.

It is noted that slope conditions become steeper on adjoining and adjacent land to the south and northeast of the subject site. Slope conditions to the north of the subject site have been modified via the construction of the Oxley Highway carriageway with short steep road batters provided in conjunction with the relatively flat road surface. The topography to the north of the subject site, (northern portion of Lot 10 DP 1088869), is generally flat reflecting the presence of low-lying land in this aspect. Some gentle upslope conditions also exist in this aspect.

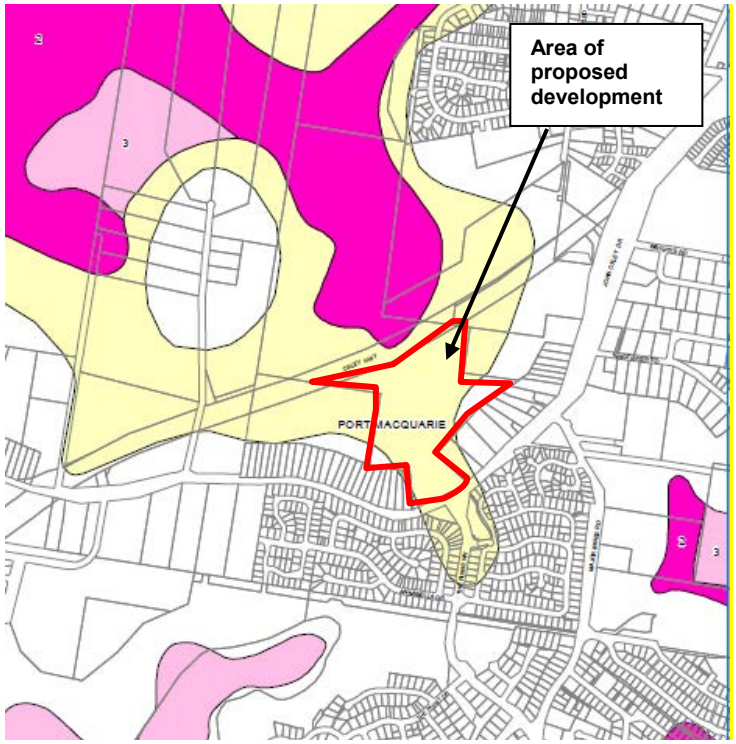
The subject site is zoned, pursuant to Port Macquarie-Hastings Councils LEP, (2011), Rural (RU1). Land with a similar land use zoning is present to the north, south, east and west whilst Residential (R1) zoned land extends to the south. Land with a business zoning is present to the east whilst land with an environmental conservation zoning (E2) is present at distance to the north; refer to **Figure 3** below.

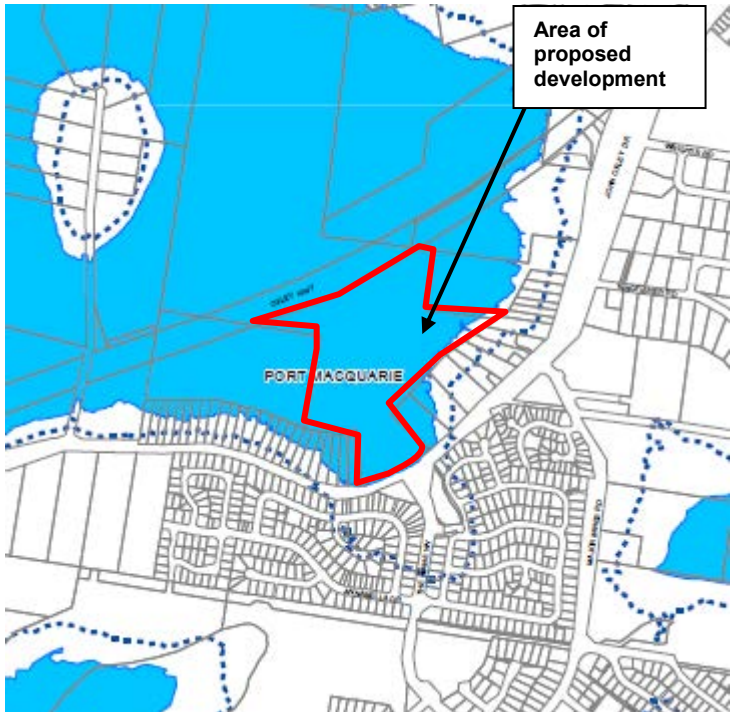
Figure 3 - Landuse Zoning



The environmental and heritage features of the subject site in the area of the proposed development are summarized as follows;

Table 1 – Environmental and Heritage Features

ENVIRONMENTAL/HERITAGE FEATURE	COMMENT
Riparian corridors	There are no riparian corridors in the area of the subject site which is proposed to be developed.
SEPP (Coastal Management) 2018	The subject site is not identified as a Coastal Wetlands Area, Littoral Rainforests Area, Coastal Vulnerability Area, Coastal Use Area or a Coastal Environment Area.
SEPP 44 – Koala Habitat	Given the development nature of the subject site areas of Potential Koala Habitat do not exist on the subject site.
Areas of geological interest	The subject site does not contain any land or area of particular geological interest. It is however noted that the subject site is shown as being affected by Class 5 acid sulphate soils.  It is however noted that the nature of the proposed development is such that the impacts associated with the possible disturbance of Acid Sulphate Soils can be mitigated. Other forms of land use contamination are unlikely to be present given the history of use of the subject site.
Environmental protection zones	The subject site does not contain any land or area with an environmental protection zoning or classification.
Land slip	It is noted that the development of the proposed seniors living development does not involve areas which contain steep slopes therefore land slip is not considered to be an issue for the subject site.

Flood prone land	The subject site is identified as being flood prone land and is subject to compliance with the flood planning area provisions of Port Macquarie-Hastings Councils LEP, 2011. 
National Park Estate or other Reserves	The subject site does not form part of the National Park Estate or other Reserves.
Threatened species, populations, endangered ecological communities and critical habitat	Threatened species, populations, endangered ecological communities and critical habitat are unlikely to be present in the area of the proposed development as the subject site has been the subject of significant landform alteration over time.
Aboriginal Heritage	Items of aboriginal heritage are unlikely to be present in the area of the proposed development as the subject site has been the subject of significant landform alteration over time.

The nearest Fire Service is in Port Macquarie, (Port Macquarie NSW Fire Brigade), approximately 4.5km to the northeast of the subject site and the nearest fire control centre is located in Wauchope.

5.0 PROPOSED DEVELOPMENT

The proposed seniors living development concept for the site provides for twenty (20) separate residential accommodation buildings which will contain a range of residential sole occupancy units. The design of the proposed residential accommodation building ranges from single storey to six storey which will indicatively support four hundred and twenty-four sole occupancy units, refer to **Appendix 2**.

The proposed development also incorporates open space areas, community facilities, swimming pool, playground and plaza areas. Indicatively the proposed development provides for approximately four hundred and twenty-four sole occupancy units.
The development concept also provides for new public road infrastructure, internal access roads, stormwater management infrastructure and the provision of utility services.

Access to the proposed seniors living development is proposed to be via new private access road infrastructure which will connect with John Oxley Drive which adjoins the subject site along portion of the southern boundary of the subject site.

The new internal road system will provide for the north to south movement of vehicles and will separate the developed areas of the subject site from the undeveloped areas to the north and west.

Access to the proposed residential accommodation buildings and community facilities and infrastructure will be provided via the internal access roads which with a predominant north to south orientation will provide, in conjunction with the main internal access road, direct road frontage to each of the proposed residential accommodation buildings.

The approach to internal road design also provides for the minimization of 'dead end' roads with through roads providing for the efficient and effective movement of vehicles within the proposed development. In this regard it is noted that the development concept provides for only two (2) cul de sac arrangements which have road lengths less than 50m.It is also noted that the 'dead end' roads have been provided with appropriate turning heads and are located in areas of the development which are shielded from the areas of bushfire hazard vegetation which have been assessed as relevant to the proposed development.

It is also noted that the main internal access road will function as a perimeter road between the bushfire hazard vegetation to the north and west and the majority of the proposed residential buildings in particular those buildings which are immediately adjacent to areas of bushfire hazard vegetation.

The loop road design of the access and egress infrastructure servicing the proposed development provides for an alternate access/egress approach with the loop road connecting to a single access road which connects directly with John Oxley Drive. In this regard the short length of the access road connecting the subject development to John Oxley Drive is protected from the impacts of bushfire due to its spatial relationship with developed. It is however noted that a secondary access/egress opportunity exists via the existing sewerage pump station access road which adjoins the subject site along the southern portion of the western property boundary of the subject site.

All internal access roads will function as two-way and will be constructed to normal private access road standards.

6.0 BUSHFIRE HAZARD ASSESSMENT

6.1 Assessment Methodology

Several factors need to be considered in determining the bushfire hazard for the subject site. These factors are slope, vegetation type and distance from hazard, access/egress and fire weather. Each of these factors has been reviewed in determining the bushfire protection measures which are applicable to the subject site and proposed development.

An assessment of the slopes and vegetation structures on and surrounding the subject site was carried out by David Pensini - Building Certification and Environmental Services on 8th October 2018.
The assessment of slope and vegetation being carried out in accordance with Appendix 2 of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006 and Section 2 of AS 3959 - 2009.

6.2 Hazard Identification

Bushfire Prone Land Risk Mapping provides that vegetation of potential bushfire significance is located to the west and southeast of the subject site with the subject site being affected by the 100m buffer zone of Category 1 vegetation which is nominated as being present in these aspects. A small area of Category 2 vegetation is also shown to be present to the south of the John Oxley Drive road reserve.

Category 3 vegetation is shown to be present to the north of the subject site however the 30m buffer zone does not impact upon the subject site due to the separation provided by the Oxley Highway road reserve; refer to **Figure 4** below;

Figure 4 – Bushfire Prone Land Mapping

Inspection of the subject site and surrounds indicates that the bushfire prone land mapping appears to accurately indicate the extent of bushfire hazard vegetation in the locality although the Category 1 hazard vegetation to the south of the subject site should be assessed as remnant with a Category 2 classification being relevant to all areas of vegetation in this aspect.

6.3 Slope Assessment

Slope is a major factor to consider when assessing the bushfire hazard of the proposed development. Therefore, the slope of the subject site and surrounding area, (to a distance of 100m), was measured using a Suunto PM-5/360 PC Clinometer.

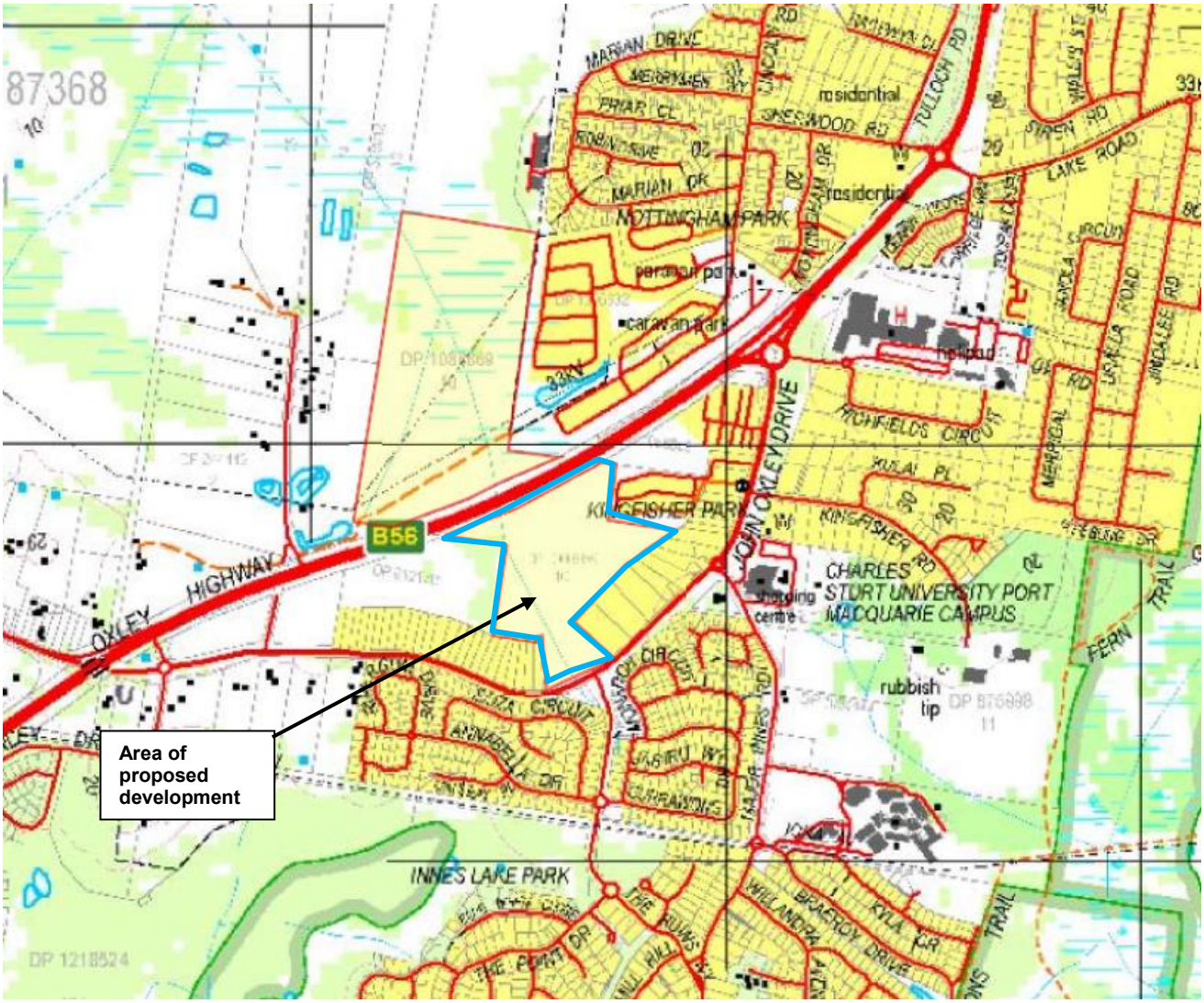
The hazard vegetation on the subject site and adjacent and adjoining land was identified and the slopes within the vegetation measured.

The topography of the subject site and adjoining and adjacent land is dominated by a small ridgeline the crest of which is located at distance to the south with the subject site being located on the foot slopes of the of the ridgeline. Accordingly, very gentle south to north downslopes are present on the subject site and on adjoining and adjacent land although flat conditions are present in the northern portion of the subject site. It is noted that the topography of the eastern central portion of the subject site has been altered due to the filling of land. This filling has resulted through the extension of some commercial/industrial operations onto the subject site from adjoining commercial/industrial premises.

It is noted that slope conditions become steeper on adjoining and adjacent land to the south and northeast of the subject site. Slope conditions to the north of the subject site have been modified via the construction of the Oxley Highway carriageway with short steep road batters provided in conjunction with the relatively flat road surface. The topography to the north of the subject site, (northern portion of Lot 10 DP 1088869), is generally flat reflecting the presence of low-lying land in this aspect. Some gentle upslope conditions also exist in this aspect.

The slope conditions on the subject site and on adjoining and adjacent land are shown in **Figure 5** below;

Figure 5 – Topographic Conditions



The hazard vegetation on the subject site and adjacent and adjoining land was identified and the slopes within the vegetation measured. The following table shows the results.

Table 2 – Hazard Vegetation Slopes

HAZARD ASPECT	SLOPE RANGE	UPSLOPE/DOWN SLOPE
North	0˚	Up slope/Flat
South	2˚ - 3˚ (0˚)	Upslope
West	0˚ - 1˚	Downslope

***Note: In accordance with NSW Rural Fire Services, Planning for Bushfire Protection, 2006 and AS3959 – 2009 all upslope vegetation is considered to be 0˚.**

All the above slopes were considered when assessing the required Asset Protection Zones and Bushfire Attack Levels for the subject site and proposed development.

6.4 Vegetation Assessment

The vegetation on and surrounding the subject site was assessed over a distance of 140m from the proposed development.

The vegetation formations were classified using the system adopted as per Keith (2004) and in accordance with Appendix 3 of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006 and Table 2.3 of AS 3959 - 2009.

6.4.1 Vegetation within Subject Site

The subject site has been cleared of the majority of native vegetation in the past with grasses, sedges and some scattered and clusters of trees on the subject site.

Grasses and sedges in northern portion of Subject Site

Grasses and sedges in central portion of Subject Site

Grasses and sedges in southern portion of Subject Site

It is noted that the development concept for the subject site provides for the retention of the existing freshwater wetland area in the northern portion of the subject site. On the basis that no active vegetation management of this area is proposed in this area, the low-lying nature of the land and its relationship to other areas of wetland vegetation it is possible that natural vegetation regeneration will result in the formation, over time of a vegetation ecotone which would have some similarities to Forested Wetlands. In adopting a conservative approach to bushfire hazard assessment, a specification similar to Forested Wetland has been adopted for the northern aspect of the subject site albeit that this classification is considered to be conservative.

6.4.2 Vegetation on Adjoining and Adjacent Land to Subject Site

A mix of land uses including a commercial development site, public road infrastructure, aged care development and developed residential dwellings and commercial/industrial buildings set amongst managed garden and yard areas are present to the east of the subject site for a distance in excess of 140m. Accordingly no areas of bushfire hazard vegetation were considered to be present in this aspect.

Developed commercial/light industrial lots to the east of the subject site

A narrow band (10m – 15m wide) of remnant highly disturbed and fragmented Forested Wetland has been retained within the southern fringes of the Oxley Highway road reserve with areas of grassland extending to the north of the Oxley Highway road reserve. It is noted that due to the elevated construction of Oxley Highway, the remnant Forested Wetland hazard vegetation has an upslope relationship to the subject site. The narrowness and floristic characteristics of the vegetation to the north of the subject site, its fragmentation and the upslope relationship of the area of bushfire vegetation to the subject site can support the adoption of a Rainforest specification for this area of vegetation. Given the width of the Oxley Highway road reserve it is considered that the vegetation on the southern side of the road, (Forested Wetland), will have a greater impact in terms of fire than the vegetation to the north of the road, (Grassland).

Remnant vegetation along southern side of the Oxley Highway road reserve

Grassland vegetation to the north of the Oxley Highway road reserve

Narrow bands and small pockets of remnant Wet Sclerophyll Forest has been retained within the John Oxley Drive road reserve which is located to the south of the subject site with this vegetation forming a 'green corridor'. Areas of riparian vegetation associated with stormwater management infrastructure are also located within areas of public land. This area of vegetation extends for some distance to the northeast of the subject site with widths varying over its length ranging from 10m – 15m. Notwithstanding its length the presence of road and other public infrastructure creates a number of breaks in the continuity of the hazard vegetation. It is also noted that due to slope conditions the hazard vegetation has an upslope relationship to the subject site. Due to a history of understorey modification the vegetation characteristics are highly modified with significantly reduced fuel loads present. The narrowness and floristic characteristics of the vegetation to the east/northeast of the subject site, its fragmentation and the upslope relationship of the area of bushfire vegetation to the subject site can support the adoption of a Rainforest specification for this area of vegetation.

Remnant vegetation along southern side of the Oxley Highway road reserve – southeast of subject site

Remnant vegetation along southern side of the Oxley Highway road reserve – southwest of subject site

Vegetation to the west of the subject site consists of managed vegetation associated with the developed residential lots which adjoin the subject site along the southern portion of the western boundary of the subject site together with areas of Forested Wetland on undeveloped parcels of land which adjoin the subject site along the central and northern portions of the western boundary.

Managed vegetation on developed residential lots – southern portion of western boundary of subject site

Forested Wetland vegetation on undeveloped land – northern portion of western boundary of subject site

The following table summarizes the various vegetation structures which are of bushfire significance to the proposed development.

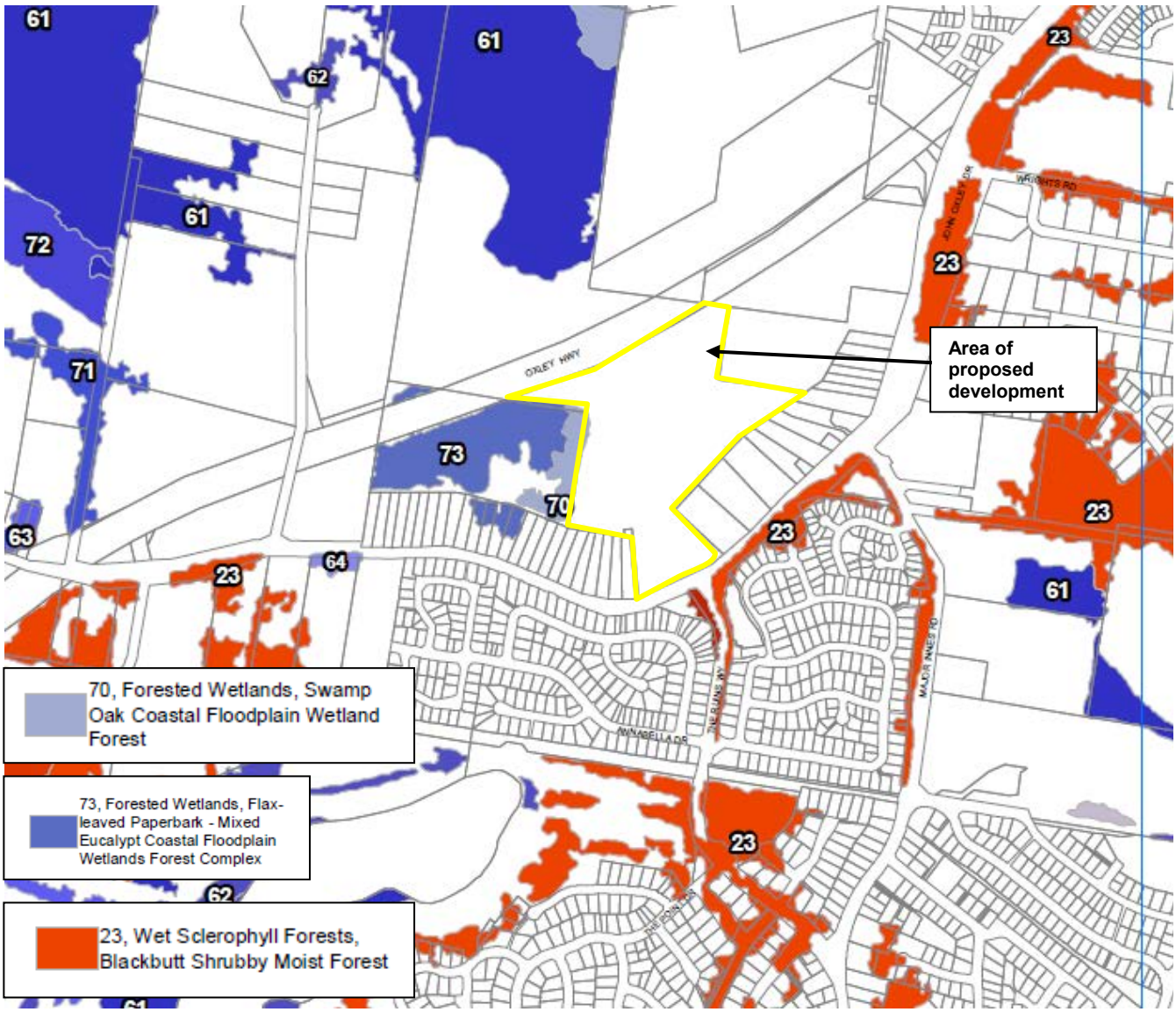
Table 3 – Summary of Vegetation Characteristics

ASPECT	VEGETATION DESCRIPTION	VEGETATION CLASSIFICATION – (Keith, 2004)	VEGETATION CLASSIFICATION – (AS3959 - 2009)**
North	Narrow band of Forested Wetland along the alignment of the Oxley Highway together with potential regrowth within freshwater wetland area in northern portion of subject site	Similar in specification to Forested Wetland	Forest
South	Narrow band of highly disturbed and modified Wet Sclerophyll Forest along the alignment of John Oxley Drive	Similar in specification to Rainforest	Rainforest
West	Forested Wetland on undeveloped land to the west of the subject site	Forested Wetland	Forest

** Refer to Appendix 3 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006.

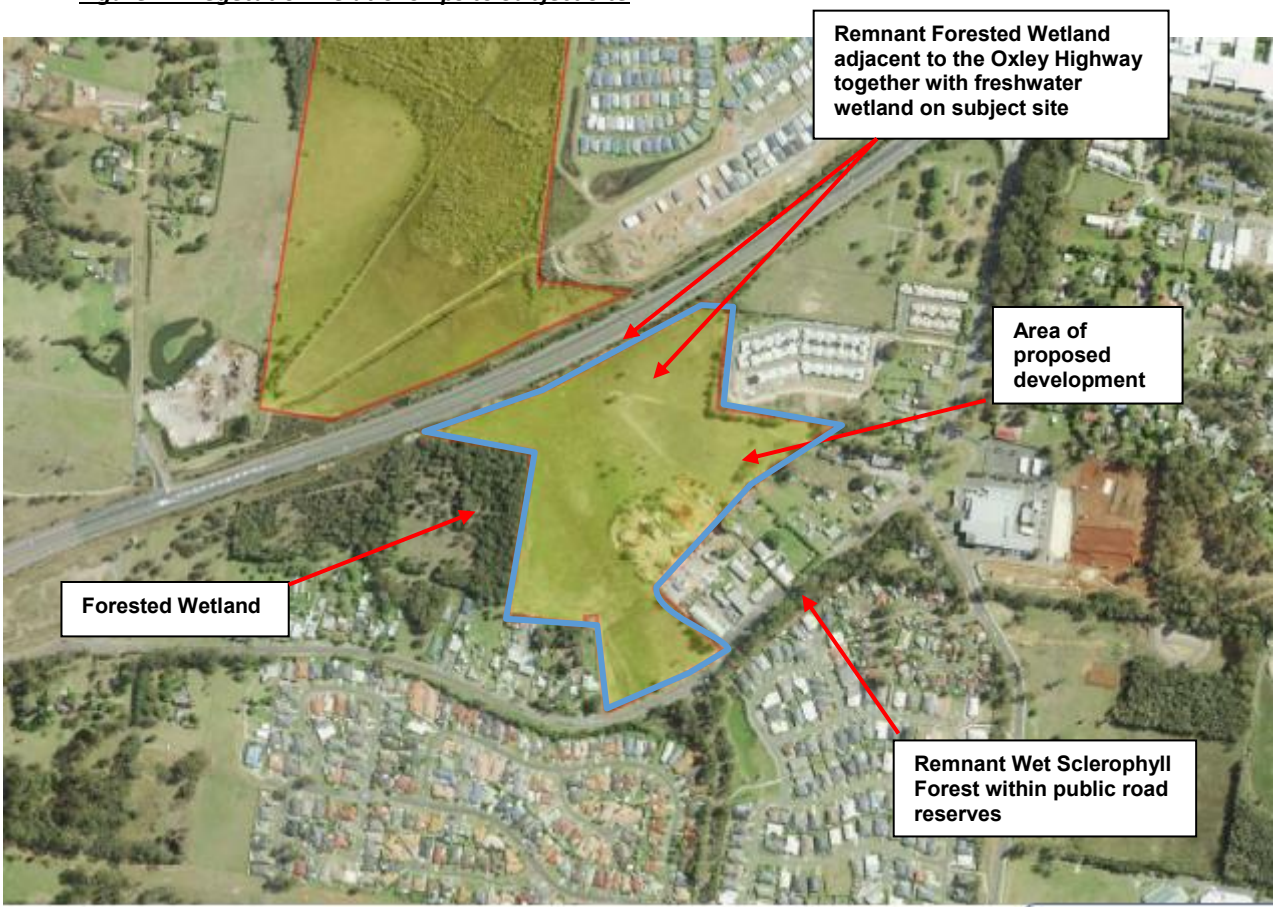
The initial and subsequent identification of vegetation of bushfire significance to the subject site is consistent with the vegetation mapping which has been undertaken for the area by Port Macquarie Hastings Council, refer to **Figure 6**.

Figure 6 – Vegetation Mapping



An indication of the relationship of the vegetation of bushfire significance to the proposed development is presented in **Figure 7** below.

Figure 7 - Vegetation Relationships to Subject Site



6.5 Fire Danger Index

The fire weather for the site is assumed on the worst-case scenario. In accordance with NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 and Table 2.1 of AS 3959 - 2009, the fire weather for the site is based upon the 1:50 year fire weather scenario and has a Fire Danger Index (FDI) of 80.

6.6 Fauna and Flora Issues

A fauna and flora evaluation have not been undertaken in conjunction with this bushfire hazard assessment and as such issues pertaining to fauna and flora are outside the scope of this report.

7.0 BUSHFIRE THREAT REDUCTION MEASURES

The following bushfire issues and constraints have been identified through considering the requirements of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006 in relation to the proposed development.

In order to reduce the bushfire threat, it is suggested the following measures be included in any strategy developed for the proposed development.

7.1 NSW Rural Fire Services, Planning for Bushfire Protection, 2006

7.1.1 Provision of Defendable Space/Asset Protection Zone

A Defendable Space/Asset Protection Zone (APZ) is to accompany the proposed development and is to be positioned on the hazard side of the development. The APZ provides for; minimal separation for safe firefighting, reduced radiant heat, reduced influence of convection driven winds, reduced ember viability and dispersal of smoke. The APZ consists of an Inner Protection Area (IPA) and Outer Protection Area (OPA).

The IPA is an area closest to the buildings that incorporates defendable space and is used for managing heat intensities at the building surface. The OPA is positioned adjacent to the hazard and the purpose of the OPA is to reduce the potential length of flame by slowing the rate of spread, filtering embers and suppressing the crown fire.

It is noted that this type of development requires APZ's in accordance with Special Fire Protection Purposes (SFPP) requirements of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006. APZ's in SFPP situations must be such that radiant heat levels of greater than 10kW/m² will not be experienced by occupants or emergency workers entering or exiting a building.

The following table indicates the minimum Asset Protection Zones required from the hazard vegetation to the proposed residential building asset within the proposed seniors living development which is the subject of this report. The table is based upon the vegetation type, slopes and fire weather (FDI) which is applicable to this assessment.

Table 4 – APZ Requirements for Development

ASPECT	VEGETATION	SLOPE	TOTAL REQUIRED APZ			MINIMUM AVAILABLE APZ within Property Boundaries (Worst Case)	COMPLIANCE with Minimum APZ Requirements
			IPA	OPA	APZ		
North	Similar in specification to Forested Wetland	0˚ Flat/Upslope	**50m**	**-**	**50m**	**>50m**	✓
South	Similar in specification to Rainforest	1˚ - 2˚ (0˚) Upslope	**30m**	**-**	**30m**	**>30m**	✓
West	Forested Wetland	0˚ - 1˚ Downslope	**60m**	**-**	**60m**	**>60m**	✓

Having regard to the above the minimum required APZs which would be applicable to the proposed development **can** be achieved for the development of the subject site.

The APZ acceptable solution provisions which apply to SFPP developments are detailed in the following table:

Table 5 – APZ Performance Requirements

Intent of measures: to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants.		
Performance Criteria	**Acceptable Solutions**	**Compliance Comment**
The intent may be achieved where:		
Radiant heat levels of greater than 10kW/m² will not be experienced by occupants or emergency workers entering or exiting a building	An APZ is provided in accordance with the relevant tables/ figures in Appendix 2 of NSWRFS Planning for Bushfire Protection 2006	✔ The minimum required asset protection zones can be provided – refer to **Table 4** of this report.
	Exits are located away from the hazard side of the building.	✔ The design of the proposed building provides for exits being located away from the hazard side of the building.
	The APZ is wholly within the boundaries of the development site. Exceptional circumstances may apply (see section 3.3 of NSWRFS Planning for Bushfire Protection 2006)	✔ The minimum required asset protection zones can be provided either within the property boundaries of the subject site or by utilizing the adjacent John Oxley Drive road reserve.
Applicants demonstrate that issues relating to slope are addressed: maintenance is practical, soil stability is not compromised and the potential for crown fire is negated.	Mechanisms are in place to provide for the maintenance of the APZ over the life of the development.	✔ All APZ's can be maintained over the life of the development.
	The APZ is not located on lands with a slope exceeding 18 degrees.	✔ All APZ's are to be located on gently sloping land.
APZs are managed and maintained to prevent the spread of fire towards the building.	In accordance with the requirements of Standards for Asset Protection Zones (RFS, 2005) *Note: A Monitoring and Fuel Management Program should be required as a condition of development consent.*	✔ APZ's will need to be created and maintained to the standards which are applicable to Inner Protection Areas.
Vegetation is managed to prevent flame contact and reduce radiant heat to buildings, minimise the	Compliance with Appendix 5 of NSWRFS Planning for Bushfire Protection 2006	✔ Landscaping and vegetation management will comply with the requirements of Appendix 5 of NSWRFS Planning for Bushfire Protection

potential for wind driven embers to cause ignition and reduce the effect of smoke on residents and fire fighters.		2006

Therefore, the acceptable solution, ('Deemed-to-Satisfy'), provisions for APZ's as detailed in Table A2.6 of NSW Rural Fire Services, ***Planning for Bushfire Protection*****,** 2006 can be achieved for the proposed seniors living development and supporting infrastructure.

It is further noted that the design of the proposed development provides for exits from buildings to be shielded from areas of bushfire vegetation through their positioning and the spatial relationships of the subject buildings with areas of hazard vegetation.

In conjunction with the proposed APZ's, the shielding provided to the proposed building entries/exits would ensure that radiant heat levels no greater than 10kW/m² would be experienced by occupants or emergency workers entering or exiting the proposed seniors living development buildings.

7.1.2 Defendable Space/Asset Protection Zone Management

The grounds between the proposed development buildings and the areas of hazard vegetation identified in Section 6.4 of this report must be managed so as to comply with the standards which are applicable to Asset Protection Zones as follows;

Inner Protection Area

An IPA should provide a tree canopy cover of less than 15% and should be located greater than 2 metres from any part of the roofline of a building.

Garden beds of flammable shrubs are not to be located under trees and should be no closer than 10m from an exposed window or door.

Trees should have lower limbs removed up to a height of 2 metres above the ground

In this regard it will be necessary to provide and maintain for the life of the proposed development the minimum Asset Protection Zones as required by **Table 4** of this report.

A concept plan for the provision of APZ's to the proposed development is included as **Appendix 4**.

7.1.3 Operational Access and Egress

The proposed development concept provides that John Oxley Drive will adjoin the subject site to the south with this road providing for movement to and from the subject site. John Oxley Drive is a bitumen sealed two way all weather public road which connects with the Oxley Highway approximately 850m to the north or 1km to the west of the subject site and as such movement to and from the subject site is to and from areas which would be protected from the effects of bushfire. It is noted that the presence of John Oxley Drive to the south of the subject site provides for a perimeter road approach to separating the proposed development from areas of bushfire hazard vegetation in the southern aspect.

John Oxley Drive road reserve which separates the subject site from the area of bushfire hazard vegetation

It is noted that the Oxley Highway adjoins the subject site to the north however no vehicle access is provided to the subject site from this public road infrastructure. Not withstanding this the road infrastructure assists in separating the subject site from areas of hazard vegetation to the north and also provides for high levels of access to the hazard vegetation which is present to the west of the subject site.

The Oxley Drive road reserve which separates the subject site from the area of bushfire hazard vegetation

Access to the proposed seniors living development is proposed to be via new private access road infrastructure which will connect with John Oxley Drive which adjoins the subject site along portion of the southern boundary of the subject site.

The new internal road system will provide for the north to south movement of vehicles and will separate the developed areas of the subject site from the undeveloped areas to the north and west.

Access to the proposed residential accommodation buildings and community facilities and infrastructure will be provided via the internal access roads which with a predominant north to south orientation will provide, in conjunction with the main internal access road, direct road frontage to each of the proposed residential accommodation buildings.

The approach to internal road design also provides for the minimization of 'dead end' roads with through roads providing for the efficient and effective movement of vehicles within the proposed development. In this regard it is noted that the development concept provides for only two (2) cul de sac arrangements which have road lengths less than 50m.It is also noted that the 'dead end' roads have been provided with appropriate turning heads and are located in areas of the development which are shielded from the areas of bushfire hazard vegetation which have been assessed as relevant to the proposed development.

It is also noted that the main internal access road will function as a perimeter road between the bushfire hazard vegetation to the north and west and the majority of the proposed residential buildings in particular those buildings which are immediately adjacent to areas of bushfire hazard vegetation.

The loop road design of the access and egress infrastructure servicing the proposed development provides for an alternate access/egress approach with the loop road connecting to a single access road which connects directly with John Oxley Drive. In this regard the short length of the access road connecting the subject development to John Oxley Drive is protected from the impacts of bushfire due to its spatial relationship with developed. It is however noted that a secondary access/egress opportunity exists via the existing sewerage pump station access road which adjoins the subject site along the southern portion of the western property boundary of the subject site.

All internal access roads will function as two-way and will be constructed to normal private access road standards.

It will however be necessary to construct all new internal access roads within the proposed development so as to comply with the relevant provisions of the internal access road requirements of Section 4.1.3 of NSW Rural Fire Services***, Planning for Bushfire Protection***, 2006. The specific internal road design requirements provided for in Section 4.2.7 of NSW Rural Fire Services***, Planning for Bushfire Protection***, 2006 are also required to be complied with. The relevant internal road provisions which are applicable to the proposed development are summarized as follows;

Table 6 - Acceptable Solutions (Access/Internal Roads)

Intent of measures: to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupants faced with evacuation.		
Performance Criteria	**Acceptable Solutions**	**Compliance Comment**
The intent may be achieved where:		
Access to properties is provided in recognition of the risk to fire fighters and/ or evacuating occupants.	At least one alternative property access road is provided for individual dwellings (or groups of dwellings) that are located more than 200 metres from a public through road	✔ It is noted that the proposed development is located <200m from John Oxley Drive and the Oxley Highway and as such an alternative property access road is not required.

		Notwithstanding this, an alternative internal access road connection has been provided for in the design of the proposed development. The loop design of the internal road infrastructure provides for two means of access to and egress from the proposed seniors living development.
The capacity of road surfaces and bridges is sufficient to carry fully loaded fire fighting vehicles. All weather access is provided.	Bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes.	✔ No bridges are proposed.
	Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge).	✔ Roads will be all weather in design and construction.
Internal road widths and design enable safe access for emergency services and allow crews to work with equipment about the vehicle	Internal roads are two-wheel drive, sealed, all weather roads. Internal perimeter roads are provided with at least two traffic lane widths (carriageway 8 meters minimum kerb to kerb) and shoulders on each side, allowing traffic to pass in opposite directions; Roads are through roads. Dead end roads are not more than 100m in length from a through road, incorporate a minimum 12 meters outer radius turning circle, and are clearly signposted as a dead end; Traffic management devices are constructed to facilitate access by emergency service vehicles; A minimum vertical clearance of four meters to any overhanging obstructions, including tree branches, is provided; Curves have a minimum inner radius of six meters and are minimal in number to allow for rapid access and egress; The minimum distance between	✔ The design and construction of roads is to provide for compliance with the relevant design and construction provisions. The design of the internal road system provides for a through road configuration with access and egress from the proposed buildings connecting directly with the through road system.

	inner and outer curves is six meters; Maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees; Cross fall of the pavement is not more than 10 degrees; Roads do not traverse through a wetland or any other land potentially subject to periodic inundation (other than flood or storm surge); Roads are clearly sign posted and bridges clearly indicate load ratings; The internal road surfaces and bridges have a capacity to carry fully-loaded fire fighting vehicles (15 tonnes);	

It is considered that the proposed access arrangements are acceptable for the proposed development having regard to the nature, construction and extent of the existing public road infrastructure which is present and the internal road system which is proposed to be provided.

7.1.4 Services - Water, Gas and Electricity

As set out in Section 4.2.7 of NSW Rural Fire Services**,** ***Planning for Bushfire Protection***, 2006, Special Fire Protection Purpose Developments in bushfire prone areas must maintain a water supply reserve dedicated to firefighting purposes.

The proposed development will involve the extension of the reticulated town water supply which currently services the existing seniors living buildings which are present on the subject site. The provision of a reticulated town water supply will provide a water supply that is available for firefighting purposes. It is however noted that in accordance with NSW Rural Fire Services**,** ***Planning for Bushfire Protection***, 2006 the determination of a guaranteed water supply is to be made by the water supply authority where mains water supply is available.

Electricity supply is available and is available for connection to the proposed development.

Reticulated gas services are not available to the site; however, any reticulated or bottled gas supply is to be installed and maintained in accordance with AS1596 and the requirements of the relevant authorities. Metal piping is to be used. All fixed gas cylinders are to be kept clear of all flammable materials to a distance of 10m and shielded on the hazard side of the installation.

If gas cylinders need to be kept close to a building, the release valves are to be directed away from the building and at least 2m away from any combustible material, so that they do not

act as a catalyst to combustion. Connects to and from gas cylinders need to be metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to buildings are not to be used.

The incorporation into the proposed development of the relevant provisions of the following acceptable solutions as provided for by Section 4.1.3 of NSW Rural Fire Services***, Planning for Bushfire Protection***, 2006 will ensure compliance with the intent for the provision of services to the proposed seniors living development.

Table 7 - Service Provision Requirements (PfBP 2006)

Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building		
Performance Criteria	**Acceptable Solutions**	**Compliance Comment**
The intent may be achieved where:		
Reticulated water supplies Reticulated water supplies are easily accessible and located at regular intervals	Access points for reticulated water supply to SFPP developments incorporate a ring main system for all internal roads. Fire hydrant spacing, sizing and pressures comply with AS 2419.1 – 2005. Where this cannot be met, the RFS will require a test report of the water pressures anticipated by the relevant water supply authority, once development has been completed. In such cases, the location, number and sizing of hydrants shall be determined using the fire engineering principles. No services or hydrants are located within the parking bays	✔ The proposed development will have access to the reticulated water supply which services the urban area in which the subject site is located. The water supply is to be designed and constructed so as to comply with the relevant requirements.
Electricity Location of electricity services will not lead to ignition of surrounding bushland or the fabric of buildings or risk to life from damaged electrical infrastructure	Electrical transmission lines are underground	✔ To comply.
Gas		

Location of gas services will not lead to ignition of surrounding bushland or the fabric of buildings	Reticulated or bottled gas is installed and maintained in accordance with AS 1596 and the requirements of relevant authorities. Metal piping is to be used. All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and shielded on the hazard side of the installation. If gas cylinders need to be kept close to the building, the release valves are directed away from the building and at least 2 metres away from any combustible material, so that they do not act as a catalyst to combustion. Connections to and from gas cylinders are metal. Polymer sheathed flexible gas supply lines to gas meters adjacent to buildings are not used.	✔ Reticulated gas supplies are not available within the area. Gas bottles and other sources of ignition are stored away from the hazard and also in positions to reduce the risk.

7.1.5 Emergency Evacuation Planning

Special Fire Protection Purpose developments should have suitable management arrangements and structures capable of developing and implementing an Emergency Plan.

Before occupation of the proposed seniors living development, an Emergency Evacuation Plan incorporating bushfire evacuation will be required to be produced for the proposed development.

Compliance with the following acceptable solutions as provided for by Section 4.2.7 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 will ensure compliance with the intent for Emergency Evacuation Planning before occupation of the proposed development.

Table 8 - Acceptable Solutions for Emergency and Evacuation

Intent of measures: to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments		
Performance Criteria	**Acceptable Solutions**	**Compliance Comment**
The intent may be achieved where:		
An Emergency and Evacuation Management Plan is approved by the	An emergency evacuation plan is prepared consistent with the RFS Guidelines for the preparation of *Emergency/Evacuation Plan*.	✔ To comply

relevant fire authority for the area.	Compliance with AS 3745-2002 'Emergency control organization and procedures for buildings, structures and workplaces for residential accommodation.'	
Suitable management arrangements are established for consultation and implementation of the emergency and evacuation plan.	An Emergency Planning Committee is established to consult with residents (and their families in the case of schools) and staff in developing and implementing an Emergency Procedures Manual. Detailed plans of all Emergency Assembly Areas including "onsite" and "offsite" arrangements as stated in AS 3745-2002 are clearly displayed, and an annual (as a minimum) trial emergency evacuation is conducted.	✔ To comply

7.1.6 Landscaping

Landscaping is a major cause of fire spread to buildings and therefore any future landscaping in conjunction with the proposed development will need careful planning to produce gardens that do not contribute to the spread of a bushfire.

Appendix 5 of NSW Rural Fire Services, ***Planning for Bushfire Protection*****,** 2006**,** contains standards that are applicable to the provision and maintenance of landscaping. Any landscaping proposed to be undertaken in conjunction with the proposed subdivision is to comply with the principles contained in Appendix 5 of NSW Rural Fire Services**,** ***Planning for Bushfire Protection,*** 2006**.**

Compliance with Appendix 5 of **NSW Rural Fire Services,** ***Planning for Bushfire Protection,*** 2006**,** will satisfy the intent of the bush fire protection measures that are applicable to the provision of landscaping.

7.1.7 Construction Requirements

It is noted that Appendix 3 of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006 now contains specific construction requirements which the NSW Rural Fire Service will seek to impose, through the development control process, in addition to the construction requirements contained within AS3959 – 2009.

Accordingly, the determination of the construction requirements which will be applicable to any specific development proposal will need to have regard to the construction requirements nominated in Appendix 3 of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006 in addition to the requirements of AS3959 – 2009.

The construction requirements that will be applicable to the proposed aged care building are further discussed in Section 7.2 of this report.

7.2 AS3959 – 2009 Construction of Buildings in Bushfire Prone Areas

7.2.1 General

The bushfire construction requirements of Volume 2 of the Building Code of Australia for Class 1a buildings which are a Special Fire Protection Purpose development are now applicable in NSW. In this regard the Building Code of Australia provides that compliance with the relevant requirements of AS3959 – 2009 satisfies the performance requirements which are applicable to Part 3.7.4 (Bushfire Areas), of Volume 2 of the Building Code of Australia.

It is however noted that there are a number of NSW variations to the application of AS3959 – 2009 including a restriction on the utilization of the Bushfire Attack Level – Flame Zone requirements of the Australian Standard as a 'deemed to satisfy solution' for these situations. Consequently, in NSW all situations which are determined as being subject to the Bushfire Attack Level – Flame Zone requirements of AS3959 – 2009 must be treated on merit with construction requirements being determined on a specific site assessment basis.

7.2.2 AS3959 – 2009 Construction of Buildings in Bushfire Prone Areas

The following construction requirements in accordance with AS 3959 – 2009 *Construction of Buildings in Bushfire Prone Areas* is required for the bushfire attack level categories.

Table 9 – Bushfire Attack Levels

BUSHFIRE ATTACK LEVEL (BAL)
No construction requirements under AS 3959-2009
BAL - 12.5
BAL - 19
BAL - 40
BAL - FZ

Based upon the information presented in Section 6 of this report the following Bushfire Attack Levels pursuant to AS3959 – 2009 have been determined as being applicable to the proposed seniors living development.

It is noted that the following BAL assessment has been based upon the provision of the minimum required Asset Protection Zones. It is noted that it is likely that the provision of APZ's will exceed the minimum requirements.

Table 10 – Bushfire Attack Levels for Nominated Vegetation Classifications and Slopes

ASPECT	VEGETATION CLLASSIFICATION	SLOPE	DISTANCE (of Unit Building from Hazard Vegetation)	BUSHFIRE ATTACK LEVEL (BAL)
North	Forested Wetland	0˚ Flat/Upslope	>50m	BAL 12.5
South	Similar in specification to Rainforest	1˚ - 2˚ (0˚) Upslope	>30m	BAL 12.5
West	Forested Wetland	0˚ - 1˚ Downslope	>60m	BAL 12.5

Based upon the information presented in Section 6 of this report the following Bushfire Attack Levels pursuant to AS3959 – 2009 have been determined as being applicable to the proposed seniors living development buildings (dwelling sites and communal buildings/infrastructure), refer to **Appendix 4.**

The information presented in **Table 10** above and **Appendix 5** indicates that under the worst-case spatial separation scenario between the proposed seniors living development and areas of bushfire hazard vegetation the proposed development would be subjected to a Bushfire Attack Level of BAL 12.5.

8.0 SUMMARY OF REQUIREMENTS

The following requirements are considered to be integral to this bushfire hazard assessment;

(i) An Emergency and Evacuation Plan is to be prepared for the proposed development.

(ii) Ensure that gas bottles and other sources of ignition are stored away from the hazard and also in positions to reduce the risk.

(iii) Adopt Landscaping principals in accordance with the report.

(iv) Asset Protection Zones are to be provided in accordance with **Table 4** of this report.

(v) The area of land between the proposed building and the areas of bushfire hazard vegetation identified in Section 6.3 of this report are to be created and managed so as to meet the standards which are applicable to Inner Protection Areas, refer to Sections 7.1.1 and 7.1.2 of this report.

(vi) Water and other services are to be provided as detailed in Section 7.4 of this report is to be provided to the proposed development.

(vii) The construction of the proposed seniors living development buildings are to comply with the BAL 12.5 construction requirements of AS 3959 -2009, refer to **Appendix 5** unless assessed as being Low Threat, refer to **Appendix 4**.

(viii) The design and construction of the new internal road system is to comply with the acceptable solutions provided for in Sections 4.1.3 and 4.2.7 of NSW Rural Fire Services**, *Planning for Bushfire Protection*,** 2006.

9.0 CONCLUSION

It is suggested that with the implementation of this report, and its recommendations, that the bushfire risk for the proposed seniors living development is manageable, and the impact of bushfires to property and community will be significantly reduced beyond that which currently exists.

This report has shown that the proposed development will meet the acceptable solutions of Section 4.2.7 of NSW Rural Fire Services**, *Planning for Bushfire Protection***, 2006.

This report is however contingent upon the following assumptions and limitations.

9.1 Assumptions

(i) For a satisfactory level of bushfire safety to be achieved regular inspection and testing of proposed measures, building elements and methods of construction, specifically nominated in this report, is essential and is assumed in the conclusion of this assessment.

(ii) It is assumed that the building works will comply with the DTS provisions of the BCA including the relevant requirements of Australian Standard 3959 – 2009.

(iii) The buildings are constructed and maintained in accordance with the risk reduction strategy in this report.

9.2 Limitations

(i) The data, methodologies, calculations and conclusions documented within this report specifically relate to the building and must not be used for any other purpose.

(ii) A reassessment will be required to verify consistency with this assessment if there is building alterations and/or additions, change in use, or changes to the risk reduction strategy contained in this report.

(iii) This report has been based upon the vegetation characteristics observed at the time of the site inspections. No responsibility is taken where the vegetation characteristics of the subject site or surrounding areas is changed or modified beyond that which is presented within this report.

10.0 REFERENCES

NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006

AS 3959-2009 ***Construction of Buildings in Bushfire Prone Areas***

Keith David 2004, Ocean ***Shores to Desert Dunes, The Native Vegetation of New South Wales and the ACT***, Department of Environment and Conservation

Luke, R H and A G Mc Arthur 1978, ***Bushfires in Australia***, Australian Government Publishing Service Canberra

Victorian Department of Natural Resources and Environment and the Country Fire Authority 1999, ***Fire in the Australian Landscape***, NRE and CFA

Geoffrey C, Lindenmayer D, Dovers S 2003, ***Australia Burning, Fire Ecology, Policy and Management Issues***, CSIRO Publishing

Cheney P and Sullivan A 1997, ***Grassfires, fuel, weather and fire behaviour***, CSIRO Publishing

BCA 2011 – ***Building Code of Australia, Volume Two,*** Australian Building Codes Board, Canberra ACT 2011

Disclaimer

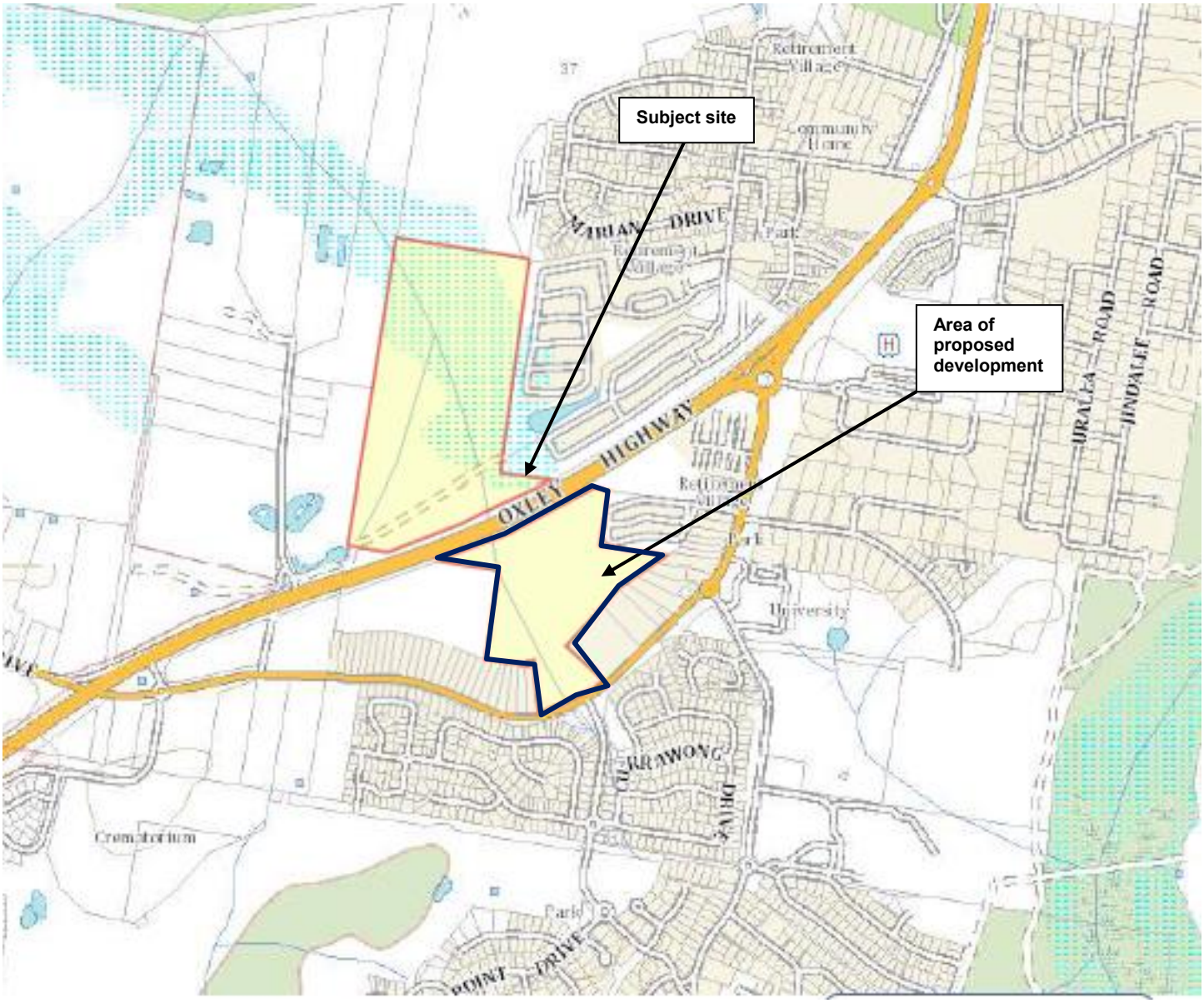
The findings referred to in this report are those which, in the opinion of the author, are required to meet the requirements of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006. It should be noted that the Local Authority having jurisdiction for the area in which the property is located may, within their statutory powers, require different, additional or alternative works/requirements to be carried out other than those referred to in this report.

This report has been prepared partially on information provided by the client. Information provided by the client in respect of details of construction.

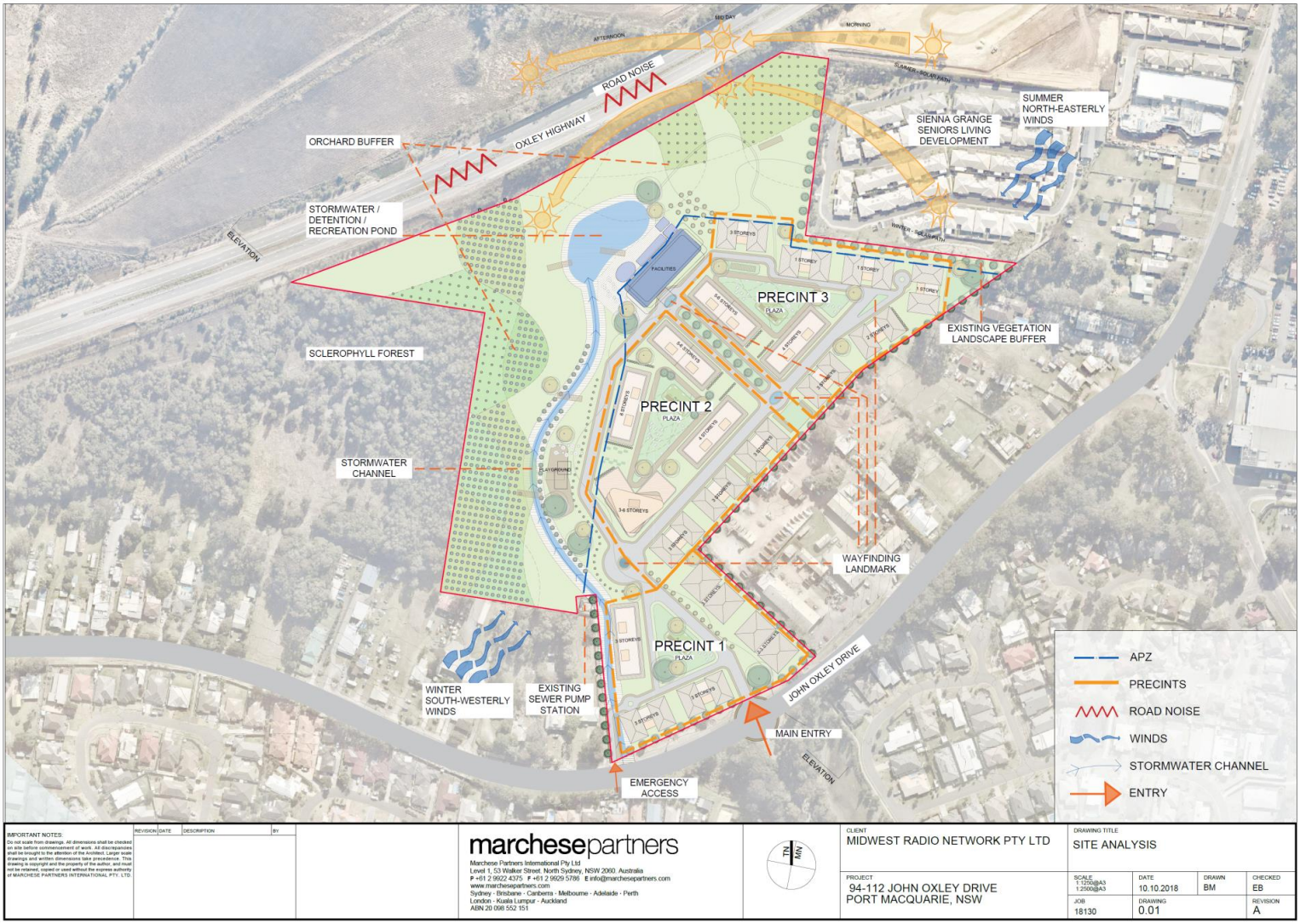
The author denies any legal liability for action taken as a consequence of the following:

- The Local Authority requiring alternative or additional requirements to those proposed or recommended in this report.
- Incorrect information, or mis-information, provided by the client with regard the proposed building which are in good faith included in the strategies proposed in this report and later found to be false.

APPENDIX 1
Subject Site



APPENDIX 2
Proposed Development



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CLIENT: MIDWEST RADIO NETWORK PTY LTD
PROJECT: 94-112 JOHN OXLEY DRIVE PORT MACQUARIE, NSW
DRAWING TITLE: SITE ANALYSIS

SCALE	DATE	DRAWN	CHECKED
1:1200@A3 1:2500@A3	10.10.2018	BM	EB
JOB: 18130	DRAWING: 0.01		REVISION: A

INDICATIVE YIELD

FSR		
SITE m²	TOTAL GFA m²	FSR X:1
119132	58500	0.49

	UNIT MIX			AREA (m²)		SEPP65	
	TWO BED	THREE BED	SUB TOTAL	NSA	GFA	CROSS VENT.	SOLAR ACCESS
FACILITIES					4000		
RESIDENTIAL	38%	63%	424	43600	54500	75%	80%

IMPORTANT NOTES:
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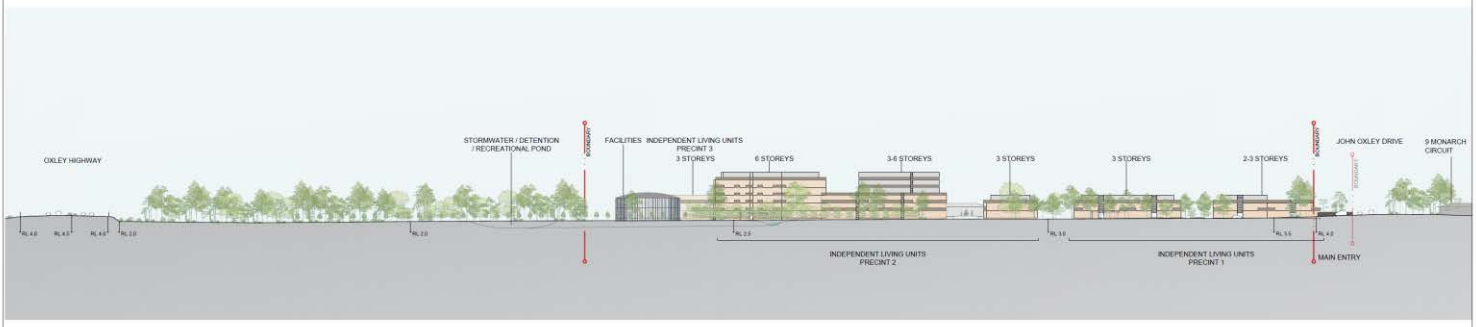
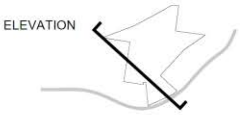
CLIENT	MIDWEST RADIO NETWORK PTY LTD
PROJECT	94-112 JOHN OXLEY DRIVE PORT MACQUARIE, NSW
DRAWING TITLE	TYPICAL LEVEL
SCALE	1:1250@A3 1:2500@A3
DATE	10.10.2018
DRAWN	BM
CHECKED	EB
JOB	18130
DRAWING	0.02
REVISION	A





IMPORTANT NOTES:
Do not scale from drawing. All dimensions shall be checked on site before commencement of work. All discrepancies shall be brought to the attention of the Architect. Larger scale drawings and written dimensions take precedence. This drawing is copyright and the property of the author, and must not be retained, copied or used without the express authority of MARCHESE PARTNERS INTERNATIONAL PTY. LTD.

REVISION	DATE	DESCRIPTION	BY

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TN MN

CLIENT: MIDWEST RADIO NETWORK PTY LTD

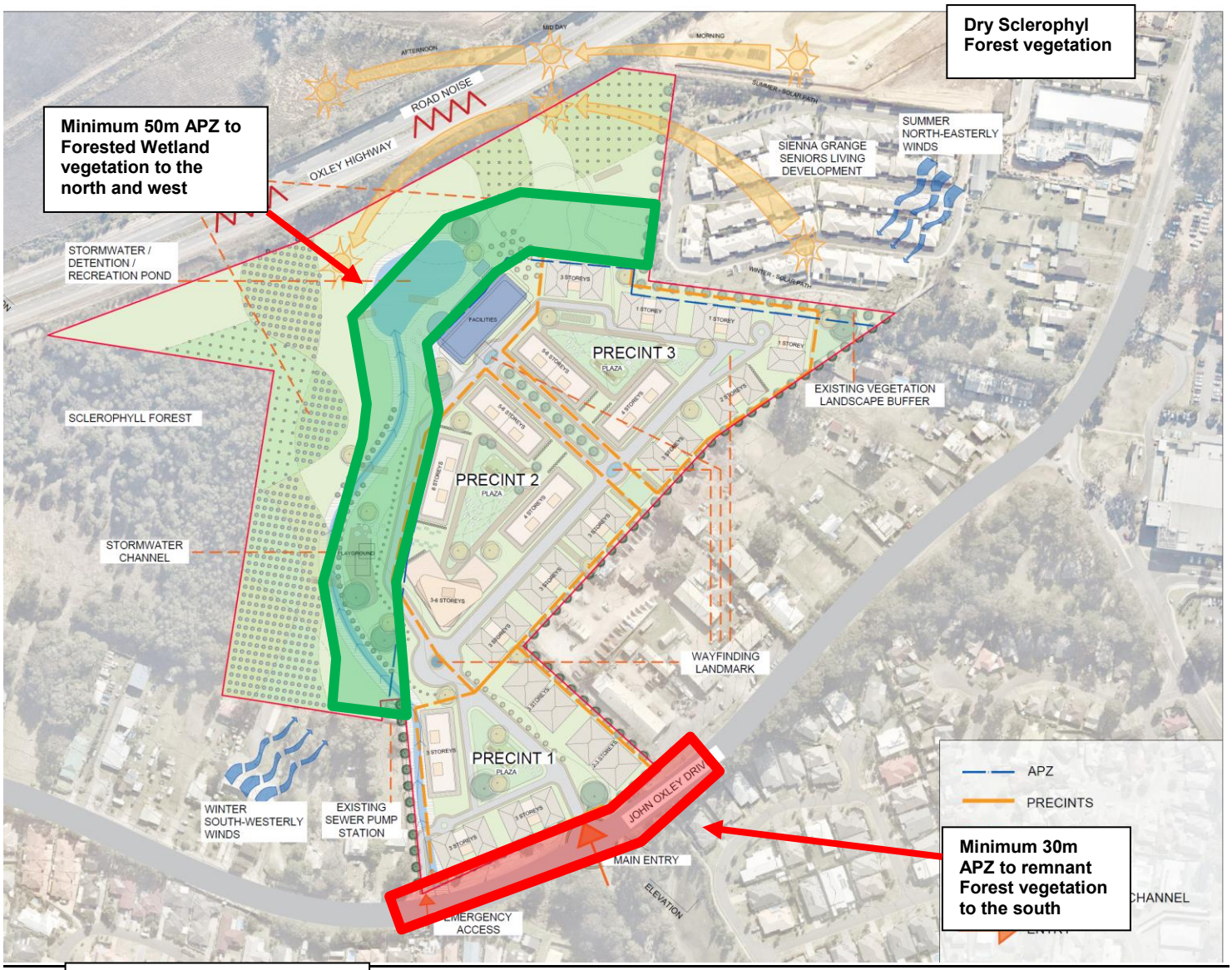
PROJECT: 94-112 JOHN OXLEY DRIVE
PORT MACQUARIE, NSW

DRAWING TITLE: ELEVATION

SCALE	DATE	DRAWN	CHECKED
1:750@A1 1:1500@A3	10.10.2018	BM	EB

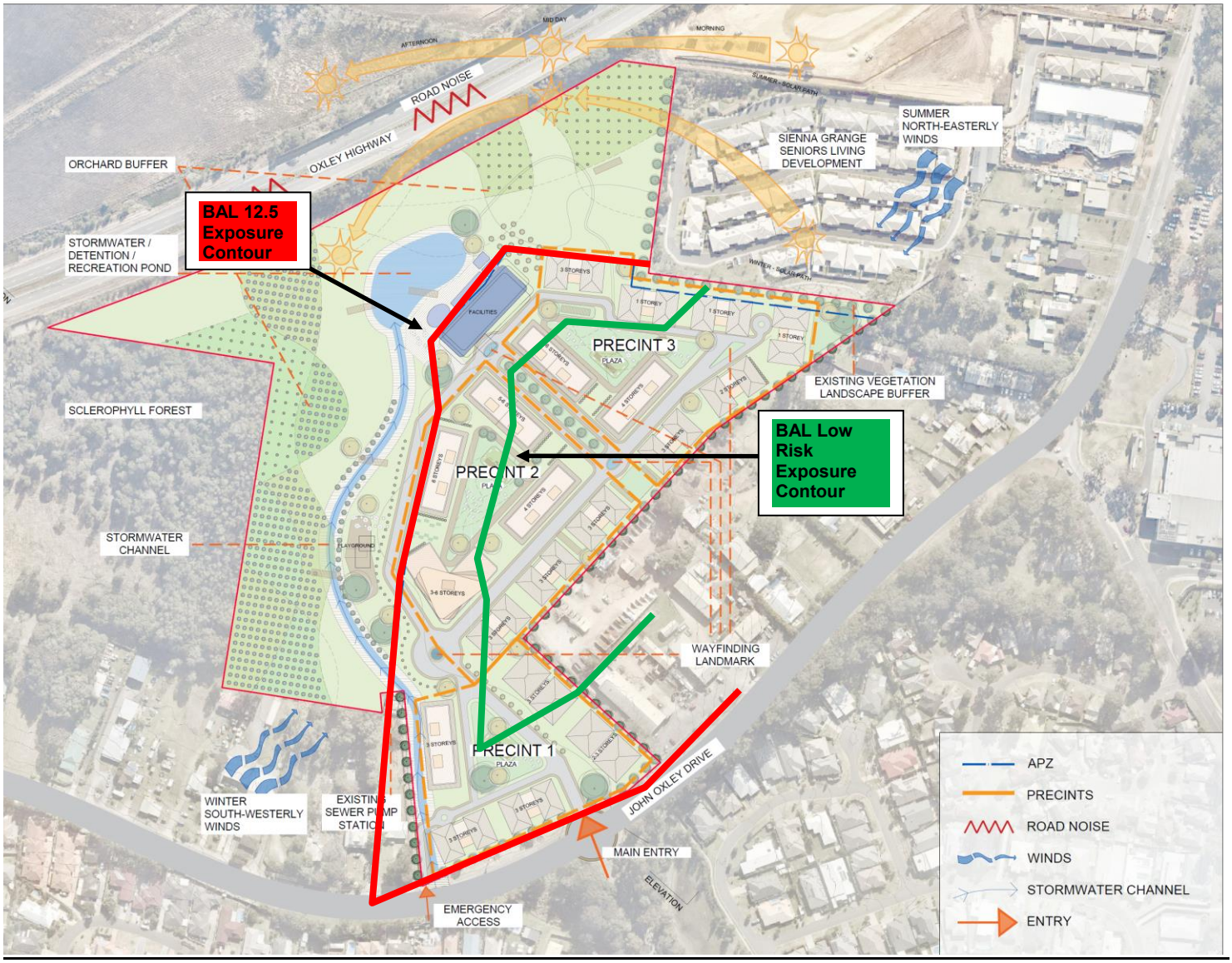
JOB	DRAWING	REVISION
18130	0.03	A

APPENDIX 3
APZ Concept Plan



NOT TO SCALE
INDICATIVE ONLY

APPENDIX 4
Bushfire Attack Level Contours



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INDICATIVE ONLY

APPENDIX 5

BAL 12.5 Construction Requirements

CONSTRUCTION FOR BUSHFIRE ATTACK LEVEL 12.5 (BAL-12.5)

Version 2.2

Part of Building	Specifically	Construction requirements in accordance with AS 3959-2009 and Appendix 3 (2010) of Planning for Bushfire Protection (2006)
Subfloor supports		This standard does not provide construction requirements for subfloor supports where the subfloor space is enclosed with: (a) a wall that complies with Clause 7.4 of AS 3959-2009; or (b) Corrosion resistant steel, bronze or aluminium mesh or perforated sheet with a maximum aperture size of 2 mm; or (c) a combination of items above. Where the subfloor space is unenclosed, the support posts, columns, stumps, piers and poles shall be: (i) of non-combustible material; or (ii) of bushfire-resisting timber (see Appendix F of AS 3959-2009); or (iii) a combination of items above. NOTE: This requirement applies to the principal building only and not to verandas, decks, steps, ramps and landings (see Clause 7.7)
Floors	**Concrete slabs on ground**	This Standard does not provide construction requirements for concrete slabs on the ground.
	Elevated floors	**Enclosed subfloor** This standard does not provide construction requirements for elevated floors, including bearers, joists and flooring, where the subfloor space is enclosed with (a) a wall that complies with Clause 7.4 of AS 3959-2009; or (b) corrosion-resistant steel, bronze or aluminium mesh or perforated sheet with a maximum aperture size of 2 mm; or (c) a combination of items above. **Unenclosed subfloor space** Where the subfloor space is unenclosed, bearers, joists and flooring, less than 400 mm above finished ground level, shall be one of the following: (a) Materials that comply with the following: (i) Bearers and joists shall be- (A) non-combustible; or (B) bushfire-resisting timbers (see Appendix F of AS 3959-2009) ; or (C) a combination of items above. (ii) Flooring shall be- (A) non-combustible; or (B) bushfire-resisting timbers (see Appendix F of AS 3959-2009); or (C) timber (other than bushfire-resisting timber), particle board or plywood flooring where the underside is lined with sarking-type material mineral wool insulation; or (D) a combination of items above; or (b) A system complying with AS 1530.8.1

		This standard does not provide construction requirements for elements which are 400 mm or more above finished ground level.
External walls	**Walls**	The exposed components of an external wall that are less than 400 mm from the ground or less than 400 mm above decks, carport roofs, awnings and similar elements or fittings having an angle less than 18 degrees to the horizontal and extending more than 110 mm in width from the wall (see Figure D3, Appendix D of AS3959 - 2009) shall be: (a) Non-combustible material. NOTE: Examples include, but are not limited to, the following (with a minimum of 90 mm in thickness): (a) Full masonry or masonry veneer walls with an outer leaf of clay, concrete, calcium silicate or natural stone. (b) Precast or in situ walls of concrete or aerated concrete. (c) Earth wall including mud brick. or (b) Timber logs of a species with a density of 680 kg/m3 or greater at a 12 percent moisture content; of a minimum nominal overall thickness of 90 mm and a minimum thickness of 70 mm (see Clause 3.11 of AS3959 - 2009); and gauge planed. or (c) Cladding that is fixed externally to a timber-framed or a steel-framed wall and is— (i) non-combustible material; or (ii) fibre-cement a minimum of 6 mm in thickness; or (iii) bushfire-resisting timber (see Appendix F of AS3959 - 2009); or (iv) a timber species as specified in Paragraph E1, Appendix E of AS3959 - 2009; or (v) a combination of any of Items (i), (ii), (iii) or (iv) above. or (d) A combination of any of Items (a), (b) or (c) above. This Standard does not provide construction requirements for the exposed components of an external wall that are 400 mm or more from the ground or 400 mm or more above decks, carport roofs, awnings and similar elements or fittings having an angle less than 18 degrees to the horizontal and extending more than 110 mm in width from the wall (see Figure D3, Appendix D of AS3959 - 2009).
	Joints	All joints in external surface material of walls be covered, sealed, overlapped, backed or butt jointed to prevent gaps greater than 3 mm.
	Vents and weep holes	Vents and weepholes in external walls shall be screened with a mesh with a maximum aperture of 2 mm, made of corrosion-resistant steel, bronze or aluminium, except where the vents and weepholes have an aperture less than 3 mm (see Clause 3.6 of AS3959-2009), or are located in an external wall of a subfloor space.
External glazed elements and assemblies and external doors.	**Bushfire shutters**	Where fitted, bushfire shutters must comply with Clause 3.7 of AS 3959-2009 and be made from- (a) Non Combustible material; or (b) A timber species as specified in Paragraph E1 Appendix E of AS 3959-2009; or (c) Bushfire-resisting timber (see Appendix F of AS 3959-2009); or (d) A combination of any items (a) (b) or (c) above.

	Screens for windows and doors	Where fitted, screens for windows and doors shall have corrosion-resisting steel, bronze or aluminium mesh or perforated sheet with a maximum aperture size of 2 mm. Gaps between the perimeter of the screen assembly and the building elements to which it is fitted shall not exceed 3 mm. The frame supporting the mesh or perforated sheet shall be made from— (a) metal; or (b) bushfire-resisting timber (see Appendix F of AS3959 - 2009); or (c) a timber species as specified in Paragraph E2, Appendix E of As3959 – 2009).
	Windows	Window assemblies shall comply with one of the following: (a) They shall be completely protected by a bushfire shutter that complies with Clause 5.5.1 of AS 3959-2009; or (b) They shall be completely protected externally by screens that comply with Clause 5.5.1A of AS 3959-2009; or (c) They shall comply with the following; (i) For window assemblies less than 400 mm from the ground or less than 400 mm above decks, carport roofs, awnings and similar elements or fitting having an angle less than 18 degrees to the horizontal and extending more than 110 mm in width from the window frame (see figure D3, Appendix D of AS 3959-2009), window frames and window joinery shall be made from: (A) Bushfire resisting timber (see Appendix F of AS 3959-2009); or (B) A timber species as specified in Paragraph E2, Appendix E of AS 3959-2009; or (C) Metal; or (D) Metal reinforced PVC-U. The reinforcing members shall be made from aluminium, stainless steel or corrosion- resistant steel and the frame and sash shall satisfy the design load, performance and structural strength of the member. (ii) Externally fitted hardware that supports the sash in its functions of opening and closing shall be metal. (iii) Where glazing is less than 400 mm from the ground or less that 400 mm above decks, carport roofs, awnings and similar elements or fittings having an angle less than 18 degrees to the horizontal and extending more than 110 mm in width from the window frame, the glazing shall be Grade A safety glass minimum 4 mm thickness, or glass blocks with no restrictions on glazing methods. (iv) Where glazing is other than specified in (iii), annealed glass can be used. (v) Openable portions of windows shall be screened internally and externally with screens that apply with Clause 5.5.1A of AS 3959-2009.
	Doors- Side hung external doors (including French doors, panel fold and bi-fold doors)	These doors must comply with one of the following: (a) Doors and door frames shall be protected by bushfire shutters that comply with Clause 5.5.1 of AS3959 - 2009. or (b) Doors and door frames shall be protected externally by screens that comply with Clause 5.5.1A AS3959 - 2009. or (c) Doors and door frames shall comply with the following: (i) Doors shall be— (A) non-combustible; or (B) a solid timber, laminated timber or reconstituted timber door,

		having a minimum thickness of 35 mm for the first 400 mm above the threshold; or; (C) a door, including a hollow core door, with a non-combustible kick plate on the outside for the first 400 mm above the threshold; or (D) a door, including a hollow core door, protected externally by a screen that complies with Clause 5.5.1A AS3959 - 2009; or (E) a fully framed glazed door, where the framing is made from materials specified for bushfire shutters (see Clause 5.5.1 of AS3959 - 2009), or from a timber species as specified in Paragraph E2, Appendix E of AS3959 - 2009. Where doors incorporate glazing, glazing must comply with glazing requirements for windows. Doors must be tight fitting to the door frame and to an abutting door, if applicable. Where any part of the door is less than 400 mm from the ground or less than 400 mm above decks, carport roofs, awnings and similar elements or fittings having an angle less than 18 degrees to the horizontal and extending more than 110 mm in width from the door (see figure D3, Appendix D of AS 3959-2009), that part of the door frame shall be made from; (a) Bushfire resisting timber (see Appendix F of AS 3959-2009);or (b) A timber species as specified in Paragraph E2, Appendix E of AS 3959-2009; or (c) Metal; or (d) Metal reinforced PVC-U. The reinforcing members shall be made from aluminium, stainless steel or corrosion resistant steel and the door assembly shall satisfy the design load, performance and structural strength of the member. Weather strips, draught excluders or draught seals shall be installed at the base of side-hung external doors.
	Doors- sliding doors	Sliding doors shall comply with one of the following; a) They shall be completely protected by a bushfire shutter that complies with Clause 5.5.1 of AS 3959-2009; or b) They shall be completely protected externally by screens that comply with Clause 5.5.1A of AS 3959-2009; or c) They shall comply with the following: (i) Any glazing incorporating in sliding doors shall be Grade A safety glass complying with AS 1288. (ii) Both the door frame supporting the sliding door and the framing surrounding any glazing shall be made from: (a) Bushfire resisting timber (see Appendix F of AS 3959-2009); or (b) A timber species as specified in Paragraph E2, Appendix E of AS 3959-2009; or (c) Metal; or (d) Metal reinforced PVC-U. The reinforcing members shall be made from aluminium, stainless steel or corrosion resistant steel and the frame must be able to hold the design load and structural strength. (iii) No requirements to screen the openable part of the sliding door. However if screened must comply with Clause 5.5.1A of AS 3959-2009.

		(iv) Sliding doors shall be tight-fitting in the frames.
	Doors- vehicle access doors (garage doors)	The following applies: (a) Lower portion of vehicle access door that is within 400 mm of the ground when door is closed shall be made from: (i) Non-combustible material; or (ii) Bushfire resisting timber (see Appendix F of AS 3959-2009); or (iii) Fibre cement sheet, a minimum of 6 mm in thickness; or (iv) A timber species as specified in Paragraph E1, Appendix E of AS 3959-2009; or (v) A combination of any item above. b) Panel lift, tilt doors or side-hung doors shall be fitted with weather strips, draught excluders, draught seals or guide tracks, as appropriate to the door type with maximum gap no more than 3 mm. c) Roller doors shall have guide tracks with maximum gap no greater than 3 mm and fitted with a nylon brush that is in contact with the door, (see figure D4, Appendix D of AS 3959-2009). d) Vehicles access doors shall not include ventilation slots.
Roofs (Including veranda and attached carport roofs, penetrations, eaves, fascias, gutters and downpipes)	**General**	The following apply to all types of roofs and roofing systems. Roof tiles, roof sheets and roof covering accessories shall be non-combustible. The roof/wall junction must be sealed to prevent openings greater than 3 mm, by using fascia and eaves lining or by sealing between the top of wall and underside of roof and between the rafters at the line of the wall. Roof ventilation openings such as gable and roof vents, shall be fitted with ember guards made of non-combustible material or a mesh or perforated sheet with a maximum aperture of 2mm, made of corrosion-resistant steel, bronze or aluminium.
	Tiled roofs	Tiled roofs shall be fully sarked. The sarking shall— (a) be located on top of the roof framing, except that the roof battens may be fixed above the sarking; (b) cover the entire roof area including ridges and hips; and (c) extend into gutters and valleys.
	Sheet roofs	Sheet roofs shall— (a) be fully sarked in accordance with Clause 5.6.2, except that foil-backed insulation blankets may be installed over the battens; and (b) have any gaps greater than 3 mm (such as under corrugations or ribs of sheet roofing and between roof components) sealed at the fascia or wall line and at valleys, hips and ridges by— (i) a mesh or perforated sheet with a maximum aperture of 2 mm, made of corrosion-resistant steel, bronze or aluminium; or (ii) mineral wool; or (iii) other non-combustible material; or (iv) a combination of any of Items (i), (ii) or (iii) above.
	Veranda, carport awning roofs	The following apply to veranda, carport and awning roof: A veranda, carport or awning roof forming part of the main roof space, (see figure D1 (a), Appendix D of AS 3959-2009), shall meet all requirements for the main roof, as specified in Clauses 5.6.1, 5.6.2,5.6.3, 5.6.5 and 5.6.6 of AS 3959-2009. A veranda, carport or awning roof separated from the main roof space by an external wall, (see figures D1 (b) and D1 (c), Appendix D of AS

		3959-2009), complying with clause 5.4 of AS 3959-2009, shall have a non-combustible roof covering.
	Roof penetrations	The following applies to roof penetrations: Roof penetrations, including roof lights, roof ventilators, roof mounted evaporative cooling units, aerials, vent pipes and supports for solar collectors, shall be adequately sealed at the roof to prevent gaps greater than 3 mm. The material used to seal the penetration shall be non-combustible. Openings in vented roof lights, roof ventilators or vent pipes shall be fitted with ember guards made from a mesh or perforated sheet with a maximum aperture of 2 mm, made of corrosion-resistant steel, bronze or aluminium. This requirement does not apply to the exhaust flues of heating or cooking devices with closed combustion chambers. In the case of gas appliance flues, ember guards shall not be fitted. NOTE: Gasfitters are required to provide a metal flue pipe above the roof and terminate with a certified gas flue cowl complying with AS 4566. Advice may be obtained from State gas technical regulators. Grade A safety glass complying with as 1288 is required for all overhead glazing. Glazed elements in roof lights and skylights may be a polymer provided a Grade A safety glass diffuser, complying with as 1288, is installed under the glazing. Where glazing is an insulating glazing unit (IGU), Grade A toughened safety glass minimum 4 mm thickness, shall be used in the outer pane of the IGU. Flashing elements of tubular skylights may be of a fire-retardant material, provided the roof integrity is maintained by an under-flashing of a material having a flammability index no more than 5. Evaporative cooling units shall be fitted with non-combustible butterfly closers as close as practicable to the roof level or the unit shall be fitted with non-combustible covers with a mesh or perforated sheet with a maximum aperture of 2 mm, made of corrosion-resistant steel, bronze or aluminium. Vent pipes made from PVC are permitted.
	Eaves lining, fascias and gables.	The following apply to eaves linings, fascia's and gables: (a) Gables shall comply with Clause 5.4 of AS 3959-2009. (b) Eaves penetration shall be protected the same as for roof penetrations, as specified in Clause 5.6.5. (c) Eaves ventilation openings greater than 3 mm shall be fitted with ember guards made of non-combustible material or a mesh or perforated sheet with a maximum aperture or 2mm, made of corrosion-resistant steel, bronze or aluminium. Joints in eaves linings, fascia's and gables may be sealed with plastic joining strips or timber storm moulds. This Standard does not provide construction requirements for fascia's, bargeboards and eaves linings.
	Gutters and downpipes.	This Standard does not provide requirements for— (a) Gutters, with the exception of box gutters; and (b) Downpipes.

		If installed, gutter and valley leaf guards shall be non-combustible. Box gutters shall be non-combustible and flashed at the junction with the roof with non-combustible material.
Verandas, Decks, Steps, Ramps and landings.	**General**	Decking may be spaced. There is no requirement to enclose the subfloor spaces of verandas, decks, steps, ramps or landings.
	Enclosed subfloor spaces of verandas, decks, steps, ramps and landings.	**Materials to enclose a subfloor space** The subfloor spaces of verandas, decks, steps, ramps and landing are considered to be 'enclosed' when- (a) the material used to enclose the subfloor space complies with Clause 7.4 of AS 3959-2009; and (b) all openings greater than 3 mm are screened with a corrosion-resistant steel, bronze or aluminium mesh with a maximum aperture of 2mm. **Supports** This standard does not provide construction requirements for support posts, columns, stumps, stringers, piers and poles. **Framing** This standard does not provide construction requirements for the framing of verandas, decks, ramps or landing (i.e., bearers and joists). **Decking, stair treads and the trafficable surfaces of ramps and landings** Decking, stairs treads and trafficable surfaces of ramps and landings shall be- (a) of non-combustible material; or (b) of bushfire-resisting timber (see Appendix F); or a) a combination of items above.
	Unenclosed subfloor spaces of verandas, decks, ramps and landings.	**Supports** Support posts, columns, stumps, stringers, piers and poles shall be; (a) of non-combustible material; or (b) of bushfire-resisting timber (see Appendix F of AS 3959-2009); or (c) a combination of items above. **Framing** Framing of verandas, decks, ramps or landing (i.e. bearers and joists), shall be: (a) of non-combustible material; or (b) of bushfire-resisting timber (see Appendix F of AS 3959-2009); or (c) a combination of the items above **Decking, stair treads and the trafficable surfaces of ramps and landings** Decking, stair treads and the trafficable surfaces of ramps and landings shall - (a) of non-combustible material; or (b) of bushfire-resisting timber (see Appendix F of AS 3959-2009); or a combination of items above
	Balustrades, handrails or other barriers	Those parts of the handrails and balustrades less than 125 mm from any glazing or any combustible wall shall be- (a) of non-combustible material; or (b) of bushfire-resisting timber (see Appendix F of AS 3959-2009); or (c) a combination of items above

		Those parts of the handrails and balustrades that are 125 mm or more from the building have no requirements.
Water and gas supply pipe		Above-ground water and gas supply pipes shall be metal.

Note: Any sarking shall be:
a. Non-combustible; or
b. Breather-type sarking complying with AS/NZS 4200.1 and with a flammability index of not more than 5 (see AS1530.2) and sarked on the outside frame; or
c. An insulation material conforming to the appropriate Australian Standard for that material.

*** This includes Addendum: Appendix 3 of *Planning for Bushfire Protection, 2006.***

Midwest Radio Network Pty Ltd

Proposed Development, Lot 10 DP1088869, John Oxley Drive, Port Macquarie

Stage 1 Assessment – Desktop Study

Report No. RGS20743.1-AB

20 September 2018

REGIONAL GEOTECHNICAL SOLUTIONS

REGIONAL GEOTECHNICAL SOLUTIONS

Manning-Great Lakes
Port Macquarie
Coffs Harbour

RGS20743.1-AB

20 September 2018

Midwest Radio Network Pty Ltd
c-/ Land Dynamics Australia Pty Ltd
77 Lord Street
PORT MACQUARIE NSW 2444

Attention: Claire Mathieson

Dear Claire,

RE: Proposed Development, Lot 10 DP1088869, John Oxley Drive, Port Macquarie

Stage 1 Assessment – Desktop Study

As requested, Regional Geotechnical Solutions Pty Ltd (RGS) has undertaken a desktop Stage 1 Contaminated Site and Geotechnical Assessment for the proposed aged care development in the southern portion of Lot 10 DP1088869, John Oxley Drive, Port Macquarie.

The assessment found the site is likely to be appropriate for the proposed aged care development from a site contamination perspective provided the recommendations and advice of this report are adopted. Recommendations include undertaking a Stage 2 Contaminated Site Assessment targeting identified Areas of Environmental Concern.

The assessment found the site is also likely to be appropriate for the proposed aged care development from a geotechnical perspective, however, geotechnical investigation of the site will be required prior to construction to assist earthworks, foundation and pavement design once the layout and details of the proposed development is known.

If you have any questions regarding this project, or require any additional consultations, please contact the undersigned.

For and on behalf of

Regional Geotechnical Solutions Pty Ltd

Tim Morris

Associate Engineering Geologist

Regional Geotechnical Solutions Pty Ltd
ABN 51141848820

5D/23 Clarence Street
Port Macquarie NSW 2444
Ph. (02) 6553 5641

Email tim.morris@regionalgeotech.com.au
Web: www.regionalgeotech.com.au

Table of Contents

Figures

Appendices

1 INTRODUCTION

As requested, Regional Geotechnical Solutions Pty Ltd (RGS) has undertaken a desktop Stage 1 Contaminated Site Assessment for the proposed aged care development in the southern portion of Lot 10 DP1088869, John Oxley Drive, Port Macquarie.

Details of the proposed development are not yet available. The purpose of the desktop study work described herein was to assess the suitability of the site for the potential land use with respect to the presence of site contamination resulting from past land use and activities, as well as providing preliminary discussions and recommendations regarding:

- Areas of Environmental Concern, in which the potential for contamination has been identified, and nominate Chemicals of Concern that might be associated with those activities;
- Geotechnical appraisal of the site to identify ground conditions that might influence the development of the site including foundation conditions, road subgrade conditions and general geotechnical constraints;
- Issues to be addressed in future geotechnical investigation; and
- Preliminary assessment of the presence of Acid Sulfate Soils (ASS).

The work was commissioned by Claire Mathieson of Land Dynamics Australia Pty Ltd and was undertaken in accordance with proposal number RGS20743.1-AA dated 23 July 2018.

2 GUIDELINES AND ASSESSMENT CRITERIA

The desktop study was aimed at fulfilling the requirements of a Stage1 Contaminated Site Assessment in accordance with NSW EPA *Guidelines for Consultants Reporting on Contaminated Sites (2011).*

For guidance on assessment requirements, the guidelines provided in the *National Environment Protection (Assessment of Site Contamination) Measure (NEPM 2013)* were adopted. The NEPM document provides a range of guidelines for assessment of contaminants for various land use scenarios.

3 METHODOLOGY

The assessment involved the following process:

- A brief study of site history, with the aim of identifying past activities on or near the site that might have the potential to cause contamination;
- A search of Land Titles information;
- Review of available recent and historical aerial photography for the last 50 years;
- A search of NSW DECCW records, or contaminated land notifications on the site;
- Government records of groundwater bores in the area;

- A review of published geological and Acid Sulfate Soil mapping; and
- Using the above information, characterise the site into Areas of Environmental Concern, in which the potential for contamination has been identified, and nominate Chemicals of Concern that might be associated with those activities.

4 SITE SETTING and HISTORY

4.1 Site Description

The subject area of the assessment comprises the southern portion of Lot 10 DP1088869, which is bound by the Oxley Highway to the north and John Oxley Drive to the south and is located on the western edge of Port Macquarie. It has an irregular polygon shape with maximum dimensions of approximately 400m x 400m.

The site is centred on a broad alluvial depression that drains to the north and comprises part of the upper catchment of Partridge Creek. Surface elevations are estimated to be between approximately 2m AHD on the northern boundary adjacent to the Oxley Highway and up to approximately 5m AHD on the southern boundaries.

Drainage will be a combination of surface flow and surface infiltration. A stormwater crossing on John Oxley Drive discharges into the southern corner of the site, on the alignment of a modified natural drainage line that is shown on the Port Macquarie Topographic Map sheet. The drainage line is shown on the map to traverse the site from south to north in a straight line and crosses the Oxley Highway. However, satellite imagery indicates the drainage line meanders towards the north west and then disperses into the landscape. It is understood that there is a large box culvert crossing under the Oxley Highway that would influence drainage from the site. Details of the Oxley Highway box culverts including location, dimensions and invert depth are not known.

Vegetation comprises thick grass that has been maintained by slashing and isolated trees. Stands of reeds are visible along the drainage line in the south of the site which are indicative of standing water. Areas of darker vegetation visible in the north of the site as shown on Figure 1 are likely to comprise swamp grasses that are indicative of poorly drained conditions. Water was observed pooling in the drainage line near John Oxley Drive on 20 September 2018 and the adjacent wet soils were not trafficable by tractor.

In the south east of the site, the landscaping business that operates in the adjacent Lot 1 and Lot 2 DP 514628 has extended into the subject site as shown in Figure 1. There is an area of approximately 1.2ha that appears to be being used for stockpiling of mixed fill materials including soils and building waste. Equipment including trucks and a mobile conveyor screening plant are also visible in available satellite imagery on the subject site.

An image of the site taken from the NSW Department of Property Information website is reproduced in Plate 1.

Plate 1: Subject area of assessment in southern portion of Lot 10 DP1088869, John Oxley Drive, Port Macquarie outlined in red.

4.2 Historical Aerial Photography

Aerial photographs of the site were purchased from the NSW Land and Property Management Authority and reviewed to assist in identifying past land uses that may contribute to site contamination. The results of the review are summarised in Table 1.

Table 1- Aerial Photograph Summary

Year	Site (South portion of Lot 10 DP88869)	Surrounding Land
1951	Site is thickly vegetated by what appears to be wetland vegetation with scattered trees.	The slightly elevated slopes to the south are mostly cleared and are occupied by houses on rural lots that front Oxley Highway (now John Oxley Drive)
1983	No significant changes apart from drainage works: • A drain approximately 100m in length has been constructed from John Oxley Drive (former Oxley Highway) and discharges into site. • A drain approximately 70m in length has been constructed at the rear of Lot 2 DP514628	Lots to the east have been modified including: • Large scale filling works have commenced in adjacent Lot 2 DP 1230085 (Current Sienna Grange site) • Filling works have been undertaken in Lot 20 DP1038751 • Lots 1 and 2 DP514628 are occupied by six large metal industrial type sheds. At the north corner of Lot 2 there is a network of fences, associated with intensive agriculture e.g. feedlot or piggery? Residential / rural lots to south are generally unchanged.
October 2009 (Google Earth)	Vegetation stripping works commenced for the realignment of the Oxley Highway which splits Lot 10 into separate north and south portions. A raised access track (?) has been constructed in centre of site. V shape commencing from Lot 2 DP1230085 extending to centre of site and looping back to rear of Lot 2 DP514628. An area of 1ha in south east of the site has been disturbed by works associated with adjacent landscaping (?) business which includes: • A large stockpile of red soils, 1600m^2 in area. • 12 smaller stockpiles of variable colour including grey, brown and pale grey. • A shed structure. • Large stockpile of logs (?) at rear of Lot 3 DP514628 extends partially into subject site	Lots to the east have been modified including: • Stockpiling of fill in rear of adjacent Lot 12 DP1088869. Caravan park fronts Oxley Highway. • Site regrading and road construction in Lot 2 DP 1230085 (Current Sienna Grange site) • Lot 4 DP22077 has been raised with red soil fill • A large stockpile of logs is present at rear of Lot 3 DP514628 • Lots 1 and 2 DP514628 have been split with a landscaping business at the rear of the lots and industrial sheds and sealed car park fronting Oxley Highway. • Landscaping business has approximately 20 large concrete bins where different materials are being stored. • Lot 1 DP772163 subdivided (?) from the original Lot 10 DP88869. A sewer pump station (?) and raised gravel access track constructed.

Year	Site (South portion of Lot 10 DP88869)	Surrounding Land
July 2018 Google Earth	No significant change Subject site has been disturbed in south west corner at rear of Lot 19 DP24461 and Lot 2 DP1009921 where the adjacent properties have undertaken works in subject site including construction of gravel access tracks (?) and placement of mixed fill (?) stockpiles.	Oxley Highway realignment complete. Lots to the east have been modified including: • Large scale regrading works in Lot 12 DP1088869 (future Bunnings development); • Unit construction complete in Lot 2 DP 1230085 (Current Sienna Grange site) No significant change in remaining adjacent properties

4.3 Site Observations

A selection of images of the site is presented below.

May 2018 - Looking west across north east corner of site from adjacent Lot 12 DP1088869. Reeds and standing water present.

September 2018 – Looking north from John Oxley Drive along alignment of modified drainage line. Shallow water table and poor trafficability.

4.4 NSW EPA Records

A check with the NSW EPA website (www.epa.nsw.gov.au) revealed that no notices have been issued on the site under the Contaminated Land Management Act (1997).

4.5 Land Title Search

A list of past registered proprietors and lessors of the site was obtained from the Land Titles Office. A summary of the title details is included in Appendix A.

The title history search revealed the following:

- Prior – 1948: Crown Land;
- 1948 – 1968: Robert Samuel Nicholls, farmer, grantee;
- 1968 – 1970: Olive Gilson, married woman;
- 1970 – 1975: Jantji Meide Van Din Brech;
- 1975 – 1982: Brian Wayne Gilson, business manager Olive Gilson, married woman;
- 1982 – 2006: Lithgow Broadcasters Pty Ltd; and
- 2006 – to date: Midwest Radio Network Pty Limited.

4.6 Geology

Reference to the 1:250,000 Hastings Geological Series Sheet indicates the site is located in an area of Quaternary deposits underlain by deeply weathered geological units of the Port Macquarie Block which includes slate, chert, basalt, serpentinite and dolerite.

Reference to the 1:100,000 Kempsey – Korogoro Point Soil Landscape Sheet indicates the site is centred on the Cairncross transferral landscape which is typically poorly drained and comprise alluvial and colluvial clays. This landscape corresponds with the general position of the broad alluvial depression that runs through the site. Residual clay soils of the Thrumster Landscape are present in the east and west corners on the slightly elevated lower ridge slopes. The approximate extent of the soil landscapes is shown in Plate 2.

Plate 2: Extract from Google Earth showing Cairncross Landscape (colluvial/alluvial) and the residual Thrumster Landscape on the adjacent ridge slopes, as described in the Kempsey Soil Landscape Sheet (NSW DLWC). Approximate boundary of Lot 10 shown in blue.

Reference to the 1:25,000 Port Macquarie Area Coastal Quaternary Geology mapping indicates the site is centred on a Quaternary alluvial and colluvial fan which can include fluvial sand, silt, gravel and clay.

4.7 Groundwater

A groundwater bore search on the NSW Water Information website, http://waterinfo.nsw.gov.au/gw/ indicates that there are two licensed groundwater bores within 150m of the site boundary. The nearest licensed bore is located approximately 140m to the south as shown in Plate 3.

Plate 3: Approximate site boundary outlined in red. Nearest licensed groundwater bore located approximately 140m to the south.

The bore located approximately 140m to the south of the site is privately owned and there are no details available for the bore.

Regional groundwater flow direction typically follows topographic slopes, which for this site would be towards the north.

4.8 Site History Summary

Based on available data the chronological development of the site was undertaken as summarised below:

- Prior to 1948 the site was Crown Land but was subject to a grazing lease;

- The site has been owned by various individuals including a farmer and Lithgow Broadcasters Pty Ltd since 1948. Midwest Radio Network have owned the site since 2006;
- The majority of the site has remained vacant since 1956;
- Minor works including the construction of drainage lines and a possible access track have occurred within the lot;
- Aerial photographs and satellite imagery indicate the site has been impacted by works associated with adjacent property owners including:
    - Sometime after 1983, approximately 1.2ha of the subject site at the rear of Lot No's 1 and 2 DP514628 has been occupied by what appears to be a landscaping business (Oxley Landscape Supplies shown on Google Maps) and contains a series of large stockpiles of different materials and a shed. Trucks and machinery also appear to have been stored on the subject site;
    - Between 2009 and 2013 there were stockpiles of miscellaneous materials including logs at the rear of Lot 3 DP415628 that was partially located on the subject site; and
    - From 2010 to the present there is a stockpile of miscellaneous materials at the rear of Lot 19 DP24461 and Lot 2 DP1009921 that is located in the south west corner of the subject site.
- In 1983 the rear of Lot 2 DP514628 appear to have been occupied by an intensive agricultural business (possible feedlot, piggery etc) and site drainage would have been into the subject site; and
- From 2009 to 2010 the Oxley Highway was constructed across the northern portion of the southern lot.

5 SITE CONTAMINATION ASSESSMENT

5.1 Conceptual Site Model

Based on the site observations and knowledge obtained about site activities as outlined above, potential Areas of Concern and Chemicals of Concern identified for the assessment are outlined in Table 2.

Table 2: Conceptual Site Model

Area of Environmental Concern	Mode of Potential Contamination	Chemicals of Concern
AEC1: Soils in landscaping storage area and in vicinity of existing and previous sheds	Potential spillage of chemicals from containers including cleaning fluids, fuels/oils, herbicides/ pesticides. Presence of stockpiled building materials and stockpiles of imported fill of unknown origin.	Heavy Metals, TPH, BTEX, PAH, OC/OPP and asbestos
AEC2: Disturbed Areas	Presence of imported fill of unknown origin e.g. stockpiles, access track	Heavy Metals, TPH, BTEX, PAH, OC/OPP and asbestos
AEC3: Onsite drainage	Surface waterflow onto the site from existing road corridor and adjacent industrial/agricultural buisnesses	Heavy Metals, TPH, BTEX, PAH, OC/OPP

Heavy Metals - Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel and Zinc
BTEX - Benzene, Toluene, Ethylbenzene and Xylene
TPH - Total Petroleum Hydrocarbons
PAH – Polycyclic Aromatic Hydrocarbons
OC/OPP – Organochlorine and Organophophorus Pesticides

The approximate locations of the Areas of Environmental Concern (AEC) are shown on Figures 1 and 2.

5.2 Recommendations

Based on the results of the desktop assessment outlined in this report a Stage 2 Site Contamination Assessment is recommended to assess all past and present potentially contaminating activities and contamination types. The assessment should include the following:

- Undertake targeted sampling and analysis at the identified Areas of Concern to assess for the presence of contamination;
- Analyse samples for a suite of potential contaminants associated with the past activities;
- Evaluate the results against industry accepted criteria for the proposed landuse;
- Conclusions regarding the presence of contamination at the site and its potential impacts on the proposed landuse;
- The requirement for remediation, further investigation, or ongoing management of site contamination.

Based on the initial desk top assessment the site is considered likely to be appropriate for the aged care development from a site contamination perspective pending the results of the Stage 2 Site Contamination Assessment.

Fill materials to be removed offsite for re-use elsewhere will require a *Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014* in accordance with the *Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 – the Excavated Natural Material (ENM) Order 2014*, with a view to the potential re-use of the material for engineering fill or earthworks within the area.

6 ACID SULFATE SOILS

Acid Sulfate Soils (ASS) produce sulphuric acid when exposed to oxygen due to the presence of iron sulphides in the form of pyrite within the soil matrix. These soils form when iron-rich sediments are deposited in saltwater or brackish water environments. Prior to oxidation, these pyritic soils are referred to as Potential ASS. ASS that have produced acid as a result of oxidation are referred to as Actual ASS. They typically occur in natural, low-lying coastal depositional environments below approximately 5m AHD. In the field ASS are generally identified as saline sediments such as alluvial or estuarine soils or bottom sediments in creeks and estuaries.

Reference to the Wauchope ASS Risk Map (DLWC, 2000) indicates there is no known occurrence of ASS within the subject site as shown in Plate 4.

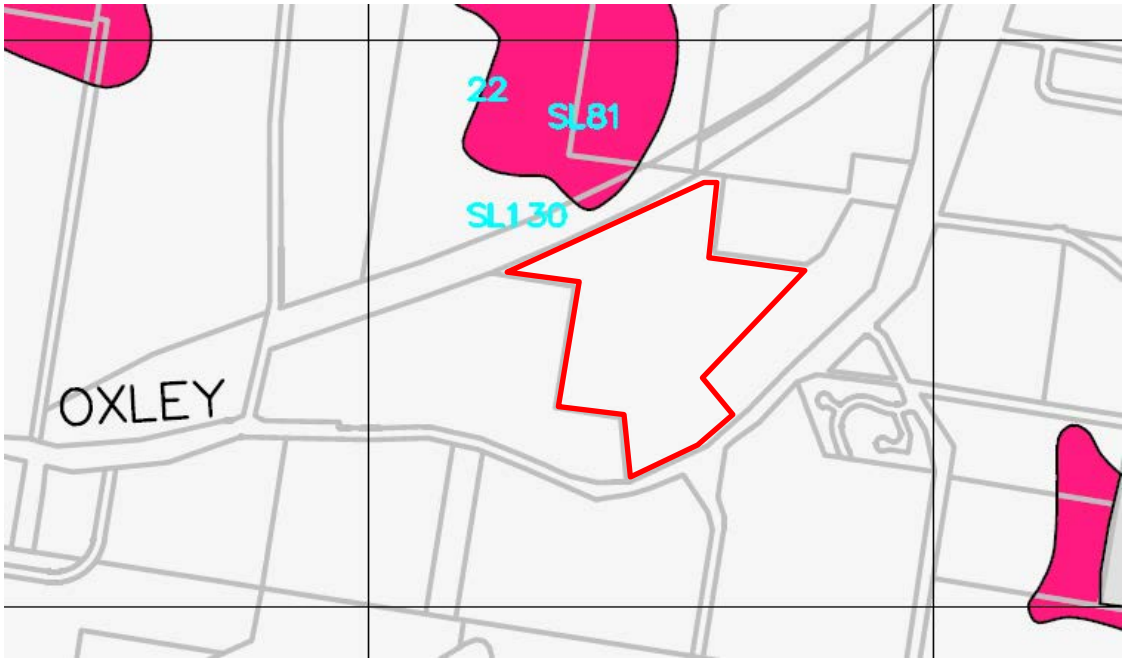

Plate 4: Extract from Wauchope ASS Risk Map (NSW DLWC 2000). Subject area of assessment in southern portion of Lot 10 DP1088869, John Oxley Drive outlined in red. No known occurrence of ASS in subject area.

7 GEOTECHNICAL CONSTRAINTS

7.1 General

Details of the proposed aged care development are not yet known. The following preliminary comments are made to assist preliminary planning for the development. Once further details are available and geotechnical investigation has been undertaken then more detailed advice can be provided:

- The subject area is centred in a low lying alluvial depression that is likely to be subject to inundation following major rainfall events. Surface levels and flood levels for the site have not been provided;
- Drainage of the site will be controlled by the box culvert structures located under the Oxley Highway;
- Areas of swamp vegetation including reeds are visible in satellite imagery. Reeds typically occur in areas of surface water and such conditions are likely to be present in the lowest areas of the site. Areas that maybe subject to regular inundation based on presence of inferred darker swamp vegetation are shown on Figure 1;
- Areas subject to regular inundation are likely to be trafficable without subgrade improvement works;
- Where poor drainage conditions and/or shallow water table is present they will likely require raising of building areas, or, incorporation of specific drainage measures during development of the site;
- In low lying areas of the site there is likely to be low strength alluvial soils and or layers of organic peat. Such areas will require specific geotechnical design measures to manage such conditions and reduce impact on the proposed development. Thick layers of low strength soils can result in long term consolidation settlement following filling;
- Foundation conditions for the filled areas will be dependent on the thickness and properties of imported fill and the underlying soils;
- Construction of a fill platform in the low lying areas is likely to require stripping of topsoil and or peat prior to placement of fill. Exposed subgrade soils are likely to be over-wet and subgrade improvement works are likely to be required in low lying areas prior to filling. Treatment of the exposed subgrade with quick lime, incorporation of a granular bridging layer, or, potentially a rock drainage blanket may be required before placement of fill pending geotechnical assessment. It is recommended that an allowance be made for such conditions;
- Proposed fill material should comprise suitable fill as defined in AS 3798-2007 *Guidelines on Earthworks for Residential and Commercial Developments*. Inspection by a geotechnical authority may be required to confirm suitability of proposed fill material;
- In the eastern and western corners of the site residual clay soils of the Thrumster Soil Landscape are present on the lower ridge slopes. The adjacent lots have been developed for residential or industrial type development. The residual clay soils overlying deeply weathered geological units of the Port Macquarie Block which includes slate, basalt, serpentinite and dolerite which can result in variable foundation conditions. A preliminary site classification is provided for the residual slopes where uncontrolled fill is not present, on the basis that structures proposed will be similar in configuration and loading to a typical domestic dwelling, and that the performance expectations of AS2870-2011 are acceptable. Should this not be the case the foundations should be designed using appropriate engineering principles. Based on the experience in the local area, the residual

slopes are likely to be classified as Class M, Class H1 or Class H2 in accordance with Australian Standard AS2870-2011;

- Where existing stockpiles of mixed fill are proposed to be reused onsite, they will require geotechnical assessment prior to reuse;
- The thickness of the existing uncontrolled fill at the rear of the landscaping supply business is not known. As there are no records available of the placement and compaction history of the fill, it cannot be considered Controlled Fill in accordance with the requirements of AS2870-2011 "*Residential Slabs and Footings* and such areas would be classified in accordance with AS2870-2011 as Class P;
- Fill materials to be removed offsite for re-use elsewhere will require a *Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014* in accordance with the *Resource Recovery Order under Part 9, Clause 93 of the Protection of the Environment Operations (Waste) Regulation 2014 – the Excavated Natural Material (ENM) Order 2014*, with a view to the potential re-use of the material for engineering fill or earthworks within the area;
- Groundwater levels in the low lying areas of the site are likely to be close to the ground surface. It is noted that variations in groundwater levels can occur as a result of seasonal variations, temperature, rainfall and other factors; and
- Excavations in low lying areas below the water table will be subject to collapse and works such as service trench excavations below the water table will therefore require temporary dewatering or use of shoring boxes.

7.2 Geotechnical Investigation

On the basis of the above a geotechnical investigation of the site should be aimed at addressing the following issues:

- A geotechnical model of the site that includes general foundation conditions and the depth of the soil profiles;
- Preliminary site classification to AS2870-2011 *Residential Slabs and Footings.* Re-classification will be required in areas that undergo future regrade;
- The presence of uncontrolled fill and soft alluvial soils or peat;
- Potential for long term consolidation settlement of fill profiles constructed on low strength alluvial soils;
- Recommended foundation types, including bearing capacities, expected settlements, and construction methods;
- Excavation conditions;
- Recommendations as to site preparation to support concentrated building loads from foundations, floor slabs and pavements;
- General recommendations on management of construction and drainage at the site from a geotechnical perspective; and
- Presence of groundwater.

8 LIMITATIONS

The findings presented in the report and used as the basis for recommendations presented herein were obtained using normal, industry accepted environmental practises and standards. To our knowledge, they represent a reasonable interpretation of the general condition of the site. Under no circumstances, however, can it be considered that these findings represent the actual state of the site at all points. If site conditions encountered during construction vary significantly from those discussed in this report, Regional Geotechnical Solutions Pty Ltd should be contacted for further advice.

This report alone should not be used by contractors as the basis for preparation of tender documents or project estimates. Contractors using this report as a basis for preparation of tender documents should avail themselves of all relevant background information regarding the site before deciding on selection of construction materials and equipment.

If you have any questions regarding this project, or require any additional consultations, please contact the undersigned.

For and on behalf of

Regional Geotechnical Solutions Pty Ltd

Tim Morris

Associate Engineering Geologist

Figure

Based on satellite image dated July 2018

REGIONAL GEOTECHNICAL SOLUTIONS	Client:	LAND DYNAMICS AUSTRALIA PTY LTD	Job No.	RGS20743.1
	Project:	DESKTOP ASSESSMENT	Drawn By:	TM
			Scale:	NTS
		LOT 10 DP1088869, JOHN OXLEY DRIVE, PORT MACQUARIE	Date:	19-Sep-18
	Title:	SITE LOCATION PLAN - 2018	Figure No.	1

Based on aerial photograph 1983

REGIONAL GEOTECHNICAL SOLUTIONS	Client:	LAND DYNAMICS AUSTRALIA PTY LTD	Job No.	RGS20743.1
	Project:	DESKTOP ASSESSMENT	Drawn By:	TM
			Scale:	NTS
		LOT 10 DP1088869, JOHN OXLEY DRIVE, PORT MACQUARIE	Date:	19-Sep-18
	Title:	SITE LOCATION PLAN - 1983 AERIAL PHOTOGRAPH	Figure No.	2

Based on Six Viewer 2012 satellite image

REGIONAL GEOTECHNICAL SOLUTIONS	Client:	LAND DYNAMICS AUSTRALIA PTY LTD	Job No.	RGS20743.1
	Project:	DESKTOP ASSESSMENT	Drawn By:	TM
			Scale:	NTS
		LOT 10 DP1088869, JOHN OXLEY DRIVE, PORT MACQUARIE	Date:	20-Sep-18
	Title:	LANDSCAPING SUPPLY STOCKPILE AREA	Figure No.	3

Appendix A

Site History Documentation

ADVANCE LEGAL SEARCHERS PTY LTD

(ACN 147 943 842)
ABN 82 147 943 842

18/36 Osborne Road,
Manly NSW 2095

Telephone: +612 9977 6713
Mobile: 0412 169 809
Email: search@alsearchers.com.au

13th September 2018

REGIONAL GEOTECHNICAL SOLUTIONS PTY LTD
5D / 23 Clarence Street,
PORT MACQUARIE, NSW, 2444

Attention: Tim Morris

RE: **John Oxley Highway,**
Port Macquarie
RGS20743.1

Current Search

Folio Identifier 10/1088869 (title attached)
DP 1088869 (plan attached)
Dated 11th September 2018
Registered Proprietor:
MIDWEST RADIO NETWORK PTY LIMITED

Title Tree
Lot 10 DP 1088869

Folio Identifier 10/1088869

Folio Identifier 2/772163

Folio Identifier 12/529917

Certificate of Title Volume 10880 Folio 245

Certificate of Title Volume 9950 Folio 196

Certificate of Title Volume 6563 Folio 224

Certificate of Title Volume 5882 Folio 243

Crown Land

****

Summary of proprietor(s)
Lot 10 DP 1088869

Year	Proprietor(s)
	(Lot 10 DP 1088869)
2006 – todate	Midwest Radio Network Pty Limited
	(Lot 2 DP 772163)
2006 – 2006	Midwest Radio Network Pty Limited
2006 – 2006	Midwest Radio Network Pty Ltd
1990 – 2006	Lithgow Broadcasters Pty Ltd
	(Lot 12 DP 529917)
1988 – 1990	Lithgow Broadcasters Pty Ltd
	(Lot 12 DP 529917 – CTVol 10880 Fol 245)
1982 – 1988	Lithgow Broadcasters Pty Ltd
1975 – 1982	Brian Wayne Gilson, business manager Olive Gilson, married woman
1970 – 1975	Jantji Meide Van Din Brech, married woman Olive Gilson, married woman
1968 – 1970	Olive Gilson, married woman
	(Part Portion 464 Parish Macquarie – CTVol 9950 Fol 196)
1968 – 1968	Olive Gilson, married woman
1965 – 1968	Robert Samuel Nicholls, farmer
	(Part Portion 464 Parish Macquarie – Area 135 Acres 0 Roods 5 Perches – CTVol 6563 Fol 224)
1952 – 1965	Robert Samuel Nicholls, farmer
	(Portion 464 Parish Macquarie – Area 153 Acres 3 Roods 0 Perches – CTVol 5882 Fol 243)
1948 – 1952	Robert Samuel Nicholls, farmer, grantee
	(Portion 464 Parish Macquarie – Area 153 Acres 3 Roods 0 Perches)
Prior – 1948	Crown Land
(1922 – 1948)	*(Conditional Purchase 1922-43 Port Macquarie to Robert Samuel Nicholls, farmer)*
(1920 – 1922)	*(Special Lease 1920-7 Port Macquarie for Agriculture and Grazing vide Government Gazettal 19th August 1921)*
(1920 – 1920)	*(Partly within Classification Reserve)*

****

Pre-Lodgement Report

Part Lot 10 DP 1088869,
John Oxley Drive, Port Macquarie

Proposed Senior's Living Development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

August 2018

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Prepared for:
John McEvoy

Prepared By:

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www.ldynamics.com.au

	Name	Date
Prepared By	Donna Clarke	14/08/2018
Checked By		

Disclaimer

This report was prepared in accordance with the scope of works set out in correspondence between the client and Land Dynamics Australia. To the best of Land Dynamics Australia's knowledge, the report presented herein accurately reflects the Client's intentions when the report was printed. However, it is recognised that conditions of approval at time of consent, post development application modification of the proposals design, and the influence of unanticipated future events may modify the outcomes described in this report.

Land Dynamics Australia used information and documentation provided by external persons, companies and authorities. Whilst checks were completed by Land Dynamics Australia to ensure that this information and/or documentation was accurate, it has been taken on good faith and has not been independently verified. It is therefore advised that all information and conclusions presented in this report apply to the subject land at the time of assessment, and the subject proposal only.

Contents

1. The Proposal

The proposal is for development of Part Lot 10 DP 1088869, John Oxley Drive, Port Macquarie as a senior's living development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The development is proposed on the southern portion only of the site (not the northern portion on the other side of the Oxley Highway). This report only relates to the portion of the site south of the Oxley Highway.

We are aware that a Site Compatibility Certificate is required to be obtained from the Department of Planning prior to lodgement of the development application and preliminary discussions have occurred with Craig Diss of the Grafton Office of the Department who has suggested we also start discussions with Council now before progressing into the design so that we can understand any local issues up front.

We are now progressing this proposal but as it is early in the process, we are not at the stage of designing architectural plans and as such are seeking advice as a preliminary Pre-Lodgement meeting, so the main issues can be raised by the relevant staff.

Below is a preliminary constraints plan and preliminary planning analysis/ concept plan which identifies constraints, possible building locations and heights etc, which should suffice for initial discussion purposes. We anticipate that this will be a substantially sized development with approximately 600 – 1000 units depending upon final design and further investigations, with a variety of units as per the SEPP restrictions for development on land adjoining land zoned primarily for urban purposes. Given the location of the site between John Oxley Drive and Oxley Highway, the seniors housing developments to the east and the location in close proximity to Lake Innes Shopping Village and the Hospital, the site is considered ideal for the proposed development and can accommodate the height and density proposed.

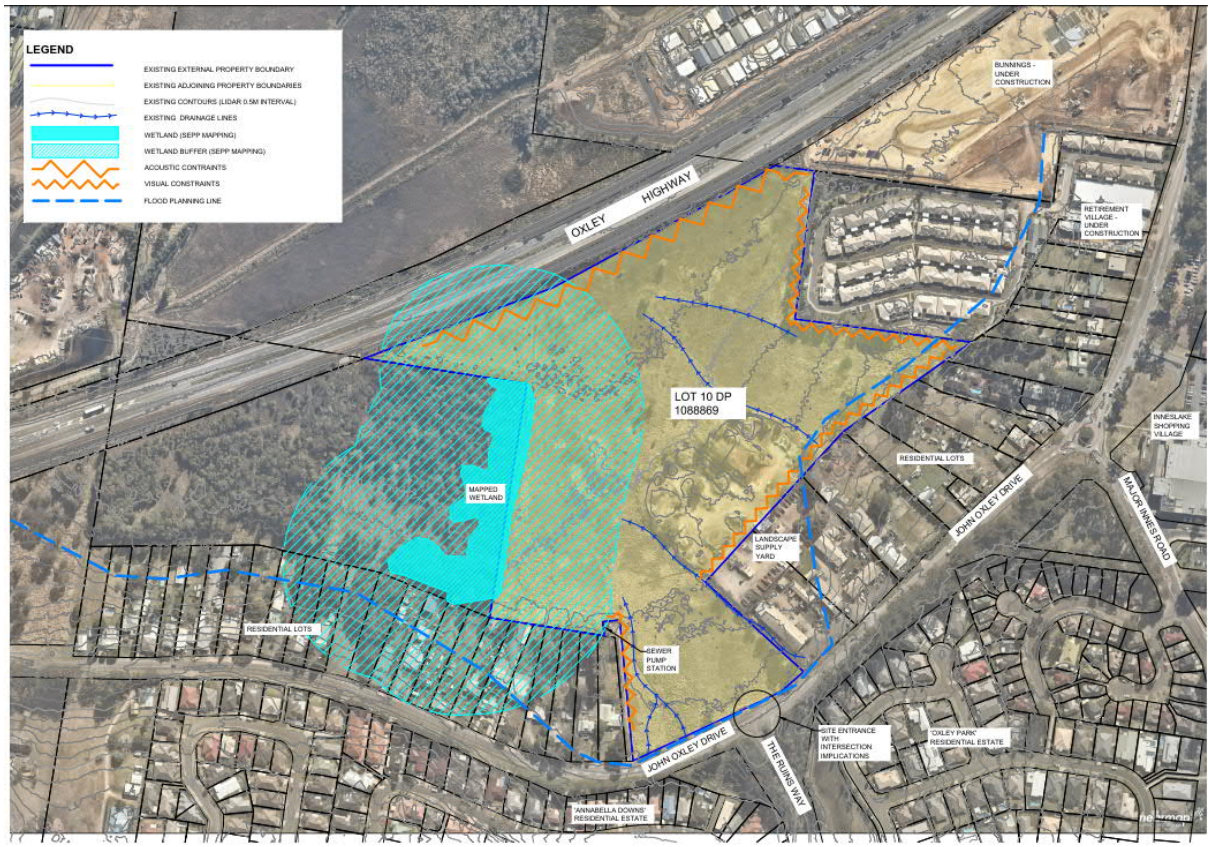

Figure 1 - Preliminary Constraints Plan

Figure 2 - Preliminary Planning Analysis

2. The Site

The site is identified as Lot 10 DP 1088869, John Oxley Drive, on the southern portion only (not the northern portion on the other side of the Oxley Highway), as shown below.

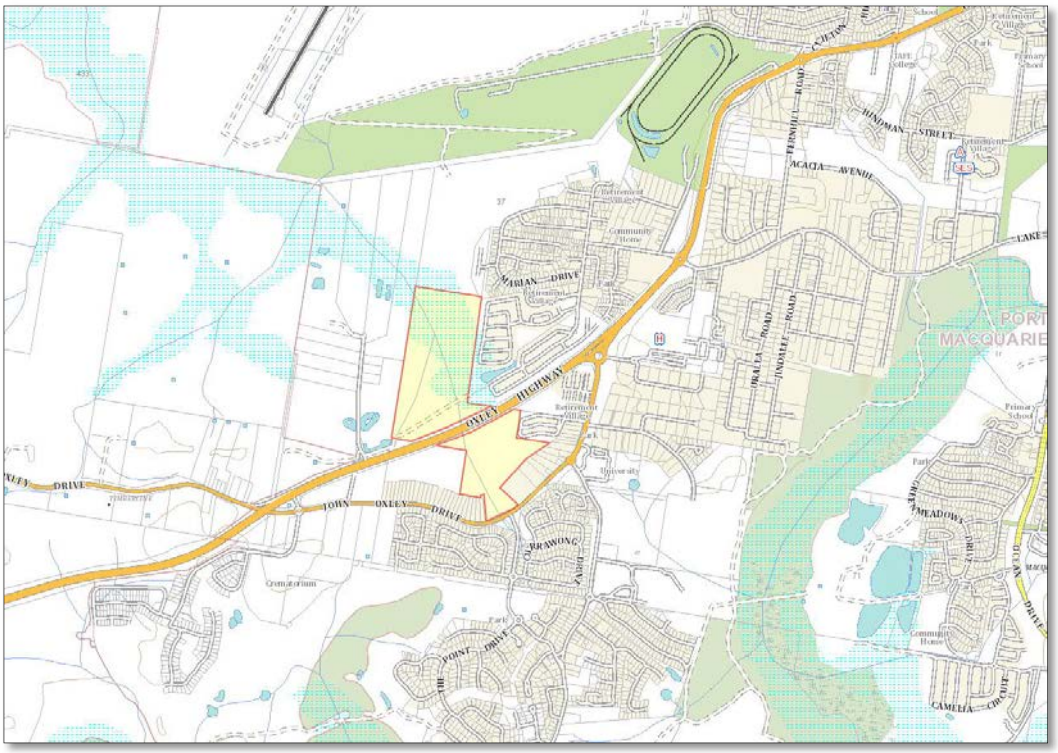

Figure 3: Location of the subject land (source: www.sixmaps.nsw.gov.au)

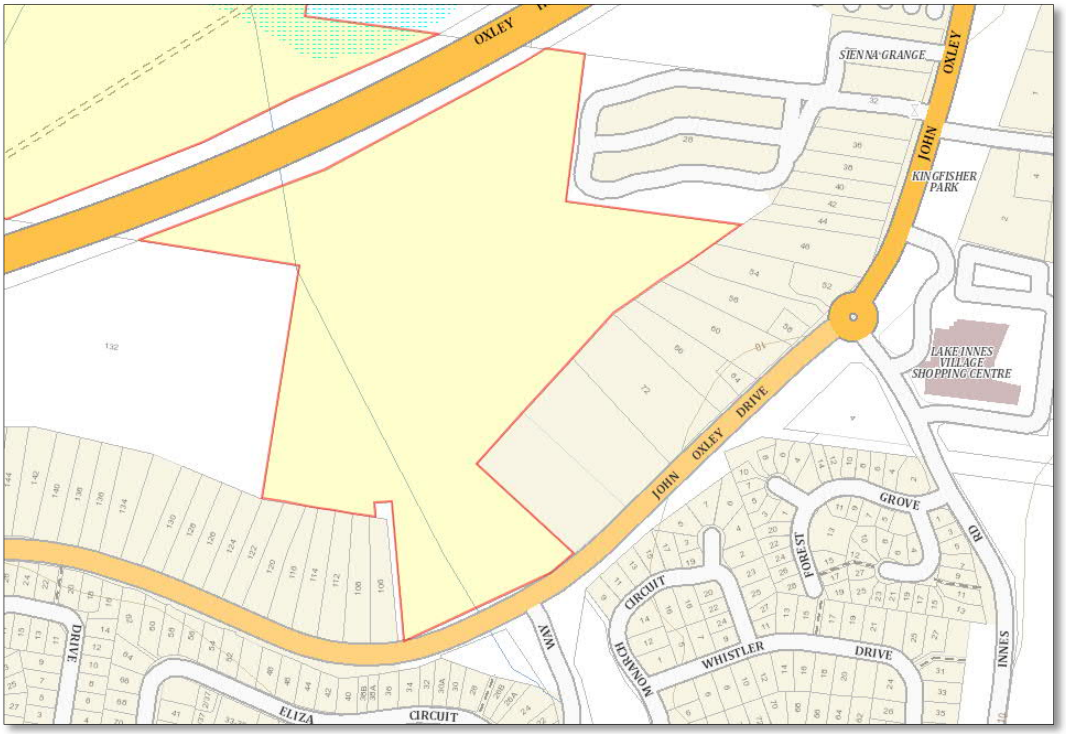

Figure 4: Close Up – Southern Portion only - Location of the subject land (source: www.sixmaps.nsw.gov.au)

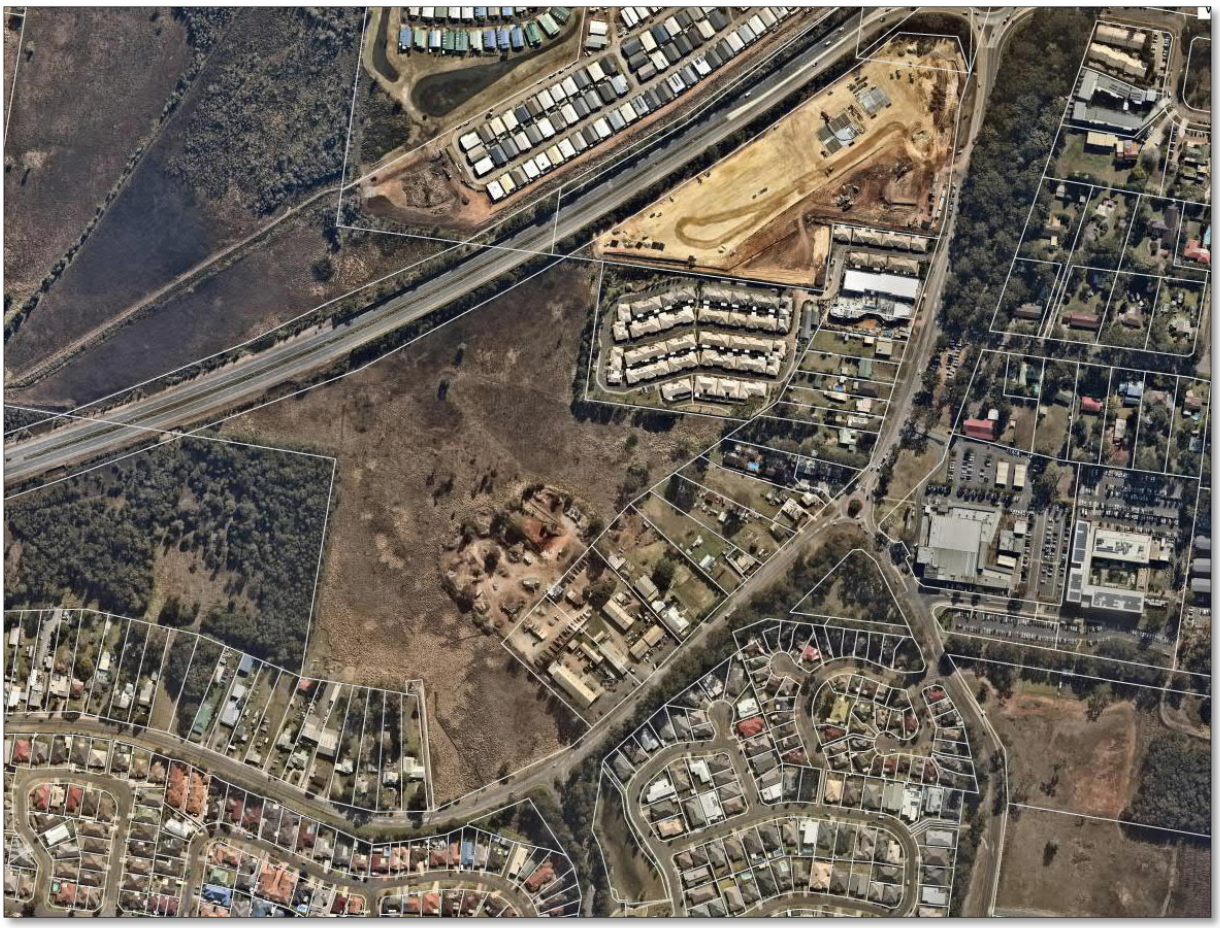

Figure 5: Aerial Photograph dated 23 July 2018 (source: www.nearmap.com)

The site is approximately 11.9 hectares in size and located 5km west of the centre of Port Macquarie on the northern side of John Oxley Drive, opposite The Ruins Way and in close proximity of Lake Innes Village Shopping.

3. Statutory Matters

3.1 Strategies

Within the North Coast Regional Plan 2036 and Urban Growth Management Strategy 2017-2036 recently adopted, which identified this area as being within a Health and Education Precinct with good future road connections.

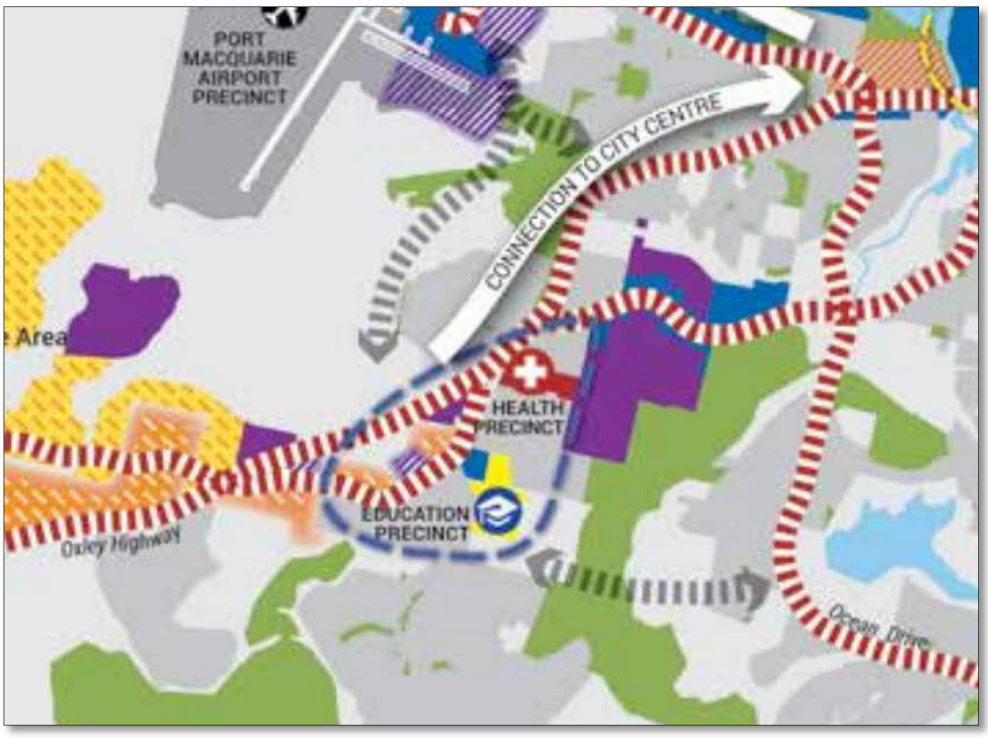

Figure 6: Extract - North Coast Regional Plan 2036

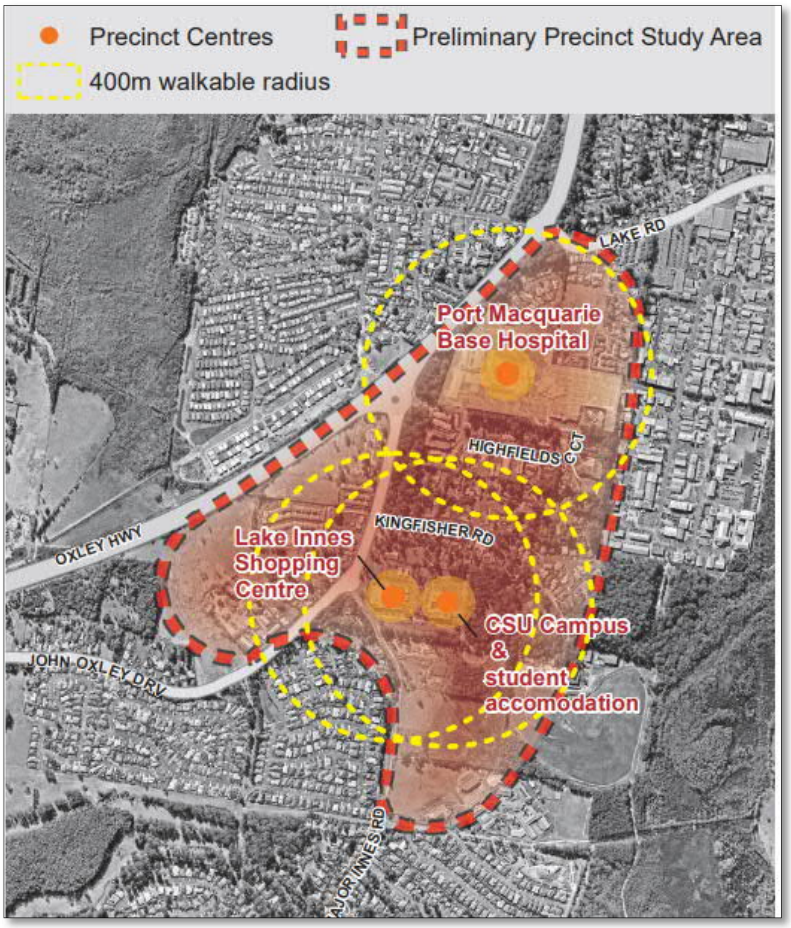

Figure 7: Extract – UGMS 2017-2036

3.2 State Environmental Planning Policies

State Environmental Planning Policy No 44 — Koala Habitat Protection

As the area of the subject land is greater than 1ha and is located within the Port Macquarie Hastings Local Government Area, SEPP 44 –Koala Habitat Protection is applicable. A SEPP 44 Koala Habitat Assessment (completed by a qualified ecologist) will accompany the development application.

State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 aims to "promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment". The land is primarily cleared and has remained vacant for a number of years. Preliminary investigations may be required.

State Environmental Planning Policy (Infrastructure) 2007

The application will be reviewed against the requirements of State Environmental Planning Policy (Infrastructure) 2007. This Policy contains State-wide planning controls for developments adjoining rail corridors and busy roads. The development is located immediately adjacent to a classified road to the north but has no direct access.

SEPP (Building Sustainability Index: BASIX) 2004

Schedule 1 of the Environmental Planning and Assessment Regulation (2000) sets out the requirement for a BASIX certificate to accompany any BASIX affected building, being any building that contains one or more dwellings, but does not include a hotel or motel. BASIX Certificates will be required to accompany any application.

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

The application will be made under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The Architectural Plans will be designed against the requirements of the SEPP, noting that the site is located within the required distance of shops and services at Lake Innes Village.

Seniors Housing is permissible subject to the property being immediately adjoining Residential zoned land.

The site is zoned RU1 Primary Production under PMH LEP 2011. Seniors housing is not permissible in this zone, however, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 allows seniors housing on land that adjoins land zoned primarily for urban purposes under Clause 17.

Clause 17 states:

17 Development on land adjoining land zoned primarily for urban purposes

(1) Subject to subclause (2), a consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of any of the following:

(a) a hostel,

(b) a residential care facility,

(c) serviced self-care housing.

(2) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purposes of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that the housing will be provided:

(a) for people with a disability, or

(b) in combination with a residential care facility, or

(c) as a retirement village (within the meaning of the Retirement Villages Act 1999).

Note. Clause 13 (3) defines serviced self-care housing as seniors housing that consists of self-contained dwellings where meals, cleaning services, personal care and nursing care are available on site. Clause 42 requires the consent authority to be satisfied that residents of such housing have reasonable access to services. Clause 42 also provides that if services are limited to those provided under Government provided or funded community based care packages, this does not constitute reasonable access to services.

Clause 4, stated below, provides clarification regarding the land to which this SEPP applies. I have highlighted key parts below.

4 Land to which Policy applies

(1) General

This Policy applies to land within New South Wales that is land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:

(a) development for the purpose of any of the following is permitted on the land:

(i) dwelling-houses,

(ii) residential flat buildings,

(iii) hospitals,

(iv) development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or

(b) the land is being used for the purposes of an existing registered club.

(2) Land that is not zoned primarily for urban purposes

For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land that is within any of the following zones under another environmental planning instrument:

(a) a zone that is identified as principally for rural uses,

(b) a zone that is identified as principally for urban investigation,

(c) a zone that is identified as principally for residential uses on large residential allotments (for example, Zones R5 Large Lot Residential and RU6 Transition referred to in the standard instrument for principal local environmental planning instruments prescribed by the Standard Instrument (Local Environmental Plans) Order 2006).

(2A) For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land to which Warringah Local Environmental Plan 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under that plan.

(3) Nothing in subclause (2) or (2A) operates to make any land not referred to in those subclauses land that is zoned primarily for urban purposes.

(4) Land that adjoins land zoned primarily for urban purposes

For the purposes of this Policy, land that adjoins land that is zoned primarily for urban purposes includes (but is not limited to) land that would directly adjoin land that is zoned primarily for urban purposes but for the presence of a public road to which there is direct vehicular and pedestrian access from the adjoining land.

(5) Application of Policy to land zoned for special uses and existing registered clubs

For the purposes of this Policy (and for the avoidance of doubt), a consent authority must not treat:

(a) land on which development for the purposes of special uses is permitted, or

(b) land that is being used for the purposes of an existing registered club,

as being land zoned primarily for urban purposes unless it is satisfied that most of the land that it adjoins is land zoned for urban purposes.

(6) Land to which Policy does not apply

This Policy does not apply to:

(a) land described in Schedule 1 (Environmentally sensitive land), or

(b) land (other than land to which Warringah Local Environmental Plan 2000 applies) that is zoned for industrial purposes, or

(c) (Repealed)

(d) the land to which Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989) applies, or

(e) the land to which State Environmental Planning Policy (Western Sydney Parklands) 2009 applies.

(7) Nothing in subclause (6) (a) or Schedule 1 operates to preclude the application of this Policy to land only because:

(a) the land is identified under State Environmental Planning Policy (Coastal Management) 2018, or

(b) in the case of land that is used for the purposes of an existing registered club—the land is described in another environmental planning instrument as:

(i) private open space, or

(ii) open space where dwellings or dwelling-houses are permitted.

(8) (Repealed)

(9) Application of Policy to certain land in Sutherland Shire

For the purposes of this Policy (and despite anything to the contrary in subclause (1), (2) or (5)), the land that is shown with heavy edging on the map marked "Map 32 Cronulla Sutherland Leagues Club, Captain Cook Drive" in Schedule 7 to Sutherland Shire Local Environmental Plan 2000 is taken to be land that is zoned primarily for urban purposes.

Note. Clause 7 (2) (a) of Sutherland Shire Local Environmental Plan 2006 continues the application of Sutherland Shire Local Environmental Plan 2000 to the land referred to in this subclause.

(10) For the purposes of this Policy (and despite anything to the contrary in subclause (1) or (4)), any land that adjoins the land referred to in subclause (9) is not to be treated as being land that adjoins land zoned primarily for urban purposes.

(11) Subclause (6) does not apply in relation to:

(a) the land referred to in subclause (9), or

(b) land in Alexander Avenue, Taren Point, being Lot 2, DP 1026203, or

(c) an application to carry out development for the purposes of a residential care facility on land in any of the following zones under Sutherland Shire Local Environmental Plan 2006:

(i) Zone 4—Local Housing,

(ii) Zone 5—Multiple Dwelling A,

(iii) Zone 6—Multiple Dwelling B,

(iv) Zone 7—Mixed Use—Kirrawee,

(v) Zone 8—Urban Centre,

(vi) Zone 9—Local Centre,

(vii) Zone 10—Neighbourhood Centre.

(12) Application of Policy to certain land in Hornsby Shire

For the purposes of this Policy (and despite anything to the contrary in subclause (1), (2) or (6)), the land comprised by each of the following is taken to be land that adjoins land zoned primarily for urban purposes:

(a) 599–607 Old Northern Road, Glenhaven (being Lot 2, DP 1123753),

(b) 589–593 Old Northern Road, Glenhaven (being Lot 1, DP 135398 and Lots 2 and 3, DP 225754).

(13) (Repealed)

With respect to point 1, dwelling houses are permitted in the zone.

With respect to point 1, the land directly opposite to the south is zoned R1 General Residential, except for a road, as shown below. This is the same approach taken by Sienna Grange to the north-east.

With respect to Point 6, this has been the point of numerous discussions over the past few weeks with the Department of Planning to clarifying that the mapping of wetlands along the western boundary, and on the other portion of the site to the north, does not preclude development of the unmapped land.

The above legislation allows seniors housing to occur under the existing zoning.

SEPP 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65) aims to improve the design quality of residential flat development. SEPP 65 does not contain numerical standards but refers to the Apartment Design Guide (the Guide). The Guide provides additional detail and guidance for applying the design quality principles outlined in SEPP 65.

State Environmental Planning Policy (Coastal Management) 2018

The recently adopted Coastal Management SEPP applies to all land. Below is an extract of the relevant map, relating to wetland, which shows an affectation on the western boundary of the southern portion. The northern portion of the site is also affected but not subject to development. The proposed development will be clear of the affected wetlands as mapped.

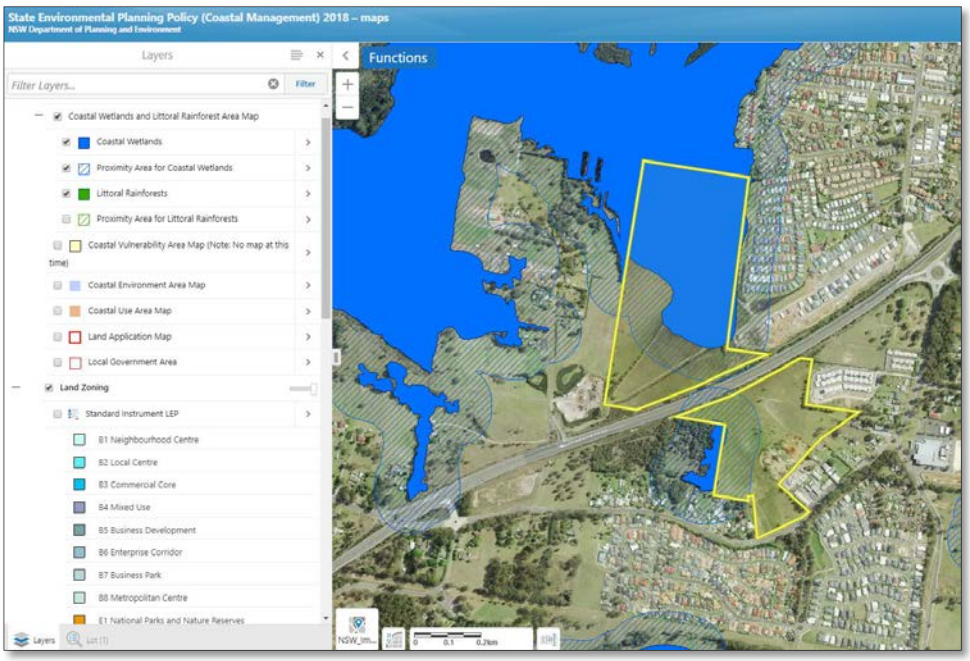

Figure 8: Coastal Management SEPP Extract dated 26 July 2018

3.3 John Oxley Drive Precinct Structure Plan

The site is included in the John Oxley Drive Precinct Structure Plan and is identified as site 6, which encompasses the subject Lot 10 and the adjoining Lot 12. The Plan identified that there will be flooding and environmental constraints but acknowledges that the owners wish to achieve development and states:

> "The owners would like to achieve development. Accordingly there is the option for submission of detailed proposals that demonstrate satisfactory outcomes in relation to the constraints and the development of the land. Filling may be possible west of areas 2 and 3, allowing extension of these areas".

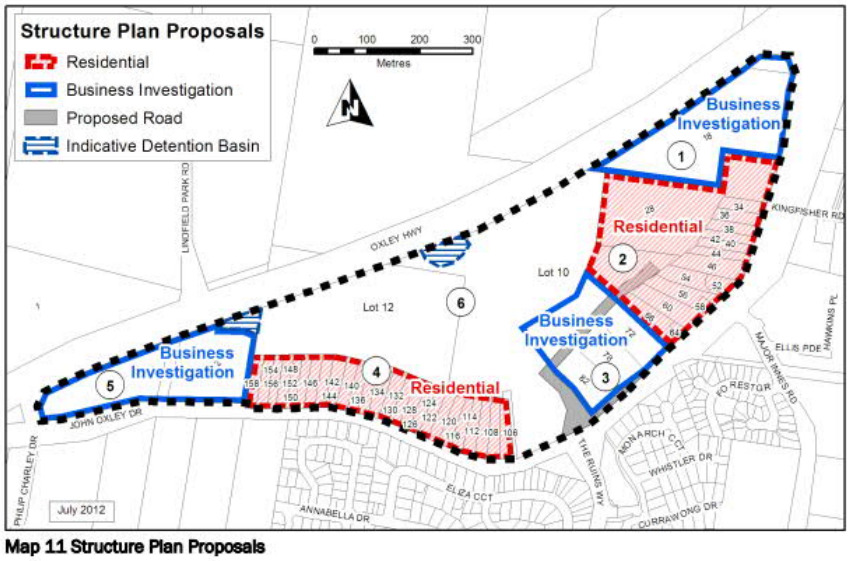

Figure 9: Extract from Structure Plan

The proposed seniors living development is compatible with the identified land uses and the detailed design will address the ecological and flooding investigations.

3.4 Port Macquarie Hastings LEP 2011

Zoning

The subject portion of the land is zoned RU1 – Primary Production under Port Macquarie Hastings LEP 2011.

Permissibility is being sought under the SEPP rather than the LEP.

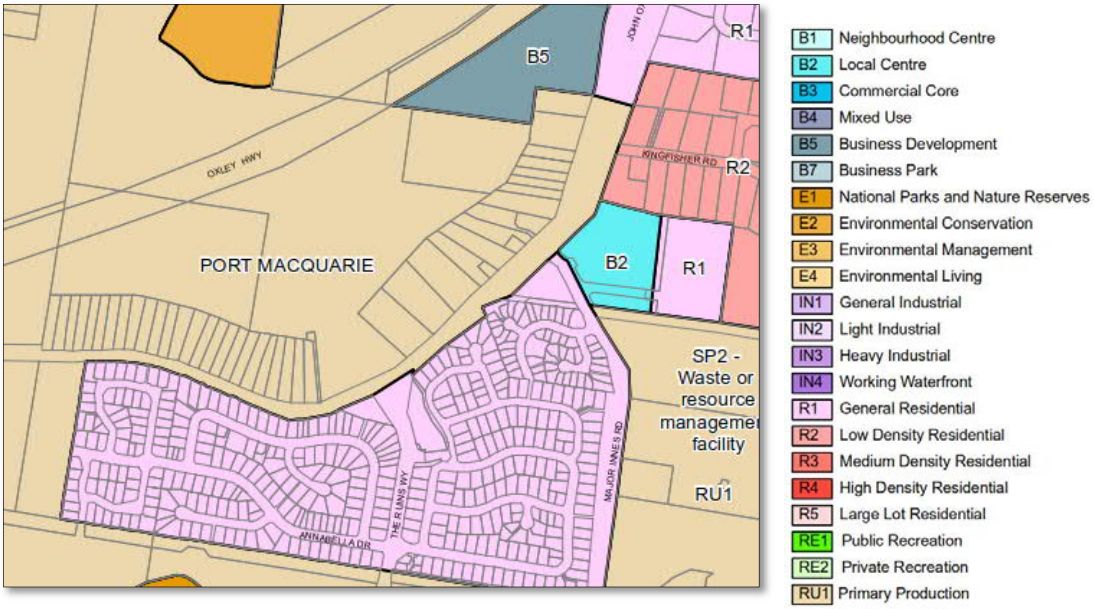

Figure 10: Zoning Plan Extract - Port Macquarie Hastings LEP 2011

Maps

The relevant LEP maps applicable to the site has shown below and a comment provided.

Minimum Lot Size

The LEP has a minimum lot size requirement of 40ha.

Acid Sulfate Soils

The site is identified on the LEP maps as being affected by Acid Sulfate Soils Class 5.

FSR

The site is not identified on the LEP maps as being affected by Floor Space Ratio.

Height

The site is not identified on the LEP maps as being affected by Height of Buildings.

Acoustic Controls

The site is not identified as "Subject to acoustic controls" on the Acoustic Controls Map.

Flooding

The site is identified on the LEP maps as being affected by flooding.

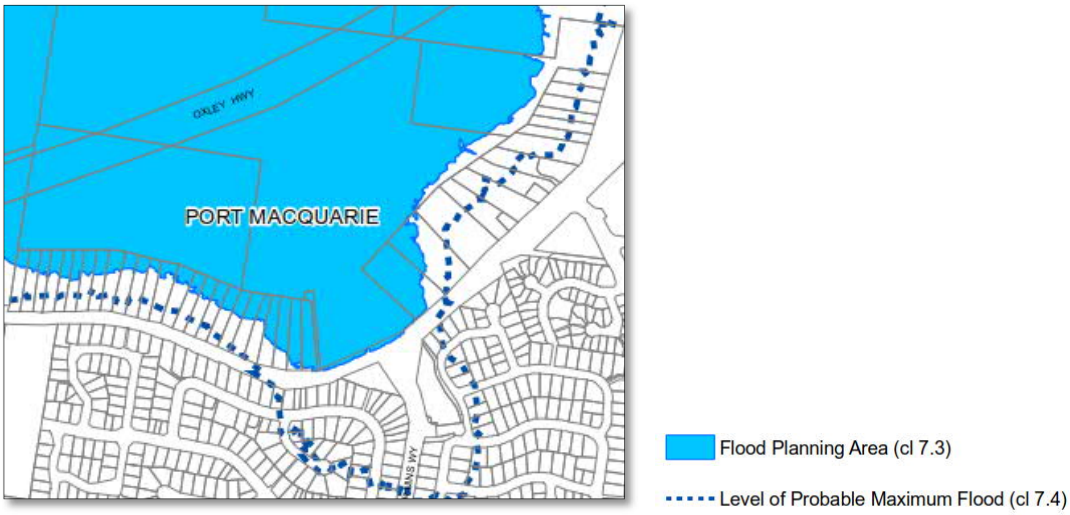

Figure 11: Flooding Map Extract - Port Macquarie Hastings LEP 2011

4 Bushfire

The subject site is classified as bushfire prone on the Bushfire Prone Land Mapping. A bushfire report will accompany the development application for subdivision.

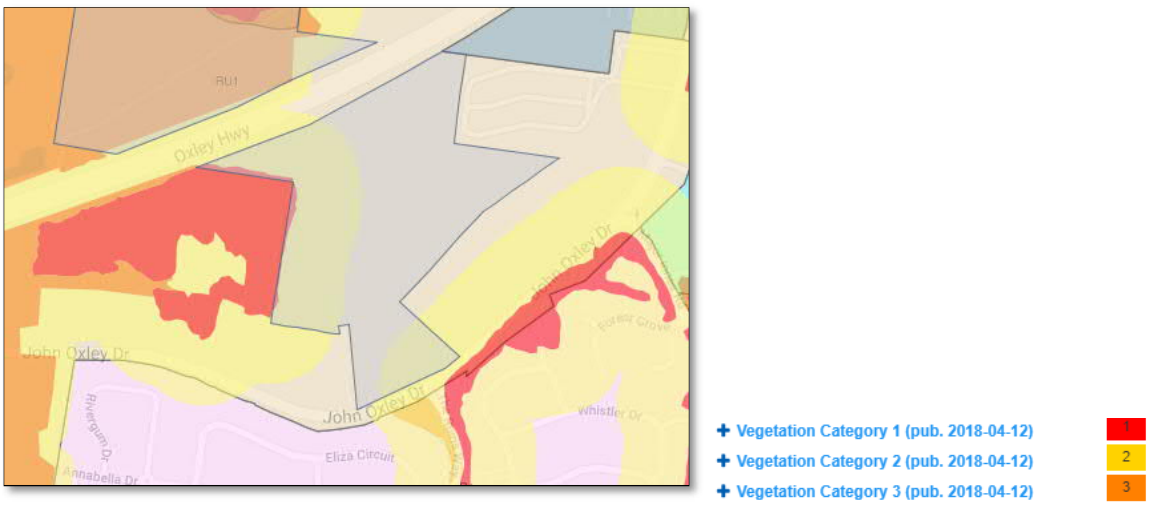

Figure 12: Bushfire Prone Land Extract (source: www.planningportal,nsw.gov.au)

5 Biodiversity

The ecological constraints of the site are being considered by an Ecologist and an Ecological Report will accompany the DA. Feedback is sought at the pre-lodgement meeting in particular regarding Council's views regarding the ecological constraints of the site including wetlands.

6 Traffic & Access

Access to the site is proposed via John Oxley Drive. The proposed road and intersection will service the entire development. It is anticipated that the road network within the area will have sufficient capacity. Feedback is sought from Council regarding the approved and future upgrading works and intersections on John Oxley Drive and the wider vicinity.

7 Infrastructure

Water, sewer, electricity and telecoms are readily available to be extended to the site. Feedback is sought from Council regarding the exact requirements.

8 Safety & Social Impacts

The proposal will have a positive benefit for the community and is a good use of an emerging area and close to the village centre nearby.

9 Issues to discuss with Council

Land Dynamics wish to discuss with Council any feedback relevant to this proposal, in particular with respect to servicing and access to the site.

10 Attendees

The meeting will be attended by Graham Burns, Donna Clarke and Claire Mathieson from Land Dynamics.

100mm AT ORIGINAL SIZE

LEGEND

- EXISTING EXTERNAL PROPERTY BOUNDARY
- EXISTING ADJOINNG PROPERTY BOUNDARIES
- EXISTING CONTOURS (LIDAR 0.5M INTERVAL)
- PROPOSED LANDSCAPE BUFFER AREAS
- PROPOSED 4 STOREY BUILDING ZONES
- PROPOSED 5 STOREY BUILDING ZONES
- PROPOSED 6 STOREY BUILDING ZONES
- ENTRY ROAD
- MAJOR ACCESS PATHWAYS
- WETLAND BUFFER AREA

OXLEY HIGHWAY

ACOUSTIC AND VISUAL SOLUTIONS TO BE PROVIDED TO OXLEY HIGHWAY

5 STOREY BUILDING ZONE

6 STOREY BUILDING ZONE

4 STOREY BUILDING ZONE

LANDSCAPE BUFFER TO SITE BOUNDARIES

SIENNA GRANGE - SENIORS LVING DEVELOPMENT

LANDSCAPE BUFFER TO SITE BOUNDARIES

5 STOREY BUILDING ZONE

JOHN OXLEY DRIVE

MAJOR INNES ROAD

DEVELOPMENT POTENTIAL WITHIN WETLAND BUFFER TO BE VERIFIED BY OBTAINING LEGAL ADVICE

MAIN SITE ENTRY ROAD

EXISTING SEWER PUMP STATION

4 STOREY BUILDING ZONE

SITE ENTRY - WILL REQUIRE TRAFFIC MANAGEMENT SOLUTION

JOHN OXLEY DRIVE

THE RUINS WAY

STORMWATER CORRIDOR TO BE PROVIDED

nearmap

REV	DESCRIPTION	DATE	DRAWN	DESIGN	CHECK	APPROVED
A	PMHC PRELODGEMENT SUBMISSION	14.08.18	C.M	C.M	D.C	

SCALES:
0 20 40 60 80
Full Size 1:1500 ; Half Size 1:3000
Scale (m)

DO NOT SCALE FROM DRAWING

N

LandDynamics AUSTRALIA
www.ldynamics.com.au 77 Lord Street Port Macquarie NSW 2444 P: 02 6583 2677

CONTACT DIAL BEFORE YOU DIG PRIOR TO COMMENCING ANY EXCAVATION WORKS

PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

PROJECT:
SENIORS LIVING DEVELOPMENT

DRAWING TITLE:
LOT 10 DP 1088869 JOHN OXLEY DRIVE, PORT MACQUARIE
PRELIMINARY PLANNING ANALYSIS PLAN

ORIGINAL SIZE:	LAND DYNAMICS JOB No.:	DRAWING No.:	REV:
A1	5325	0002	A

CAD FILE: W:\5325P - LOT 10 JOHN OXLEY DRIVE\8. ENGINEERING (WIP)\1. CIVIL DESIGN\1. PRELIMINARY\5325_LOT 10 OXLEY_ PRELIM PLAN SET_13.8.18.DWG PLOTTED BY: CLAIRE PLOT DATE: 14/08/2018 2:08:34 PM

100mm AT ORIGINAL SIZE

LEGEND

- EXISTING EXTERNAL PROPERTY BOUNDARY
- EXISTING ADJOINING PROPERTY BOUNDARIES
- EXISTING CONTOURS (LIDAR 0.5M INTERVAL)
- EXISTING DRAINAGE LINES
- WETLAND (SEPP MAPPING)
- WETLAND BUFFER (SEPP MAPPING)
- ACOUSTIC CONTRAINTS
- VISUAL CONSTRAINTS
- FLOOD PLANNING LINE

OXLEY HIGHWAY
BUNNINGS - UNDER CONSTRUCTION
RETIREMENT VILLAGE - UNDER CONSTRUCTION
LOT 10 DP 1088869
INNESLAKE SHOPPING VILLAGE
RESIDENTIAL LOTS
JOHN OXLEY DRIVE
MAJOR INNES ROAD
MAPPED WETLAND
LANDSCAPE SUPPLY YARD
RESIDENTIAL LOTS
SEWER PUMP STATION
JOHN OXLEY DRIVE
THE RUINS WAY
SITE ENTRANCE WITH INTERSECTION IMPLICATIONS
'OXLEY PARK' RESIDENTIAL ESTATE
'ANNABELLA DOWNS' RESIDENTIAL ESTATE

REV	DESCRIPTION	DATE	DRAWN	DESIGN	CHECK	APPROVED
A	PMHC PRELODGEMENT SUBMISSION	14.08.18	C.M	C.M	D.C	

SCALES:
0 20 40 60 80
Full Size 1:1500 ; Half Size 1:3000
Scale (m)

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CONTACT DIAL BEFORE YOU DIG PRIOR TO COMMENCING ANY EXCAVATION WORKS

PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

PROJECT:
SENIORS LIVING DEVELOPMENT

DRAWING TITLE:
LOT 10 DP 1088869 JOHN OXLEY DRIVE, PORT MACQUARIE
PRELIMINARY CONSTRAINTS PLAN

ORIGINAL SIZE:	LAND DYNAMICS JOB No.:	DRAWING No.:	REV:
A1	5325	0001	A

CAD FILE: W:\5325P - LOT 10 JOHN OXLEY DRIVE\8. ENGINEERING (WIP)\1. CIVIL DESIGN\1. PRELIMINARY\S325_LOT 10 OXLEY_ PRELIM PLAN SET_13.8.18.DWG PLOTTED BY: CLAIRE PLOT DATE: 14/08/2018 2:04:35 PM

Port Macquarie-Hastings Council
PO Box 84
Port Macquarie
NSW Australia 2444
DX 7415
e council@pmhc.nsw.gov.au

ABN 11 236 901 601

PORT MACQUARIE HASTINGS COUNCIL

10 September 2018

Parcel No : 48390
Reference: 210.2018/115

Land Dynamics Australia
PO Box 2459
PORT MACQUARIE NSW 2444

Dear Sir/Madam

Pre-Lodgement Meeting Advice for Application 210. 2018.115

Thank you for your attendance at the pre-lodgement meeting held on Tuesday 21 August 2018 for the purpose of discussing your proposal of a Seniors Living Development at LOT: 10 DP: 1088869, John Oxley Drive PORT MACQUARIE.

Please find attached a copy of the minutes from this meeting. Please note that the Pre-Lodgement Panel is not the determining authority and does not bind Council as to the outcome of any future application. The service aims at providing useful early advice on the proposal that will assist the proponent with the decision to proceed with a development application.

Should you require further information please contact the undersigned on 6581 8111 or email: Dan.Croft@pmhc.nsw.gov.au.

Yours faithfully

Dan Croft
Group Manager
Development Assessment

PORT MACQUARIE OFFICE
17 Burrawan Street, Port Macquarie NSW 2444
t 02 6581 8111 f 02 6581 8123

WAUCHOPE OFFICE
49 High Street, Wauchope NSW 2446
t 02 6589 6500

LAURIETON OFFICE
9 Laurie Street, Laurieton NSW 2443
t 02 6559 9958

MINUTES

Development Application Pre-Lodgement Meeting held on Tuesday 21/08/2018

Present

Dan Croft (Chair)
Pat Galbraith-Robertson
Caleb Scholes
Jesse Dick
Sam Rooney
John Hanlon
Claire Matheson
Donna Clarke

Consideration of Pre-Lodgement Proposal

Applicant:	Land Dynamics Australia
Proposal:	Seniors Living Development
Meeting Time:	3.00pm
Location:	LOT: 10 DP: 1088869, John Oxley Drive PORT MACQUARIE
Parcel/s:	48390
Pre-Lodgement Reference:	210. 2018. 115

Following is a list of issues that were raised at the meeting that would need to be addressed when lodging a development application.

Planning

It was noted that the proposal is conceptual and reliant upon obtaining a Site Compatibility Certificate from the Department of Planning and Environment (DPE) under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP).

The following initial comments are provided:

- The site is currently subject to the John Oxley Drive Precinct Structure Plan. Work is also currently being undertaken to prepare a master plan for the Port Macquarie Health and Education Precinct (HEP) which includes the subject site. No outcome of master plan is currently available (draft likely to be reported to Council in early 2019). It is recommended that no site compatibility certificate 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 to 6 storey scale building in this precinct.

- Given the nature of the Seniors Housing proposed, 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 (PMF). Council's Flood Policy (2015) contains further information relating to the requirements that will apply to the subject development. The PMF level for the site is 6.60m AHD. Evacuation from the site will be critical given the nature of the use of the site and the proposed evacuation route which is subject to inundation on flood events up to and including the PMF. A Flood Impacts Assessment, Flood Risk Assessment and Flood Evacuation Plan will be required to support the development. These reports will need to be prepared by a suitably qualified flood consultant with demonstrated experience in completing these studies.
- Given the scale of the buildings proposed significant separation shall be provide from the boundaries of the existing development
- The potential for landuse conflict between the proposal and the non-residential uses currently operating on the adjoining eastern properties fronting John Oxley Drive shall be addressed.
- A specialist acoustic and bushfire report should be provided with the Site Compatibility Certificate to demonstrate that future buildings can achieve the standard requirements for amenity and bushfire risk protection.

Council may have additional feedback to provide to the DPE when formal notification is provided to Council.

With regard to any subsequent Development Application lodged, a detailed Statement of Environmental Effects addressing relevant Environmental Planning Instruments and merit-based issues is required. Particular attention should be given, but not limited to, the following:

1) The following State Environmental Planning Policies apply:

    - No.44 – Koala Habitat Protection
    - No.55 – Remediation of Land
    - No.62 – Sustainable Aquaculture
    - No.65 – Design Quality of Residential Apartment Development
    - Coastal Management (2018)
    - Building Sustainability Index: BASIX (2004)
    - Housing for Seniors or People with a Disability (2004)
    - Infrastructure (2007) – Referral to RMS likely
    - State and Regional Development (2011) – The Northern Region Joint Regional Planning Panel will be likely to be the consent authority.

    Application to address relevant provisions of these policies.

2) The site is zoned RU1 primary production under Port Macquarie-Hastings Local Environmental Plan (LEP) 2011. The proposed Seniors Living development would need to be supported by a site compatibility assessment for it to be considered permissible in the zone.

3) In accordance with clause 4.3 of LEP 2011 any maximum building height set for the site will need to be complied with. Any variation would need to be adequately

justified in accordance with clause 4.6 of LEP 2011 and clearly illustrated on plans to demonstrate the extent of variation.

4) In accordance with clause 4.4 of LEP 2011 any maximum Floor Space Ratio (FSR) set for the site will need to be complied with. Application to include details of proposed FSR.

5) Application to address general provisions and relevant specific provisions of Development Control Plan (DCP) 2013. Any variations to be adequately justified against the relevant objectives.

6) Details and calculations of required off-street parking to serve the development consistent with the parking rates identified in DCP 2013 and/or Seniors SEPP.

7) Site is mapped as bushfire prone land triggering Integrated development provisions. Bushfire assessment report required and referral to NSW Rural Fire Service will be undertaken as part of the assessment process. $320 cheque made payable to NSW Rural Fire Service and $140 referral fee payable to Council.

8) Details of the type and extent of vegetation to be removed and retained (inclusive of any required bushfire Asset protection Zones) clearly illustrated on plans.

   Given the extent and nature of vegetation to be removed an ecological assessment addressing section 5A of the Act (i.e. five part test) and the relevant provisions of DCP 2013 shall support the application.

   Trees to be retained within close proximity of works/buildings shall be supported by an Arborist report demonstrating ability for long term retention.

9) Details of any staging to be clearly outlined.

10) A detailed analysis of overshadowing impacts (i.e. shadow diagrams).

11) A detailed analysis of privacy impacts.

12) Visual impact assessment required.

13) Details of proposed waste management and collection arrangements.

14) Development contributions will apply. An estimate may be obtained from Council's Development Contribution team, contact Steve Ford.

Water

1) Council records indicate that the development site does not have a water service.

2) Water Supply computational modelling will be required to determine whether the existing water supply infrastructure can facilitate the additional loading.

3) Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as fire service and backflow protection requirements in accordance with AS3500.

Sewer

1) Council records indicate that the development site does not currently have a sewer connection.

2) Sewer computational modelling will be required to determine whether the existing sewer infrastructure can facilitate the additional loading.

3) Additional odour control measures (such as an odour scrubber) may be required on the existing sewer pump station 64 with installation to occur at no cost to Council.

Engineering

1) New roads to be dedicated to Council will need to meet the provisions of AUS-SPEC Table D1.5 based on the potential lot yield (including future subdivision potential). As such, it may be beneficial to increase the proposed lot yield to minimise future infill subdivision proposals.

2) A Traffic Impact Assessment (TIA) will be required.

   a) TIA is to be prepared by a qualified and/or experienced traffic consultant.

   b) TIA is to be prepared in accordance with guidelines contained in the Roads and Maritime Services *Guide to Traffic Generating Developments (2002),* and AUSTROADS *Guide to Traffic Management, Part 12: Traffic Impacts of Development*.

   c) TIA should use data obtained from an existing facility which operates in a similar manner to the proposed facility, and comment on any differences in operation.

   d) The likely traffic generation should be quantified, in terms of the number of vehicle trips during peak hours, number of trips per day, and breakdown of the types of vehicle users (e.g. residents' cars, staff cars, service trucks).

   e) The likely 85th percentile (time-weighted) parking demand is to be quantified.

   f) Comment on the likely traffic and parking demand ten years after the development.

3) Works within the road reserve and/or on Council owned assets will require a refundable bond equal to 130% of the cost of the works (to be held during construction until acceptance of the works).

4) Council is currently developing design plans for future works on John Oxley Drive. The development proposal is to be compatible with the future design and will require further consultation between the developer and Council's Transport & Stormwater Network team.

5) Internal access aisles and parking bays will be assessed for conformance with AS 2890, and in particular part 1 for cars, part 2 for garbage and delivery trucks, and part 6 for disabled parking (if required by the BCA or other standards).

Stormwater

1) A stormwater management plan must be prepared in accordance with the requirements of AUSPEC D5 and D7 and the requirements of relevant Australian Standards, demonstrating how all stormwater and surface water discharging from the proposed development site, buildings and works will be conveyed to the legal point of discharge by underground pipe drains to the satisfaction of Council.

In addition, the stormwater management plan submitted with the development application must address the following specific issues at a minimum:

a) On-site stormwater detention facilities (or similar) must be incorporated into the design to ensure that the post development site stormwater discharge rate does not exceed the pre development discharge rate for all storm events up to 1%AEP.
b) The stormwater management plan must be prepared and certified by a qualified practicing Civil Engineer or Registered Surveyor.

2) A Total Water Cycle Management Plan must be prepared in accordance with requirements of AUSPEC D7 Appendix A to ensure that stormwater runoff from the development site meets specified quality objectives during the construction and occupation phase of a development and that the development is in line with the principles of Ecologically Sustainable Development.

3) The property is located within a localised depression and as a result may be subject to local flooding during significant storm events. The proposed property has private and public infrastructure draining into, as well as run off from Oxley Highway. Provisions for inter-allotment drainage must be given for existing private properties to have a legal point of connection, as they currently drain onto the vacant land.

   A local Drainage Investigation must be submitted in support of the development application to ensure that the risks associated with local overland flooding are clearly identified and where appropriate, the development is modified to minimise those risks.

   The Drainage Investigation must be prepared by a qualified practicing Civil Engineer and must comply with the requirements of AUSPEC D5.

Other

1) Please make reference to these pre-lodgement comments within the DA submission/planning report.

2) Any comments in this Pre-Lodgement advice are based on the information provided. The comments do not predicate the outcome of a full assessment of any forthcoming development application regarding this proposal. Any subsequent change to legislation may also affect the accuracy of this advice.

Nicole Gillan

From: Donna Clarke
Sent: Wednesday, 29 August 2018 12:10 PM
To: Peter Cameron
Cc: Lucilla Marshall; Dan Croft; Melissa Watkins; Carina Gregory
Subject: 5325 - Lot 10 DP 1088869 - Comments at Pre-Lodgement Meeting - John Oxley Drive PORT MACQUARIE

Hi Peter,

Many thanks for your response email regarding our proposed senior's living development at Lot 10 DP 1088869, John Oxley Drive PORT MACQUARIE.

We welcome the opportunity to discuss further or be involved in the Health and Education Precinct planning beyond just the exhibition period.

I will convey your email below to the client but given the timing, it is likely that he will wish to continue in preparation of the application and we can indicate in our Site Compatibility Certificate documentation that we have had a pre-lodgement meeting and also contacted Council to be involved in the discussions regarding precinct planning, however no information has been forthcoming which has influenced our design.

I look forward to hearing from you should you have any information that would be of assistance in our design or wish to meet to be part of the overall precinct planning.

Many thanks,

Donna

Donna Clarke
Town Planner

Land Dynamics Australia
P: 02 6583 2677
donna.clarke@ldynamics.com.au

From: Peter Cameron <Peter.Cameron@pmhc.nsw.gov.au>
Sent: Wednesday, August 29, 2018 10:39 AM
To: Donna Clarke <donna.clarke@ldynamics.com.au>
Cc: Lucilla Marshall <Lucilla.Marshall@pmhc.nsw.gov.au>; Dan Croft <Dan.Croft@pmhc.nsw.gov.au>; Melissa Watkins <Melissa.Watkins@pmhc.nsw.gov.au>; Carina Gregory <Carina.Gregory@pmhc.nsw.gov.au>
Subject: RE: 5325 - Lot 10 DP 1088869 - Comments at Pre-Lodgement Meeting - John Oxley Drive PORT MACQUARIE

Hi Donna

Thanks for your e-mail.

We are making progress on the preparation of a draft Master Plan for the Health and Education Precinct, which includes the area to the west of John Oxley Dve and at least part of the land that you are looking at. As you note the

Master Plan is being prepared for Council by Architectus. It will be based on engagement undertaken this year. The aim is to report the draft Master Plan to the October Council meeting and then exhibit soon after in November 2018.

In the meantime, the adopted John Oxley Dve Precinct Structure Plan provides a framework for Council planning. This is under review as part of the Master Plan preparation. The land in question forms part of sub-precincts 2, 3 and 6 in the Structure Plan.

I don't have any additional information at this stage.

Regards
Peter

Peter Cameron
Group Manager Strategic Land Use Planning
Strategy & Growth

PORT MACQUARIE-HASTINGS COUNCIL

p (02) 6581 8110
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From: Donna Clarke [mailto:donna.clarke@ldynamics.com.au]
Sent: Wednesday, 29 August 2018 9:06 AM
To: Peter Cameron
Subject: 5325 - Lot 10 DP 1088869 - Comments at Pre-Lodgement Meeting - John Oxley Drive PORT MACQUARIE

Good morning Peter,

We had a pre-lodgement meeting last week regarding a senior's living development at Lot 10 DP 1088869, John Oxley Drive PORT MACQUARIE.

At that meeting, Dan Croft suggested we contact you and Lucilla Marshall regarding precinct planning that may be occurring which includes this site as well as overall area and traffic planning.

We have been discussing with Craig Diss at Department of Planning as the DA will require a Site Compatibility Certificate and the feedback was very positive.

However, if Council has any plans or information with respect to future planning which includes this site, could you please forward as soon as possible as the client is wishing to move forward and we are aware of the large expense of the Architects engagement.

Happy to discuss.

Many thanks,

Donna

Donna Clarke
Town Planner

Land Dynamics Australia
77 Lord St / PO Box 2459 Port Macquarie.
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donna.clarke@ldynamics.com.au

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100mm AT ORIGINAL SIZE

REV	DESCRIPTION	DATE	DRAWN	DESIGN	CHECK	APPROVED
A	SC SUBMISSION	10.10.18	C.M	C.M	D.C	

SCALES:
0 10 20 40 60
Full Size 1:1000 ; Half Size 1:2000
Scale (m)

DO NOT SCALE FROM DRAWING

N

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www.ldynamics.com.au 77 Lord Street Port Macquarie NSW 2444 P: 02 6583 2677

CONTACT DIAL BEFORE YOU DIG PRIOR TO COMMENCING ANY EXCAVATION WORKS

PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

PROJECT:
SENIORS LIVING DEVELOPMENT

DRAWING TITLE:
LOT 10 DP 1088869 JOHN OXLEY DRIVE, PORT MACQUARIE
SERVICES ANALYSIS PLAN

ORIGINAL SIZE:	LAND DYNAMICS JOB No.:	DRAWING No.:	REV:
A1	5325	05	A

CAD FILE: W:\5325 - LOT 10 JOHN OXLEY DRIVE\8. ENGINEERING (WIP)\1. CIVIL DESIGN\1. PRELIMINARY\5325_LOT 10 OXLEY_ PRELIM PLAN SET_REVB_10.10.18.DWG PLOTTED BY: CLAIRE PLOT DATE: 11/10/2018 11:24:54 AM

RE: MIDWEST RADIO NETWORK PTY LIMITED:

PORT MACQUARIE DEVELOPMENT

ADVICE

Pikes & Verekers
Lawyers
DX 521 Sydney

Attention: Ms Roslyn McCulloch

MIDWEST RADIO NETWORK PTY LIMITED:

PORT MACQUARIE DEVELOPMENT

ADVICE

1. Midwest Radio Network Pty Limited (**Midwest**) is proposing to develop part of the land that it owns in Port Macquarie. The legal description of the land owned by Midwest is Lot 10 in DP 1088869 (**Lot 10**). That Lot has a substantial area and is bisected by the Oxley Highway. However, it is only the south-eastern section of Lot 10, being part of that lot that is located south of the Oxley Highway, that is presently intended for development (**the Site**).

2. The development proposed for the Site is described as a "Seniors Living Development". Although a detailed description of that development is unnecessary for present purposes, a Pre-Lodgement Report prepared by the LandDynamics Australia indicates that between 600 and 1,000 residential units are proposed, dispersed among four separate buildings of varying heights. At least, that is the concept identified in the report.

3. The primary land use controls applicable to the Site are those found in the Port Macquarie-Hastings Local Environmental Plan 2011 (**the LEP**). Under the LEP, the Site is zoned RU 1 Primary Production. Upon land so zoned, development for the purpose of seniors housing is prohibited. However, that development is potentially permissible with consent under the provisions of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (**the Seniors SEPP**).

The Seniors SEPP is potentially engaged

4. Clause 4(1) of the Seniors SEPP identifies land to which the Policy applies as including land "that adjoins land zoned primarily for urban purposes" but only if development for the purpose of a dwelling house "is permitted on the land". The land use table for the RU 1 zone applicable to the Site states that development for the purpose of a dwelling-house is permissible with consent.

5. The Site has a street frontage to John Oxley Drive, being located on the northern side of that road. Land on the southern side of John Oxley Drive and directly opposite to the Site is zoned R1 General Residential under the LEP. As the land use table for land within the R1 zone demonstrates, such land is "zoned primarily for urban purposes".

6. Clause 4(4) of the Seniors SEPP is also engaged in the present case. In substance, the subclause identifies land as "adjoining land zoned primarily for urban purposes" notwithstanding the separation of the two differently zoned parcels of land by a public road to which there is vehicular and pedestrian access from the adjoining land.

7. As a consequence of the provisions of the Seniors SEPP thus far considered, the Site potentially engages the provisions of the Policy, being a site that adjoins land zoned primarily for urban purposes and otherwise fulfils the requirements of subclauses (1) and (4) of that Policy. However, if development consent is to be granted for Seniors living development, the requirements of Ch 3 of the Policy must then be addressed. That Chapter contains the provisions under which development for Seniors housing is permissible with consent "despite the provisions of any other environmental planning instrument" (cl 15). Thus, it overrides the prohibition upon "seniors housing" in the RU 1 zone of the LEP.

8. By cl 17 of the Seniors SEPP (a provision within Ch 3), the particular type of seniors housing permissible with consent on land adjoining land zoned primarily for urban purposes is identified. I assume, for the purpose of this advice, that what is proposed by Midwest meets the requirement of that clause.

9. Where, as here, application is made for development of land under Ch 3 for a site that adjoins land zoned primarily for urban purposes, cl 24 requires that application must first be made for a site compatibility certificate. Midwest intends to seek such a certificate which must accompany the development application to be made by it. However, before seeking that certificate, my advice is sought as to whether the Site is excluded from the operation of the Seniors SEPP by the provisions of cl 4(6)(a) of that instrument.

Exclusion of land from the operation of the Seniors SEPP

10. By cl 4(6) of the Seniors SEPP, the Policy is expressed not to apply (relevantly) to "(a) land described in Schedule 1 (Environmentally sensitive land)". Schedule 1 relevantly provides:

> "Land identified in another environmental planning instrument by any of the following descriptions or by like descriptions or by descriptions that incorporate any of the following words or expressions:
>
> (a) coastal protection
> ...
> (d) environment protection
> ...
> (g) floodway
> (h) high flooding hazard
> ...
> (m) natural wetland
>
> Land shown cross-hatched on the bushfire evacuation risk map."

As will become apparent, the opening words of the Schedule before the items listed (a)-(m) are of some significance. It is convenient to refer to those opening words as "the chapeau" to Sch 1.

11. The last item in the Schedule may immediately be put aside. I am told and accept for the purpose of this advice that the "bushfire evacuation risk map" relates only to areas within the Sydney metropolitan area. For that reason, the map has no relevance to development on the Site. While the Site is said to be identified as bushfire prone land on a map prepared by the Rural Fire Service, that map is not "an environmental planning instrument" with the consequence that it does not engage any provision of Sch 1.

12. It is next convenient to address par (a) of Sch 1 in its reference to "coastal protection". Lot 10 is within the "coastal zone" as defined in the *Coastal Management Act 2016*, in that it is identified on the "Coastal Wetlands and Littoral Rainforests Area Map" under State Environmental Planning Policy (Coastal Management) 2018 (**the Coastal Management SEPP**). Part of Lot 10 that is south of the Oxley Highway is shown on that map as being within an area identified as "Proximity Area for Coastal Wetlands". The part of Lot 10 so identified is adjacent to the western boundary of the Lot, a coastal wetland being shown on land adjoining the lot to the west. That part of Lot 10 which comprises the Site of the present development proposal lies to the east of the area identified as the "Proximity Area" and is not otherwise described or identified as being affected by the provisions of the Coastal Management SEPP.

13. As a consequence, the Site is not "land identified" by any description in the Coastal Management SEPP or otherwise in any other environmental planning instrument as being "coastal protection" land. For that reason, cl 4(6) and Sch 1 of the Seniors SEPP is not engaged (*Whittaker v Northern Beaches Council (No.3)* [2018] NSWLEC 143 at [36]), the

chapeau paying no regard to the cadastral boundaries of land for the purpose of identification.

14. Even if I am wrong in so concluding, the identification of Lot 10, including the Site, in the Coastal Management SEPP does not result in cl 4(6) and Sch 1 operating to preclude application of the Seniors SEPP to the Site. That is so because of the operation of cl 4(7) of the latter Policy which relevantly provides:

> "(7) Nothing in subclause (6)(a) or Schedule 1 operates to preclude the application of this Policy to land only because:
> (a) the land is identified under *State Environmental Planning Policy (Coastal Management) 2018* ... ."

15. Given that no development is proposed within the relevant part of Lot 10 identified as being within the "proximity area for coastal wetland", it is a case of the Site "only" being so identified without any consequence under the Coastal Management SEPP (cp cl 11 of that Policy). Thus, cl 4(7) of the Seniors SEPP has the effect of maintaining its operation in respect of the Site.

16. That reasoning also applies to par (m) of Sch 1, namely the identification in another planning instrument of land being a "natural wetland". The only relevant planning instrument potentially so identifying the Site is the Coastal Management SEPP. While the map under that Policy to which I have referred identifies "coastal wetland" as being located within Lot 10, no part of the Site is so identified or described.

17. That leaves pars (d), (g) and (h) of Sch 1 to be considered. The potential for those paragraphs to be engaged arises from cll 7.1 and 7.3 of the LEP. Clause 7.1 is directed to land identified as having acid sulfate soil and cl 7.3 is directed to development on land susceptible to flooding. However, before turning to consider each of those clauses, it is appropriate to identify the principles relevant to the application of cl 4(6) and Sch 1 to the Seniors SEPP.

Relevant principles

18. For cl 4(6) to be engaged, it is necessary that land upon which Seniors housing is proposed be "described" in the manner identified in Sch 1. Importantly, the chapeau to pars (a) to (m) state the manner in which land is to be "described" in order to engage their operation. The "description" of such land requires that it be "identified" in another environmental planning instrument in one of three ways:

    (a) by meeting the description given in pars (a) to (m);

    (b) by "like" descriptions in that other environmental planning instrument to those descriptions found in pars (a) to (m); or

    (c) by "descriptions that incorporate any of the...words or expressions" used in pars (a) to (m).

19. Further, in seeking to identify the "following words or expressions" from the Schedule in the "other environmental planning instrument", it is necessary to find in the latter instrument "the whole of any one of the descriptions given in pars (a) to (m)" rather than only part of any one of those descriptions (*Druitts Developments Pty Ltd v Gosford City Council* (2001) 113 LGERA 61; [2001] NSWLEC 96 at [14]). To give the example that Bignold J gave in *Druitts* by reference to par (a) of Sch 1, the relevant phrase necessary to qualify is 'coastal protection' not just 'coastal' or 'protection'. In short, words or expressions used in Sch 1 cannot be separated when determining whether the chapeau to the Schedule is satisfied (*Whittaker* at [39]).

20. The manner in which the chapeau to Sch 1 should be considered has been the subject of consideration by the Court of Appeal in *Warringah Shire Council v Punnett & Associates Pty Ltd* [2001] NSWCA 480; (2001) 122 LGERA 1 and *Pepperwood Ridge Pty Ltd v Newcastle City Council* [2006] NSWCA 122; (2006) 145 LGERA 340. In both cases, it was held that the application of the words in the chapeau required a "textual

approach", that is, the text of the "other environmental planning instrument" became relevant to consider in order to determine whether any of the words or expressions in Sch 1 are engaged. In *Pepperwood Ridge* Tobias JA observed at [36] (Giles and McColl JJA agreeing):

> "[36] *Punnet* is authority for the proposition that in determining this issue the Court is not confined to the short name given to the relevant zone. Nonetheless there must be words in the text of the LEP, or the map referred to as part of the LEP, which are 'used descriptively with reference to the subject land': *Punnett* (Mason P) at [13]. In my opinion, this requires that the words relied upon be words of description that identify the land in accordance with one or more of the words or expressions set forth in (a) to (m) of Sch 1."

21. Finally, it should be noticed that the expression "environmentally sensitive land" as used in both cl 4(6)(a) and in the heading to Sch 1 is an expression that is not defined in either the Seniors SEPP or in the *Environmental Planning and Assessment Act 1979*. It must therefore be taken that only the land descriptions in Sch 1 identify such lands to the intent that it is not necessary to apply an overriding consideration of environmental sensitivity when determining whether the description given in the "other environmental planning instrument" identifies land as engaging one or more of the particular paragraphs in Sch 1.

Application of principles to pars (d), (g) and (h) of Schedule 1

22. The only "other environmental planning instrument" of present relevance is the LEP. The objectives of zone RU 1, being the zone applicable to the Site, are expressed as follows:

> "**1 Objectives of zone**
>
> - To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
> - To encourage diversity in primary industry enterprises and systems appropriate to the area.
> - To minimise the fragmentation and alienation of resource lands.

- To minimise conflict between land uses within this zone and land uses within adjoining zones."

23. Nothing in those objectives identifies any of the three ways in which the chapeau to Sch 1 can be engaged. None of the words or expressions in pars (d), (g) or (h) are used. Moreover, neither like descriptions of those concepts are used nor are words or phrases used that incorporate any of those expressions. Those observations also extend to the other provisions of the land use table for the RU 1 zone.

Acid sulfate soils

24. Clause 7.1 of the LEP is directed to land identified on the "Acid Sulfate Soils Map". The Site is identified on that Map as falling within the Class 5 category of acid sulfate soils. The clause relevantly provides:

> "**7.1 Acid sulfate soils**
>
> (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
> (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works."

There then follows a table identifying land by class, numbered 1 to 5, with a different order of works against each class.

25. Relevantly, the clause does not proscribe development on land identified on the map. Rather, the clause is directed to identification of works that may impact the water table, depending upon the class of land, works to be undertaken and the information to be provided to the consent authority in order to obtain development consent. Importantly, the clause does not identify the Site by the description "environment protection" nor is it identified by words or expressions incorporating that phrase. Thus, the only other way in which Sch 1 can be engaged by reference to the clause

is by determining that the Site is identified in the LEP by a "like description" to the phrase "environment protection".

26. While the objective of cl 7.1 is expressed to require development to be undertaken in a way that does not cause "environmental damage", that objective does not, of itself, provide a description that identifies the Site. The operative words of the clause, being those found in subclauses (2) to (6) use no "similar" phrase to identify the Site (*Pepperwood* at [43]; *Whittaker* at [43]).

27. It follows that cl 7.1 of the LEP provides no basis upon which cl 4(6)(a) and Sch 1 to the Seniors SEPP are engaged. Expressed differently, the provisions of that Policy are not excluded by operation of cl 7.1 of the LEP.

Flooding

28. Clause 7.3 of the LEP makes particular provision for development of land shown as being in a "Flood planning area" on the "Flood Planning Map". That map shows the Site to be within that area. The clause relevantly provides:

> "**7.3 Flood planning**
> (1) The objectives of this clause are as follows:
> (a) to minimise the flood risk to life and property associated with the use of land,
> (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
> (c) to avoid significant adverse impacts on flood behaviour and the environment.
> (2) This clause applies to:
> (a) land that is shown as 'Flood planning area' on the Flood Planning Map, and
> (b) other land at or below the flood planning level.
> (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
> (a) is compatible with the flood hazard of the land, and

(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
(c) incorporates appropriate measures to manage risk to life from flood, and
(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the *Floodplain Development Manual* (ISBN 0 7 347 54760) published in 2005 by the NSW Government, unless it is otherwise defined in this clause."

29. It will be apparent that neither the word "floodway" nor the phrase "high flood hazard", being the relevant expressions in pars (g) and (h) of Sch 1, are used in the clause at all let alone to identify the site by either description. Moreover, neither word or phrase is incorporated in any description identifying the Site in cl 7.3. It therefore remains to consider whether "floodway" or "high flooding hazard" are reflected in a like description within cl 7.3 that identifies the Site.

30. The text of each of subclauses (1) and (3) of cl 7.3 certainly addressed development of land, including the Site, that requires assessment of its flooding potential as well as the measures required to address that prospect. In doing so, the phrase "flood hazard" as an aspect of the flooding susceptibility of the land so identified is to be assessed. However, what must be considered is whether the necessity to consider any "flood hazard" in respect of the Site involves a "like" or similar word or phrase to "floodway" or "high flooding hazard" to identify the Site. In my opinion, it does not.

31. Subclause (4) of cl 7.3 invites attention to the 2005 *Floodplain Development Manual* for the understanding of words or phrases used in that clause. I acknowledge that the subclause does not purport to assist when interpreting flood related phrases in Sch 1 to the Seniors SEPP.

However, given that the Schedule addresses flooding by using the specific phrases in pars (g) and (h) and given that the Policy has been amended on a number of occasions, including an amendment to Sch 1 in 2007, two years after the *Floodplain Development Manual* was published, it is reasonable to consider the terms of that Manual when seeking to understand the relevant paragraphs in Sch 1 in the context of cl 7.3 of the LEP.

32. The expression "floodway area" is identified in the Glossary to the 2005 Manual as meaning:

> "those areas of the floodplain where a significant discharge or water occurs during floods. They are often aligned with naturally defined channels. Floodways are areas that even if only partially blocked, would cause a significant redistribution of flood flow, or a significant increase in flood levels."

33. Clearly, the "floodway" is meant to identify that land over which or through which there is a significant and, more likely, concentrated discharge of water in times of flood. So understood, the Site is not identified in cl 7.3 by any description that is similar to "floodway". That expression differs from other expressions, not uncommon in the context of flooding considerations in planning instruments and more apt to that to which cl 7.3 is directed, namely "flood liable" land or "flood prone" land.

34. The term "hazard" is also defined in the Glossary to the Manual as meaning:

> "a source of a potential harm or a situation with a potential to cause loss. In relation to this manual the hazard is flooding which has the potential to cause damage to the community. Definitions of high and low hazard categories are provided in Appendix L."

35. When that explanation of the term "hazard" is added to the phrase "high flooding hazard", the latter phrase is clearly intended to indicate a level of risk to land from flood water that exceeds that from a general description

of land that is described or identified as being "flood liable". Had the latter expression been used in Sch 1 of the Seniors SEPP, the provisions of cl 7.3 of the LEP might well have engaged Sch 1. However, the text used to identify the Site in cl 7.3 is far more benign than either "floodway" or "high flooding hazard", such that neither of them can be said to find a "like description" in cl 7.3 that identifies the Site.

Conclusion

36. For the reasons I have expressed, I am of the opinion that the provisions of the Seniors SEPP apply to development for Seniors housing on the Site, provided the elements of that housing accord with cl 17 of that Policy. The corollary of that opinion is that the Site is not excluded from the operation of the Policy by operation of cl 4.6(a) and Sch 1.

Chambers

10 October 2018

MALCOLM CRAIQ QC