

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

**SITE:** The site compatibility certificate (SCC) application applies to part of Lot 1 DP 1128964 Mullaway Drive, Mullaway (Figure 1, below). The proposed development is to be located on the southern part of the lot.

The lot has a total area of 9.855ha, with the proposed development being on an area of 5.7ha. The site contains a dwelling along the north-western boundary, while the northern portion is being developed for a previously approved seniors living development and a 40-seat restaurant.

The site adjoins the Mullaway village and is approximately 30km by road north of the Coffs Harbour CBD. The land is zoned RU2 Rural Landscape under the Coffs Harbour Local Environmental Plan (LEP) 2013 (Figure 2, next page).

The land adjoining the site to the north is comprised of residential lots of various sizes, Mullaway Primary School and Garby Nature Reserve. To the south are rural-residential holdings, and to the east are a caravan park and the village of Mullaway.

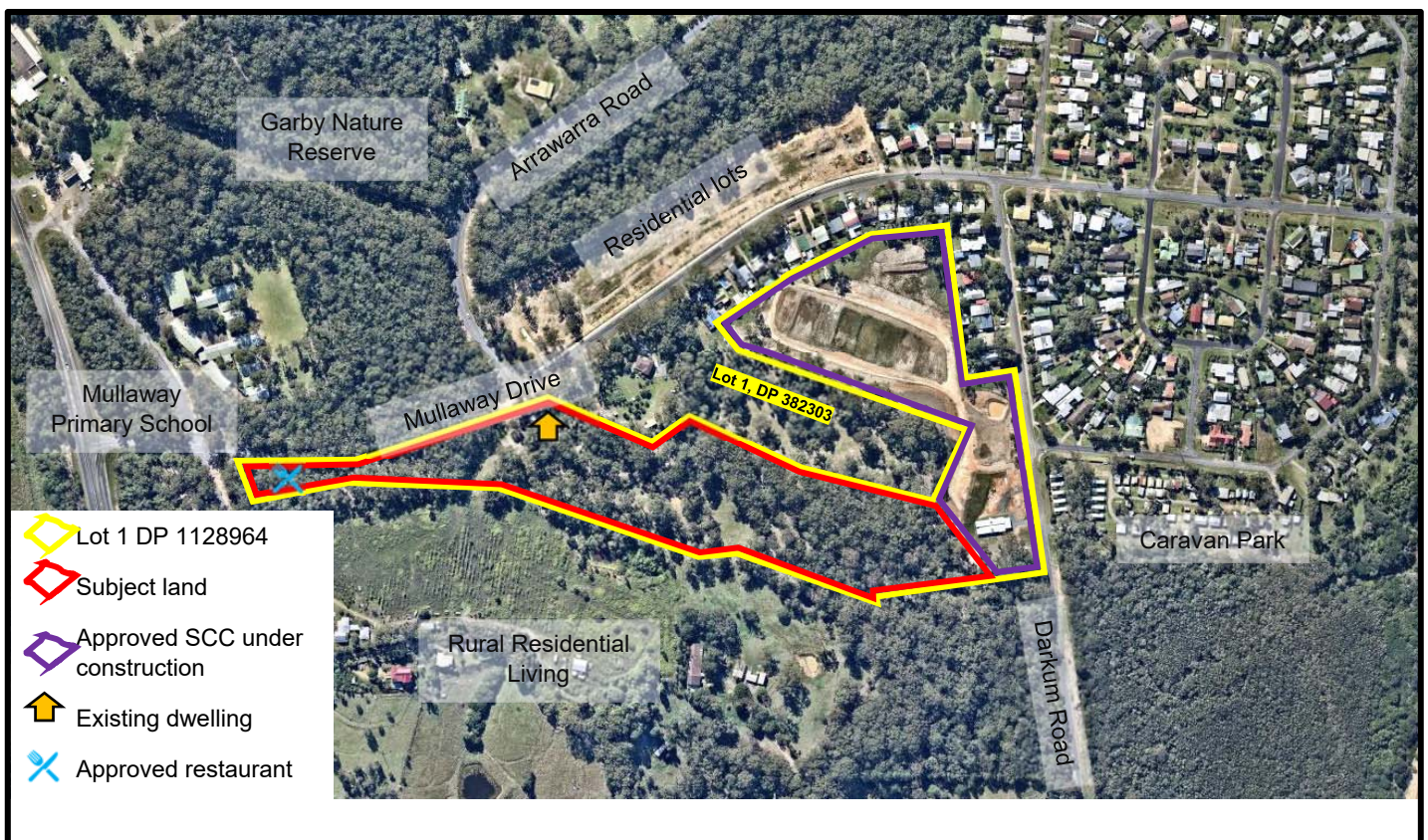


Figure 1: The site (Lot 1 DP 1128964).

**APPLICANT:** GHD Pty Ltd on behalf of Solitary Islands Village Pty Ltd.

**PROPOSAL:** The proposal is for a mixture of seniors housing, including a 64-room residential care facility and serviced self-care housing comprising 32 self-contained dwellings (independent apartments) and 12 three-bedroom self-contained dwellings (independent villas) (Figure 3, next page). The height of the proposed buildings will be generally 2-3 storeys, with the buildings incorporated into the sloping landscape.

The proposal also includes community facilities such as a swimming pool, a health and medical care area, a gym, car parking and a playground. A restaurant, separate to this proposal, has been approved for the site by Coffs Harbour City Council.

**LGA:** Coffs Harbour City

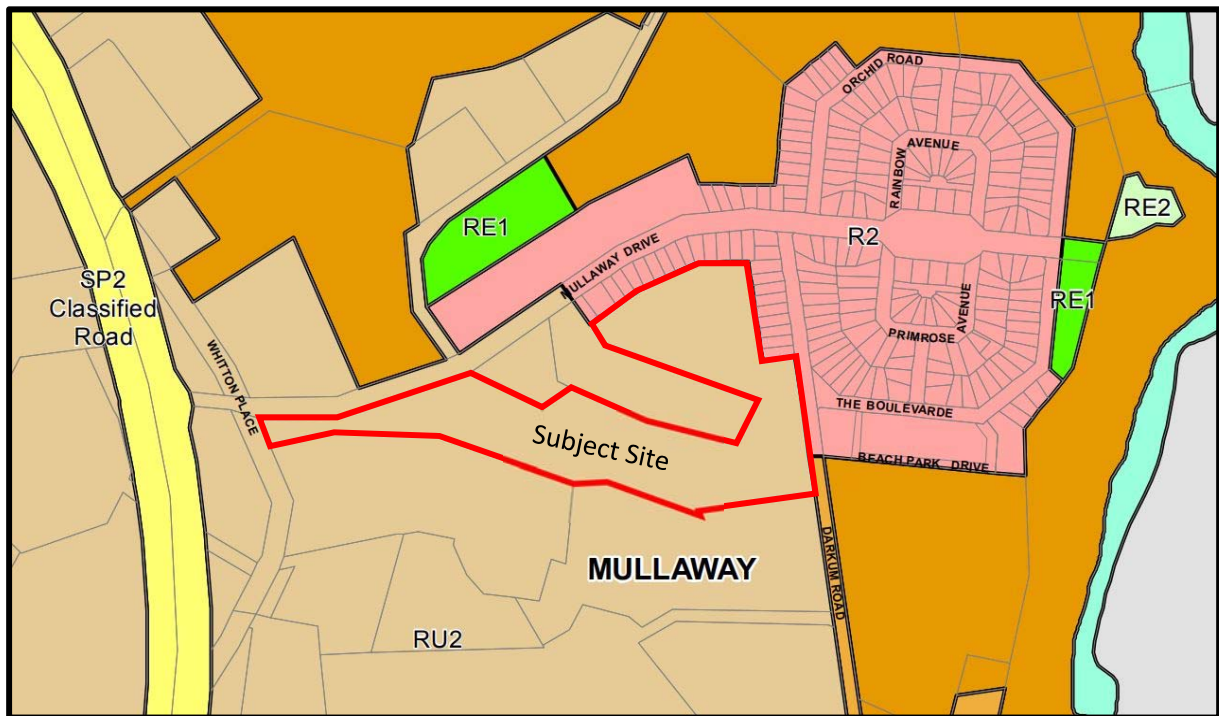


Figure 2. Land zoning.



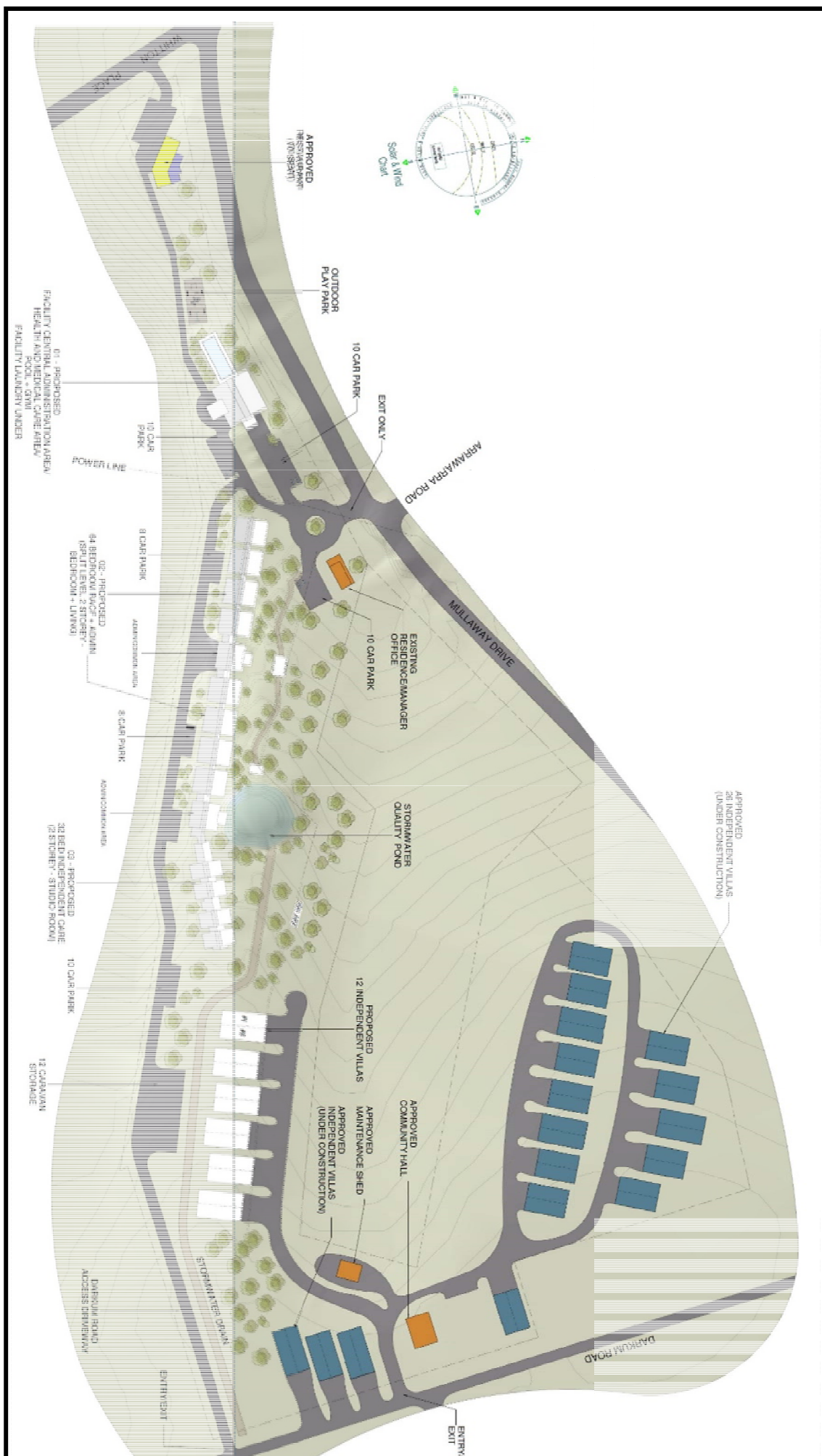




Figure 4: Proximity to coastal wetlands and littoral rainforest and coastal use area.

## PERMISSIBILITY STATEMENT

The subject site is zoned RU2 Rural Landscape under the Coffs Harbour LEP 2013. Seniors housing is not permitted in the RU2 zone under the LEP or on land identified as environmentally sensitive under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP).

The site does not meet the definition of environmentally sensitive land under the SEPP as it is not identified by any of the terms listed in schedule 1 of the SEPP. The land is not within the proximity area to a coastal wetland as mapped under SEPP (Coastal Management) 2018 but is within the coastal use area (Figure 4, above). It is anticipated that the development can meet the heads of consideration under Clause 14 Development on land within the coastal use area of the Coastal Management SEPP.

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

- dwelling houses are permissible in the RU2 Rural Landscape zone under the Coffs Harbour LEP 2013; and
- the site adjoins land zoned for urban purposes, being the R2 Low Density Residential zone.

## PREVIOUSLY ISSUED SITE COMPATIBILITY CERTIFICATE ON THE LAND

On 23 September 2011, an SCC was issued for part of the subject lot (**Attachment C**) and the development is under construction. The SCC applied to the north-eastern portion of the site and was for a self-care housing development called Solitary Islands Retreat comprising 34 single-storey dwellings (two and three bedrooms), a village clubhouse, a maintenance shed, landscaping including pathways, a barbecue area and daybed/pavilion. The subject proposal is considered by the applicants as stage 2 of the development.

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

The approved SCC on the site, as discussed above, is the only SCC that has been considered in this area and within 1km of the site. A cumulative impact study is not required under clause 25(2)(c) as the approved SCC is on the same land. The provisions of clauses 25(2A), 2(B) and 2(D) do not apply

### **CLAUSES 24(2) AND 25(5)**

The panel must not issue a certificate unless the panel:

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

### **CLAUSE 25(2)(C)**

A cumulative impact study has not been prepared as there are no current SCCs on land within a 1km radius of the subject site.

### **COUNCIL COMMENTS**

Council was provided with a copy of the SCC application on 20 December 2018 and again on 14 January 2019. Additional supporting information was forwarded on 10 April. Council provided comments on the proposal on 17 June (**Attachment E**).

Council noted the following issues with the SCC application:

- parts of the subject site are mapped as secondary koala habitat and the Coffs Harbour Koala Plan of Management 1999 (KPoM) applies. Council identified that the development application must satisfactorily address the KPoM regardless of what offsetting arrangements are available under the *Biodiversity Conservation Act 2016* for the clearing of native vegetation.  
  
Council has recommended that the developer be asked to more comprehensively address how the provisions of the KPoM will be met. It is considered that the provisions of Council's KPoM provide adequate protection for koalas and their habitat and that the necessary biodiversity offsetting mechanisms are adequate to ensure there is minimal impact if an SCC is issued;
- a cultural heritage assessment has been prepared for the site and has not been reviewed by Council. Council advised it would refer the matter to the Office of Environment and Heritage (OEH) for its input at the development application stage;
- the proposed development would require a section 100B bushfire safety authority under the *Rural Fires Act 1997* and, as such, any development application for seniors housing would be referred to the NSW Rural Fire Service as either 'integrated development' (if nominated by the applicant) or for its advice under the *Environmental Planning and Assessment Act 1979*;

- Council raised concerns with the proposed road access point off Mullaway Drive, particularly in relation to the distance from the Mullaway Drive/Arrawarra Road intersection and sight distances that may be available from this point. The concept plan shows an 'exit only' access onto Mullaway Drive. Although near the intersection of Arrawarra Road, it is considered that through appropriate design, sight distances and the necessary safety aspects of the access point can be achieved;
- the development will generate the need for water and sewerage services being extended to the site. The site is not covered by Council's Water Supply and Sewerage Servicing Strategy and the proposed development is unplanned and may require changes to Council's infrastructure. In addition, the site is not covered by Council's developer contributions plans; and
- the proposed development will surround Lot 1 DP 382303 to the north and it may be a source of land use conflict if it is approved. A dwelling is also located on the site. It is considered that the proposed development is not inconsistent with the adjacent dwellings and that potential land use conflict with the proposed seniors living development will be minimal.

### **SUITABILITY FOR MORE INTENSIVE DEVELOPMENT**

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

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

The subject site is adjacent to the village of Mullaway, 30km north of Coffs Harbour. The surrounding area is characterised by low-density village-style housing, areas of natural vegetation and rural-residential development.

The site has undergone clearing associated with cattle grazing and other agricultural activities. The clearing of further vegetation to achieve adequate buffers for bushfire protection will need to be undertaken. The proponent proposes to offset any vegetation losses. Further assessment of the biodiversity values of the land will be required at the development application stage. This will include a biodiversity development assessment report to be prepared by accredited assessors in accordance with the biodiversity assessment method.

The approved development application for seniors housing on the site led to clearing of land that was offset by the protection of vegetation on a parcel of land nearby to the south. The proponents have indicated they will be seeking to follow a similar process to offset vegetation losses at the subject site and there are areas of land that could provide appropriate credits through the offsetting process. The biodiversity development assessment report to be prepared at the development application stage will determine the necessary actions required.

The site can be serviced with water and sewer. However, further investigation will be required into any required upgrades to these services to augment the system's capacity.

Local shopping facilities can be accessed from the site via public transport, with a bus stop at the nearby local shop. A community bus to service the development is also proposed to complement the existing transport services.

The SCC application does not mention any heritage associated with the land. The application that was approved in 2011 identified that Indigenous stone tools were found along the northern boundary of the lot. At the time, no development was



proposed in that area. The proposed site plan for this application includes car parking and independent living villas near where the stone tools were found. It is recommended that if an SCC is issued, further investigation into the proximity and significance of the Indigenous artefacts is undertaken and included in any development application lodged for the development of the land.

The land is not identified as being within the growth area boundary in the *North Coast Regional Plan 2036* but is generally consistent with the goal of providing housing choice and lifestyle options. The proposal is considered to be consistent with Direction 23: *Increase housing diversity and choice* of the plan as it will provide housing for the region's changing demographics and ageing population.

On the understanding that the clearing of native vegetation can be offset and the impact on Indigenous heritage at the site is addressed, it is considered that the site is suitable for more intensive development.

## **COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES**

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

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

#### Site constraints

##### *Flora and fauna*

The subject site has been modified from its natural state by ongoing rural management. Grazing of livestock and the clearing of some parts of the site have contributed to its diminished quality as a diverse ecosystem.

As detailed in the SCC report prepared on behalf of the proponent (**Attachment A1**), it is likely that up to 5ha of vegetation would be modified as part of this proposal, with 2.4ha being cleared and the remainder selectively cleared to ensure compliance with required asset protection zones and bushfire management. This clearing will require further investigation, which the proponent has indicated will occur at the development application stage if an SCC is issued.

The previously approved SCC on the site relied on a biobanking offset site at the southern end of Darkum Road, approximately 500m to the south of the site. The proponents have indicated that this site has spare capacity for further offset credits should they be required. Alternatively, credits could be sourced from a different location to enable the clearing of land for bushfire prevention.

The preparation of a biodiversity development assessment report in accordance with the biodiversity assessment method would be necessary at the development application stage if an SCC is issued. OEH would be consulted on the proposed offsetting arrangements at that time.

While the current SCC application does not address the subject, the previously approved SCC environmental assessment identified that native vegetation on the site is included in the endangered ecological community of Subtropical Coastal Floodplain Forest. As such, the land is mapped as having high environmental value in the *North Coast Regional Plan 2036* (Figure 5, next page). The extent, quality and

ongoing management of that ecological community will be identified in the biodiversity development assessment report.

The site has been identified under the Coffs Harbour KPoM as having secondary koala habitat. The objective for this habitat type within the management plan is to minimise further loss, fragmentation or isolation of secondary koala habitat and the creation of barriers to koala movement and, where appropriate, to encourage restoration of koala habitat. The plan stipulates that a consent authority shall not grant consent to the carrying out of development on areas identified as secondary koala habitat that will remove the following tree species: tallowwood; swamp mahogany; flooded gum, except when part of a forest plantation; Forest Red Gum; and small-fruited grey gum unless the development will not significantly destroy, damage or compromise the values of the land as koala habitat.

Some of the tree species listed above are located on the site. The proponent has indicated that the removal of koala habitat and the impact on koalas generally will be considered through the biodiversity offset scheme. The Coffs Harbour KPoM also applies to the site and will need to be complied with by any future development application. It is recommended that if an SCC is issued, information on how the development complies with Council's KPoM be provided to Council as the determining authority of the development application for the proposed seniors living proposal.

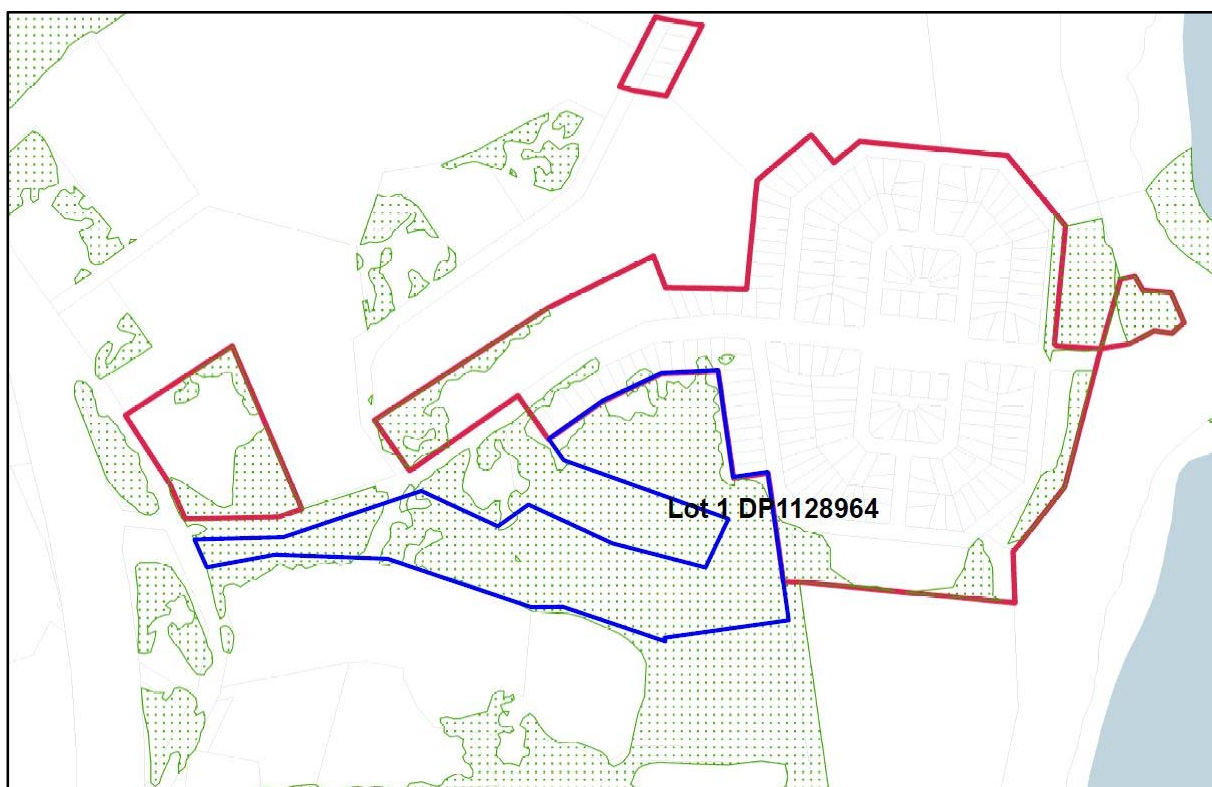


Figure 5: Growth area boundary and high environmental value land.

### *Bushfire*

The site is within a designated bushfire-prone area. Clearing of the land will be required to enable the development to achieve appropriate buffers and asset protection zones as required by the *Rural Fires Act 1979*. Supplementary information (**Attachment A2**) to this application includes modelling that identifies there is sufficient land area within Lot 1 to provide the required asset protection zones for the



development as would normally be required at the development application stage, pursuant to obtaining a Bush Fire Safety Authority from the NSW Rural Fire Service for the development.

#### *Indigenous significance*

Artefacts of Indigenous heritage have been identified on the subject site. A cultural heritage due diligence assessment was prepared in 2012 to support the development application for the previously approved seniors living development (**Attachment A3**). That report addressed the entire lot and concluded that the seniors housing development could proceed with caution due to the expectation that the development is unlikely to impact on Aboriginal cultural heritage on the site.

The proposed development subject to this SCC will be in closer proximity to the identified artefact and may impact on the item.

OEH was contacted for input into the consideration of this application and advised that part of the site is within a known Aboriginal cultural heritage landscape and there is a registered AHIMS (Aboriginal Heritage Information Management System) artefact site within approximately 35m of the subject site. The AHIMS registered site is at the western end of the subject site on the northern side of Mullaway Drive.

The proposed administration centre, pool, gym, playground and roads/car parks shown on the concept plan would encroach within the known Aboriginal cultural heritage landscape. The restaurant that has been approved on the site is also located within this area. It is considered that despite the concept design's encroachment within this area, the development of the land would still be able to occur to minimise impacts on this cultural landscape. Consultation with OEH and the Indigenous community would be required prior to a development consent being issued.

It is recommended that if the SCC is supported, further investigation into the impacts on cultural heritage is undertaken to support the development application.

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

The subject site is zoned RU2 Rural Landscape under the Coffs Harbour LEP 2013 and is not within the growth area boundary for Mullaway in the North Coast Regional Plan. This would indicate there are no immediate plans for any different land uses other than those already permissible on the land. The proximity of the site to the village makes it attractive for further urban development.

The previous applications and various approvals for eco-tourist accommodation, a restaurant and the seniors living development on the subject land indicate that the site is suitable for further development upon consideration of potential impacts and constraints.

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

##### Transport services

A regular bus service is available in Mullaway that is part of a network that services the surrounding area and provides access to major shops, banking services and

other retail and commercial uses in Woolgoolga (5km), Coffs Harbour (30km) and Grafton (55km). The bus service runs adjacent to the subject land and the closest bus stop is at the Mullaway General Store, approximately 450m from the entry/exit point on Darkum Road (Figure 6, below).

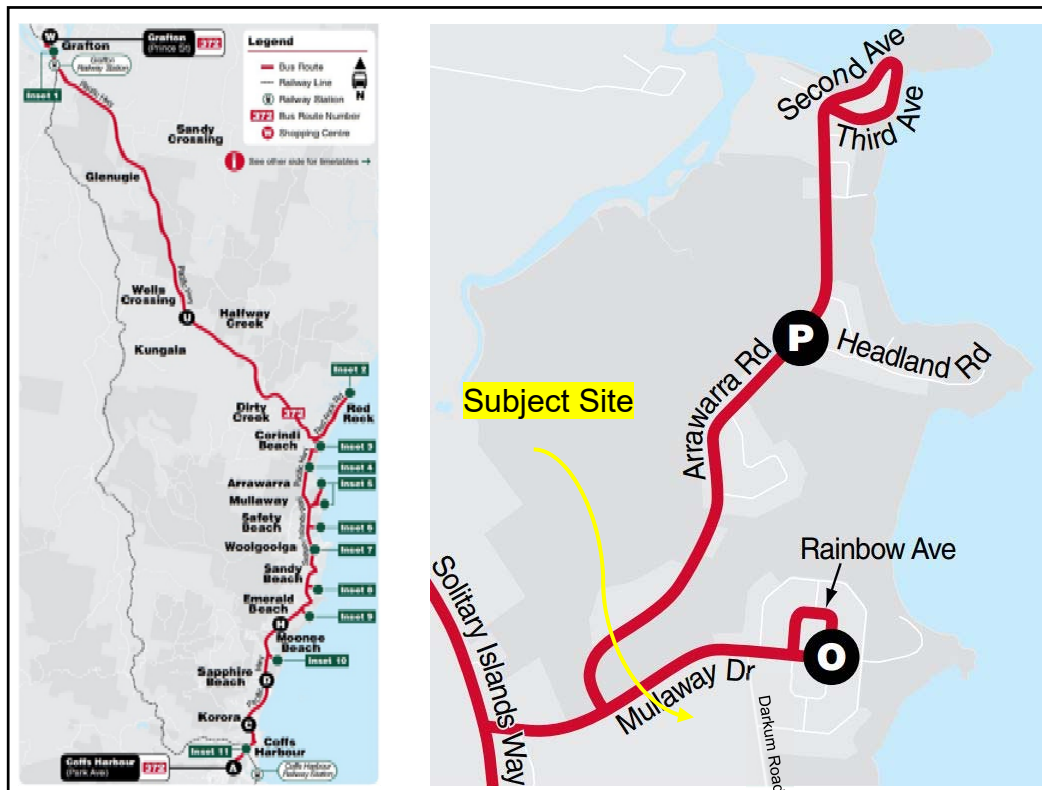


Figure 6: Bus routes.

The SCC application states that the bus company servicing the area has indicated it could extend its service to include the approved seniors living development under construction. The Seniors Housing SEPP requires a transport service to be within 400m of the proposed development. The application states the operator of the development would provide a suitable bus and other domestic-scale vehicles to provide supplementary transport services to meet the needs of residents. This would meet the requirements of clause 26(2)(c) of the Seniors Housing SEPP and would be part of the conditions on a development consent if issued.

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

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

#### Retail, community and medical services

The SCC application confirms that the proposed development is for serviced self-care housing that consists of self-contained dwellings where the following services are available on the site: meals; cleaning services; personal care; and nursing care. The proposed development will also include communal facilities such as a swimming pool, a gym, caravan storage and a playground. A restaurant has already been approved on the site and is shown at Figures 1 and 3 (pages 1 and 3).

Approximately 450m from the subject site is the Mullaway General Store, which provides basic shopping essentials and post office services. Woolgoolga (5km south) and Coffs Harbour (30km south) provide other retail facilities and a variety of community services including banking, sporting, entertainment and professional services.

Medical services are available in Woolgoolga. Coffs Harbour has a major referral hospital that services the Mid North Coast region and provides general medicine, surgical and emergency services.

#### Infrastructure provision

Infrastructure including water, sewer, electricity and telecommunications are available to the development site. An assessment of the capacities of these services to manage the increase in development (including the restaurant) is proposed at the development application stage.

The development is likely to have an impact on traffic movement along Darkum Road. Modelling indicates the development may generate an additional 108-216 vehicle movements per day. This would create an increase of 13% in vehicle movements per hour along Mullaway Drive. The expected increases in traffic are not anticipated to impact on the service level of Mullaway Drive or Darkum Road. Council did not address this issue in its response to this application.

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

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

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

The adjacent village of Mullaway is mostly dominated by single-storey dwellings and a caravan park, which is opposite the site on Darkum Road. The development would include single-storey buildings consistent with the previously approved seniors living development on the site and two-storey buildings to a height of 8.5m. The concept plans (Figure 7, next page) show the two-storey buildings using the slope of the land to reduce the bulk and scale of the development within the natural contours of the land. This will minimise the visual impacts of the development from Mullaway Drive and Darkum Road.





Figure 7: Concept plan images.

The built form and character of the buildings shown in the concept plan are generally consistent with modern coastal architecture and are considered to be consistent with surrounding areas.

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

The *Native Vegetation Act 2003* has been repealed and does not apply to the proposal.

Native vegetation will be cleared if the proposed development is approved to ensure compliance with bushfire legislation. The site has been modified through agricultural processes and previous clearing activities. The site is also identified as having secondary koala habitat. This would trigger the need for consideration under the Coffs Harbour KPoM and the *Biodiversity Conservation Act 2016* for the potential environmental impacts. The SCC application indicates that offsetting the loss of native vegetation can be undertaken and will be further investigated at the development application stage.

It is likely that the clearing of native vegetation to ensure compliance with the relevant bushfire protection legislation could be suitably offset through the biobanking process.

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

A cumulative impact study is not required as there are no undetermined applications or issued SCCs within a 1km radius of the site. The SCC issued previously on this land and being developed does not trigger the need for a cumulative impact study to be undertaken.

## **CONCLUSION**

The site is considered suitable for seniors living and more intensive development due to its proximity adjacent to the village of Mullaway and the location of adjoining previous approvals for seniors living and an eco-tourist facility on the land. While there are constraints on the site, they would not preclude suitably designed development, and it is considered that it would be more appropriate for the consent authority to address these issues at the development application stage.

A development application for the proposed seniors living facility must address the following matters to Council's satisfaction:

- bushfire protection;
- Aboriginal cultural heritage;
- native vegetation clearing;
- koala management;
- infrastructure provision; and
- traffic generation.

## **ATTACHMENTS**

Attachments A1–A3 – SCC application package

Attachment B – SCC additional information

Attachment C – Previous SCC approval

Attachments D1–D2 – Previous SCC application report

Attachment E – Council comments

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