

COUNCIL ASSESSMENT SUPPLEMENTARY REPORT

<b>Panel Reference</b>	PPSHCC-127
<b>DA Number</b>	DA2022/0214
<b>LGA</b>	MidCoast Council
<b>Proposed Development</b>	<p>Manufactured Home Estate, comprising:</p> <ul style="list-style-type: none"> <li>• Filling and regrading of the land to accommodate 88 manufactured home sites together with a community club house and recreation facilities plus a maintenance shed;</li> <li>• Internal road works and parking for 18 vehicles provided in three separate locations through the development;</li> <li>• Extension of the public road network from Chapmans Road to the entry of the estate;</li> <li>• Landscaping of the site;</li> <li>• Retention of vegetation over the eastern part of the site; and</li> <li>• Provision of necessary services and infrastructure.</li> </ul>
<b>Street Address</b>	<p>Lot 100 DP 1286524</p> <p>40-80 Chapmans Road TUNCURRY NSW 2428</p>
<b>Applicant/Owner</b>	Allam MHE #3 Pty Ltd (at the time of lodgement MidCoast Council was the owner of the land)
<b>Date of DA lodgement</b>	21 March 2022
<b>Total number of Submissions</b> <b>Number of Unique Objections</b>	Nineteen
<b>Recommendation</b>	<b>Refusal</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Pursuant to Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 the proposal is Council related development over \$5 million, as MidCoast Council was the owner of the land at the time the application was made.
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning and Assessment Act 1979</i></li> <li>• <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>State Environmental Planning Policy (Housing) 2021</i></li> <li>• <i>Great Lakes Local Environmental Plan 2014</i></li> <li>• <i>Great Lakes Development Control Plan 2014</i></li> <li>• Great Lakes Section 94 Development Contributions Plan - Great Lakes Wide</li> <li>• Great Lakes Section 94 Development Contributions Plan - Forster District</li> </ul>

<b>List all documents submitted with this report for the Panel's consideration</b>	Attachment A – Original Council Assessment Report Attachment B – Additional Information Letter Attachment C – Development Plans Attachment D – Addendum to Detailed Site Investigation Attachment E – Addendum Traffic Impact assessment Attachment F – Stormwater Management Plan Attachment G – Groundwater Study Attachment H – Great Lakes DCP 2014 – Part 16 Compliance Attachment I – Bushfire Evacuation Plan Attachment J – Flood Evacuation Plan Attachment K – Reasons for Refusal
<b>Clause 4.6 requests</b>	Nil
<b>Summary of key submissions</b>	Traffic / Parking Contamination Stormwater Compatibility
<b>Report prepared by</b>	Bruce Moore, Coordinator Major Assessment MidCoast Council
<b>Report date</b>	N/A

#### **Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

**Yes**

#### **Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

#### **Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not applicable**

#### **Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**No**

#### **Conditions**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**Yes**

## EXECUTIVE SUMMARY

The subject application ((DA2022/0214) for a Manufactured Home Estate at Lot 100 DP 1286524 (No 40-80) Chapmans Road, Tuncurry was reported to the Hunter Central Coast Regional Planning Panel (HCCRPP) for determination on 30 May 2023.

This supplementary report provides further information in response to matters raised during the determination meeting. The supplementary report should read in conjunction with the original assessment report.

After review of the further information the application is not considered satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

It is recommended that the Panel determine Development Application 2022/0214 for the establishment of a Manufactured Home Estate at Lot 100 DP 1286524 (No 40-80) Chapmans Road Tuncurry, pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, by refusing to grant consent for the reasons contained in this report at Attachment K.

## PREVIOUS PANEL CONSIDERATION OF DEVELOPMENT APPLICATION

The HCCRPP met on 30 May 2023 and considered a report in relation to the application. The assessment report presented to the panel recommended refusal of the application for the following reasons:

- 1. The proposed development fails to satisfy the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021 and demonstrate that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose of the Manufactured Home Estate.*
- 2. The potential traffic impacts on the state and local road network have not been adequately identified and appropriately mitigated.*
- 3. The proposal has not demonstrated the proposed stormwater arrangements are satisfactory in relation to on-site retention and water quality.*
- 4. The proposed development requires works to be carried out on adjoining land (filling and stormwater works). The consent of the adjoining landowner has not been provided.*
- 5. The proposal has not demonstrated compliance with the relevant requirements of the Great Lakes DCP 2014 – Part 11 Water Sensitive Design and Part 16 Site Specific Development Controls.*
- 6. The proposed development is not considered to be in the public interest in accordance with Clause 4.15(e) of the EP&A Act*

After deliberation the Panel resolved to defer determination of the matter. *‘The Panel noted that the Council’s assessment report raised issues with the adequacy of the information lodged including information critical to the assessment of the application.’*

Ultimately, *‘the Panel determined that all information critical to the assessment of the application and to address the draft reasons for refusal should be provided in a timely manner to enable a full assessment and final determination’.*

The panel further advised that *‘to ensure the application progresses in a timely manner the Panel directs that:*

- 1. Council officers to meet with representatives of the applicant in the weeks commencing 5 June 2023 to discuss the outstanding issues.*
- 2. The applicant must upload a complete package of updated technical reports and supplementary material relied on in support of the application to the Planning Portal by 15<sup>th</sup> July 2023.*
- 3. ‘The Council is requested to upload a supplementary report to the Planning Portal by 19<sup>th</sup> August 2023.*
- 4. When the supplementary report is received the Panel will determine the matter electronically.’*

## **RESPONSE TO DEFERRAL**

In response to the deferral, Council officers met with representatives of the applicant and the applicant subsequently submitted further information critical to assessment of the application and to address the draft reasons for refusal.

These issues identified in the draft reasons for refusal are addressed in detail below:

### **1. State Environmental Planning Policy (Resilience and Hazards) 2021**

#### **Chapter 4 Remediation of land**

Under section 4.6 of the SEPP, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

The site has historically been used for the stockpiling of materials and has been partly filled and there are a number of stockpiles of various materials such as rock aggregate, road base, gravel, vegetation and foreign materials (concrete, treated pine roof sheeting etc.) located in the central and eastern parts of the site.

A Detailed Site Investigation was originally prepared by Regional Geotechnical Solutions (RGS), titled ‘Contamination Assessment Proposed Manufactured Home Estate (MHE) 40-80 Chapmans Road, Tuncurry’ (Report No. RGS03137.1-AC), dated 14 November 2022. The DSI concluded that ‘the site soils and stockpiles of fill are suitable to remain onsite from a contamination perspective’, however the DSI did not provide or address the following:

1. A Copy of the groundwater monitoring well logs have not been provided;
2. The DSI found that ‘the groundwater quality results indicated that there are elevated concentrations of heavy metals at the site’, however concluded that it is likely that ‘the elevated heavy metals are due to naturally occurring processes associated with the underlying hydrogeology and hydrogeological conditions’. It was noted that the arsenic exceeded the recreational human health screening criteria however potential exposure

- pathways presented in the DSI did not identify the potential for bore water to be used within the proposed MHE, nor other potential exposure pathways to the groundwater.
3. The DSI recommends that 'some ongoing periodic groundwater monitoring be undertaken to identify trend changes in groundwater quality', however the report provides no specific information in relation to when this monitoring is to occur, who is to undertake the monitoring, who will monitor the results or what action should be taken if appropriate trigger values are exceeded?
  4. The DSI found that stockpiled material present near the entrance of the site had previously been tested and results of the testing found that the material meets The Recovered Aggregate Exemption (2014). The DSI concluded that these materials could be re-used in future road making activities on the site, however the DSI test pit logs indicate that there are additional areas of fill which contain asphalt and road base. The DSI provides no information or recommendations as to how the extent of fill (which contains material that is not suitable for residential use in accordance with EPA Waste Order and Exemptions) should be delineated, separated and used on site or disposed of.

It was considered that the original DSI (and the application) did not provide sufficient detail to demonstrate that the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose of the Manufactured Home Estate.

In response to the deferral determination an addendum to the DSI was prepared by Regional Geotechnical Solutions dated 29 June 2023 (RGs03137.1AD). Notably the addendum includes:

1. logs of the boreholes drilled for the installation of groundwater monitoring wells;
2. measures to preclude the use of groundwater within the development and to minimise contact/exposure during construction;
3. details of on-going groundwater monitoring events (GME's); and
4. confirmation the stockpiled material that is not suitable for residential land use 'can be identified, separated *and stockpiled during earthworks and re-used onsite in road construction or landscaping works, or alternatively be disposed of to land fill as General Solid Waste*'.

It is considered that the addendum to the DSI has demonstrated, that subject to appropriate conditions, the site can be made suitable for the proposed residential land use with regard to the presence of soil contamination.

**2. *The potential traffic impacts on the state and local road network have not been adequately identified and appropriately mitigated.***

The original assessment of the application found that the potential traffic impacts on the state and local road network have not been adequately identified and appropriately mitigated and more specifically:

- The traffic assessment models the development on a seniors living development with 2.1 daily vehicle trips per dwelling. The Statement of Environmental Effects submitted with the application makes no mention that the MHE is a seniors living development and assumes daily vehicle trips will be in the order of 3.6 per dwelling (noting that this is below trip generation for a typical dwelling). No clarification in the anomaly has been provided.
- The traffic assessment makes no comment on the likelihood of residents using Grandis Drive to access the Lakes Way where a signalised intersection exists.

- While the development provides a sufficient number of parking spaces for visitors, the visitor spaces are not accessible with access being prevented by way of a 'boom' gate. The effect of this is that visitors will be required to park off site within the public road network.

The traffic assessment provides no comment on the availability of on-street parking.

- The report fails to address the increased traffic movements and impacts on the existing intersection of Chapmans Road and The Lakes Way. This includes any required upgrades or acceleration in the timeline required for the roundabout included in Council's current contribution plan.
- The report has not provided consideration to the requirements of upgrading Chapmans Road to an urban standard. This includes extension of existing infrastructure to and upgrading of the frontage to the development.

In response an Addendum Traffic Impact Assessment was prepared by Intersect Traffic, dated 4 July 2023.

Notwithstanding the submission of the addendum provided to the, it is considered that the report does not adequately address the impacts of the development for the following reasons:

- **The traffic assessment models the development on a senior's living development with 2.1 daily vehicle trips per dwelling.**

The Addendum TIA has provided justification to support use of traffic generation rates for a Seniors living Development for assessment of the Manufactured Home Estate and it is accepted that the use of the MHE and behaviour of occupants will not be dissimilar to that of a self-care dwelling. As there is no industry study for vehicle trips per dwelling in a Manufactured Home Estate, use of data for the similar development type, Seniors Living, is reasonable. Accordingly, trip generation will be accepted at 2.1 daily vehicle trips per dwelling.

- **The traffic assessment makes no comment on the likelihood of residents using Grandis Drive to access the Lakes Way where a signalised intersection exists.**

The Addendum TIA has provided assumptions and modelling advising that the development will have no impacts on Grandis Drive based on the current service level and width of the road. Grandis Drive & Caley Crescent are local roads with a desirable environmental design limit for 200 vehicle trips per hour. Based on Data from TfNSW peak flows for Grandis Drive are considered to be:

- AM peak = 84 vtp; and
- PM peak = 124 vtp.

The Addendum TIA assumes that approximately 1/3 of vehicle trips associated to the Manufactured Home Estate will use Grandis Drive & Caley Crescent. This equates to an additional 9 VTPH in the AM peak and 4 VTPH in the PM peak and does not result in the desirable environmental capacity of the road being exceeded.

Given the demographics of the proposed MHE and congestion of The Lakes Way / Chapmans Road intersection, particularly in the AM peak, it is likely that more than 1/3 of vehicle trips attributable to the MHE will utilise Grandis Drive & Caley Crescent. However, even if all vehicle trips attributable to the MHE used trips utilise Grandis Drive & Caley Crescent the desirable environmental capacity of the road will not be exceeded.

Accordingly, use of Grandis Drive / Caley Crescent by residents of the estate will not result in the desirable environmental criteria of the road being exceeded nor are there likely to be any significant adverse impact on existing residents.

- **While the development provides a sufficient number of parking spaces for visitors, the visitor spaces are not accessible with access being prevent by way of a 'boom' gate. The effect of this is that visitors will be required to park off site within the public road network.**

The addendum states that 'whilst visitors to the site would be able to be provided a pass code to raise the gates on request from the office or the residents they are visiting it is agreed there would be benefit to the development to have some visitor car parking within the site but in an area that does not require the visitor to enter through the security gates allowing casual visitors or potential future residents to park out of the way when enquiring at the village office / reception. Therefore, Allam Property have amended the plans to provide five (5) visitor car parks within the site adjacent to the secure village entrance accessed directly off the new collector road stub that will be constructed as part of the development works for the access to the site'. The location of the additional parking is shown in Figure 1.

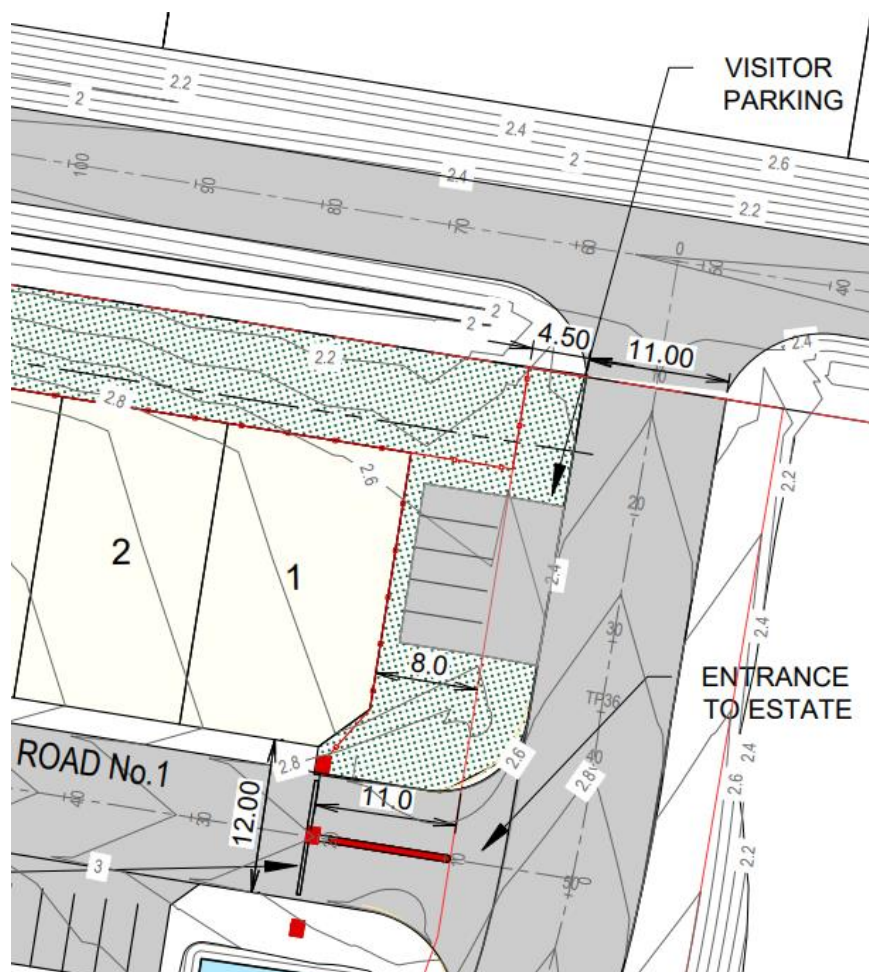


Figure 1: Street Visitor Parking

While the addendum and revised site plan provide for five (5) parking spaces that are accessible without going through the boom gate, the addendum does not address or provide any commentary on the impact of parking on the existing and future public road network.

The alignment of the proposed visitor spaces is such that vehicles will be required to reverse out onto the 'stub' road. The requirement for reversing movements in close proximity to the intersection of the 'stub' road with Chapmans Road is considered to create unsafe vehicle movements. This issue will only be further exacerbated at the time the 'stub' road is continued to provide further access to future residential development.

The location of the proposed parking spaces as shown in Figure 1, whilst appearing to be within the Road Reserve they in fact sit behind the boundary line. This creates an illusion of public parking whilst being located on private property. In addition to these comments and considering the future extension of the proposed road to the south, the conflict associated with the reverse movements from these parking spaces and proximity to Chapmans Road is not supported. This issue will only further be exacerbated in the future once the extension is completed and future residential development to the south is realised.

Further to the above, the parking spaces are proposed within the landscaped setback to the dwelling sites (site 1). The original assessment report incorrectly stated that all dwelling sites were provided with a minimum 10m setback from road frontages, whereas the dwelling sites are actually proposed with a 10m setback. The Local Government Regulations permit a reduction in the setback where the sites are to be suitably screened and landscaped. The original application proposed suitable landscaping and screening to support the variation. The current proposal removes this landscaping / screening and replaces it with carparking. As suitable landscaping / screening is not to be provided the variation will no longer be supported.

Accordingly, the application as submitted (and amended) does not make suitable provision for accessible visitor parking spaces and does not adequately address the impacts of parking on the (existing and proposed) public road network.

- **The report fails to address the increased traffic movements and impacts on the existing intersection of Chapmans Road and The Lakes Way. This includes any required upgrades or acceleration in the timeline required for the roundabout included in Council's current contribution plan.**

The addendum does not provide any comment on any required upgrades or acceleration in the timeline required for the roundabout included in Council's current contribution plan.

The addendum provides comment that *'In terms of likely through traffic on Grandis Drive in the AM peak, 30 of 85 vehicles turned right into Grandis Drive (35%) and in the PM peak 18 of 54 vehicles (33%) turned right into Grandis Drive'. 'Therefore, the development is likely to result in an additional 9 vtpm on Grandis Drive in the AM peak and 4 vtpm on Grandis Drive in the PM peak'.*

The also states that *'it is generally accepted by traffic engineering experts that a traffic volume increase of less than 10 vtpm on an intersection will not adversely impact on the operation of the intersection and result in any serious loss of level of service for motorists using these intersections'.*



The addendum shows that the development will increase use of The Lakes Way / Chapmans Road intersection by more than 10vtpd for both the AM and PM peak.

Whilst modelling has been provided for the development, it does not adequately demonstrate that the acceleration of construction of the roundabout at the intersection of The Lakes Way & Chapmans Road or other upgrades are required. It has also not been demonstrated that the existing queuing associated with southbound traffic on The Lakes Way will have an impact on vehicles attempting to turn right (south) onto The Lakes Way from Chapmans Road.

- **The report has not provided consideration to the requirements of upgrading Chapmans Road to an urban standard. This includes extension of existing infrastructure to and upgrading of the frontage to the development.**

Commentary has been provided regarding upgrades to Chapmans Road which we would deem resolved and can be facilitated post determination through an approval under Section 138 of Roads Act 1993.

It is considered that the addendum to the Traffic Impacts Assessment and revised plans have not suitably demonstrated that the potential traffic impacts on the state and local road network have been adequately identified and appropriately mitigated. Furthermore, the amendments proposed by the introduction of accessible visitor parking have resulted in the development being non-compliant with site setback requirement prescribed by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

**3. *The proposal has not demonstrated the proposed stormwater arrangements are satisfactory in relation to on-site detention and water quality.***

The original assessment of the application found that satisfactory arrangements had not been provided for the detention, treatment and disposal of stormwater from the site.

The applicant has provided modelling and revised plans which have addressed Council's concerns relating to the detention volume required.

An updated MUSIC model was also provided which suitably addressed all of the technical modelling issues previously identified and as a result, the size of the western bioretention basin increased from 250m<sup>2</sup> to 550m<sup>2</sup>. The eastern bioretention basin area remained the same at 160m<sup>2</sup>, the sizing of these systems is considered acceptable.

Importantly, the location of the basins (water quality and detention) are as originally proposed and require no further adjustment to the layout of the development.

The revised stormwater strategy (July 2023) Appendix C proposes an alternative approach to the design of the western bioretention basin. The plans indicate that the biofilter is now proposed to be separated from detention and perched above the base of the detention basin. The proposed biofilter media surface level has been raised from 1.0m AHD to 1.8m AHD. This will now enable the underdrains from the biofilter to be connected by gravity to the surface of the detention basin (1.0m AHD). The changes to the design also indicate that the bioretention basin will be lined on the base and sides. This is an improvement in design as the base of the bioretention no longer infiltrates into the groundwater and therefore the risk of groundwater mounding and reduced and as such infiltration rates within the bioretention are of lower concern. Preliminary groundwater monitoring

and modelling suggest that ground water levels (during dry conditions) are within 200mm of the natural surface and the base of the detention basin. It is anticipated that this detention basin will be impacted by high ground water levels and backwater from the detention outlet under wetter climatic conditions and future sea level rise scenarios. For this design to be considered acceptable, underdrain outlet level from the proposed biofiltration basin shall be raised as high as practical within the landscape (a minimum of 200mm) to reduce the risk elevated surface water levels in the adjacent detention basin impeding drainage.

No designs have been provided for the eastern basin, however following review of indicated finished surface levels and drainage design levels it is deemed possible that bioretention in this location will be feasible.

The proposed approach to stormwater management is generally acceptable however concern remains in relation to the discharge of stormwater from the site and the impact on downstream properties.

While owners' consent has now been provided by the downstream property owner the following issues remain:

- The adjoining land (based on Council's mapping system) is relatively flat with no defined drainage channels.
- The proposal and owner's consent does not include any details of where the concentrated flow will travel, or the impacts on the downstream lots.
- To mitigate the risk associated with the lack of information would require a Positive Covenant to be registered over the adjoining lot for stormwater disposal.
- It is not deemed reasonable without details being provided that such a restriction be imposed without fully understanding the impacts on the adjoining property.

It is considered that the development as proposed fails to appropriately demonstrate that suitable arrangements have been made for the disposal of stormwater.

**4. *The proposed development requires works to be carried out on adjoining land (filling and stormwater works). The consent of the adjoining landowner has not been provided.***

Consent from the owner of adjoining Lot 11 DP 615229 (No.82) Chapmans Road, Tuncurry has been provided.

**5. *The proposal has not demonstrated compliance with the relevant requirements of the Great Lakes DCP 2014 – Part 11 Water Sensitive Design and Part 16 Site Specific Development Controls.***

The revised stormwater strategy has demonstrated compliance with the relevant requirement of the Great Lakes DCP 2014 – Part 11 Water Sensitive Design and Part 16 Site Specific Development Controls.

**6. *The proposed development is not considered to be in the public interest in accordance with Clause 4.15(e) of the EP&A Act***

The original assessment of the application found that while the provision of additional housing was in the public interest, the unknown impact on the traffic network, inadequate stormwater

management and adverse impacts on adjoining land (stormwater discharge) was not in the public interest.

While information has been provided to address several concerns, there remains an unknown impact on the traffic network, inadequate measures for the disposal of stormwater and issues with streetscape presentation due to the loss of landscaping buffers. Accordingly, the development is not considered to be in the public interest.

## **DISCUSSION**

The application for a manufactured home estate on the subject land was lodged with Council on 21 March 2022.

During assessment of the application numerous issues have been identified and the proposal and/or supporting documentation has been amended several times. This has resulted in a development that generally responds well to the constraints of the land and one that is considered suitable for the land, however the information provided to date has not suitably demonstrated that the development will not have an adverse impact with regards to vehicle movements and the disposal of stormwater. Further to this, recent changes to the plans have adversely impacted on the street presentation of the development and resulted in non-compliance with the dwelling site setback requirements.

The issue of setbacks could be resolved by a condition of consent deleting one of the sites, however the concerns with stormwater and traffic require resolution before the matter could be favourably determined. In the absence of these matters being suitably resolved support can not be provided to the development.

## **CONCLUSION**

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions, the proposal is not considered in the public interest.

## **RECOMMENDATION**

It is recommended that Development Application 2022/0214 for the establishment of a Manufactured Home Estate at Lot 100 DP 1286524 (No 40-80) Chapmans Road Tuncurry, be refused for the reasons contained in Attachment K.