

JOINT REGIONAL PLANNING PANEL (Hunter and Central Coast)

Council Assessment Report

Panel Reference	PPSHCC-37
DA Number	DA/163/2020
Local Government Area	Central Coast Council
Proposed Development	Seniors housing facility comprising 199 residential units, community facilities & associated works
Street Address	Lot 1 DP 373539, 125 Johns Road, Lot 1169 DP 812203, 135 Johns Road and Lot 1168 DP 812203, 95 Murrawal Road, Wadalba
Applicant	ADW Johnson Pty Ltd
Owner	Tocae Group
Date of DA Lodgement	28 February 2020
Number of Submissions	Three
Recommendation	Refusal
Regional Development Criteria - Schedule 7 of the State Environment Planning Policy (State and Regional Development) 2011	The application is declared to be Regionally Significant development in accordance with clause 20(1) of <i>State Environmental Planning Policy (State & Regional Development) 2011</i> as it is development that has a capital investment value of more than \$30 million.
List of all relevant 4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>Environmental Planning & Assessment Act 1979</i> (EP&A Act) • <i>Environmental Planning & Assessment Regulation 2000</i> (EP&A Regulation) • <i>Rural Fires Act 1997</i> • <i>Biodiversity Conservation Act 2016</i> • <i>Biodiversity Conservation Regulation 2017</i> • <i>Water Management Act 2000</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> (SEPP State and Regional Development) • <i>State Environmental Planning Policy No 55 - Remediation of Land</i> (SEPP 55)

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Koala Habitat Protection) 2019</i> • <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.</i> • <i>Draft Central Coast Local Environmental Plan 2018 (CCLEP)</i> • <i>Wyong Local Environmental Plan 2013 (WLEP 2013)</i> • <i>Wyong Development Control Plan 2013 (WDCP 2013)</i>
List all documents submitted with this report for the Panel's consideration	<p>Attachments:</p> <ol style="list-style-type: none"> 1. Reasons for refusal 2. <i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i> compliance table 3. Review of Biodiversity Development Assessment Report and Swift Parrot advice prepared by Ross Crates (ANU) dated 19 June 2020 4. Site compatibility certificate dated 28 February 2019 issued by Hunter and Central Coast Regional Planning Panel 5. Comments of NSW Rural Fire Service dated 17 April 2020 6. Architectural Plans prepared by Blackdraft Architectural Design (D13848810) 7. Amended application request by ADW Johnson dated 17 and 22 July 2020
Report prepared by	J Wheeler
Report date	10 August 2020

CENTRAL COAST COUNCIL DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number	DA/163/2020
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Summary

The proposal is for a Seniors Housing Facility comprising 199 residential units, community facilities & associated works on Lot 1 DP 373539, 125 Johns Road, Lot 1169 DP 812203, 135 Johns Road and Lot 1168 DP 812203, 95 Murrawal Road, Wadalba.

The application seeks consent under the provisions of Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The site is directly adjoining R2 zoned land to the west of the site and as such is "land that adjoins land zoned primarily for urban purposes".

In accordance with the requirements of Clause 24 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the development application is accompanied by a valid Site Compatibility Certificate that was issued by the Hunter and Central Coast Regional Planning Panel on 11 September 2019, subject to the requirements provided in Schedule 2 of the Site Compatibility Certificate.

The application has been assessed having regard for the matters for consideration under Section 4.15 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) and other relevant instruments, plans and policies. The assessment has identified that the proposal would result in unacceptable amenity and environmental impacts and is considered to be unsuitable for the RU6 Transition zone.

A letter detailing the concerns identified in the assessment of the application was provided to the applicant. These concerns included the following:

- Inadequate response to the Site Compatibility Certificate Requirements
- Ecological impacts, serious and irreversible impact to swift parrot, insufficient information (ecological survey)
- Road access, layout, insufficient information (access to public transport), bushfire planning
- Insufficient information (stormwater modelling) to demonstrate full consideration of the catchment and that the design achieves pre-development outcomes.
- Insufficient information (sewer servicing) to demonstrate that the site can be serviced.
- Character of the development and insufficient information (operational management)
- Poor relationship to neighbourhood and streetscape and non-compliance with SEPP (Housing for Seniors or People with a Disability) Clause 33 design principles, insufficient information (proposed and existing ground levels, details of retaining walls)
- Insufficient regard for and non-compliance with, solar access requirements of Clause 35 of the SEPP, insufficient solar analysis.
- Insufficient information (waste servicing and ongoing waste management)

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- Insufficient information (land contamination) to demonstrate that the site is suitable for its intended purpose.

In response to the issues raised, the applicant submitted amended plans and additional documentation to Central Coast Council on 17 July 2020 and 22 July 2020. The applicant has detailed the amendments as follows:

- Revised floor levels and reduction to required retaining walls. Replacement of four up/down buildings with two dual villa buildings (reduction by eight dwellings).
- Reduction to retaining walls along the north west boundary. Additional cross sections showing cut, fill, fencing and landscaping provided.
- Revised approach to Asset Protection Zone (APZ) to reduce required area of managed vegetation.
- A plan indicating the location of Hollow Bearing Trees has been provided.
- A letter has been provided giving in principle agreement to a positive covenant and easement for maintenance over the neighbouring site for the provision of an APZ on adjoining land.
- Amendment to hostel building in response to APZ requirements and solar access impacts (a reduction by 22 dwellings).
- Amendments to the staging of the proposal to include a temporary waste storage area that services the development up until the commencement of stage five.
- Increase in the size of the waste storage area by four x 1,100 litre bins.
- A context plan showing the site relative to the surrounding area.
- An undertaking to provide amended documentation including civil engineering, bush fire report, biodiversity development assessment report and waste management plan.
- A response to the concerns raised regarding survey effort and detail in the biodiversity development assessment report.

Having considered the applicant's request to amend the development application under the provisions of Clause 55 of the *Environmental Planning and Assessment Regulation 2000*, Council is of the opinion that the amendments should not be accepted as the amending documentation does not sufficiently address the fundamental matters raised in the letter provided to the applicant. In particular:

- The amendments do not, in the opinion of Council, adequately address the matters identified in the site compatibility certificate.
- The applicant has not provided sufficient information to address the inadequacies of the Biodiversity Development Assessment Report (BDAR) in relation to survey results and required survey effort. This requires seasonal surveys and requires significant time to produce.

It is Council's opinion that the amendments have not sufficiently reduced the removal of vegetation that is mapped as important habitat for Swift Parrot. The applicant has advised Council that they do not agree with the advice of the independent expert engaged by Council, or Council's position with regard to Serious and Irreversible Impacts to Swift Parrot. As such this issue is unlikely to be resolved through amended plans.

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- The proposal has not significantly altered in terms of road layout and continues to rely upon an APZ on adjoining lands, a position that is not supported by the Rural Fire Service. The reliance on APZ management over adjoining land (Lot 59 in subdivision DA/1419/2019) is in direct conflict with the obligations of that consent, which require Lot 59 to be established as a riparian zone under a vegetation management plan.
 - The applicant has not provided the requested stormwater modelling, and it is Council's position that other matters are of significance such that the determination should not wait for this information.
 - The applicant has provided a letter from the neighbouring property to indicate an agreement to utilise the sewer pump station on the adjoining subdivision development to service the proposed development. However, the Council rising main to which the temporary sewer pump station on the adjoining site must connect will reach capacity with the servicing of the subdivision development and does not have capacity for further load. This requires further investigation and consultation with Council's Water and Sewer section to determine how the development could be satisfactorily serviced for sewer. This issue is not addressed by the amended information.
 - Additional information in relation to the operation of the facility, particularly in relation to staging, including details that address the required levels of services and transport for serviced self-care housing to satisfy the requirements of SEPP Clause 42, 43 and 44 has not been provided.
 - The amendments do not sufficiently address the concerns raised regarding boundary treatments including fencing, retaining walls, roads and landscape treatment and do not provide a sufficiently sensitive transition to neighbouring properties and existing and proposed roads. There is insufficient information to accurately determine existing and proposed levels for retaining structures, drainage infrastructure and in relation to the location of dwellings across the site. The amended plans do not contain existing and finished ground levels around buildings, retaining walls and infrastructure.
 - The development as proposed is largely unchanged having regard to solar access, with all dwellings living areas and most open space areas having a southerly orientation and less than the required 3 hours of solar access at midwinter. Additionally, many of the dwellings cause shadow onto other dwellings within the development. The issue of solar access to dwellings and open space has not been sufficiently resolved.
 - Further information in relation to waste servicing including the capacity of internal roads to cater for the required waste servicing vehicle and additional information regarding waste arrangements for the ongoing operation of the development has not been provided. It is Council's position that other matters are of significance such that the determination should not wait for this information.
 - Further information in relation to additional contamination investigation and a remediation action plan has not been provided. It is Council's position that other matters are of significance such that the determination should not wait for this information.

Based on the reasons listed above, it is Council's recommendation that the request to amend the application is not supported. Accordingly, the following assessment is based on the

original documentation lodged with the development application (unamended) and is provided for consideration by the Hunter and Central Coast Joint Regional Planning Panel.

RECOMMENDATION

- A. That the Hunter and Central Coast Regional Planning Panel do not agree to the amendment of the application under clause 55 of the Environmental Planning and Assessment Regulation 2000, as detailed in amended plans and documentation submitted on 17 July 2020, for the reasons stated above.***
- B. That the Hunter and Central Coast Regional Planning Panel refuse Development Application DA/163/2020 for the proposed Seniors Housing Facility on Lot 1 DP 373539, 125 Johns Road, Lot 1169 DP 812203, 135 Johns Road and Lot 1168 DP 812203, 95 Murrawal Road, Wadalb, for the reasons detailed in the schedule attached to the report and having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act 1979 and other relevant issues.***
- C. That those who have made written submissions be notified of the Panel's decision.***
- D. That the relevant Public Authorities be notified of the Panel's decision.***

Precis

Delegation Level	Regional Planning Panel
Reason for Delegation Level	CIV exceeding \$30 million
Property Lot & DP	Lot 1 DP 373539 Lot 1169 DP 812203 Lot 1168 DP 812203
Property Address	Nos. 125 & 135 Johns Road, 95 Murrawal Road, Wadalba
Site Area	10.97 ha
Zoning	RU6 Transition
Proposal	Seniors housing facility comprising 199 residential units, community facilities & associated works
Application Type	Integrated Development Application
Current Use	Rural/Residential
Integrated Development	Yes
Application Lodged	28 February 2020
Applicant	Johns Road Pty Ltd c/o ADW Johnson
Estimated Cost of Works	\$52,776,458 (CIV \$60,085,998)
Advertised and Notified / Notified Only	Exhibition period 11 March 2020 – 1 April 2020
Submissions	Three
Disclosure of Political Donations & Gifts	No
Site Inspection	Staff inspections on 23/04/2020, 15/05/2020
Recommendation	Refusal

The Site and Locality

The subject site is legally identified as Lot 1 DP 373539, 125 Johns Road, Lot 1169 DP812203, 135 Johns Road and Lot 1168 DP812203, 95 Murrawal Road, Wadalba. The site has an area of approximately 10.97 hectares.



Figure 1 showing aerial photo of the site and surrounds (outlined in blue)

The site is irregular in shape and has a 197.6 metre frontage to Johns Road and a narrow frontage of 26 metres to Murrawal Road. Existing development on the site comprises three separate dwelling houses on small rural lots, ancillary farm sheds and three dams. The southern part of the site has the least slope (5% or 1 in 18) towards Johns Road. The site increases in slope further north, with the middle of the site having slopes ranging between 7% (1 in 14) to 9.3% (1 in 10). The northern part of the site slopes steeply (18% or 1 in 5) up toward the northern site boundary. The steeper parts of the site are more heavily vegetated than the gentler sloping cleared land in proximity to Johns Road.



Figure 2 showing (left to right) lower slopes of the site, mid slopes, and upper northern slopes of the site

The site is located within an area of transition that is reflected by the RU6 Transition zoning. To the west are rural residential uses that are the subject of a development consent for low density residential subdivision. To the north of the site is an existing seniors housing development known as 'Opal Glenmere Nursing Home'. To the east and south of the site are rural residential land uses.

Directly adjoining the site to the west is an approved subdivision development (DA/1419/2017), the subdivision incorporates a public road along the common boundary with the subject site.

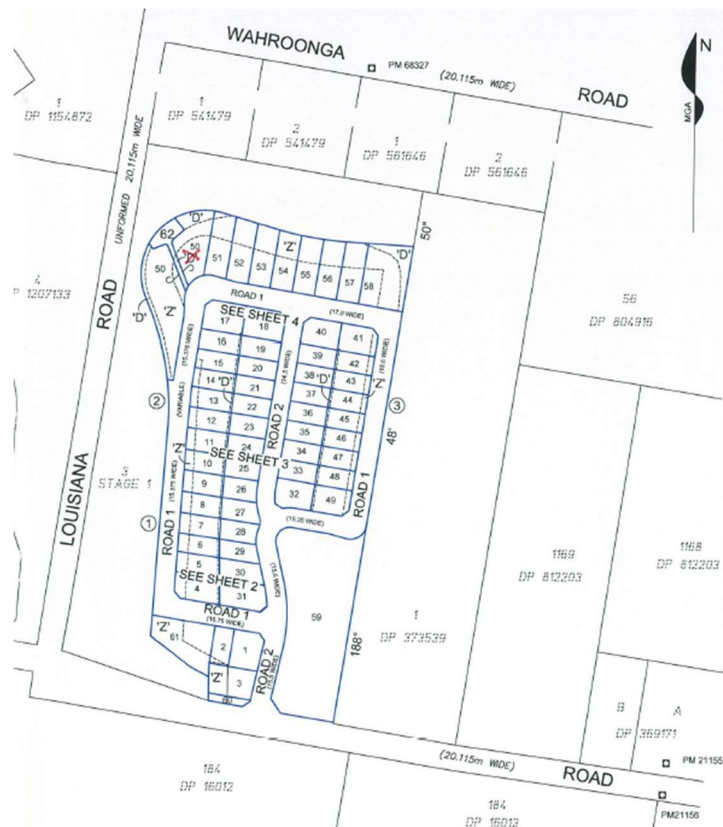


Figure 3 showing site plan for neighbouring consent DA/1419/2017 for residential (R2) subdivision

The subject site benefits from direct access to this approved road. The proposed road treatment along this boundary includes a 15.61 metre road reserve with the road pavement being located 3.1 metres from the common boundary with the subject site. Within the 3.1 metres, the works include an open drainage swale that incorporates a retaining wall along the boundary. The subdivision works certificate for this application has not been approved, however the design submitted for review includes retaining wall heights that vary due to the undulation of the land from 0.3 metres at its lowest to 1.7 metres at its highest, with an average height of around 0.7 metres.

As part of the approved subdivision, and directly adjoining the site in proximity to the Johns Road frontage is Lot 59 that is identified as a drainage basin and riparian area subject to a vegetation management plan as reflected in the conditions of that consent. The draft vegetation management plan for Lot 59 identifies the following objectives:

- *A long term self-sustaining environmental conservation area requiring minimal ongoing maintenance*
- *Geomorphological stability of the drainage lines and detention basin to the west to maintain biodiversity, function and water quality*
- *Areas of habitat for native flora and fauna, including threatened species locally recorded as occurring.*

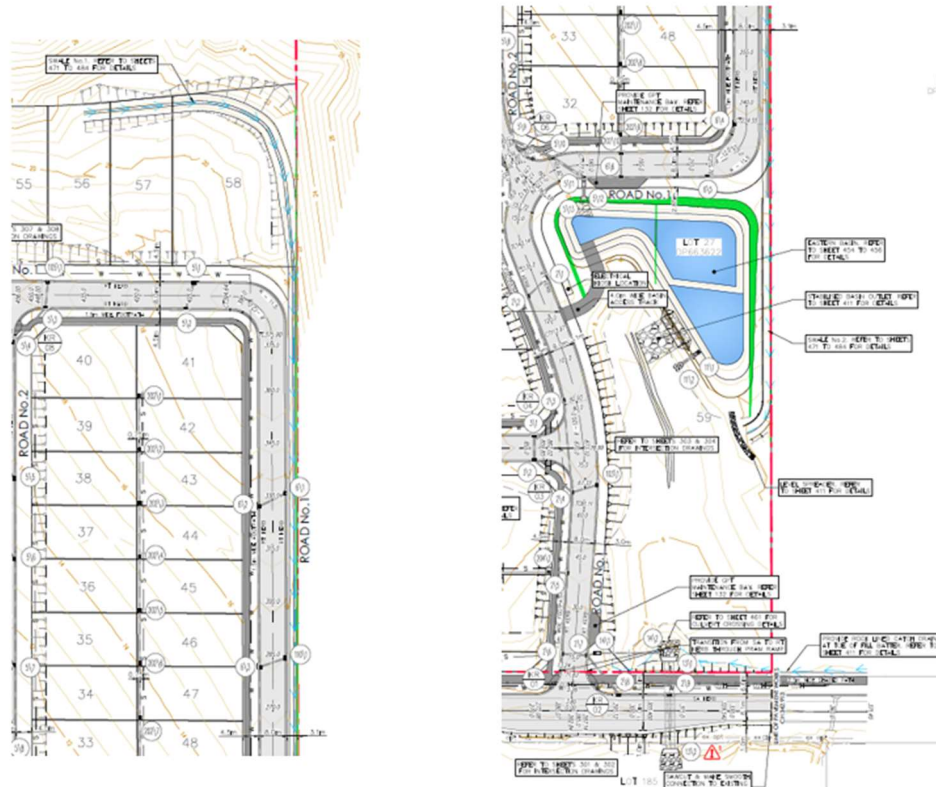


Figure 4 showing neighbouring boundary treatments including road configuration (left) and detention basin/riparian area (right) - consent DA/1419/2017 for residential (R2) subdivision

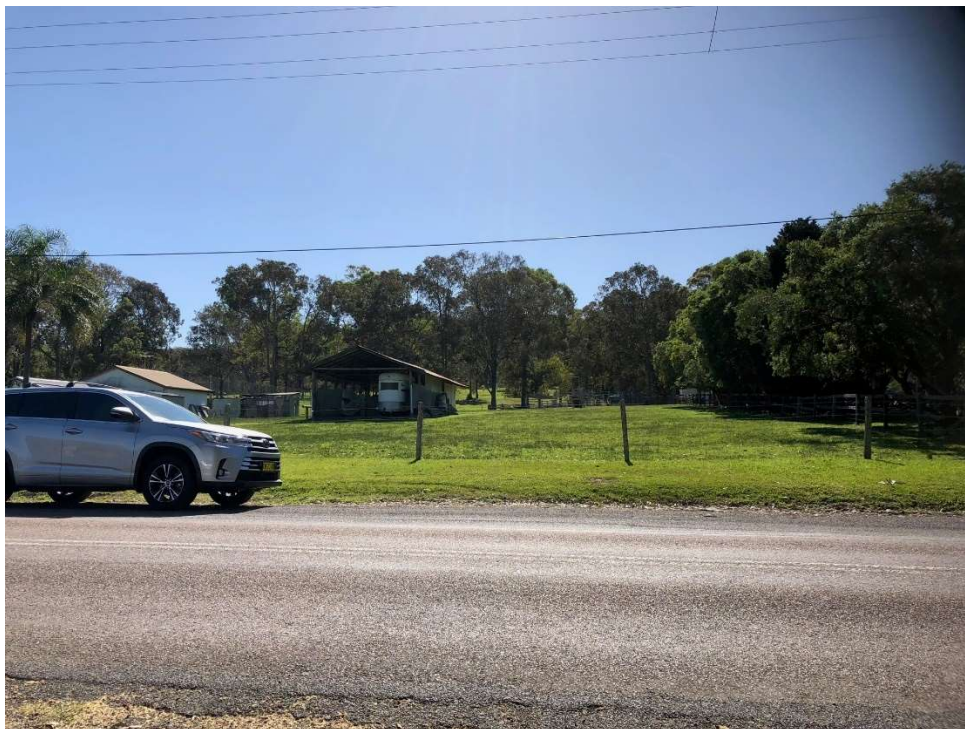


Figure 5 showing part of the Johns Road frontage of the site

The site is zoned RU6 Transition under the *Wyang Local Environmental Plan 2013*. The objectives of the zone are:

- To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that interim land uses do not have an adverse impact on the conservation or development potential of land identified for future investigation in the North Wyong Shire Structure Plan or Wyong Settlement Strategy.

The site identified within Precinct 3B of the *North Wyong Shire Structure Plan (NWSSP)*. The precinct is identified for future residential development within the medium term.



Figure 6 showing precincts of the *North Wyong Shire Structure Plan*

Precincts 2A & 2B (the Wadalba East Land Owners Group (WELOG)) to the south of the subject site is the subject of a rezoning in progress. This would rezone unconstrained land within Precincts 2A and 2B for low density residential purposes (R2 Low Density Residential under *Wyong Local Environmental Plan 2013 (WLEP 2013)* or the *Central Coast Local Environmental Plan (CCLEP)* whichever is in effect).

Background

On 11 September 2019, a site compatibility certificate was issued by the Hunter and Central Coast Regional Planning Panel subject to requirements provided in Schedule 2 of the Site Compatibility Certificate (Attachment 4).

On 28 February 2020, development application DA/163/2020 was lodged with Council. The matters outlined within the Site Compatibility Certificate have not been addressed by the applicant.

A briefing was held with the Hunter Central Coast Regional Planning Panel on 25 May 2020.

An applicant briefing was held with the Hunter Central Coast Regional Planning Panel on 5 August 2020.

The Proposed Development

The proposed development is for a seniors housing facility comprising 199 residential units, ancillary community facilities and associated works. The application is made under the provision of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

The proposed works include the following:

- Demolition of existing structures onsite (including dams); earthworks; retaining walls and vegetation removal
- Construction of a seniors housing facility containing 199 dwellings as follows:
 - Serviced housing dwellings (SHD)- 82 serviced self-care housing (two bedroom) dwellings. These are arranged in groups of two in a two storey attached configuration one above the other.
 - Serviced housing units (SHU)- 32 serviced self-care housing dwellings within four residential flat buildings. Each building is two storeys and has a basement. Each building has eight x two bedroom dwellings.
 - Hostel units (HU) - 85 hostel units within a residential aged care facility building of three storeys that includes a basement for 36 cars, communal lounge/dining areas, theatre, laundry and linen store, kitchen, amenities areas, communal multi-purpose, foyer, reception, office, service areas, terraces. The units are one bedroom and contain a living/dining room with kitchenette, basic laundry facilities, bathroom and balcony or terrace.
- Construction of various recreation and community buildings as follows:
 - a community centre building of two storeys that includes an indoor swimming pool, amenities, lounge and games area, kitchen, bar, foyer, gym, terrace, reception and office.
 - Men's shed
 - Bowling green;
- Additional at grade parking area (20 spaces)
- New private road network including an alternate flooding and bushfire emergency access to Murrawal Road
- Stormwater basins
- Provision of underground services as required
- Associated landscaping.

The applicant's summary of the management of the development is provided as follows:

- *The development, when complete, will be registered and operated in accordance with the provisions of the Retirement Villages Act 1999.*
- *The development will employ a full-time Manager and part-time Assistant Manager for the serviced self-care housing and full-time Manager and Assistant Manager for the hostel accommodation.*
- *Management responsibilities will include;*
 - *Overseeing the daily running of the facility in the interest of all residents;*

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- *Coordinating contractors for facility services and repairs;*
 - *Managing incoming and outgoing residents;*
 - *Managing budgets and expenditure;*
 - *Assisting residents to coordinate social activities and events.*
 - *Hostel resident support services to be provided include nine full-time carers; four part-time kitchen staff; and two full-time cleaners employed within the hostel accommodation to provide day to day support services to residents. These will also be available to residents of the serviced self care housing if desired.*
 - *Medical and nursing services over and above what the carers will provide, will be carried out by others on an as needs basis. This is the preferred method given that residents generally have their own specific specialist medical personnel. Staff of the facility will however, assist in organising these professionals as required.*
 - *Transport via mini bus service accommodating at least 10 passengers will be provided as part of the ongoing operation of the proposed development and will transport residents directly to and from all required facilities and services. The bus will be provided from when the first unit is occupied, and the service will be in accordance with the SEPP and be driven by gardener/maintenance employees. Further details on the routes and frequency will be established based on the needs of residents. It is also noted that a frequent public bus services the site.*
 - *Maintenance is provided by a full-time gardener for the gardening and upkeep of each dwellings garden areas (if requested) and all common areas. The gardener will also be responsible for collecting waste within the development to the waste storage and collection area.*

The works are proposed to be staged over seven stages. As a general overview, the stages are broadly summarised as follows:

Stage 1: All road and site earthworks (including benching, battering and retaining), detention and drainage, community centre and pool; waste storage area; maintenance shed; six serviced self-care buildings of attached serviced housing dwellings (12 SHD in total) and associated roads.

Stage 2: Six serviced self-care buildings each containing two attached dwellings (12 SHD in total) and associated roads.

Stage 3: 14 serviced self-care buildings each containing two attached dwellings (28 SHD in total) and associated roads.

Stage 4: Seven serviced self-care buildings each containing two attached dwellings (14 SHD in total) and associated roads.

Stage 5: Eight serviced self-care buildings each containing two attached dwellings (16 SHD in total) and associated roads.

Stage 6: Four residential flat buildings each containing eight attached serviced housing units (32 SHU in total) and associated roads.

Stage 7: Hostel building containing 85 units in total, men's shed and bowling green.

The site layout is shown in Figure 5 below.

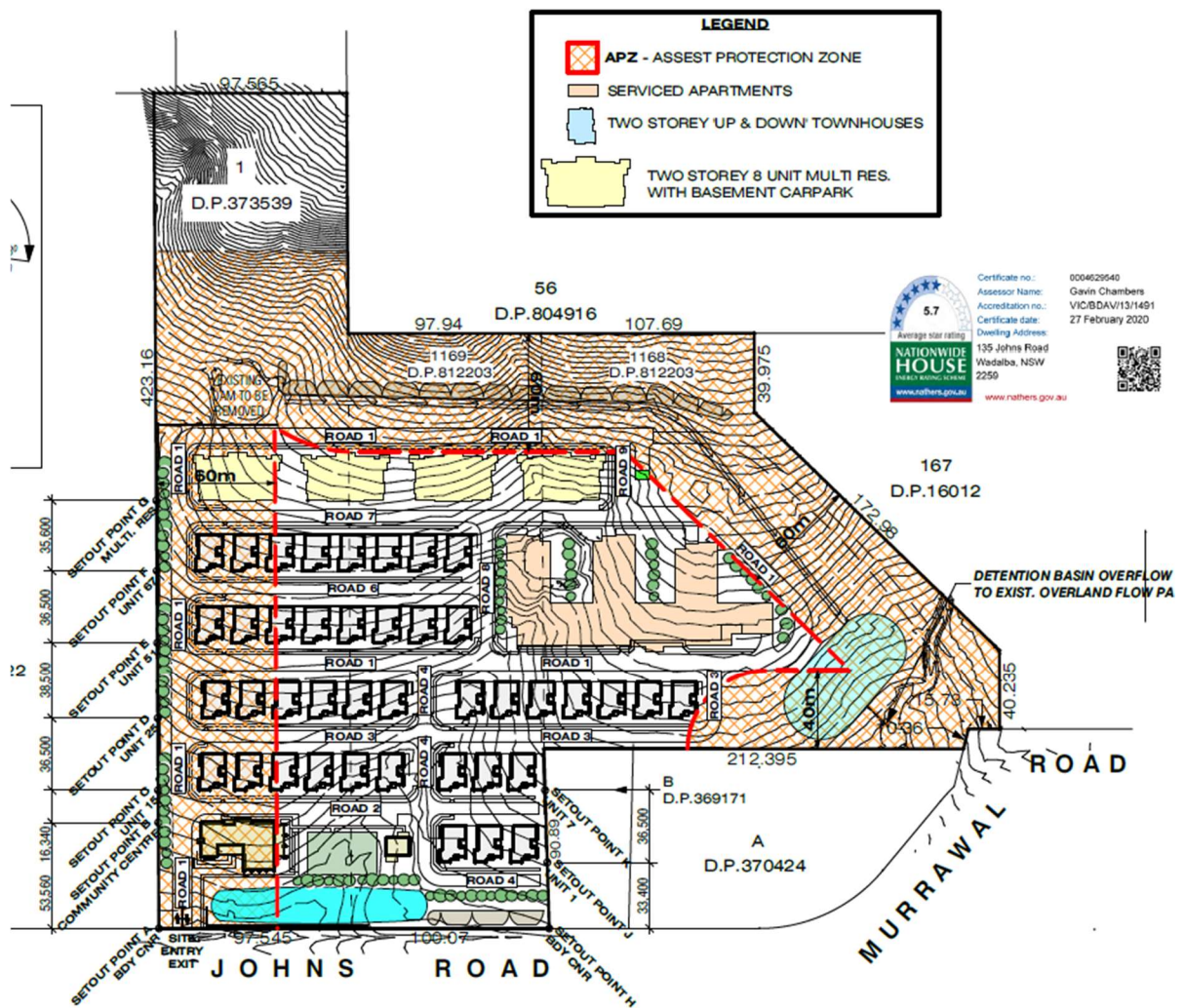


Figure 7 Site plan showing development layout

Internal consultation

The application has been referred to and reviewed by the following experts in council:

- Environmental Health
- Environment - Ecology
- Engineering
- Engineering - Traffic and Transport
- Water and Sewer
- Waste Services
- Social Planning

The concerns raised by the officers have been included within the recommended reasons for refusal.

Ecologically Sustainable Principles

The proposal has been assessed having regard to ecologically sustainable development principles. The following considerations have been particularly identified.

- The application would generate short term economic stimulus through the construction of the development.
- The long-term economic benefit of the development is identified as generating 15 jobs.
- The application has not provided sufficient information to demonstrate that the site meets location and access needs for a seniors housing development or sufficient information in relation to the operation of the development to identify immediate and long-term social benefits of the proposal.
- There is insufficient information in relation to management of impacts from the development in relation to the conveyance of stormwater, potential localised downstream flooding impacts and the proposed method of sewer management.
- There is insufficient information to demonstrate that the application will not result in an unacceptable level of impact to biodiversity and endangered flora and fauna habitats.
- Council has engaged a suitably qualified expert who has identified that the extent of removal of Swift Parrot habitat as a result of the proposed development would result in a serious and irreversibly impact to the critically endangered Swift Parrot.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the development application. This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts.

The proposed development is unacceptable in relation to bush fire protection measures as indicated in the comments provided by NSW Rural Fire Service (comments below). Additionally, the application does not include sufficient information in relation to stormwater modelling at the site to demonstrate that the design can cater for larger rain events. On this basis it is considered that the proposed development is unsatisfactory in relation to climate change.

Assessment

This application has been assessed having regard for the matters for consideration specified under section 4.15 of the EP&A Act, and other relevant instruments, plans and policies.

Provisions of any environmental planning instruments/Plans/Policies (s.4.15 (1)(a)(i) of the EP&A Act)

State Environmental Planning Policies (SEPP's)

State Environmental Planning Policy (Koala Habitat Protection) 2019

Since the lodgement of the development application, *SEPP 44 – Koala Habitat Protection* has been repealed and replaced with *State Environmental Planning Policy (Koala Habitat Protection) 2019*.

The Biodiversity Development Assessment Report (BDAR) dated February 2020, prepared by Anderson Environment and Planning (AEP), has undertaken an assessment against the earlier *SEPP 44 – Koala Habitat Protection* and indicates that the presence of Koala food tree species of Schedule 2 of the SEPP has been considered and that there are no trees of those species present on site.

Having regard for the requirements of *State Environmental Planning Policy (Koala Habitat Protection) 2019*, the site is mapped on the Koala Development Application Map. Additionally, the site is larger than 1 hectare and does not have an approved Koala plan of management applying to the land. The considerations given under Clause 9 include; that a Koala Assessment Report is not required if the land does not include any trees belonging to the feed tree species listed in Schedule 2 and; if the land is not core Koala habitat.

State Environmental Planning Policy (Koala Habitat Protection) 2019 includes a broader Schedule 2 list of tree species, which are area specific. There are 65 tree species to be considered for the Central Coast, this is an increase from the 10 species that were required to be considered under the previous SEPP. The dominant tree species on the site are included as feed tree species listed under Schedule 2 of the current Koala SEPP for the Central Coast region. A Koala Assessment Report prepared in accordance with the Draft Koala Habitat Protection Guideline 2020 has not been submitted. There is insufficient information available to Council to determine the development application in accordance with the requirements of Clause 9 of the SEPP (**reason for refusal 4**).

State Environmental Planning Policy (SEPP) No 55 – Remediation of Land

Clause 7 of *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55) requires the consent authority to consider whether the land is contaminated, and if so, it is satisfied that 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 three lots that comprise the site have mainly been used for rural residential purposes from at least the mid to late 1950s to the current day.

The application is supported by a preliminary contamination assessment undertaken by Qualtest Laboratory dated February 2020. The report identifies four areas of concern for potential contamination across the 3 lots that comprise the site:

- Hazardous materials in former and current buildings – asbestos, septic systems, hydraulic car hoist, spills and leaks from oils, fuels, chemicals and paint
- Surface water and drainage
- Stockpiles of general rural waste
- Imported fill of unknown quality.

Specific areas for further investigation have been identified within the report:

- Four dams and a drainage line on site which may have been impacted from potential leaching of metals, fuels, chemicals, paint and septic overflow
- Hobby scale poultry farmers
- Potential asbestos identified in existing structures
- Car hoist and associated material such as oil drums, high-pressure hose, air compressor, other smaller containers of oils and chemicals. Report confirms hobby scale of servicing cars and motorbikes
- Septic tanks and effluent disposal areas servicing the existing dwellings
- Fuel being stored in a steel drum
- Fill of unknown quantity and quality imported onto Lot 1168. Stockpiles with potential asbestos containing material observed in close proximity to the dams on the Lot.

The Qualtest report highlights a potential risk of exposure to site users and the environment and recommends sampling of surface soils, fill stockpiles, and surface water and sediment sampling to determine if soil, sediment, and/or surface water contamination exists, including a Hazardous Materials Survey of the structures on site.

The report identifies that the additional sampling is unlikely to identify contamination of a nature that would preclude development of the site (that is contamination that was not able to be remediated), and that such reporting could occur prior to construction.

Given the significant extent of excavation and soil disturbance proposed at the site, Council's Environmental Health Officer concurs with the recommendation of the report which requires further investigation to be carried out prior to any significant construction occurring on the site and that any likely remediation could be undertaken and the site made suitable for the intended use.

State Environmental Planning Policy (State and Regional Development) 2011

The application is declared to be Regionally Significant development in accordance with clause 20(1) of State Environmental Planning Policy (State & Regional Development) 2011 as it is development that has a capital investment value of more than \$30 million.

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 Traffic-generating development of the SEPP requires that Transport for NSW (TfNSW) is to be notified of an application for traffic generating development, where the application proposes development of a certain size or capacity as identified in Schedule 3.

Schedule 3 identifies carparks that are ancillary to other development of more than 200 cars, that have access to a road, require consultation with TfNSW. Additionally, Schedule 3 identifies development for "any other" purposes which has a traffic volume of 200 or more vehicle trips per hour.

The proposal includes 248 car parking spaces that are spread across the site and across multiple stages of the development. The Traffic Impact Assessment prepared by Intersect Traffic indicates that there are very low traffic volumes associated with this type of use,

identified as 80 vehicle trips per hour, which is well below the threshold for traffic generating development set by Schedule 3 of SEPP Infrastructure. On this basis, the application has not been referred to TfNSW for comment.

The application was assessed by Council's traffic engineer and is found to be acceptable subject to the installation of a slip lane, footpaths and pedestrian refuge on Johns Road.

Overall it is therefore considered that the accessibility, efficiency and safety of the site and road networks are satisfactory.

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

The application seeks consent under the provisions of Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The site is directly adjoining R2 zoned land to the west and as such is "land that adjoins land zoned primarily for urban purposes".

Clause 24 Site Compatibility Certificates required for certain development applications – Clause 24 of the SEPP identifies that the development application, being "land that adjoins land zoned primarily for urban purposes" must be accompanied by a valid site compatibility certificate, identifying that the site is suitable for more intensive development and that the seniors housing of the kind proposed is compatible with the surrounding environment. A site compatibility certificate was issued by the Hunter and Central Coast Regional Planning Panel on 11 September 2019 subject to requirements provided in Schedule 2 of the Site Compatibility Certificate. The proposal does not achieve the requirements specified in Schedule 2, being conditions of the site compatibility certificate numbered 1, 2a, 2d, 2e, 2f, 2g, 3, 4, 5, 6, 7.

A compliance table that details the deficiencies of the application having regard for the following Clauses of the SEPP is provided at Attachment 2:

Clause 26 Access to facilities - Insufficient detail on Clause 26 of the SEPP has been provided including the location of bus stops on both sides of Johns Road in the vicinity of the site; the proposed path of travel from the development site to the bus stop, where the suitable access pathway is proposed, details showing the existing and proposed levels and gradient and safe pedestrian crossing of Johns Road (including gutter ramps); and the services available at the locations identified in the SEE. The applicant has not identified that services in the Wyong Town Centre are available within 400 metres of the bus stop in Wyong and that the path of travel complies with gradient requirements.

Clause 33 Design principles - The proposal does not use building forms and siting that relate to the sites land form.

Clause 34 Visual and acoustic privacy – due to the extent of bulk earthworks proposed at the site and the lack of considered boundary landscaping, the proposal results in unacceptable visual privacy impacts to neighbouring properties within what is ordinarily a significantly low privacy impact environment (RU6 Transition zone).

Clause 35 Solar access and design for climate – all forms of housing on the site have less than the minimum required solar access, including south facing private open space and living areas in all housing types on the site for most of the housing.

Clause 36 Stormwater – the application does not include modelling data for stormwater management on the site to allow assessment of capacity for significant rainfall events.

Clause 39 Waste management – the application is inadequate in relation to the capacity and location of waste facilities.

Clause 42 Serviced self-care housing - The operational management plan is inadequate to demonstrate compliance with the clause. The operation of the development must provide to every occupant of serviced self-care housing (at every stage) access to: home delivered meals, personal and nursing care, and assistance with housework. This is not limited to occupants of the hostel.

Clause 43 Transport services to local centres - The application does not include enough information about the provision of a private bus for the development.

Clause 44 Availability of facilities and services - The proposal is a staged application. The operation management plan does not relate to each stage of the development. The operation management plan uses generic terms such as "half occupied" and "all/fully occupied" these thresholds do not cater to the range of occupation that may occur at any time within the development and do not identify minimum required reasonable provision of services and facilities for each stage of the development.

Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings (including serviced self-care housing) – Generally the application is compliant with the standards of clause 50, with the exception of the eight metre building height and required solar access provisions (refer to the compliance table in Attachment 2).

The inadequacies of the development having regard for the provisions of the site compatibility certificate and the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* have been incorporated within the **reason for refusal 1**.

Local Environmental Plan

Wyong Local Environmental Plan 2013 (WLEP 2013)

Zoning and Permissibility

The site is zoned RU6 Transition under WLEP 2013. The proposed development, defined as seniors housing, is prohibited in the zone.

seniors housing means a building or place that is—

- (a) a residential care facility, or
- (b) a hostel within the meaning of clause 12 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, or
- (c) a group of self-contained dwellings, or

-
- (d) a combination of any of the buildings or places referred to in paragraphs (a)–(c), and that is, or is intended to be, used permanently for—*
 - (e) seniors or people who have a disability, or*
 - (f) people who live in the same household with seniors or people who have a disability, or*
 - (g) staff employed to assist in the administration of the building or place or in the provision of services to persons living in the building or place, but does not include a hospital.*

Note. Seniors housing is a type of residential accommodation—see the definition of that term in this Dictionary.

The application seeks consent under the provisions of Clause 4 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The site is directly adjoining R2 zoned land to the west and as such is “land that adjoins land zoned primarily for urban purposes”.

Clause 24 of the SEPP identifies that the development application, being “land that adjoins land zoned primarily for urban purposes” must be accompanied by a valid site compatibility certificate, identifying that the site is suitable for more intensive development and that the seniors housing of the kind proposed is compatible with the surrounding environment. A site compatibility certificate was issued by the Hunter and Central Coast Regional Planning Panel on 11 September 2019 subject to requirements provided in Schedule 2 of the Site Compatibility Certificate.

Zone objectives

The objectives of the RU6 Transition zone are:

- *To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure that interim land uses do not have an adverse impact on the conservation or development potential of land identified for future investigation in the North Wyong Shire Structure Plan or Wyong Settlement Strategy.*

Despite permissibility being enlivened by *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*, the development is found to be deficient in considering the zone objectives (**reason for refusal 7**):

- The proposal does not maintain and protect land that has been identified as environmentally sensitive. The proposal requires the removal of 5.39 hectares of vegetation that has been mapped by the NSW Department of Planning, Industry and Environment as important habitat for the Critically Endangered Swift Parrot.
- The proposal does not minimise conflict between land uses. The proposal presents an unacceptable built form that is out of character with existing and future surrounding land uses with long unarticulated facades, insufficient regard for the surrounding low

density scale of buildings, and insufficient regard for the existing slope of the land resulting in inappropriately managed boundary treatments.

- The application has not adequately considered the future development potential of Lot A DP370424 and Lot B 369171 and impacts to future development. These adjoining lots are located with frontage to a sweeping blind corner. The proposal does not address safe access for future development of these lots for residential uses anticipated in the North Wyong Structure Plan. Insufficient consideration has been given to the potential future development of these adjoining lots.

Clause 4.3 Height of Buildings

There is no statutory height limit prescribed by WLEP 2013 for the subject site. The development application contains insufficient information in relation to existing and finished ground levels and roof heights to accurately determine building height across the development.

Clause 4.4 Floor Space Ratio

There is no floor space ratio requirement prescribed by WLEP 2013 for the subject site. The proposed FSR is 0.29:1.

Clause 5.10 Heritage Conservation

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

An Aboriginal Heritage Due Diligence assessment has been undertaken and does not identify the site as containing any known items.

Clause 7.1 Acid Sulfate Soils

The site is mapped as containing Class 5 acid sulfate soils (ASS). Having regard for the provisions of Clause 7.1, the works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. The proposal is acceptable in relation to likelihood of encountering acid sulfate soils.

Clause 7.2 Flood Planning

Central Coast Council flood mapping indicates that parts of the site is subject to localised flooding. The lot is identified as being affected by the 1% AEP + Freeboard and PMF events

and on this basis Council's Development Assessment Engineer has considered the risk of flooding. The land is located at approximately R.L. 6.0 metres and above and is not directly impacted from flooding of Tuggerah Lake, however the site has a natural defined overland flow path through the site and is impacted by overland flooding from the local catchment.

Clause 7.9 Essential Services

The consent authority must be satisfied that services essential for the development are available or that adequate arrangements have been made to make them available. Electricity, water and telecommunications can readily be extended from existing services which run along Johns Road however the application has not adequately demonstrated that the site can be serviced for the disposal and management of sewage services which is essential for the development. Additionally, the application does not demonstrate that adequate arrangements have been made to sewer servicing available when required.

The site is currently not connected into Council's sewer network. The nearest existing Council sewer network is located at 139 Johns Road (sewerage pump station SPSCH34). This existing sewerage pumping station will reach its capacity once the adjoining subdivision development at 137 Johns Road (DA/1419/2017) occurs. The connection of the adjoining residential subdivision to SPSCH34 is the subject of a Voluntary Planning Agreement relating to DA/1419/2017.

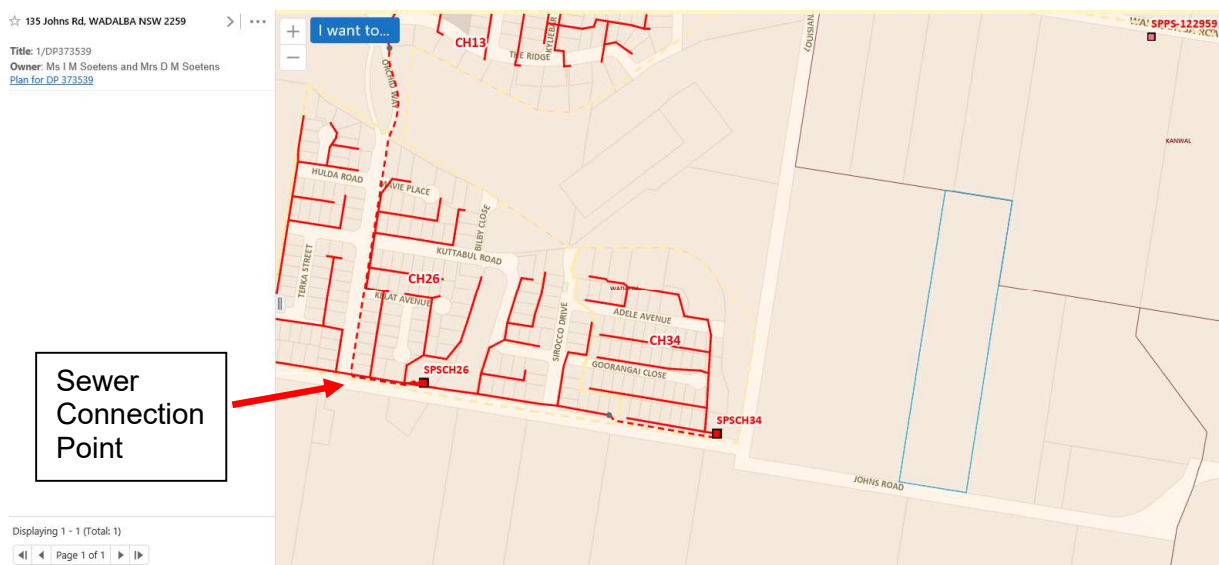


Figure 8 Sewerage Arrangements

The seniors living development is required to gravitate to a (private) temporary pump station on the site and to construct a rising (pressure) main that connects to Council's existing rising main in the road reserve near the Orchard Way and Johns Road intersection (CH26). It is not known whether there is sufficient service allocation available in the road reserve to accommodate the additional rising main, given that the approved subdivision development to the west of the site will also utilise the road reserve in this way. Additionally, the proposal must make provision that the site's catchment can be gravitated into the regional catchment further to the east of Murrawal Road (CH33 in the below diagram).

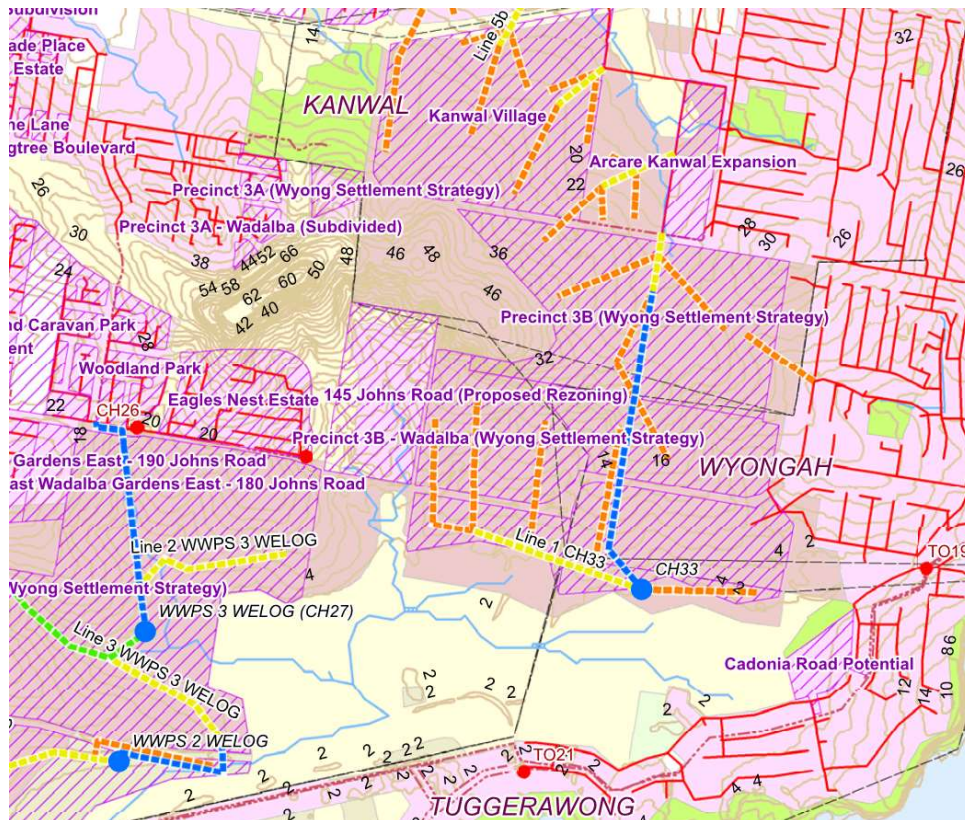


Figure 9 Current DSP Sewer Servicing Strategy for the area

The current sewer servicing strategy for the area is indicated above. This shows that the site is located within the Precinct 3B catchment for CH33. This relates to Precinct 3B of the North Wyong Shire Structure Plan (NWSSP). The precinct is identified for future residential development within the medium term. There is no current rezoning of this land.

It is understood that the applicant is in early stage discussions with Council's water and sewer section regarding possible connection to CH27 (indicated above). This sewer infrastructure relates to Precincts 2A & 2B (the Wadalba East Land Owners Group (WELOG)) to the south of the subject site, which is the subject of a current rezoning to rezone unconstrained land within Precincts 2A and 2B for low density residential purposes (R2 Low Density Residential). This area is within a different sewer catchment and would require design modelling to be undertaken by the consultant for the WELOG servicing strategy and submission to and approval by Council's water and sewer section. Additionally, this option is further complicated as a result of multiple land ownerships in WELOG and the timing of future development which may also need to rely upon interim and temporary sewer works with limited capacities as a result of difficulties surrounding how catchments are serviced and the potential to result in isolated catchments (in undeveloped lands where access is denied). The timing for the provision of this sewer infrastructure is not known or certain.

Given the lack of detail and certainty provided with the application in relation to the provision of the essential disposal and management of sewage services, the consent authority cannot be satisfied that services essential for the development are available or that adequate arrangements have been made to make them available as required under Clause 7.9 of the WLEP 2013. These concerns relate to site compatibility certificate point 6 and are reflected in **reasons for refusal numbered 1, 8 and 14.**

Draft Environmental Planning Instruments (s.4.15(1)(a)(ii) of the EP&A Act)

Draft Central Coast Local Environmental Plan 2018

The following draft Environmental Instruments apply to this application:

- Draft Central Coast Local Environment Plan.

The application has been assessed under the provisions of the *Draft Central Coast Local Environment Plan 2018* (Draft CCLEP) which was publicly exhibited from 6 December 2018 to 28 February 2019, in respect to zoning, development standards and special provisions.

Under the Draft CCLEP the proposal is to be located on land zoned RU6 Transition and the proposed planning controls generally reflect the current planning controls. The issues raised under Wyong Local Environmental Plan 2013 remain, having regard for the Draft Central Coast Local Environment Plan 2018.

Provisions of any development control plan (s.4.15(1)(a)(iii) of the EP&A Act)

Wyong Development Control Plan 2013

Chapter 1.2 Notification of Development Proposals of WDCP 2013

The application was notified in accordance with *Chapter 1.2 (Notification of Development Proposals) of Wyong Development Control Plan 2013 (WDCP 2013)* from 11 March 2020 to 1 April 2020. A total of three submissions were received.

General issues raised during the notification period are discussed under Section 4.15 (1)(d) of the EP&A Act within this report.

Chapter 2.11 Parking and Access of WDCP 2013

Chapter 2.11 nominates that parking rates should be in accordance with *SEPP (Housing for Seniors and People with a Disability) 2004*. Parking rates for the development are provided within Clause 49 for hostel accommodation and Clause 50 for serviced self-care dwellings of *SEPP (Housing for Seniors and People with a Disability) 2004*, being:

Hostel – 1 space per 5 dwellings and 1 space per 2 persons employed and on duty, 1 ambulance space;

Serviced self-care dwellings – 0.5 spaces for each bedroom.

The proposal provides the following car parking, which is in excess of the requirements of the SEPP:

Hostel (85 units and 10 staff) – 22 spaces required, 36 spaces provided;

Serviced self-care dwellings (114 x 2 bedroom units) – 114 spaces required, 212 spaces provided.

The development as proposed meets the car parking requirements of Chapter 2.11 Parking and Access and the provisions of the SEPP.

Chapter 3.1 Site Waste Management of WDCP 2013

In accordance with Chapter 3.1, the applicant submitted a Waste Management Plan for the development outlining the waste disposal, re-use and recycling (on and off site) for the construction and operational stages of the development. The applicant has proposed waste servicing using a private commercial waste contractor.

Council's Waste Management Assessment Officer has assessed the proposed waste management strategy having regard for Chapter 3.1 and the former Wyong Shire Council Waste Control Guidelines. The design as proposed does not allow for standard residential waste servicing by Council. In order to ensure future proofing and that Council can provide a residential waste service if necessary, the internal road network and waste vehicle manoeuvrability, waste storage/waste servicing outcome must be designed to accommodate the appropriate Council waste collection vehicle.

This would require the internal road network to the waste storage enclosure and waste truck servicing location able to accommodate residential waste vehicle forward entry, internal manoeuvring and forward exit from the site for a minimum 11 metre long, dual rear axle, rear loading waste collection vehicle. The proposed roads are deficient in achieving this requirement. Further detail demonstrating swept turning paths for all waste vehicle manoeuvring designed and certified to AS 2890.2 by the applicants Traffic Engineer to demonstrate the ability of the required waste vehicle to forward enter, access the waste servicing location and forward exit the site without crossing the centre line of the road. The applicant has not provided sufficient information to demonstrate that the waste vehicle can maintain the required lane discipline both within and external to the site.

The construction of the road network to access the proposed bulk waste bin storage enclosure in the north of the site is necessary as part of the first stage of the development. This is not clear from the proposed staging documentation.

The principal bulk waste bin storage enclosure appears undersized having regard for all waste generated by the activities on the site. The bulk waste bin enclosure must be of a size to allow for additional bulk waste bins that allow for anomalies in the daily operation of a development and interim storage for residents' bulky waste.

Waste servicing for the proposal would be improved by the provision of separate waste storage enclosures for each stage of the development that are sized to manage mixed and recyclables waste from the use of each stage prior to transfer to a principal bulk waste bin storage and bulk waste bin servicing enclosure. This would result in a sustainable, safe and efficient mixed and recyclables waste outcome for a staged development of the size and nature proposed.

The application does not include sufficient information including dimensioned waste storage enclosures/rooms for the community centre, the commercial kitchen, bar area, mens' shed and the commercial kitchen within the hostel. Additionally, insufficient information regarding the storage and location for mixed waste and recyclables waste for the serviced self-care dwellings has been provided.

Generally, the Waste Management Plan contains insufficient detail for a development of this size and scale. In particular:

- site preparation and demolition details are insufficient with waste volumes generally underestimated and or/not provided and the treatment of residual waste such as those materials unable or not feasible to separate are not addressed
- construction waste estimates for a development of the type and nature proposed are insufficient and do not represent the scale of the works proposed.
- details regarding the use are insufficient, and do not correlate with the waste servicing strategy indicated on the plans
- the waste generation estimations for the different styles of accommodation appear significantly underestimated and would require an increased servicing frequency with increased heavy vehicle movements within the development
- a detailed Waste Management Strategy has not been provided to indicate how different waste streams will be managed.

Based on the above assessment, the submitted documentation does not demonstrate that waste is adequately managed in accordance with the requirements of Chapter 3.1. These concerns are reflected in **reason for refusal numbered 9**.

Chapter 3.1 Flood plain management

Central Coast Council flood mapping indicates that parts of the site is subject to localised flooding. The lot is identified as being affected by the 1% AEP + Freeboard and PMF events and on this basis Council's Development Assessment Engineer has considered the risk of flooding. The land is located at approximately R.L. 6.0 metres and above and is not directly impacted from flooding of Tuggerah Lake, however the site has a natural defined overland flow path through the site and is impacted by overland flooding from the local catchment. On this basis it is considered that Chapter 3.1 is not relevant for this site.

Chapter 3.4 Conservation Areas for Northern Wyong Shire of WDCP 2013

Through the preparation of the North Wyong Shire Structure Plan, the potential value of a Green Corridor linking the uplands of Wyong with coastal National Parks was identified. The key intent is to provide areas suitable for the conservation of key plant and animal species, as well as provide connectivity for the movement of high value biodiversity and improve the ability of organisms to adapt to climate change.

Chapter 3.4 provides environmental performance criteria surrounding the development of land within areas identified as green corridor, habitat network or conservation link. The performance criteria include survey and assessment, connectivity, biodiversity conservation, hydrology and context. The site is within and adjoining an area identified for the creation of a green corridor.

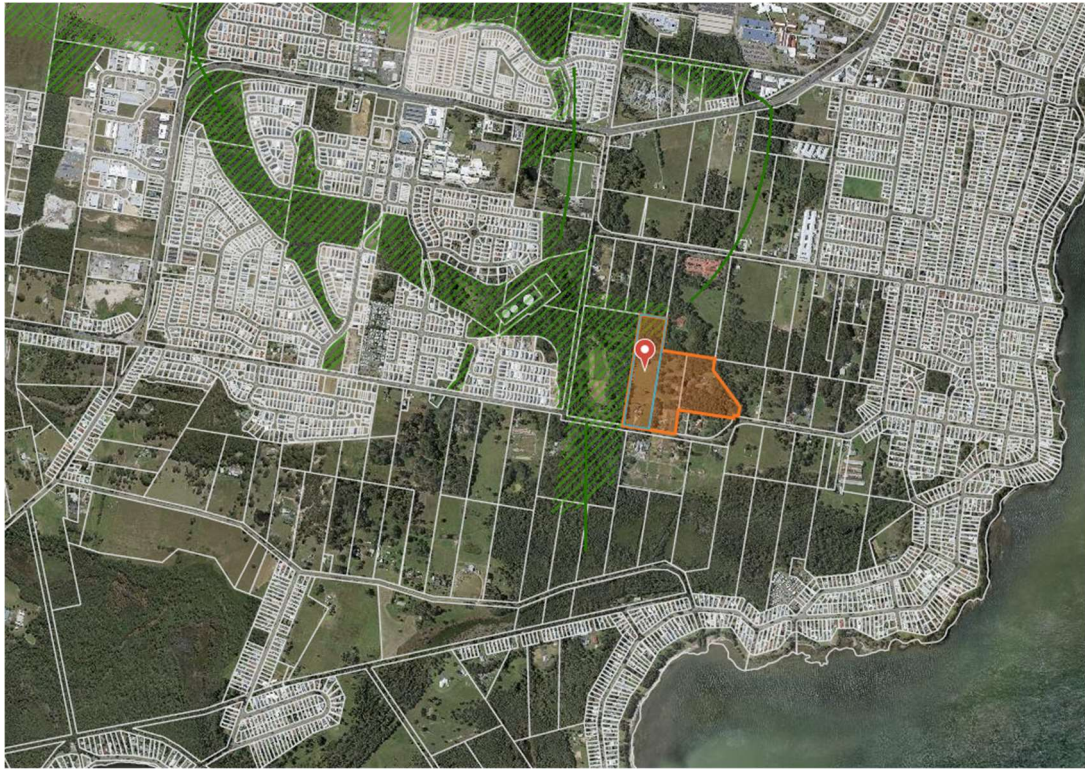


Figure 10 Location of green corridors and local conservation links as identified in the North Wyong Structure Plan.

The northernmost extent of the site (an area of 1.2ha) is mapped green corridor and the vegetation in this area is proposed for retention without modification.

The overall loss of 6.3ha of vegetation includes land that is directly adjoining a mapped green corridor across the north of the site and along part of the eastern boundary on the adjoining property, and a conservation link to the north of the site. The application lacks sufficient ecological survey and assessment (as identified within the natural environments section below) and as such the proposal fails to adequately address the green corridor requirements of DCP Chapter 3.4. Furthermore, the vegetation to be removed is identified as habitat for the critically endangered Swift Parrot and the loss of this habitat is considered to be a Serious and Irreversible Impact on biodiversity values (*Biodiversity Conservation Act 2016*).

Having considered the proposal against the performance criteria and the objectives of the DCP, the proposal does not achieve identified key biodiversity and landscape planning objectives for the North Wyong Shire Structure Plan. The proposal does not:

- *Improve the extent and condition of biodiversity in the region*
- *ensure connectivity for organisms at a landscape and regional scale*
- *provide landscape permeability to improve long-term ecological resilience*
- *facilitate adaptation to climate change through the protection and conservation of areas which enable fauna migration and dispersal, and the dispersal of plants*
- *provide for a range of land uses, where appropriate that do not adversely affect the overall function of the corridor, including dwellings, passive recreation and critical infrastructure*

These concerns relate to site compatibility certificate point 1 and are reflected in **reasons for refusal numbered 1, 10 and 14.**

Likely Impacts of the Development - impacts on both the natural and built environments, and social and economic impacts in the locality (s.4.15(1)(b) of the EP&A Act)

Built Environment

A thorough assessment of the aspects of the proposed development on the built environment has been undertaken including an assessment of SEPP and DCP compliance (Attachment 2) and the submissions received.

Traffic and transport

A traffic impact assessment by Intersect Traffic was submitted with the development application. The report concluded that the current road network has capacity to cater for traffic generated by this development having considered the traffic generation from the adjoining residential development. Additionally, the report indicated that a turn lane assessment of the site access off Johns Road indicates a required basic right turn and auxiliary left turn treatment for the access to Johns Road in order to comply with *AS2890.1-2004 Parking facilities – Part 1 – Off street car parking*. The report identifies the required turning lane treatment would conflict with the treatment employed for the approved adjoining subdivision. On this basis, the report identifies that a wider entry would allow vehicles to enter the site at a higher speed. Council's transport engineer has advised that the BAR/BAL treatment for the adjoining residential subdivision could be extended to encompass the access to the proposed seniors living development.

The traffic impact assessment makes assumptions regarding the speed limit based upon a 50km/h speed limit applying to Johns Road. Although the current speed limit is 60km/h for Johns Road in the vicinity of the site, however, with the realisation of the neighbouring subdivision, Transport for NSW will consider reducing this to 50km/h.

As discussed previously, the design as proposed does not allow for standard residential waste servicing by Council. In order to ensure future proofing and that Council can provide a residential waste service if necessary, the internal road network and waste vehicle manoeuvrability, waste storage/waste servicing outcome must be designed to accommodate the appropriate Council waste collection vehicle.

The traffic impact assessment by Intersect Traffic identifies that a convenient and frequent public bus service is available to the site and relies upon the availability of this service to demonstrate satisfaction of the public transport requirements of the *SEPP (Housing for Seniors and People with a Disability) 2004*, however the report does not provide details of the service. Additionally, the report identifies that the proposal will not generate enough pedestrian activity to require additional external facilities as most pedestrian activity will be contained within the site. This position is not supported by Council's planner based on the following:

1. Access to facilities by a suitable access pathway are a requirement of Clause 26 of *SEPP (Housing for Seniors and People with a Disability)*. The location does not have existing footpaths on either side of Johns Road to facilitate access to a bus stop.

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2. The applicant's assumptions fail to consider people who are not residents that may visit via public transport.
 3. The road has a 60km/h speed limit and it is reasonable to assume that footpaths, kerb ramps and a pedestrian refuge would be required in a location that does not compromised safety for turning and deceleration lanes.

The application has not demonstrated that it will not result in safety impacts to the future development of Lot A DP370424 and Lot B 369171. These adjoining lots are located with frontage to a sweeping blind corner. The proposed development does not allow for through traffic from this land or a deceleration lane at the Johns Road frontage and may constrain the ability to provide safe access for future development of these lots for residential uses anticipated in the North Wyong Structure Plan. This has not been considered within the submitted traffic report.

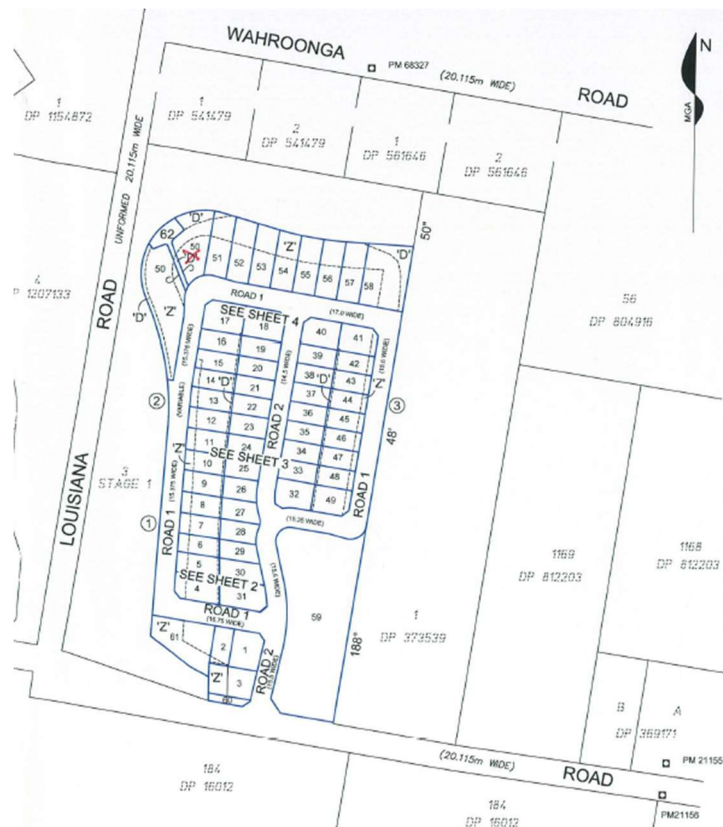
These concerns relate to site compatibility certificate point 2 and are reflected in **reasons for refusal numbered 1 and 7.**

Internal access and parking

The proposed private road access does not respond to the adjoining approved residential subdivision. A new private road is proposed to run parallel with the existing approved road. The proposed roads require supporting retaining walls in the order of five metres in height. These retaining walls are in close proximity to the boundary with neighbouring rural/residential development, are unsympathetic to surrounding character and the natural undulation of the land and would result in unacceptable amenity impacts both within the site and to adjoining neighbours.

The proposal includes required retaining walls of up to four metres to the east boundary with lot B DP369171 and 5.3 metres to the west adjoining lot. Retaining of this significance near the boundary is not compatible with the surrounding environment. Retaining walls of this height are not supported in any of these locations. Details of retaining walls in excess of 1 metre have not been provided, including top and bottom RLs and materials of construction.

The proposal does not include road or pedestrian linkages to adjoining land. A new public road was approved under development consent 1419/2017 which runs along the common boundary of 137 Johns Road and the subject site. The proposed development includes a new private road that runs parallel with this approved neighbouring road, but it does not contain any vehicle or pedestrian linkages.



The application does not include the submission of swept turning paths for all waste vehicle manoeuvring designed and certified to AS 2890.2 to demonstrate the ability of the required waste vehicle to forward enter, access the waste servicing location and forward exit the site. Forward entry and exit from the site that does not require crossing the centre line of the road has not been demonstrated. There is insufficient information to demonstrate lane discipline within the site to ensure that waste vehicle movements and waste servicing do not impact on other vehicle movements within the site.

These concerns relate to site compatibility certificate point 2 and are reflected in **reasons for refusal numbered 1, 9 and 14.**

External works and road infrastructure

The proposed intersection with Johns Road would be required to be a type BAR/BAL in accordance with *Austrroads Guide to Road Design, Signalised and un-signalised intersections*. Details have not been submitted.

The proposed intersection treatment would be required to interface with the proposed treatment for the adjoining subdivision to create an intersection that caters for both accesses. This is achievable but has not been detailed as part of the application.

Drainage

The site has a natural fall towards existing culverts under Johns Road and additionally has a defined watercourse to the east and a natural overland flow to the west. The proposal involves the collection and conveyance of stormwater runoff from the site through a network of stormwater pits and pipes which discharge to two proposed detention/water quality treatment basins.

The stormwater management for the site proposes two dual function detention/water quality basins to collect, treat and attenuate stormwater flows downstream to mimic pre-development rates from the site. Further hydrological and hydraulic modelling is required in order to assess the appropriateness of the proposed design.

The concept provides a bio-retention basin for the management of stormwater runoff from each catchment, which will also function as a detention basin to attenuate post-development to pre-development flowrates downstream to the existing watercourses.

The applicant is proposing to fill the overland flow path and divert the upstream flows around the site to the eastern basin and convey the runoff via a conventional network of stormwater pits and pipes to manage runoff. The location of the eastern basin that is proposed to be cut into the side of the hill requires high retaining walls and embankments. A preferable location for the basin would be at the low point within Lot A.

Hydrological and hydraulic modelling is necessary to ensure that the detention basins have been sized appropriately to cater for the required storm events and that any overflow/discharge from the basins will not have any significant impact on surrounding properties. This information has not been submitted.

These concerns relate to site compatibility certificate points 3 and 4 and are reflected in reasons for **refusal numbered 1 and 14**.

Concern has been raised in public submissions in relation to the location of stormwater detention basins on the site and downstream impacts to neighbouring properties.

In addition, the excessive height of retaining wall structures required for stormwater detention and their proximity to both Johns Road and neighbouring properties (particularly Lot A DP370424) is not supported. Detention basin walls with heights of 1.7 – 2.8 metres (dry detention basin) are located within the Johns Road frontage as indicated by the engineering plans (extract provided below).

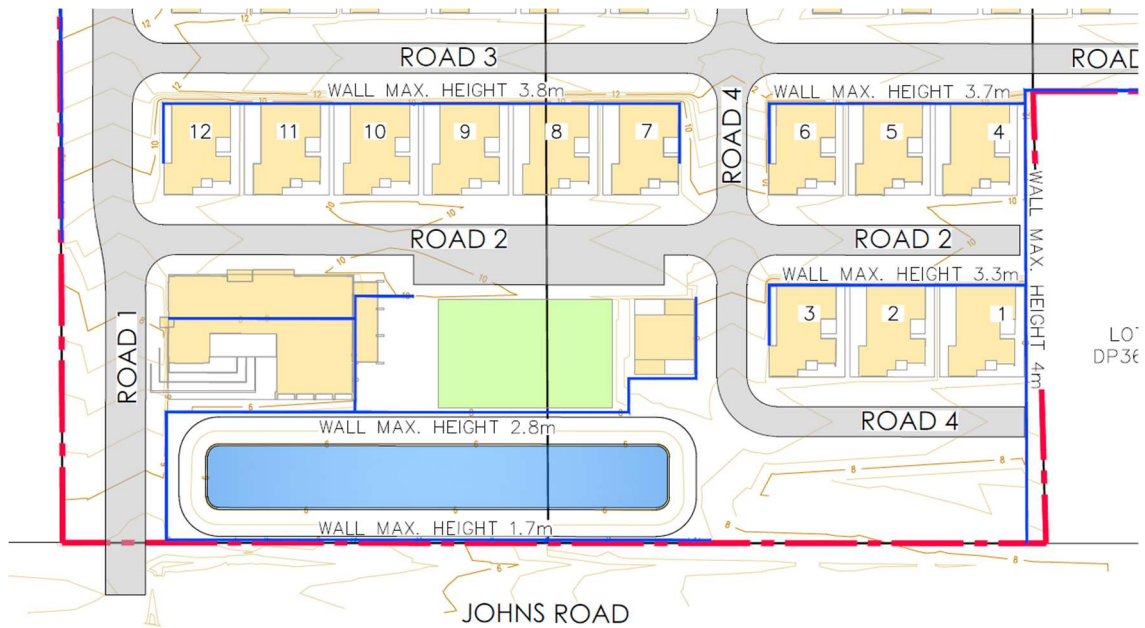


Figure 12: Extract of engineering plans showing location of detention basin within Johns Road frontage and the height of associated retaining walls

A detention basin to the east of the site has a retaining wall height of 2.6 metres at the property boundary with the eastern neighbour. This is an unacceptable visual outcome that is incongruous both with the existing rural land uses and future land uses anticipated under the North Wyong Shire Structure Plan. On this large site it is considered that there are sufficient opportunities to provide more sensitive relationships to neighbouring properties. An extract from the engineering plans depicting the detention basin location and heights of retaining walls is provided below.

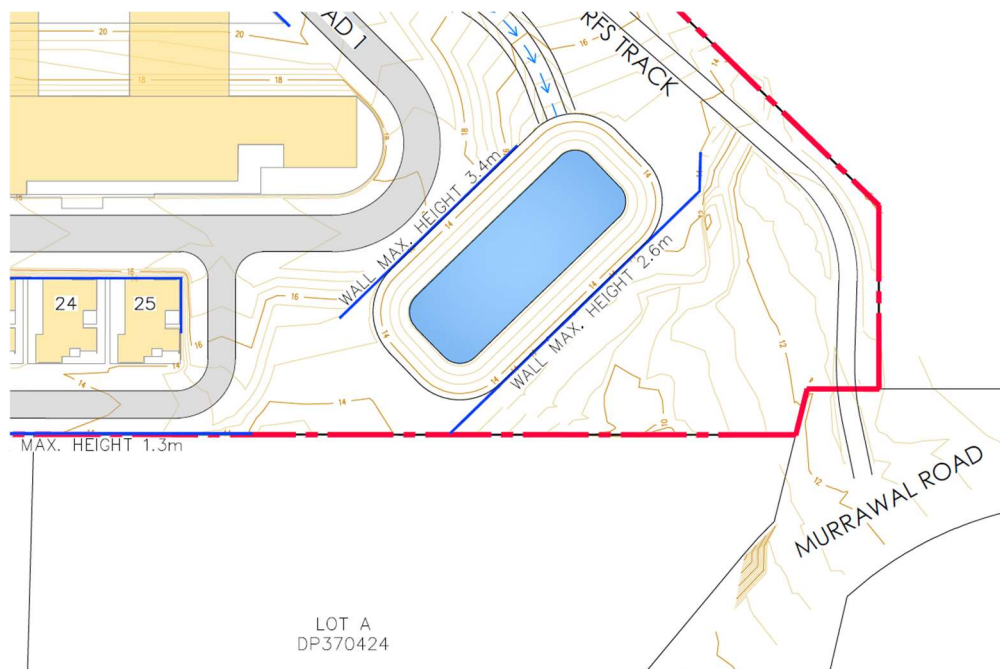


Figure 13 extract of engineering plans showing location of detention basin within the site and the height of associated retaining walls in proximity to the neighbour.

These concerns relate to site compatibility certificate points 3 and 4 are reflected in **reasons for refusal numbered 1, 12, 13 and 14.**

Water and sewer

Water supply – A water service is available from Johns Road (200mm asbestos cement). Council's existing system is adequate to provide water supply to the proposed development. As potential construction activities could damage the existing asbestos cement pipe, the replacement of the existing asbestos cement water main with PVC pipe for the extent of the proposed development boundary along Johns Road would be necessary.

Sewer – Refer to the previous discussion under Wyong Local Environmental Plan clause 7.9 Essential Services. The application is deficient in detail and there is a lack of certainty in relation to the provision of the essential disposal and management of sewage services. These concerns also relate to site compatibility certificate point 6 and are reflected in **reason for refusal number 8.**

Waste disposal

As identified in the assessment of the proposal against the relevant provisions of *Chapter 3.1 Site Waste Management of WDCP 2013* and *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, the submitted documentation does not demonstrate that waste is adequately managed in accordance with the requirements of the DCP or the SEPP. These concerns are reflected in **reasons for refusal numbered 5 and 9.**

Locality and streetscape

The proposal will adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the development is not acceptable within the locality having regard for the zoning of adjoining properties and the RU6 Transition zoning of the site. The development is of an architectural appearance which is unsatisfactory having regard for the future character of the streetscape. The proposal includes high masonry walls across the frontage and large residential buildings that do not have sufficient regard for the existing rural context or the future low density residential context identified by the North Wyong Shire Structure Plan.

The residential flat buildings and the hostel building have poorly articulated and composed built form that is lacking in residential character and the development has a poorly considered relationship to surrounding properties.

The proposed boundary fencing presents as a "gated community". The proposal does not have an appropriately sensitive delineation of the boundary, both to the east (which has rural residential and bush character) and to the west (which has an intended low density residential character). The site boundary should be delineated in a more sensitive manner that may include pedestrian and/or vehicular gates into the neighbouring street network (to the west).

These concerns are reflected in **reasons for refusal numbered 1, 5, 6, 7, 13, and 14.**

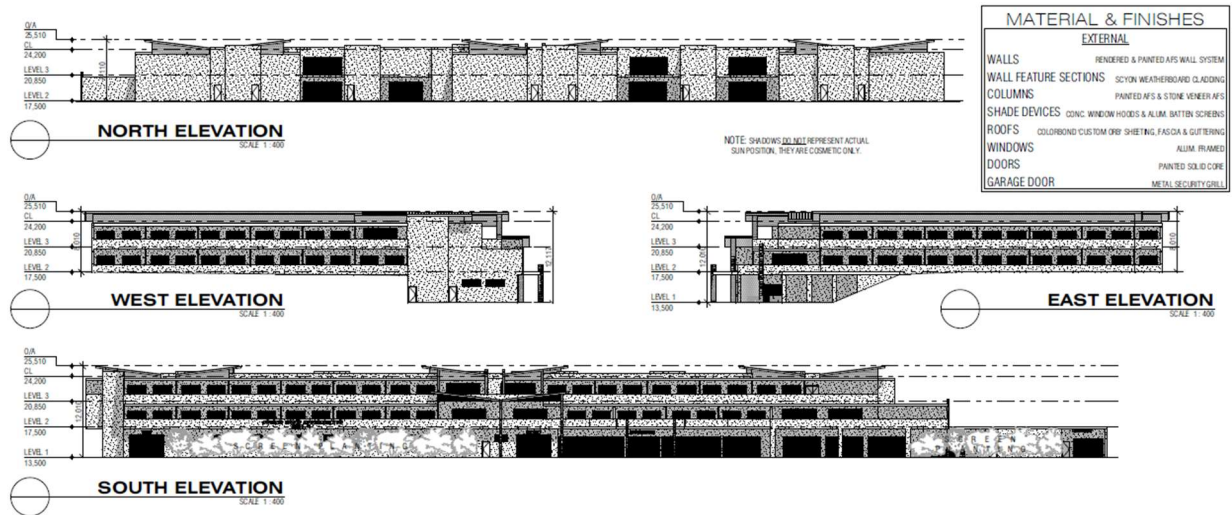


Figure 14: Elevations of the Hostel building

Built form

The proposal does not use building forms and siting that relate to the site's land form. The proposal relies on large retaining walls and benching of the site and does not provide sensitive transitions to boundaries with neighbours or within the site, that respond to the natural undulation of the site.

The application has not given enough regard to the proposed road along the western boundary to which the site will have frontage. The proposed development includes a road that is parallel to the proposed neighbouring road. The orientation of dwellings in the design layout does not address the proposed road at all, the SHD's (serviced housing dwellings) present side boundaries toward the west proposed street network.

The residential flat buildings and the hostel building have poorly articulated and composed built form that does not respond to the low density residential character of the area and the development as a whole has a poorly considered relationship to surrounding properties.

The SHD's do not have sufficient variation to the elevations. The proposal lacks varied facades and roof forms that would assist in providing an appropriate sense of place identification and recognition of the adjoining low density residential character.

Insufficient information has been provided showing the relationship to existing natural ground levels and proposed finished ground levels around the residential flat buildings of the SHU's (Serviced Housing Units).

The hostel building has elevations in the order of 113 metres (three storeys) and 56 metres (two to three storeys). These elevations are largely unarticulated, with repetitive window placement and little variation. This does not represent an appropriate residential character within the rural/low density residential context of the site. The building configuration reflects the hostel nature; however the external elevations of the buildings are not modulated with groups of units projecting forward along the façade to break up the long repetitive form and provide an appropriate residential character.

These concerns are reflected in reasons for **refusal numbered 5, 6, 13 and 14.**

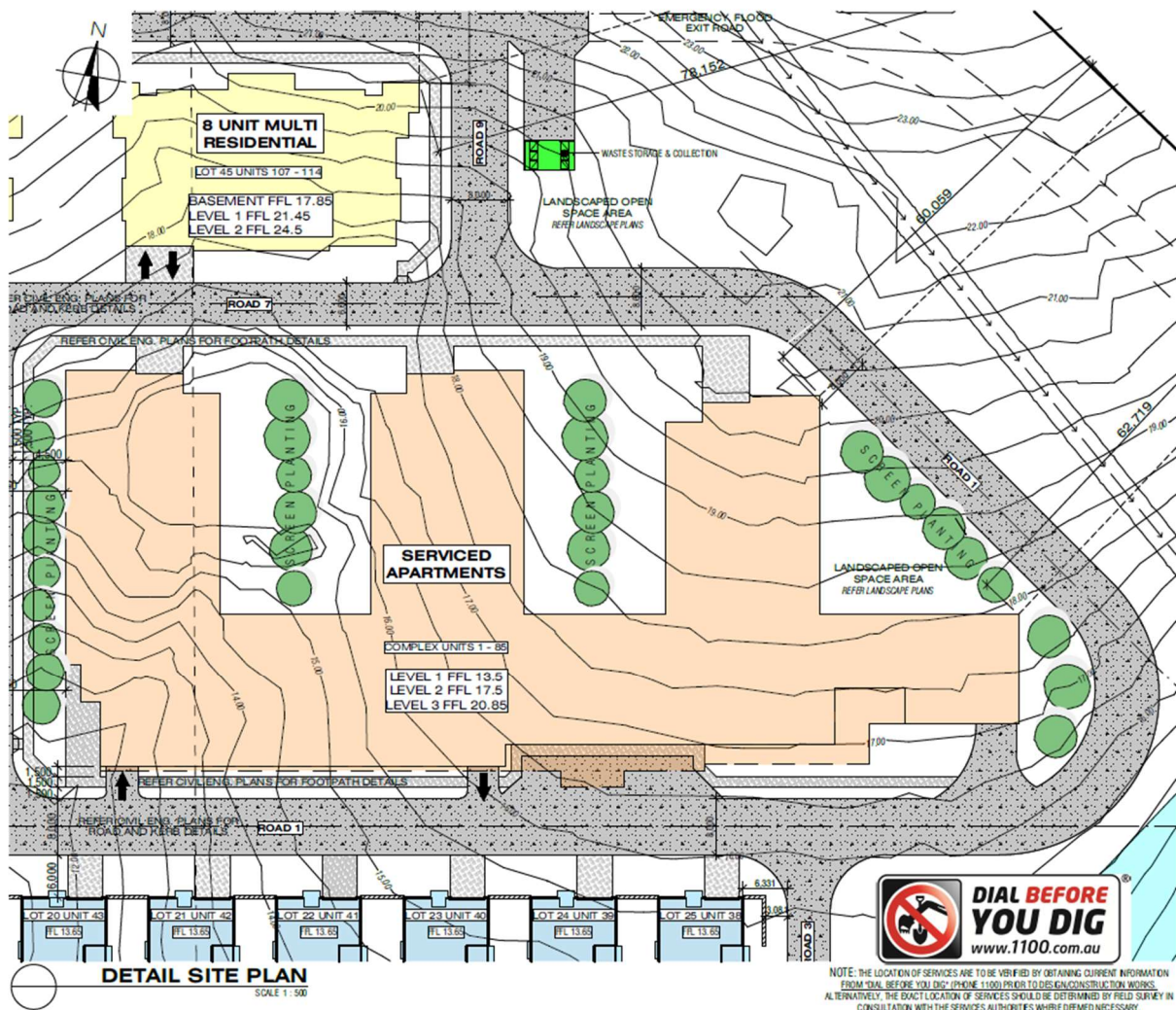


Figure 15: Partial site plan including hostel building

Privacy, overlooking and boundary treatments

The proposal results in significant privacy and overlooking impacts to neighbouring properties as a result of the poorly resolved design that does not relate to the existing undulating ground levels. The proposal relies upon significant benching of the site and high retaining walls at boundaries and this results in level changes at the boundary of as much as five metres. The proposal does not contain sufficient detail of retaining walls proposed for the development, including existing and finished ground levels, engineering detail or materials or construction on plans, elevations or cross sections. There are limited plans indicating retaining walls, and insufficient cross sections at the boundaries to indicate the proposed level changes and boundary treatments.

Neighbouring dwellings at 115 and 105 Johns Road have significant altered privacy amenity as a result of the wholesale removal of vegetation in proximity to their rear and side common boundaries with the development.

These concerns are reflected in **reasons for refusal numbered 5, 6, 7, 11, 12, 13 and 14.**



Figure 16: Aerial view of affected neighbouring properties and vegetation on site in proximity to the boundary (to be removed)

The proposal provides inadequate replacement planting that has limited, if any, value in mitigating privacy impacts of the development or the amenity impacts to the outlook of neighbouring properties resulting from the loss of vegetation. Intermittent planting of *Corymbia eximia* "nana" (Dwarf Yellow Bloodwood) and *Callistemon viminalis* (Weeping Bottlebrush) that achieve a height of approximately 6 to 8 metres at maturity are proposed to be planted within proximity to the boundary with affected neighbours however, as a result of altered ground levels proposed at the boundary, the new tree planting is proposed at a significantly lower finished ground level in the order of 3 to 5 metres below the level of neighbouring properties.

These concerns are reflected in **reason for refusal numbered 11**.

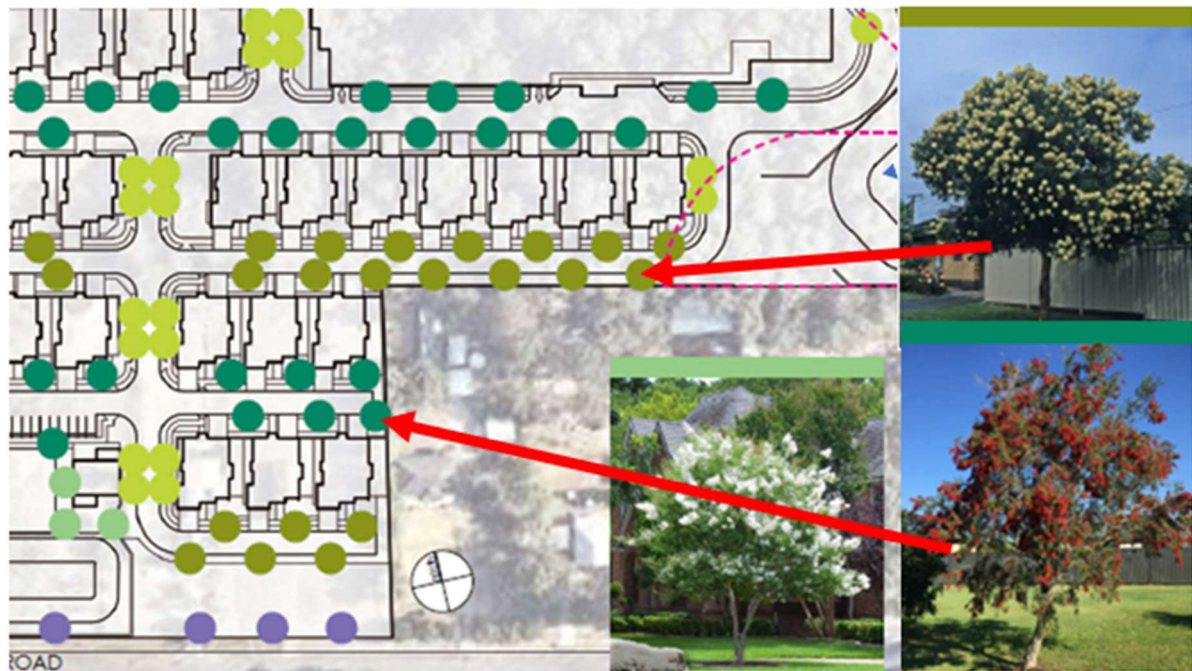


Figure 17: Extract of landscape plan showing replacement planting



Figure 18: Extract of landscape plan indicating tree removal

Overshadowing

Shadow diagrams have been prepared for the development between 9:00am and 3:00pm, for 21 June (midwinter) in order to demonstrate the worst-case scenario for solar access on the shortest day of the year.

The proposal has been assessed having regard for solar access and design for climate principles and the provisions of Clause 35 of *State Environmental Planning Policy (Housing for Seniors and People with a Disability)*. The proposal results in unacceptable solar access outcomes within the development as follows:

- a) Serviced housing units within the residential flat buildings do not have adequate (if any) solar access to primary living spaces or private open space (POS) areas. All units have south facing living spaces and private open space, with 4 out of 8 units having either an additional easterly or westerly orientation. Units with an easterly orientation receive limited benefit due to shadowing from adjoining flat buildings at 9am, and at 12 noon the angle of the sun is very oblique to window openings. The shadow diagrams do not accurately show solar impacts of high retaining walls and level changes across the site.

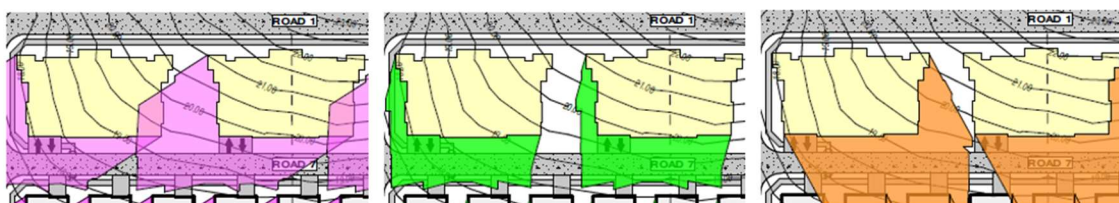


Figure 19: Partial extract showing 9am, 12 noon and 3pm shadow impacts to serviced housing dwellings

- b) Serviced housing dwellings within attached buildings do not have solar access to POS and limited solar access to living areas. The shadow diagrams do not accurately show solar impacts of high retaining walls and level changes across the site. The lower dwellings have living areas and private open space with southerly and easterly orientations. These areas are self shadowed at 12 noon and 3pm at the midwinter solstice and are shadowed by neighbouring dwellings at 9am.



Figure 20: Partial extract showing 9am, 12 noon and 3pm shadow impacts to serviced housing dwellings

- c) The hostel building does not have living and dining areas that are located with a northerly orientation. The north façade of the building has few windows. There are

missed opportunities at the northern extent of the wings of the buildings. The Level 2 floor plan does not provide a meaningful connection to the courtyard garden spaces that are flanked by the wings of the building. Lounge areas and terraces could provide opportunities to enter these north facing gardens for passive recreation. These areas could provide good opportunity for level, sheltered and secure outdoor spaces for residents. The hostel building has south facing dining, courtyard, lounge and terrace communal open space areas. Some areas such as upper level terraces have limited access to easterly orientation. The submitted shadow diagrams do not show the impacts of the "wings" of the hostel building at 9am and 3pm to internalised garden courtyard spaces.

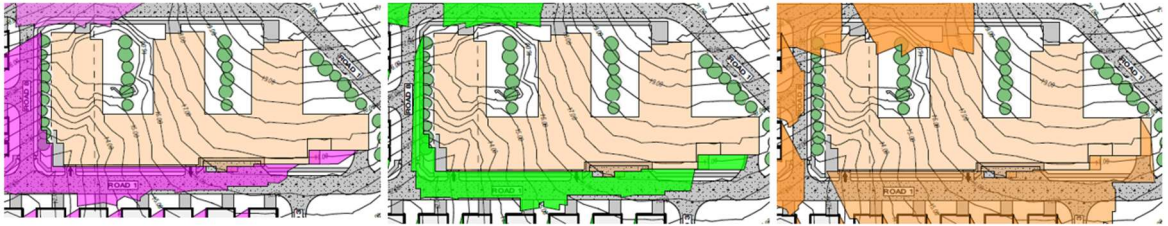


Figure 21: Partial extract showing 9am, 12 noon and 3pm shadow impacts to serviced housing dwellings

- d) The proposal does not meet the required three hours direct midwinter sunlight to 70% of dwellings (serviced self-contained dwellings and serviced self-contained units - Clause 50, SEPP HSPD) living rooms and private open space areas. There is a significant shortfall, however the solar access studies provided have insufficient detail to confirm the extent of non-compliance.

In general, the shadow diagrams do not accurately show solar impacts of high retaining walls and level changes across the site. These concerns are reflected in **reason for refusal number 5**.

Air quality

It is considered that dust control during demolition, earthworks and construction could be achieved through the adoption of appropriate measures to minimise dust into the surrounding environment. This would need to be undertaken in consultation with the requirements of a Remediation Action Plan for the site.

Noise and vibration

The development would result in construction noise impacts to surrounding properties for a limited duration. The impacts within the development of staged construction has not been addressed within the application. Were the proposal able to be supported, a management plan would need to be developed to ensure appropriate noise and vibration amenity can be maintained for residents occupying earlier stages of the development.

Safety, security and crime prevention

The proposal does not generate any concern having regard for the principles of Crime Prevention Through Environmental Design (CPTED).

Isolation of sites and future development potential

The application has not adequately considered the future development potential of Lot A DP370424 and Lot B 369171 and impacts to future development. These adjoining lots are located with frontage to a sweeping blind corner. The proposed development may constrain the ability to provide safe access for future development of these lots for residential uses anticipated in the North Wyong Structure Plan. Insufficient consideration has been given to the potential future development of these adjoining lots.

These concerns are reflected in **reasons for refusal numbered 1 and 7**.

Heritage

An Aboriginal Heritage Due Diligence assessment has been undertaken and does not identify the site as containing any known items. There is no evidence of European Heritage.

Contamination

The three lots that comprise the site have mainly been used for rural residential purposes from at least the mid to late 1950s to the current day.

The application is supported by a preliminary contamination assessment undertaken by Qualtest Laboratory dated February 2020. The report identifies four areas of concern for potential contamination across the 3 lots that comprise the site:

- Hazardous materials in former and current buildings – asbestos, septic systems, hydraulic car hoist, spills and leaks from oils, fuels, chemicals and paint
- Surface water and drainage
- Stockpiles of general rural waste
- Imported fill of unknown quality.

The Qualtest report highlights a potential risk of exposure to site users and the environment and recommends sampling of surface soils, fill stockpiles, and surface water and sediment sampling to determine if soil, sediment, and/or surface water contamination exists, including a Hazardous Materials Survey of the structures on site. The report identifies that the additional sampling is unlikely to identify contamination of a nature that would preclude development of the site (that is contamination that was not able to be remediated).

Given the significant extent of excavation and soil disturbance proposed at the site, further investigation would be required prior to any significant construction occurring on the site, that any likely remediation could be undertaken and the site made suitable for the intended use.

Overall built environment impacts

The proposal is in an RU6 Transition zone that aims to provide a transition between rural and other land uses of varying intensities or environmental sensitivities, minimise conflict between land uses and ensure that land uses do not have an adverse impact on the conservation or development potential of land identified in the North Wyong Shire Structure Plan or Wyong Settlement Strategy.

The site is identified within Precinct 3B of the North Wyong Shire Structure Plan (NWSSP). The precinct is identified for potential future low density residential development within the medium term (10-15 years).

Having regard for the intended potential future development of the area, the proposal results in unsatisfactory likely impacts on the character and amenity of the locality, adjoining properties and the streetscape.

The scale, form and character of the development are unacceptable within the locality. The proposed development is considered unsatisfactory in terms of impacts on the built environment.

Natural Environment

A thorough assessment of the aspects of the proposed development on the natural environment has been undertaken including an assessment of SEPP and DCP compliance (Attachment 2) and having regard for the submissions received.

Bushfire risk

The site is mapped as both bushfire prone vegetation category 1 and vegetation buffer on Council's bush fire risk mapping. A bush fire assessment report prepared by Kleinfelder Newcastle (Tony Hawkins) has been submitted with the development application. Due to a number of the proposed buildings being located within the proposed APZ, the submitted bush fire report recommends that a deferred commencement condition be applied to the development as follows: *"Until such time as vegetation clearing on the adjoining lot (Lot 27 DP663622) is completed, construction in this constrained area may not proceed. Following vegetation clearing on (Lot 27 DP663622), the constrained area may be reassessed for potential development"*.

The proposed use as an aged care facility is deemed to be a "Special Fire Protection Purpose" under s100B of the *Rural Fires Act 1997*, requiring the issue of a Bush Fire Safety Authority from the NSW Rural Fire Service (RFS). The application was referred to the NSW Rural Fire Service and in response they have advised that the proposal is not supported based upon the reliance of the deferred commencement condition and that the proposal should be altered to provide all building works outside of the required APZ. Additionally, the RFS have identified that the hazard includes slopes of 5-10 degrees down within the vegetation to the north, which is a discrepancy with the submitted bush fire report that indicates an up slope. The fire assessment submitted by the applicant requires updating to reflect the relevant APZs in Appendix 2 of PBP 2006. Refer to the comments of Rural Fire Service contained in following sections of the report below.

These concerns relate to site compatibility certificate point 5 and are reflected in **reasons for refusal numbered 1 and 3**.

Flooding

Central Coast Council flood mapping indicates that parts of the site is subject to localised flooding. The lot is identified as being affected by the 1% AEP + Freeboard and PMF events and on this basis Council's Development Assessment Engineer has considered the risk of flooding. The land is located at approximately R.L. 6.0 metres and above and is not directly impacted from flooding of Tuggerah Lake, however the site has a natural defined overland flow path through the site and is impacted by overland flooding from the local catchment.

It is considered that the application has adequately addressed flooding and will not result in any unreasonable impacts.

Acid Sulfate Soil (ASS)

The site is mapped as containing Class 5 acid sulfate soils (ASS). Having regard for the provisions of Clause 7.1, the works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. The proposal is acceptable having regard for the likelihood of acid sulfate soils at the site.

Biodiversity

The Biodiversity Development Assessment Report (BDAR) dated February 2020, prepared by Anderson Environment and Planning (AEP), submitted with the Development Application describes that the site includes 7 hectares of native vegetation (Spotted Gum Forest) with the remaining 3.8 hectares of the site comprised of cleared land, exotic paddock, dams and garden plant species. Point 1 of the site compatibility certificate specifies that biodiversity impacts are to be minimised by sensitive siting of the development to avoid high value vegetation, habitat and hollow bearing trees. The eastern portion of the development is a concern in relation to biodiversity impacts. The development application to Council provides for minimal avoidance of biodiversity values as detailed below:

- The proposed development footprint covers the majority of all three lots. This requires clearing of 6.3 hectares of the 7 hectares (or 90%) of native vegetation on the site.
- An area of 0.71 hectares of vegetation in the western part of the development is the only area of vegetation proposed to be retained without modification. This represents retention of 10% of the vegetation on site and it will be retained in a small area that will be subject to edge effects.
- The BDAR identifies 14 hollow bearing trees on site that have a total of 53 hollows. It is proposed to remove 46 of these hollows, which comprises removal of 87% of the hollows identified on site. Of the three trees with large hollows, none are to be retained.
- Most of the vegetated eastern portion of the site is proposed to be cleared. The Landscape Plan shows the majority of trees and vegetation to be removed within the APZ, with only a small number of scattered trees around some parts of the perimeter of the site to be retained.

-
- The proposal involves the removal of 5.39 hectares of vegetation that has been mapped by the NSW Department of Planning, Industry and Environment as important habitat for the Critically Endangered Swift Parrot. This point is discussed in more detail below in relation to the likelihood of serious and irreversible biodiversity impacts on this species.

Section 7.16(2) of the *Biodiversity Conservation Act 2016* (BC Act) specifies that the consent authority must determine whether any of the impacts of a proposed development on biodiversity values are serious and irreversible. Where the consent authority determines that the impacts are serious and irreversible, the consent authority must refuse to grant development consent:

"7.16 Proposed development or activity that has serious and irreversible impacts on biodiversity values"

(1) In this section,

"serious and irreversible impacts on biodiversity values" of proposed development or activity means serious and irreversible impacts on biodiversity values as determined under section 6.5 that would remain after the measures proposed to be taken to avoid or minimise the impact on biodiversity values of the proposed development or activity.

(2) The consent authority must refuse to grant consent under Part 4 of the Environmental Planning and Assessment Act 1979, in the case of an application for development consent to which this Division applies (other than for State significant development), if it is of the opinion that the proposed development is likely to have serious and irreversible impacts on biodiversity values.

(3) If the Minister for Planning is of the opinion that proposed State significant development or State significant infrastructure that is the subject of an application to which this Division applies is likely to have serious and irreversible impacts on biodiversity values, the Minister-
(a) is required to take those impacts into consideration, and
(b) is required to determine whether there are any additional and appropriate measures that will minimise those impacts if consent or approval is to be granted.

(4) If the determining authority is of the opinion that the proposed activity to which this Division applies is likely to have serious and irreversible impacts on biodiversity values, the determining authority-
(a) is required to take those impacts into consideration, and
(b) is required to determine whether there are any additional and appropriate measures that will minimise those impacts if the activity is to be carried out or approved.

The development requires the removal of 5.39 hectares of vegetation that has been mapped by the NSW Department of Planning, Industry and Environment as Important Habitat for the Swift Parrot. The Swift Parrot is listed as a Critically Endangered species under the BC Act and has been designated by the NSW Department of Planning, Industry and Environment as a candidate species for Serious and Irreversible Impacts (SAIL).

Guidance on what constitutes an SAIL is included in Clause 6.7 of the *Biodiversity Conservation Regulation 2017* (BC Regulation):

"6.7 Principles applicable to determination of "serious and irreversible impacts on biodiversity values" (section 6.5(1))

(1) This clause applies for the purposes of determining whether an impact on diversity values is a serious and irreversible impact for the purposes of the biodiversity offsets scheme.

(2) An impact is to be regarded as serious and irreversible if it is likely to contribute significantly to the risk of a threatened species or ecological community becoming extinct because-

(a) it will cause a further decline of the species or ecological community that is currently observed, estimated, inferred or reasonably suspected to be in a rapid rate of decline, or

(b) it will further reduce the population size of the species or ecological community that is currently observed, estimated, inferred or reasonably suspected to have a very small population size, or

(c) it is an impact on the habitat of the species or ecological community that is currently observed, estimated, inferred or reasonably suspected to have a very limited geographic distribution, or

(d) the impacted species or ecological community is unlikely to respond to measures to improve its habitat and vegetation integrity and therefore its members are not replaceable."

In this case the consent authority must decide whether this clearing and associated indirect impacts result in a serious and irreversible impact. Council has engaged a Swift Parrot specialist (Ross Crates) from the Australian National University to provide advice to assist the consent authority in this determination (Attachment 3). The executive summary of the advice prepared by Ross Crates is provided below:

- "The Subject Site is mapped as important habitat for Swift Parrots.*
- The Subject Site lies within an important and regularly-used wintering area for Swift Parrots.*
- The future importance of the area within and surrounding the Subject Site as a drought refuge for Swift Parrots is likely to increase given climate change projections.*
- Given the number of lorikeets I observed foraging on profuse spotted gum blossom within the Subject Site during inspection, I disagree with the AEP conclusion that habitat within the Subject Site is marginal Swift Parrot habitat."*

In relation to the BDAR review:

- "A lack of records of Swift Parrot on the Subject Site and their suggested preference for other areas in the region are likely explained by spatial biases in observer effort, rather than true absences / preferences for other areas.*
- Distinctions in the quality of the habitat within the Subject Site are not relevant for Swift Parrots, because the distinctions are based on understorey attributes whereas Swift Parrots almost exclusively use the canopy for foraging.*
- Available data do not support the conclusion that Swift Parrots prefer swamp mahogany and forest red gum over spotted gum in the Central Coast.*
- The importance of the Subject Site to Swift Parrots does not currently acknowledge the cumulative risk of the loss of similar patches of habitat in the area if a precedent is set."*

In relation to assessment of Serious and Irreversible Impacts (Section 7.16 of the BC Act):

- *"The proposal does not satisfactorily avoid potential serious and irreversible impacts to Swift Parrots or Regent Honeyeaters (assessment step 3), because it has not considered construction in a different location that is not mapped as important habitat for either species.*
- *In my opinion, the proposed loss of habitat on the Subject Site would represent a serious and irreversible impact for the Swift Parrot."*

Additional issues in relation to the assessment of ecological impacts for the site include the insufficient extent of retained wildlife corridor, insufficient seasonal orchid survey and insufficient analysis and effort for some threatened fauna. Additional seasonal field survey is likely to be required to resolve some of these issues identified below:

- *Orchid surveys* - The survey methodology for cryptic flora species is non-compliant. The NSW Office of Environment and Heritage (2016) *NSW Guide to Surveying Threatened Plants* specifies the survey method for orchids as part of BDARs: *"The survey method for small cryptic species such as orchids requires foot traverse, scanning a strip no more than 5 metres wide"*. The transects used in the orchid surveys on this site survey were 10 metres wide and have not met the minimum survey effort to reliably detect threatened orchids if present.

In relation to Wyong Sun Orchid *Thelymitra adorata*, known from Wadalba, the Threatened Biodiversity Data Collection (TBDC) specifies: *"Survey: Use flowers to identify. Flowering period and abundance varies each year and occurs for 2-4 weeks Sep - Oct. Use a nearby reference population to determine most likely time for flowering. Species is more likely to be detectable on warm sunny days. and Flowering: Highly variable rates of emergence. Does not always flower every year and flowers may only open for a few hours a day over a two week period. Flowering dependent on sunny warm weather during midday"*. The report does not include evidence that *Thelymitra adorata* surveys were undertaken when a local population of the species was flowering.

It is assumed the targeted *Thelymitra adorata* surveys were part of the surveys undertaken on 26 September 2019, but it is not specifically stated. Council records indicate that on 24 September 2019 no plants at the Wadalba reference site for the species were known to be in flower and the consultants were notified of this at the time. Weather details for 26 September 2019 have not been specified within the report and are necessary as the flowers of this species will only open on a hot sunny day. The consultants recorded one orchid species on site, and Council's Ecologists recorded another species during a site inspection in April, indicating that there is suitable orchid habitat on site.

- *Large Forest Owls* - The information provided within the report is insufficient to determine whether there is any breeding habitat on or adjoining the site for Large Forest Owls. The Powerful and Masked Owls have been previously recorded in the Wadalba Wildlife Corridor, the Barking Owl has also been previously recorded within 10km of the subject site. Suitable large forest owl nesting habitat (that meets benchmark requirements for these species according to the TBDC) is documented in Appendix J of the BDAR. Three trees (ID 1, 3 and 4) were recorded with large hollows (> 20 cm), a minimum 6 metres off the ground.

Given that the above suitable nesting habitat was recorded and in addition, a Masked Owl was recorded calling in July 2019 (Section 1.43 of the BDAR, no date or time given), a detailed targeted large forest owl survey is required to determine presence of potential nest trees and if there is breeding activity at the subject site. The report (Table 6) details that threatened owls were targeted for survey on one night in July 2019. The survey effort presented in the BDAR does not meet minimum effort requirements.

- *Microbats* - The reported results detected four threatened species on site, including three species that are credit species. The possible use of structures to be removed, including derelict buildings at the rear of 135 Johns Road, has not been adequately considered. Adequate avoidance and mitigation measures are not included in the BDAR for removal of threatened bat habitat even though presence of a number of species, including breeding habitat for *Myotis*, has been assumed. Additionally, there are inconsistencies and missing data within the bat survey results provided within the report. The information provided is limited to analysis relating to one Anabat on 3 to 8 December 2019 (6 nights) and is not consistent with the greater level of Anabat survey effort detailed elsewhere in Table 6 and Figure 6 of the report. The report does not include analysis or results for Anabat 2 which is stated to have been deployed for 31 nights in December and January, and none for any Anabat in July. The survey effort undertaken, and results obtained, are unclear. If survey effort has not met the NSW survey guide for 'Species credit' threatened bats, further survey in warm weather would be required to meet those guidelines.
- *Squirrel Glider* - The report indicates that no trapping for Squirrel Gliders was undertaken, however the BDAR concludes that Squirrel Gliders are not present on site. Identification of the gliders on the site has been based on camera trapping only, which is an unreliable method to distinguish the species from the closely related Sugar Glider. There are local records of Squirrel Gliders within the eastern part of the Wadalba Wildlife Corridor in contiguous habitat and given that gliders have been photographed on the site, the presence of Squirrel Gliders should be assumed as there is suitable habitat. Corridors, retained habitat and retirement of species credits has not been provided for in the BDAR.
- *White-bellied Sea Eagle* - A previously known White Bellied Sea Eagle nest in the Wadalba Wildlife Corridor was recently inspected and it was found that signs of renewed activity and building are occurring. The nest is approximately 250 to 280 metres from the western property boundary of 135 Johns Road Wadalba. The BDAR has outlined White Bellied Sea Eagle sightings on the site, including roosting, but in relation to breeding activity in the form of nest the BDAR (Table 7, Species Credit Species) states: '*No nest was observed on site. Surveys of local area on foot and by car failed to locate nest. An old nest was previously recorded within 500m west of the site.*' The White Bellied Sea Eagle aspect of the BDAR, including the requirement for species credits, requires updating to account for the known nest within 250 to 280 metres of the site.
- *Koala habitat* - The report has undertaken an assessment against the earlier SEPP 44 – Koala Habitat Protection and indicates that the presence of Koala food tree species of Schedule 2 of the SEPP has been considered and that there are no trees of those species present on site. Having regard for the requirements of the more recent *State Environmental Planning Policy (Koala Habitat Protection) 2019*, the site is mapped upon the Koala Development Application Map. Additionally, has a size larger than 1 hectare and does not have an approved Koala plan of management applying to the land. The dominant tree

species on the site are included as feed tree species listed under the updated Schedule 2 of the current Koala SEPP for the Central Coast region. A Koala Assessment Report prepared in accordance with the Draft Koala Habitat Protection Guideline has not been submitted.

The following are necessary requirements and outcomes for any future development of the site:

- Substantially decreased clearing of Spotted Gum Forest;
- Improved retention of native vegetation including hollow bearing trees;
- Provision of a larger biodiversity corridor would along the rear of all three properties in north of site; and
- Further survey work to rectify the above anomalies.

Having regard for the above matters of significance in relation to biodiversity at the site, the fact that issues that were identified to be addressed in the site compatibility certificate have not been adequately addressed and having regard for ecologically sustainable development and the public interest, the application is not supported. These concerns relate to site compatibility certificate point 1 and are reflected in **reasons for refusal numbered 1, 2, 4, 7, 10, 14, 15 and 16.**

Social and economic impact in the locality

Economic Impacts

The proposed development would generate short term economic stimulus through the construction of the development. The long term economic benefit of the development is identified as the generation of 15 jobs, which are additional local employment opportunities being created. Having regard for the Central Coast Regional Plan 2036, the proposal achieves a core aim in that it facilitates economic development that will lead to additional local employment opportunities on the Central Coast and reduce the percentage of employed persons who travel outside the region each day for work.

Social Impacts

Having regard for social impacts and the need for the the development, it is considered that there is an aged and ageing population on the Central Coast. As of 2016 census, there were 68,561 people are aged 65+ living on the Central Coast, making up 20.9% of population. By 2036, there will be an additional 31,500 people aged 65+ on the Central Coast. Between 2016 and 2036 the greatest increase will be in:

- 75 to 79 year olds - +7,645 people
- Followed by 85+ years - +7,072 people

On this basis, it is considered that additional diverse, accessible and affordable housing will be required to house this increase in ageing population, however it must be appropriate.

In this regard, the proposed Seniors Housing is a specialist form of housing that aims to cater to the above population. The proposal however contains many aspects of non-compliance with the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*,

which is the state policy for the provision of Seniors Housing under which the application seeks consent. These non-compliances will impact negatively on amenity for residents of the facility and some of the design aspects may negatively impact neighbours, including:

- Clause 13 requires nursing care to be available onsite and that is not apparent from the staffing outlined in the Operational Plan of Management.
- Clause 26 Location and Access to Facilities requires confirmation of accessibility for residents to appropriate services and facilities via suitable access pathways and/or sufficient frequent public transport that ends within 400m of desired services with pathways being at a suitable gradient. The application contains insufficient information to demonstrate compliance. The frequency of public transport to key locations and accessibility of pathways to and from public transport are not adequately addressed in the DA, noting the grass verges along Johns Road. Insufficient detail on the operation of the shuttle bus is provided. The information necessary to satisfy Clause 26 is important to ensure that residents will not be isolated within the facility.
- Clause 35 regarding solar access in living areas and private open space is not complied with. This will negatively impact the amenity of residence to a significant degree.

The Operational Management Plan submitted with the development application is inadequate and is lacking detail on what staffing will be available and at what times and whether this will be compliant with the SEPP. Staff such as carers and kitchen staff should be in place from first occupation or alternatives detailed to demonstrate that the required services are available to residents during the entirety of their occupation.

The application lacks operational detail on the community facilities being provided on site, such as access and availability to residents and how these facilities will be managed.

Whilst Seniors Housing is a form of housing that is necessary on the Central Coast, the application has not provided sufficient information to demonstrate that the site meets location and access needs for a seniors housing development or sufficient information in relation to the operation of the development to identify immediate and long term social benefits of the proposal.

These concerns relate to site compatibility certificate point 7 and are reflected in **reasons for refusal numbered 5 and 14.**

Suitability of the Site for the Development (s. 4.15 (1)(c) of the EP&A Act)

The site is zoned RU6 Transition and is identified within Precinct 3B of the North Wyong Shire Structure Plan (NWSSP). The precinct is identified for future residential development within the medium term. Having regard for the existing rural context and the future low density residential context identified by the North Wyong Shire Structure Plan, the scale, form, character and density of the development is not acceptable.

The proposal does not minimise conflict between land uses which is an objective of the RU6 Transition zoning. The proposal presents an unacceptable built form that is out of character with existing and future surrounding land uses with long unarticulated facades, insufficient

regard for the surrounding low density scale of buildings, and insufficient regard for the existing slope of the land resulting in inappropriately managed boundary treatments.

The site is identified as environmentally sensitive. The site is not suitable for the proposal as it requires the removal of 5.39 hectares of vegetation that has been mapped by the NSW Department of Planning, Industry and Environment as important habitat for the Critically Endangered Swift Parrot.

The proposal has the potential to frustrate future development potential of Lot A DP370424 and Lot B 369171. These adjoining lots are located with frontage to a sweeping blind corner. The application has not demonstrated consideration of the future development of these lots and has not shown how safe vehicular access could be achieved for future development of these lots for residential uses anticipated in the North Wyong Structure Plan. Insufficient consideration has been given to the potential future development of these adjoining lots.

There is insufficient information provided with the development application to ascertain the appropriateness and accessibility of the site that is required by *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*.

There is insufficient information provided with the development application to ascertain how the site will be serviced that is required by *Wyong Local Environmental Plan 2013* and the site compatibility certificate issued by the Hunter and Central Coast Regional Planning Panel.

The application fails to adequately address those matters provided in Schedule 2 of the site compatibility certificate issued by the Hunter and Central Coast Regional Planning Panel on 11 September 2019 (Attachment 4).

For the reasons identified in the report and having regard for the provisions of Clause 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* the site is not suitable for the proposed development (**reason for refusal 15**).

Any Submission Made in Accordance with This Act or Regulations (s.4.15 (1)(d) of the EP&A Act)

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

The proposal was formally advertised and notified between 11 March 2020 and 1 April 2020 in accordance with WDCP 2013, Chapter 1.2 Notification of Development Proposals. Three submissions were received objecting to the proposal.

The issues have been addressed in the assessment of the application pursuant to the heads of consideration contained within section 4.15 of the *Environmental Planning and Assessment Act 1979* and as set out below.

- ***Implications of burdening neighbouring properties to provide the wildlife corridor due to insufficient area for a wildlife corridor being provided within the proposal.***

Comment: The inadequate extent of wildlife corridor has been identified as a concern by Council's ecologist. This issue is identified in **reason for refusal number 2**.

- ***Proximity of stormwater basins to neighbour boundary.***

Comment: The basins have large retaining walls as high as 2.6 metres and are in close proximity to the boundary with little attempt at landscaping to address aesthetics. In relation to the location and capacity of the basin, the general position on the site is acceptable however ideally should be located as low as possible in the catchment. In relation to capacity, the applicant has not provided the MUSIC modelling that would allow Council to be satisfied that the basin makes adequate provision for rainfall events greater than the 1 in 20. This issue is identified in **reason for refusal number 14**.

- ***Concern regarding impact of stormwater connection to capacity of existing channel/water course.***

Comment: The detention basin on site that connects into the neighbouring watercourse in theory should attenuate flows to pre-development flows being released to the watercourse. The applicant has not provided the MUSIC modelling that would allow Council to be satisfied that the basin is adequately sized. This issue is identified in **reasons for refusal numbered 5 and 14**.

- ***Proximity of built form – insufficient setbacks to east side of development, insufficient landscaping to the boundary.***

Comment: The unacceptable built form and boundary treatments (including insufficient landscaping to boundaries around the site) has been identified as a concern and is identified in **reason for refusal number 6**.

- ***Impacts of the development on the future re-zoning and development potential of neighbouring properties.***

Comment: The proposal has not given sufficient consideration to the likely development of adjoining properties within the RU6 zone and has not demonstrated a consideration of likely impacts to achieving orderly development of those neighbouring lots. This issue is identified in **reason for refusal number 7**.

- ***Future amenity implications to neighbouring properties.***

Comment: The proposal results in significant privacy and overlooking impacts to neighbouring properties as a result of the poorly resolved design that does not relate to the existing undulating ground levels. The proposal relies upon significant benching of the site and high retaining walls at boundaries. Neighbouring dwellings at 115 and 105 Johns Road have significant altered privacy amenity as a result of the wholesale removal of vegetation in proximity to their rear and side common boundaries with the development. These concerns are identified in **reasons for refusal numbered 5, 6, 7, 11, 12 and 13**.

- ***Traffic safety and the need for traffic calming devices on Johns Road and Murrawal Road.***

Comment: The speed limit is currently 60km/hr and will be considered for reduction to 50km/hr at the time that the adjoining residential subdivision is realised. Any existing speeding problem on Johns Road and Murrawal Road are not the result of this development and the additional vehicles related to the development are unlikely to exacerbate the issue. A service request can be logged with council to have Council's Traffic Unit investigate, which may include speed counts to determine the extent of the problem, if any.

Submissions from Public Authorities

The application was referred to the following State Government Agencies:

- NSW Rural Fire Service
- NSW Natural Resources Access Regulator

Comments received from each are summarised and addressed below:

Rural Fire Service

The application was referred to the NSW Rural Fire Service (RFS) as an integrated development (special fire protection purpose) requiring the issue of a Bushfire Safety Authority under the provisions of Section 100B of the *Rural Fires Act 1997*. The correspondence received from the NSW RFS dated 17 April 2020 advised that the proposal is not supported based upon the reliance of the applicant's proposed deferred commencement condition. The RFS advice indicates that the proposal should be altered to provide all building works outside of the required APZ (refer to discussion under bush fire heading above). Additionally, the RFS have identified that the hazard includes slopes of 5-10 degrees down within the vegetation to the north, which is a discrepancy with the submitted bush fire report that indicates an up slope. The fire assessment submitted by the applicant requires updating to reflect the relevant APZs in Appendix 2 of PBP 2006.

These issues raised by the NSW RFS were identified to the applicant on 20 April 2020. The comments of the NSW RFS are provided at Attachment 5. The consent authority is not in a position to grant development consent to the application given the RFS have not granted their concurrence to the proposed development.

These concerns relate to site compatibility certificate point 5 and are reflected in **reasons for refusal numbered 1 and 3**.

Natural Resources Access Regulator

The application was referred to the Natural Resources Access Regulator as an integrated development requiring a Controlled Activity approval under the *Water Management Act 2000*. Correspondence from the Natural Resources Access Regulator dated 22 April 2020 provides General Terms of Approval for the development, with conditions generally related to the provision of adequate sediment and erosion control measures and the minimisation of vegetation removal.

The Public Interest (s. 4.15 (1)(e) of the EP&A Act)

Central Coast Regional Plan 2036

The Central Coast Regional Plan 2036 provides a 20-year framework and guiding strategic planning document aimed at facilitating effective growth and services for the people of the region. It outlines a vision for the Central Coast to 2036; the challenges faced, and the goals and directions to follow to address these challenges and achieve the vision.

It aims amongst other measures, to build a strong economy capable of generating jobs, providing greater housing choice, essential infrastructure and protecting the natural environment.

The proposal has been assessed having regards to the relevant goals and directions set out within the Central Coast Regional Plan 2036 and has not demonstrated that the proposal provides for the housing needs of the community with sufficient regard for essential infrastructure or the protection of the natural environment.

North Wyong Shire Structure Plan

Biodiversity - The North Wyong Shire Structure Plan (NWSSP) identifies that the historic land use pattern of the area has resulted in a fragmented natural landscape. The plan identifies that to achieve the outcomes of the structure plan will require additional vegetation clearing, however this must be achieved in a way that retains connected landscapes, which include smaller and larger patches, core protected areas, stepping stones as well as linear corridors. Developing a system of corridors and habitat networks is identified within the plan as being particularly important in the context of past landscape fragmentation and a future need to allow species to adapt to climate change.

The objectives of landscape connectivity identified within the structure plan are:

- "1. Provide habitat for resident species and supplementary habitat for wide-ranging species;*
- 2. Assist movement of dispersing or migratory species;*
- 3. Maintain genetic interchange between populations; and*
- 4. Support ecosystem processes."*

The structure plan acknowledges that the areas identified require further detailed environmental and land use planning to determine more precisely the amount of vegetation that may be lost by land development, areas that may need to be set aside as offsets to compensate for vegetation loss and highlights that investigations will need to occur as part of future planning proposals and may need to occur over a range of areas including whole of Local Government Area, over the Structure Plan area or for a specific site, precinct or precincts.

In this regard the site is not the subject of a planning proposal that would make a finer detailed consideration of biodiversity and vegetation of value on the site that should be retained.

Housing – The proposed development incorporates 199 dwellings. The NWSSP identifies a housing target of 15 dwellings per hectare of developable land. The subject site has an overall area of approximately 10.97 hectares. Of that area, 1.2 hectares of that land is steep and heavily vegetated land that is identified as a wildlife corridor within the structure plan. Of the remaining

9.77 hectares, the minimum target number of dwellings applied from the structure plan would indicate a density of 146 dwellings for a site of this area. This relies upon an assumption that the remainder of the site is developable land and does not consider the biodiversity constraints of the site which reduce that available area. In this regard, the NWSSP anticipates circumstances where site constraints will limit the ability to achieve density targets:

"It is expected that there will be a variety of dwelling types including detached dwellings at lower densities through to apartments, town houses and villas. Any potential shortfall in achieving the targeted residential densities due to localised development constraints (e.g. surface subsidence controls, biodiversity and flooding) is expected to be offset by medium density development opportunities in and immediately around centres, minor infill development in existing urban areas and development within areas identified for further investigation."

In this regard the biodiversity importance of the site should not be seen to be an obstruction to the achievement of the NWSSP density targets across the broader NWSSP area.

The NWSSP acknowledges that some sites will be developed in isolation of broader rezoning proposals and provides a framework and context for identifying and assessing future development opportunities. The NWSSP identifies key planning issues that need to be addressed for these areas:

- *More detailed understanding of the environmental features of the land and opportunities to contribute to the proposed corridor and habitat networks;*
- *Resource extraction potential related to proposed coal mining and clay extraction (where these localised impacts occur);*
- *Opportunities to offset vegetation losses within future development areas;*
- *How the proposed development will relate to future development and the green corridor; and*
- *The need for additional residential or employment uses to meet future demand.*

As identified by the NWSSP, the key objective is to achieve a balance between development and biodiversity conservation, within the broader context of the green corridor. Detailed ecological investigations must focus on:

- *The location, nature and conservation value of the vegetated land including any threatened species listed under State and Federal legislation;*
- *The role of this land, or parts of the land, in complementing the green corridor;*
- *The location of local corridors, including riparian areas, and links to planned corridors outside the Structure Plan area; and*
- *The extent of potential biodiversity losses from development and the need for and extent of offsets.*

Having regard for the dwelling targets and the biodiversity conservation outcomes identified in the NWSSP, it is considered that the development of the site for the proposed 199 dwellings, which would require the removal of 6.3 hectares of native vegetation (of which 5.39 hectares is habitat for the critically endangered swift parrot) is not consistent with the broader strategic outcomes anticipated by the plan.

For the reasons identified in this assessment report, the proposed development is not considered to be in the public interest (**reasons for refusal numbered 1, 2, and 16**).

Other Matters for Consideration

Development Contribution Plan

The application falls under the South East Wadalba Precinct of the Warnervale District s7.11 Contributions Plan and Shire Wide s7.11 Plan. The lack of detail provided within the application in relation to the staffing of the hostel accommodation would require the hostel units to be charged as 1 bedroom self-care units unless more comprehensive information was provided to the consent authority.

Planning Agreements

The proposed development is not subject to a planning agreement / draft planning agreement.

Conclusion

This application has been assessed having regard for the matters for consideration under the Section 4.15 of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies.

The potential constraints of the site have been assessed and it is considered that the site is not suitable for the proposed development.

The site is zoned RU6 Transition and is identified within Precinct 3B of the North Wyong Shire Structure Plan (NWSSP). The precinct is identified for future residential development within the medium term. Having regard for the existing rural context and the future low density residential context identified by the North Wyong Shire Structure Plan, the scale, form, character and density of the development is not acceptable.

The proposal does not minimise conflict between land uses which is an objective of the RU6 Transition zoning. The proposal presents an unacceptable built form that is out of character with existing and future surrounding land uses with long unarticulated facades, insufficient regard for the surrounding low density scale of buildings, and insufficient regard for the existing slope of the land resulting in inappropriately managed boundary treatments.

The site is identified as environmentally sensitive. The site is not suitable for the proposal as it requires the removal of 5.39 hectares of vegetation that has been mapped by the NSW Department of Planning, Industry and Environment as important habitat for the Critically Endangered Swift Parrot.

The proposal has not considered the potential future development of adjoining lots (Lot A DP370424 and Lot B 369171) for residential uses anticipated in the North Wyong Structure Plan.

There is insufficient information provided with the development application to ascertain the appropriateness and accessibility of the site that is required by *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*.

There is insufficient information provided with the development application to ascertain how the site will be serviced that is required by *Wyong Local Environmental Plan 2013* and the site compatibility certificate issued by the Hunter and Central Coast Regional Planning Panel.

The application fails to adequately address those matters provided in Schedule 2 of the site compatibility certificate issued by the Hunter and Central Coast Regional Planning Panel on 11 September 2019 (Attachment 4).

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

Attachments

- 1 Reasons for refusal
- 2 *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* compliance table
- 3 Review of Biodiversity Development Assessment Report and Swift Parrot advice prepared by Ross Crates (ANU) dated 19 June 2020
- 4 Site compatibility certificate dated 28 February 2019 issued by Hunter and Central Coast Regional Planning Panel
- 5 Comments of NSW Rural Fire Service dated 17 April 2020
- 6 Architectural Plans prepared by Blackdraft Architectural Design (D13848810)
- 7 Amended application request by ADW Johnson dated 17 and 22 July 2020

ATTACHMENT 1

Reasons for refusal

- 1 The proposal is not compatible with the surrounding land uses as it has not satisfied the requirements specified in Schedule 2 of the Site Compatibility Certificate issued by the Hunter and Central Coast Regional Planning Panel on 11 September 2019 in accordance with Clause 25(7) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The proposal does not achieve the requirements specified in Schedule 2 of the Site Compatibility Certificate issued by the Hunter and Central Coast Regional Planning Panel on 11 September 2019, in particular 1, 2a, 2d, 2e, 2f, 2g, 3, 4, 5, 6, 7.

- 2 The proposed loss of habitat on the subject site would represent a serious and irreversible impact for the Swift Parrot and the development application must be refused pursuant to Section 7.16 of the *Biodiversity Conservation Act 2016*.

The development requires the removal of 5.39 hectares of vegetation that has been mapped by the NSW Department of Planning, Industry and Environment as Important Habitat for the Swift Parrot that is listed as a Critically Endangered species under the *Biodiversity Conservation Act 2016* and has been designated by the NSW Department of Planning, Industry and Environment as a candidate species for Serious and Irreversible Impacts. The proposal does not satisfactorily avoid potential serious and irreversible impacts to Swift Parrots, because it has not considered construction in a different location that is not mapped as important habitat for the species.

- 3 A Bush Fire Safety Authority has not been issued by the NSW Rural Fire Service. The proposal places buildings within the required Asset Protection Zone and relies upon a deferred commencement condition that relates to development of the adjoining lot. The submitted bushfire assessment report has incorrectly identified the slope and APZ required.
- 4 There is insufficient information available to Council to adequately assess the impacts of the development application in accordance with the requirements of Clause 9 of *State Environmental Planning Policy (Koala Habitat Protection) 2019*. A Koala Assessment Report prepared in accordance with the *Draft Koala Habitat Protection Guideline 2020* has not been submitted.
- 5 The proposal does not adequately address the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

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- a) Clause 26 Access to facilities - Insufficient detail on the location of bus stops on both side of Johns Road in the vicinity of the site; the proposed path of travel from the development site to the bus stop, the suitable access pathway, details showing the existing and proposed levels and gradient and safe pedestrian crossing of Johns Road (including gutter ramps); and the services available at the locations identified in the Statement of Environmental Effects.
 - b) Clause 33 Design principles - The proposal does not use building forms and siting that relate to the sites land form. The proposal does not retain major existing trees.
 - c) Clause 34 Visual and acoustic privacy – unacceptable visual privacy impacts to neighbouring properties due to the extent of bulk earthworks proposed at the site and the lack of considered boundary landscaping.
 - d) Clause 35 Solar access and design for climate – all forms of housing on the site have less than the minimum required solar access, including south facing private open space and living areas in all housing types on the site for the majority of housing.
 - e) Clause 36 Stormwater – the application does not include modelling data for stormwater management on the site to allow assessment of capacity for significant rainfall events.
 - f) Clause 39 Waste management – the application is inadequate in relation to the capacity and location of waste facilities.
 - g) Clause 42 Serviced self-care housing - The operational management plan is inadequate to demonstrate compliance with the clause. The operation of the development must provide to every occupant of serviced self-care housing (at every stage) access to: home delivered meals, personal and nursing care, and assistance with housework. This is not limited to occupants of the hostel.
 - h) Clause 43 Transport services to local centres - The application does not include sufficient information in relation to the provision of a private bus for the development.
 - i) Clause 44 Availability of facilities and services - The proposal is a staged application. The operation management plan does not relate to each stage of the development.
- 6 The proposal does not use building forms and siting that relate to the sites land form as required by Clause 33 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- a) The proposal relies on large retaining walls and benching of the site and does not provide sensitive transitions to boundaries with neighbours or within the site that respond to the natural undulation of the site.
 - b) The application has not given enough regard to the proposed road along the east boundary to which the site will have frontage. The proposed development includes a road that is parallel to the proposed neighbouring road. The dwellings present side boundaries toward the west proposed street network.

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- c) The residential flat buildings and the hostel building have poorly articulated and composed built form that does not respond to the low density residential character of the area.
 - d) The serviced housing dwellings do not have sufficient variation to the elevations. The proposal lacks varied facades and roof forms that would assist in providing place identification and recognition of the adjoining low density residential character.
 - e) The hostel building has elevations in the order of 113 metres (three storeys) and 56 metres (two to three storeys). These elevations are largely unarticulated, with repetitive window placement and little variation. This does not represent an appropriate residential character within the rural/low density residential context of the site.
- 7 The development does not achieve the zone objectives of the RU6 Transition zoning of the *Wyang Local Environmental Plan 2013*.
- a) The proposal does not maintain and protect land that has been identified as environmentally sensitive. The proposal requires the removal of 5.39 hectares of vegetation that has been mapped by the NSW Department of Planning, Industry and Environment as important habitat for the Critically Endangered Swift Parrot.
 - b) The proposal does not minimise conflict between land uses. The proposal presents an unacceptable built form that is out of character with existing and future surrounding land uses with long unarticulated facades, insufficient regard for the surrounding low density scale of buildings, and insufficient regard for the existing slope of the land resulting in inappropriately managed boundary treatments.
 - c) The application has not adequately considered the future development potential of Lot A DP370424 and Lot B 369171. The proposal does not address safe access for future development of these lots for residential uses anticipated in the *North Wyong Shire Structure Plan*. Insufficient consideration has been given to the potential future development of these adjoining lots.
- 8 The proposal does not adequately address the provisions of Clause 7.9 of the *Wyang Local Environmental Plan 2013*. The application does not include sufficient detail and does not provide certainty in relation to the disposal and management of sewage services that are available or that adequate arrangements have been made to make them available as required under Clause 7.9.
- 9 The development application does not adequately address waste management for the proposal in accordance with the requirements of Chapter 3.1 of *Wyang Development Control Plan 2013* and the former *Wyang Shire Council Waste Control Guidelines*:
- a) The design as proposed does not allow for standard residential waste servicing by Council. The internal road network and waste vehicle manoeuvrability to the waste storage location does not accommodate the appropriate Council waste collection vehicle.

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- b) The construction of the road network to access the proposed bulk waste bin storage enclosure in the north of the site is necessary as part of the first stage of the development.
 - c) The principal bulk waste bin storage enclosure is undersized and must be of a size to allow for additional bulk waste bins that allow for anomalies in the daily operation of a development and interim storage for residents' bulky waste.
 - d) The application does not include sufficient information including dimensioned waste storage enclosures/rooms for the community centre, the commercial kitchen, bar area, mens' shed and the commercial kitchen within the hostel.
 - e) The Waste Management Plan contains insufficient detail for a development of this size and scale. In particular:
 - Waste volumes for site preparation and demolition are underestimated or not provided
 - construction waste estimates are insufficient and do not represent the scale of the works proposed
 - details regarding the use are insufficient, and do not correlate with the waste servicing strategy indicated on the plans
 - the waste generation estimations for the different styles of accommodation are underestimated and require an increased servicing frequency resulting in additional heavy vehicle movements within the development and associated noise impacts
 - a detailed Waste Management Strategy has not been provided to indicate how different waste streams will be managed.
- 10 The proposal does not achieve identified key biodiversity and landscape planning objectives of Chapter 3.4 of *Wyang Development Control Plan 2013*. The application lacks sufficient ecological survey and assessment and fails to adequately address the green corridor requirements. The proposal has not taken sufficient measures to avoid, minimise and mitigate biodiversity impacts. The areas of the site with high biodiversity value have not been avoided through project design.
- 11 The proposal has inadequate landscape planting that does not effectively mitigate privacy impacts of the development or amenity impacts upon the outlook of neighbouring properties that results from the loss of canopy trees and vegetation.
- 12 The proposal will adversely impact on the character and amenity of the locality and streetscape. The scale, form, character and density of the development is not acceptable within the locality having regard for the zoning of adjoining properties and the RU6 Transition zoning of the site. The development is of an architectural appearance which is unsatisfactory having regard for the future character of the streetscape. The proposal includes high masonry walls across the frontage and large residential buildings that do not have sufficient regard for the existing rural context or the future low density residential context identified by the *North Wyong Shire Structure Plan*.

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- 13 The proposal includes excessive retaining wall structures relating to proposed on-site detention basins in proximity to both Johns Road and neighbouring properties (particularly Lot A DP370424). This is an unacceptable visual outcome that is incongruous both with existing rural land uses and future land uses anticipated under the North Wyong Shire Structure Plan.
- 14 The application contains insufficient information to accurately represent the proposed development or to properly assess likely impacts of the development:
- a) Insufficient information has been provided showing the relationship to existing natural ground levels and proposed finished ground levels around the buildings.
 - b) The proposal does not contain sufficient detail of retaining walls proposed for the development, including existing and finished ground levels, engineering detail or materials or construction on plans, elevations or cross sections. There are limited plans indicating retaining walls, and insufficient cross sections at the boundaries to indicate the proposed level changes and boundary treatments.
 - c) The proposal does not contain information to demonstrate an assessment of avoid, minimise and mitigate biodiversity impacts. The areas of the site with high biodiversity value have not been avoided through project design.
 - d) The Biodiversity Development Assessment Report does not contain sufficient detail including sufficient survey effort in relation to orchids, large forest owls, microbats, squirrel glider and white bellied sea eagle. The inadequacies include full survey data, results and analysis, further survey effort and/or mitigation.
 - e) The Operational Plan of Management provides insufficient information of staff numbers and their availability at day and night. The plan includes insufficient information to demonstrate that an appropriate level of services will be in place from the first occupation and proportionate to each stage of the development. The plan does not include detail on access and availability to residents of services and how they will be managed. The development application does not demonstrate that nursing facilities will be provided on site as required by Clause 13 of *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*.
 - f) The application does not include sufficient detail in relation to the disposal and management of sewage services that are available or that adequate arrangements have been made to make them available as required under Clause 7.9 of *Wyong Local Environmental Plan 2013*.
 - g) There is insufficient information available to Council to adequately assess the impacts of the development application in accordance with the requirements of Clause 9 of *State Environmental Planning Policy (Koala Habitat Protection) 2019*. A Koala Assessment Report prepared in accordance with the *Draft Koala Habitat Protection Guideline 2020* has not been submitted.
 - h) The application does not include sufficient information including dimensioned waste storage enclosures/rooms for the community centre, the commercial kitchen, bar area, mens' shed and the commercial kitchen within the hostel.

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- i) The Waste Management Plan contains insufficient detail including waste volumes and construction waste estimates that are inaccurate and do not represent the scale of the works proposed, details regarding the use are insufficient, and do not correlate with the waste servicing strategy indicated on the plans, a detailed Waste Management Strategy has not been provided to indicate how different waste streams will be managed.
 - j) Hydrological and hydraulic modelling has not been submitted to demonstrate that the detention basins have been sized appropriately to cater for the required storm event and that any overflow/discharge from the basins will not have any significant impact on surrounding properties.

15 The site is not suitable for the proposed development having regard for the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

16 The proposal is not in the public interest. The development of the site as proposed would require the removal of 6.3 hectares of native vegetation (of which 5.39 hectares is habitat for the critically endangered Swift Parrot) and is not consistent with the broader strategic outcomes anticipated by the *North Wyong Shire Structure Plan*. The proposal does not accord with the development and biodiversity conservation outcomes identified in the plan.

ATTACHMENT 2

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

Document No: D14117130

ATTACHMENT 3

Review of Biodiversity Development Assessment Report and Swift Parrot advice prepared by Ross Crates (ANU) dated 19 June 2020

Document No: D14069923

ATTACHMENT 4

**Site compatibility certificate dated 28 February 2019 issued by Hunter and Central Coast
Regional Planning Panel**

Document No: D14091925

ATTACHMENT 5

Comments of NSW Rural Fire Service dated 17 April 2020

Document No: D14091920

ATTACHMENT 6

Architectural Plans prepared by Blackdraft Architectural Design

Document No: (D13848810)

ATTACHMENT 7

Amended application request by ADW Johnson dated 17 and 22 July 2020

Document No: D14087532, D14117016