
**Report to the Secretary on an application for a Site Compatibility Certificate
State Environmental Planning Policy (Housing for Seniors or People with a
Disability) 2004**

SITE

Lot 2 DP1155600, 12 Corks Lane, Ballina (Figure 1)



Figure 1 – Site context Map (source: Six Maps)

The site contains an unnamed creek which traverses the site from north to south. The southern portion is zoned R3 Medium Density Residential and R2 Low Density Residential. The R2 and R3 zoned land contains the existing Palm Lakes Retirement Village (Palm Lake Resort) consisting of 286 units (Figure 2).

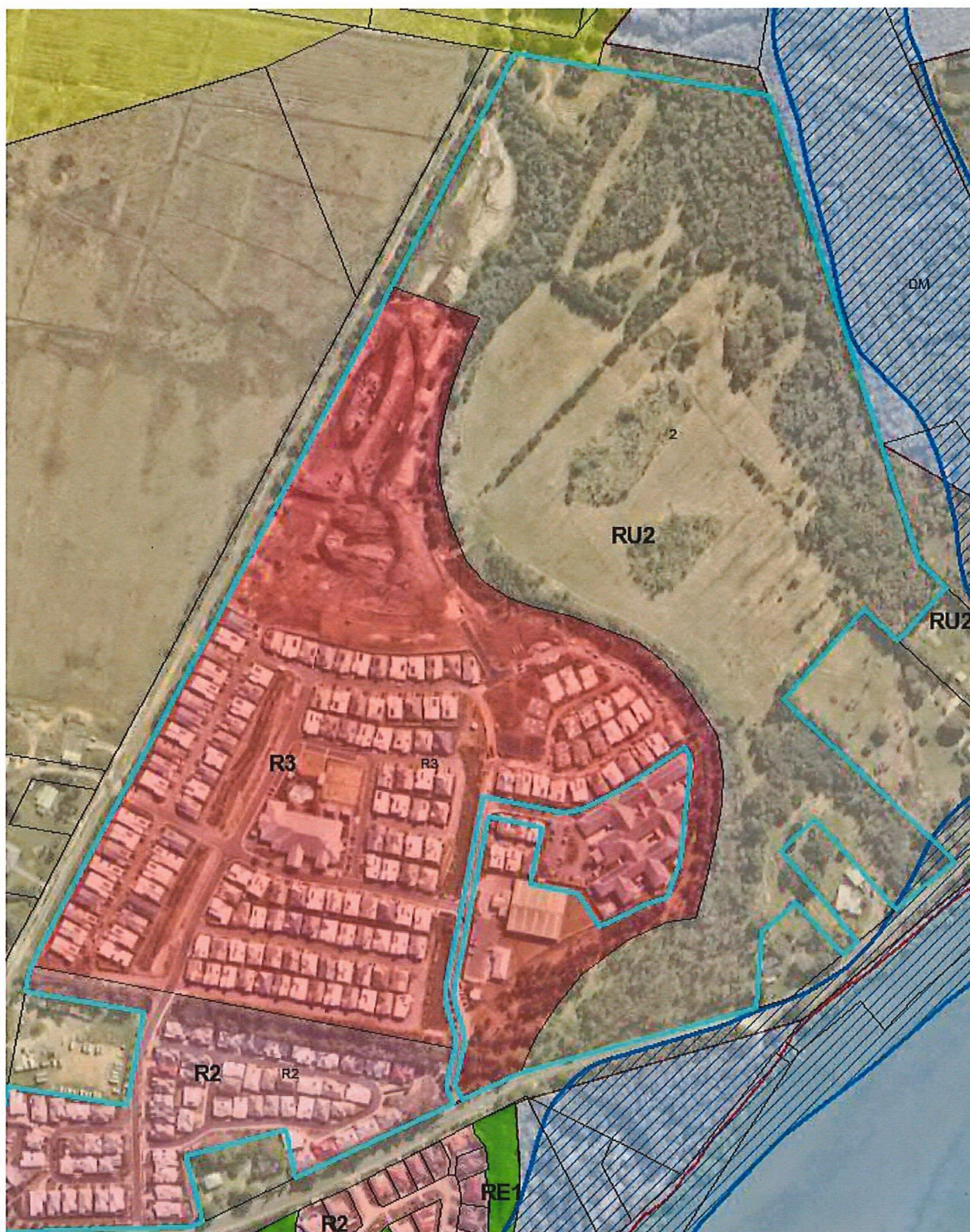


Figure 2 – Land Zoning Map (Source: Ballina LEP 2012)

The land to which the proposal applies is substantially cleared of native vegetation but does contain pockets of vegetation dominated by Swamp she-oak, with minor occurrences of Blackwood wattle. In the south-eastern portion of the site, small patches of Broad-leaved paperbark occur. This vegetation is classified as an endangered ecological community.

A small area of SEPP 14 intrudes into the eastern portion of the site as well as being located to the south and eastern boundaries. The application shows that the proposed development will be located a minimum of 100m from the mapped SEPP 14 wetlands.

LOCAL GOVERNMENT AREA

Ballina Shire Council

APPLICANT

Palm Lake Works Pty Ltd

PROPOSAL

The site compatibility certificate (SCC) application is for 175 self-care dwellings to be used for self-care seniors housing (Figure 3). The application states that the proposed development will include additional communal facilities. The exact nature of such facilities is however unknown at this stage with the application stating that feedback from residents would determine the type of facilities to be provided.

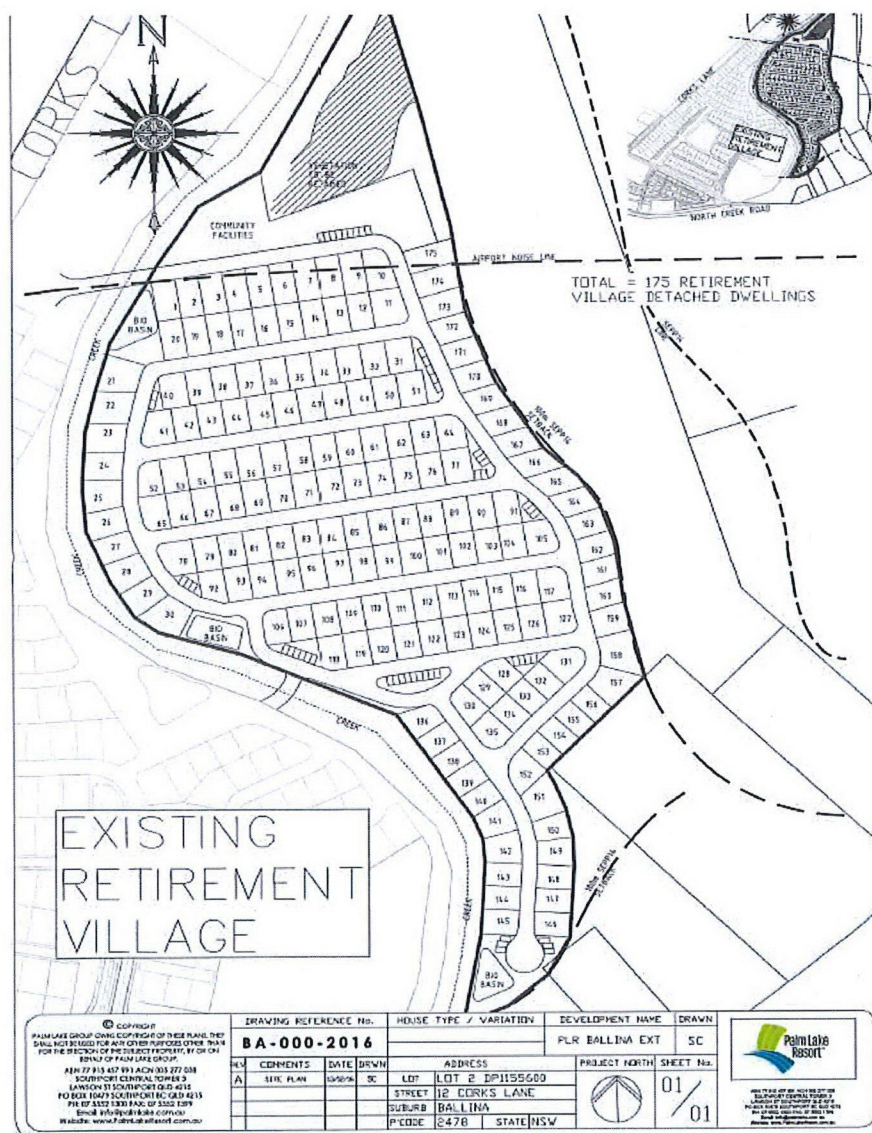


Figure 3 – Proposed development plan

PERMISSIBILITY STATEMENT

The Seniors SEPP applies to land that is zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, where it satisfies the additional requirements in clause 4 of the SEPP.

The subject land is zoned RU2 Rural Landscape under the Ballina Local Environmental Plan (LEP) 2012. Seniors Housings is not a permitted land use within the RU2 zone.

Development for the purposes of seniors housing requires a site compatibility certificate (SCC) under clause 24 of the Seniors Housing SEPP. The provisions under clause 4 (1) of the Seniors SEPP provides that a SCC can be issued on land zoned for, or adjoining land zoned for, urban purposes but only if specific development types, including dwelling houses, are permissible on the subject land.

As dwelling houses are permissible in the RU2 zone, and the land adjoins and contains land zoned for urban purposes clause 4(1) can be achieved.

Clause 4(6) sets out environmentally sensitive land to which, despite the permissibility established under 4(1), the SEPP does not apply. Schedule 1 describes some environmentally sensitive land and includes land identified as being natural wetland, or floodway or high flooding hazard and being excluded from the SEPP.

Part of the subject land is identified as SEPP 14 Coastal Wetland.

While the site studies recognise that the northern part of this site is subject to high flood hazard, no EPI identifies this land as such and therefore the land is not excluded from the SEPP on a flood hazard basis.

It is recommended that the SCC be issued for that part of the site identified for development as shown on Figure 3 above. This area identified excludes the SEPP 14 wetland.

CLAUSES 24(2) AND 25(5)

The Secretary must not issue a certificate unless the Secretary:

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

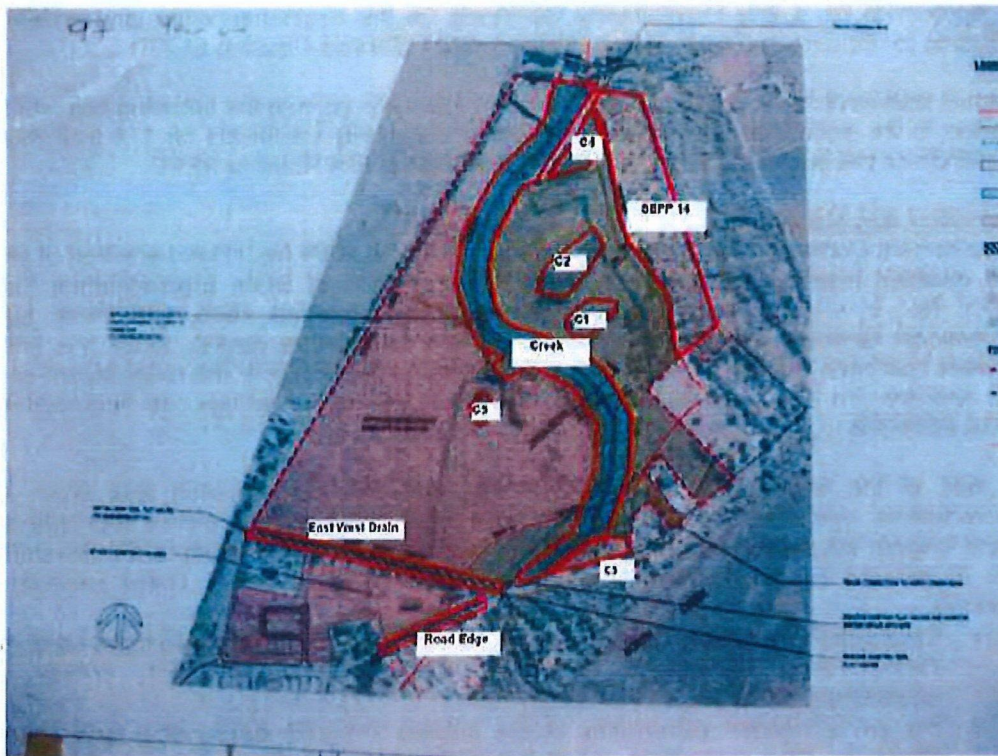
COMMENTS FROM COUNCIL

The Secretary must not issue a certificate unless the Secretary has taken into account any written comments concerning the consistency of the proposed development with

the criteria specified in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made (clause 25(5)(a)).

The SCC application was received on 19 December 2016 and the application and supporting information were referred to Ballina Shire Council on 20 December 2016. Council provided comments on the application on 9 January and 27 July 2017 (Tab F). Council's concerns are summarised as follows:

- the land subject to this SCC application was partly identified as rehabilitation land under DA 2004/328 for 'staged erection of an aged and disabled housing development 325 self-care dwellings, general store, clubhouse building, recreational facilities, associated car parking and infrastructure works';
- The footprint approved for DA2004/328 was considered to be the maximum developable area for the site at the time;
- the site is subject to a Creek and Vegetation Plan (Figure 4) which was required to be submitted as part of the conditions of consent for the DA. The rehabilitation works are significantly advanced, with only one further monitoring report required to be submitted to Council;
- other issues raised by Council that would need to be addressed as part of any future development assessment should include:
 - the suitability of proposed uses on the northern part of the site given the presence of the ANEF 20 Noise Contour for Ballina Airport;
 - suitability of the bridge structure over the creek to operate as a flood evacuation route for residents;
 - future water quality impacts and storm water design;
 - flooding and site filling;
 - traffic;
 - bushfire protection;
 - acid sulfate soil management;
 - mosquito management;
 - land contamination;
 - natural environment, biodiversity and tree removal (EEC's and impact on SEPP 14 wetland).



Ballina Palm Lake Development Year 4 Report - November 2014

Figure 4 Creek and vegetation plan

In view of the constraints significant environmental and landuse planning constraints, Council has advised that they do not support the expansion of Palm Lake Resort development onto land on the eastern side of the Creek.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

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

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

The portion of Lot 2 DP 1155600 subject to the proposed development comprises an area of approximately 16ha and is located approximately 3km from Ballina CBD.

The lands proximity from and accessibility to a full range of retail, commercial, recreational, health, welfare and educational services and facilities at Ballina make it suitable for more intensive development. The existing Palm Lake Resort retirement village is well established with an existing 286 homes.

This site is also identified as being within the Town and Village Growth Boundary for Ballina in the North Coast Regional Plan 2036, indicating that it is considered suitable for consideration for urban development.

Ballina Shire's Local Growth Management Strategy (LGMS) identifies the land as a Strategic Urban Growth Area. This is land which Council considers warrants further detailed investigation to determine its urban suitability.

The information submitted under the SCC application confirms that the land may be suitable for more intensive development subject to an appropriate design response.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND SURROUNDING LAND USES

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

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

The site is known to contain EEC's and SEPP 14 wetland, is flood and bush fire prone, and contains acid sulphate soils. The northern portion of the site lies within the airport noise impact area. These issues are discussed below.

The site is not known to be contaminated, though the adjoining site contained a former cattle dip.

Flooding, water quality impacts, drainage and filling

The land is mapped as being within the flood planning area by Ballina LEP 2012 similar to the majority of the existing Ballina urban area. Approximately a third of the site is subject to high hazard flooding to the north. It is fully impacted by the 1 in 100 year flood event (with 2100 climate change impacts). The proposal does not include flood studies for the land nor a stormwater management plan however it does commit to providing this information to Council when a development application is lodged. Such studies would also have to pay particular attention to water quality impacts on the receiving water being North Creek and stormwater design.

It is anticipated that the proposed development will address the flooding issue in the same manner as the existing Palm Lake Resort on the adjoining land and therefore it is considered that the flood liability of the land does not present an insurmountable impediment to the development of the land for seniors housing.

Council has also raised the issues that the site has not been included in Council's base case flood modelling and therefore any future development application would need to demonstrate via the WBM BMT model that filling of the site would have no impact on adjoining properties.

Bushfire Prone Land

The site is identified as being bushfire prone. The existing Vegetation and Creek Management Plan required the existing development to achieve a 50m APZ from the edge of the restoration area. In order to achieve this, the proposed development would

necessitate the significant removal of existing vegetation. Any future development application must therefore demonstrate compliance with such conditions and with relevant provisions of Planning for Bushfire Protection (PBP) 2006 and detail any bushfire management and/or mitigation measures. It is anticipated that the requirements of Planning for Bush Fire Protection 2006 can be satisfied but the impact on vegetation will need to be addressed in greater detail at the development assessment phase of the project.

Acid Sulfate Soil Management

The land is mapped as having Class 2 soils.

The Ballina LEP 2012 requires that development consent is required for any works below the natural ground surface on land mapped as Class 2 and the development application must include an acid sulfate soils management plan. The SCC application does not include any site investigations to identify the extent of acid sulfate soils on the site, however it does commit to providing this information at development application stage. It is not expected that significant earthworks will be required for the proposed development. It is expected that the site will need to be filled and therefore the depth below natural ground level of any underground services required for the proposed dwellings will be minimised. It is considered that the Class 2 acid sulfate soil designation is not a significant impediment to the suitability of the site for seniors housing.

Mosquito Management

The SCC application has not addressed this issue. The existing development on the subject land was approved on the basis that it would provide a 100m clear mosquito buffer between the development and the restoration area and this has not been allowed for in the current application. As the proposed development site is located on the coastal plains and lowlands in the Area of High Risk for Mosquitoes under Council's Mosquito Management Maps, it is imperative that any future development application address this issue in detail and as such the SCC should be conditioned accordingly.

Land contamination

The application does not address this issue in detail except to say that there are no known contaminants on the subject land. Council however has indicated that as the original development site contained a Dip site, it is important that a more detailed analysis be undertaken to adequately determine potential site contaminants. Despite this, the presence of contaminated soils is considered unlikely to be a major constraint to development and can be adequately addressed by further assessment at the development application stage

Natural environment, biodiversity and tree removal

It is anticipated that the development will result in the loss of approximately 1.19ha of Swamp she-oak forest, 0.02ha of Swamp Sclerophyll forest (Paperbark) and 0.06ha of Freshwater wetlands.

The application states that the site does not contain any significant native vegetation, however Council has provided a copy of the Creek and Vegetation Management Plan and latest monitoring report that identifies a number of native species located in isolated

patches across the site. Additional information provided by the applicant has stated that most of the vegetation in two of the isolated patches is dying and hence suitable for removal. As these areas were part of the rehabilitation required under the Creek and Vegetation Management Plan (discussed earlier) it will be a matter for Council to address their removal at the development application stage. Loss of EEC's across the site will also require the establishment of suitable offset in accordance with OEH's BMM calculator. The ongoing management of all surviving regenerated vegetation should also be considered as part of any future development assessment.

The site is also bound by SEPP14 wetlands to the east and to the south and under the draft coastal SEPP the land is identified as land in proximity to coastal wetlands. Any future development application will need to demonstrate that the proposed development:

- a. will not significantly impact the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- b. the quantity and quality of surface and ground water flows to the adjacent coastal wetland or littoral rainforest if the development is on land within the catchment of the coastal wetland or littoral rainforest.

Existing and approved uses of land in the vicinity

The subject land is located less than 1km to the south of the Ballina-Byron Airport and a small portion of the proposed development is within the 20 ANEF contour. Any development within the contour would be considered conditional under the relevant provisions of the BLEP 2012 and the Ballina Local Shire DCP 2009 and therefore subject to an assessment of the potential impact of noise on the development.

To the south of this land is established residential land. To the west is rural land acting as a buffer to the airport, with industrial land further west. To the east of this land is North Creek and some vegetated rural land.

It is considered that the constraints are not such that would automatically preclude the proposed development from occurring and are more appropriately dealt with at development application stage.

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

The land is currently zoned RU2 Rural Landscape and has an area of approximately 16ha. While the RU2 Rural Landscape zone permits a wide range of land uses, the agriculture capability of the site is considered to be minimal due to the size of the site. It is expected that the likely future use of the subject land would be for residential purposes. This is consistent with the identification of the land within the Ballina Town and Village Growth Boundary in the Far North Coast Regional Strategy.

The potential for development other than that directly related to the existing uses on the southern part of the site is limited. The nature of the site is such that direct access to the public road network for a potential development not associated with the retirement village is through mapped SEPP 14 wetland and therefore would require considerable vegetation removal.

It is considered the likely future uses of the land will be residential in nature, a conclusion which is strengthened by the fact that the SCC application confirms that the subject land already contains a self-care seniors housing development.

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

Location and Access to Facilities

The SCC application states that the proposal will add 175 dwellings to the existing 286 dwellings in the adjoining Palm Lake retirement village. The resort offers a daily bus service to the Ballina CBD.

Clause 26(1) of the SEPP requires that a proposed development must have access to:

- shops, bank service providers and other retail and commercial services that residents may reasonably require;
- community services and recreational facilities; and
- the practice of a general medical practitioner.

The SCC application does not specifically address the availability of these services. The site is however located within 3km of Ballina CBD where all of the above services are available. There is also a small shopping development including an Aldi supermarket on North Creek Road which is 1km from the subject site and the Ballina Homemakers centre within 500m of the site.

Clause 26 also requires that access to these services is available and may be provided by a transport service that meets specific requirements set out in clause 26(2)(c). The site is on an established bus route and the resort provides a daily courtesy bus to Ballina CBD, these transport services will satisfy the requirements of clause 26(2)(c) for providing access to the specified services.

Traffic Assessment

The subject land has existing road frontage and access from Corks Lane and North Creek Road. Access to the existing retirement village is provided at Corks Lane and two access points along North Creek Road. The planned extension to the retirement village gains access to the external road network via the internal streets with two road connection points proposed across the creek to the proposed development.

This development is likely to generate a slight increase in daily traffic movements a day. The SCC application does not contain any investigation of the impact of these additional traffic movements on the road network in the vicinity of the development.

Whilst some upgrading of internal road widths may need to occur to accommodate increased traffic volume, it is anticipated that the external road network has the current capacity to cope with increased demand. Due to the small scale of this proposed development the additional traffic movements are unlikely to restrict the development potential of the land and can be addressed at the development application stage.

Services

The concept plan for the development shows access to the 175 seniors housing dwellings via an internal road of the Palm Lake Resort. The site has water, sewerage, power and telecommunications available as a result of its proximity existing residential development

It is considered that the site has adequate existing infrastructure available to support the intensification its use.

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

The subject land is not zoned for open space or special uses. The subject land is zoned RU2 Rural Landscape and therefore this criteria is not applicable to the proposal.

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

The surrounding development consists of low density residential accommodation. The dominant built form is single-storey residences. The SCC application states that the proposed retirement village will be of similar type, form and design as the existing seniors housing development. The proposed dwellings will be detached 2-bedroom single storey dwellings with a garage located on the side boundary of each site. Dependant on demand, some smaller single bedroom dwellings may be provided.

The Ballina LEP 2012 does not set a floor space ratio for the subject land due to its current rural zone. The subject site and surrounding residential zoned land is subject to a building height control of 8.5m. The proposed single storey detached dwellings will be consistent with this building height control.

The subject land has a 40ha minimum lot size (MLS) under the Ballina LEP 2012 as does the existing Palm Lake Resort.

It is considered that the proposed development will be consistent with the built form and character of the existing and likely future land uses in the vicinity of the subject site.

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

The site is considerably cleared of native vegetation (Figure 2) and is subject to a Creek and Vegetation Management Plan as per the conditions of DA 2004/328 which relates to the development of the existing retirement village on the southern portion of the site. This management plan provides that the part of the site now intended for the additional 175 villages be rehabilitated (Figure 4 – sites C1, C2 & C4). The rehabilitation for the site required regular monitoring reports with the most recent report stating that such

rehabilitation works were significantly advanced. Additional advice provided by the applicant however states that the two patches of vegetation that required rehabilitation, now consist mainly of dying vegetation and has been recommended by a consulting ecologist for removal. Despite the current vegetation situation, it is recommended that this issue be further addressed at the development assessment stage of the proposal with potential compensation for the loss of this former rehabilitation area associated with DA 2004/328. The ongoing management of all surviving regenerated vegetation should also be considered as part of any future development assessment

Three EEC's have been recorded on the site; Swamp she-oak floodplain forest, Swamp Sclerophyll Forest (Paperbark) on Coastal Floodplains and Freshwater Wetlands on Coastal Floodplains. It is anticipated that the development will result in the loss of approximately 1.19ha of Swamp she-oak forest, 0.02ha of Swamp Sclerophyll forest (Paperbark) and 0.06ha of Freshwater wetlands. These vegetation losses will need to be offset with the exact area to be calculated at the Development Application stage using the NSW OEH Biodiversity Assessment and Mapping Methodology (BAMM).

CONCLUSION

The identification of the land in the NCRP and Ballina's LGMS supports the strategic location of this site for urban development. Whilst there are a number of constraints on the site, these are not such that would preclude suitably designed development and it is considered that these issues are more appropriately dealt with at development assessment stage by the consent authority.

RECOMMENDATION

It is recommended that the Executive Director, Regions, as a delegate of the Secretary:

- **form the opinion** that the site of the proposed development is suitable for more intensive development;
- **form the opinion** that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having had regard to the criteria specified in clause 25(5)(b);
- **determine** the application for a site compatibility certificate under clause 25(4)(a) by issuing a certificate; and
- **sign** the letters to the applicant and council advising of this determination.



29/08/2017

Jeremy Gray
Director, Northern
Planning Services



12 October 2017

Stephen Murray
Executive Director, Regions
Planning Services

Approved

Contact Officer: Gina Davis
Senior Planner, Northern Region
Phone (02) 6701 9687