



abn: 56 291 496 553
6 Porter Street, Byron Bay, NSW, 2481
PO Box 538, Lennox Head, NSW, 2478
Telephone: 1300 66 00 87

30 July 2018

Our reference: 1522.2475

The Manager
Northern Region
Department of Planning & Environment
Level 3
49 Victoria Street
GRAFTON NSW 2460

Dear Sir

RE: Site Compatibility Certificate for part of Lot 239 DP 1201225, Skennars Head Road, Skennars Head, Shire of Ballina

Please find attached our application for a Site Compatibility Certificate pursuant to SEPP (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP). The subject site has previously been granted a site compatibility certificate for 211 dwellings. That certificate has now lapsed and the attached application is lodged to support Development Application No. 2016/524 lodged with Ballina Shire Council on 16th September 2016 in relation to the subject site. DA 2016/524 has now reached a stage where we understand that Council officers are generally comfortable with the nature of the scheme proposed and are in the course of finalising a report to the Northern JRPP.

Our Site Compatibility Certificate application only relates to part of Lot 239 DP 1201225, being that part of the land which is not identified as "Environmentally Sensitive Land" under Clause 4(6) of the Seniors SEPP.

Attached is:

- 3 copies of the Departmental Form and attached documentation;
- CD rom containing the relevant attached documentation; and
- processing fees of \$5,590.

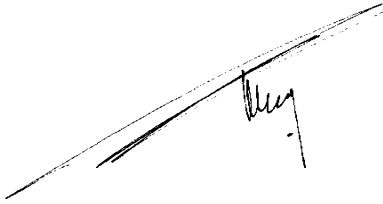
Given the circumstances of DA 2016/524, we would appreciate the Department's best endeavours to process this Site Compatibility Certificate application as efficiently as possible. To assist in that regard, we have today provided Ballina Shire Council with a copy of the Application Form and associated documentation.

You may be aware that Council was not supportive of the issue of the original Site Compatibility Certificate. From discussions with senior town planning officers with Council, we understand that it will not raise an objection to the current application.

Should the Department require any additional information or wish to clarify any matter raised by this application, please feel free to contact the writer at any time.

Yours faithfully,

PLANNERS NORTH

A handwritten signature in black ink, appearing to read 'Stephen', is written over a diagonal line that extends from the left margin towards the center of the page.

Stephen Connelly RPIA (Fellow)

PARTNERSHIP PRINCIPAL

(m) 0419 237 982

(e) steve@plannersnorth.com.au

Encl.



**PLANNERS
NORTH**

1522.2475



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

Date received: ____/____/____

Site compatibility application no. _____

LODGEMENT

Instructions to users

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

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

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

To ensure that your application is accepted, you must:

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

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

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

PART A — APPLICANT AND SITE DETAILS

A1 APPLICANT FOR THE SITE COMPATIBILITY CERTIFICATE

Company/organisation/agency

PLANNERS NORTH

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

Stephen

Family name

Connelly

Street address

Unit/street no.

6

Street name

Porter St

Suburb or town

BYRON BAY

State

NSW

Postcode

2481

Postal address
(or mark 'as
above')

PO Box or Bag

PO Box 538

Suburb or town

Lennox Head

State

NSW

Postcode

2478

Daytime telephone

1300 66 00 87

Fax

Email

steve@plannersnorth.com.au

Mobile

0419 237 982

A2 SITE AND PROPOSED DEVELOPMENT DETAILS

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

NAME OF PROPOSAL

GemLife

STREET ADDRESS

Unit/street no.

62

Street or property name

Skennars Head Road

Suburb, town or locality

Skennars Head

Postcode

2478

Local government area

Ballina Shire

NAME OF PROPERTY

REAL PROPERTY DESCRIPTION

Part Lot 239 DP 1201225

**Attach**—map and detailed description of land.

See Attachment A which shows the part of Lot 239 which is the subject of this compatibility certificate. Only the part of the land which is not environmentally sensitive land is the subject of this application.

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

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

Seniors living involving 147 seniors living self-care housing dwellings, a managers residence, club house, recreational facilities, roads, utility services, environmental management and environmental protection works.

**Attach**—copy of proposed site layout.

See Attachment B and Page 12 of the SEE.

PART B — PROPOSAL'S CONSISTENCY WITH THE SEPP

B1 THE PROPOSED SITE

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

1.1. Is the subject site land zoned primarily for urban purposes?

☐ Yes ☒ No

OR

1.2. Is the subject site land adjoining land zoned primarily for urban purposes?

☒ Yes ☐ No

**Attach**—copy of zoning extract or other evidence of zoning. See Attachment C and D.

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

1.3. Are dwelling houses, residential flat buildings, hospitals or special uses permitted on the site?

☒ Yes ☐ No

**Attach**—copy of development control table. See Attachment E and Page 16 of the SEE.

OR

1.4. Is the land being used for the purposes of an existing registered club?

☐ Yes ☒ No

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

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

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

If you have answered **yes** to **any** subsection in question 1.5, then the SEPP does not apply to the land and a site compatibility certificate will not be issued.

SECTION B1 — SUMMARY CHECK

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

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

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

B2 SITE COMPATIBILITY CERTIFICATE REQUIRED FOR CERTAIN DEVELOPMENT APPLICATIONS

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

- 2.1. Is the proposed development for the purpose of seniors housing permissible with consent on the land under the zoning of an environmental planning instrument? (See clause 24 [1A].) ☐ Yes ☒ No
- 2.2. Is the proposed development staged development of a kind saved under the savings provisions of the SEPP? (See clause 53.) ☐ Yes ☒ No

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

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

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

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

SECTION B2 — SUMMARY CHECK

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

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

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

B3 TYPES OF SENIORS HOUSING

Does the proposed development include any of the following?

If yes, please indicate in the appropriate space/s provided the number of beds or dwellings that are proposed

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

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

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

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

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

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

PART C — SITE COMPATIBILITY OF THE PROPOSED DEVELOPMENT

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

C1 DEVELOPMENT PROPOSAL INFORMATION

1. CONTEXT [Refer to Section 2 in the attached SEE.](#)

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

2. PROPOSAL [Refer to Section 3 in the attached SEE.](#)

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

3. STRATEGIC JUSTIFICATION [Refer to Sections 3 & 6 in the attached SEE.](#)

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

4. PRE-LODGE MENT CONSULTATION WITH THE CONSENT AUTHORITY (COUNCIL) AND INFRASTRUCTURE/SERVICE PROVIDERS

-  Attach evidence of pre-lodgement consultation
- Evidence of consultation
 - Description of and response to issues raised in consultation
- [The application is registered as DA 2016/524 with Ballina Shire Council. It was lodged with Council on September 2016 and has been the subject of considerable consultation.](#)

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

C2 STATEMENT ADDRESSING SEPP SITE COMPATIBILITY CRITERIA

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

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

The land is flood prone and bushfire prone. However, both of these constraints are able to be satisfactorily mitigated and managed - see Technical Reports accompanying the SEE.

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

Land in the vicinity of the subject site has been fully developed. Council plans to make improvements to the sporting facilities to the north. The development will not have any adverse impact on those facilities. Land to the east is fully developed for a Manufactured Home Park and land to the south and west is designated for environmental protection.

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

The requirements for the development have been comprehensively assessed in the Statement of Environmental Effects. The location of access and arrangements with respect to infrastructure have been agreed with Council.

4. IN THE CASE OF APPLICATIONS IN RELATION TO LAND THAT IS ZONED OPEN SPACE OR SPECIAL USES—THE IMPACT THAT THE PROPOSED DEVELOPMENT IS LIKELY TO HAVE ON THE PROVISION OF LAND FOR OPEN SPACE OR SPECIAL USES IN THE VICINITY OF THE DEVELOPMENT.

The land is not zoned for Open Space or special use.

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.

The proposed development is generally low scale, low intensity development, generally single storey in height. The proposed land use intensity is consistent with land in the immediate 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 (NB: *THIS CRITERIA DOES NOT APPLY TO LAND IN URBAN LOCAL GOVERNMENT AREAS OR URBAN ZONES LISTED UNDER SCHEDULE 1 OF THE NATIVE VEGETATION ACT 2003*).

The proposal involves retention of major stands of existing vegetation and the implementation of buffering to important site vegetation.

C3 ADDITIONAL COMMENTS

We would be pleased if the Department would note the issue of previous Site Compatibility Certificate for the land involving some 211 dwellings. The subject proposal is significantly "scaled back" from that earlier Certificate granted by the Department.

PART D — CHECKLIST, PAYMENT AND SIGNATURES**D1 APPLICATION CHECKLIST**

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

I have completed all sections of this application form.

☒ Yes ☐ No



I have attached supporting information. If yes, please check boxes below, as relevant.

☒ Yes ☐ No

Map and detailed description of land

☒

A copy of proposed site layout

☒

A copy of zoning extract or other evidence

☒

A copy of development control table

☒

Proposal information—context, proposal and strategic justification

☒

Additional information for statements against site compatibility criteria (optional)

☒

I have addressed the following SEPP site compatibility matters in **section C2** of the form.

☒ Yes ☐ No

1. Existing environment and approved uses

☒

2. Impact on future uses

☒

3. Availability of services and infrastructure

☒

4. Impact on open space and special uses provision

☒

5. Impact of the bulk and scale of the proposal

☒

6. Impact on conservation and management of native vegetation

☒



I have provided **three** hard copies of this form and all relevant supporting information

☒ Yes ☐ No

I have provided the application form and supporting information in electronic format

☒ Yes ☐ No

I have enclosed the application fee (see below for details)

☒ Yes ☐ No

D2 APPLICATION FEE

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

Number of beds or dwellings

147

D3 CERTIFICATE APPLICANT'S AUTHORISATION

By signing below, I/we hereby:

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

Signature(s)



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

Town Planner for the owner

Name(s)

Stephen Connelly

Date

30/7/18

D4 LAND OWNER'S CONSENT

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

Signature

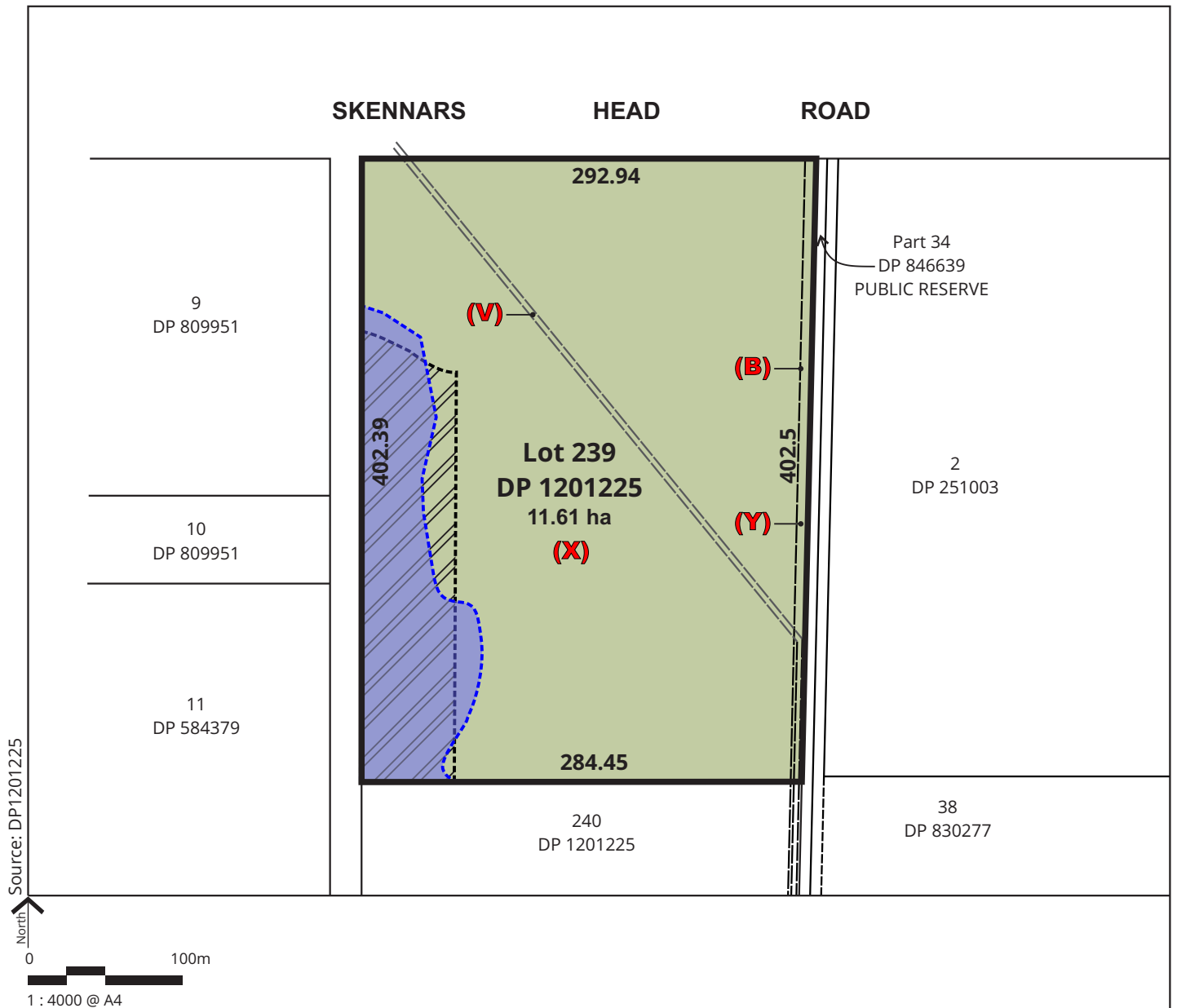
See authority Attachment F

Name

Date

Signature

Name



Legend

-  Subject Site
-  7(a) Zone (BLEP 1987)
-  Coastal SEPP Wetlands

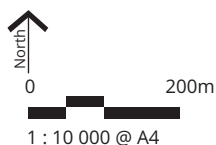
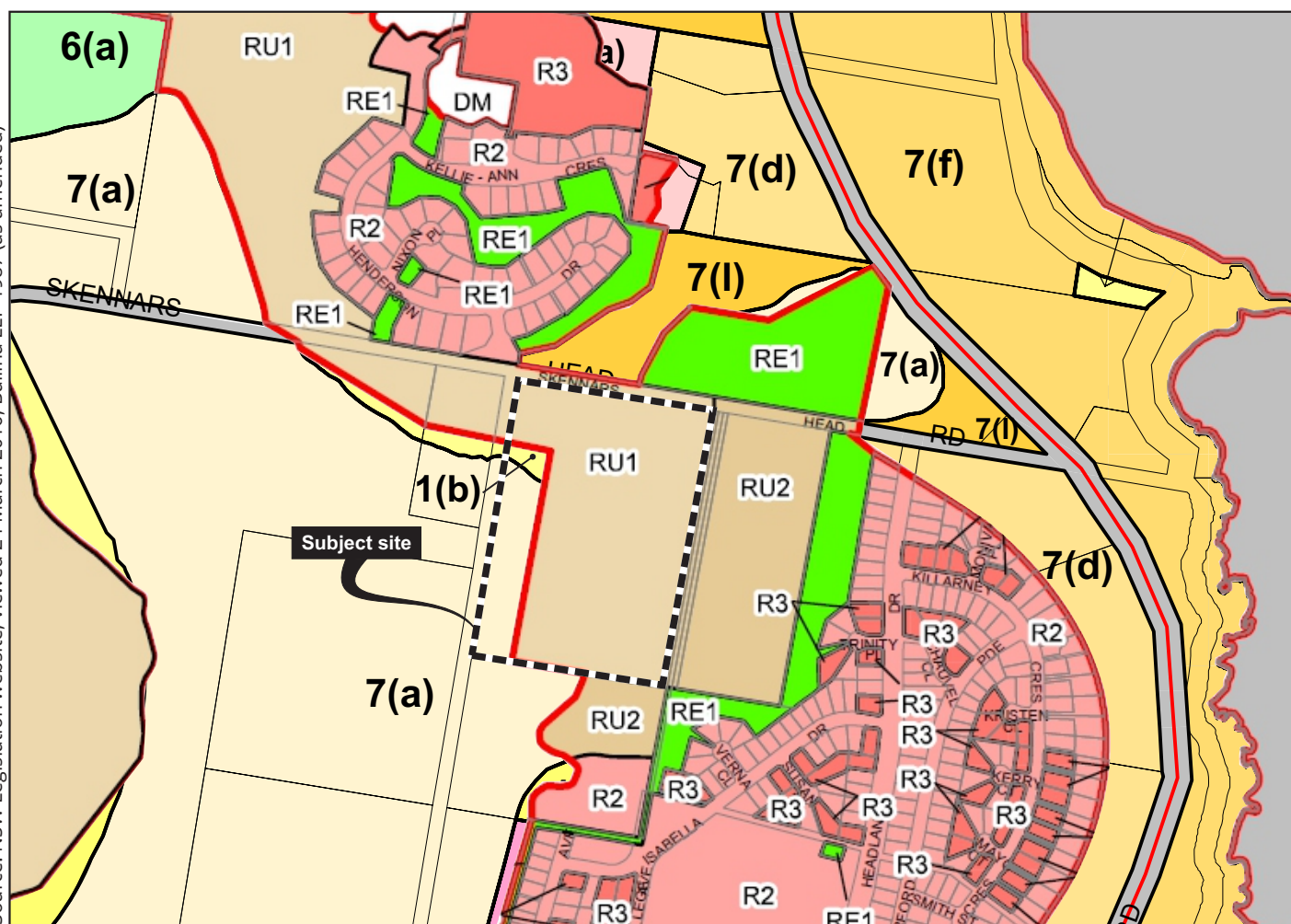
Easements:

- B** Right of Carriageway 7 wide (DP 251003)
- V** Easement for Water Supply 3.66 wide (by Transfer M892179) (DP 1146651)
- X** Land excludes minerals - see Crown Grants
- Y** Benefited Right of Carriageway 7 wide (DP 251003)

**OVERLAY OF
THE SITE,
COASTAL SEPP WETLANDS
& 7(a) ZONE**



Source: NSW Legislation website, viewed 24 March 2016; Ballina LEP 1987 (as amended)



Legend

Subject Site

LEP 2012 Zones:

- Deferred Matter
- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RU1 Primary Production
- RU2 Rural Landscape

LEP 1987 Zones:

- 1(b) Rural - Plateau Lands Agriculture
- 2(a) Residential - Living Area
- 6(a) Open Space
- 7(a) Environmental Protection - Wetlands
- 7(d) Environmental Protection - Scenic/Escarpment
- 7(f) Environmental Protection - Coastlands
- 7(l) Environmental Protection - Habitat

Plan 4.1

LEP 2012

ZONING

CONTROLS

ANNEXURE C

 Subject site

Coastal Wetlands

 Littoral Rainforests

 Coastal Management Area Map

Coastal Use Area Map

COASTAL SEPP MAPPING

Ballina Local Environmental Plan 2012

Current version for 20 July 2018 to date (accessed 30 July 2018 at 12:32)

Land Use Table ► Zone RU1

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural, cultural and landscape character of the locality.
- To enable development that is compatible with the rural and environmental nature of the land.
- To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.

2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Intensive plant agriculture

3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Boat launching ramps; Boat sheds; Car parks; Cellar door premises; Cemeteries; Dual occupancies; Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Helipads; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; Intensive livestock agriculture; Jetties; Markets; Mooring pens; Moorings; Open cut mining; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Sewerage systems; Signage; Tourist and visitor accommodation; Turf farming; Water recreation structures; Water supply systems

4 Prohibited

Advertising structures; Backpackers' accommodation; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3





**Updated Senior Living
Development Application**

**GemLife
Skennars Head**

**Lot 239 DP1201225
67 Skennars Head Road**

PLANNERS NORTH, May, 2018

COMPLIANCE AND USAGE STATEMENT

This updated Development Application has been prepared and submitted under Part 4 of the *Environmental Planning and Assessment Act 1979* by:

Preparation

Name: Stephen Connelly
Company: PLANNERS NORTH
Address: 6 Porter Street, Byron Bay, NSW, 2478
Postal Address: P.O. Box 538, Lennox Head NSW 2478
In respect of: Development Application

Application

Proponent: GemLife
Address: C/ - PLANNERS NORTH
P.O. Box 538, Lennox Head NSW 2478
Land to be developed: 62 Skennars Head Road, Skennars Head, NSW, 2478 being Lot 239 DP 1201225.
Proposed development: Seniors living involving 147 seniors serviced self-care housing dwellings, clubhouse, recreational facilities, roads, utility services, environmental management and environmental protection works.
Environmental Assessment: Part 4 Development Application

Certificate

I certify that I have prepared the content of this updated Development Application Statement of Environmental Effects and to the best of my knowledge:

- it is in accordance with the Act and Regulations, and
- it is true in all material particulars and does not, by its presentation or omission of information, materially mislead.

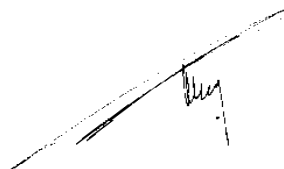
Notice

The plans to this document were prepared for the exclusive use of the proponent and are not to be used for any other purpose or by any other person or corporation. PLANNERS NORTH accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for purposes other than the proposed development.

Plans accompanying this document may not be reproduced, stored or transmitted in any form unless this note is included.

PLANNERS NORTH declares that it does not have, nor expects to have, a beneficial interest in the subject project. Nor does it have any reportable political donations within the meaning of Section 10.4 of the Act to declare.

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Stephen Connelly RPIA (Fellow)

PARTNERSHIP PRINCIPAL



**PLANNERS
NORTH**



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Ref: 1522.2383

Date: May 2018

EXECUTIVE SUMMARY

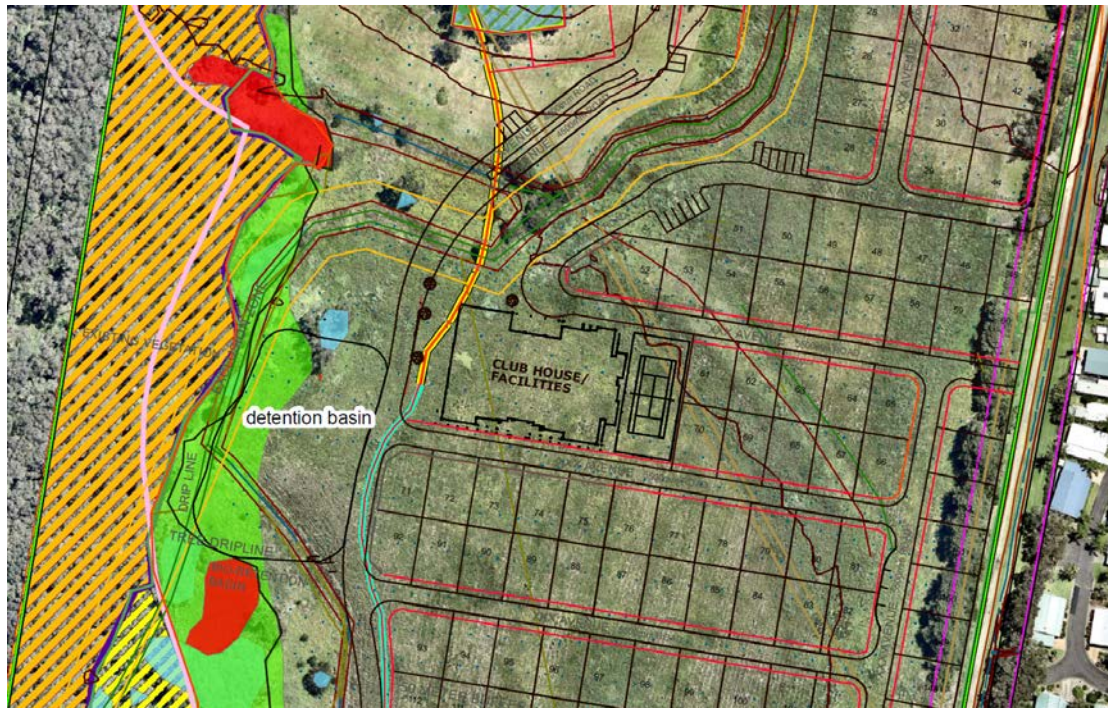
i

Staged development consent is sought for 147 seniors serviced, self-care housing with associated clubhouse, recreation facilities, roads, utility services, environmental management and environmental protection works.

The proponent is GemLife. GemLife is a group of companies including Living Gems Residential Resorts and Thakral Capital. The business specialises in the design, development and management of seniors living projects.

The proposal by GemLife to develop 62 Skennars Head Road for seniors living purposes is a product of many factors. Those factors include:

- policies of all levels of government to promote opportunities for the propose management and care of seniors and people with a disability;
- strong demand for seniors living opportunities in the region; and
- the site planning opportunities presented by the land with its generally comfortable grades and good proximity to the urban centres of Lennox Head and Ballina.



In our opinion the development can be seen to satisfy a legitimate need and seniors living land use is capable of construction and use in a manner which mitigates potential adverse impacts consistent with the terms of the Seniors SEPP and its approval would be in the public interest.

TABLE OF CONTENTS

1.	INTRODUCTION	1
1.1	Background	1
1.2	Structure of Report and its Scope	1
1.3	Application History and Council Consultation	1
1.4	The Proponent – GemLife	3
1.5	Specialist Technical Advice	3
1.6	Further Information	4
2.	THE SITE AND ITS CONTEXT	5
2.1	Cadastral Description	5
2.1	Site Context	5
2.2	Site Analysis	5
3.	THE DEVELOPMENT PROPOSAL	10
3.1	Site Planning Objectives	10
3.1	General Description of proposal	10
3.2	Ancillary Approvals	15
4.	STATUTORY AND POLICY PLANNING	16
4.1	Statutory Considerations	16
4.1.1	Deemed Environmental Planning Instruments	16
4.1.2	Local Environmental Plans	16
4.1.3	Development Control Plans	33
4.1.4	State Environmental Planning Policies	35
4.1.5	Certified Draft Plans	56
4.1.6	Specific Environmental Planning & Assessment Act Requirements	56
4.1.7	Integrated Development Considerations	56
4.2	Contribution Plans	57
4.3	Local Policy Controls	57
4.4	State Government Policy	57
5.	ENVIRONMENTAL INTERACTIONS	65
5.1	Context and Setting	65
5.2	Flora	65
5.3	Fauna	65
5.4	Soils	66
5.5	Waste	66
5.6	Visual Environment	66
5.7	Services	66
5.8	Access	67
5.9	Stormwater Drainage	67
5.10	Hazards	67
5.10.1	Land Stability	67
5.10.2	Site Contamination	67
5.10.3	Fire Hazard	68
5.10.4	Technological hazards	68
5.10.5	Flooding	68
5.11	Amenity of the Area	68
5.12	Cultural Considerations	69
6.	CONCLUSION	70
	REFERENCES	71

LIST OF PLANS

Plan 1.1	Site Locality Plan	2
Plan 2.1	The Site	6
Plan 2.2	Site Analysis	9
Plan 3.1	Master Plan	12
Plan 4.1	Zoning	17
Plan 4.2	BLEP12 Overlays	18
Plan 4.3	Airport Noise	27
Plan 4.4	Lennox Head Structure Plan	29
Plan 4.5	Fire Prone Land	32
Plan 4.6	SEPP Controls	59

LIST OF TABLES

Table 3.1	Land Use Budget	15
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LIST OF APPENDICES

APPENDIX A	Development Application Form & Land Owners Authority	72
APPENDIX B	Compatibility Certificate Documentation	83
APPENDIX C	Variation Application concerning Clubhouse Height	87

TECHNICAL REPORTS BUNDLE

1	Flora & Fauna Report
2	Civil Engineering Report
3	Construction Waste Management
4	Traffic Assessment
5	Geotechnical Assessment
6	Mosquito Assessments
7	Bushfire Assessment
8	Stormwater Management
9	Resident Care
10	Flood Impact Assessment
11	Disability Considerations
12	Acid Sulfate Soil Management Plan
13	Post Construction Waste Management Plan
14	Heritage Assessment

1. INTRODUCTION

This section of the report identifies the nature of client instructions, relevant background information and the structure of the report.

1.1 BACKGROUND

PLANNERS NORTH has been engaged by the GemLife group of companies to provide Town Planning advice with respect to the preparation and lodgement of a Development Application with Ballina Shire Council in regard to land described as 62 Skennars Head Road, Skennars Head, NSW, 2478 being Lot 239 DP 1201225.

Plan 1.1 illustrates a site locality plan identifying the subject land.

1.2 STRUCTURE OF REPORT AND ITS SCOPE

Section 2 of this report describes the physical characteristics of the subject land and its planning context. Section 3 describes in detail the development proposal. Having regard to the provisions of Section 4.15 (1)(a) Section 4 sets out an examination of the statutory and policy planning status relating to the land, with particular regard to the proposal described in Section 3. Section 5 looks at the environmental interactions of the proposal, particularly as specified by 4.15 (1)(b) and (c) of the Act. The final section of the report undertakes a general review of the project and summation as to the appropriateness of the project having regard to the planning controls applying to the land and land use needs in the locality and matters set out for consideration in Section 4.15 (1)(e).

An updated Development Application form and landowner authority authorising lodgement of the subject application are contained in **Appendix A** to this report. Background information concerning the capability certificate issued for the land pursuant to the Seniors SEPP is provided in **Appendix B**. **Appendix C** contains a request to vary the Ballina Local Environmental Plan 2012 (BLEP12) height standard in relation to the clubhouse building.

Supplementing this Statement of Environmental Effects is a comprehensive **Technical Reports Bundle** and a **Plan Set**.

1.3 APPLICATION HISTORY AND COUNCIL CONSULTATION

The development application was originally lodged with Council in September 2016 and at that time proposed the development of some 211 seniors living homes. The proposal has evolved through a number of RFI requests from Council and comprehensive consultation. The amended project now involves 147 seniors living dwellings.



View of the dwelling house located on the site, viewed from Skennars Head Road.



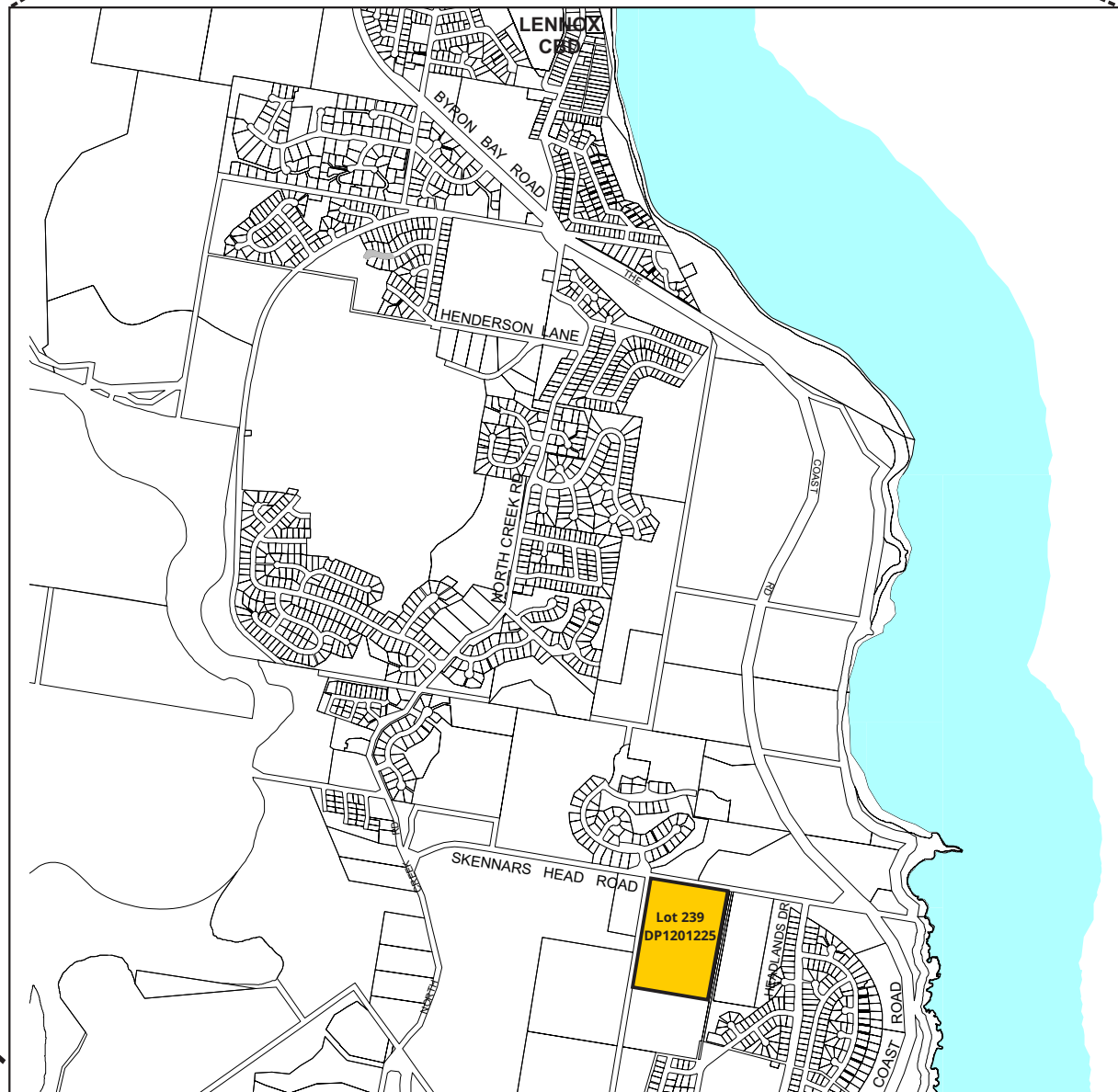
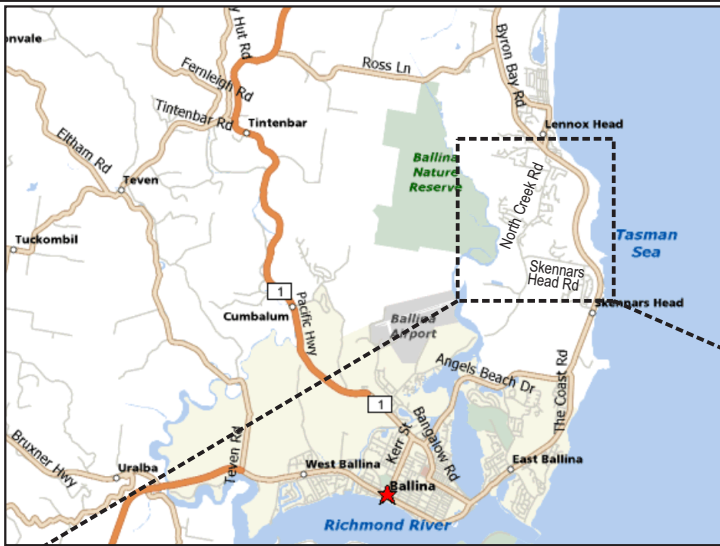
View to the site from Skennars Head Road looking south east.



An example of one of the many awards won by GemLife in relation to their retirement living products.

LIVING GEMS, SKENNARS HEAD

Source: Mapquest website



0 500m
1 : 25000 @ A4

Legend

 Subject site

To assist with the preparation of this updated Statement of Environmental Effects, Council has been consulted on a number of occasions via various meetings culminating with an “all consultant” meeting with key Council officers on the 24th April 2018.

1.4 THE PROPONENT – GEMPLIFE

The GemLife group of companies is a joint venture involving Living Gems and the Thakral Australia Pty Limited. Living Gems is a family owned and operated company which was founded by Mr. Peter Puljich in 1982. Thakral Capital is a capital partner to property developers in Australia, investing equity and debt in residential and commercial projects.

Living Gems has won many awards for its resorts, including the 2015 Best in the World Award. The independent international panel of experts chose GemLife Lifestyle Resorts from thousands of properties in Australia, Britain, Canada, America and New Zealand, making GemLife the first Australian over 50s' housing provider to win the international award.

Locally GemLife has been awarded as the best in Australasia for two years in a row with the global industry authority Aged Care Housing Weekly News awarded GemLife the Most Outstanding Lifestyle Resort in Australasia accolade.

The quality of GemLife homes, master planned communities and the outstanding resort style facilities impressed judges from a number of building industry organisations and government bodies.

GemLife' awards include:

International Over 50s' Housing Awards

- Most Outstanding Active Lifestyle Resort in the World 2015

Australasian Over 50s' Housing Awards:

- Most Outstanding Active Lifestyle Resort in Australasia 2014 and 2015
- Housing Industry Australia (HIA) Special Purpose Housing Queensland Award
- Master Builders Association (MB) Queensland Senior's Living Award
- Finalist Australian Master Builders Seniors Lifestyle Award
- Finalist Queensland Urban Development Industry Association (UDIA) Awards
- Finalist Australian HIA-CSR Special Purpose Housing Award

1.5 SPECIALIST TECHNICAL ADVICE

Specialist advice was sought for the purpose of preparing this application from the following specialist consultants:

Planit Engineering – *Civil Engineering*

Peter Parker – *Ecology*

Peter Thornton – *Bushfire Management*

Darryl McGinn – *Mosquito Management*

Kennedy Surveyors – *Surveying*

PresCare – *Resident care*

Jared Poole Design – *Club house Architecture*

GemLife in-house design - *Building Design*

Hayley Thornton – *Access and Disability Considerations*

BMT WBM – *Flooding Assessment*

Coffey Geotechnical – *Surface Geology and Land Contamination Assessment*

Luke Rytenskild – *Traffic Engineering*

PLANNERS NORTH prepared the Acid Sulfate Soil Management and Waste Management Plans for the project.

Technical reports by the abovementioned specialist consultants are contained in the accompanying **Technical Reports Bundle**.

1.6 FURTHER INFORMATION

Should Council require any additional information, or wish to clarify any matter raised by this proposal or submissions made to same, Council is requested to consult with **Steve Connelly** prior to determination of this application.

2. THE SITE AND ITS CONTEXT

This section of the report identifies the subject site and describes its environmental planning context.

1.1 CADASTRAL DESCRIPTION

The subject site, as illustrated in **Plan 2.1**, is described in Real Property terms as Lot 239 DP 1201225. The site has an area of 11.61ha and is regular in shape with a 293m frontage to Skennars Head Road.

No covenants apply to the land but the following restrictions are on title:

- Easement for water supply – 3.66m wide;
- Right of way – 7m wide (DP 251003); and
- Right of way – 7m wide (DP 251003).



View from Skennars Head Road of part of the western area of the site.

2.1 SITE CONTEXT

The subject site is located approximately 9km (or about 10 minutes drive) north of Ballina and 5.2 km (about 7 minutes drive) south of Lennox Head. Very low density residential housing adjoins the site to the north (Lennox Palms Estate); to the east is an existing caravan park and east and south of the caravan park is *Skennars Head*, a relatively modern subdivision which includes a high school, primary school and pre-school operations.

2.2 SITE ANALYSIS

Plan 2.2 shows a composite map of the site illustrating important site planning constraints and opportunities, particularly those matters listed in State Environmental Planning Policy (Housing for Senior or People with a Disability) 2014 (Seniors SEPP)¹, relating to:

a) **Site dimensions:**

- length
- width

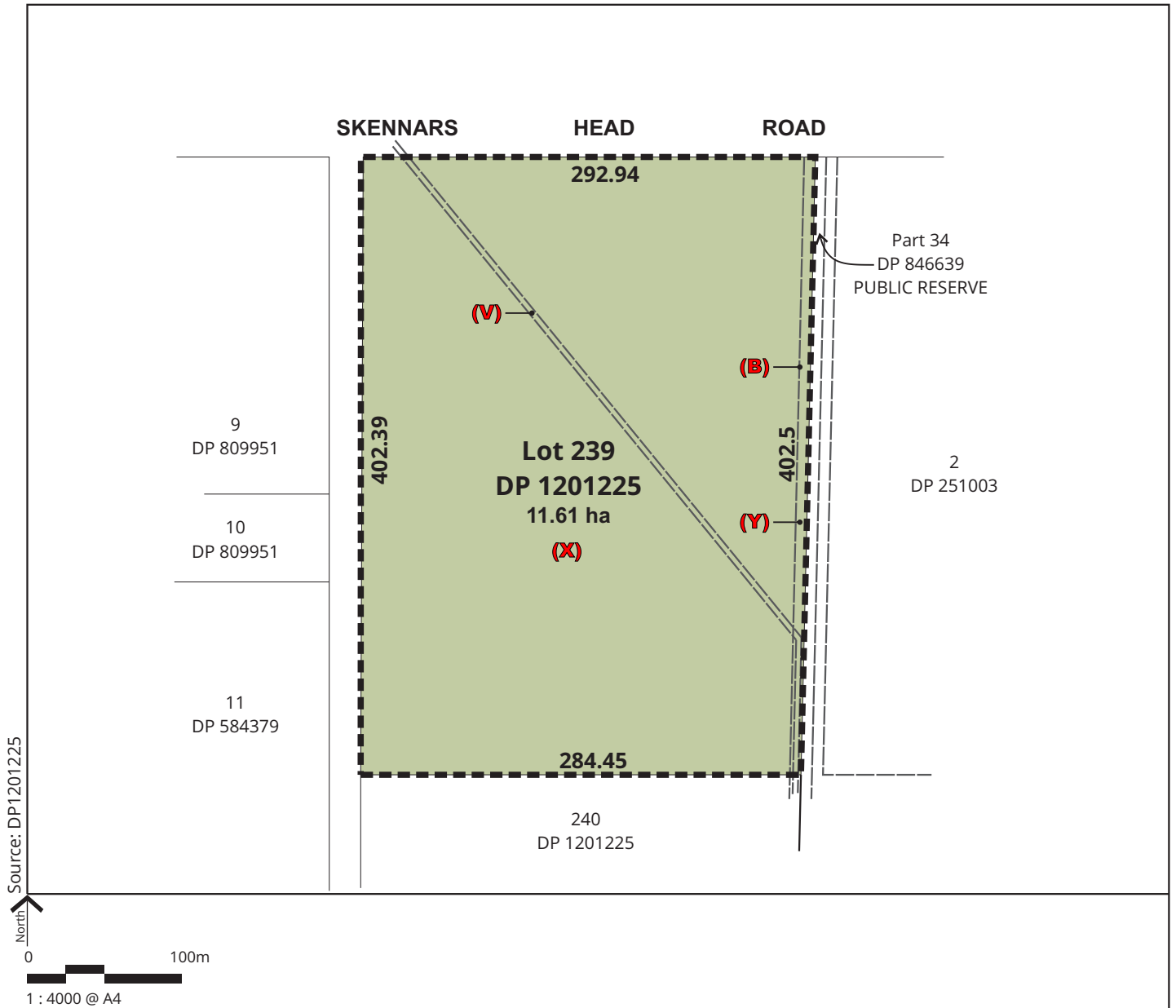
(b) **Topography:**

- spot levels and/or contour
- north point
- natural drainage
- any contaminated soils or filled areas

(c) **Services:**

- easements
- connections for drainage and utility services

¹ Certain of the standard site analysis specifications are not overly relevant in the circumstances of the subject application. Those items are shown in green coloured font.



Legend

Subject Site

Easements:

- B** Right of Carriageway 7 wide (DP 251003)
- V** Easement for Water Supply 3.66 wide (by Transfer M892179) (DP 1146651)
- X** Land excludes minerals - see Crown Grants
- Y** Benefited Right of Carriageway 7 wide (DP 251003)

Plan 2.1
THE
SITE

(d) **Existing vegetation:**

- location
- height
- spread of established trees species

(e) **Micro climates:**

- orientation
- prevailing winds

(f) **Location of:**

- buildings and other structures
- heritage features and items including archaeology
- fences
- property boundaries
- pedestrian and vehicle access

(g) **Views to and from the site**

(h) **Overshadowing** by neighbouring structures

The following information about the surrounds of a site is to be identified in a site analysis:

(a) **Neighbouring buildings:**

- location
- height
- use
- balconies on adjacent properties
- pedestrian and vehicle access to adjacent properties

(b) **Privacy:**

- adjoining private open spaces
- living room windows overlooking site
- location of any facing doors and/or windows

(c) **Walls built to the site's boundary:**

- location
- height
- materials

(d) **Difference in levels** between the site and adjacent properties at their boundaries

(e) **Views** and **solar** access enjoyed by neighbouring properties

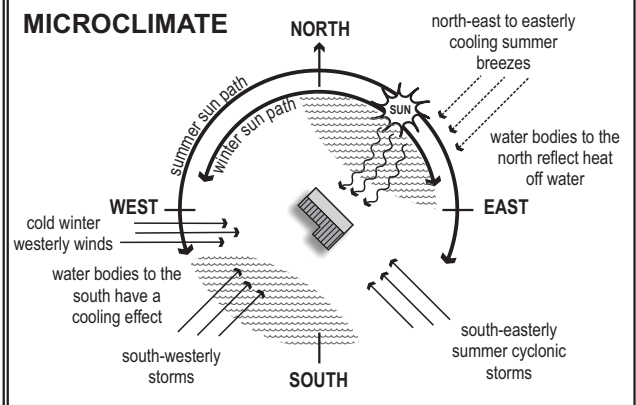
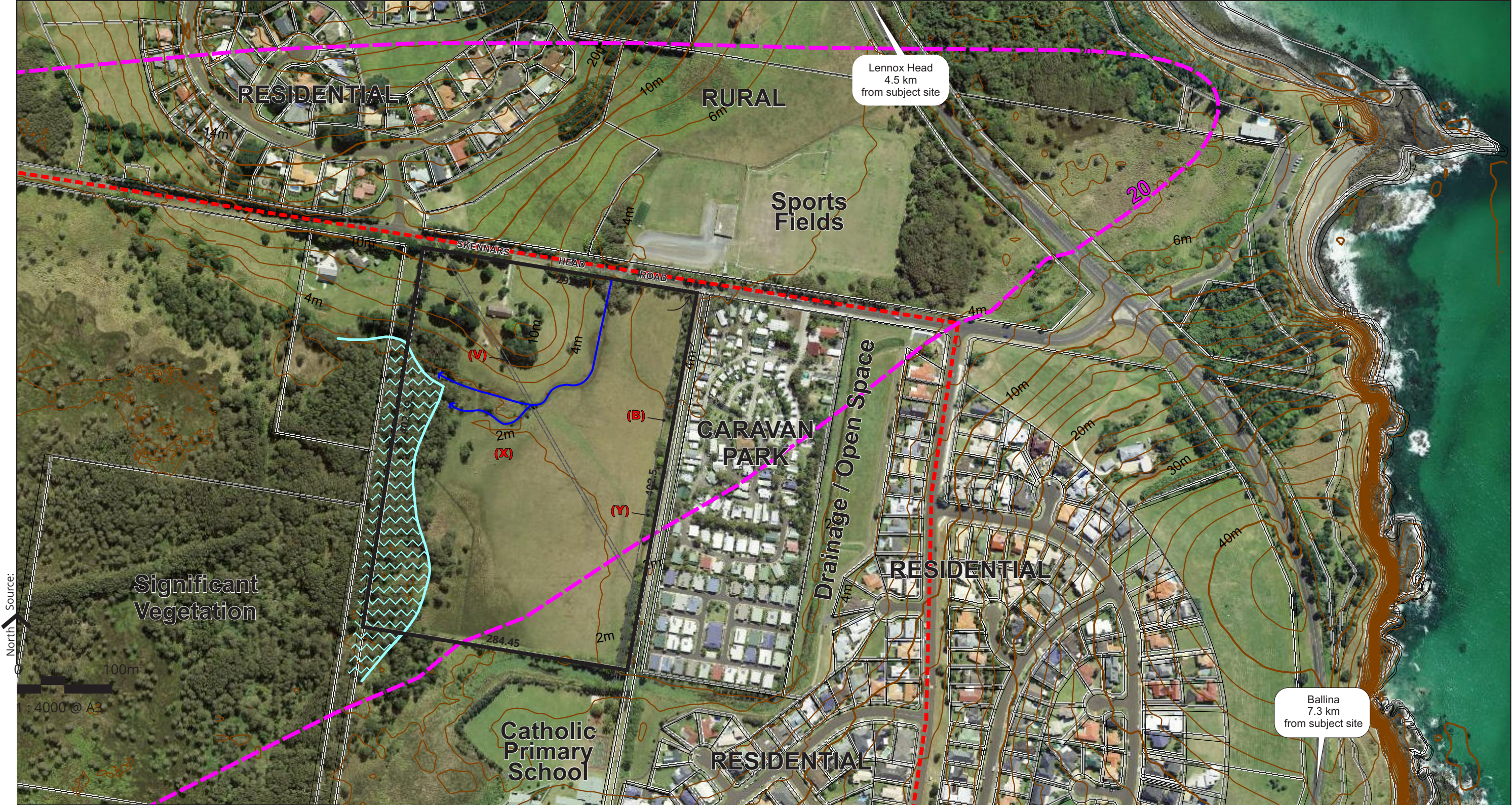
(f) **Major trees** on adjacent properties

(g) **Street frontage features:**

- poles
- trees
- kerb crossovers

- bus stops
- other services
- (h) The **built form** and **character** of adjacent development (including buildings opposite on both sides of the street(s) fronted):
 - architectural character
 - front fencing
 - garden styles
- (i) **Heritage features** of surrounding locality and landscape
- (j) **Direction and distance to local facilities:**
 - local shops
 - schools
 - public transport
 - recreation and community facilities
- (k) **Public open space:**
 - location
 - use
- (l) Adjoining **bushland** or **environmentally sensitive land**
- (m) **Sources of nuisance:**
 - flight paths
 - noisy roads or significant noise sources
 - polluting operations
- (n) Adjoining **land uses and activities** (such as agricultural activities)

LIVING GEMS, SKENNARS HEAD



- Legend**
- Subject site
 - SEPP 14 Wetlands
 - Ballina Byron Gateway Airport 2028 ANEF contour zones
 - Contours (2 m intervals)
 - Natural drainage line
 - Bus route
 - B Right of Carriageway 7 wide (DP 251003)
 - V Easement for Water Supply 3.66 wide (by Transfer M892179) (DP 1146651)
 - X Land excludes minerals - see Crown Grants
 - Y Benefited Right of Carriageway 7 wide (DP 251003)

3. THE DEVELOPMENT PROPOSAL

This section of the report defines the site planning objectives utilised in schematic design. Further, this section describes the project by way of text, mapping and statistical information.

1.1 SITE PLANNING OBJECTIVES

The primary objective of this proposal is to gain development consent for the use of the subject site as a facility for the accommodation of seniors and persons with a disability.

For the purposes of project design criteria the following site planning objectives have been adopted:

- a) Ensure that the seniors living project sits comfortably with adjoining land uses.
- b) To identify and protect site flora of environmental planning significance and enhance the biological diversity of the land through vegetation management, maintaining a "maintain or improve" standard for offsetting paddock tree removal.
- c) Ensure that the development does not interfere with the environment or habitat of endangered fauna.
- d) Ensure that construction works are appropriately managed to minimise site erosion and maintain the current quality of water exiting the site.
- e) Ensure that construction waste is appropriately managed.
- f) Maintain the visual integrity of the locality to ensure that the development blends with the existing built and natural environment.
- g) To provide for public utilities to service the needs of the seniors living community.
- h) To ensure that the proposed traffic generated by the development street system conforms with the network hierarchy and adequate site distance and intersection capacity is available.
- i) Ensure that the quality and quantity of stormwater exiting the site is not adversely affected by the proposed subdivision and that existing drainage patterns are not materially altered.
- j) Review potential site planning hazards in relation to ensure the development is not likely to present an unreasonable hazard.
- k) To carry out development in a manner which, maximises the residential amenity of the seniors village without impacting on the residential amenity of the surrounding land.
- l) Ensure that development does not impact on items of early European or Aboriginal significance.



View of site looking west from the track adjoining the eastern boundary.



View of the site looking west

3.1 GENERAL DESCRIPTION OF PROPOSAL

Staged Development

Staged Development Consent is sought for 147 seniors serviced self-care housing with associated managers residence, clubhouse, recreation facilities, roads, utility services, environmental management and environmental protection works.

Concept approval is sought for the overall project as illustrated in the masterplan (**Plan 3.1**). Stage 1 approval is sought for all works and facilities other than the selfcare housing. Each of the selfcare housing buildings will be the subject of a further application for development consent.

The proposal is generally illustrated in **Plan 3.1** and documented in more details in the accompanying **Plan Set**.

Phasing of the Development

The project is to be completed in three general phases. Those phases are illustrated in the graphic to the right. Stage 1 provides for the managers residence and development of sites 1 – 9², 17- 28, 48 – 57 and 61 – 92. Stage 2 entails the development of sites 93 – 141. At Stage 3 the project will be finalised with the construction of sites 27 – 47, 58 – 60 and 142 – 154.

Access

Access to the development will be gained directly from Skennars Head Road via a new intersection approximately 200m east of the Henderson Drive intersection. The intersection is proposed close to the beginning of a downhill descent on Skennars Head Road to ensure compliance with the relevant sight line requirements.

Site Filling

The site has been identified in an area subject to flooding. As such, the eastern part of the site is proposed to be flood proofed to a minimum of R.L. of 2.8m AHD. To address this, the entire eastern boundary of the land will be lifted to achieve the abovementioned minimum pad height with a crossfall of 0.5% to the west towards the SEPP14 wetlands. Retaining walls will be required along the eastern boundary of the site in order to prevent the boundary encroaching upon the adjacent parcel.

Internal Access

The internal road network has been designed on an “access street” road type with intersections, horizontal and vertical geometry based on a 30km/hr speed environment. Road profiles, widths and surface allocations adopt the design standards set out in the Rural Fire Service guidelines and Northern Rivers Design Guidelines. All of the internal roading will be installed, maintained and managed by the proponent.

Residential Buildings

A managers residence and 147 single storey seniors serviced self-care houses are proposed. 5 general dwelling types are specified. Key details in relation to each of these dwelling types are as follows:

TYPE 1

- Zero lot line design
- 3 bedrooms
- 2 car garage



Illustration of the project phases.



View of Skennars Head Road looking west from adjacent to the north eastern of the land.

² **Note:** there are no sites 10 to 16 inclusive in the updated scheme.

AMENDMENTS: DATE/ISSUE

PLEASE READ CAREFULLY

THIS PLAN CERTIFIED CORRECT IS THE ONE REFERRED TO IN THE CONTRACT & SPECIFICATIONS AND I UNDERSTAND CHANGES HEREAFTER MAY NOT BE POSSIBLE. THESE SUPERCEDE ALL OTHER PREVIOUS PLANS OR SKETCHES.

OWNERS _____

WITNESS _____ DATE _____

MODEL:	SITE PLAN
JOB NO.:	LH-01
ISSUE DATE:	21/05/18



GemLife
LENNOX HEAD



- Single storey
- Colorbond roof
- Hebel walls and painted finish
- Total floor area 149m² with living space of 221m²

TYPE 2

- Zero lot line design
- 3 bedrooms
- 2 car garage
- Single storey
- Colorbond roof
- Hebel walls with paint applied finishes
- Total floor area³ 147m² with living space of 220m²

TYPE 3

- Zero lot line design
- 3 bedrooms
- 2 car garage
- Single storey
- Colorbond roof
- Hebel walls with paint applied finishes
- Total floor area 158m² with living space of 222m²

TYPE 4

- Part zero lot line design
- 3 bedrooms
- 2 car garage
- Single storey
- Colorbond roof
- Hebel walls with paint applied finishes
- Total floor area 148m² with living space of 217m²

TYPE 5

- Part zero lot line design
- 2 bedrooms
- 2 car garage
- Single storey
- Colorbond roof

³ **Note:** these areas include the garage space which is not technically “floor space” under the LEP definition.

- Hebel walls
- Total floor area 146m² with living space of 220m²

All of the house types are generally suitable for all of the sites. In some instances the designs will need to be mirror reversed to ensure appropriate solar access.

Airport Noise Management

Given the land is located within the noise contour applicable to Ballina airport dwelling construction will be carried out to conform with Australian Standard 2021-2000.

Clubhouse and Associated Recreation Facilities

In addition to the residential accommodation, a “clubhouse” and recreational facilities are proposed. General details in relation to these facilities are as follows:

Clubhouse

The clubhouse building is a Hebel wall and Colorbond roof structure. The facility includes community hall, stage, kitchen, media room, billiards room, music room, meeting rooms, fitness group rooms, café, computer / library, craft, yoga room, outdoor alfresco dining and residents’ workshop and associated 20m swimming pool.

Recreation facilities

The recreation facilities proposed include an outdoor pool; enclosed swimming pool; 2 lane bowling alley; cinema; championship standard sized bowling green and championship standard tennis court.

Home Support and Medical Care

For the Skennars Head project, GemLife has partnered with *PresCare* to provide the home support and medical care to the future residents.

Utilities

Council provides reticulated sewer within the local area and have existing sewerage assets located to the north of the proposed development boundary. However, a gravity sewer service is not available to the proposed development site due to site levels. It is proposed that a new sewer pump station is constructed on the development site. All lots are connected to this pump station via the internal sewer reticulation system. A sewer rising main along will connect the pump station to either the existing sewer pump station in Skennars Head.

Essential Energy has two existing power feeder lines in the area that have the potential to service the development. Telstra is the main telecommunications service supplier to the project area.

Ballina Shire Council provides reticulated water supply within the local area and has sufficient storage capacity to cater for the development. However, part of the existing water supply network that leads to the site may need to be augmented to cater for additional demand growth within the system.

Council provide reticulated recycled water in this locality and there is provision to connect the proposed development to the recycled water supply. An existing 200mm water main is located within the development site running diagonally from the north western boundary to the eastern boundary. It is proposed to relocate this main along the northern and eastern boundary.

Ecological Considerations

The proposal has been planned around the protection of important State Environmental Planning Policy 14 – Wetlands, located near the western boundary of the property. The wetlands are proposed to be retained and buffered with extensive additional plantings. To protect the wetland and also to provide for an orderly layout for the development certain paddock tree removal has been unavoidable. In order to meet a biodiversity “maintain or improve” standard it is proposed to offset onsite tree removal.

Statistical Description of proposal

Key site planning data applicable to Council's assessment of the development application is tabulated below in **Table 3.1**. This information is, of course, subject to final survey, detailed engineering design and Council's conditions of consent.

TABLE 3.1 LAND USE BUDGET

Land Use	Area (m²)	Percentage (%)
Site Area	115,933	100
Extent of works	76,113	
Roads	22,735	19.6
Clubhouse precinct	3,032	2.6
Open Space	48,273	41.6
Seniors housing	41,893	36.1

3.2 ANCILLARY APPROVALS

No ancillary approvals are sought from Council at this time.

4. STATUTORY AND POLICY PLANNING

Section 4.1 documents the range of planning controls applicable in the subject case pursuant to Section 4.15 (1) (a) of the Act and tabulates the effect of these instruments in the circumstances of the development proposal described at Section 3. Section 4.2 examines policy adopted by Council or other authority applicable in the subject matter which, whilst relevant, are not controls within the meaning of Section 4.15 (1)(a).

4.1 STATUTORY CONSIDERATIONS

Pursuant to the Environmental Planning & Assessment Act, 1979, a number of statutes are potentially applicable to any single development proposal. This section reviews the range of instruments and notes their application in terms of the subject development application proposal.

4.1.1 DEEMED ENVIRONMENTAL PLANNING INSTRUMENTS

No deemed environmental planning instruments apply to the subject land.

4.1.2 LOCAL ENVIRONMENTAL PLANS

Two Local Environmental Plans apply to the subject site. The predominant instrument is Ballina Local Environmental Plan 2012 (BLEP12). Part of the land in the west and south is affected by the provisions of Ballina Local Environmental Plan 1987 (BLEP87).

Name: Ballina Local Environmental Plan 2012 (BLEP12)

Application in Subject Case:

Zone: (See **Plan 4.1**) The land is zoned RU1 Primary Production

Permissibility: Seniors living is not a permissible use in the RU1 Zone. This application relies on the provisions of the Seniors SEPP.

Concurrence: No concurrence is required.

Advertising: Advertising of this development is not required under BLEP12.

Special Provisions Applicable: The following provisions of BLEP12 are applicable to Council's consideration of the subject proposal:

Zone RU1 Primary Production

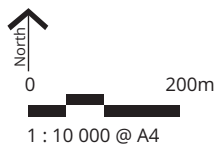
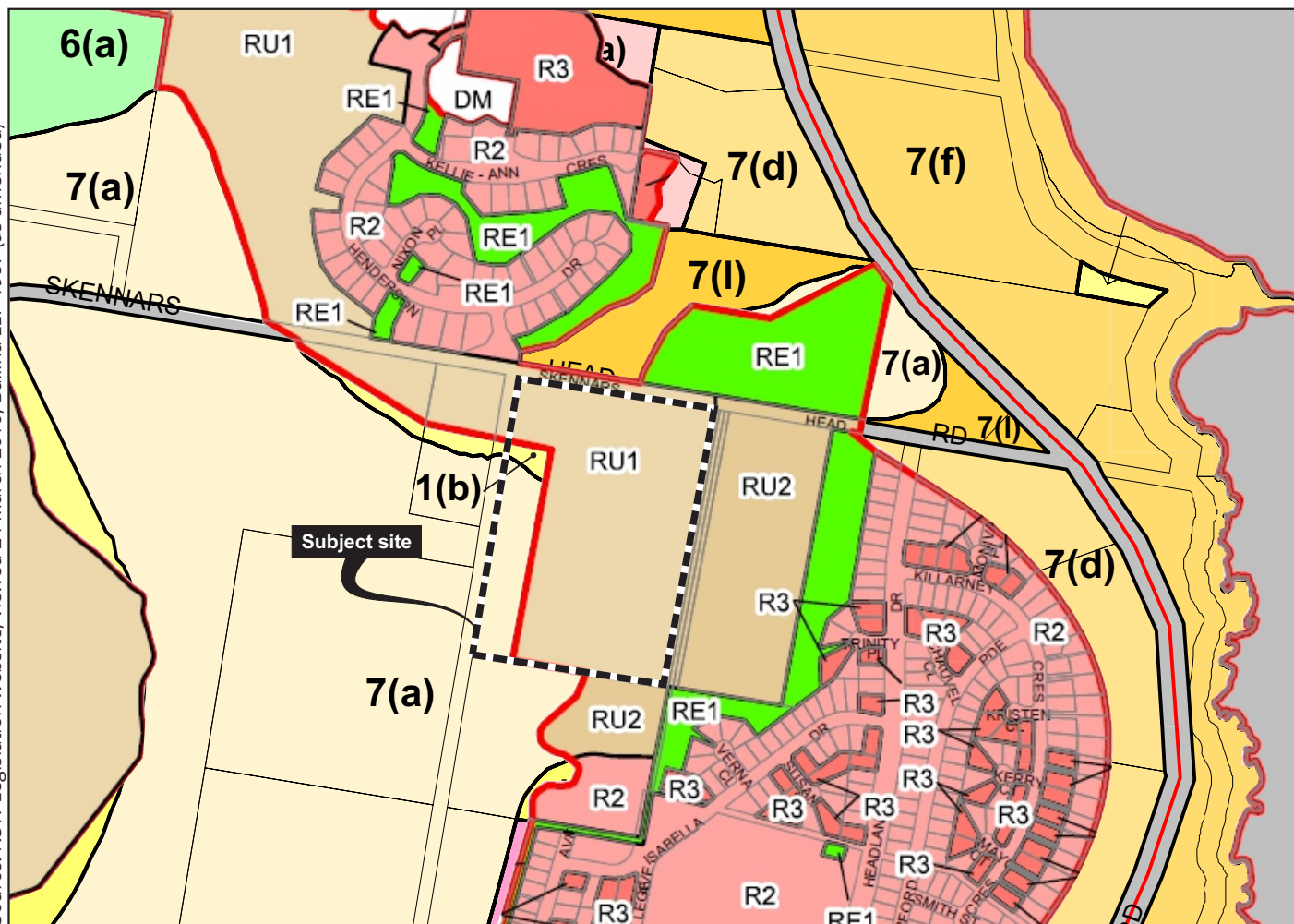
1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural, cultural and landscape character of the locality.
- To enable development that is compatible with the rural and environmental nature of the land.
- To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.



View of Skennars Head Road west of the subject site looking west towards North Creek Road

Source: NSW Legislation website, viewed 24 March 2016; Ballina LEP 1987 (as amended)



Legend

Subject Site

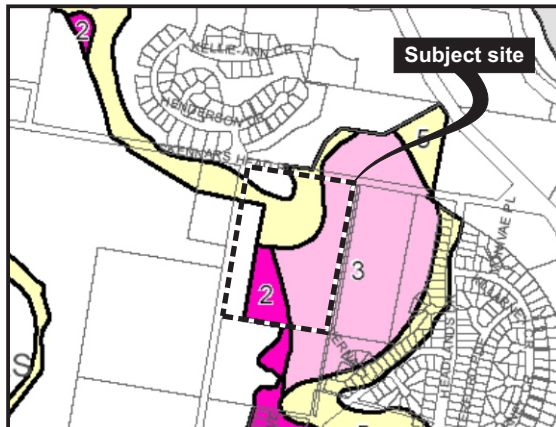
LEP 2012 Zones:

	Deferred Matter
	R2 Low Density Residential
	R3 Medium Density Residential
	RE1 Public Recreation
	RU1 Primary Production
	RU2 Rural Landscape

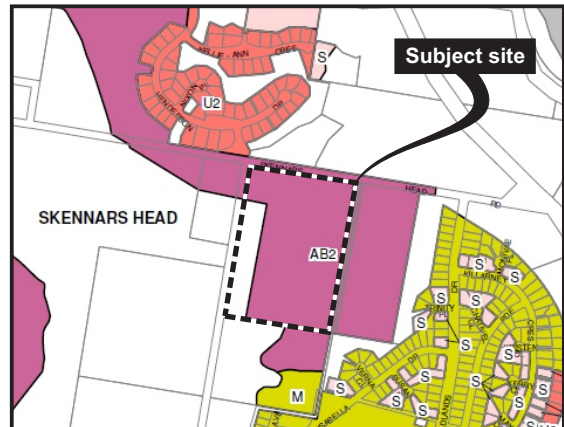
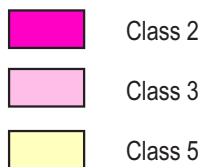
LEP 1987 Zones:

	1(b) Rural - Plateau Lands Agriculture
	2(a) Residential - Living Area
	6(a) Open Space
	7(a) Environmental Protection - Wetlands
	7(d) Environmental Protection - Scenic/Escarpment
	7(f) Environmental Protection - Coastlands
	7(l) Environmental Protection - Habitat

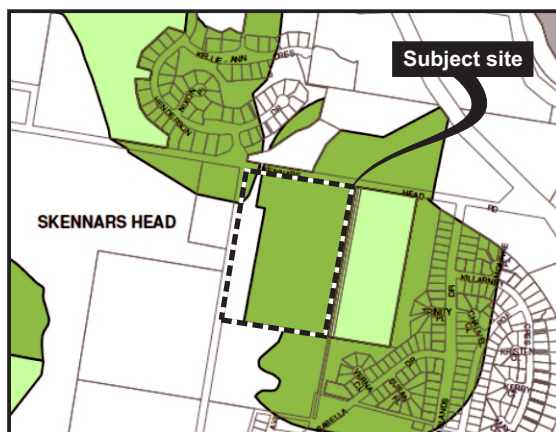
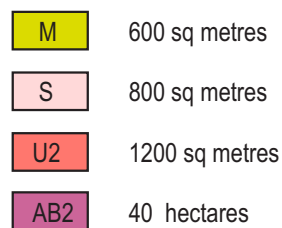
Plan 4.1
LEP 2012
ZONING
CONTROLS



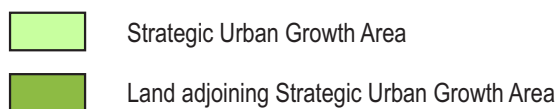
ACID SULFATE SOILS



MINIMUM LOT SIZE



STRATEGIC URBAN GROWTH MAP



HEIGHT OF BUILDINGS MAP



2 Permitted without consent

Environmental protection works; Extensive agriculture; Home-based child care; Home occupations; Intensive plant agriculture

3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Boat launching ramps; Boat sheds; Car parks; Cellar door premises; Cemeteries; Dual occupancies (attached); Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Helipads; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; Intensive livestock agriculture; Jetties; Markets; Mooring pens; Moorings; Open cut mining; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Sewerage systems; Signage; Tourist and visitor accommodation; Turf farming; Water recreation structures; Water supply systems

4 Prohibited

Advertising structures; Backpackers' accommodation; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3

Comment:

This application relies on the provisions of the Seniors SEPP.

4.3 Height of buildings

(1) *The objectives of this clause are as follows:*

- (a) *to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,*
- (b) *to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,*
- (c) *to protect significant views from public places.*

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).*

Comment:

The height control in this locality is 8.5m (see **Plan 4.2**). The maximum height of all the residential buildings easily comply with this standard being generally at a 4.7m maximum height. The clubhouse building is generally 8.5m save for some roof fenestration exceeding the 8.5m limit by 214mm. To give the clubhouse a strong architectural character, the designers have provided the building some roofline fenestration. That roof results in a height 2.52% greater than the standard and a variation request under Clause 4.6 of BLEP12 accompanies this SEE at **Appendix C**.

5.5 Development within the coastal zone

(1) *The objectives of this clause are as follows:*

- (a) *to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,*
- (b) *to implement the principles in the NSW Coastal Policy, and in particular to:*
 - (i) *protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and*
 - (ii) *protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and*
 - (iii) *provide opportunities for pedestrian public access to and along the coastal foreshore, and*
 - (iv) *recognise and accommodate coastal processes and climate change, and*

- (v) protect amenity and scenic quality, and*
- (vi) protect and preserve rock platforms, beach environments and beach amenity, and*
- (vii) protect and preserve native coastal vegetation, and*
- (viii) protect and preserve the marine environment, and*
- (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and*
- (xi) protect Aboriginal cultural places, values and customs, and*
- (xii) protect and preserve items of heritage, archaeological or historical significance.*

(2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:

- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
 - (i) maintaining existing public access and, where possible, improving that access, and*
 - (ii) identifying opportunities for new public access, and*
- (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
 - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
 - (ii) the location, and*
 - (iii) the bulk, scale, size and overall built form design of any building or work involved, and*
- (c) the impact of the proposed development on the amenity of the coastal foreshore including:*
 - (i) any significant overshadowing of the coastal foreshore, and*
 - (ii) any loss of views from a public place to the coastal foreshore, and*
- (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*
- (e) how biodiversity and ecosystems, including:*
 - (i) native coastal vegetation and existing wildlife corridors, and*
 - (ii) rock platforms, and*
 - (iii) water quality of coastal waterbodies, and*
 - (iv) native fauna and native flora, and their habitats,*
- can be conserved, and*
- (f) the cumulative impacts of the proposed development and other development on the coastal catchment.*



View of existing caravan park development immediately eastward of the subject site.



View of existing caravan park development immediately eastward of the subject site.

(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:

(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and

(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and

(d) the proposed development will not:

(i) be significantly affected by coastal hazards, or

(ii) have a significant impact on coastal hazards, or

(iii) increase the risk of coastal hazards in relation to any other land.



View of track abutting the eastern boundary of the site.

Comment:

The subject land is located within the coastal zone defined at the time of the original application⁴, but is well away from the actual physical coastline. Embodied in this application is a fulsome proposal to protect and enhance the mapped State Environmental Planning Policy 14 – Wetland to the west. Given the location of the site, no issues are raised by this development in terms of:

- Pedestrian access along the coastal foreshores;
- Coastal process Impacts;
- Marine environmental impacts;
- Loss of views or overshadowing of coastal lands.

The proposal relates to land which has been historically used for intense agricultural purposes and no impact in terms of aboriginal archaeological or cultural aspects nor European historical aspects are known. The bulk and scale and size of the development is consistent with the existing caravan park immediately eastward of the site.

The proposed development has been designed on a sustainable basis to ensure impacts such as stormwater runoff and the like are appropriate and meet the relevant Council standards.

5.9 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

⁴ Recently, the coastal zone has been remapped pursuant to the new Coastal SEPP. However, pursuant to Clause 21 of the new Coastal SEPP, that new Instrument does not apply to this application and the provisions of SEPP No. 14 and the former Coastal SEPP continue to apply.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

(a) development consent, or

(b) a permit granted by the Council.

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

(a) that is or forms part of a heritage item or that is within a heritage conservation area, or

(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the Council is satisfied that the proposed activity:

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

(8) This clause does not apply to or in respect of:

(a) the clearing of native vegetation:

(i) that is authorised by a development consent or property vegetation plan under the [Native Vegetation Act 2003](#), or

(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the [Native Vegetation Act 2003](#)) that is authorised by a development consent under the provisions of the [Native Vegetation Conservation Act 1997](#) as continued in force by that clause, or

(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the [Forestry Act 1916](#), or

(d) action required or authorised to be done by or under the [Electricity Supply Act 1995](#), the [Roads Act 1993](#) or the [Surveying and Spatial Information Act 2002](#), or

(e) plants declared to be noxious weeds under the [Noxious Weeds Act 1993](#).

(9) Subclause (8) (a) (ii) does not apply in relation to land in Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.



The neighbourhood of the site includes schools and pre-schools.



View of the track of the eastern side of the site looking south.

Comment:

As described in **Technical Report 1**, considerable attention has been given in the development of the scheme to ensure the retention, protection, buffering and enhancement of the adjacent SEPP14 Wetland. To carry out the development in an orderly and efficient way it has been necessary to seek consent for the removal of certain paddock trees. That tree removal is unavoidable in order to carry out the development in a practical and efficient manner. Offsets for the tree removal have been prepared to ensure a "maintain or improve" standard.

5.9AA Trees or vegetation not prescribed by development control plan

(1) *This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 5.9 by a development control plan made by the Council.*

(2) *The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.*

Comment:

Refer to **Technical Report 1**.

7.1 Acid sulfate soils

(1) *The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.*

(2) *Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the [Acid Sulfate Soils Map](#) as being of the class specified for those works.*

Class of land	Works
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works 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.

(3) *Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.*

(4) *Despite subclause (2), development consent is not required under this clause for the carrying out of works if:*

(a) *a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and*

(b) *the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*

(5) *Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):*

- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
- (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
- (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if:
 - (a) the works involve the disturbance of less than 1 tonne of soil, and
 - (b) the works are not likely to lower the watertable.
- (7) Despite subclause (2), development consent is not required under this clause for the carrying out of works for the purpose of agriculture if:
 - (a) a production area entitlement is in force in respect of the land when the works are carried out, and
 - (b) the works are carried out in accordance with a drainage management plan, and
 - (c) the works are not carried out in respect of a major drain identified on the [Acid Sulfate Soils Map](#), and
 - (d) the works are not carried out on land to which [State Environmental Planning Policy No 14—Coastal Wetlands](#) applies.

Comment:

An Acid Sulfate Soil Management Plan accompanies this SEE at **Technical Report 12**.

7.2 Earthworks

- (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land
- (2) Development consent is required for earthworks unless:
 - (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or
 - (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.
- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:
 - (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
 - (b) the effect of the development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
 - (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

The development will require significant earthworks in the order of 3,400m³ cut and 94,100m³ fill as the majority of the land requires filling in order to achieve flood proofing. Earthworks are described in more detail in the engineering report and **Plan Set** and in **Technical Report 2**.

7.3 Flood planning

(1) *The objectives of this clause are as follows:*

(a) *to minimise the flood risk to life and property associated with the use of land,*

(b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*

(c) *to avoid significant adverse impacts on flood behaviour and the environment.*

(2) *This clause applies to:*

(a) *land identified as "Flood planning area" on the [Flood Planning Map](#), and*

(b) *other land at or below the flood planning level.*

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

(a) *is compatible with the flood hazard of the land, and*

(b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

(c) *incorporates appropriate measures to manage risk to life from flood, and*

(d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*

(e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

(4) *A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.*

(5) *In this clause:*

land at or below the flood planning level means land at or below the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard.

Comment:

The land is not mapped on the BLEP12 Flood Planning Map (See **Plan 4.2**). However, having regard to the BDCP12, the flood planning level proposed for the subject site is RL2.8m AHD. This flood level has been derived from the Table 3.1 in BDCP12 Chapter 2b – Floodplain Management.

Under BDCP12 the non-habitable clubhouse and recreational facilities are not required to observe the residential building freeboard requirement. The minimum floor level of these structures must be at least RL2.1m AHD.



View of the site from the east looking north west.



View of the adjoining eastern development and intervening track.

To achieve these minimum levels and maintain overland flow paths, varying levels of fill averaging about 1m will be placed across the eastern part of the development site away from the SEPP 14 Wetlands.

The impact of filling part of the land has been assessed by Council's flood modelling experts, BMT WBM. Their advice is contained at **Technical Report 10**.

7.6 Development in areas subject to aircraft noise

(1) *The objectives of this clause are as follows:*

(a) *to prevent certain noise sensitive developments from being located near the Ballina Byron Gateway Airport and its flight paths,*

(b) *to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,*

(c) *to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.*

(2) *This clause applies to development that:*

(a) *is on land that:*

(i) *is near the Ballina Byron Gateway Airport, and*

(ii) *is in an ANEF contour of 20 or greater, and*

(b) *the consent authority considers is likely to be adversely affected by aircraft noise.*

(3) *Before determining a development application for development to which this clause applies, the consent authority:*

(a) *must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*

(b) *must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and*

(c) *must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.*

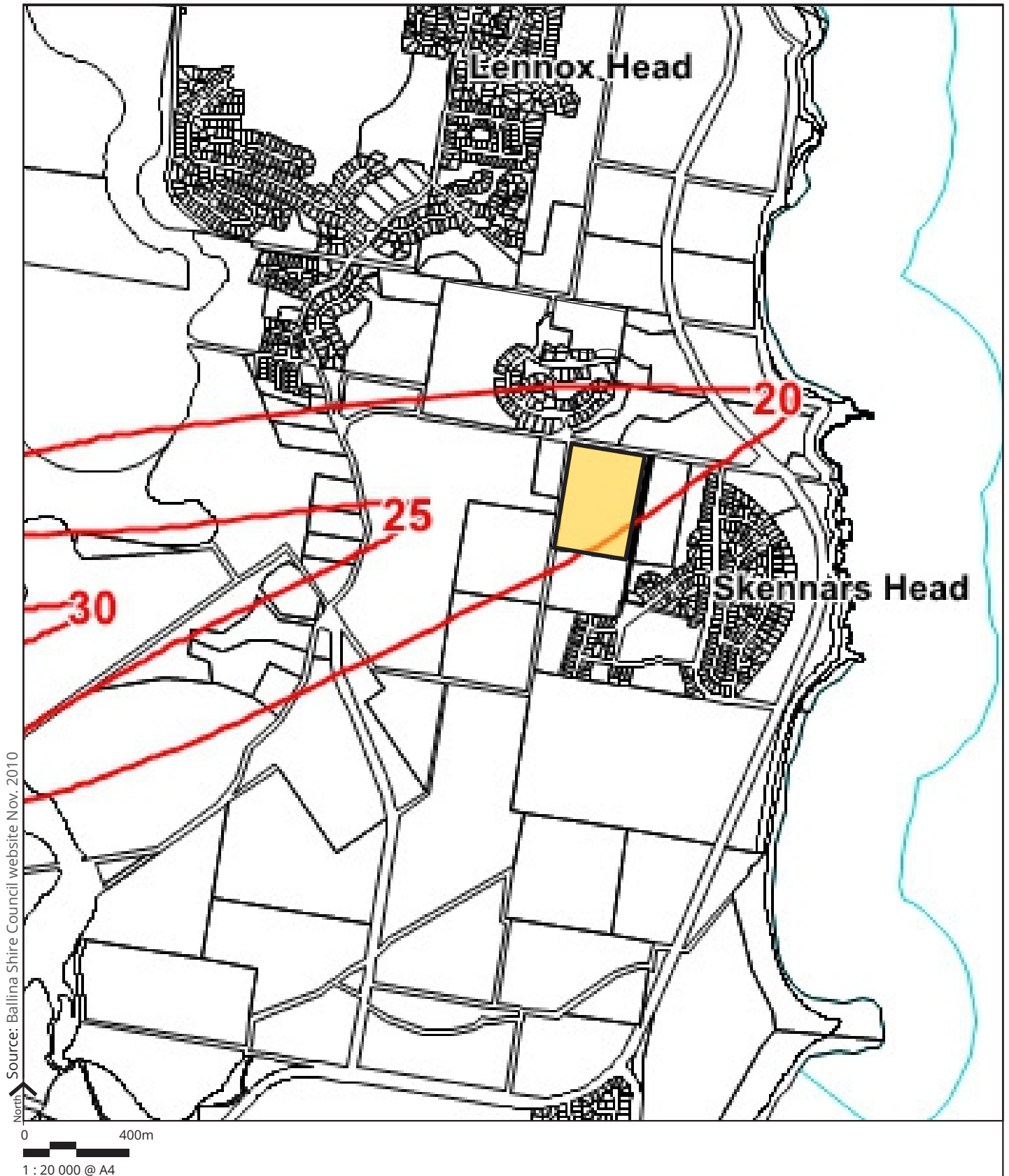
(4) *In this clause:*

ANEF contour means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Ballina Byron Gateway Airport prepared by the Department of the Commonwealth responsible for airports.

AS 2021—2000 means AS 2021—2000, Acoustics—Aircraft noise intrusion—Building siting and construction.

Comment:

As illustrated in **Plan 4.3** the subject land is largely within the 20 ANEF contour. Accordingly, each of the seniors serviced self-care dwellings will be designed in accordance with Table 3.3 of AS2021-2000.



Legend

-  Subject site
-  2028 ANEF contours

Plan 4.3
AIRCRAFT
NOISE

7.7 Essential services

(1) The objective of this clause is to ensure that development is supplied with adequate and appropriate levels of infrastructure servicing.

(2) Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access,
- (f) telecommunication services.

Comment:

As specified in the Engineering Report (**Technical Report 2**) all utility services are proposed to be connected.

7.8 Strategic urban growth areas

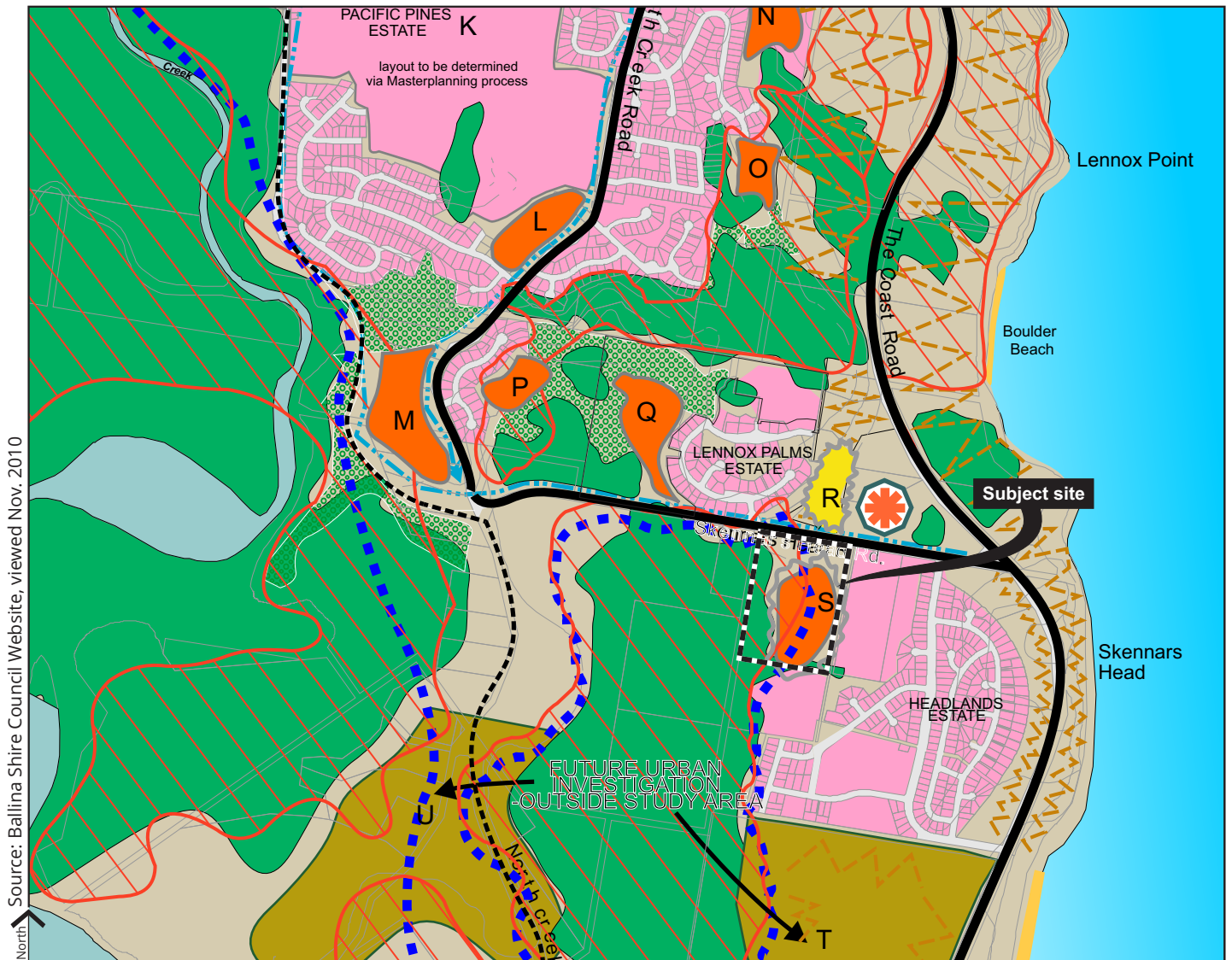
(1) The objective of this clause is to ensure that strategic urban development opportunities in the Strategic Urban Growth Area are maintained.

(2) This clause applies to land identified on the [Strategic Urban Growth Area Map](#) as:

- (a) "Strategic Urban Growth Area", and
 - (b) "Land Adjoining Strategic Urban Growth Area".
- (3) Development consent must not be granted to development on land identified in subclause (2) (a) unless the consent authority has considered whether the development may preclude future urban or employment land uses on the land having regard to:
- (a) the orderly and coordinated provision of infrastructure, and
 - (b) the maintenance of amenity and scenic values, and
 - (c) land use conflict impacts associated with stormwater or wastewater discharge and emissions, including noise, dust and odour, and
 - (d) site access, generation of traffic and the efficient functioning of transport infrastructure.
- (4) Development consent must not be granted to development on land identified in subclause (2) (b) unless the consent authority has considered the implications that development may have on land identified in subclause (2) (a).



Illustration of 50m buffer achieved at the site.



0 400m

1 : 20 000 @ A4

Legend



Subject site



Significant vegetation / habitat



Bushfire prone land



Wildlife corridor and/or habitat vegetation buffer
(note: excludes bushfire buffer)



Regionally significant agricultural land



Existing developed areas and/or urban zones



Site of visual prominence



Sewage treatment works



Sewage treatment works 400 metre buffer zone



Visually significant land



Low lying / flood prone land



Open space / community precinct



Playing fields



Aircraft noise corridor



Proposed road corridor



Cycle way



Possible future secondary road access



Candidate release areas



Areas C, D & R

Plan 4.4

LENNOX

HEAD

STRUCTURE

PLAN

EXTRACT



**PLANNERS
NORTH**
1522.2383

Comment:

The subject site is within an area identified in the Strategic Urban Growth Area Map as “land adjoining strategic urban growth area”. In various strategic planning studies, the land has been identified as having potential for future urbanisation. For example, in the Lennox Head Structure Plan, the land was identified as “Candidate Release Area S” (see **Plan 4.4**). In our view, development in the manner proposed will not preclude any future urban options, in the longer term. In fact, it will advance those options by bringing to the site extensive urban infrastructure.

The proposal provides for a buffer of some 50m between the existing site vegetation and seniors living buildings.

Name: Ballina Local Environmental Plan 1987 (BLEP87)

Application in Subject Case:

Zone: (See **Plan 4.1**) The land is zoned 7(a) Environmental Protection (Wetlands) Zone

Permissibility: No “development” is proposed over the land zoned 7(a). Environment and Protection Works in the form of weed removal may occur from time to time.

Concurrence: Nil

Advertising: Advertising of this development is not required under BLEP87.

Special Provisions: The clauses under BLEP87 relevant in the subject circumstances are as follows.

Zone No 1 (b) Rural (Secondary Agricultural Land) Zone

1 Objectives of zone

A The primary objective is to regulate the subdivision and use of land within this zone:

(a) to encourage the productive use of the land and enable development ancillary to agricultural land uses, particularly dwelling-houses, rural workers’ dwellings and rural industries, and

(b) to permit a range of uses which are compatible with the rural character of the land, particularly tourist oriented developments and recreation establishments and recreation facilities, and

(c) (Repealed)

B The secondary objectives is to ensure that development within the zone:

(a) maintains the rural character of the locality, and

(b) does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.

C The exceptions to these objectives are:

(a) development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives, subject to the impact on agricultural resources being minimised, where practical,

(b) development of land for extractive resource purposes, and

(c) development of an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

2 Without development consent

Agriculture (other than feed lots, piggeries, poultry farms, stock homes and other intensive keeping of animals); forestry.

3 Only with development consent

Any purpose other than a purpose specified in item 2, 4 or 5.

4 Advertised development—only with development consent

Bulk stores; industries (other than rural, extractive, offensive or hazardous industries); motor showrooms; warehouses.

5 Prohibited development

Brothels; caravan parks for permanent occupation; residential buildings (other than dwelling-houses); shops (other than general stores).

Comment:

A slither of land is zoned secondary agriculture. No seniors development is proposed within this area. However, the proponent does propose to enhance the plantings in this locality and carry out weed removal.

Zone No 7 (a) Environmental Protection (Wetlands) Zone

1 Objectives of zone

A The primary objectives are:

- (a) to protect and conserve significant wetlands, and*
- (b) to prohibit development which could destroy or damage a wetland ecosystem.*

B The exception to these objectives is development of public works and services, outside the parameters specified in the primary objectives, only in cases of demonstrated and overriding public need and subject to the impact on wetland ecosystem being minimised as much as is reasonably practical.

2 Without development consent

Nil.

3 Only with development consent

Agriculture; bed and breakfast establishments; bush fire hazard reduction; environmental educational facilities; environmental protection works; open space; roads; telecommunications facilities; utility installations.

4 Advertised development—only with development consent

Nil.

5 Prohibited development

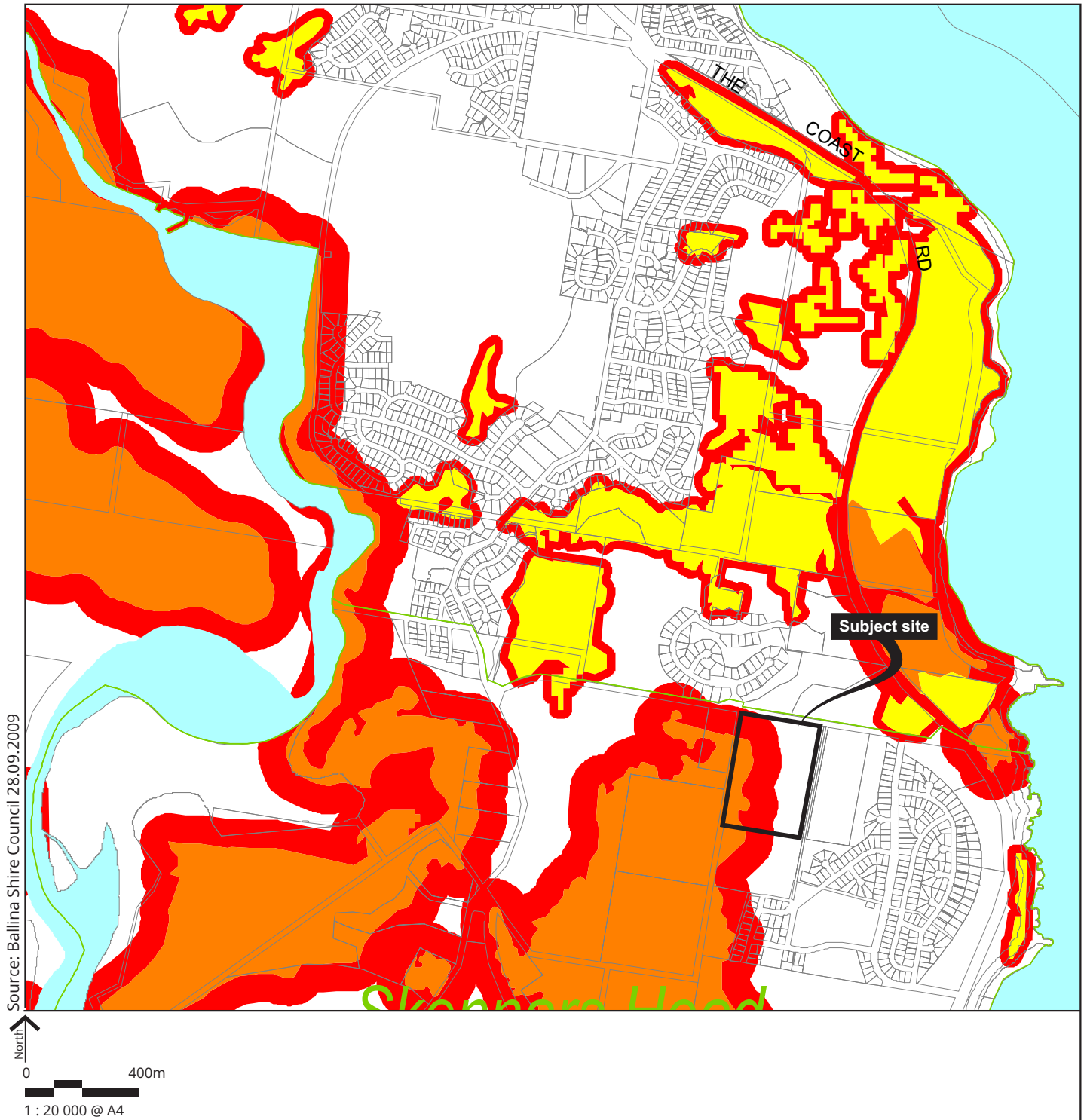
Any purpose other than a purpose specified in item 3.

Comment:

No seniors living development of any kind is proposed in the 7(a) zone. However, the proponent does anticipate a condition of consent which may require additional plantings and the removal of weeds and the like. Such activity would comprise “environmental protection works” and development consent is sought for such works.

24 Development within Zone No 7 (a)

- (1) This clause applies to land within Zone No 7 (a).*
- (2) A person shall not clear, drain, excavate or fill land to which this clause applies without the consent of the council.*
- (3) The council shall not consent to the carrying out of development on or adjacent to land within Zone No 7 (a) unless it has taken into consideration:*
 - (a) the likely effects of the development on the flora and fauna found in the wetlands,*
 - (b) the likely effects of the development on the water table, and*



Legend

-  Subject site
-  Vegetation Category 1 - forest, woodlands, heath & wetlands
-  Vegetation Category 2 - moist rainforests, shrubland, open woodland, mallee & grassland
-  Buffer - 100 Vegetation Category 1 & 30m Vegetation Category 2

Plan 4.5
FIRE
PRONE
LAND

(c) *the effect of the wetlands of any proposed clearing, draining excavating or filling.*

Comment:

Other than with respect to planting and weeding, it is not intended that any vegetation within the 7(a) zone will be altered.

4.1.3 DEVELOPMENT CONTROL PLANS

Name: Ballina Development Control Plan 2012 (BDCP12)

Application in Subject Case:

A number of Chapters of BDCP12 are applicable in the subject circumstances. Set out below is a list of clauses particularly relevant in the subject circumstances.

Chapter 2 – General and Environmental Considerations

3.1 Land Use Conflict

There are no landuses of the kind referred to in Table 2.2 of Chapter 2 in the immediate vicinity of the site. Land to the north is generally used for recreational purposes. The property to the east is an existing caravan park. To the south is rural land which abuts the existing urban development. To the west land is heavily vegetated and forms part of the a large SEPP14 wetland precinct.

3.3 Natural Areas and Habitat

The western part of the site is identified as important SEPP14 Wetland. That wetland is intended to be retained and buffered. The flood protection of the bulk of the site has resulted in the unavoidable removal of certain existing paddock tree type vegetation. That vegetation impact is intended to be offset to achieve “maintain or improve” standard is obtained with offsetting.

3.4 Potentially Contaminated Land

The site has been examined for its potential in relation to historical contamination. The report prepared by Coffey at **Technical Report 5** to this Statement of Environmental Effects. Coffey considered that the site has a low potential for historic land contamination.

3.5 Land Slip/Geotechnical Hazard

The surface geology of the site is “soft”. Research completed to date by Coffey illustrates a subsurface geology which, when fill is placed, could, in the longer term, produce a differential settlement. (See **Technical Report 5**). The proponent has engaged geotechnical engineers to carry out furthermore detailed site testing and investigation with a view to formulating a robust process in relation to the placement of controlled fill in order to minimise the likelihood of future differential settlement.

3.6 Mosquito Management

A mosquito impact assessment report has been prepared for the development. That report is contained at **Technical Report 6A**. That report recommends the general adoption of a distance buffer between the seniors living buildings and vegetation also to allow for the implementation of an Integrated Mosquito Management (IMM) approach in relation to seniors buildings proposed approximate to certain site vegetation which is desirable to be retained.

IMM relies on an integrated approach involving:

- Community education and management;
- Insect screening;
- Open space buffers;
- Reconstruction of low flow drainage swale;
- Removal of weeds;
- Fully draining detention basin;

- Biological control via a fish population in the freshwater drainage channel and
- Residual insecticide barrier treatment.

The use of the IMM model is not novel and whilst not appropriate for subdivision type development it is thought to be very appropriate in the circumstances of a site which has comprehensive “hands on” day to day site management.

Although the IMM Plan offered complies with the Ballina Shire Council’s DCP (Chapter 2 Clause 3.6.3), it is understood that Council has concerns about the non- target specific impacts of the proposed insecticide. To address councils concerns, the proponent raises not objection to being conditioned to trial an alternative control method prior to the commencement of residential construction.

This alternative method involves the deployment of strategically placed killing stations, as designed by Bantix. These stations use CO2 gas, UV light spectrums, heat and food attractants to kill female mosquitos only. The details of the Bantix system are further described in the Gemlife Mosquito Management Plan (**Technical Report 6B**).

The trial would provide for the installation of a minimum of four (4) Bantix killing stations on site for a period of six (6) months from November 2018 to April 2019 with results monitored by an Entomologist and Council Environmental Health officers.

The proponent further requests that council structure its recommended approval conditions to allow for the use of the Bantix hybrid electronic management method in lieu of the residual insecticide if the results of the trial were satisfactory to all stakeholders.

3.7 Waste Management

Two waste management plans have been prepared containing both construction and post construction phases. Those plans are contained at **Technical Report 3 & 13**.

3.9 Stormwater Management

Sediment and erosion control measures have been recommended by the project engineers, those measures are described in more detail at **Technical Report 8** and in the **Plan Set**.

3.10 Sediment and Erosion Control

Stormwater management and associated erosion sediment control is addressed in **Technical Report 2** and details of the control mechanisms proposed are outlined in the **Plan Set**.

3.11 Provision of Services

As described in **Technical Report 2** all standard urban services are intended to be brought to site.

3.12 Heritage

The site does not exhibit any European historical relics. A search of the AHIMS database indicates no aboriginal site on the land or within 50m. Council has consulted with the local Aboriginal Land Council who requested the more detailed analysis be carried out with respect to aboriginal archaeology. That research was carried out by Everick and is contained at **Technical Report 14**.

3.15 Crime Prevention through Environmental Design

As a type of development seniors living project enjoys a very low crime rate. The layout of the development ensures that the site is secure and has the benefit of onsite management. The site is laid out in a fashion to optimise casual occupation. The proposal is consistent with Council’s prescriptions in relation to crime prevention through environmental design.

3.21 Bushfire Management

A detailed bushfire assessment has been completed for the land and a bushfire authority has been issued for the development. An updated Bushfire Assessment is set out at **Technical Report 7**.

CHAPTER 2a - VEGETATION MANAGEMENT

4.1 Information to Accompany Development Applications

The **Technical Report 1** is consistent with the requirements of Clause 4.1 of Chapter 2a in relation to the information appropriate to accompany a development application.

4.2 Assessment of Development Applications

The **Technical Report 1** provides comprehensive assessment in relation to the vegetation communities found on the site and has involved detailed surveys of the land over a number of seasons.

4.2.2 Environmental Conservation Zone and Significant Urban Bushland

The Design of the development has reflected the proponent's wish to protect key environmental asset on the property - the State Environmental Planning Policy 14 Wetland. This wetland area has been mapped with survey precision and is proposed to be protected, buffered and enhanced.

4.4 Guidelines and Requirements for Ecological Assessments

Technical Report 1 has been prepared by a very experienced local ecologist who has completed the ecological assessment in accordance with the relevant statutory requirements and licensing. Mr. Parker is trained in the operation of the biobanking methodology calculator.

Chapter 2b – Floodplain Management

3.7.1 Prescriptive Measures

The subject land is flood prone and filling of the land is, in accordance with requirements of BDCP12 Chapter 2b, proposed to flood proof the seniors living landuse. The flood levels adopted for this flood proofing are consistent with the prescriptions in Chapter 2b Clause 3.7.1.

3.7.2 Performance Criteria

The impact of flood proofing the land has been assessed. That information is to be found at **Technical Report 11**.

Chapter 4 – Residential and Tourist Development

The controls specified in Chapter 4 are largely overridden by the prescriptions in the Seniors Living SEPP.

Chapter 7 – Rural Living and Activity

3.1 Residential Development in Rural Areas

Whilst this chapter technically applies to the landuse, many of its general requirements are overridden by the Site Compatibility Certificate issued by the Department of Planning and Environment to facilitate seniors living at the subject site.

4.1.4 STATE ENVIRONMENTAL PLANNING POLICIES

An enquiry of the NSW Planning Portal on 25.4.18 disclosed that the following State Environmental Planning Policies were applicable to the subject site.

State Environmental Planning Policy (Affordable Rental Housing) 2009

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

State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

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

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

State Environmental Planning Policy No 1-Development Standards
 State Environmental Planning Policy No 21-Caravan Parks
 State Environmental Planning Policy No 30-Intensive Agriculture
 State Environmental Planning Policy No 33-Hazardous and Offensive Development
 State Environmental Planning Policy No 36-Manufactured Home Estates
 State Environmental Planning Policy No 44-Koala Habitat Protection
 State Environmental Planning Policy No 50-Canal Estate Development
 State Environmental Planning Policy No 55-Remediation of Land
 State Environmental Planning Policy No 62-Sustainable Aquaculture
 State Environmental Planning Policy No 64-Advertising and Signage
 State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development
 State Environmental Planning Policy (Rural Lands) 2008

Of these SEPPs the following are particularly relevant:

Title: SEPP (Rural Lands) 2008

Published: 09.05.08

Abstract: The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The policy applies to local government areas that are not listed in clause 4

Comment:

Whilst this SEPP technically applies to the land, many of its general requirements are overridden by the Site Compatibility Certificate issued by the Department of Planning and Environment to facilitate seniors living at the subject site.

Title: SEPP (Infrastructure) 2007

Gazetted: 21.12.07; commences 1.1.08

Abstract: Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency. More details about the SEPP, including a guide, are available here.

Comment:

The proposal triggers the requirement for RMS referral.

Title: SEPP (Building Sustainability Index: BASIX) 2004

Gazetted: 25.06.04

Abstract: This SEPP operates in conjunction with Environmental Planning and Assessment Amendment (Building Sustainability Index: BASIX) Regulation 2004 to ensure the effective introduction of BASIX in NSW. The SEPP ensures consistency in the implementation of BASIX throughout the State by overriding competing provisions in other environmental planning instruments and development control plans, and specifying that SEPP 1 does not apply in relation to any development standard arising under BASIX. The draft SEPP was exhibited together with draft Regulation amendment in 2004.

Comment:

Each of the seniors living homes will require BASIX certification. At this time only Concept Approval is sought for the homes. When development applications are lodged for the individual homes the BASIX certification will be provided with these applications.

Title: SEPP (Housing for Seniors or People with a Disability) 2004

Gazetted: 31.03.04

Abstract: This SEPP encourages the development of high quality accommodation for our ageing population and for people who have disabilities - housing that is in keeping with the local neighbourhood.

Special Provisions under this SEPP are set out as follows.

8 Seniors

In this Policy, seniors are any of the following:

- (a) people aged 55 or more years,
- (b) people who are resident at a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided,
- (c) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

Comment:

Development is for people aged 55 and over and persons who are disabled.



View of the subject site looking west from the track adjoining the caravan park

9 People with a disability

In this Policy, people with a disability are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.

Comment:

The GemLife proposal is designed to house people with a disability.

10 Seniors housing

In this Policy, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

but does not include a hospital.

Comment:

The proposal is in the form of "self-contained" dwellings.

13 Self-contained dwellings

(1) General term: "self-contained dwelling"

In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for

significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

(2) Example: "in-fill self-care housing"

In this Policy, in-fill self-care housing is seniors housing on land zoned primarily for urban purposes that consists of 2 or more self-contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

(3) Example: "serviced self-care housing"

In this Policy, serviced self-care housing is seniors housing that consists of self-contained dwellings where the following services are available on the site: meals, cleaning services, personal care, nursing care.

Comment:

The proposal is for "serviced self-care housing", the residents of GemLife are proposed to be housed in self-contained dwellings where meals, cleaning services, personal care and nursing care is available via a specialist care provider. **Technical Report 9** indicates the commitment by PresCare to the development.

14 Objective of Chapter

The objective of this Chapter is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those seniors who are independent, mobile and active as well as those who are frail, and other people with a disability regardless of their age.

15 What Chapter does

This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy:

- (a) development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and
- (b) development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.

16 Development consent required

Development allowed by this Chapter may be carried out only with the consent of the relevant consent authority unless another environmental planning instrument allows that development without consent.

Comment:

This application is made in accordance with Clause 16 of the Seniors SEPP.

17 Development on land adjoining land zoned primarily for urban purposes

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

- (a) a hostel,
- (b) a residential care facility,
- (c) serviced self-care housing.

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

- (a) for people with a disability, or
- (b) in combination with a residential care facility, or
- (c) as a retirement village (within the meaning of the Retirement Villages Act 1999).

Comment:

The proposal is for "serviced self-care housing" i.e. self-contained dwellings where meals, cleaning services, personal care and nursing care are available. The proposal provides facilities for people with a disability.

18 Restrictions on occupation of seniors housing allowed under this Chapter

(1) Development allowed by this Chapter may be carried out for the accommodation of the following only:

- (a) seniors or people who have a disability,
- (b) people who live within the same household with seniors or people who have a disability,
- (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

(2) A consent authority must not consent to a development application made pursuant to this Chapter unless:

- (a) a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates, and
- (b) the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to the kinds of people referred to in subclause (1).

(3) Subclause (2) does not limit the kinds of conditions that may be imposed on a development consent, or allow conditions to be imposed on a development consent otherwise than in accordance with the Act.

Comment:

The only persons to be accommodated on site are seniors, people with a disability, people who live in the same household as a senior or person with a disability or staff associated with the administration of the development.

21 Subdivision

Land on which development has been carried out under this Chapter may be subdivided with the consent of the consent authority.

Comment:

No subdivision is proposed pursuant to this application.

24 Site compatibility certificates required for certain development applications

(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) if:

(a) the development is proposed to be carried out on any of the following land to which this Policy applies:

- (i) land that adjoins land zoned primarily for urban purposes,
- (ii) land that is within a zone that is identified as "special uses" under another environmental planning instrument (other than land on which development for the purposes of hospitals is permitted),
- (iii) land that is used for the purposes of an existing registered club, or

(b) the development application involves buildings having a floor space ratio that would require the consent authority to grant consent under clause 45.

(1A) Despite subclause (1), this clause does not apply to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing if the proposed development is permissible with consent on the land concerned under the zoning of another environmental planning instrument.

(2) A consent authority must not consent to a development application to which this clause applies unless the consent authority is satisfied that the Director-General has certified in a current site compatibility certificate that, in the Director-General's opinion:

- (a) the site of the proposed development is suitable for more intensive development, and
- (b) development for the purposes of seniors housing of the kind proposed in the development application is compatible with the surrounding environment having regard to (at least) the criteria specified in clause 25 (5) (b).

Note. Clause 50 (2A) of the Environmental Planning and Assessment Regulation 2000 requires a development application to which this clause applies to be accompanied by a site compatibility certificate.

(3) Nothing in this clause:

(a) prevents a consent authority from:

- (i) granting consent to a development application to which this clause applies to carry out development that is on a smaller (but not larger) scale than the kind of development in respect of which a site compatibility certificate was issued, or
- (ii) refusing to grant consent to a development application to which this clause applies by reference to the consent authority's own assessment of the compatibility of the proposed development with the surrounding environment, or
- (b) otherwise limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.

Note. Nothing in this clause affects a consent authority's duty to give effect to non-discretionary standards set out in this Policy. See, for example, clauses 48, 49 and 50.

(4) (Repealed)

Comment:

A Site Compatibility Certificate has been granted for the land. Details in relation to that Compatibility Certificate are contained at **Appendix B** to this report.



View of Skennars Head Road looking west

25 Application for site compatibility certificate

(1) An application for a site compatibility certificate for the purposes of clause 24 may be made to the Director-General:

- (a) by the owner of the land on which the development is proposed to be carried out, or
- (b) by any other person, with the consent of the owner of that land.

(2) An application must be:

- (a) in writing, and
- (b) in the form (if any) approved by the Director-General from time to time, and

(c) accompanied by such documents and information as the Director-General may require.



Photograph of development in the vicinity

Note. Clause 262A of the Environmental Planning and Assessment Regulation 2000 provides for the maximum fee for an application for a site compatibility certificate.

(3) Subject to subclause (4) (b), the Director-General must provide a copy of the application to the General Manager of the council for the area in which the development concerned is proposed to be carried out (the relevant General Manager) within the period of 7 days after the application is made.

(4) Subject to subclause (5), the Director-General:

(a) may determine the application by issuing a certificate or refusing to do so, and

(b) if the Director-General refuses to issue a certificate at any time within the period of 7 days after the application is made—is not required to comply with subclause (3).

(5) The Director-General must not issue a site compatibility certificate unless the Director-General:

(a) has taken into account the written comments (if any) concerning the consistency of the proposed development with the criteria referred to in paragraph (b) that are received from the relevant General Manager within 21 days after the application for the certificate was made, and

(b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:

(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,

(ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,

(iii) 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,

(iv) 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,

(v) 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,

(vi) 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.

(6) Without limiting subclause (4) (a), the Director-General may refuse to issue a certificate if the Director-General considers that the development is likely to have an adverse effect on the environment.

(7) A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate.

(8) The Director-General must, if it is reasonably practicable to do so, determine an application within 35 days after it is lodged.

(9) A certificate remains current for a period of 24 months after the date on which it is issued by the Director-General.

(10) The provisions of subclauses (3) and (5) (a) do not apply in relation to the determination of an application for a site compatibility certificate if the Director-General has delegated the function of determining the application to the council for the area in which the development concerned is proposed to be carried out.

Note. Section 23 of the Act enables the Director-General to delegate to a council any of the functions of the Director-General imposed or conferred by or under the Act or any other Act.

Comment:

Documentation in **Appendix B** to this Statement of Environmental Effects sets out the Site Compatibility Certificate lodged and approval granted with respect to the subject site.

Part 2 Site-related requirements

Note. Information and assessment guidelines may be issued by the Department of Planning from time to time to provide assistance to councils in assessing locations and the provision of services.

26 Location and access to facilities

(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:

- (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) the practice of a general medical practitioner.

Comment:

Documentation lodged with the Site Compatibility Certificate illustrated the proximity of the subject site via bus linkage to shops, community services and medical services.

(2) Access complies with this clause if:

(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or

Comment:

A assessment has been completed with respect to grading and is contained in **Technical Report 11**.

(c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:

- (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and
- (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and
- (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),

and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).

Note. Part 5 contains special provisions concerning the granting of consent to development applications made pursuant to this Chapter to carry out development for the purpose of certain seniors housing on land adjoining land zoned primarily for urban purposes. These provisions include provisions relating to transport services.

Comment:

The application made with the Compatibility Certificate set out data in relation to transport services available for the residents of the proposed development. That data confirmed, to the standard acceptable by the Department, of compliance in relation to the relevant distance specified in this subclause.

(3) For the purposes of subclause (2) (b) and (c), the overall average gradient along a pathway from the site of the proposed development to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) is to be no more than 1:14, although the following gradients along the pathway are also acceptable:

- (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,
- (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,
- (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time.

(4) For the purposes of subclause (2):

(a) a suitable access pathway is a path of travel by means of a sealed footpath or other similar and safe means that is suitable for access by means of an electric wheelchair, motorised cart or the like, and

(b) distances that are specified for the purposes of that subclause are to be measured by reference to the length of any such pathway.

(5) In this clause:

bank service provider means any bank, credit union or building society or any post office that provides banking services.

Comment:

The application made with the Site Compatibility Certificate set out data in relation to transport services available for the residents of the proposed development. That data confirmed, to the standard acceptable by the Department, compliance in relation to the relevant distance specified in this subclause.



View of Skennars Head Road from the intersection of Henderson Drive looking west

27 Bush fire prone land

(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as "Bush fire prone land—vegetation category 1", "Bush fire prone land—vegetation category 2" or "Bush fire prone land—vegetation buffer" unless the consent authority is satisfied that the development complies with the requirements of the document titled *Planning for Bush Fire Protection*, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.

(2) A consent authority, in determining a development application made pursuant to this Chapter to carry out development on land in the vicinity of land identified on a bush fire prone land map certified under section 146 of the Act as "Bush fire prone land—vegetation category 1", "Bush fire prone land—vegetation category 2" or "Bush fire prone land—vegetation buffer", must take into consideration the general location of the proposed development, the means of access to and egress from the general location and other relevant matters, including the following:

- (a) the size of the existing population within the locality,
- (b) age groups within that population and the number of persons within those age groups,
- (c) the number of hospitals and other facilities providing care to the residents of the facilities within the locality, and the number of beds within those hospitals and facilities,
- (d) the number of schools within the locality and the number of students at those schools,
- (e) existing development within the locality that has been carried out under this Policy or State Environmental Planning Policy No 5—Housing for Older People or People with a Disability,



View of the north western part of the subject site.

- (f) the road network within the locality and the capacity of the road network to cater for traffic to and from existing development if there were a need to evacuate persons from the locality in the event of a bush fire,
 - (g) the adequacy of access to and from the site of the proposed development for emergency response vehicles,
 - (h) the nature, extent and adequacy of bush fire emergency procedures that are able to be applied to the proposed development and its site,
 - (i) the requirements of New South Wales Fire Brigades.
- (3) In exercising its functions under subclause (1) or (2), a consent authority must consult with the NSW Rural Fire Service and have regard to its comments.

Comment:

The subject land is, in part, designated as “bushfire prone land”. As report in relation to the compliance with planning for bushfire protection has been prepared after consultation with the Rural Fire Service. That report is to be found in the Technical Reports Bundle as **Technical Report 7**.

28 Water and sewer

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.
- (2) If the water and sewerage services referred to in subclause (1) will be provided by a person other than the consent authority, the consent authority must consider the suitability of the site with regard to the availability of reticulated water and sewerage infrastructure. In locations where reticulated services cannot be made available, the consent authority must satisfy all relevant regulators that the provision of water and sewerage infrastructure, including environmental and operational considerations, are satisfactory for the proposed development.

Comment:

The project engineers have researched the availability of water and sewer to meet the needs of the development. The project is able to comply with Clause 28. Details in relation to the proposed method of compliance are set out in **Technical Report 2**.

30 Site analysis

- (1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.
- (2) A site analysis must:
- (a) contain information about the site and its surrounds as described in subclauses (3) and (4), and
 - (b) be accompanied by a written statement (supported by plans including drawings of sections and elevations and, in the case of proposed development on land adjoining land zoned primarily for urban purposes, an aerial photograph of the site):
 - (i) explaining how the design of the proposed development has regard to the site analysis, and
 - (ii) explaining how the design of the proposed development has regard to the design principles set out in Division 2.
- (3) The following information about a site is to be identified in a site analysis:



View of the site from Skennars Head Road looking south

Comment:

Plan 2.2 illustrates the site analysis, including all of the criteria (relevant in the subject circumstances) referred to in this clause.

33 Neighbourhood amenity and streetscape

The proposed development should:

- (a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and
- (b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan, and
- (c) maintain reasonable neighbourhood amenity and appropriate residential character by:
 - (i) providing building setbacks to reduce bulk and overshadowing, and
 - (ii) using building form and siting that relates to the site's land form, and
 - (iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and
 - (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and
- (d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and
- (e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and
- (f) retain, wherever reasonable, major existing trees, and
- (g) be designed so that no building is constructed in a riparian zone.



Photograph of the existing dwelling on the site

Comment:

Neighbourhood amenity and streetscape in this locality has been considered as part of the overall project. As illustrated in the Flora and Fauna Report (**Technical Report 1**), landscaping is proposed for the full frontage of the development.

The subject locality is not in a Heritage Conservation Area.

All of the buildings which are proximate to other adjoining development are residential in nature and adopt similar heights to other single storey dwellings in the neighbourhood.

Considerable effort has been taken and the design of the development to protect the important State Environmental Planning Policy No. 14 Wetlands. The design of the development to ensure adequate buffering and water quality in relation to the wetland has necessitated the removal of certain existing paddock trees. Those trees have been offset to conform with a "maintain or improve" offset standard.

34 Visual and acoustic privacy

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.

Note. The Australian and New Zealand Standard entitled AS/NZS 2107–2000, Acoustics—Recommended design sound levels and reverberation times for building interiors and the Australian Standard entitled AS 3671—1989, Acoustics—Road traffic noise intrusion—Building siting and construction, published by Standards Australia, should be referred to in establishing acceptable noise levels.

Comment:

The key adjoining neighbour is the caravan park immediately to the east. The park itself has screening vegetation on its immediate west and the access track intervening between the caravan park and the subject site has significant vegetation cover. In addition, it is proposed to carry out site landscaping which will further enhance visual privacy.

35 Solar access and design for climate

The proposed development should:

- (a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and*
- (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction.*

Note. *AMCORD: A National Resource Document for Residential Development, 1995, may be referred to in establishing adequate solar access and dwelling orientation appropriate to the climatic conditions.*

Comment:

The development has been designed to ensure adequate daylight to the main living areas of the dwellings proposed and will have no effect whatsoever in relation to the adequacy of daylight in the living areas of premises on adjoining properties.

36 Stormwater

The proposed development should:

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Comment:

The development has been prepared on the basis of strict compliance with Council's water quality standards. Refer to **Technical Report 2**. On site water has been detained where appropriate and the proponent is open to use Council "purple pipe" recycled water.

37 Crime prevention

The proposed development should provide personal property security for residents and visitors and encourage crime prevention by:

- (a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and*
- (b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and*
- (c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.*

Comment:

Site planning has optimised the approaches to dwellings to ensure maximisation of general observation from public areas within the development, driveways and streets. Shared entries are not proposed.

38 Accessibility

The proposed development should:

(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and

(b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.

Comment:

The proposal provides an interlinking, slow speed shared pedestrian and vehicular environment. It provides an attractive but safe environment for pedestrians and motorists.

39 Waste management

The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.

Comment:

The proponent, GemLife, is committed to waste recycling in all of its projects – refer to **Technical Reports 3 and 13**.

Part 4 Development standards to be complied with

Division 1 General

40 Development standards—minimum sizes and building height

(1) General

A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.

(2) Site size

The size of the site must be at least 1,000 square metres.

(3) Site frontage

The site frontage must be at least 20 metres wide measured at the building line.

(4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

(a) the height of all buildings in the proposed development must be 8 metres or less, and

Comment:

The project complies with the standards in Clause 40. The tallest residential building proposed is 4.7m in height. The clubhouse building is generally 8.5m maximum height. **Appendix C** contains a variation request in relation to the height of part of the clubhouse building.

41 Standards for hostels and self-contained dwellings

(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of a hostel or self-contained dwelling unless the proposed development complies with the standards specified in Schedule 3 for such development.

(2) Despite the provisions of clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15–20 of Schedule 3, a self-contained dwelling, or part of such a dwelling, that is located above the ground floor in a multi-storey building does not have to comply with the requirements of those provisions if the development application is made by, or by a person jointly with, a social housing provider.

Comment:

The development has been carried out in a manner which complies with the Schedule 3 requirements concerning self-contained dwellings.

Part 5 Development on land adjoining land zoned primarily for urban purposes**42 Serviced self-care housing**

(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have reasonable access to:

- (a) home delivered meals, and
- (b) personal care and home nursing, and
- (c) assistance with housework.

(2) For the purposes of subclause (1), residents of a proposed development do not have reasonable access to the services referred to in subclause (1) if those services will be limited to services provided to residents under Government provided or funded community based care programs (such as the Home and Community Care Program administered by the Commonwealth and the State and the Community Aged Care and Extended Aged Care at Home programs administered by the Commonwealth).

Comment:

GemLife has partnered with PresCare to guarantee reasonable access to home delivered meals, personal care, home nursing and housework assistance. The details in relation to PresCare's involvement is set out in **Technical Report 9**.

43 Transport services to local centres

(1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development for the purpose of serviced self-care housing on land that adjoins land zoned primarily for urban purposes unless the consent authority is satisfied that a bus capable of carrying at least 10 passengers will be provided to the residents of the proposed development:

(a) that will drop off and pick up passengers at a local centre that provides residents with access to the following:

- (i) shops, bank service providers and other retail and commercial services that residents may reasonably require,
- (ii) community services and recreation facilities,
- (iii) the practice of a general medical practitioner, and

(b) that is available both to and from the proposed development to any such local centre at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day.

(2) Subclause (1) does not apply to a development application to carry out development for the purposes of the accommodation of people with dementia.

(3) In this clause, bank service provider has the same meaning as in clause 26.

Comment:

The proponent commits to provide, as part of the development, a bus capable of carrying at least 10 passengers that will provide drop off and pick up of passengers in Lennox Head (and Ballina from time to time) so as to ensure reasonable access to shops, banking facilities, community facilities and medical practitioners. This bus will be available at least once daily between 8am and 12pm and again between 12pm and 6pm.

44 Availability of facilities and services

A consent authority must be satisfied that any facility or service provided as a part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage.

Comment:

GemLife commits to providing the relevant facilities and services from “day one” with respect to occupation by qualifying residents.

46 Inter-relationship of Part with design principles in Part 3

(1) *Nothing in this Part permits the granting of consent to a development application made pursuant to this Chapter if the consent authority is satisfied that the proposed development does not demonstrate that adequate regard has been given to the principles set out in Division 2 of Part 3.*

Note. *It is considered possible to achieve good design and achieve density ratios set out in Division 2. Good design is critical to meriting these density ratios.*

(2) *For the avoidance of doubt, nothing in this Part limits the matters to which the Director-General may have regard in refusing to issue a site compatibility certificate.*

Comment:

The proposed development complies with the principles set out in Division 2 of Part 3.

47 Part does not apply to certain development applications relating to heritage affected land

Nothing in this Part applies in relation to the granting of consent to a development application made pursuant to this Chapter for the carrying out of development on land to which an interim heritage order or listing on the State Heritage Register under the Heritage Act 1977 applies.

Comment:

There is no adverse impact in relation to any matter referenced under the Heritage Act 1977.

Division 4 Self-contained dwellings**50 Standards that cannot be used to refuse development consent for self-contained dwellings**

A consent authority must not refuse consent to a development application made pursuant to this Chapter for the carrying out of development for the purpose of a self-contained dwelling (including in-fill self-care housing and serviced self-care housing) on any of the following grounds:

(a) *building height: if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),*

Comment:

The maximum height of all proposed residential buildings is 4.7m. The height of the clubhouse is two storeys.

(b) *density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,*

Comment:

The sites are generally 300m² in area. Using that average site size the floor space ratio of each of the dwellings is in the range 0.39:1 (Types 2 and 5) to 0.49:1 (Type 4).

(c) *landscaped area: if:*

(i) *in the case of a development application made by a social housing provider—a minimum 35 square metres of landscaped area per dwelling is provided, or*

(ii) *in any other case—a minimum of 30% of the area of the site is to be landscaped,*

Comment:

In addition to the private open space provided with each dwelling, some 41,893 m² (36.1% of the site total) is landscaped area.

(d) *Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*

Comment:

With respect to deep soil zones, approximately 50% of the site has a deep soil zone.

(e) *solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*

Comment:

Solar access is provided in accordance with the 70% standard.

(h) *parking: if at least the following is provided:*

(i) *0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or*

Comment:

The carparking is 2 spaces per dwelling. This produces a bedroom car parking pace ration of each of the dwelling types as follows - Type 1-4, 1:67 and for Type 5, 1:1.

Part 1 Standards applying to hostels and self-contained dwellings

1 Application of standards in this Part

The standards set out in this Part apply to any seniors housing that consists of hostels or self-contained dwellings.

2 Siting standards

(1) *Wheelchair access*

If the whole of the site has a gradient of less than 1:10, 100% of the dwellings must have wheelchair access by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road.

(2) *If the whole of the site does not have a gradient of less than 1:10:*

(a) *the percentage of dwellings that must have wheelchair access must equal the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and*

(b) *the wheelchair access provided must be by a continuous accessible path of travel (within the meaning of AS 1428.1) to an adjoining public road or an internal road or a driveway that is accessible to all residents.*

Note. *For example, if 70% of the site has a gradient of less than 1:10, then 70% of the dwellings must have wheelchair access as required by this subclause. If more than 50% of the site has a gradient greater than 1:10, development for the purposes of seniors housing is likely to be unable to meet these requirements.*

Comment:

The project complies with the wheelchair access provision – see **Technical Report 11**.

(3) *Common areas*

Access must be provided in accordance with AS 1428.1 so that a person using a wheelchair can use common areas and common facilities associated with the development.

Comment:

Access to all common areas is to be provided in accordance with AS 1428.1.

3 Security

Pathway lighting:

- (a) must be designed and located so as to avoid glare for pedestrians and adjacent dwellings, and*
- (b) must provide at least 20 lux at ground level.*

Comment:

Pathway lighting is to be provided to a 20 lux (or better) standard at ground level, avoiding glare for pedestrians and adjacent buildings.

4 Letterboxes

Letterboxes:

- (a) must be situated on a hard standing area and have wheelchair access and circulation by a continuous accessible path of travel (within the meaning of AS 1428.1), and*
- (b) must be lockable, and*
- (c) must be located together in a central location adjacent to the street entry or, in the case of self-contained dwellings, must be located together in one or more central locations adjacent to the street entry.*

Comment:

The pathway to letterboxes will be in accordance with the relevant Australian standard and will be lockable.

5 Private car accommodation

If car parking (not being car parking for employees) is provided:

- (a) car parking spaces must comply with the requirements for parking for persons with a disability set out in AS 2890, and*
- (b) 5% of the total number of car parking spaces (or at least one space if there are fewer than 20 spaces) must be designed to enable the width of the spaces to be increased to 3.8 metres, and*
- (c) any garage must have a power-operated door, or there must be a power point and an area for motor or control rods to enable a power-operated door to be installed at a later date.*

Comment:

All building types provide carparking spaces at the rate of two car parking spaces wider for each dwelling. This provision of carparking facilitates two carparking spaces for persons who are not disabled and/or a single space wider than the requirements set out in AS 2890 for persons with disabilities. Garages will have power operated doors.

6 Accessible entry

Every entry (whether a front entry or not) to a dwelling, not being an entry for employees, must comply with clauses 4.3.1 and 4.3.2 of AS 4299.

Comment:

Entries to dwellings will comply with AS 4299.

7 Interior: general

- (1) Internal doorways must have a minimum clear opening that complies with AS 1428.1.*
- (2) Internal corridors must have a minimum unobstructed width of 1,000 millimetres.*
- (3) Circulation space at approaches to internal doorways must comply with AS 1428.1.*

Comment:

All buildings will have internal doorways, corridors and circulations spaces in accordance with AS 1428.1 or better.

8 Bedroom

At least one bedroom within each dwelling must have:

(a) an area sufficient to accommodate a wardrobe and a bed sized as follows:

(i) in the case of a dwelling in a hostel—a single-size bed,

(ii) in the case of a self-contained dwelling—a queen-size bed, and

(b) a clear area for the bed of at least:

(i) 1,200 millimetres wide at the foot of the bed, and

(ii) 1,000 millimetres wide beside the bed between it and the wall, wardrobe or any other obstruction, and

(c) 2 double general power outlets on the wall where the head of the bed is likely to be, and

(d) at least one general power outlet on the wall opposite the wall where the head of the bed is likely to be, and

(e) a telephone outlet next to the bed on the side closest to the door and a general power outlet beside the telephone outlet, and

(f) wiring to allow a potential illumination level of at least 300 lux.

Comment:

At least one bedroom in each of the individual dwellings will have facilities in compliance with this standard.

9 Bathroom

(1) At least one bathroom within a dwelling must be on the ground (or main) floor and have the following facilities arranged within an area that provides for circulation space for sanitary facilities in accordance with AS 1428.1:

(a) a slip-resistant floor surface,

(b) a washbasin with plumbing that would allow, either immediately or in the future, clearances that comply with AS 1428.1,

(c) a shower that complies with AS 1428.1, except that the following must be accommodated either immediately or in the future:

(i) a grab rail,

(ii) portable shower head,

(iii) folding seat,

(d) a wall cabinet that is sufficiently illuminated to be able to read the labels of items stored in it,

(e) a double general power outlet beside the mirror.

(2) Subclause (1) (c) does not prevent the installation of a shower screen that can easily be removed to facilitate future accessibility.

Comment:

At least one bathroom within each of the dwellings will have facilities which comply with this standard.

10 Toilet

A dwelling must have at least one toilet on the ground (or main) floor and be a visitable toilet that complies with the requirements for sanitary facilities of AS 4299.

Comment:

At least one toilet in each of the dwellings will have sanitary facilities in accordance with AS 4299.

11 Surface finishes

Balconies and external paved areas must have slip-resistant surfaces.

Note. Advise regarding finishes may be obtained from AS 1428.1.

Comment:

All finished on the balconies and external paved areas will be slip-resistant.

12 Door hardware

Door handles and hardware for all doors (including entry doors and other external doors) must be provided in accordance with AS 4299.

Comment:

All door handles shall be in accordance with AS 4299.

13 Ancillary items

Switches and power points must be provided in accordance with AS 4299.

Comment:

All switches and power points will be in accordance with AS 4299.

Part 2 Additional standards for self-contained dwellings**14 Application of standards in this Part**

The standards set out in this Part apply in addition to the standards set out in Part 1 to any seniors housing consisting of self-contained dwellings.

15 Living room and dining room

(1) A living room in a self-contained dwelling must have:

- (a) a circulation space in accordance with clause 4.7.1 of AS 4299, and*
- (b) a telephone adjacent to a general power outlet.*

(2) A living room and dining room must have wiring to allow a potential illumination level of at least 300 lux.

Comment:

All living and dining areas will accord with the provisions of this clause.

16 Kitchen

A kitchen in a self-contained dwelling must have:

- (a) a circulation space in accordance with clause 4.5.2 of AS 4299, and*
- (b) a circulation space at door approaches that complies with AS 1428.1, and*
- (c) the following fittings in accordance with the relevant subclauses of clause 4.5 of AS 4299:*
 - (i) benches that include at least one work surface at least 800 millimetres in length that comply with clause 4.5.5 (a),*
 - (ii) a tap set (see clause 4.5.6),*
 - (iii) cooktops (see clause 4.5.7), except that an isolating switch must be included,*
 - (iv) an oven (see clause 4.5.8), and*

(d) "D" pull cupboard handles that are located towards the top of below-bench cupboards and towards the bottom of overhead cupboards, and

(e) general power outlets:

(i) at least one of which is a double general power outlet within 300 millimetres of the front of a work surface, and

(ii) one of which is provided for a refrigerator in such a position as to be easily accessible after the refrigerator is installed.

Comment:

All kitchens will comply with the provisions of this clause.

19 Laundry

A self-contained dwelling must have a laundry that has:

(a) a circulation space at door approaches that complies with AS 1428.1, and

(b) provision for the installation of an automatic washing machine and a clothes dryer, and

(c) a clear space in front of appliances of at least 1,300 millimetres, and

(d) a slip-resistant floor surface, and

(e) an accessible path of travel to any clothes line provided in relation to the dwelling.

Comment:

All laundries will comply with the provisions of this clause.

20 Storage for linen

A self-contained dwelling must be provided with a linen storage in accordance with clause 4.11.5 of AS 4299.

Comment:

Each dwelling will contain linen storage in accordance with the provisions of this clause.

21 Garbage

A garbage storage area must be provided in an accessible location.

Comment:

All garbage storage areas will be located in accessible positions.

Title: SEPP No. 71 - Coastal Protection

Gazetted: 01.11.02

Abstract: The policy has been made under the Environmental Planning and Assessment Act 1979 to ensure that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management and to ensure there is a clear development assessment framework for the coastal zone.

TABLE 4.1 REVIEW OF KEY SEPP 71 PROVISIONS

Provision	Compliance
Clause 13 -Flexible Zoning Provisions A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or similar provision, has no effect.	The proposed development does not rely on any flexible zoning provisions.

Clause 14 -Public Access A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development, will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	The proposed development will not diminish or impede public access to or along the coastal foreshore.
Clause 15 -Effluent Disposal The consent authority must not consent to a Development Application to carry out development on land to which this policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.	The proposal provides for connection to Council's reticulated sewerage system.
Clause 16 –Stormwater The consent authority must not consent to a Development Application to carry out development on land to which this policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	The development plans ensure that no discharge of untreated stormwater will enter the sea or beach system.

Title: SEPP No. 55 - Remediation of Land

Gazetted: 28.08.98

Abstract: Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals.

Comment:

The subject site has been investigated in relation to the potential for site contamination. It has been concluded by Coffey that there is a low likelihood of historical contamination at the subject site (refer to **Technical Report 5**).

Title: SEPP No. 14 - Coastal Wetlands

Gazetted: 12.12.85

Abstract: Ensures coastal wetlands are preserved and protected for environmental and economic reasons. The policy applies to local government areas outside the Sydney metropolitan area that front the Pacific Ocean. The policy identifies over 1300 wetlands of high natural value from Tweed Heads to Broken Bay and from Wollongong to Cape Howe. Land clearing, levee construction, drainage work or filling may only be carried out within these wetlands with the consent of the local council

and the agreement of the Director General of the Department and Planning. Such development also requires an environmental impact statement to be lodged with a development application. The policy is continually reviewed. It has, for example, been amended to omit or include areas, clarify the definition of the land to which the policy applies and to allow minimal clearing along boundaries for fencing and surveying

Comment:

The site contains part of a SEPP 14 Wetland. **Plan 4.6** illustrates the location of that wetland. Site planning for the GemLife Skennars Head Road project has been driven, as a first principle, to ensure the protection, enhancement and buffering of the SEPP No. 14 wetland. This approach will maintain its long-term integrity. Refer to **Technical Report 1** in relation to proposals for protection and enhancement of the wetland.

Title: SEPP (Coastal Management) 2018

Gazetted: 03.04.2018

Abstract: To promote integrated and coordinated approach to landuse in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016. The SEPP includes management controls in relation to development in a coastal zone and establishing a framework for landuse planning to guide decision making in the coastal zone.

Comment:

The subject site is mapped under the new Coastal SEPP. However, to Clause 21 of the SEPP, despite being gazetted prior to determination of the subject application, the former planning provisions i.e. SEPP 14 and SEPP 71 apply to the subject development application and not the new Coastal SEPP.

4.1.5 CERTIFIED DRAFT PLANS

No draft plan is known to exist which would impinge upon the subject proposal.

4.1.6 SPECIFIC ENVIRONMENTAL PLANNING & ASSESSMENT ACT REQUIREMENTS

Seniors Living is not scheduled in Regulations to the Environmental Planning and Assessment Act or specified in Council's LEP as a Designated Development.

No Existing Use, Exempt Development or Complying Development provisions are relied upon for the purposes of this application.

The proposed development is not a State Significant Development, but does require a referral to the JRPP for determination.

4.1.7 INTEGRATED DEVELOPMENT CONSIDERATIONS

Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the following approvals:

The following integrated approvals pursuant to Section 91 apply to this project.

Act	Provision	Approval
Rural Fires Act 1997	s 100B	authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes

Comment:

The GemLife project triggers the need for a Section 100B authorisation. An expert report in relation to bushfire management is contained in **Technical Report 7**. That report was prepared having regard to the Bushfire Authority which has already been issued in relation to an earlier, denser, version of the project.

Act	Provision	Approval
<u>Water Management Act 2000</u>	ss 89, 90, 91	water use approval, water management work approval or activity approval under Part 3 of Chapter 3

Comment:

An approval is required in relation to works proposed to an existing watercourse running through the site. Those works are described in **Technical Reports 2 and 8**.

4.2 CONTRIBUTION PLANS

Various Ballina Contribution Plans apply to development of this land. No development credits are known to apply to the subject site.

4.3 LOCAL POLICY CONTROLS

Other than the provisions described in the above, it is understood that no specific policy of Council is applicable to the subject project.

4.4 STATE GOVERNMENT POLICY

The following State Government Policy documents are applicable in the subject case.

Name: NSW Flood Plain Development Manual.

Application in Subject Case:

Council has adopted its flood management planning based on the provisions of the NSW Flood Plain Development Manual. The subject proposal is fully in accordance with Council's flood plain management requirements in relation to flood proofing. An examination in relation to the impact caused by the filling of the site is set out in **Technical Report 10**.

Name: The NSW Coast - Government Policy.

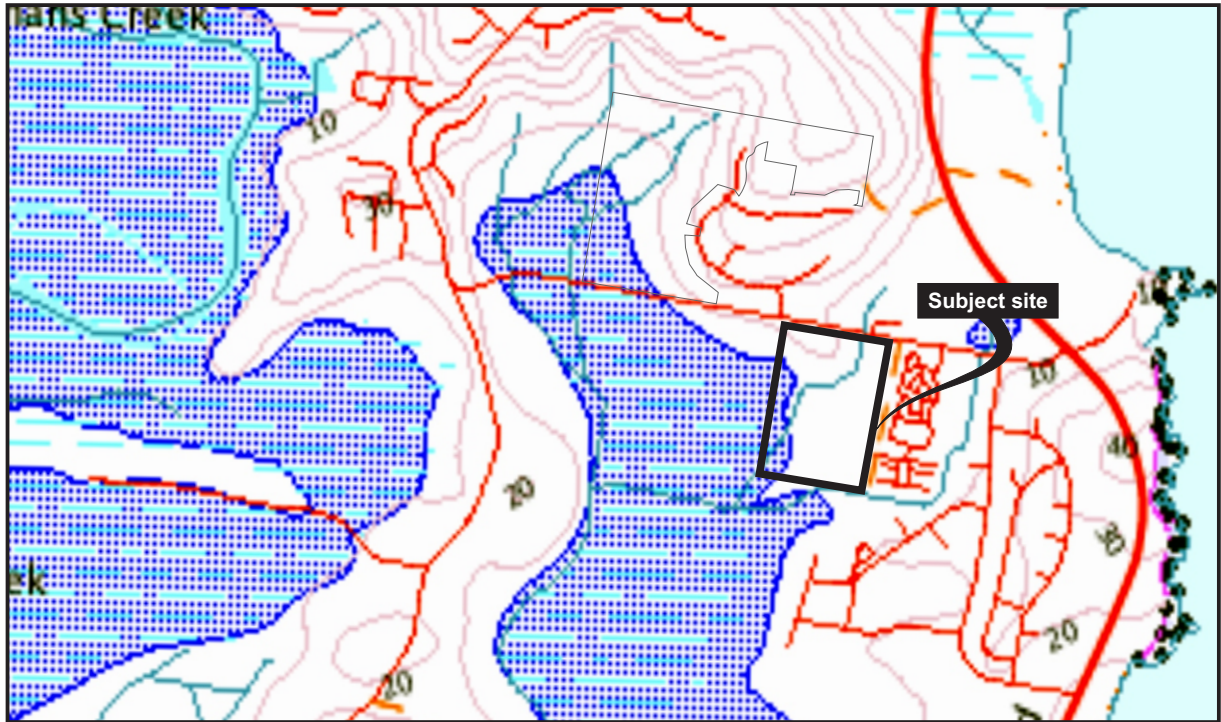
Application in Subject Case:

Pursuant to the Regulations made under the Act, relevant provisions of the Government Coastal Policy must be considered for this project. Set out below is a review of the relevant provision of this policy which are applicable in this case.

TABLE 4.2 REVIEW OF KEY PROVISIONS OF THE NSW COASTAL POLICY 1997

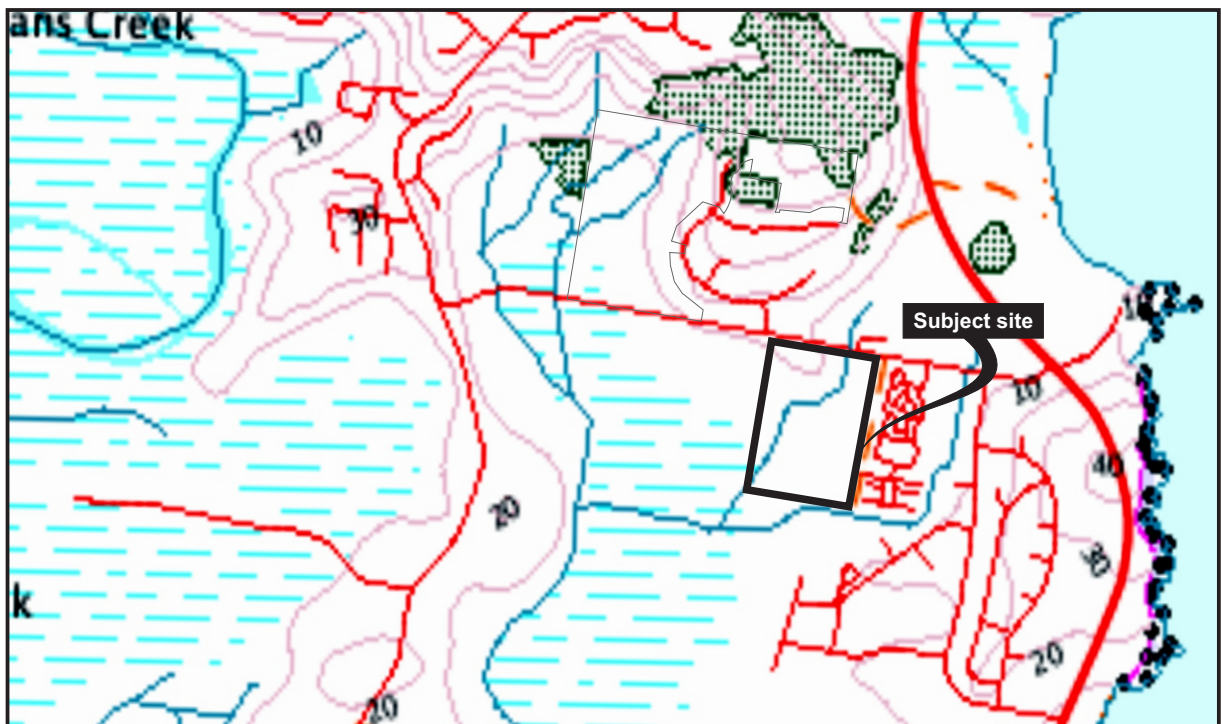
Goal	Objective	Strategic Action	Proposed Development
1. To protect, rehabilitate and improve the natural environment.	1.1 To identify coastal lands and aquatic environments with conservation values and devise and implement acquisition policies, management strategies and controls to ensure	1.1.6 Voluntary conservation agreements will be negotiated with landowners to ensure preservation of plant and animal species on freehold and other lands of significant conservation value. 1.1.7 Seagrass, mangrove,	Compliant - the Proponent intends to protect and rehabilitate certain parts of the natural environment, particularly, the SEPP 14 Wetland.

Goal	Objective	Strategic Action	Proposed Development
	that those values are protected.	saltmarsh and other associated wetland species will be conserved and managed as valuable components of the coastal ecosystem by effectively implementing existing controls (eg. SEPP No. 14, Fish Habitat Protection Plans, Ramsar listing of important wetlands) and through controlling runoff, sedimentation and other water quality impacts.	
	1.2 To conserve the diversity of alternative plant and animal species and to protect and assist the recovery of threatened and endangered species.	1.2.3 The changes in fish habitats and utilisation by fish populations and communities will be studied to assist in planning decisions where habitat modification or alienation may be involved. 1.2.5 Lists of threatened species, populations and ecological communities established under the Threatened Species Conservation Act 1995, will include coastal species, populations and ecological communities and will be regularly reviewed.	Compliant - the Proponent intends to protect and rehabilitate certain parts of the natural environment.



**SEPP 14
WETLANDS**

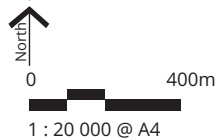
 SEPP 14 Wetlands



**SEPP 26
LITTORAL RAINFORESTS**

 SEPP 26 Littoral Rainforest

Source: NSW Natural Resource Atlas website, viewed 7 February 2014



Plan 4.6
SEPP
CONTROLS

	1.3 To improve water quality in coastal and estuarine waters and coastal rivers where it is currently unsatisfactory and to maintain water quality where it is satisfactory.	1.3.1 Licence limits imposed by the Environment Protection Authority will continue to be used as appropriate to control discharges of pesticide compounds, heavy metals and other contaminants from sewage treatment works and other point sources. 1.3.2 Problems of other non-point source pollution (eg resulting from urban development) will be addressed through a range of actions including the setting of ambient water quality objectives; the development of stormwater management plans; the promulgation of environmental guidelines; and encouraging the adoption and implementation of industry and developers "best management practices" for minimising pollution. 1.3.7 The highest possible quality of coastal waters will be ensured by: establishing water quality and environmental flow objectives for coastal rivers and implementing through catchment plans; basing waste water discharge limits on the relevant national water quality guidelines and the local ambient water quality objectives in accordance with the Australian Water Quality Guidelines for Fresh and Marine Waters (ANZECC, 1992); assessing the quality of ocean and estuarine waters against local water quality	Compliant - refer to Technical Report 8 in relation to matters associated with water quality.
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		objectives, where established, and otherwise by using the ANZECC (1992) Marine Waters standards as benchmarks. 1.3.8 The discharge of contaminated stormwater to coastal waters will be minimised, with the aim being to ensure environmentally sound management of stormwater and prevent contamination in the future. 1.3.12 The control of discharge of toilet and galley waste from vessels in intensively used waterways will be enforced and adequate vessel sewage pumpout facilities in the State's intensively used waterways will be provided. 1.3.13 The re-use of treated bio-solids and effluent will continue to be investigated and promoted where ecologically sustainable. Trials of re-use in industry, agriculture and domestic uses will be extended as appropriate.	
	1.4 To manage the coastline and estuarine environments in the public interest to ensure their health and vitality.	1.4.5 Development proposals on the coastline and offshore, which are threatened by coastal hazards or where they pose a threat to the physical wellbeing of the coastline subject to the provisions of the Coastal Protection Act, 1979 will be approved subject to conditions which minimise impacts or rejected where they pose an unacceptable	Compliant - the land is not subject to any environmental risks associated with coastal hazards.



		threat to the physical wellbeing of the coastline. 1.4.7 Development proposals in or adjacent to estuaries will only be approved where conditions can be imposed which minimise potential impacts to the extent that they are acceptable under the Rivers and Foreshores Improvement Act, 1948 and Fisheries Management Act, 1994. Development proposals in or adjacent to estuaries will be rejected where they have the potential to adversely impact on the physical amenity or ecology of the estuaries to the extent that they are unacceptable under the Rivers and Foreshores Improvement Act, 1948 and Fisheries Management Act, 1994.	
2. To recognise and accommodate natural processes and climate change.	2.1 To give the impacts of natural processes and hazards a high priority in the planning and management of coastal areas.	2.1.3 Physical and ecological processes and hazards will be considered when assessing Development Applications. 2.1.4 Initiatives will be taken to address the impacts of acid sulfate soils (ASS) through: consideration being given to the need for environmental studies which address ASS early in the planning and development process; the use of ASS soils risk mapping undertaken by the Department of Land and Water Conservation and guidelines for their assessment and management prepared by the Environment Protection Authority in the	The land is identified as having acid sulfate soil present. A Management Plan for the construction phase in relation to ASS management accompanies this SEE at Technical Report 12.



		assessment of any proposals likely to disturb ASS; EISs being required for certain types of development if located on potential ASS soils in accordance with Schedule 3 of the EP & A Regulation; Monitoring of the impacts of disturbed ASS and requiring restoration and mitigation works to be undertaken progressively; The preparation of management plans, as appropriate, to effectively manage project level impacts and the remediation of ASS sites.	
3. To protect and enhance the aesthetic qualities of the coastal zone.	3.2 To design and locate development to complement the surrounding environment and to recognise aesthetic qualities.	3.2.1 Guidelines such as the North Coast Design Guidelines and Guidelines for Tourism Development along the New South Wales Coast will be promoted to encourage good development and design in order to conserve the natural environment and integrate built features with the natural environment. 3.2.2 The use of good design principles will be encouraged to ensure more compact, human scale towns are developed with their own character within the constraints of the existing infrastructure.	Compliant - the North Coast Design Guidelines have been replaced to a large extent by the Urban Design Guidelines published in 2008. The proposal is consistent with those guidelines.
		3.2.4 When assessing Development Applications consideration of the design and locational principles contained in the Coastal Policy will be required.	Compliant - the proposal is consistent with the locational principles and the Coastal Policy.
6. To provide for ecologically	6.1 to ensure that future expansion or redevelopment of	6.1.4 Canal estate developments will not be permitted and a State	Compliant - no canal estate type development is envisaged and no



sustainable human settlement.	urban and residential areas, including the provision of infrastructure, avoids or minimises impacts on environmentally sensitive areas and cultural heritage.	Environmental Planning Policy made to implement the policy.	development is proposed in relation to culturally sensitive land.
	6.2 To promote compact and contained planned development in order to avoid ribbon development, unrelated cluster development and continuous urban areas on the coast.	6.2.2 The design of towns and buildings should have regard to energy efficient principles, for example compact town form related to transport networks, in order to reduce energy dependency.	Compliant - the layout of the seniors living has been approached on a basis of providing for a compact and contained planned urban development protecting valuable SEPP 14 Wetlands. The development is not ribbon development and will not produce a continuous urban development pattern on the Coast.

5. ENVIRONMENTAL INTERACTIONS

This section of the report expands on the contextual description of the physical environment given in Section 2, and undertakes an analysis of environmental interactions (particularly those at aspects of S.4.15 (1) (b) and (c) relevant in the subject circumstances) applicable to the proposed development with specific reference to the site planning objectives specified in Section 3.1 of the report. Further, this section reviews a range of comprehensive environmental management measures, again aimed at specifically addressing adopted site planning objectives.

5.1 CONTEXT AND SETTING

Objective a

Ensure that the seniors living project sits comfortably with adjoining land uses.

The subject land is nestled immediately westward of an existing caravan park and south of Skennars Head Road. To the west, an expansive swathe of wetlands. The site generally falls away from Skennars Head Road and, in our submission, the low scale nature of the proposal will sit very comfortably within the semi-urbanised context of the property.

5.2 FLORA

Objective b

To identify and protect site flora of environmental planning significance and enhance the biological diversity of the land through vegetation management, maintaining a "maintain or improve" standard for offsetting paddock tree removal.

Extensive site planning has been completed for the GemLife project aimed particularly at protection of the important State Environmental Planning Policy 14 Wetland area. **Technical Report 1** described in detail the level of research and planning that has been completed, not simply with respect to the wetland but also in relation to other important site flora, including comprehensive research in relation to Hairy Joint Grass.



View of an existing shed and some "paddock trees" on the land

5.3 FAUNA

Objective c

Ensure that the development does not interfere with the environment or habitat of endangered fauna.

Technical Report 1 describes the fauna survey effort that has been completed at the subject site and opines in relation to the low sensitivity of the land with respect to endangered fauna impacts.

5.4 SOILS

Objective d

Ensure that construction works are appropriately managed to minimise site erosion and maintain the current quality of water exiting the site.

The development will involve major earthworks and, accordingly, minimisation of erosion and maintenance of onsite water quality has been a key consideration in engineering planning for the site. **Technical Reports 2 and 8** describe in detail the works proposed and the arrangements in relation to erosion management. The work completed to date is at a “conceptual” level and will of course be expanded to more detailed format with the submission of Construction Certificate documentation.



View from Skennars Head Road looking west

5.5 WASTE

Objective e

Ensure that construction waste is appropriately managed.

Construction and post construction waste management at the site is the subject of specific management plans. That plan at **Technical Report 3** relates to construction waste. A specific plan for post construction waste management accompanies this SEE at **Technical Report 13**.

5.6 VISUAL ENVIRONMENT

Objective f

Maintain the visual integrity of the locality to ensure that the development blends with the existing built and natural environment.

Skennars Head Road is a long corridor, largely contained north and south by tall vegetation in the verge or immediately near the road verge. The proposed development will provide for landscaping works along Skennars Head Road to complement the existing tree-lined streetscape characteristic.

5.7 SERVICES

Objective g

To provide for public utilities to service the needs of the seniors living community.

Technical Report 2 describes the full availability of water supply, sewer and electricity to meet the needs of this development. As described in that report, development in the manner proposed is able to be adequately serviced by public utilities with only minor upgrading proposed.

Part of the project involves relocation of the existing water supply main. This relocation is able to be carried out in an orderly and efficient way, without impact on the general supply situation.



The site includes some quite classic farm sheds

5.8 ACCESS

Objective h

To ensure that the proposed traffic generated by the development street system conforms with the network hierarchy and adequate site distance and intersection capacity is available

Skennars Head Road is a two lane rural road with a 60km per hour speed limit. In the vicinity of the site, the pavement width is about 9m wide expanding to 12m in width further westward. A combined foot / cycle way path has recently been constructed along the frontage of the site.

To the east, the Coast Road/ Skennars Head Road roundabout is the primary controlled intersection relevant to the project. This intersection also includes access to Rocky Point Road.

The proposed development is intended to gain access from Skennars Head Road approximately 200m east of the Henderson Drive intersection. Skennars Head Road in the subject locality carries about 2,500 vehicles per day adjacent to the site. The proposed development will generate in the order of 53 vehicle trips per hour.

The impact on Skennars Head Road and the Coast Road intersection have been modelled. That modelling (see **Technical Report 4**) shows that the network will function satisfactorily with the additional traffic proposed.

5.9 STORMWATER DRAINAGE

Objective i

Ensure that the quality and quantity of stormwater exiting the site is not adversely affected by the proposed subdivision and that existing drainage patterns are not materially altered.

Given the presence of an SEPP 14 Wetland at the site, considerable resources have been expended in relation to water quality assessment and modelling to ensure that development does not adversely impact on the existing drainage patterns or the wetland generally. **Technical Report 8** describes the modelling which has been completed.

5.10 HAZARDS

Objective j

Review potential site planning hazards with respect to (list) to ensure the development is not likely to present an unreasonable hazard.

5.10.1 LAND STABILITY

Coffey have investigated the site. There is no suggestion of site instability. However, Coffey have observed the potential for primary fill consolidation which could cause longer term settlement. Coffey have recommended the monitoring of settlement during the filling and the completion of more detailed investigation work. That work has been minimised to ensure that differential settlement does not adversely affect the development in the longer term. The Coffey report addressing this matter is to be found in the Technical Reports Bundle as **Technical Report 5**.



Graphic illustrating minor offsite flood impacts

5.10.2 SITE CONTAMINATION

A Phase 1 Environmental Site Assessment has been completed in accordance with the published EPA Guidelines. Coffey have concluded

that the proposed use of land as senior living purposes is not considered to be affected by the past land use, given the consultants' assessment of the low potential for contamination to be present.

5.10.3 FIRE HAZARD

A bushfire authority has been issued for the development, an updated bushfire assessment report has been completed which sets out recommendations to ensure satisfactory compliance with the relevant standards.

That report is to be found in the Technical Reports Bundle as **Technical Report 7**.

5.10.4 TECHNOLOGICAL HAZARDS

Given the history of the site, particularly as documented in the assessment report by Coffeys, there is little or no likelihood of industrial technological hazard having been part of the previous land use of the property.

5.10.5 FLOODING

The site is prone to flooding and does need to be flood proofed by way of filling. The civil engineering **Technical Report 2** explains the quantum of site regrading and filling required. **Technical Report 10** models the effect of site filling in terms of the flood plain generally.

5.11 AMENITY OF THE AREA

Objective k

To carry out development in a manner which, maximises the residential amenity of the seniors village without impacting on the residential amenity of the surrounding land.

The development is located in an area which is essentially rural apart from an eastern boundary with an existing caravan park. As a land use, "seniors living" is not an intensive use known to cause adverse environmental impacts by way of acoustic emissions.

During the construction phase, there will be a level of adverse impact in the immediate area. Construction phase amenity management is proposed to be managed by the following protocols.

Safeguards in relation to construction noise are described below.

- Nearby residents and sensitive receivers will be notified and consulted of noisy construction activities, after-hours work, and other activities that may result in noise complaints.
- Works will be staged to avoid noisy plant working at the same time close together, and adjacent to sensitive receivers.
- Noise emissions of all plant to be utilised will be reviewed as part of the establishment process. Preference would be given to equipment that emits low noise levels.
- Plant and equipment that are used intermittently such as scrapers, dump trucks, cranes, rollers, bulldozers, excavators, bobcats, mulchers etc. will be shut down when not operated for extended periods.
- Trucks will not queue up outside. No trucks would arrive on site or be permitted to queue prior to the 7.00 am start time, unless required by road safety considerations. All trucks regularly used for the works will be maintained in good working order. Subject to safety requirements, trucks will not use exhaust brakes on site.
- Audible construction activities would be restricted to 7.00 am to 6.00 pm Monday to Friday; 8.00 am to 1.00 pm Saturday and no work on Sundays or public holidays.
- Out of hours construction works will only be undertaken in accordance with OEH Interim Construction Noise Guideline (Department of Environment and Climate Change 2009). Deliveries would be carried out within standard construction hours except where alternative delivery hours are required by the Council.

- Plant and equipment would be maintained and serviced in accordance with the manufacturers' specifications to minimise noise and emissions. All plant and equipment would be regularly checked and inspected.
- Plant and equipment would not be permitted to 'warm-up' before the approved working hours.

Safeguards in relation to air quality are detailed below.

- Water sprays and/or water carts will be used as required for dampening stockpiles, cleared areas and other exposed surfaces to control dust generation. This form of dust suppression will be targeted to protect sensitive receivers.
- No burning or incineration of any wastes will be permitted at any time.
- Disturbed areas will be stabilised as soon as practicable after completion of construction works.
- Silt accumulated in erosion control devices (e.g. silt fences) will be inspected and maintained daily.
- A 40 kilometres per hour construction speed limit will be established and enforced to ensure dust generation from vehicle movements are minimised.
- Wheels and undercarriage of trucks will be cleaned prior to the vehicle(s) exiting the worksite onto public roadways.
- Loads will be covered on both internal and public roads where there is a risk of release of material/dust/liquid.
- Plant operators will be required to switch off plant whenever the equipment is not going to be used for a period of more than 15 minutes.
- Exhaust systems of construction plant, vehicles and equipment will be maintained to minimise exhaust emissions to the atmosphere.
- All site accesses will be designed to cope with the planned construction traffic volumes and duration. At a minimum, all site accesses will be stabilised with gravel to minimise dust generation and tracking of sediments.
- During high winds (greater than 35 kilometres per hour), additional dust control measures will be implemented to prevent the movement of nuisance dust into sensitive areas.

5.12 CULTURAL CONSIDERATIONS

Objective I

Ensure that development does not impact on items of early European or Aboriginal significance.

The subject land has historically been used for farming operations but there are no apparent items of early European cultural significance from the previous farming uses remaining on the land. A search of the AHIMS data base on 15/9/2016 in relation to the subject site and a 50m buffer disclosed no known Aboriginal sites or places. Having regard to the DECCW Due Diligence Code (DECCW 2010). Council has consulted with the local Aboriginal Land Council who requested the more detailed analysis be carried out with respect to aboriginal archaeology. That research was carried out by Everick and is contained at **Technical Report 14**.

6. CONCLUSION

The proposal by GemLife to develop 62 Skennars Head Road for senior living purposes is a product of many factors. Those factors include:

- policies of all levels of government to promote opportunities for the propose management and care of seniors and people with a disability;
- strong demand for seniors living opportunities in the region; and
- the site planning opportunities presented by the land which will generally be of comfortable grade and enjoy good proximity to the urban centres of Lennox Head and Ballina, but located within a more serene, semi-rural environment.

In our opinion the development can be seen to satisfy a legitimate need and seniors living land use is capable of construction and use in a manner which mitigates potential adverse impacts consistent with the terms of the Seniors SEPP and its approval would be in the public interest within the meaning of Section 4.15(1) (e) of the Act.



View of the site from Skennars Head Road looking south



View of the existing dwelling house located towards the north west of the subject site

Stephen Connelly RPIA (Fellow)
Partnership Principal

REFERENCES

- ANZECC, 1992. *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites. Australian and New Zealand Environment and Conservation Council.*
- RTA, 1993. *Guide to Traffic Generating Development. Roads and Traffic Authority.*
- Morse, 1993. *Soil and Water Management for Urban Development. Morse & McVey & Associates for NSW Department of Housing.*
- DUAP, EPA. *Contaminated Land Planning Guidelines for Contaminated Land prepared by the Department of Urban Affairs and Planning and the NSW Environment Protection Authority.*
- DECCW, 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW, Department of Environment Climate Change and Water, 13th September 2010.*

APPENDIX A

Updated Development Application Form and
Land Owners Authority

Development Application Form

Lodge Applications at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)
mail PO Box 450 Ballina 2478 • dx 27789 • f 02 6681 1375 • e council@ballina.nsw.gov.au
t 02 6686 4444 • w www.ballina.nsw.gov.au • abn 53 929 887 369



Payment is required upon lodgement of the application for processing.

Use this form to apply for approval for any type of development (i.e. rural, residential, commercial and industrial building work, demolition, subdivision and change of use, etc). Explanatory Notes are attached to assist you in completing this form. NB: There is a separate Development Application (DA) form for Vegetation Management Works on land located within an urban zone (DA Form VMW).

Once completed, you can submit this form together with the required information and fee payment by mail or in person.

If this application form is not completed correctly or is not accompanied by all the necessary information, processing delays may result or the application may be returned to you.

1. Applicant Details (all correspondence will be forwarded to this name and address)

It is important that you can be contacted should further information be required. Please provide as much detail as possible.

Title	Mr	First Name	Stephen	Surname	Connelly
Company/Organisation	PLANNERS NORTH			ABN	56 291 496 553
Postal Address	P.O. Box 538, Lennox Head NSW 2478				
Suburb/Town	Lennox Head	State	NSW	Postcode	2478
Phone (daytime)	1300 66 00 87	Mobile	0319237982	Fax	
Email	steve@plannersnorth.com.au				
Applicant Signature				Date	25/5/18 16/9/16

2. Site of Proposed Development

These details identify the land where the development is to be located.

Unit/Street No.	62	Street	Skennars Head Road
Suburb/Town/Locality	Skennars Head	Postcode	2478
Lot/DP or Lot/Section/DP or Lot/Strata Plan No.	Lot 239 DP 1201225		

3. Contact With Council Prior to Lodgement

Have you spoken with Council staff prior to lodging your application? ☒ Yes ☐ No

Was it a: ☒ Pre-lodgement meeting ☐ Counter enquiry ☐ Phone enquiry

If so, who did you speak with? Mr Smith

Office Use Only				
Date Received:		Development Application No:		Parcel No:
Development Application Fee: \$				Receipt No:
☐ Lodgement Checklist (completed and attached)	Lodgement check completed by: (signature)		Date:	
☐ PLOC	☐ BLOC	☐ LODG task added	Water Meter Application Book #	

4. Description of Development to be Carried Out

Briefly describe all components of your proposal, including signs, use of the land/building, subdivision, demolition etc. You may need to attach further information to adequately describe your development.

- Type: ☐ Changing the use of land or building or the classification of a building under the BCA ☐ Advertising Signage
- ☐ Demolition ☐ Subdivision (including boundary adjustments, Torrens & Strata)
- ☒ Erecting, Altering or Adding to a Building or Structure ☐ Other Works (infrastructure, earthworks, swimming pools etc)

147 ^{SJC}
~~211~~ seniors serviced self-care housing, clubhouse, recreational facilities, roads, utility services, environmental management and environmental protection works.

Erection of a new building

Please complete this schedule. The information will be sent to the Australian Bureau of Statistics.

All new buildings (please complete the following):

Number of storeys (including underground floors)

single with a 2 story clubhouse ^{SJC}

Gross floor area of new building (m²)

Gross site area (m²)

11.61ha

Residential buildings only (please complete the following details on residential structures):

Number of dwellings to be constructed

~~211~~ 148 ^{SJC}

Number of pre-existing dwellings on site

1

Number of dwellings to be demolished

1

Will the new dwelling/s be attached to other new buildings? ☒ Yes ☒ No

Will the new building/s be attached to existing buildings? ☐ Yes ☒ No

Does the site contain a dual occupancy?

☐ Yes ☒ No

Note: dual occupancy = two dwellings on the same site

Materials - residential buildings (please indicate the materials to be used in the construction of the new building/s):

Walls		Roof		Floor		Frame	
Brick (double)	☐	Tiles	☐	Concrete or slate	☒	Timber	☐
Brick (veneer)	☐	Concrete or slate	☐	Timber	☐	Steel	☐
Concrete or stone	☒	Fibre cement	☐	Other	☐	Aluminium	☐
Fibre cement	☐	Steel	☒	Not Specified	☐	Other	☒
Timber	☐	Aluminium	☐			Not Specified	☐
Curtain glass	☐	Other	☐				
Steel	☐	Not Specified	☐				
Aluminium	☐						
Other	☐						
Not Specified	☐						

5. Staged Development

You can apply for development consent for only part of your proposal now and for the remaining part(s) at a later stage.

Are you applying for development consent in stages (in accordance with Section 83B of the EP&A Act 1979)?

☒ No
sjc

☒ Yes
sjc

Please attach:

- information which describes the stages of your development
- a copy of any consents you already have for part of your development

6. Estimated Value of Development

Part 15 Division 1 of the Environmental Planning and Assessment (EP&A) Regulation 2000 sets out how to calculate the fees for development applications. For development that involves a building or other works, the fee for your application is based on the estimated cost of the development. If your application is for integrated development or requires concurrence from a Government Department, you will need to include additional processing fees. If your development needs to be advertised to the public (in accordance with the EP&A Regulation 2000 or Council policy), you will also need to include an advertising fee.

The cost of the development is the genuine estimate of:

- (a) The costs associated with the construction of the building; and
- (b) The costs associated with the preparation of the building for the purpose for which it is to be used (such as the costs of installing plant, fittings, fixtures and equipment).

Note: Owner builders will need to include the full cost of labour.

Estimated cost of the development

~~\$33,930,000~~ ^{sjc} \$63,175,000 _{sjc}

Please note:

- For development up to \$100,000, the estimated cost of the development is to be calculated by the applicant or a suitably qualified person (refer below). Please attach the methodology used to calculate the estimated cost of the development.
- For development between \$100,000 and \$3 million, the estimated cost of the development is to be calculated by a suitably qualified person. Please attach a cost estimate for the development and the methodology used to calculate the estimated value of the development.
- For development over \$3 million, please attach a detailed cost report prepared by a registered quantity surveyor, which verifies the estimated cost of the development.

A suitably qualified person is: a builder who is licensed to undertake the proposed works, a registered architect, a qualified and accredited building designer, a registered quantity surveyor or a person who is licensed and has the relevant qualifications and proven experience in costing development works at least to a similar scale and type as is proposed.

For further information, please refer to Council's Fact Sheet on Estimating Cost of Works for Development & Construction.

7. Environmental Effects of Your Development

In order for Council to assess your proposal, you will need to inform Council of the potential impacts it will have. Depending upon the nature and scale of your proposal, you may need to provide one or more of the statements listed below to explain its environmental effects as well as the way in which the development will operate.

Refer to the attached Explanatory Notes for what information to include.

If you do not fully describe the impacts and the way the development will operate, this may result in processing delays.

Is your proposal **designated development**?

☒ No

- Please attach a **statement of environmental effects (SEE)** Note: A Statement of Environmental Effects (SEE) report will be required to be submitted for all development applications that are not classified as designated development

☐ Yes

- Please attach an **environmental impact statement (EIS)**

Is your proposal on land that is, or is part of, **critical habitat**, or is your proposal likely to have a significant effect on **threatened species**, populations, ecological communities or their habitats?

☒ No

- The proposal is not likely to have a significant effect on threatened species

☐ Yes

- Please attach a **species impact statement (SIS)**

NB: Refer to the attached Explanatory Notes for further information on Section 5A of the EP&A Act 1979 or should your proposal involve biobanking statements, biodiversity compliant development and wilderness areas.

Does your proposal require works to a **heritage item**?

☒ No

☐ Yes ➤ Please attach a **heritage impact statement**

77
76

Does your proposal involve a **variation to a development standard(s)** (as contained within the Ballina LEP 1987 or Ballina LEP 2012) or a **variation to a development control(s)** (as contained within the Ballina Shire DCP 2012)?

☒ No *SJC*

☒ Yes, variation to development standard *SJC*

➤ Please attach a written application for variation to development standard

☐ Yes, variation to development control

➤ Please attach a written request for variation to development control(s)

8. Integrated Development

Integrated development is development that requires licences or approvals from a NSW Government agency. Council will refer the application to the necessary agency so that there is an integrated assessment of the proposal. Most forms of development will not be "integrated". The attached Explanatory Notes will assist you to complete this section of the DA Form.

Is your application for **integrated development**? ☐ No ☒ Yes

Please tick relevant boxes

Fisheries Management Act

☐ s144 ☐ s201 ☐ s205 ☐ s219

Heritage Act 1977

☐ s58

Mine Subsidence Compensation Act 1961

☐ s15

Mining Act 1992

☐ ss63, 64

National Parks and Wildlife Act 1994

☐ s90

Petroleum (Onshore) Act 1991

☐ s9

Protection of the Environment Operations Act 1997

☐ ss43(a), 47, 55 ☐ ss43(b), 48, 55 ☐ ss43(d), 55, 122

Roads Act 1993

☐ s138

Rural Fires Act 1997

☒ s100B

Water Management Act 2000

☒ ss89, 90, 91

9. Concurrence

Some applications require the agreement of another Government Authority before an approval can be granted. A copy of your application will be sent to the relevant authorities to seek their agreement.

Does the proposed development require **Concurrence**? ☒ No ☐ Yes

If yes, please indicate from whom Concurrence is required

☐ NSW Government Planning and Environment

☐ NSW Government Roads and Maritime Services

☐ NSW Government Environment and Heritage

☐ Other

10. Approval under Section 68 of the Local Government Act 1993

Does this application also seek approval for one or more of the matters listed in Section 68 of the Local Government Act 1993?

☒ No

78
77

☐ Yes ➤ Please tick the following relevant boxes.

Structures or Places of Public Entertainment

- ☐ Installing a manufactured home, moveable dwelling or associated structure on land.
- ☐ Installing a temporary structure on land.
- ☐ Using a building or temporary structure as a place of public entertainment or permitting its use as a place of public entertainment

Water Supply, Sewerage and Stormwater Drainage Work

- ☐ Carrying out water supply work.
- ☐ Drawing water from a Council water supply or a standpipe or selling water so drawn.
- ☐ Installing, altering, disconnecting or removing a meter connected to a service pipe.
- ☐ Carrying out sewerage work.
- ☐ Carrying out stormwater drainage work.
- ☐ Connecting a private drain or sewer with a public drain or sewer under the control of Council or with a drain or sewer which connects with such a public drain or sewer.

Management of Waste

- ☐ For fee or reward, transporting waste over or under a public reserve.
- ☐ Placing waste in a public place.
- ☐ Placing a waste storage container in a public place.
- ☐ Disposing of waste into a sewer of the Council.
- ☐ Installing, constructing or altering a waste treatment device or a human waste storage facility or a drain connected to any such device or facility.

Public Roads

- ☐ Swinging or hoisting goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway

Other Activities

- ☐ Operating a public car park.
- ☐ Operating a caravan park or camping ground
- ☐ Operating a manufactured home estate
- ☐ Installing a domestic oil or solid fuel heating appliance, other than a portable appliance.
- ☐ Installing or operating amusement devices (within the meaning of the Construction Safety Act 1912).
- ☐ Installing or operating amusement devices prescribed by the regulations under the Local Government Act 1993 in premises
- ☐ Operating an undertaker's business.
- ☐ Operating a mortuary.
- ☐ Carrying out an activity prescribed by the regulations under the Local Government Act 1993 or an activity of a class or description so prescribed.

Please Note: You will also need to complete a separate application form - [Application for Approval under Section 68 Local Government Act and Section 138 Roads Act 1993](#) prior to the issue of a Construction Certificate.

11. Approval under Section 138 of the Roads Act 1993

Does the proposed development involve roadworks on an existing public road, the opening of a public road or footpath area for public utility services, driveway access or stormwater drainage? Note: The public road is not a classified road and approval is to be issued by Council.

78

☒ No **not at this time, but at Construction Certificate stage**

☐ Yes ➤ Please tick the following relevant boxes.

☐ The erection of a structure or carrying out work in, on or over a public road.

☐ Digging up or disturbing the surface of a public road.

☐ Removing or interfering with a structure, work or tree on a public road.

☐ Pumping water into a public road from any land adjoining the road.

☐ Connecting a road (whether public or private) to a non-classified road.

Please note:

1. If you require access via/through a public reserve in order to construct/carry out your development, you will also need to complete a [Public Reserve Vehicle Access Application form](#) (available at Council's Customer Service Centre and on Council's [website](#)) and pay the required application fee.
2. You will also need to complete a separate application form - [Application for Approval under Section 68 Local Government Act and Section 138 Roads Act 1993](#) prior to the issue of a Construction Certificate.

12. BASIX

A development application for any BASIX affected development must also be accompanied by a BASIX certificate (or certificates), being a BASIX certificate that has been issued no earlier than three months from the date of application.

Note: To find out if your development requires a BASIX certificate, please contact the BASIX Help Line on 1300 650 908.

Does your development require a **BASIX certificate**?

☒ No **to be provided with second stage DAs** *SJC*

☒ Yes *SJC* ➤ Please attach a BASIX certificate and any other documents that are required by the BASIX certificate.

13. Disclosure of Political Donations and Gifts

A person who submits a development application to Council is required to disclose the following reportable political donations and gifts (if any) made by any person with a financial interest in the application within the period commencing two years before the application is made and ending when the application is determined:

- All reportable political donations made to any local Councillor of the Council; and
- All gifts made to any local Councillor or employee of the Council.

A reference to a reportable political donation made to a "local Councillor" includes reference to a donation made at the time the person was a candidate for election to the Council.

Significant penalties apply for non-disclosure. For more information and to obtain a political donations and gifts disclosure statement, go to the NSW Government Planning and Environment website www.planning.nsw.gov.au/donations.

Is a disclosure statement to accompany your application?

☒ No ➤ in signing this application, I undertake to advise the Council in writing if I become aware of any person with a financial interest in this application who has made a political donation or has given a gift in the period from the date of lodgement of this application and the date of determination

☐ Yes ➤ complete the political donations and gifts disclosure statement at www.planning.nsw.gov.au/donations

14. Privacy and Copyright Notice

The completed development application form and any documents submitted with the application contains personal information that is being collected in order to assess, process and determine the application under the provisions of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The information will be processed by the Development and Environmental Health Group of Ballina Shire Council and will be made available to public enquiries under the Government Information (Public Access) Act 2009 (GIPA). The information will be stored in Council's electronic document management system.

The information supplied is required under the EP&A Act. The supply of the information is voluntary, however if it is not supplied Ballina Shire Council may be unable to process the application.

Development Application and documents will be made publicly available

This development application form (including any personal information and other information supplied on the form) and any document submitted with the development application will be made publicly available on Council's DAs online, and in other ways that the Council considers appropriate in accordance with sections 6 and 18 of the GIPA, and Schedule 1 of the GIPA Regulation.

Copyright Notice

You are advised that Council will make copies (including electronic copies) of the development application and accompanying plans and documents for the purpose of complying with its obligations under the EP&A Act and the Local Government Act 1993. In addition the Council may make such further copies as are necessary to facilitate a thorough consideration of the development application. This includes the application form, plans and supporting documentation and the publishing of same to DAs online. The applicant is responsible for obtaining all copyright licences necessary from the copyright owners for this purpose.

15. Owner's Consent

All owner(s) of the land to be developed must sign this form. Without the owner's consent, Council will not accept this application. For detailed information about who must sign this section of the application, refer to the attached Explanatory Notes.

As the owner/s of the land to which this application relates, I consent to this application. I also consent for authorised Council staff to enter the land to carry out inspections relating to this application. I accept that all communications regarding this application will be through the nominated applicant and I understand that information will be made publicly available and published to the DAs online section of Council's website.

GTH RESORTS 1 PTY LTD

Owner's name

~~Greenlife Properties Pty Ltd~~

Owner's name

Postal Address

Postal Address

Email Address

Email Address

Phone

Phone

Signature

see authority

Date

Signature

Date

16. Applicant's Declaration and Signature

Have all questions within the application been answered in full?

☒ Yes

☐ No

Has owner's consent been provided?

☒ Yes

☐ No

Have all fees been paid?

☒ Yes

☐ No

Is all the required information for your proposal attached to this application?

☒ Yes

☐ No

Has the lodgement checklist been completed and attached to this application?

☒ Yes

☐ No

Note: If you have answered **No** to any of the above, your application is not sufficient and may result in rejection.

Declaration

- I declare that all the information in this application and attachments are true and correct.
- I declare that the electronic data provided is a true copy of all plans and associated documents submitted with this development application. The data is not corrupted and does not contain any viruses.
- I understand that if the information is incomplete the application may be delayed or rejected.
- I acknowledge that the information submitted on this form and any supporting documentation will be made publicly available and published to DAs online.

Applicant's Name

S J Connolly of PLANNERS NORTH

Applicant's Signature

Date

25/5/18

~~16/9/16~~

Development Application Form Lodgement Checklist

Lodge Applications at Ballina Shire Council • 40 Cherry Street • Ballina (Mon-Fri 8.15am to 4.30pm)
 mail PO Box 450 Ballina 2478 • dx 27789 • f 02 6681 1375 • e council@ballina.nsw.gov.au
 t 02 6686 4444 • w ballina.nsw.gov.au • abn 53 929 887 369



Lodgement Requirements

A development application must be supported by sufficient information to enable Council to understand what the development proposal entails and what its environmental effects are likely to be. Applications must include the material specified in Part 1 of Schedule 1 of the Environmental Planning and Assessment Regulation 2000 - Development Applications, as well as the following:

Item	Description	Applicant (Yes, No, N/A)	Council office use only
1	Payment of the applicable fees in accordance with Council's adopted fees and charges at the time of lodgement of the development application.	YES	☐
2	A completed development application form.	YES	☐
3	Digital copies of plans and supporting documentation supplied on a single CD-ROM in accordance with Council's digital requirements (refer below) for all development applications and construction certificates. Council will accept the lodgement of an application without a digital copy in certain circumstances. Note: Additional or updated information supplied after the submission of the initial application must also be accompanied by a CD-ROM.	YES, BY EMAIL	☐
4	At least two hard copies of all drawings and documentation including one set of plans at A3 size. Plans are to be dimensioned and generally at a scale of 1:100. Plans shall be suitably numbered and dated and are to include the following information: - Floor plans of all building levels - Elevations - At least one cross section for buildings containing more than one level - Details of the relationship of buildings to height planes and setbacks - A site plan that includes details of the location of buildings/structures on adjoining land - Details of the location and level of public utilities within and adjacent to the site (i.e. sewer lines, stormwater drains etc.) - A clear distinction between alterations and additions - new work must be outlined in colour - A site plan which does not depict floor plan details suitable for publication for stakeholder/community review. Note: Additional copies of all development application documentation and/or a CD-ROM containing the documentation may be required for larger applications depending on the volume of material to be submitted and the need for external referrals. Contact Council's Development and Environmental Health Group for additional information regarding the number of copies of documents and/or CD-ROMs required prior to the submission of the development application.	YES	☐
5	For buildings that exceed 8.5m in height: - A shadow diagram for the site at 9.00am, 12 noon and 3.00pm on 21 June and 21 December. - Except for dwelling houses, dual occupancies and industrial buildings, a physical model of the proposed development at a scale of 1:200 or, alternatively, three dimensional computer modelling of the proposed development. Such a model is to illustrate the relationship between the proposed development and all adjoining buildings.	NO	☐
6	A schedule of calculations for the following items: - Total site area (m²) - Site cover (m²) (area of land on which buildings are proposed) - Floor space ratio - Gross floor area (m²) - Landscaped area (m²) - Driveways, car parking and drying areas etc (m²) - Number of car parking spaces	REFER TO S.E.E.	☐
7	A checklist documenting compliance, or otherwise, with the relevant State Environmental Planning Policy, Local Environmental Plan and Development Control Plan provisions.	YES	☐
8	A completed 'Written Request to Vary a Development Standard' or 'Written Request to Vary a Development Control' form (if applicable).	NA	☐

Additional Requirements

The Ballina Shire Development Control Plan 2012 contains provisions that may require additional information beyond that listed above. This information must also be provided with a development application. 82
81

Council may also require further information identified during the development application assessment process in order to enable the complete consideration of an application.

Refer to Council's Development Application (DA) Guide for more detailed information in relation to lodgement requirements for various types of development.

Digital Requirements

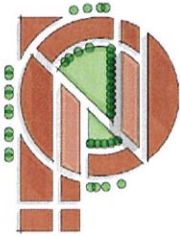
Each plan and supporting document must be supplied in PDF format, no larger than 3MB in size and optimised for publishing to the web.

PDF files larger than 3MB should be broken up into logical parts and supplied as separate files.

Documents are to be supplied with a descriptive file name using the following naming conventions:

- Plan Description - Elevation Plan, Site Plan, Floor Plan
- Plan Number (including version) - 12345, 12345 v2
- Report Name (including version) - Statement of Environmental Effects

Example - Traffic Management Report v2; Ground Floor Plan 12345



PLANNERS⁸² NORTH

LAND OWNER AUTHORITY

TO WHOM IT MAY CONCERN

This is to advise that PLANNERS NORTH abn: 56 291 496 553 has been engaged by:

Client Name:	GemLife GTH RESORTS 1 PTY LTD		
Client Address:	PO Box 8087, GCMC Bundall, Qld 9726		
Dated:	23/5/18		
in respect to land described as:			
No:		Street:	SKENNARS HEAD ROAD
Locality/Suburb:	SKENNARS HEAD		
Real Property Description:	LOT 239 IN DEPOSITED PLAN 1201225		

The owner of the abovementioned land hereby authorises PLANNERS NORTH or its agents to:

1. Inspect Records
2. Carry out searches and site inspections
3. Take Site Samples
4. Lodge applications, objections or appeals

Signed:

APPENDIX B

Compatibility Certificate Documentation

Site Compatibility Certificate

SKENNARS HEAD | 67 Skennars Head Road



Office of the Secretary

Mr L Blandford
Planit Consulting Pty Ltd
PO Box 1623
Kingscliff NSW 2487

Our ref: 15/01041

Dear Mr Blandford

Determination of application for a site compatibility certificate for 67 Skennars Head Road, Skennars Head - *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

I refer to your application of 5 January 2015 for a site compatibility certificate under clause 25(1) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP (Seniors Housing)) in relation to 67 Skennars Head Road, Skennars Head.

I have determined the application under clause 25(4)(a) of the SEPP (Seniors Housing) by issuing a site compatibility certificate. I have attached the Certificate of Site Compatibility.

If you have any questions in relation to this matter, please contact Mr Steve Murray, General Manager of the Department's Northern Region, on (02) 6641 6602.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'CA McNally'.

Carolyn McNally
Secretary

30. 3.15

Enc: SCC certificate

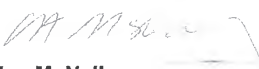
Department of Planning & Environment
23-33 Bridge Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 02 9228 6111 | F 02 9228 6445 | www.planning.nsw.gov.au

**State Environmental Planning Policy (Housing for Seniors or People with a Disability)
2004
Certificate of Site Compatibility**

I, the Secretary, of the Department of Planning and Environment determine the application made by Planit Consulting on behalf of Greenlife Pty Ltd on 5 January 2015 by issuing this certificate under clause 25(4)(a) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

I certify that in my opinion:

- the site described in Schedule 1 is suitable for more intensive development; and
- the development described in Schedule 1 is compatible with the surrounding environment and surrounding land uses, having had regard to the criteria specified in clause 25(5)(b).


**Carolyn McNally
Secretary**

Date certificate issued: 30/3/15

Please note: This certificate will remain current for 24 months from the date of this certificate (clause 25(9)).

SCHEDULE 1

Site description: Lot 239 DP 1201225, 67 Skennars Head Road, Skennars Head, Ballina Shire.

Project description: Proposed Serviced Self-Care Housing (211 dwellings)

Clubhouse Variation Request Report

APPLICATION FORM TO VARY A DEVELOPMENT STANDARD**Written application providing grounds for variation to development standards**

1. What is the name of the environmental planning instrument that applies to the land?

Ballina Local Environmental Plan 2012

2. What is the zoning of the land?

Mainly RU1 under BLEP12 and 1(b) & 7(a) under BLEP87. See Section 4.1.1 of Statement of Environmental Effects.

3. What are the objectives of the zone?

RU1 objectives are

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural, cultural and landscape character of the locality.
- To enable development that is compatible with the rural and environmental nature of the land.
- To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.

4. What is the development standard being varied? e.g. FSR, height, lot size

Height.

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3 Height of Buildings.

6. What are the objectives of the development standard?

The objectives of clause 4.3 are as follows:

(1) The objectives of this clause are as follows:

- (a) to ensure that the height of buildings is compatible with the bulk, scale and character of the locality,
- (b) to minimise adverse impacts on existing or future amenity of adjoining properties and the scenic or landscape quality of the locality,
- (c) to protect significant views from public places.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

7. What is the numeric value of the development standard in the environmental planning instrument?

8.5m

8. What is proposed numeric value of the development standard in your development application?

8.714m

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

2.52%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The Clubhouse building is intended to be a Community focussed building, a visual focus for the development as a whole. Accordingly, the architects are of the opinion that the roof structure to the Clubhouse requires some "volume" in order to read properly as the focal point of the Seniors Living complex. To achieve that aspiration for volume but maintain an appropriate level of respect for the development standard, the architects have designed a roof to appropriately fit with the development context. In these circumstances and having regard to the situation that the height of the roof will not adversely affect visual matters or result in overshadowing, strict compliance with the development standard is considered unreasonable and unnecessary in the subject case. The minor change in roof height would easily conform with the objectives to the standard.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

The objectives of the Act seek to achieve the very best development form having regard to social, economic and environmental considerations. Development in the manner proposed is consistent with these objectives and accordingly we submit that strict compliance with a nominal minimum area standard will hinder the obtainment of the objectives of the Act.

12. Is the development standard a performance based control? Give details.

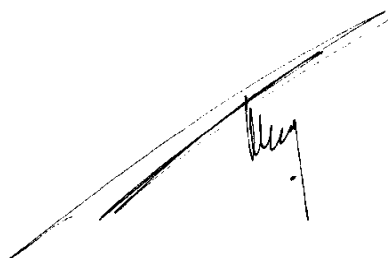
It is not a performance standard. If the standard was a performance standard the clubhouse roof height would easily meet the standard as described in the objectives to the standard.

13. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?

Strict compliance with the standard would be unreasonable given the strong urban design outcome which will occur as a consequence of the development in the manner proposed. Alteration of this standard will ensure that the Clubhouse building has an appropriate architectural character to signify its central role in the overall development.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

The architectural material contained in the **Plan Set** illustrates the height proposed. In our view this material provides sufficient environmental planning context to appropriately illustrate the outcome of the variation proposed.



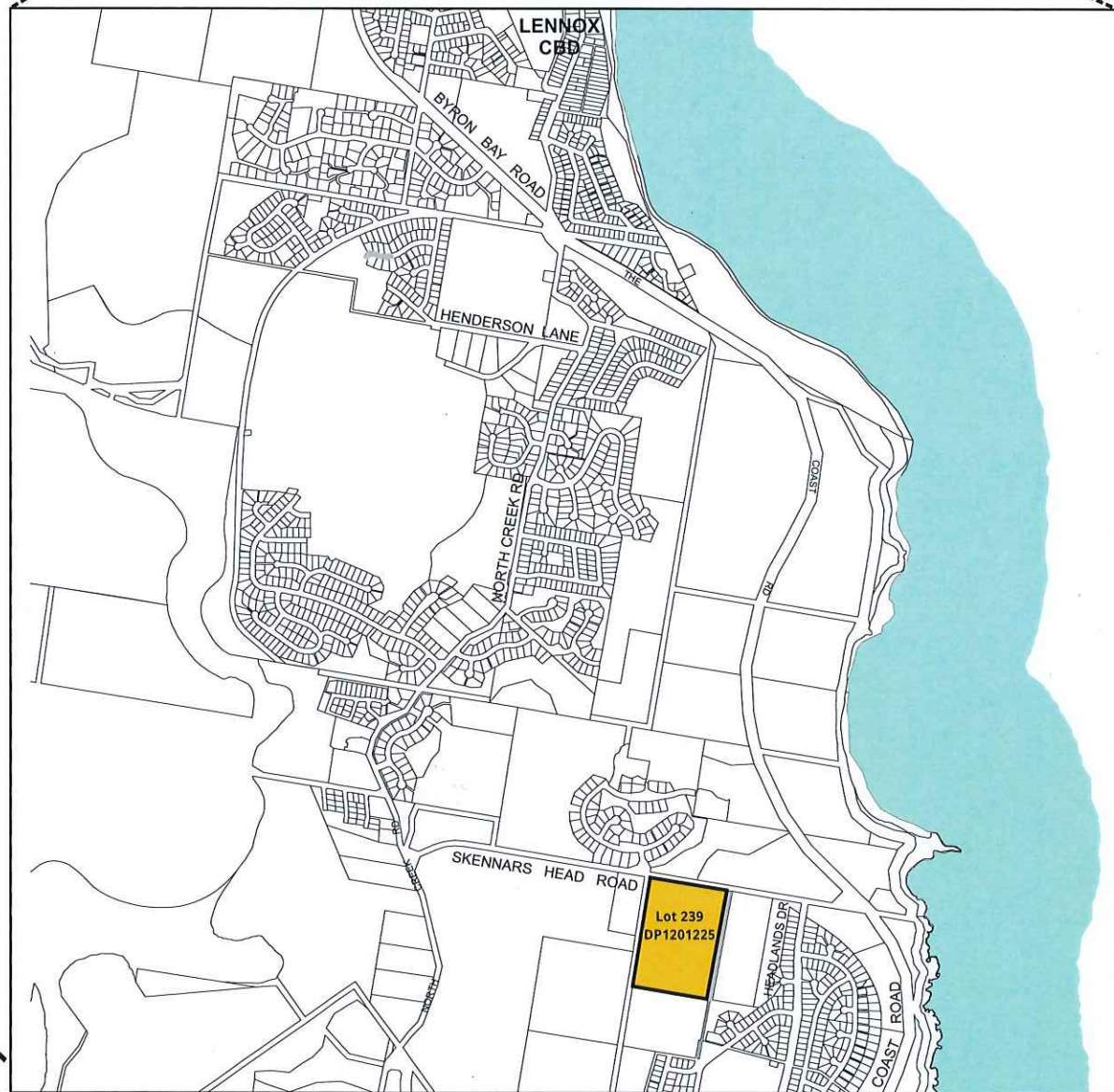
Stephen Connelly RPIA (Fellow)

Partnership Principal

PLANNERS NORTH

LIVING GEMS, SKENNARS HEAD

Source: Mapquest website



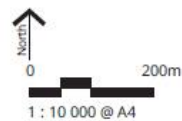
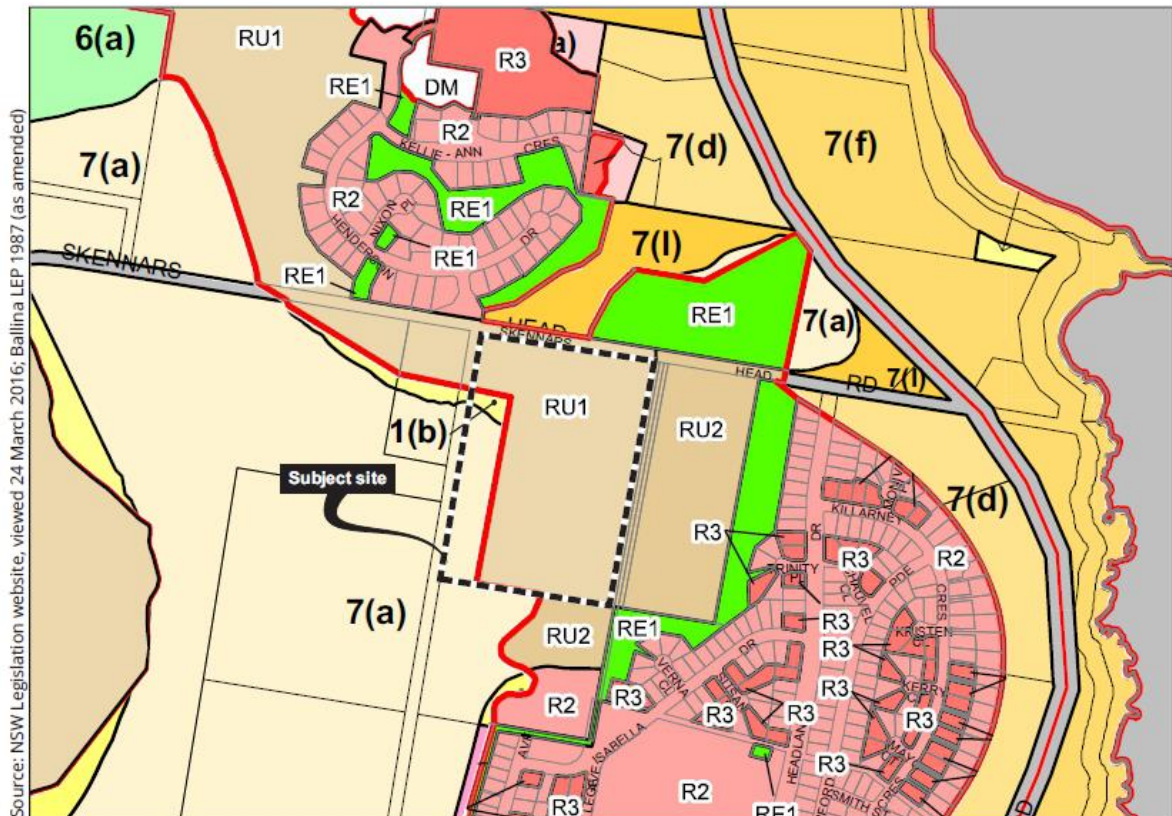
0 500m

1 : 25000 @ A4

Legend

Subject site

ATTACHMENT G – ZONING MAP OF 67 SKENNARS HEAD ROAD



Legend

Subject Site

LEP 2012 Zones:

- Deferred Matter
- R2 Low Density Residential
- R3 Medium Density Residential
- RE1 Public Recreation
- RU1 Primary Production
- RU2 Rural Landscape

LEP 1987 Zones:

- 1(b) Rural - Plateau Lands Agriculture
- 2(a) Residential - Living Area
- 6(a) Open Space
- 7(a) Environmental Protection - Wetlands
- 7(d) Environmental Protection - Scenic/Escarpment
- 7(f) Environmental Protection - Coastlands
- 7(l) Environmental Protection - Habitat

Plan 4.1

**LEP 2012
ZONING
CONTROLS**

Attachment E – Mapping of subject land under Coastal Management SEPP



☒ Coastal Wetlands and Littoral Rainforest Area Map

- | | | |
|--------------------------|-------------------------------------|--|
| ☐ | ☒ | Coastal Wetlands |
| ☐ | ☒ | Proximity Area for Coastal Wetlands |
| ☐ | ☒ | Littoral Rainforests |
| ☐ | ☒ | Proximity Area for Littoral Rainforests |
| ☐ | ☒ | Coastal Vulnerability Area Map (Note: No map at this time) |
| ☐ | ☒ | Coastal Environment Area Map |
| ☐ | ☒ | Coastal Use Area Map |



abn: 56 291 496 553
6 Porter Street, Byron Bay, NSW, 2481
PO Box 538, Lennox Head, NSW, 2478
Telephone: 1300 66 00 87

17th October 2018
Our reference: 1522.2629

The Secretary
NSW Department of Planning and Environment
Grafton Office
49 Victoria Street
GRAFTON NSW 2460

Attention: Mr Paul Garnett & Ms Tamara Prentice

Email: northern@planning.nsw.gov.au

Dear Secretary

RE: Seniors Living SEPP, 67 Skennars Head Road, Skennars Head

On 9 October 2018 Mr Michael Young of McCartney Young Lawyers wrote in relation to the Site Compatibility Certificate application SCC_2018_BALLI_01_00. That letter requested that the Department defer the making of any submission to the Panel pending the receipt of legal advice. Please find attached that advice. The accompanying opinion has been prepared by Mr Peter McEwan SC. Mr McEwan is one of the most experienced Barristers at the NSW Bar, specialising in landuse law.

Once the Department has had an opportunity to consider the expert legal advice attached, I would be pleased to travel to Grafton to meet with the officers of the Department.

Should you require any additional information or wish to clarify any matter raised by the attached legal opinion, please feel free to contact me at any time.

Yours faithfully,

PLANNERS NORTH

Stephen Connolly RPIA (Fellow)

PARTNERSHIP PRINCIPAL

(m) 0419 237 982

(e) steve@plannersnorth.com.au

CC. Ballina Shire Council and Northern Joint Regional Planning Panel.

**LIVING GEMS PTY LIMITED AND SENIORS LIVING PROPOSAL
SKENNARS HEAD ROAD PROPERTY**

MEMORANDUM OF ADVICE

1. My instructing solicitors act for Living Gems Pty Ltd in respect of a proposed Seniors Living development of Lot 239, DP1201225, being a lot of land having an area of 11.61 hectares, of which it is proposed to develop 7.6 hectares for 147 seniors serviced self-care housing, pursuant to SEPP (Housing for Seniors or People with a Disability) 2004 (“SEPP Seniors Living”)
2. The bulk of the site (about 85-90%) is zoned RU1 Primary Production, a portion (10%?) is zoned 7(a) Environmental Protection – Wetlands; and a very small area is zoned 1(b) Rural – Plateau Lands Agriculture. The proposed development is limited to the area zoned RU1.

Questions Posed

3. Two questions have been raised arising out of the interrelationship of relevant instruments, and in particular SEPP Coastal Management 2018, viz:
 - (i) the operation and effect of clause 21 (the “exclusory provisions”) of the SEPP; and
 - (ii) if SEPP (Coastal Management) 2018 applies (contrary to the operation of clause 21) then what role do the areas identified in SEPP (Coastal Management) 2018 as “proximity areas” have in the operation of SEPP Seniors Living; viz, do those areas identified as *proximate areas* fall within the classification of *natural wetlands* for the purpose of Schedule 1, “(m)”, of SEPP Seniors Living?

These questions going to the operation and applicability of SEPP Coastal Management 2018 are relevant to the assessment to be made both under SEPP Seniors

Living, and under s.79C (now s.4.15, and specifically 4.15(1)(a)(i) “*any environmental planning instrument*”).

Application of SEPP (Housing for Seniors or People with a Disability) 2004 (“SEPP Seniors Living”)

4. This SEPP provides a framework for the approval of residential accommodation for seniors and people with a disability by setting aside local planning controls and providing its own regime of design principles and development criteria for such housing.
5. It applies to land which “...*adjoins land zoned primarily for urban purposes, but only if ... (a) development for the purpose of any of the following is permitted on the land: (i) dwelling houses...*” (per clause 4(1)); a road between the subject land and *adjoining* land zoned for urban purposes is ignored for the purpose of ascertaining “adjoining”) (clause 4(4)).
6. Land identified in Schedule 1 (Environmentally Sensitive Land) is excluded from the provisions of the SEPP (per clause 4(6)).

The basis of the application of the SEPP is that the subject land is entitled to the beneficial provisions of the SEPP, as land to which the DA relates is “*adjoining land zoned primarily for urban purposes*”; this seems not to be disputed¹.

7. Schedule 1 lists descriptors of Environmentally Sensitive Land which include, inter alia, “(m) *natural wetland*” – i.e., if land is so described in another EPI by that description “...*or by like descriptions...*”. Pursuant to clause 4(6) that land is excluded from the application of SEPP (Seniors Living).

(All land, wherever it is, whatever its topography, vegetation or characteristics, could be said to be *environmentally sensitive land*; however, whilst that is the genus of the descriptor as a chapeaux to Schedule 1, that Schedule proceeds to identify particular categories – the genus of the species (or land of like descriptions) – to enable their

¹ For the reason that the land the subject of the application is land which *adjoins land zoned primarily for urban purposes* (clause 24(1)(a)(i)); and is otherwise not permissible with consent (clause 24(1A)).

definition such that they be excluded from the beneficial provisions of SEPP Seniors Living. That the land is so expressly identified means that land not identified or falling within *like descriptors* is not affected by the prohibition and enjoys the beneficial provisions of SEPP Seniors Living.²)

8. Clause 24 of SEPP Seniors Living requires for its application a “*Site Compatibility Certificate*” for the subject land. Prior to amendments that commenced on 2 October 2018, it was the Director-General who determined an application for a certificate, in accordance with clause 25. The amendments to the SEPP which commenced on 2 October 2018 changed the reference from the Director-General to the *relevant panel*. However, the criteria for the issue of a Compatibility Certificate in clause 25(5)(b) remain substantially the same (noting the new requirement for a *cumulative impact study* in clause 25(5)(b)(vii)).
9. The requirement in clause 25(5)(b)(vii) for a cumulative impact study (defined in clause 25(2C)) as a consideration in the issuing of a Certificate does not appear to arise in the current circumstances having regard to the facts. There is no *proximate site land* (per clause 25(2A)) and the clause (25(5)(b)(vii)) has no work to do in the present circumstances.
10. Critical to the availability of SEPP Seniors Living to or for the subject land is the proscription against its application to land described in Schedule 1 as “*Environmentally Sensitive Land*” (see paragraphs 6 and 7 above). Within Schedule 1, the categories and descriptions, relevantly, include *natural wetland* (m). I understand that it is accepted that this would include the area of the subject land zoned 7(a) “*Environmental Protection – Wetlands*” (about 10% of the subject site). However, the present application is not for the use of that portion of the subject land so zoned (7(a)), but rather only for that portion zoned RU1 Primary Production. Hence the proscription in clause 4(6) of SEPP Seniors Living has no work to do.

² Interpretation is aided by the syntactical presumption – *expressio unius est exclusio alterius*, “an express reference to one matter indicates that other matters are excluded”; and *expressum facit cessare tacitum*, “where there is an express mention of certain things then anything not mentioned is excluded”: see *Pearce and Geddes*, 5th Ed, [4.28], [4.30].

SEPP (Coastal Management) 2018

11. The purpose of this SEPP (commencing on 3 April 2018) was to coordinate “*land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016*” (clause 3).³
12. If relevant, and applicable, the Coastal Management SEPP proscribed development upon land identified as *proximate* on the Coastal Wetlands and Littoral Rainforests Area Map, without satisfaction by the consent authority that:
 - (i) adjacent coastal wetland or littoral rainforest would not have a significant impact on its biophysical, hydrological or ecological integrity; or
 - (ii) the quantity and quality of surface and groundwater flows to and from adjacent coastal wetland or littoral rainforest was not significantly impacted upon (clause 11(1)(a), (b)).
13. Relevantly, this constraint applied to areas identified on the map as “*proximate to either wetlands or littoral rainforest*”. It specifically did not apply to land identified as “*coastal wetlands*” or “*littoral rainforest*” on the map (clause 11(2)).
14. The Coastal Wetlands and Littoral Rainforests Area Map is defined as being / meaning “*the SEPP (Coastal Management) 2018 Coastal Wetlands and Littoral Rainforests Area Map*” (per the definition in clause 4(1)).
15. The relevant map from the Coastal Management SEPP showing *proximity area for coastal wetlands*, in relation to the subject site, shows that somewhere about 50% of the subject site is so designated – being an area extending from the land zoned 7(a) Environmental Protection Wetlands into and across the middle and southern portion of the balance of the RU1 area, leaving somewhere less than 50% of the total site unaffected by this *proximate area*.

³ The overarching objective was to consolidate coastal management which previously was provided for in two pieces of legislation, the *Coastal Management Act 2016* and the *Coastal Protection Act 1979*.

Question 1: The operation and effect of clause 21

16. SEPP (Coastal Management) 2018 contains an explicit “*savings and transitional provision*”:

“21(1) The former planning provisions continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this Policy applies.”

(The *former planning provisions* which continue to apply are identified in clause 21(4) as including SEPP 14 Coastal Wetlands, SEPP 26 Littoral Rainforests, and SEPP 71 Coastal Protection.)

17. The plain words⁴ of clause 21(1) require, for the exclusion of the controls in SEPP Coastal Management 2018, for there to be a development application “*lodged but not finally determined, immediately before the commencement of this Policy...*”. SEPP Coastal Management 2018 commenced on 3 April 2018, at which time the Development Application for the subject site, having been lodged on 16 October 2016, remained yet to be determined. Hence, pursuant to clause 21(1), that Application is to be determined under the former planning provisions, and, expressly, is not constrained or required to comply with the requirements of SEPP Coastal Management 2018.
18. Here, that means that any enquiry into “*...land in proximity to coastal wetlands or littoral rainforest*” per clause 11 of the SEPP is not applicable, is irrelevant and has no work to do.

The effect of this is, in the instant circumstances, that SEPP (Coastal Management) 2018 has no work to do in relation to the present Development Application.

Courts have been jealous to preserve and protect an entitlement to have an application determined under the planning provisions and constraints which apply to the time of

⁴ The ordinary sense of words are adhered to unless they lead to *some absurdity, repugnance or inconsistency with the rest of the instrument* ... (the Golden Rule, see Pearce and Geddes, Statutory Interpretation Australia, 6th ed at [2.4]; and as to giving the plain and ordinary meaning to words used in an instrument, see [2.20]ff; and [2.40]; here there is no need to have recourse to other aids for interpretation, where the words used are plain and explicit in excluding the operation of SEPP (Coastal Management) 2018 in the circumstances specified.

lodgement, unaffected by changes to a planning regime which may detrimentally impact upon assessment of an application. A similar transitional provision was given full weight and effect by the Court of Appeal where the Applicant for consent maintained a right to assessment of its application pursuant to provisions which preceded changes to the relevant controls.⁵

Question 2: “Proximity Areas” and relevance to the operation of SEPP Seniors Living

19. The source of this enquiry is the provision in SEPP Seniors Living for its application to be unavailable and proscribed in relation to *Environmentally Sensitive Land* as identified in Schedule 1 to that SEPP (see paragraph 10 above).
20. This enquiry is predicated on the assumption that the view I have expressed as to the operation and effect of clause 21(1) in SEPP (Coastal Management) 2018, is erroneous, and that the provisions of that SEPP do apply notwithstanding their explicit exclusion of relevance, operation or application, in relation to the extant Development Application.
21. On the basis of the assumption that clause 21(1) does not apply (erroneously in my view), the question is whether the identification of a *proximity area* on the SEPP (Coastal Management) 2018 Map is a descriptor which falls within *natural wetland* (per the definition in the Coastal Management SEPP) and is hence environmentally sensitive land and proscribed from the application of SEPP Seniors Living, vide Schedule 1.
22. (This is not to ignore the provisions of the *saved* “former planning provisions”⁶ which created or applied a definition or category of land use or type, such that it could fall within one or other of the categories of *Environmentally Sensitive Land* under Schedule 1 of SEPP Seniors Living.)
23. The *proximity* question is raised in the context of the need (per clause 24 of SEPP Seniors Living) to obtain a Site Compatibility Certificate.

⁵ *Dubler Group v The Minister* (2004) 137 LGERA 178 and in particular at [27]-[28]; and as approved in *Vitality Care v The Department* [2006] 151 LGERA 15.

⁶ Being SEPP 14 Coastal Wetlands, SEPP 26 Littoral Rainforests and SEPP 71 Coastal Protection, per clause 21(4)(a) of SEPP (Coastal Management) 2018.

A Site Compatibility Certificate had issued on 30 March 2015 for the subject land. It certified that the subject site “*is suitable for more intensive development*”⁷; and, in particular, that the proposed use, viz “*serviced self-care housing (211 dwellings)*”, is *compatible with the surrounding environment and surrounding land uses, having regard to the criteria specified in clause 25(5)(b)*” of SEPP Seniors Living. This Certificate lapsed on 31 March 2017 and a fresh application for a Site Compatibility Certificate has been lodged.

24. It is of relevance to note that the basis for assessment of the criteria under clause 25(5)(b) remains, relevantly, the same as they were in March 2015. It is only the cumulative impact study in clause 25(5)(b)(vii) that is new, and on instructions there is no need for such a study and, accordingly, the criterion is irrelevant.
25. The only change to the matters that arise for consideration on an application for a Site Compatibility Certificate under SEPP Seniors Living is that which is or was sought to be introduced by the inclusion and reference in SEPP Coastal Management 2018 was to *proximity areas for coastal wetlands and with littoral rainforests*.
26. The question posed is whether the areas so identified as *proximate areas* are relevant, within the context of SEPP Seniors Living, to either:
 - (i) categorising the land under Schedule 1, viz, *environmentally sensitive land*; or
 - (ii) the assessment criteria for a Site Compatibility Certificate under clause 24 of SEPP Seniors Living.
27. From the material briefed I understand the portion of the subject site which has been ostensibly mapped as *proximity area for coastal wetlands* impacts on approximately 50% of the site (see paragraph 15 above).
28. The question posed is whether or not the map which has issued, showing that *proximity area*, is one with effect under SEPP (Coastal Management) 2018, such that

⁷ Now reduced to 147 dwellings

the *proximity area* may or might fall within the definition of *Environmentally Sensitive Land* under SEPP Seniors Living.

29. The identification of areas for coastal management is by way of a map – per clause 6(2); following the identification of the *Coastal Wetlands and Littoral Rainforests Area Map*, there is the following:

“Note: The Coastal Wetlands and Littoral Rainforests Area is made up of land identified as “Coastal Wetlands” or as “Littoral Rainforests” on the Coastal Wetlands and Littoral Rainforests Area Map. The land so identified includes land identified as “proximity area for coastal wetlands” and “proximity area for littoral rainforests.””

However, that *Note* has no work to do in the construction or interpretation of SEPP Coastal Management 2018 – clause 4(4) reads: (4) *Notes included in this Policy do not form part of this Policy.”*

30. Clause 11 of SEPP (Coastal Management) 2018 is headed: “*Development on land in proximity to coastal wetlands or littoral rainforest*”. After the heading, the following is produced:

11. Note: The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.

- (1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:
 - (a) The biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
 - (b) The quantity and quality of surface and groundwater flows to and from the adjacent coastal wetland or littoral rainforest.
- (2) This clause does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Map.

31. The enquiry engaged under clause 11(2) is to identify (if appropriate) portions of the subject site as either *coastal wetlands* or *littoral rainforest*, as that appears on the Area Map. However, this enquiry is proscribed by clause 4(4) (see para 29 above) which deletes, relevantly, any notes within the Policy. The requirements in clauses 11(1)(a) and 11(1)(b), or the purported nexus referred to in clause 11(2) being excluded from the operation of the SEPP hence have no work to do; they are irrelevant to the interpretation and construction task.
32. (If the Note did have application (contrary to clause 4(4), then the contrary position is arrived at whereby the constraint does not apply to either coastal wetlands or littoral rainforest, but it does apply to areas proximate to those two descriptors; this would work a nonsense.)
33. There are two consequences of the application of the provisions of clause 11(1):
- (i) First, there is a proscription on development approval being granted unless necessary satisfaction (per subclauses (a) and (b) is arrived at or concluded in favour of the land the subject of the application; and
 - (ii) Second, those areas identified as *proximity areas* – either for coastal wetlands or littoral rainforest – do not qualify as *Environmentally Sensitive Land* under Schedule 1 of SEPP Seniors Living. That they are *proximate* to areas which may so qualify as Environmentally Sensitive Land does not qualify them, per se, as falling within one or more of those descriptors in Schedule 1; the land which may be *proximate* to such land, is not itself environmentally sensitive.
34. “*Proximate areas*” are not, relevantly, lands identified under Schedule 1 to SEPP Seniors Living. Nor could it be said that they are, or could be, *like descriptors* of those categories identified under SEPP 1.
35. Rather, being external and outside areas which are defined as *environmentally sensitive land*, they operate as some form of buffer, being an area of indeterminate definition, and on the plain words used in the descriptor, could not and do not qualify as being *environmentally sensitive land*.

36. The general meaning of *proximate* or *proximity* is “*near, close by or adjacent*” (per the Macquarie Dictionary definition, and also the OED). Importantly, those *near, close by or adjacent* areas are not themselves identified as *environmentally sensitive land*. To the contrary, they are simply areas adjacent to what otherwise has been identified as *environmentally sensitive land*, but otherwise do not attract that descriptor or chapeaux.
37. Hence, to return to the questions posed (see paragraph 26 above), in relation to SEPP Seniors Living:
- (i) Land which may otherwise be identified as a *proximate area* for the sake of either coastal wetlands or littoral rainforest has no nexus or connection, or work to do, in relation to the SEPP Seniors Living Schedule 1, definitions of *environmentally sensitive land*.
 - (ii) It follows that the assessment criteria for a Site Compatibility Certificate under clause 24 of SEPP Seniors Living does not include areas which otherwise might be identified as *proximate areas* previously referred to.

PETER McEWEN SC

Chambers,
16 October 2018

**LIVING GEMS PTY LIMITED AND SENIORS LIVING PROPOSAL
SKENNARS HEAD ROAD PROPERTY**

MEMORANDUM OF ADVICE

McCartney Young
Solicitors
DX 27660
BALLINA

Attention: Michael Young

Email: michael@my-lawyers.com.au



qA353366

15/03525

Department Generated Correspondence (Y)

DEPARTMENT OF PLANNING AND ENVIRONMENT

Planning Services

SITE COMPATIBILITY CERTIFICATE APPROVAL - STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) FOR 67 SKENNARS HEAD ROAD, SKENNARS HEAD

PURPOSE

- To recommend the Secretary determine the application for a site compatibility certificate under clause 25(4)(a) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP (Seniors Housing)) for 211 Serviced Self Care dwellings, at Skennars Head Road, Skennars Head by issuing a certificate.

RECOMMENDATION

- It is recommended that the Secretary:
 - **notes** the report (Tab A);
 - **considers** 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 as set out in the report;
 - **forms the opinion** that the site of the proposed development is suitable for more intensive development;
 - **forms 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) and
 - **determines** the application for a site compatibility certificate by issuing a certificate (Tab B) for Lot 239 DP 1201225, 67 Skennars Head Road, Skennars Head.

CURRENT POSITION

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

- SEPP (Seniors Housing) includes a provision that where a suitable site adjoins land zoned for urban purposes, but is not zoned for urban purposes, a Site Compatibility Certificate can be issued to allow a council to consider a development application for a 211 Serviced Self Care dwellings.
- The purpose of the provision is to increase the extent of land on the urban fringe upon which seniors housing or housing for the disabled can be built. This assists in making available larger allotments to meet increasing demand for such housing.
- The Site Compatibility Certificate framework requires consideration by the Secretary as to whether the land is capable of sustaining such development and whether the necessary services are available. The relevant Council's views are required to be sought and considered.
- The Policy allows for the expression 'adjoins land' to extend to apply to neighbouring areas with a non-urban zoning, despite the presence of a road in between. The definition of 'adjoins land' has been subject to legal debate for some years. There is a difference of opinion in this regard between the Council and the applicant in this case, although not in relation to the existence of a road.
- The Department's internal Legal Advice provides that 'adjoining' in the context of SEPP (Seniors Housing) is not restricted to sharing a common boundary, but may include land



'near to' or 'neighbouring on' or in 'sufficient proximity to' the urban zoned land. This is the case in this instance, therefore the Site Compatibility Certificate request can be considered.

Council Staff Views

Issue	Response
<u>Aircraft Noise</u> Concerns with approving a 'retirement village' in an area affected by the Australian Noise Exposure Forecast (ANEF) 20-25.	The Australian Standard 2021 for ANEF provides that development of this type can be located in the 20-25 ANEF. The noise issue is usually addressed by noise attenuation works for the dwellings. This approach is consistent with Council development control plan for aircraft noise and would be considered at development application stage.
<u>Ecological</u> <u>Hairy Joint Grass</u> An endangered species (Hairy Joint Grass) has been identified in the locality.	An endangered species (Hairy Joint Grass) has been known to occur in the surrounding area. If identified on site, it can be considered by a Species Impact Statement at development application stage.
<u>Buffering</u> Requirement to apply a buffer to the development would affect the placement of a substantial number of proposed lots.	The proposed concept plan provides for adequate buffers from the wetland and for the bushfire asset protection zone. Any minor anomalies in setback can be resolved at development application stage.
<u>Infrastructure Provision</u> - <i>Water & Sewer</i> - <i>Pedestrian and Cyclist requirements</i> - <i>Internal roads & traffic</i> - <i>Provisions for service & delivery vehicles</i> - <i>Parking numbers</i> - <i>Water supply servicing</i> - <i>Sewer servicing</i> - <i>Existing services</i> Current infrastructure does not contain sufficient capacity to service the site.	An Infrastructure & Utility Service Review has been completed by the proponent. Some minor augmentation works may be required to increase supply capacity, however no major issues have been identified that would prevent the development from being adequately serviced. The application provides adequate detail to address the issues raised in terms of access, parking, and road layout for the issuing of a certificate. Details of these matters can be readily and practically managed at development application stage.
<u>Mosquitos</u> Concerns with approving a 'retirement village' in an area that is identified as having high mosquito risk (wetland). DCP requirements include buffering or a report to address mosquito risk and site specific measures.	Design issues and responses to mosquitos can be addressed at development application stage. This issue is not unique to this site and has been adequately addressed in terms of other release areas in this locality.
<u>Gradients</u> Concern regarding mobility on the site due to minor gradient changes.	Grades on the site do not preclude use of the land for seniors living. The maximum grade is 4.1%. Details of these matters can be readily and practically managed at development application stage.
<u>External Roads and Traffic</u> Concerns regarding access on and off Skennars Head Rd (connection road between Ballina & Lennox Head) and how they will integrate with proposed intersection upgrades in the area.	Detailed traffic impacts are considered at the assessment of a development application stage. The proponent has undertaken to prepare a detailed traffic assessment at development application stage.
<u>Geotechnical</u> Future development will be required to submit	A geotechnical assessment can be undertaken during the development application stage and



a geotechnical assessment.	wouldn't preclude or substantially constrain the certificate from being issued.
<u>Flooding and Stormwater Management</u> <u>Flooding</u> The site is not flood prone but there are concerns regarding localised flash flooding. <u>Stormwater Management</u> No stormwater plan provided.	The site is not flood prone. Any concerns regarding localised flash flooding and stormwater are addressed at the detailed design stage. The proponent has identified the need to undertake stormwater assessment at the development application stage.

- The purpose of a Site Compatibility Certificate is to determine if the site would be suitable for urban development. Following the issuing of a Site Compatibility Certificate the proponent needs to lodge a development application.
- None of the matters raised in Council's staff submission raise issues that would preclude the use of the site for seniors living. Each issue can be adequately addressed at the development application stage.

The Application

- Planit Consulting on behalf of Greenlife Properties Pty Ltd has submitted an application for a Site Compatibility Certificate under SEPP (Seniors Housing) at 67 Skennars Head Road, Skennars Head which is situated 7km north of Ballina and 3km from Lennox Head (Tab C).
- The proposed development consists of 211 self-contained dwellings. The proposal will also include ancillary facilities including a multipurpose function/recreational hall, swimming pool and tennis courts, garden area, visitor car parking and village bus services. Meals, cleaning services, personal care and nursing care will be available and co-ordinated by on-site support services (Tab D).
- The site has been identified in the Ballina Local Environmental Plan 2012 and Ballina Local Growth Management Strategy 2012 as 'land adjoining a strategic urban growth area' and therefore is a logical urban expansion area to existing residential subdivision.
- The subject site has limited constraints, none of which preclude or substantially constrain the development from proceeding. The constraints can be readily and practically managed at development application stage.
- Approval of a Site Compatibility Certificate is recommended.

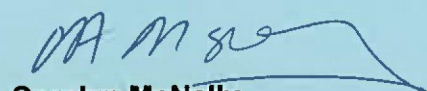
BACKGROUND

- The proposal relates to only part of the site (eastern extent). The area to the west that contains *State Environmental Planning Policy No 14 – Coastal Wetlands* will not be affected.



19-03-15

Andrew Jackson
Executive Director, Regions
Planning Services



Carolyn McNally
Secretary

30-3-15

 **Approved / Not Approved / Noted**



20-02-15

Contact Officer: Stephen Murray
General Manager, Northern Region
Phone: (02) 6641 6602
Mobile: 0427 203 468





Office of the Secretary

Mr L Blandford
Planit Consulting Pty Ltd
PO Box 1623
Kingscliff NSW 2487

Our ref: 15/01041

Dear Mr Blandford

Determination of application for a site compatibility certificate for 67 Skennars Head Road, Skennars Head - *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

I refer to your application of 5 January 2015 for a site compatibility certificate under clause 25(1) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP (Seniors Housing)) in relation to 67 Skennars Head Road, Skennars Head.

I have determined the application under clause 25(4)(a) of the SEPP (Seniors Housing) by issuing a site compatibility certificate. I have attached the Certificate of Site Compatibility.

If you have any questions in relation to this matter, please contact Mr Steve Murray, General Manager of the Department's Northern Region, on (02) 6641 6602.

Yours sincerely

Carolyn McNally
Secretary

30.3.15

Enc: SCC certificate



Office of the Secretary

Mr P Hickey
General Manger
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Our ref: 15/01041
Your ref: PN 1005690

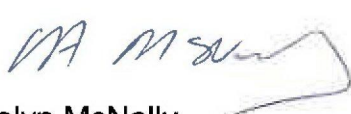
Dear Mr Hickey

Determination of application for a site compatibility certificate for 67 Skennars Head Road, Skennars Head - *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*

I have determined the application under clause 25(4)(a) of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* by issuing a site compatibility certificate. I have attached a copy of the Certificate of Site Compatibility for your information.

If you have any questions in relation to this matter, please contact Mr Steve Murray, General Manager of the Department's Northern Region, on (02) 6641 6602.

Yours sincerely


Carolyn McNally
Secretary

30.3.15

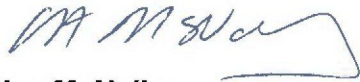
Enc: SCC certificate

**State Environmental Planning Policy (Housing for Seniors or People with a Disability)
2004
Certificate of Site Compatibility**

I, the Secretary, of the Department of Planning and Environment determine the application made by Planit Consulting on behalf of Greenlife Pty Ltd on 5 January 2015 by issuing this certificate under clause 25(4)(a) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

I certify that in my opinion:

- the site described in Schedule 1 is suitable for more intensive development; and
- the development described in Schedule 1 is compatible with the surrounding environment and surrounding land uses, having had regard to the criteria specified in clause 25(5)(b).



Carolyn McNally
Secretary

Date certificate issued: 30.3.15

Please note: This certificate will remain current for 24 months from the date of this certificate (clause 25(9)).

SCHEDULE 1

Site description: Lot 239 DP 1201225, 67 Skennars Head Road, Skennars Head, Ballina Shire.

Project description: Proposed Serviced Self-Care Housing (211 dwellings)

enquiries refer

Anthony Peters

in reply please quote

DA 2016/524 Cont. 143/07



20 August 2018

Ms Tamara Prentice
Team Leader, Local Planning Northern Region
Department of Planning and Environment
Locked Bag 9022
GRAFTON NSW 2460

Dear Tamara

**Re: New Site Compatibility Certificate – Seniors Housing
Lot 239 DP 1201225, No. 67 Skennars Head Road, Skennars Head
(Your Reference: EF18/31618)**

I refer to your letter of 31 July 2018 (received 7 August 2018) seeking Council comments in relation to the recently submitted Site Compatibility Certificate (SCC).

Council previously provided advice on 17 February 2015 in relation to the now expired SCC issued for this site.

Similar to the previous advice, Council reiterates that this site has still not been identified as a strategic urban growth area or urban release area by Council due to environmental constraints and ecological significance. As the Department is aware, Council has been assessing the pending and undetermined Development Application 2016/524 for a seniors housing development over the past two years.

The originally submitted proposal comprising 211 services self-care dwellings and associated facilities/infrastructure has been revised multiple times in an attempt to lessen the impact on the previously identified site sensitivities and constraints. The most recently revised proposal is for 147 dwellings (a reduction of 30%), however based on recent assessment and particularly advice from Council's engaged entomologist, this footprint and number of dwellings will need to be further reduced.

This detailed assessment process which is still occurring has reaffirmed Council's original concerns regarding the suitability of the site for a large scale development, particularly one focused on residential accommodation of elderly people.

Despite this, since providing the previous advice some identified significant external infrastructure works have been completed by Council which assists the development of the site (i.e. roundabout at the intersection of Skennars Head Road and the Coast Road).

Additionally, legislation has since been gazetted which will require further consideration by the Department for the current SCC. Your attention is drawn to SEPP (Coastal Management) 2018 which affects a significant portion of the site and the Biodiversity Conservation Act 2016.

Consequently, although some of the previous matters raised by Council on 17 February 2015 have been resolved throughout the current assessment process and the proposed development is an improvement from that for which the previously SCC was issued, a number of matters remain outstanding and are still being assessed which can be viewed on Council's DA's Online system.

If you have any enquiries in regard to this matter please contact Anthony Peters on 1300 864 444.

Yours faithfully


Matthew Wood
Group Manager
Development and Environmental Health



11 October 2018

Mr Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and Environment
Locked Bag 9022
GRAFTON NSW 2460

Dear Mr Gray

**Re: New Site Compatibility Certificate – Seniors Housing
Lot 239 DP 1201225, No. 67 Skennars Head Road, Skennars Head
(Your Reference: EF18/31618)**

I refer to Council's previous response of 20 August 2018 in relation to the abovementioned site compatibility certificate (SCC) matter and associated discussions between staff in our offices.

On 4 October 2018 the applicant provided a copy of the Department's letter of 3 October 2018 (reference: SCC_2018_BALLI_001_00) advising that the pending Site Compatibility Certificate (SCC) will now be forwarded to the Northern Joint Regional Planning Panel for determination.

Council is seeking clarification from the Department in relation to the roles of the Department of Planning and the JRPP and the expected timeframes and process for the consideration of the SCC. This information is of particular importance to Council and the applicant as Council has a pending Development Application 2016/524 which is reliant on, and directly relates to, the SCC matter. As you will be aware, the Northern Region JRPP is the determining authority for this development application.

Having regard for the above, and the time that has elapsed since the applicant's request was made for the issue of a new SCC, Council is also seeking confirmation as to whether the SCC and DA can be considered by the JRPP concurrently.

In relation to DA 2016/524, Council continued to progress the assessment of the application whilst the SCC was under the Department's consideration. The assessment has progressed to the point where the majority of key technical considerations have been addressed and resolved. Of note though is that related entomological, engineering and ecological matters associated with the address of mosquito impacts are still being examined, with further information provided by the applicant currently under assessment.

In summary, the assessment of the development application, based on the previous SCC, has been substantially completed. Council staff are close to being in a position to report the application to the JRPP for determination (subject to the issue of new SCC and the terms of any new SCC).

In relation to the Department's consideration of this matter, I understand that in discussions between Council and Departmental staff, cumulative impacts associated with SCCs has been raised. With respect to the subject SCC, Council is not aware of any other current or proposed applications for SCCs within a one kilometre radius of the land the subject of DA 2016/524. As such, Council does not raise any concerns relating to cumulative impacts arising as a consequence of the requested SCC in this instance.

Council will appreciate clarification from the Department regarding the new SCC process in the near future to assist in the completion of the assessment and determination of DA 2016/524.

If you have any enquiries in regard to this matter, or require any further information about Council's assessment of the development application to date, please contact Anthony Peters on telephone 1300 864 444.

Yours faithfully



Matthew Wood
Group Manager
Development and Environmental Health Group

cc. Regional Panels Secretariat, Joint Regional Planning Panel