

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

**SITE:** The subject land is at 49 Beach Road, Batemans Bay (part Lot 101 DP850637 and part Lot 12 DP124295). It is comprised of parts of two allotments and operates as the Coachhouse Marina Resort, comprising holiday cabins and associated administration, recreation and conference facilities. Approximately 4ha of the 6ha site is proposed to be used for seniors housing.

The subject site adjoins the Clyde River estuary to the east and is surrounded by a variety of recreational facilities, tourist accommodation and low-density residential development, reserves and the nearby Batemans Bay Marina. Land surrounding the site to the east, south and west is zoned R3 Medium Density Residential and contains detached one-storey and two-storey dwellings (Figure 1).



Figure 1: Site context (source: Google maps).

**APPLICANT:** Global Lifestyle Communities Pty Ltd

**PROPOSAL:** The site compatibility certificate application (**Attachment F**) seeks to enable the redevelopment of the subject site for 274 self-contained dwellings (serviced self-care housing), a 150-bed residential care facility, basement car parking for residents and associated community spaces and facilities.

The proposal falls within an overall redevelopment masterplan for the site that aims to provide an integrated, resort-style community comprising residential apartments in addition to the current proposal for high-care and low-care housing for seniors. An

approved but unregistered subdivision separates the current proposal for seniors housing from the broader site (Figure 2).

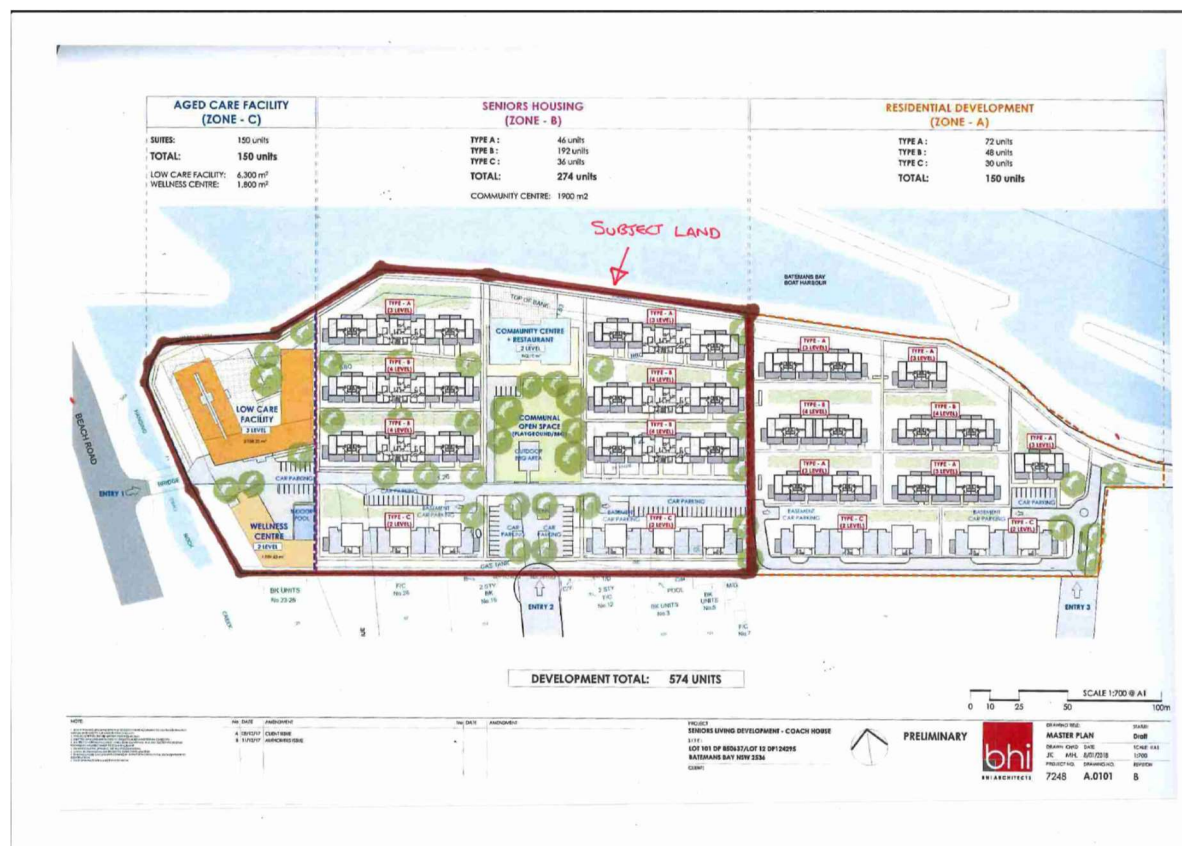


Figure 2: Proposed concept plan (source: applicant proposal).

**LGA:** Eurobodalla Shire

## PERMISSIBILITY STATEMENT

The subject land is zoned SP3 Special Uses (Tourist) and is immediately adjacent to R3 Medium Density Residential-zoned land. The site therefore satisfies clause 4 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors Housing SEPP).

The subject land satisfies the requirements of clause 24 of the Seniors Housing SEPP and, therefore, a site compatibility certificate can be considered as it is 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).

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

The Secretary must not issue a certificate unless the Secretary:

- has taken into account any written comments concerning the consistency of the proposed development with the criteria referred to in clause 25(5)(b) received from the General Manager of the council within 21 days after the application for the certificate was made; and
- is of the opinion that:
  - the site of the proposed development is suitable for more intensive development; and

- (ii) the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having regard to the criteria specified in clause 25(5)(b).

### **COUNCIL COMMENTS**

On receiving the application for a site compatibility certificate, the Department of Planning and Environment consulted with Eurobodalla Shire Council. Council advised that the applicant had briefed staff in January 2018 regarding the proposed 274 self-contained dwellings (serviced self-care housing) and 150-bed residential care facility with associated facilities on the site, and the requirement of a site compatibility certificate under the Seniors Housing SEPP.

Council stated that no significant issues were raised in its meeting with the applicant, and that Council raises no objections to the application for a site compatibility certificate.

In addition, during its assessment of the application, Council confirmed that “the frequency and length of flooding is easily addressed by good design and is outweighed by the advantages that come from providing this type of housing in these locations”.

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

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

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

The site, which is approximately 4ha, operates as the Coachhouse Marina Resort, comprising holiday cabins and associated administration, recreation and conference facilities. The existing use provides 89 holiday cabins that can each accommodate a minimum of two people and up to eight people. At maximum capacity, the site can accommodate 607 people at any one time, and this could be a typical occurrence in peak tourist season.

The high-care component of the proposed seniors housing development will provide 150 units with the capacity to accommodate 150 people. The 274 self-contained units including 1,2 and 3 bedroom units. Assuming occupancy of two persons per self-contained unit, the facility would potentially accommodate 698 people, which is an increase of 91 persons compared to the tourist resort population of 607 in peak times.

The proposal may increase demand for car parking and local traffic movements due to the additional population on site. The intensification of the site for the proposed seniors housing development is considered to have merit, and the site is considered suitable for more intensive development as proposed as it is well located, serviced and has been developed for some time.

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

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

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

As the site is intensively developed for tourist accommodation there are no known significant environmental values or resources on-site.

### *Flooding*

The subject site is affected by a 1:100-year ARI flood event, which, according to Council's 2017 Eurobodalla Coastal Hazard Assessment, has a level of 2.56m AHD. The site's typical ground levels range from 1.5m to 2.0m AHD. In accordance with clause 6.5(7) of the Eurobodalla Local Environmental Plan 2012, the flood planning level applying to the site is 3.06m AHD (allowing for 0.5m freeboard).

The proponent states in the site compatibility certificate application that they had discussions with Council regarding the proposal and the site's flood risk. Council advised the proponent of a "1% AEP flood level for the subject site, accounting for sea level rise by 2100, is 2.93m AHD" (Eurobodalla Coastal Hazard Assessment, June 2017). In response, the proponent stated in their application that "future detailed designs will ensure all habitable floors are set above the flood planning level for the site, taking into account sea level rise". On reviewing the application under clause 25(5)(b) of the Seniors Housing SEPP, Council raised no objection to the proposal on flooding grounds.

Council has advised the Department that it is unable to determine the flood hazard for the site, but that "the length of inundation across the site would generally be short term and would be determined by tidal and storm events" and that the "site is located within the Area of Critical Utility in accordance with Council's Interim Coastal Hazard Adaptation Code and as such is protected from coastal erosion and wave surge". The site is not identified under the Eurobodalla LEP 2012 as a floodway or high flooding hazard.

Cardno undertook a flood study of the site in 2011 and provided the following advice in respect of the proposed development of the subject site: "The proposed buildings/carparks [on the subject site] would not obstruct overland flow because the only opportunity for overland flows to escape from the site in existing conditions is along the southern boundary (rear of properties along Avalon Street) and through the existing open channel connecting to the Marina. This is replicated in our model where overland flows are directed down the southern side of the site, connecting node 82 to node CP01, and then out through the proposed rock lined channel, connecting node CP03 to CP05. Therefore, the model is accurately representing the proposed method of achieving the required FPL ... Furthermore, the results of the model have shown that there is no flood affectation to neighbouring property upstream as a result of the rock lined channel.

"The suggested level of 2.5m AHD for the sea wall to protect the site from wave run up/storm surge is based on the estimated level of the 1% AEP oceanic event. A FPL of 2.96 m AHD includes 460mm of freeboard above the 1% AEP oceanic storm, therefore the requirement for increases to the level of the sea wall is not required for the storm surge event alone. Any possibility of the wave run up/storm surge occurring at the same time as the king tide and 1% AEP catchment storm has an extremely low probability." [Note: the sea wall is now in place.]

The proponent further advised that "Cardno's findings in respect of flood hazard considerations confirm that the proposed development is compatible with surrounding land uses in the vicinity of the subject land, in satisfaction of Clause 25(5)(b)(i) of SEPP Seniors Housing".

The proponent provided additional information during the assessment of the site compatibility application regarding flooding on-site, including information on the type of flooding that may occur on the site (e.g. 1:100-year ARI flood event) and general information on the extent of such flooding (e.g. “the length of inundation across the site would generally be short term and would be determined by tidal and storm events”). In addition, the proponent has provided information on proposed raised ground floor levels and proposed raised internal road levels to address the level of flood risk.

In respect of the measures proposed to address flood risk, each building comprising the proposed development will have a minimum ground floor level of 3.06m AHD in satisfaction of the LEP’s flood planning level. Measures will be implemented in the development of the site to enable safe site access for emergency vehicles from Beach Road during a flood event by appropriately raising the level of access road within the site.

Council does not identify that the flood risk renders the site unsuitable for the proposed seniors housing development. Council would need to fully assess this risk in any future development application.

It is proposed to impose a requirement on the site compatibility certificate, if issued, that further details be provided to Council’s satisfaction regarding flood risk and emergency management in the case of a flood event.

#### *Acid sulfate soils*

Most of the site is mapped as containing Class 3 acid sulfate soils. The proponent has stated that a geotechnical assessment, including a preliminary assessment of potential acid sulfate soils, will be required at pre-development application stage to advise of any limitations to the construction of proposed basement car parking on-site.

#### *Bushfire*

The site is not identified as bushfire-prone land.

#### *W2 Recreational Waterways zone*

This zone exists adjacent to the east of the site and the general marina precinct. The proposed seniors living redevelopment of an existing tourist accommodation site is considered to be compatible with the W2 Recreational Waterways zone. The proposal is not likely to impact on the ecological, scenic or recreational values of the nearby waterway. Further studies and considerations at the development application stage will ensure the protection of the nearby waterway.

#### *E2 Environmental Conservation zone*

An E2 zone exists to the north-west of the site and includes Hanging Rock Creek. Key objectives of the E2 zone are to provide protection, management and conservation of areas of high ecological, scientific, cultural or aesthetic values. In the case of Hanging Rock Creek, the E2 zone provides for a riparian corridor that flows on to the Clyde River. The proposal is considered to be in keeping with the objectives of the E2 zone, and this can be further considered by Council at the development assessment stage.

#### *Hanging Rock Place*

An identified local place of Aboriginal heritage, Hanging Rock Place, exists south-west of the site. The proposed seniors housing development does not adjoin or encroach on the site and is unlikely to have detrimental impacts on the site. Further studies, such as a cultural heritage assessment, may be required at the development application stage.

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

The general locality provides for a mix of zones, including SP3 Special Uses (Tourist), R3 Medium Density Residential and RE1 Public Recreation. A range of residential, commercial, tourist and recreational land uses are present.

With much of the immediately surrounding residential land being zoned R3 Medium Density Residential, it is likely that intensification of residential density within the locality will occur in the coming years.

The applicant has indicated that the preferred future use of the site is for an integrated resort-style community comprising seniors housing and residential development. This intention is considered to be compatible with current surrounding land uses and is unlikely to restrict future uses of nearby land.

Council has not identified that the loss of SP3 (Tourist) zoned land is of concern. It is noted that there is a range of tourist facilities and tourist accommodation in the vicinity, as well as flexible business zones nearby which allow for further tourist accommodation in the future.

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

The subject site is in an established urban setting south-east of the Batemans Bay town centre, close to commercial and recreational services. The site is well serviced by bus routes, with bus stops located 220m from the western corner of the site that provide regular services to shopping centres, government services, medical services and a hospital.

Hospitality services such as a restaurant, cleaning services, health consulting rooms and community facilities will be provided on-site by various service providers.

As the site is developed for tourist accommodation, it is serviced by utilities such as water, sewer, electricity, gas and telecommunication networks. The proposal will require infrastructure upgrades. The applicant has been informed by Essential Energy that the existing electricity substation servicing the site (3 phase 250kVA unit) will require an upgrade to between a 750kVA–1500kVA unit.

Further discussions with Council are underway regarding stormwater infrastructure. However, the applicant is confident that stormwater infrastructure can be delivered.

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

The SP3 Special Uses (Tourist) zone permits a range of tourist developments on the site. Should the proposed seniors housing development proceed, the site will no longer be capable of providing for SP3 Special Uses (Tourist)-related uses.

The subject site is the only significant SP3 Special Uses (Tourist) zoning within the Batemans Bay Marina precinct. However, several tourist operators and tourist accommodation providers are nearby and in the broader Batemans Bay locality.



The proposed seniors housing development will intensify the size and scale of built development on the site. The proposal includes the provision of facilities such as an outdoor barbecue area and playground equipment with a proposed communal open space area, and a community centre inclusive of a wellness centre and café/restaurant, which will be open to the public.

Council does not object to the loss of land for tourist purposes and supports the proposal. Many forms of tourist accommodation are permitted within the Batemans Bay centre.

The proposal is considered unlikely to have a negative impact on the provision of land for open space and special uses in the vicinity of the development when considering the dual zoning, existing use and proposed facilities that are available for public 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 (clause 25(5)(b)(v))**

The site adjoins residential development, which, although zoned R3 Medium Density Residential, typically consists of single-storey and two-storey detached dwellings. The proposal consists of a three-storey residential care facility, two three-storey serviced self-care seniors housing buildings, four four-storey serviced self-care seniors housing buildings, a two-storey wellness centre and a two-storey community centre and restaurant.

The applicant has stated that the proposal demonstrates compatibility with the surrounding residential locality in the context of the R3 Medium Density Residential zoning and with regard to gaining maximum yield from the site. The applicant has confirmed that the ability to reduce bulk, scale and height exists, if required, subject to a detailed design consultation with Council prior to the lodgement of a development application.

The proposal significantly increases the density and scale of built form on the site. However, it is likely to be compatible with the R3 Medium Density zoning of the surrounding area and in keeping with the anticipated redevelopment of the locality. Design elements such as stepping the built form down from the centre of the site attempt to reduce the visual impact of the built form of the development, as viewed from the harbour and the side and rear interfaces with residential buildings.

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

The *Native Vegetation Act 2003* is no longer in force. However, the intent of this reference is to ensure that impacts on native vegetation are considered. The site does not identify any environmentally sensitive areas. However, several mature trees exist, particularly along the site boundaries, which will be subject to assessment during the development application process.

## **CONCLUSION**

The assessment indicates that this site is suitable for more intensive development as proposed in the application. The proposal has demonstrated consistency with the objectives and intent of the Seniors Housing SEPP.

While the impact of flooding will need further consideration, it is appropriate that a site compatibility certificate be issued for the proposed development.

Approval of a site compatibility certificate is recommended because:

- the site is within 400m of an accessible travel path to bus stops on Beach Road that provide regular services to the nearby Batemans Bay commercial centre, which provides retail, commercial, recreational and health services;
- the site is identified as being relatively unconstrained in terms of bushfire hazard and its flat topography makes it suitable for development for the purposes of seniors living;
- the proposal is consistent with clauses 24 and 25 of the Seniors Housing SEPP; and
- the proposal is unlikely to have adverse impacts on existing and future uses of land in the vicinity.

### RECOMMENDATION

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

- **note** this report;
- **consider** Council's written comments (**Attachment B**);
- **form the opinion** that the site of the proposed development is suitable for more intensive development;
- **form the opinion** that the proposed development for the purposes of seniors housing is compatible with the surrounding environment and surrounding land uses having had regard to the criteria specified in clause 25(5)(b);
- **determine** the application for a site compatibility certificate by issuing a certificate (**Attachment C**) for 49 Beach Road, Batemans Bay; and
- **sign** the letters to the applicant and Council advising of this determination (**Attachments D and E**).



25 June 2018

**Sarah Lees**  
Director Regions, Southern

**Stephen Murray**  
Executive Director, Regions  
Planning Services

**Approved / Not Approved / Noted**

Report prepared by Karen Kirk-Torresan  
Senior Planner, Southern Region - Wollongong  
Ph 4224 9461