

Report to the Southern Regional Planning Panel on an application for a site compatibility certificate under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

SITE: The site is the western area of Lot 17 DP 1210621, known as 2 Caliope Street, Kiama. Lot 17 is located on the corner of Old Saddleback Road and Caliope Street. Its locational context is shown on Figure 1.



Figure 1: Lot 17, 2 Caliope Street Kiama and locality map

Lot 17 has an area of 5.6373 ha and is approximately 2.2km south-west of the Kiama town centre. It is surrounded by:

- low and medium density residential development to the north;
- a seniors living development to the west across Old Saddleback Road; and
- rural land to the east and south.

The site of the SCC application has an area of 2.4252ha and only applies to the western part of Lot 17 which is zoned RU2 Rural Landscape under the Kiama Local Environmental Plan (LEP) 2011. This land is predominately pasture with four mature Moreton Bay figs and scattered pockets of native vegetation. It slopes to the east

and an expanse of native rainforest running across the eastern part of the Lot. The site is outlined in red in Figure 2 below.

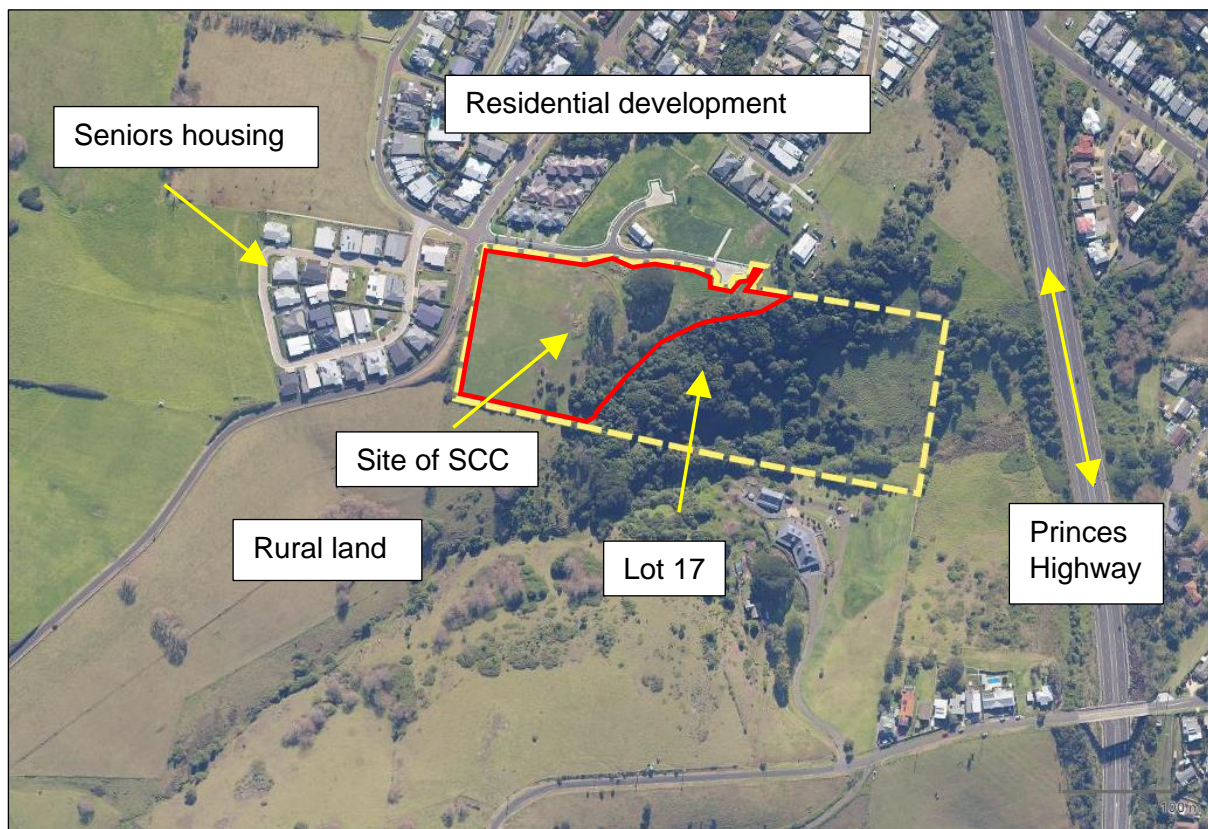


Figure 2: Lot 17 and site of Site Compatibility Certificate

APPLICANT: Saddleback Mountain Estates No. 2 Pty Ltd

PROPOSAL: The application proposes the development of the site as a retirement village, comprising 21 single storey serviced self-care houses. **(Attachment A)**

The site is proposed to be subdivided into 22 lots (Figure 3), comprising:

- 19 residential lots (467.14m² to 1,098.03m²) each containing a dwelling (total area 12,164.58m²);
- a community lot (995.18m²) for passive recreation; and
- an asset protection zone (APZ) lot (8,086.7m²).

The community lot will become an asset of the Community Association formed if the development is approved. The Association would raise funds via levies to maintain the lot and any community facilities. Until this time, the applicant would maintain the lot at its cost.

The APZ lot contains a 29m wide APZ and perimeter bushfire maintenance trail. It will be owned by the Association but managed and maintained by the applicant.

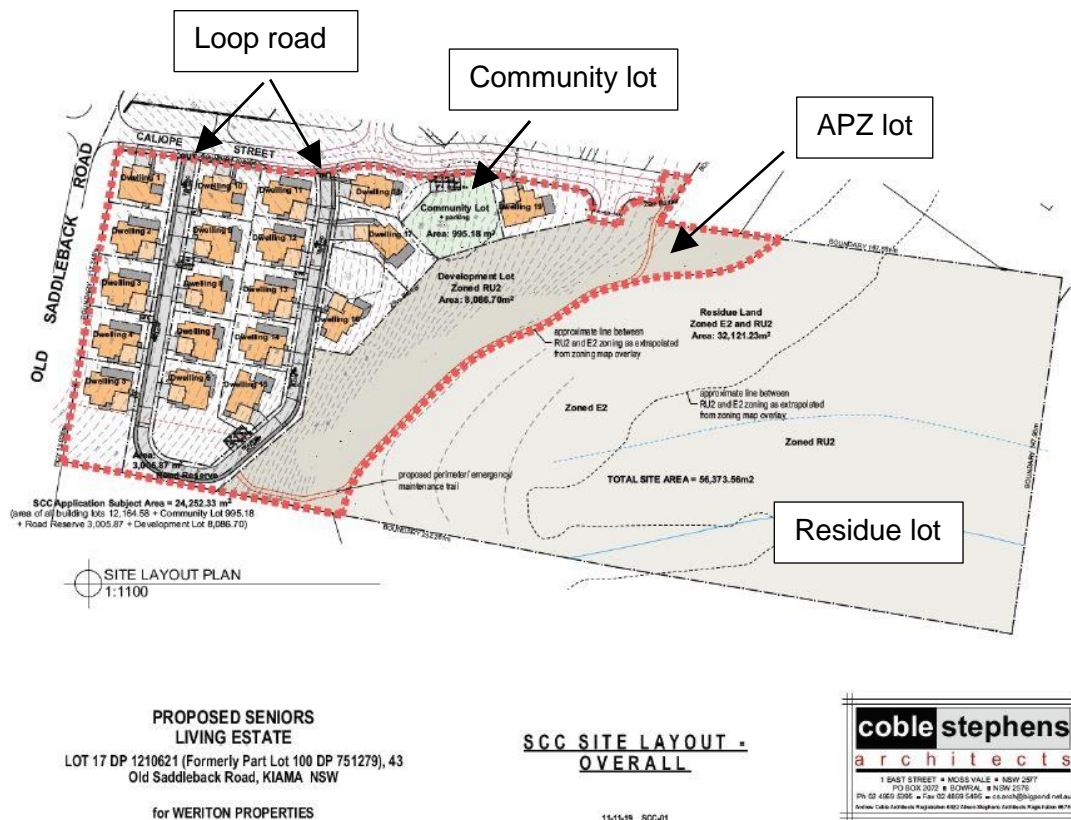


Figure 3: Concept plan for proposed seniors housing development

An internal loop road (3,005.87m²) is to be constructed providing one-way vehicle access to the site off Caliope Street.

The residual lands of Lot 17 cover most of the vegetated E2 Environmental Conservation and RU2 Rural Landscape zoned central and eastern portions of Lot 17. This land would be maintained in its current state by the applicant. It does not form part of the SCC application.

The application supercedes an earlier application (received on 21 June 2019) in response to advice from the NSW Rural Fire Service. The revised application has reduced the number of dwellings from 21 to 19 and accommodated a greater APZ from vegetation to the south.

LGA: Municipality of Kiama

PERMISSIBILITY STATEMENT

Lot 17 DP 1210621 is zoned RU2 Rural Landscape under the Kiama Local Environmental Plan 2011, except for a strip of land zoned E2 Environmental Conservation which runs through the centre of the Lot (Figure 4).

The site compatibility certificate application only applies to the western portion of Lot 17 which is zoned RU2 Rural Landscape. Dwellings houses are permissible with consent in the RU2 zone.

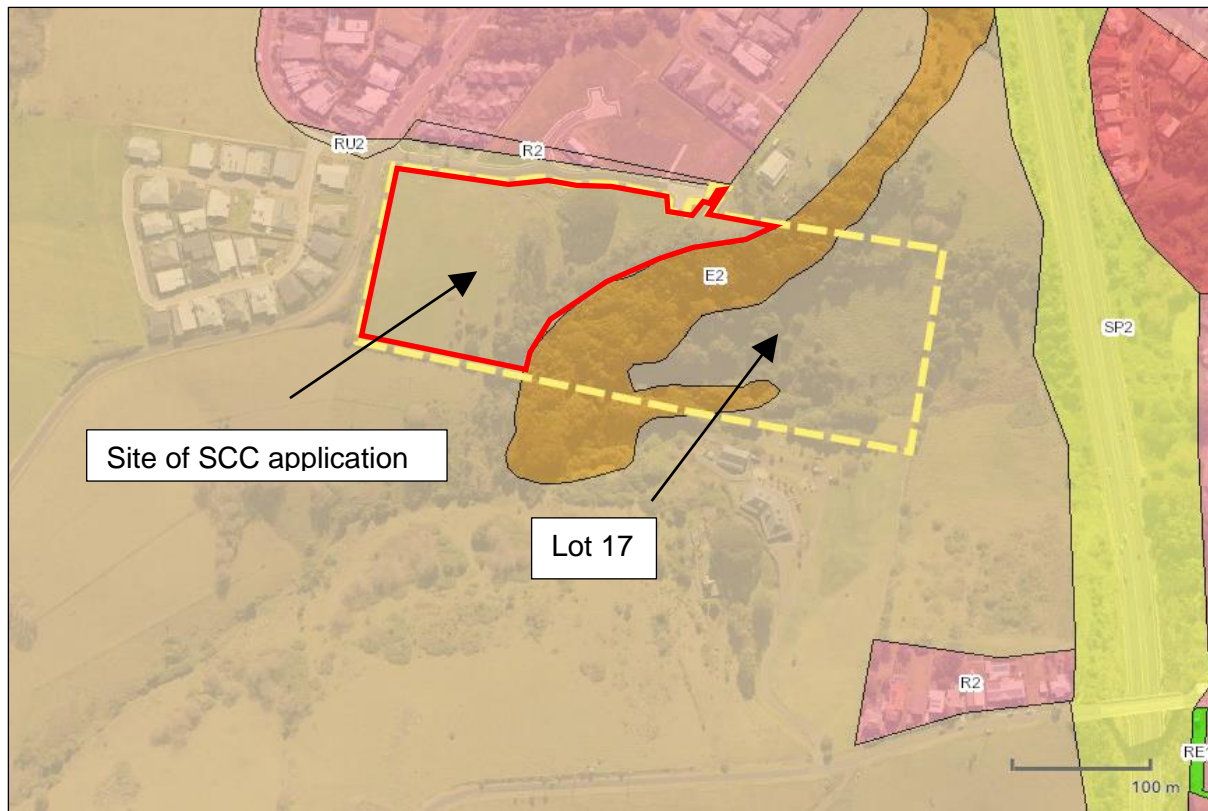


Figure 4: Zoning Map

Land immediately to the north of the site beyond Caliope Street is zoned R2 Low Density Residential under the Kiama LEP. As such, the site adjoins land zoned for urban purposes and meets the requirements of clause 4(4) of the Seniors Housing SEPP.

The site does not contain land identified in the Kiama LEP or any other environmental planning instrument by a descriptive category listed in Schedule 1 of the SEPP as environmentally sensitive land. As such, the site meets the requirements of clause 4(6) of the SEPP.

The application seeks approval for serviced self-care housing provided as a retirement village (within the meaning of the *Retirement Villages Act 1999*). The Act does not provide any definitions or guidance on the form/design of a retirement village. The proposal is consistent with clause 17 of the SEPP as it comprises a retirement village for serviced self-care housing.

The application satisfies the requirements of clauses 4, 17 and 24 of the SEPP.

PREVIOUSLY ISSUED SITE COMPATIBILITY CERTIFICATE ON THE LAND

Lot 17 was previously known as 43 Old Saddleback Road, Kiama (Part Lot 100 DP 751279 and Lots 1 and 2 DP 1165344) and has been the subject of site compatibility certificates for seniors housing before.

A proposed seniors housing development for 9 dwellings (situated on lots ranging from 1,009m² to 3,690m²) on part of Lot 17 was refused a site compatibility certificate on 14 April 2016 for the following reasons:

- the proposed development has the effective form of a large lot residential development which is not considered to be an appropriate housing form under the SEPP or the *Retirement Villages Act 1999*;
- the proposed development is of a density and form that is not in keeping with the other residential development in the area and therefore is not of a compatible character as required by the SEPP; and
- the proposed development could not be subdivided under the *Environmental Planning and Assessment Act 1979* and would be relying on Village Contracts under the *Retirement Villages Act 1999* to allow 'title' to purchasers. Given the nature of the development proposed, such a means of providing title is not considered appropriate.

On 15 March 2017, the Deputy Secretary, Planning Services, as delegate for the then Minister for Planning, issued a site compatibility certificate (SCC_2016_KIAMA_001_00) for the development of seniors housing (21 self-contained dwellings) on part of Lot 17.

This proposal addressed the reasons of refusal for the previous application for seniors housing by reducing the proposed lot sizes and increasing the number of lots and dwellings within the same development footprint. This resulted in a development form consistent with the objectives and intent of the SEPP and the Retirement Villages Act and compatible with other residential development in the area.

The site compatibility certificate expired on 15 March 2019 whilst Kiama Municipal Council was assessing a development application for the seniors housing development. Council and the applicant were resolving outstanding issues including acceptable bushfire protection requirements. The applicant is now seeking approval for a new site compatibility certificate taking into consideration the bushfire protection requirements.

The current application covers an additional 0.52ha of land (SCC area 2.425ha), extending eastwards into the vegetated land, than the previous site compatibility certificate (previous SCC area 1.9ha). This additional area has been included in response to the NSW Rural Fire Service's requirements for a wider APZ. Extending the area results in the clearing of native vegetation.

Other changes to the previous proposal include larger sized lots (previously up to 711m², now proposed up to 1,098m²), the removal of the provision of community facilities on the community lot and adjustments to the proposed areas of the community and APZ lots. The APZ was previously included in the community lot.

The application addresses the requirements of clause 25(5)(c) of the SEPP.

PROXIMITY OF SITE TO WHICH THERE IS A CURRENT SITE COMPATIBILITY CERTIFICATE, OR AN APPLICATION HAS BEEN MADE BUT NOT YET DETERMINED

There are no current or lodged site compatibility certificate applications within one kilometre of the site.

The application addresses the requirements of clause 25(2A) of the SEPP.

CLAUSES 24(2) AND 25(5)

The panel must not issue a certificate unless the panel:

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

CLAUSE 25(2)(C)

A cumulative impact study has not been prepared as there are no other site compatibility certificates (current or undetermined) within one kilometre of the site.

The application addresses the requirements of clause 25(2C) of the SEPP.

COUNCIL COMMENTS

On 6 March 2020 the Department wrote to Kiama Municipal Council advising of the revised site compatibility certificate application. Council responded on 3 April 2020 including reference to their earlier comments on 8 July 2019. **(Attachments B1 & B2)** Council made the following key comments:

- Council is not satisfied that the clearing of the Illawarra Subtropical Rainforest species, associated with the development, is compatible with the natural environment in the vicinity of the proposed development or will result in the conservation and management of native vegetation;
- the supporting documents do not show the location of the proposed bus pick up; and
- Council is unsatisfied that the proposed colorbond fence is compatible with the surrounding land uses as it will result in a poor scenic outcome and is not consistent with the prevailing rural character of the area

Comment

The proposal does involve the clearing of some native vegetation (approximately 0.1ha) to establish an APZ – this matter is discussed below.

It is considered that the location of the private bus stop and suitability of fencing can be further considered through the assessment of any development application.

SUITABILITY FOR MORE INTENSIVE DEVELOPMENT

The panel must not issue a certificate unless the panel 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 of the proposed seniors housing development is part of Lot 17 DP 1210621, known as 2 Caliope Street, Kiama.

Lot 17 is located on the corner of Old Saddleback Road and Caliope Street. It is a rectangular lot of 5.6ha in area, sloping downwards (approximately 72m) from the north-west boundary to the south east corner of the Lot. There is an unnamed watercourse in the south-eastern corner of the site.

The Lot is vacant rural land with cleared grazing lands on the western and eastern portions. In the centre of the Lot is an area of native vegetation running in a northeast to southwest direction across the Lot. This native vegetation includes the Illawarra Sub-tropical Rainforest Endangered Ecological Community (EEC) and the State (*Biodiversity Conservation Act 2016*) and Commonwealth (*Environmental Protection Biodiversity Conservation Act 1999*) listed *Zieria granulata*.

The area of native vegetation has also been mapped as bushfire prone land.

A number of local heritage listed dry stone walls, located across the Lot including on the site's southern boundary, illustrate the Lot's previous use for agriculture.

Only the western portion of the Lot (2.5ha in area) is subject to the site compatibility certificate for seniors housing. This land is predominately kikuyu pasture scattered with four mature Moreton Bay figs.

The proposed senior housing development involves the clearing of 0.18ha of the central area of native vegetation in order to establish the eastern APZ. Approximately 60% of the clearing is weed removal with the remainder being the Illawarra Sub-tropical Rainforest EEC. The 137 *Zieria granulata* plants located within the area of the APZ are proposed to be retained.

The Site Compatibility Report for the proposed development states 'that the proposed level of native vegetation clearing will not trigger the thresholds of the Biodiversity Conservation Act 2016 and as such the Biodiversity Offset Scheme will not be triggered for the site. The site also does not contained vegetation mapped on the Biodiversity Values Map under the Biodiversity Conservation Act 2016'.

The site's northern boundary adjoins Caliope Street and recent residential subdivisions and development on the southern limits of West Kiama residential area. The western boundary is along a road reserve and Old Saddleback Road. Further west of Old Saddleback Road is a selfcare retirement village development (30 lots/dwellings) approved by the Southern Joint Regional Planning Panel utilising the SEPP Senior Housing. As such, the proposal is not out of character with adjoining development.

The site's eastern boundary adjoins the E2 Environmental Conservation zoned lands of Lot 17 with further RU2 Rural Landscape zoned land continuing to the boundary of Lot 17 and east across other rural lands to the Princes Highway road reserve. Land to the south of the site is also rural land.

The site is located on the southern extent of the West Kiama urban area, (west of the Princes Highway). Most urban development within Kiama is contained to the east of the Princes Highway. This has been done to protect the rural backdrop of the town and is reflected in Council's strategic planning documents.

The site is not within the visual catchment of Jamberoo Valley and cannot be viewed from prominent vantage points along the Kiama to Jamberoo road network. The proposal includes a 2-metre high solid fence along the southern boundary and extending along 30 metres of the western boundary.

The applicant has advised reticulated town water, electricity supply, sewer connection and stormwater connection are available to the site. Further, although the site is located approximately 2.2 km from Kiama Town Centre, the applicant has provided an agreement from a local bus service provider demonstrating residents would have suitable access to nearby retail, commercial, medical, community and recreational services in Kiama.

The Department has previously acknowledged and still maintains that the cleared areas of the site are suitable for more intensive development than the RU2 zone currently provides. This will require appropriate management of bushfire and biodiversity issues.

COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND LAND USES

The panel must not issue a certificate unless the panel 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 identified above, parts of the site contain biodiversity, bushfire hazard and heritage values. The majority of these values and hazards are contained in the central part of the Lot (zoned E2 Environmental Conservation) adjoining the site of the SCC application.

Some clearing of native vegetation is proposed (approximately 0.1ha) to establish an APZ. On balance, this level of disturbance is considered reasonable provided that permanent measures are put in place to improve and manage the remaining vegetation.

The areas to the east and south of the site are considered likely to remain zoned Environmental Conservation E2 and Rural Landscape RU2. The applicant has not identified any proposed future uses of the eastern part of Lot 17, labelled as residue lot on the proposed development plans.

The proposed bushfire management requirements for the development will result in setbacks, in the form of APZs and perimeter trails, from the lands to the east and south. These requirements are unlikely to result in current or future land use conflicts with the adjacent land to the south.

The proposed development is consistent with the existing and desired future character of development to the west and north of the site and is unlikely to adversely impact the uses of these lands.

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

The site is vacant, predominantly cleared open land, does not have any high rural landscape value and is not large enough to support viable agricultural uses. Council's strategic planning documents indicate the future use of the subject site (if not used for the development proposed) would most likely remain rural.

The proposed development is consistent with the expansion of the Kiama area for residential development and with the seniors development to the west.

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 applicant has advised reticulated town water, electricity supply, sewer connection and stormwater connection are available to the site. The applicant notes the proximity to medium density housing and subdivisions allows convenient and accessible connection points for all services. The application is supported by a letter from Sydney Water (dated 23 September 2019) which found extension of local drinking water and wastewater mains will be required to service the site.

The subject site is located approximately 2.2 km from Kiama Town Centre. The development will be reliant on outside services to support its residents.

The application is supported by an agreement (dated 4 September 2019) from a community service provider, South Coast Home Health Care, to deliver services at a cost to residents on a user pays basis. Services include personal care, home nursing, home physiotherapy, housework assistance and home delivered meals. This is understood to be the same arrangement as was proposed for the adjoining seniors housing development to the west of the site.

The site is not serviced by public transport and there are no existing public transport services within walking distance of the site. Future residents would be reliant on private motor vehicles or a developer-provided bus service to access local retail, medical and other services.

The applicant has provided an agreement from Cantys Bus Rentals (dated 12 December 2018) to provide transport services (at a cost) to residents of the development. The services would involve pick up and return of passengers from the site twice daily, seven days-a-week (once in the morning between 8am and 12pm and once in the afternoon between 12pm and 6pm). Additional services would also be provided, by appointment.

This bus service would allow residents access to nearby retail, commercial, medical, community and recreational services in Kiama. This is understood to be the same arrangement as was proposed for the adjoining seniors housing development to the west of the site.

A letter from Medclinic Kiama (dated 23 January 2020) has been provided in support of the application confirming it could accept new patients. Residents can access this service using their own private transport or the proposed private bus service.

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))

Not applicable

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 applicant has undertaken preliminary design work to ensure the development is constructed in such a way which minimises its visual impact on the surrounding area. The dwellings are oriented to maximise solar access, allow for retention of the existing significant trees, and to provide views over the Pacific Ocean and the escarpment.

The proposed dwellings have been located along the contours of the site to allow for connection to Caliope Street via an accessible access road. Sixteen of the dwellings are to be serviced by the internal loop road which connects with Caliope Street. Dwellings 1, 10 and 19 are to be directly accessed from Caliope Street.

The dwellings would be similar to the residential development fronting Greyleigh Drive and Old Saddleback Road. The architectural style will be contemporary and in keeping with the local coastal built environment. The buildings are single storey and less than the 8m height restriction in the SEPP.

The lots range in size from 467m² to 1,098m². The larger of the lots, containing proposed dwellings 5 and 6, are 1,091m² and 1,098m² respectively to accommodate a 20 metre wide APZ and perimeter bushfire maintenance trail along the southern site boundary. The lot density is similar to the surrounding residential areas. The lots in the seniors housing development to the west range in size from 433m² to 997m² with an average area of 674m².

The proposed development includes a 2m high colorbond fence along the southern site boundary and continuing for 30m along Old Saddleback Road (the western boundary). This type of fence is required in order to meet bushfire protection requirements providing a solid barrier to bushfire. Council can further assess the visual impacts of the fence as part of any development application.

The bulk, scale, built form and character of the proposed development is in keeping with the existing and emerging visual character of the area and would complement existing, approved and future uses in the vicinity of the site.

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

Whilst the *Native Vegetation Act 2003* has been repealed and is no longer applicable, the proposal will involve clearing of native vegetation.

0.18ha of vegetation including native vegetation and species within an area mapped as the threatened Sub-Tropical Illawarra Rainforest is to be cleared to establish the required APZ. The applicant has advised that 60% of the vegetation to be removed are weed species.

All specimens of the threatened species *Zieria Granulata*, including those within the area to be cleared for the APZ are proposed to be retained and protected.

The applicant has confirmed that the proposed level of native vegetation clearing will not trigger the thresholds of the *Biodiversity Conservation Act 2016* (BCA) and as such the Biodiversity Offset Scheme will not be triggered for the site. The site does not contain vegetation mapped on the Biodiversity Values Map under the BCA.

7. The impacts identified in any cumulative impact study provided in connection with the application for the certificate (clause 25(5)(b)(vii))

Not applicable

RECOMMENDATION

The information provided by the applicant is sufficient to allow assessment of the impact of the development, especially in regard to the key issues relating to the suitability of the site for this form of development.

The cleared area of the site is suitable for more intensive development as:

- there are no environmental values, resources or hazards that would make this area unsuitable for a more intensive residential use;
- community services and infrastructure can be made available to service the site; and
- the site adjoins the south-eastern boundary of the West Kiama Urban area and seniors housing development is located to the west of the site.

The proposed development is suitable for the cleared areas of the site as it is:

- consistent with clause 17 of the Seniors Housing SEPP as it comprises a retirement village for serviced self-care housing (within the meaning of the *Retirement Villages Act 1999*);
- an appropriate housing form under the SEPP and Act;
- of a similar density and design to the existing seniors housing development to the west;
- consistent in character with the adjoining residential development in the area, as required by the SEPP;
- unlikely to have adverse impacts on the existing and future use of land in the vicinity; and

- able to provide adequate services and infrastructure in conjunction with the existing residential development to the north and west.

The ongoing management of the remainder of the site including vegetated areas and the APZ should be further considered through any development application.

ATTACHMENTS

Attachment A01-A14 – SCC application package

Attachments B1 & B2 – Council comments

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