

Report to the Hunter and Central Coast 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 located at 127 High Street, Wallalong (Lot 91 DP 1167540).

The site is 10.2 hectares in size and contains a dwelling, a large garage/shed and shares a 2,500m² (estimated) dam on the north eastern corner of the site with the adjoining lot.

The site is mostly cleared for grazing with some mature trees located in the central and southwestern sections of the lot. The site primarily slopes towards the north-east property boundary.



Figure 1: Site aerial photo

The site is on the northern side of Wallalong. There are no retail or medical services in Wallalong. The site is approximately 4km north of Morpeth which provides the

closest local level services, and 11km from Green Hill, East Maitland and 15km to Raymond Terrace which both provide regional level services.

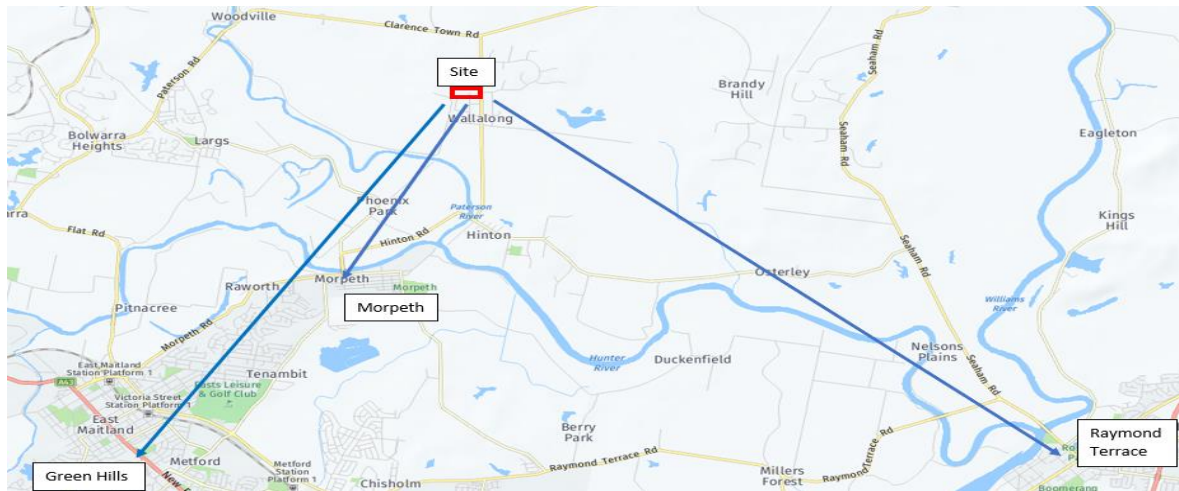


Figure 2: Strategic context

APPLICANT: Perception Planning on behalf of the landowners, John Woods and Christine Woods.

PROPOSAL: 180 single storey self-contained dwellings (served self-care housing), comprising a mix of two and three bedrooms (figure 3). A community hall, BBQ and communal area, swimming pool and visitor car parking is also incorporated into the design.

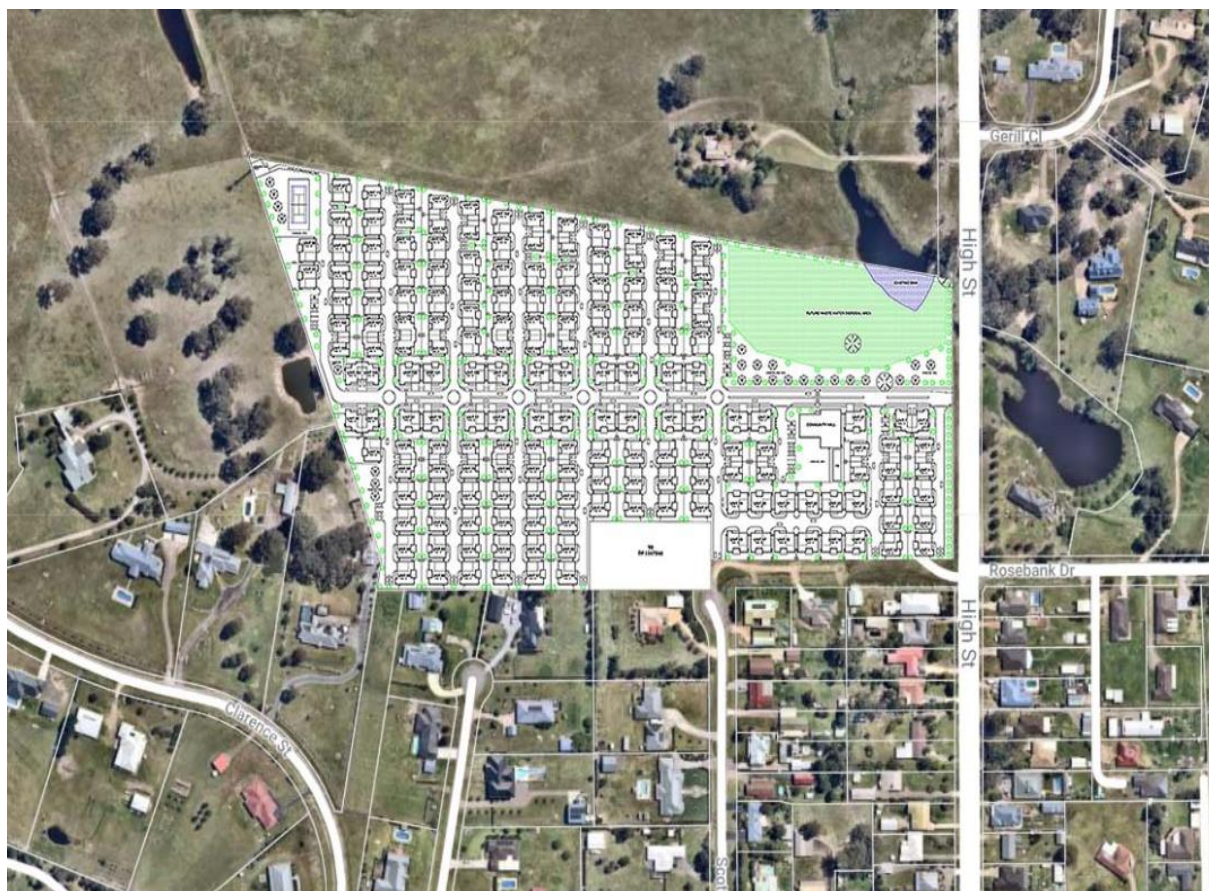


Figure 3: Proposed concept plan

The application states that should a site compatibility certificate be issued for the site, completion of detailed stormwater, hydraulic and electricity designs and on-site waste management report will occur to support a development application. The application states the number of units and layout may be modified as a result of these designs and conclusions made. In particular, the development may be amended to incorporate larger lots adjoining the northern, western and portion of the southern property boundaries to better integrate the development in with the existing large and small lot residential properties and rural-residential character.

LGA: Port Stephens

PERMISSIBILITY STATEMENT

The *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors SEPP) applies to land that is zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, where it satisfies the additional requirements in clause 4 of the Seniors SEPP.

The site is zoned RU1 Primary Production under the *Port Stephens Local Environmental Plan 2013*, shown outlined in figure 4.

The proposed development is not permissible with consent under the *Port Stephens Local Environmental Plan 2013*. The proposed seniors living development relies on a site compatibility certificate to allow the development application.

Clause 4(1) of the Seniors SEPP provides that the SEPP applies where the subject land adjoins land zoned primarily for urban purposes (i.e. clauses 4(1)(a) and 24(1)(a)(i)).

A site compatibility certificate can be issued for the site because:

- the site immediately adjoins land to the south is primarily zoned for urban purposes, being R2 Low Density Residential, which permits the development of dwelling houses;
- the site is not identified by any exclusions listed in Schedule 1 of the SEPP; and
- Clause 10 allows, in this case, for seniors housing to be used permanently as self-contained dwellings.



Figure 4: Existing zoning (site outlined in red)

PREVIOUSLY ISSUED SITE COMPATIBILITY CERTIFICATE ON THE LAND

Not applicable.

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 certificates within a 2km radius of the site.

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 have been no approved or submitted SCC's within a 2km radius.

COUNCIL COMMENTS

On 25 October 2019, Port Stephens Council provided comments on the original proposal (**Attachment C2**) that was deemed by the Department of Planning, Industry and Environment (Department) to be inadequate.

On 14 September 2020, the revised application was subsequently forwarded by the Department to Council for comment.

On 28 September 2020, Council provided comments (**Attachment C1**) that raised the following issues;

- the application recognises Wallalong can become isolated in flood events. Council supports the recommendation in the application to prepare a flood free access report and flood emergency management plan to assist in assessing the application;
- the application relies on a future town centre outlined in the 2014 planning proposal for Wallalong that was not granted a Gateway determination. Council has not received any further requests to amend the *Port Stephens Local Environmental Plan 2013* for land at Wallalong since 2014;
- the proposed development is substantial in scale in comparison to nearby land uses, and at a higher density compared to existing development in Wallalong. Careful consideration needs to be given to site planning, design and landscape to manage the compatibility issues from the substantial differences in density between the existing town and this application; and

- there is currently limited access to infrastructure, especially reticulated sewer and distances to retail, health and community services and facilities. The ability to adequately provide these services needs to be carefully considered with any future development potential.

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)).

Flooding and accessibility to services

The *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* aims to increase the supply and diversity of residences that meet the needs of seniors or people with a disability. In this case, the proposal is for 180 self-care dwellings in the small village of Wallalong.

During flood events, Wallalong can become isolated. The application states that under major flood conditions, such as the 1% AEP, all significant routes from Wallalong would be subject to road closure for several days.

In order to address concerns about flooding isolation, the application states Port Stephens Council could request that the applicant prepare a river and stormwater flooding strategy and/or an emergency management plan at the development application stage. These will identify strategies for people to 'stay in place' or 'evacuate' at appropriate periods of time.

The application is not supported because the application, as submitted, does not adequately justify the site as suitable for more intensive development ahead of completing further key work on flooding and emergency management planning. This is required prior to considering the suitability of the site for more intensive development.

These matters are also relevant in consideration of the site accessibility to services required under the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Wallalong is a small village that relies on services from surrounding centres and does not have a local shop/general store, medical facilities or pharmacy. Wallalong does not have a regular bus service to major centres, with the closest service being over 1km to the north of the site that provides a service twice a day. There are also no footpaths in Wallalong making access to the closest bus service difficult for future residents. The applicant proposes to provide a shuttle bus service. Any bus service will not be available when Wallalong is isolated during flood events.

Consistency with *Port Stephens Local Housing Strategy 2020*

The *Port Stephens Local Housing Strategy 2020* includes locational criteria for proposed lifestyle villages and communities with shared facilities, including:

- Being in a 5-minute walk (400m) of a town or neighbourhood centred zoned B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core or B4 Mixed Use; or

- Being 5 minute walk (400m) of bus stops with frequent services to local centres; or
- Being 10 minute walk (800m) of local centres.

The application states it is not unexpected that this criterion is not met because the proposal is seeking to place houses within 800m of a future town centre and so the density is not yet present for bus services to operate at consistent intervals.

The future town centre referenced in the application was part of the Wallalong Urban Release Area in the *Port Stephens Planning Strategy 2011*, which was not endorsed by the Department and Council advised the proponent that it would be superseded by the adoption of Council *Port Stephens Local Housing Strategy 2020*.

The proposed urban release area was subsequently a planning proposal lodged in 2014 to rezone around 620ha of land near Wallalong for urban purposes.

The delegate of the Minister for Planning issued a Gateway determination (**Attachment D**) that the planning proposal (PP_2014_PORTS_001_00) should not proceed as it did not adequately justify commencing the rezoning process ahead of undertaking further key work regarding infrastructure and site suitability. The planning proposal was inconsistent with the *Lower Hunter Regional Strategy 2006* and various applicable with the then section 117 Ministerial directions and *State Environmental Planning Policy Rural Lands 2008*.

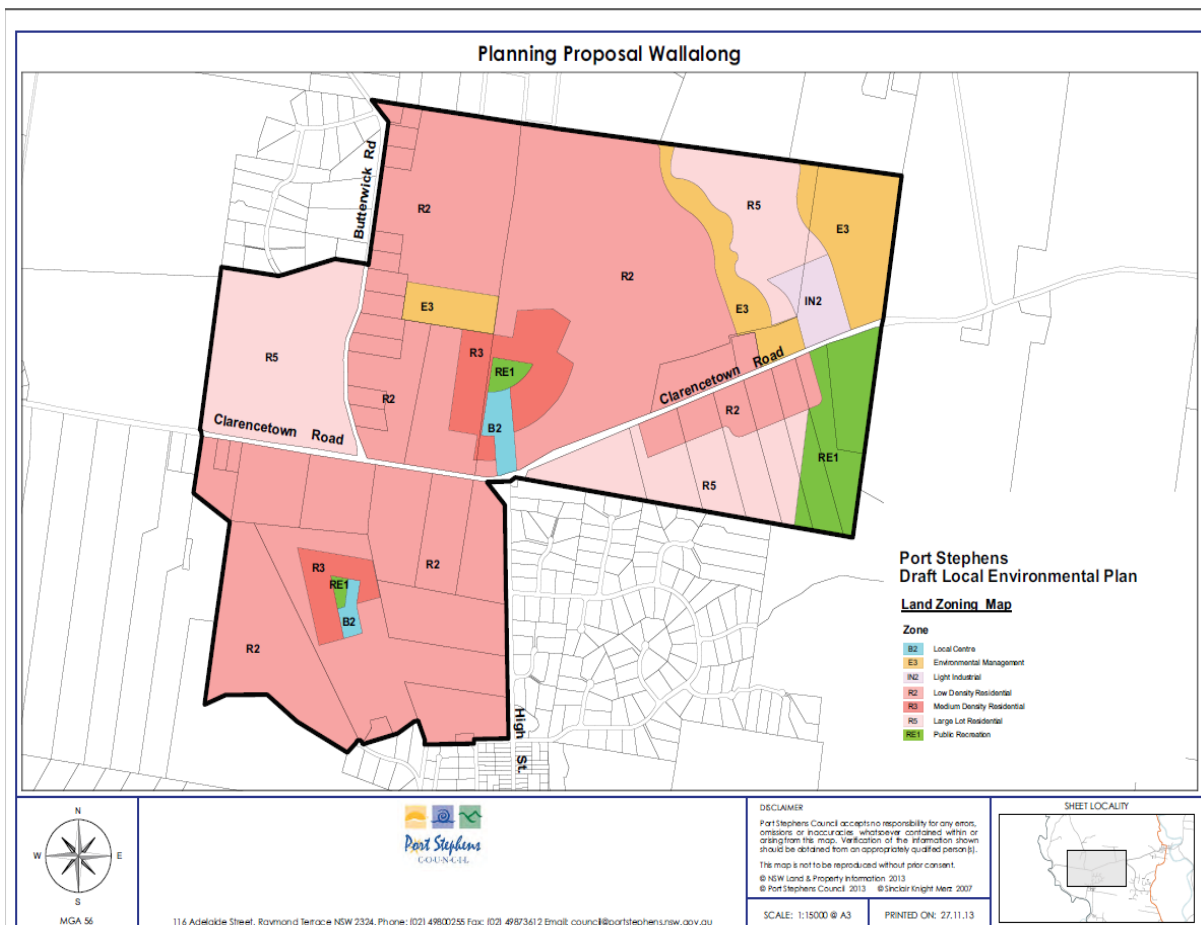


Figure 5: PP_2014_PORTS_001_00

Since then, Council has not received any further request to amend the *Port Stephens Local Environmental Plan 2013* for land at Wallalong.

The application assumes that Wallalong will have a more intense urban outcome in the future. At this stage, this assumption is not supported by the Department of Planning, Industry and Environment. Therefore, consideration of the site as part of an urban release area should not be a reason for justifying this application.

Surround rural land uses

The site adjoins existing rural and agricultural uses. The application states that should these uses continue land use conflicts are unlikely as future residents will choose the area with surrounding agricultural uses in mind.

The application would have benefited from a more detailed analysis of the potential for land use conflict or offsite impacts with the surrounding land uses. Undertaking a land use conflict risk assessment to determine if mitigation measures will be needed.

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))**

Land contamination

The application states a review of the Environmental Protection Authorities' contamination register confirmed no contamination is identified on the site. It also states that no known contaminating rural or agricultural uses of the land has occurred.

Bushfire

The site is identified as bushfire prone (figure 6). The vegetation category 1 hazard reflects the existing vegetation, which is mostly proposed to be cleared. The remainder of the land is classified as Vegetation Buffer hazard.

A bushfire assessment report is proposed to be prepared and provided with a development application. Until this assessment report is prepared and considered by the NSW Rural Fire Services it is unclear the development can comply with the requirements in Planning for Bush Fire Protection.

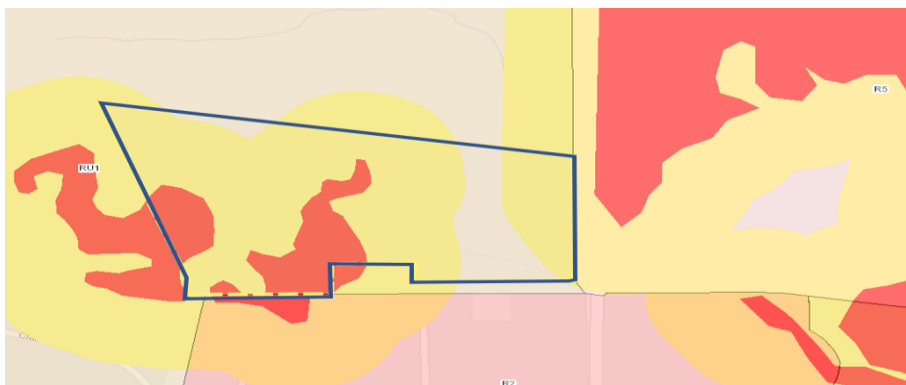


Figure 6 – Bushfire hazard

Acid sulfate soils

The site is identified as containing class 5 acid sulphate soils. The proposed development will incorporate earthworks to establish a level building platform through the use of balanced cut and fill. The application states any cut associated with the development will not require the need for an ASS management plan to be prepared for the development.

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 application references the *Port Stephens Planning Strategy 2011*. In April 2020, Port Stephens Council advised the proponent that the adoption of the *Port Stephens Local Housing Strategy 2020* would replace the *Port Stephens Planning Strategy 2011*, and references in the report to the *Port Stephens Planning Strategy 2011* will be superseded. On 14 July 2020, Council adopted the *Port Stephens Local Housing Strategy 2020*.

Information regarding the *Port Stephens Local Housing Strategy 2020* is discussed above.

The Local Strategic Planning Statement identifies the site as part of agricultural land under the structure plan. It states Council will prepare and implement a local housing strategy to ensure suitable land supply and other planning priorities for housing identified in the Local Strategic Planning Statement.

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 application relies on information on essential services that was provided with the planning proposal submitted in 2014 and was issued a Gateway determination to not proceed. The application states the proposed development would not be more than the dwelling triggers for infrastructure upgrades identified in the 2014 planning proposal for sewerage, water, roads or electricity.

Location and access to facilities

While Wallalong offers some community and recreation facilities, there are no medical or retail services available. The closest location offering these services is Morpeth, which is 4km away. Wallalong does not offer an adequate level of local services as prescribed in clause 26 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

Regional level retail and medical services are available at Green Hills, East Maitland and Raymond Terrace which are 11 and 15km respectively. Connections west and south are via State Heritage listed bridges (two of which are single lane).

The application states it is proposed to provide a range of every-day services and facilities on-site to the future residents. The provision of these specific services would be finalised at the development application stage.

There are no pedestrian footpaths in Wallalong as required by clause 26 of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The application states that upgrades to footpaths may occur as a result of a development application assessment.

While a shuttle bus is proposed, the site is cut off from services from Hunter River flood events with limited road access. In addition, there will be no other option than the reliance on the shuttle bus and private motor vehicle to access services as Wallalong itself does not offer an adequate level of services.

The existing level of services in Wallalong are not considered sufficient to serve seniors housing and levels of public transport are also inadequate to access key services.

Wastewater servicing

Wallalong is not connected to sewer services. Whilst the application has nominated a site for effluent disposal, the application has not demonstrated the site is suitable to manage the onsite demands of the total development.

The application's supporting wastewater report notes Port Stephens Council had advised the site is considered a 'high hazard' allotment for non-domestic development with an average-dry-weather-flow of 10-100kL/day.

The wastewater report assessed many different onsite disposal options.

An individual lot on-site sewage management system was not considered suitable option, unless the lot area was increased from 200sqm to around 600sqm. A partial on-lot as being worth consideration. However, the report notes the requirements for this would result in a sizable reduction in total unit yield.

The proposed on-site sewage management system would be community servicing with a centralised treatment system and application of treated effluent in a dedicated effluent management area. The application proposes an effluent management area of 0.95ha predominantly in the north eastern corner of the site.

Preliminary modelling in the wastewater report found the entire effluent load generated by the development as proposed would require around 5.5ha for an effluent management area. Similarly, if the 0.9ha effluent management area would only accommodate approximately 82 (equivalent) persons.

The report recommends consideration be given to seeking approval for the staged implementation of the preferred on-site sewage management system concurrently with the proposed development.

Generated wastewater from constructed units in the proposed development could be treated to a minimum secondary effluent standard within a centralised 'community' treatment system, with treated effluent then be directed to areas of the property earmarked for later stages.

The wastewater report states the staged construction of the development would allow for maximisation of lot yield while ensuring sustainable on-site sewage management system for the interim period until such time that a future reticulated sewer connection option becomes available along with the Wallalong township.

The application does not clearly define the staged construction approach or alternatives if a future reticulated sewer connection does not eventuate. Particularly, as there are no current or future plans for provide this connection.

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))

Scale of proposed development

The application proposes 180 dwellings on approximately 9 hectares of land, being a density of 20 dwellings/ha. The proposed development incorporates single story detached dwellings on allotment sizes of approximately 300sqm for each dwelling. Port Stephens Council has advised the proponent this is not considered to conform to the established scale and density of the development of the surrounding locality where allotments range from approximately 500sqm to 1,500sqm with generous front setbacks. These larger lot sizes are partly the result of requirements for on-site sewage disposal.

The application considers that Council's vision for the locality in the Port Stephens Planning Strategy is for dwellings on lots as low as 200sqm, not the existing character. This has not been confirmed by Council.

The application appears to suggest a character analysis will be undertaken, which may identify the need for larger lots along the eastern boundary in order to form a transition from the land currently zoned R5 Large Lot Residential.

Visual impact analysis

The application included a visual impact assessment that an analysis of viewpoints finds the proposed development will blend in with the existing character of Wallalong and associated residential properties due to its single story nature, topography of the site and vegetation screening. It finds the development appropriate in scale, proportion and form and is not visually obtrusive.

The visual impact assessment notes consideration of the proposed development from Scott Street the view currently held by the adjoining properties towards the north will be spoilt and therefore the magnitude of change from these locations is substantial. The application states there is potential and scope to review the layout of the development to include 'transition' lots and increased setbacks from the western and southern boundaries of the site.

The visual impact assessment does not appear to include a photo montage to enable a better assessment of impacts. Due to this, it is difficult to appropriately consider the potential visual impact the additional 180 dwellings will have on this rural location.

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* was repealed and replaced with the *Local Land Services Act 2013*.

A desktop review has been undertaken as part of the application. The desktop review finds that the current grazing uses and likely condition of the native vegetation on site makes it unlikely the native vegetation is of any significance. Despite this, it also notes a survey of the native vegetation would be needed to be undertaken to properly determine the impact of clearing as part of the proposed development.

The review also noted that up to 1ha of native vegetation can be cleared under the provisions of the *Biodiversity Conservation Regulation 2017*. However, the native vegetation mapping provided in the application appears to be greater than 1ha in size.

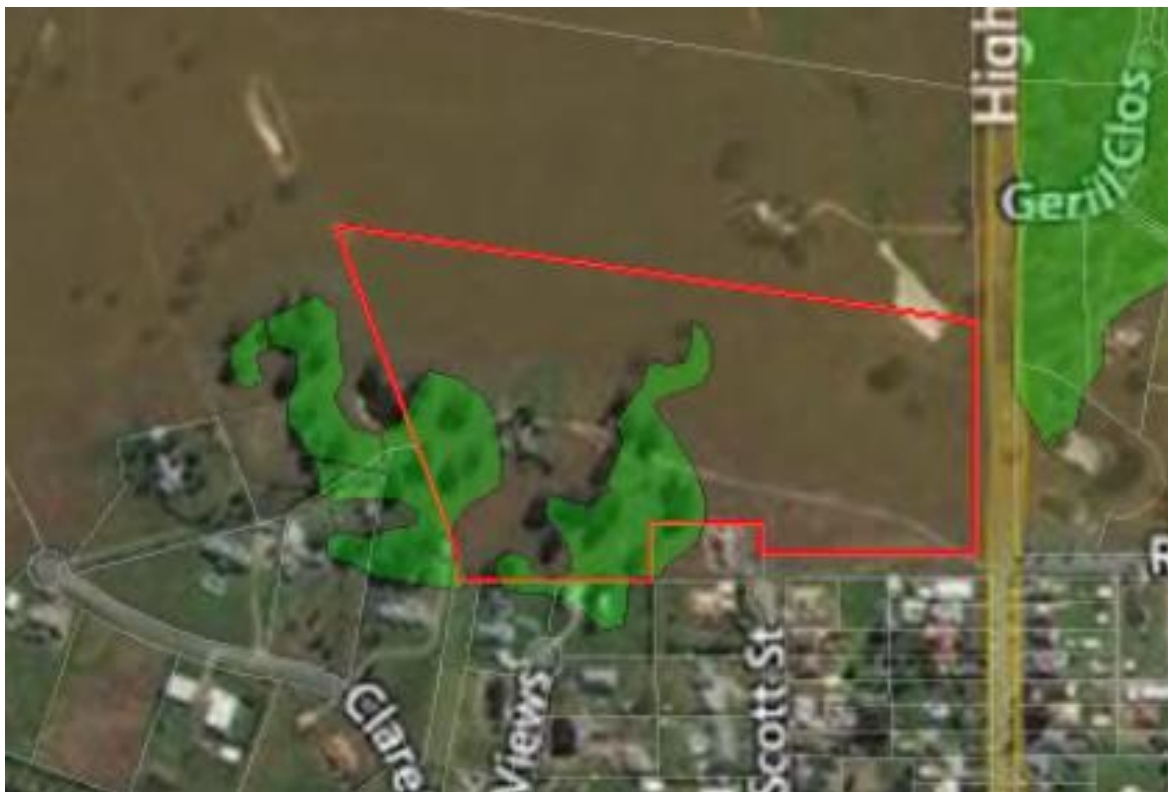


Figure 7: Vegetation mapping from the application

The site is also mapped as containing marginal koala habitat in the *Port Stephens Koala Plan of Management* (Figure 8), and the desktop review notes there are numerous koala records within 10km surrounding the site.

The application identifies these trees as proposed to be cleared. While no detail has been provided in relation to potential Koala habitat, it is considered that these matters could be provided at the development application stage and considered by Council.

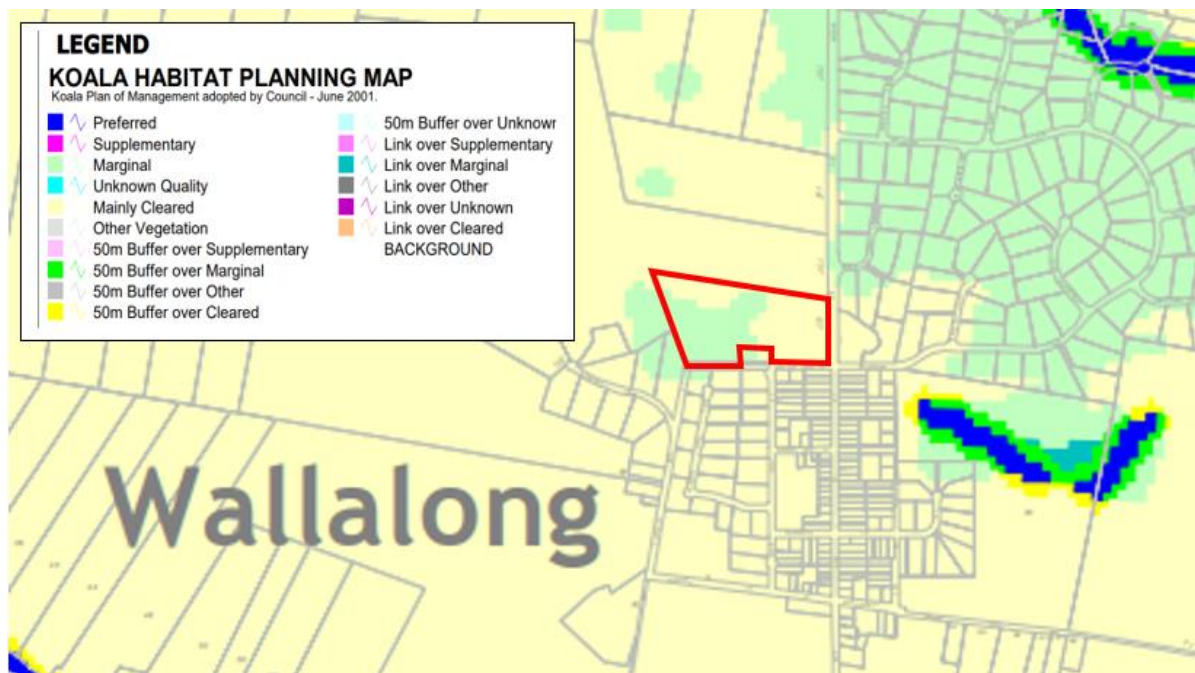


Figure 8: Koala Habitat

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

It is recommended the Hunter and Central Coast Regional Planning Panel not issue a site compatibility certificate.

At this stage, the application has not sufficiently demonstrated the site is suitable for more intensive development and compatible with the surrounding environment and land uses.

ATTACHMENTS

Attachment C1 and C2 – Council comments

Attachment E – Previous planning proposal (refusal)

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