

ASSESSMENT REPORT

RESIDENTIAL SUBDIVISION BELLE O'CONNOR STREET, SOUTH WEST ROCKS MP 08_0167 MOD 3

1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval (MP 08_0167) for a residential subdivision at Belle O'Connor Street, South West Rocks, in the Kempsey local government area (LGA).

The request has been lodged by Land Dynamics Australia (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to change the use of the eastern part of the site from residential development to a seniors living development (SLD) for 199 dwellings and for amendments to open space, road layouts and staging.

2. SUBJECT SITE

The subject site covers an area of approximately 28 hectares (ha) and is located at South West Rocks. South West Rocks is located on the New South Wales mid-north coast approximately 28 kilometres (km) to the north-east of Kempsey and 65 km to the south of Coffs Harbour (refer to **Figure 1**).



Figure 1: Site location (outlined in red) and subdivision boundary (highlighted blue and outlined in a dashed line) (Base source: Nearmap)

To the north of the site is a future residential development site known as Saltwater. To the north-east is the Saltwater Lagoon and an extensive area of coastal wetlands which borders the lagoon and extends into the north-eastern portion of the site. The South West Rocks Sewage Treatment Plant adjoins the north-western corner of the site, and the South West Rocks Golf Course is situated along the site's western boundary. A small number of rural-residential properties are located directly to the east and south-east. A Crown road acts as the site's southern boundary, with low-density residential housing development located to the south-west (refer to **Figure 2**).



Figure 2: Aerial view of the site location (outlined in red), its surroundings and the subdivision boundary (outlined in blue dashed line) (Base source: Nearmap)

3. APPROVAL HISTORY

On 3 June 2011, the Planning Assessment Commission (the Commission) approved a Project Application (MP 08_0167) for a residential subdivision (the Project Approval), comprising:

- 269 residential lots constructed in 11 stages
- one medium density lot
- an internal public road network
- public open space areas with recreation facilities
- a network of pedestrian and cyclist pathways
- a 14.9ha conservation zone
- two storm water treatment areas
- on-site landscaping works.

The Project Approval has been previously modified on one occasion. Modification 1 was approved under delegation on 6 August 2013 for provision of four additional residential lots, reduction of a bushland exercise park, enlargement of the central open space, modifications to the stormwater treatment system, road network layout, project staging and section 94 contributions.

The Department is concurrently assessing a separate modification request relating to the western part of the site (MP 08_0167 MOD 2). That request seeks approval to modify the staging of the development,

the configuration, layout and number of residential lots and the bushfire asset protection zone requirements.

Since the Project Approval, Kempsey Shire Council (Council) has issued Construction Certificates relating to bulk earthworks for Stage 1A of the project.

The approved layout and staging of the Project Approval (as modified) is shown in **Figures 3 to 4**.



Figure 3: The Project Approval layout (Base source: MP08_0167 MOD 1)

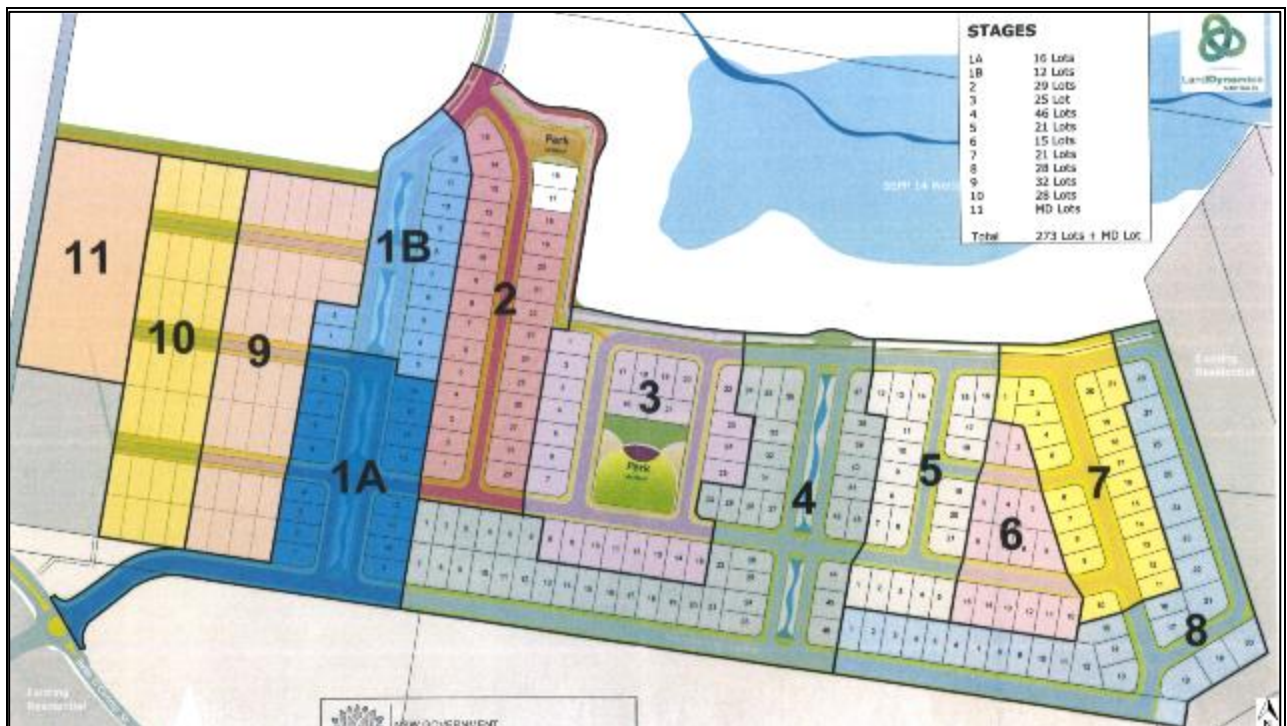


Figure 4: Project Approval staging plan (Base source: MP08_0167 MOD 1)

4. PROPOSED MODIFICATION

The proposed modification request (MP 08_0167 MOD 3) as amended by the Preferred Project Report (PPR), seeks approval to:

- reduce the residential lots on the site by 122 lots (excluding the medium density lot) from 273 to 151 lots
- incorporate a seniors living development (SLD) lot on the eastern portion of the site including:
 - provision of 199 dwelling sites (future dwellings to be the subject of separate applications to Council)
 - amended road layout, vehicle entry and provision of private internal roads within the SLD
 - construction of SLD amenities, including club house (which includes a kitchen and dining area, bar, café, medical room, theatre, library and administration space), swimming pool, amenities block, bowling green, tennis court
 - amendments to landscaping, including pathways, open space, stormwater drainage, landscaping, services/utilities
 - stage the SLD over 12 stages
- amend road and lot layout adjacent to the SLD
- relocate and reduce the size of the public park
- amend the overall staging of the development
- adjust a lot boundary to accommodate the SLD.

The modification is requested on the basis that:

- the proposal would accommodate the needs of an ageing population and support a high standard of living for future residents
- the modification would improve housing supply and mix to meet market demands
- the use of the site for senior housing is permissible under the zoning of the land and all services and infrastructure are readily available to the site
- the proposal would provide a positive social, economic and environmental outcome.

The modification is shown in **Figures 5 to 9**.

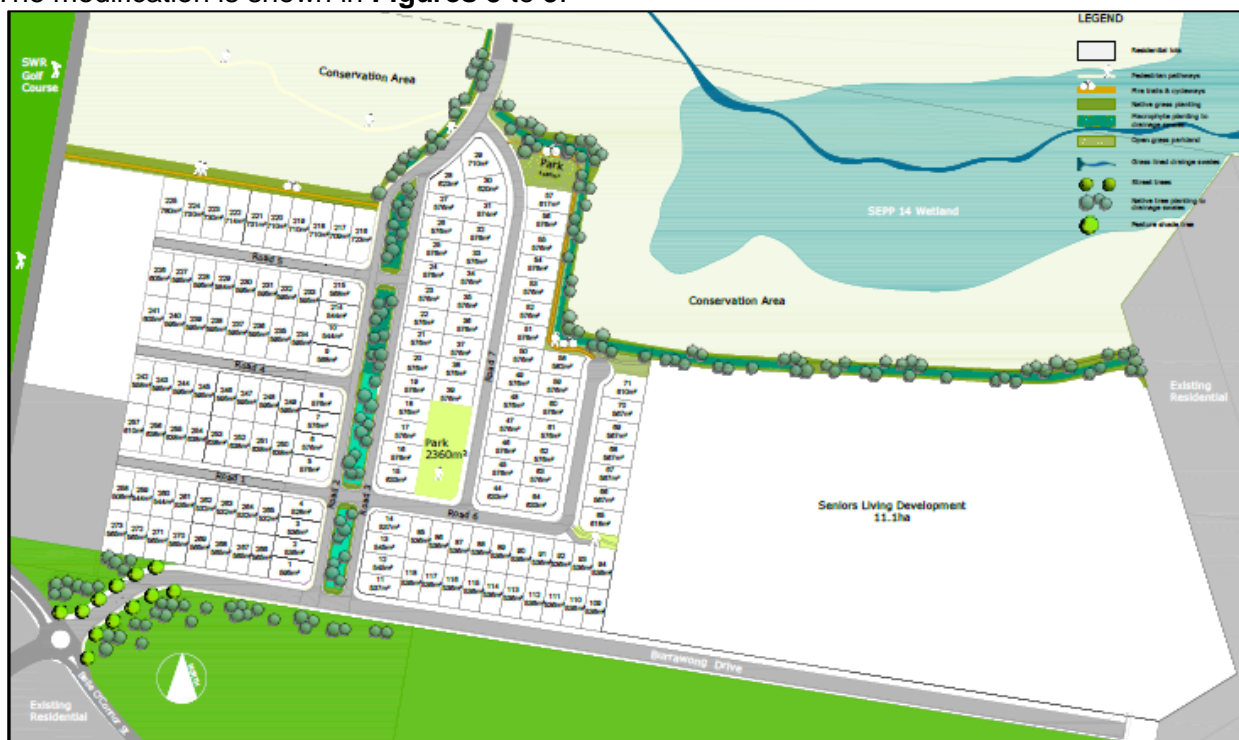


Figure 5: Revised subdivision plan (Source: Proponent's PPR)

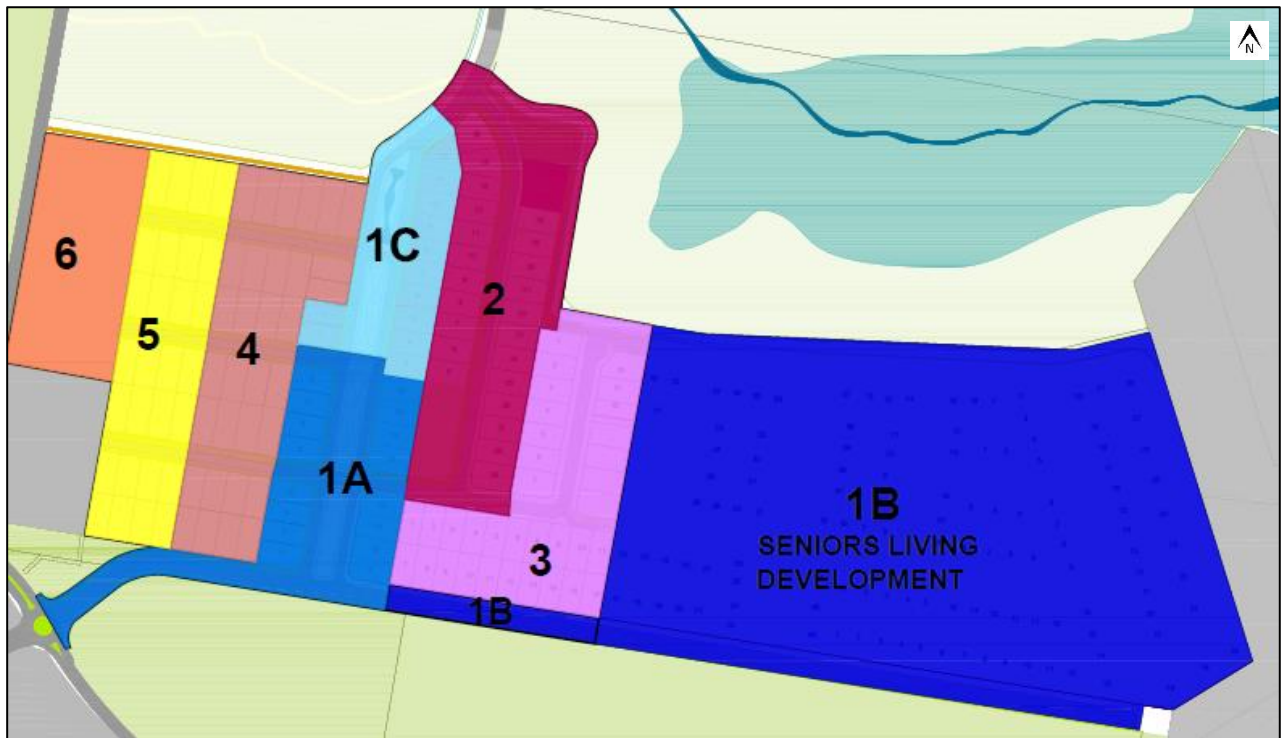


Figure 8: Proposed updated site-wide staging plan (note, the public park location has been relocated to Stage 2, refer to **Figure 5**) (Source: Proponent's request)

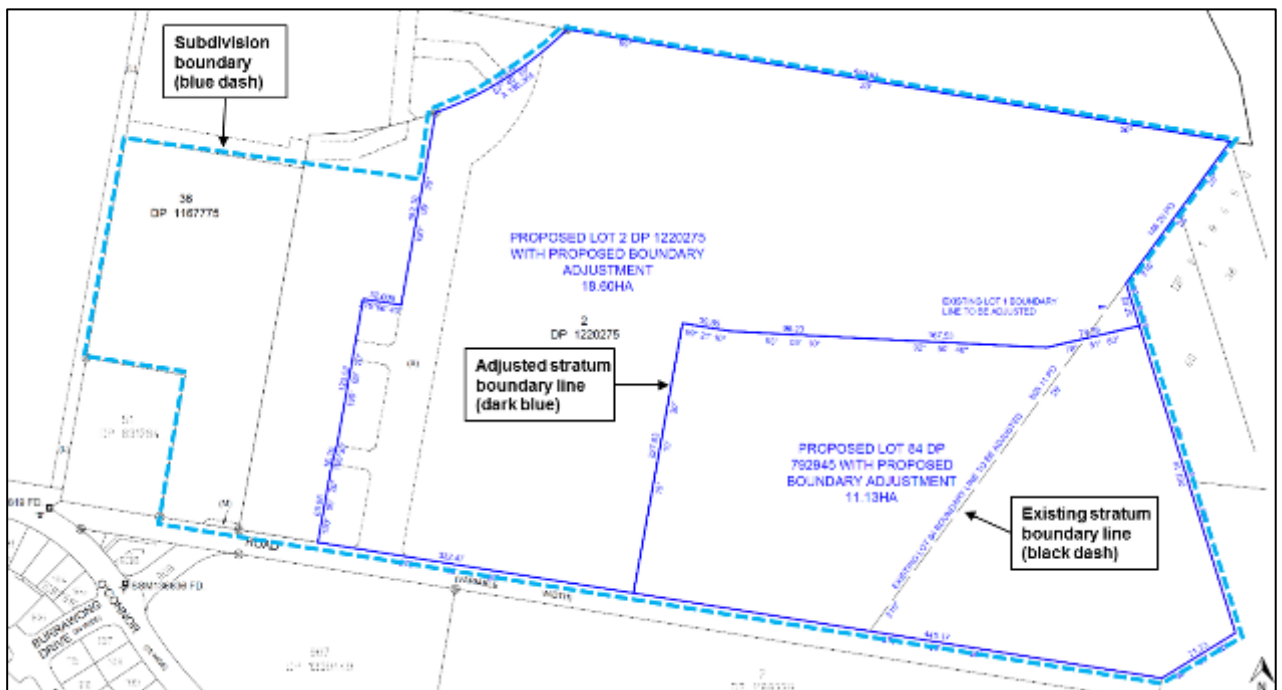


Figure 9: The existing and proposed stratum boundary (Base source: Proponent's RtS)

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the Act.

Based on its assessment of the proposal, the Department is satisfied the request can be characterised as a modification. Although the modification seeks approval to change the use of part of the site from one type of residential development to another, it fundamentally remains a residential subdivision facilitating the release of residential land. The proposed modification would not alter the approved development area or significantly increase the environmental impacts of the approved project (see Section 7). Consequently, the Department considers the proposed modification is within the scope of section 75W of the EP&A Act.

5.2 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Executive Director, Key Sites and Industry Assessments may determine the request under delegation as:

- the relevant Council has not made an objection
- there are less than 25 public submissions in the nature of objection
- a political disclosure statement has not been made.

5.3 Strategic Context

The *North Coast Regional Plan 2036* identifies the region will have a rapid growth in residents over the age of 65 years in the next 20 years and the need to ensure a suitable range in housing choice for these residents. The proposal is consistent in helping to deliver additional seniors housing.

The site is zoned part R1 Residential and part E2 Environmental under the Kempsey Local Environmental Plan 2013 (KLEP 2013). The proposed SLD is located wholly within the R1 zone and SLD is a permitted use within the zone.

The use of the land for SLD is considered to be an appropriate use for this part of the site as:

- the SLD site forms part of a broader residential subdivision/land release and will contribute to the locality's emerging urban context
- the SLD includes on-site amenities, including extensive open space and recreational facilities, and a shuttle bus will be provided for use by future residents to reach off-site amenities located between 1.2 to 2 km from the site
- detailed matters relating to bushfire, flooding, management, traffic and ecological impacts (**Section 7.3**) can be appropriately mitigated and managed subject to conditions.

6. CONSULTATION

6.1. Consultation

The modification request was made publicly available on the Department's website and referred to Council, the Rural Fire Service (RFS), Roads and Maritime Services (RMS), Essential Energy, Department of Industry, Department of Primary Industries (DPI), and the Office of Environment and Heritage (OEH). Letters were also sent to adjoining properties.

During the notification period, the Department received a total of 18 submissions, including six from government authorities and 12 from the public, which are summarised below. Copies of the submissions can be viewed at **Appendix A**.

Council did not object to the proposed modification but provided the following comments:

- the proposal should have been submitted as a new application
- the proposal results in a significant increase in density on-site
- the proposal has not adequately addressed the requirements of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Living SEPP)
- a site-wide and coordinated approach to the provision/connection of water and sewerage is required
- the stormwater strategy should be improved
- an assessment of peak trip generation, changes to the road layout is required and reduction of open space is required
- developer contributions under Condition E10 should be updated.

RFS did not object to the proposed modification and provided the following comments:

- further consideration of the classification of vegetation to the south and south-east is required
- the proposed asset protection zone (APZ) is partly located on an adjacent property, does not meet the relevant specifications, and is not subject to appropriate ongoing management
- a perimeter road should be provided along the eastern and south-eastern boundaries
- a plan showing the road widths is required.

RMS did not object to the proposed modification and provided the following comments:

- an assessment of peak trip generation is required including any required infrastructure upgrades
- an assessment of changes to the road layout is required
- Council is the Roads Authority for surrounding roads
- connectivity to public transport should be considered.

OEH did not object to the proposed modification and stated that as the proposal is contained wholly within the boundary of the Project Approval it would not result in any additional biodiversity impacts.

Essential Energy did not object to the proposed modification and provided the following comments:

- easements should be created for any existing electrical infrastructure and any existing encumbrances must be complied with
- a Notification of Arrangement from Essential Energy is required prior to the issue of a Subdivision Certificate.

Department of Primary Industries did not object to the proposed modification but provided the following comments:

- the proposal would not result in any mineral resource issues
- a Groundwater Monitoring and Contingency Program shall be implemented before the commencement of earthworks
- the drainage swales should be constructed in accordance with the approval, including planting.

Of the 12 public submissions received to the modification, 11 were in objection, and one provided comments. An objection was also received from the Friends of South West Rocks. Key issues raised in public submissions include:

- adverse impacts on the environment
- site unsuitable due to flooding
- a similar development proposed on a nearby site was refused by the Joint Regional Planning Panel (JRPP)
- adverse traffic impacts
- the site has a high bushfire risk
- the changes are significant enough to warrant a new application
- overdevelopment of the site
- noise and nuisance during construction
- the application does not consider the impacts of the concurrent MOD 2 application
- the application does not resolve the remaining residential layout

- Burrawong Drive should be renamed
- incorrect lot and owner details have been provided
- stormwater modelling is unrealistic
- overcrowding of medical facilities.

6.2. Preferred Project Report

Following the public notification period, the Department placed copies of all submissions received on its website and requested the Proponent to provide a response to the issues raised in the submissions.

The Proponent provided a Preferred Project Report (PPR) which provides further information and clarification of the key issues raised in all of the submissions.

The PPR includes the following amendments to the proposal:

- reduction of 35 SLD dwelling sites, from 234 to 199 dwelling sites
- confirmation that approval is not sought for SLD dwelling types or the men's shed
- increase APZ (including a perimeter road) along the eastern boundary
- revised road and residential lot layout at the eastern boundary of the SDL
- relocation of the public park to a more central location.

The PPR was made publicly available on the Department's website and referred to the relevant public authorities. An additional four submissions were received from public authorities, including Council, RFS, RMS and OEH, which are summarised below.

Council considered the PPR and provided the following additional comments:

- the request should be considered against clause 6.3 (Development Control Plan) of the KLEP 2013
- the PPR does not adequately address all of the clauses/requirements of the Seniors Living SEPP
- the request should be considered against the Department's *Seniors Living Policy: Urban Design Guideline for Infill Development* (Seniors Design Guideline)
- the changes to the staging would delay the creation of the north/south road to the northern half of Saltwater Release Area
- the clubhouse should be provided sooner than SLD stage 5
- planting within Burrawong Drive should occur at SLD stage 2 to provide a visual buffer earlier
- a Plan of Management, including details of the private bus service, should be prepared
- solar impacts of likely dwellings should be considered
- further information is required about the open space, including whether it will be dedicated to Council
- A section 94A contribution of \$5,151,969.41 and section 64 contribution of \$6,096,270.88 are required.

RFS considered the PPR and suggested conditions of approval relating to the APZs, water and utilities, access arrangements, evacuation and emergency management, design/construction and landscaping.

DPI considered the PPR and recommended conditions requiring the Proponent to consult with it on the development of a Groundwater Monitoring and Contingency Program, Water Quality Monitoring Program and Acid Sulphate Soil Management Plan.

RMS considered the PPR and confirmed it has no further comments.

OEH considered the PPR and confirmed it has no further comments.

On 26 September 2017, the Proponent submitted a further response to the issues raised by Council. The Proponent submitted an updated staging plan, site analysis plan and subdivision plans. The Proponent also provided further justification and responses to the issues raised by Council and confirmed that the SLD will remain in single ownership.

7. ASSESSMENT

The Department considers the key issues associated with the proposed modification are:

- density
- stormwater
- staging

All other issues are considered in **Section 7.4**.

7.1. Density

The modification proposes to change the use of the eastern portion of the site from standard residential lots to SLD (refer to **Figure 3** and **5**) and increase the overall density on the site by 77 dwellings or 28%, as summarised in **Table 1**.

Table 1 Comparison between the approved and modified proposal

| Land Use Type | Project Approval Number of Lots / Dwelling Sites | Modification Lot Numbers / Dwelling Sites | Difference (+/-) |
|----------------|--------------------------------------------------------|-------------------------------------------------|-----------------------|
| Residential | 273 | 151 | -122 |
| Medium Density | 1 | 1 | 0 |
| SLD | 0 | 199 (dwelling sites) | +199 |
| Total | 274 | 351 | +77 (28%) |

Concerns were raised in public submissions that the proposal represents an overdevelopment of the site. Council also raised concerns about the increase in density.

The Department notes the overall density of the SLD has been reduced from 234 to 199 dwelling sites and the Proponent provided additional information about traffic generation and occupancy rates for the SLD.

The Department also notes SLD typically comprises dwellings on smaller sites to meet the needs and market demand for seniors. However, dwellings for seniors living are typically occupied by fewer residents and contain fewer bedrooms compared to normal residential development. Although the seniors dwellings are not proposed as part of the modification request, and will be the subject of future development applications to Council, indicative future dwelling designs have been provided with the modification request to demonstrate the likely development outcomes on the site.

The Department notes the Project Approval was expected to provide for residential lots containing dwellings up to 4-bedrooms in size, while the SLD dwelling sites are expected to provide for dwellings up to 2-bedrooms in size. Based on average household occupancy rates (of 2.6 people per dwelling), the approved development would be likely to accommodate approximately 709 people. The revised proposal, incorporating the SLD (with an occupancy rate of 1.4 people per dwelling) would be likely to accommodate approximately 670 people. Therefore, the Department is satisfied the inclusion of the SLD is unlikely to result in an increase in population on the site or demand for services.

The Department is also satisfied that the proposed density can be appropriately accommodated on the site without resulting in any adverse visual or amenity impacts on adjoining properties. The Department notes the SLD would be likely to have an overall Floor Space Ratio (FSR) of approximately 0.23:1 (based on the largest indicative dwelling, clubhouse and amenities building).

This is considered appropriate within the R1 Residential zone and is consistent with the Seniors Living SEPP requirement of 0.5:1. Further, the SLD includes generous setbacks to neighbouring property boundaries, and all proposed buildings on the site are likely to be single storey. Further, the SLD is provided with extensive open space and on-site amenities which will appropriately meet the needs of future residents. The Department is therefore satisfied the proposal would not result in adverse amenity impacts on the surrounding environment.

The Department has also considered the traffic impacts associated with the proposal at **Section 7.4**. The Department's assessment concludes the modification would not result in any adverse traffic impacts, as the SLD would generate fewer daily traffic movements (398 trips) compared to normal residential development (1,125 trips). Further, the Department notes the SLD would be provided with a bus service for residents to access shops and services which is expected to further reduce private car use and potential impacts on the local road network.

Finally, the Department considers the proposal is consistent with the *North Coast Regional Plan 2036* which identifies the region will have a rapid growth in residents over the age of 65 years in the next 20 years and there is a need to ensure a suitable range in housing choice for these residents. The Department considers the proposal would help improve housing supply, mix and affordability to help meet the needs of an ageing population.

Despite an increase of 77 dwelling sites, the Department's assessment concludes the proposal is acceptable as it is consistent with the strategic planning framework for the site, it would not increase the site's maximum population density or result in any adverse traffic or amenity impacts.

7.2 Stormwater

The approved stormwater system involves capture and treatment of stormwater through two centrally located swales running south to north and a swale running along the site's northern boundary (**Figure 10**). The system was designed to ensure post-development water quality discharges are equal to or better than, the pre-development discharges to protect the downstream SEPP 14 Wetlands, Saltwater Lagoon and Saltwater Creek.

The Department notes the modification alters the location and path of the swale running through the SLD within the eastern portion of the site (**Figure 11**). In addition, the SLD layout includes broad buffer areas of open space, one either side of the swale along the northern boundary of the site.



Figure 10: Approved Stormwater Management Features – Revised Subdivision Plan (source: LDA)

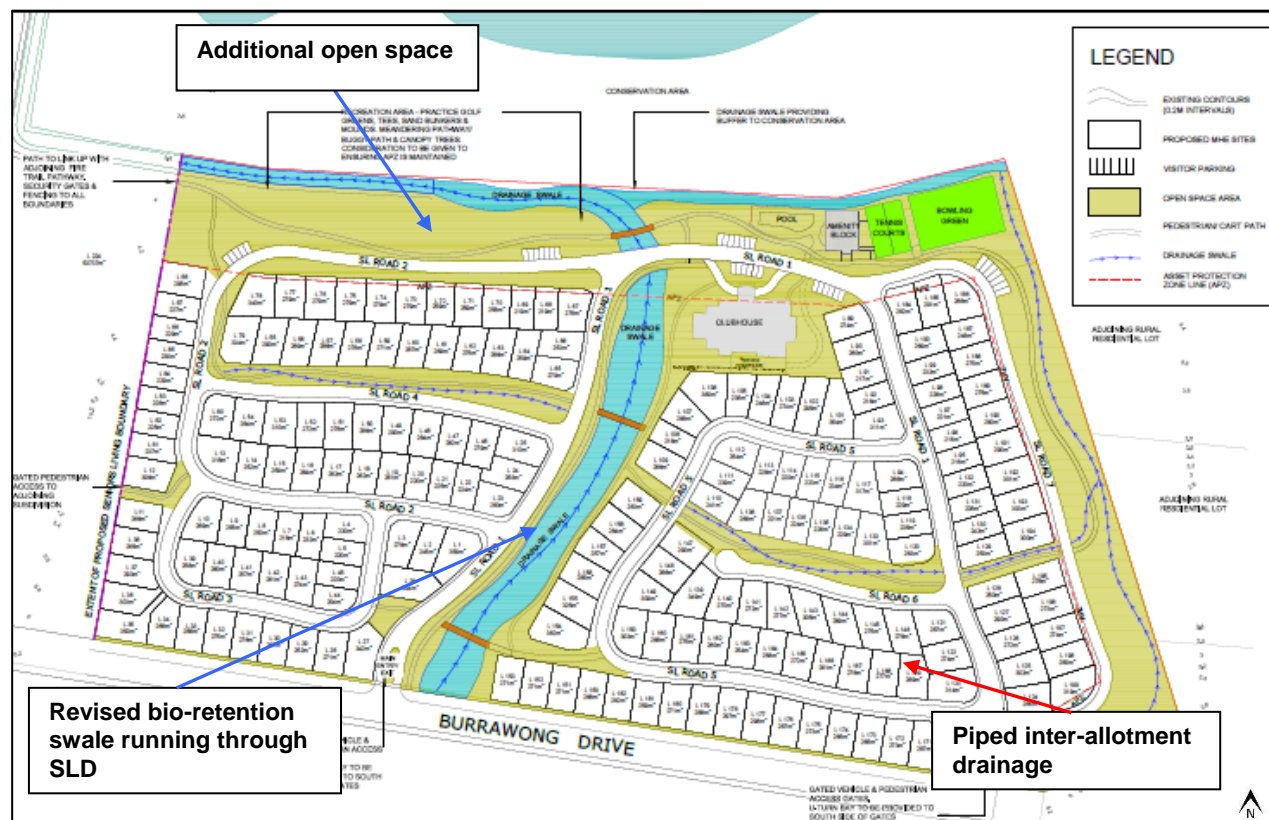


Figure 11: Proposed Stormwater Management Features within SLD (source: PPR)

Concerns were raised in public submissions about the proposed increase in density resulting in changes to the quality and quantity of stormwater runoff. DPI Water and Council also raised concern about any changes to the stormwater system approved under MOD 1, given the environmental sensitivity of the downstream receiving waters.

The Proponent has confirmed the modification generally replicates the approved stormwater strategy in terms of hydraulic and conveyance capacity. However, Council and DPI maintained its concerns about the detailed design of the proposal and the need for updated management and monitoring plans.

The Department considers the stormwater strategy for the site remains generally unchanged and would still rely on a series of swales to capture and treat stormwater before it is discharged from the site. The Department also considers the SLD would not result in significant changes to the quantity of stormwater draining from the site given the additional open space area is provided within the SLD part of the site.

However, given the sensitivity of the downstream receiving waters, the Department has recommended a suite of conditions to ensure the final modified design would meet the same stormwater quality objectives as the approved design. This includes:

- The preparation of an updated Stormwater Quality Report and modelling to verify the adequacy of the modified stormwater system and demonstrate post-development water quality discharges are equal to, or better than, pre-development discharges.
- Submission of final design plans for the modified stormwater drainage systems within the site.
- Preparation of an updated Water Quality Management and Monitoring Program.

Subject to these conditions, the Department considers stormwater can be appropriately managed on the site and the proposal would not result in any detrimental impacts on the adjoining environmentally sensitive areas.

7.3 Staging

The proposal seeks approval to amend the overall staging of the development to accommodate the SLD. The approved and proposed staging of the overall development is shown in **Figure 12**.

Condition A7 currently requires Stages 1A, 1B, 2 and 3 to be provided before any of the other stages:

A7 Staging

Stages 1A, 1B, 2 and 3 must be carried out first, in accordance with the Coast Staging Plan (Job No. 4972_N_SHT 01, Issue E) prepared by Land Dynamics Australia and dated 26.06.2013. The order of subsequent stages may be varied, subject to the proponent having received written approval by the Director-General.

Council raised concerns about the overall staging of the development, potential delay in the creation of the north/south road connecting the road to the Saltwater Release Area, staging of the SLD component, and landscaping of Burrawong Road.

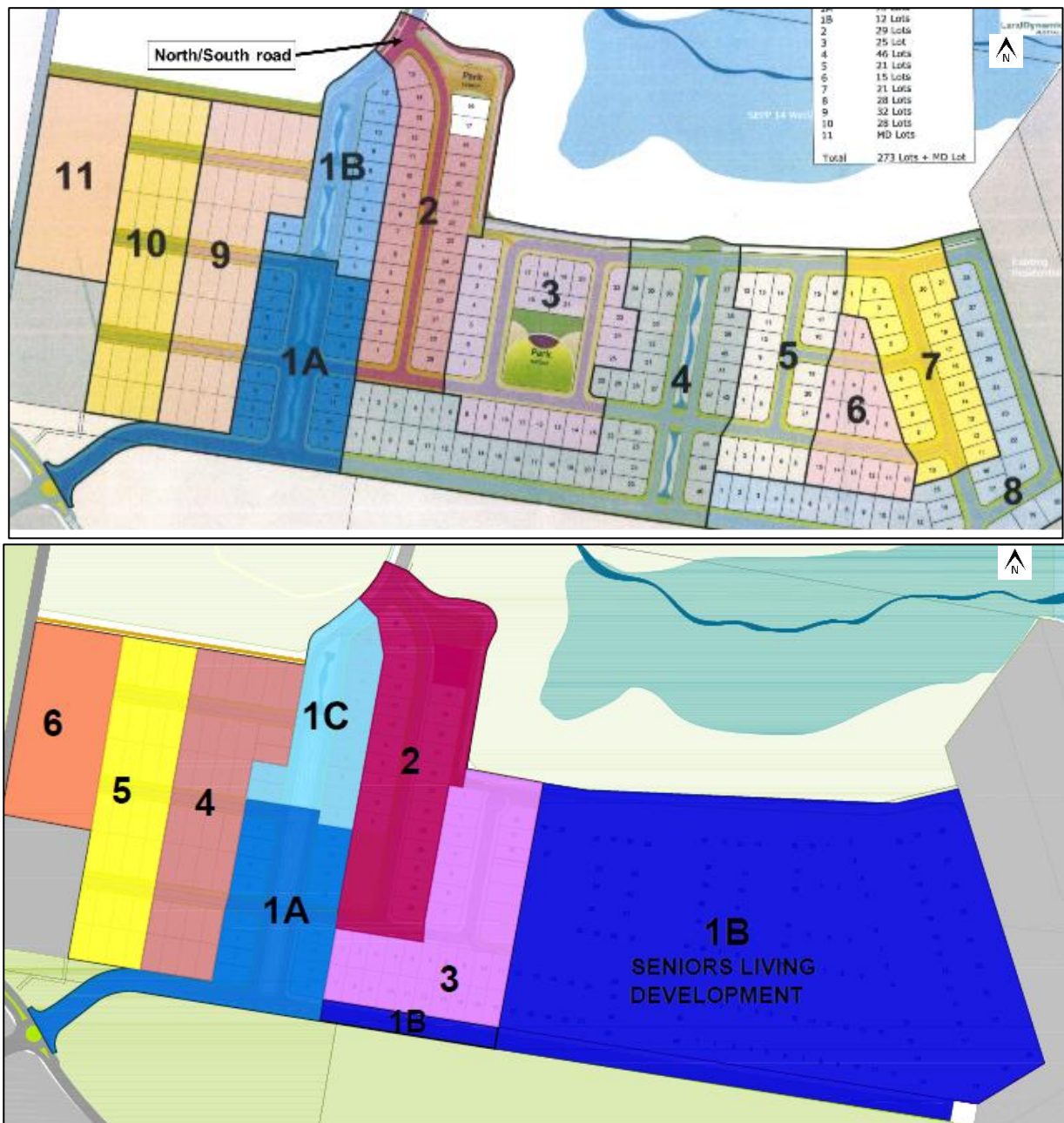


Figure 12: Approved (top) and proposed (bottom) overall staging plan (Source: Proponent's PPR)

The north/south road

In its assessment of the original project, the Department concluded the north/south road would be an important future connecting road, improving access to and permeability between the release areas.

Council is concerned the changes to the overall staging would delay the creation of the north/south road to the northern half of the Saltwater Release Area. It recommended only Stages 1 and 2 of the SLD to be developed before delivery of the residential Stages 1C and 2 (including the north/south link) after which the remainder of the SLD could then be developed. Alternatively, the road corridor could be reserved to ensure it is constructed when required.

The Proponent argues Stages 1A and 1B (the SDL) will be undertaken concurrently and, subject to the amendment of condition A7 to include reference to Stage 1C, there would be no delay to the provision of the north/south road connection.

However, the Department considers the proposed staging would delay the provision of the north-south road as it would allow the Proponent to develop the entire SLD which occupies a large portion of the site and overall development. Given the importance of the north-south road for improved access to and permeability between the urban release areas, the Department recommends amending the staging to require stages 1A, 1B, 1C, 2 and 3 be carried out first.

As a further safeguard, to ensure the north-south road is delivered within an appropriate timeframe, the Department has included a recommended condition requiring the full length of the road corridor to be identified as a part of the Stage 1A subdivision certificate, for any part of the road not delivered as a part of the first stage, to be identified as a separate lot so it can be reserved for the purpose of a road, and be delivered prior to a Subdivision Certificate for stage 3. This would ensure the road is secured and delivered within an appropriate timeframe.

Subject to the recommended conditions, the Department considers the changes to the staging of the overall site are acceptable and appropriate to accommodate the SLD.

SLD Staging

Clubhouse

Council suggests the SLD clubhouse should be provided sooner than Stage 5 of the SLD. The Department notes the clubhouse is proposed to be provided at Stage 2 of the SDL, following the completion of 25 dwellings within Stage 1. The Department considers the proposed timing is appropriate as it would deliver the clubhouse at a relatively early stage of the SLD.

Landscaping

Council recommended the proposed planting within Burrawong Drive should occur at SLD Stage 2 to provide a visual buffer to the site sooner. The Department notes the planting along Burrawong Drive currently forms part of Stage 8 of the Project Approval, and this is the last stage of the eastern portion of the site. The proposed SLD staging (**Figure 7**) indicates the proposed planting along Burrawong Drive would be provided at SLD Stages 1 and 7 and is proposed to be provided concurrently with Stage 1A.

The Department considers it is unnecessary to require planting be provided sooner than proposed by the modification, given planting along Burrawong Drive would occur well in advance of the current Project Approval (Stage 8). Further, the Department is satisfied the timing of the proposed planting is appropriate as it would have sufficient time to be established and provide a visual buffer before the completion of the SLD.

7.4 Other Issues

Table 4: Assessment of Other Issues

| Issue | Consideration | Recommendation |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| <i>Seniors Living SEPP</i> | <ul style="list-style-type: none"> • Council raised concerns that the proposal did not adequately consider the requirements of the Seniors Living SEPP, the Seniors Design Guide or clause 6.3 of the KLEP 2013. • The Department has considered the development against the EPIs at Appendix C. • The Department is satisfied the modification request and supplementary information provides adequate consideration of the Seniors Living SEPP and clause 6.3 of the KLEP 2013. • Based on the assessment at Appendix C the Department is satisfied the proposal meets the requirements of the Seniors Living SEPP and the aims and objectives of clause 6.3 of the KLEP 2013. • Further, the Department has recommended new conditions A8, E11 and F5 requiring compliance with Seniors Living SEPP, restrictions on use and a Plan of Management (POM). | The Department has recommended new conditions A8, E11 and F5 requiring compliance with SL SEPP, restrictions on use and a POM. |
| <i>Built Form</i> | <ul style="list-style-type: none"> • The proposal seeks approval for the construction of a clubhouse and amenities building for the SLD. The height of the clubhouse, at its highest point, is 7.15 m to the top of the ridge. • The Department considers the design and appearance of the clubhouse and amenities buildings are acceptable as: <ul style="list-style-type: none"> ◦ both buildings are single storey in height and comply with Council's maximum height control of 8.5 m ◦ the design of the proposed buildings and use of materials are appropriate for a SLD and would be in keeping with the emerging urban context of the area ◦ the proposed landscaping would appropriately soften the visual appearance of the proposed buildings when viewed from within the site and externally. • The Department also notes the clubhouse and amenities building are located internally within the site and have generous setbacks from adjoining property boundaries. The proposed buildings would therefore not be readily visible from the public domain or result in any adverse amenity impacts on adjoining properties. • The Department is therefore satisfied the proposed clubhouse and amenities building would not result in any adverse visual or amenity impacts on adjoining properties and the proposal would be in keeping with the emerging urban character of the area. | No additional conditions or amendments necessary. |
| <i>Open Space</i> | <ul style="list-style-type: none"> • The modification seeks approval to reduce the size of the approved central park by 2,170 m² from 4,470 m² to 2,230 m² (refer to Figures 3 and 5). • The Proponent argues a smaller park is acceptable as the loss of open space is offset by the proposed SLD which includes 36,335 m² of additional open space. Therefore, there would be an overall increase in open space on the site. • The Department considers the reduction in the size of the central park is acceptable in this instance as: <ul style="list-style-type: none"> ◦ the SLD will be provided with 36,335 m² of open space and associated SLD amenities, therefore, future SLD residents are unlikely to frequently use the central park ◦ the size of the central park (2,230m²) would still provide sufficient open space for the provision of children's play equipment and other amenities ◦ the residential subdivision contains a second park of 1,450 m² and the site adjoins the southern boundary of the significant Saltwater wetlands with walking trails, providing additional open space amenity ◦ the park has been relocated to a more central location, which will benefit future residents. • The Department also notes that while Council does not object to the provision of a smaller park, it recommends a condition which would allow Council to determine the need for a park at a later stage. Should Council determine that a park is not required, the land could be subdivided to create four residential blocks. | The Department has recommended a revised Condition E7 regarding the timing and dedication of the central park. |

| Issue | Consideration | Recommendation |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> The Department considers it would be appropriate for Council to determine the need for the park, given it would be the authority responsible for the future provision and maintenance of open space within the LGA. Conditions have therefore been recommended allowing Council to determine the need for the park at a later stage, and where it does not support provision of the park, a further modification request can be made to subdivide the land into residential blocks. | |
| <i>Residential layout</i> | <ul style="list-style-type: none"> The proposal seeks to amend the approved residential subdivision layout where it interfaces with the proposed SLD (see Figure 5). The remaining residential subdivision layout is not sought to be modified. Concern was raised in public submissions and by Council about the subdivision and road layout adjacent to the SLD. In response, the Proponent updated the residential road and lot layout to the west of the SLD boundary (Figure 5). The revised layout includes a cul-de-sac and rearranges lot layouts. All of the lots would continue to meet Council's minimum lot size of 500 sqm. The Department is satisfied the revised road and lot layout is acceptable as it provides for a logical subdivision pattern that is appropriately integrated into the remainder of the residential subdivision. Further, the Department notes the revised lots would meet Council's minimum lot size and be capable of accommodating houses with sufficient setbacks, landscaping and amenity. | No additional conditions or amendments necessary. |
| <i>Bushfire risk</i> | <ul style="list-style-type: none"> RFS initially raised concern about the proposed design of the subdivision and potential bushfire risk. In response to RFS' concerns, the Proponent amended the bushfire strategy for the site, which includes a larger Asset Protection Zone (APZ) and a reduction in the overall number of SLD dwellings on the site from 234 to 199 dwellings. Following its consideration of the revised bushfire strategy, RFS now supports the proposal subject to conditions requiring further improvements to the APZ, access and evacuation management, compliance with the provisions of <i>Planning for Bush Fire Protection 2006</i>, and relevant Australian Standards. Based on the revised bushfire strategy and advice from RFS, the Department's assessment concludes the site is suitable for SLD and bushfire risks can be appropriately mitigated and managed, subject to conditions. | The Department has recommended a new Condition B18 in accordance with RFS' requirements. |
| <i>Traffic</i> | <ul style="list-style-type: none"> Concern was raised in public submissions about the proposed development resulting in additional traffic impacts given the increased density on the site. Council and RMS recommended the Proponent provide an assessment of traffic generation. In response, the Proponent confirmed the total number of trips generated by the SLD portion of the site would be reduced from 1,323 to 398 trips. This is based on the <i>RMS Guide to Traffic Generating Development</i>, which identifies daily vehicle trips for a standard residential lot of 9 trips per dwelling, compared to 1-2 trips per seniors dwelling. The Department also notes the proposal includes the provision of a private bus for future SLD residents and the above traffic analysis did not consider this in its calculations. The provision of a bus service is expected to further reduce the development's reliance on private cars and reduce impacts on the local road network. The Department is therefore satisfied the Proponent has adequately assessed the likely trip generation for the SLD and demonstrated the proposal would not result in additional traffic movements or impacts on the surrounding road network beyond those already assessed and approved in the original application. | No additional conditions or amendments necessary. |
| <i>Acid Sulfate Soils</i> | <ul style="list-style-type: none"> The Proponent submitted an Acid Sulfate Soil Management Plan (ASSMP) to support the proposed modification. The Department notes the ASSMP refers to works that may intercept the groundwater table and the requirement for dewatering. DPI Water advised it supports the general principles of soil management in the ASSMP. However, it requested a Dewatering Management Plan and a Groundwater Monitoring and Contingency Program to ensure disturbance of Acid Sulfate Soils (ASS) can be managed appropriately. The Department supports DPI Water's suggestion for a Dewatering | The Department has recommended a new Condition B1 (b) requiring an updated ASSMP to be prepared which includes a Dewatering Management Plan |

| Issue | Consideration | Recommendation |
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| | Management Plan and Groundwater Monitoring and Contingency Program to ensure the disturbance of ASS is appropriately managed and the potential for contaminants to be discharged from the site into the SEPP 14 wetland is minimised. | and a Groundwater Monitoring and Contingency Program. |
| <i>Solar access</i> | <ul style="list-style-type: none"> • Council recommended solar access to the proposed SLD dwellings be considered before the determination of this request. • The Department notes indicative plans of SLD dwellings have been provided with the modification. However, all SLD dwellings would be subject to future development applications submitted to Council for its assessment and determination. • The Department notes the majority (more than 60%) of the SLD dwelling sites are north/south oriented and the remaining are set at an angle to the east/west axis. In addition, all SLD dwellings will be single storey and almost all sites are regular in shape. The proposed layout of the development would, therefore, ensure future dwellings are capable of achieving acceptable levels of solar access and would not significantly overshadow neighbouring properties. • Further, the Department considers solar access can be appropriately considered in further detail by Council as part of its assessment and determination of future applications. | No additional conditions or amendments necessary. |
| <i>Flooding</i> | <ul style="list-style-type: none"> • Concerns were raised in public submission about the site's susceptibility to flooding. • In response to these concerns, the Proponent confirmed: <ul style="list-style-type: none"> ◦ There would be no change to flood flows to adjoining properties when compared with the Project Approval. ◦ All habitable buildings will have an average finished floor level of RL 4.2 m Australian Height Datum (AHD), which is 800 mm above the 1% AEP flood event level (RL 3.4 m AHD). ◦ There is no change to the vehicular evacuation route from the site along Belle O'Connor Street. • In its assessment of the original application the Department engaged a consultant to review flooding impacts. Based on the consultants advice the Department recommended a Flood Planning Level (FPL), of 4.1 m AHD be adopted for the site, based on a conservative estimate of the 1 in 100 year flood level (including climate change scenarios) of 3.6 m AHD plus 0.5 m freeboard. • The Department notes the proposal would continue to comply with the approved FPL for the site, and as such, considers the site is suitable for the proposed development. • However, given seniors are more vulnerable to flooding impacts, the Department has recommended the Proponent prepare a Flood Emergency Response Plan in consultation with the State Emergency Service. This would ensure appropriate measures are put in place to manage and protect future residents from flood emergencies. | The Department has recommended a new Condition B25 requiring the preparation of Flood Emergency Response Plan. |
| <i>Ecological impacts</i> | <ul style="list-style-type: none"> • Concern was raised in public submission about the potential environmental impacts associated with the proposal on native flora, fauna (including endangered species) and nearby wetlands. • The Proponent has stated the SLD is located on the formerly approved residential lots and would, therefore, not result in any additional environmental impacts. • OEH advised the modification would not result in any new or additional biodiversity impacts, given the footprint of the development has not increased. • The Department considers the use of the site for SLD would not result in any new or additional environmental impacts when compared to the approved development, given it would continue to occupy the same development footprint. Further, as discussed earlier, the Department is satisfied potential impacts on the downstream wetlands would be appropriately managed subject to conditions. | No additional conditions or amendments necessary. |
| <i>Operational Management</i> | <ul style="list-style-type: none"> • Council recommends a Plan of Management (POM) be prepared for the SLD, and this should include consideration of the clubhouse, site maintenance, management of caravans, waste, the private bus, and the workshop/shed. • The modification does not include a POM. However, it confirms the estate and facilities will be provided and maintained by the owner and would be controlled by an on-site manager. | The Department has recommended a new Condition F5 requiring the preparation of a POM to be |

| Issue | Consideration | Recommendation |
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| | <ul style="list-style-type: none"> The Department agrees with Council that a POM should be prepared to ensure the ongoing operation of the SLD is appropriately managed and has recommended a condition accordingly. The Department is also satisfied that operational details can be submitted to Council for approval prior to the release of an Occupation Certificate for the SLD. | submitted and approved by Council prior to occupation. |
| <i>Contributions</i> | <ul style="list-style-type: none"> Council recommends the contributions within condition E10 <i>Section 94 Contributions</i> be updated to reflect the modification and include condition requiring a certificate of compliance to be obtained by Council under the <i>Water Management Act 2000</i>. The Department agrees the contributions should be updated to take account of the modifications and recommends condition E10 be updated accordingly. | The Department has recommended Condition E10 be updated to take account of the modification. |
| <i>Construction impacts</i> | <ul style="list-style-type: none"> Concerns were raised in public submissions about the potential construction impacts associated with the proposal. The Department is satisfied the potential construction impacts would be minor and temporary in nature. Further, existing conditions of approval would appropriately manage and mitigate potential dust, noise, soil, water and traffic issues during the construction phase. | No additional conditions or amendments necessary. |
| <i>Burrawong Drive</i> | <ul style="list-style-type: none"> Concern was raised in a public submission that Burrawong Drive should be renamed for the section outside the SLD to avoid confusion in lot numbering. The Department notes condition B11 (Street Names) requires the Proponent to submit street names to the Council for its approval prior to the issue of each Construction Certificate. The Department is satisfied Council will be able to review street naming and numbering to avoid any confusion. | No additional conditions or amendments necessary. |
| <i>Boundary adjustment</i> | <ul style="list-style-type: none"> The proposal seeks approval to adjust the boundary of a lot within the site to create a larger lot to accommodate the SLD (refer to Figure 10). The Department notes the proposed change consists of realigning an existing lot boundary and does not include the creation of any additional/new lots. The Department is therefore satisfied the boundary adjustment is minor in nature and is acceptable. | The Department has recommended Condition A2 be updated to include reference to the boundary adjustment plan. |
| <i>Plans</i> | <ul style="list-style-type: none"> The changes proposed by the modification request discussed in this report have not been applied to all of the Project Approval plans. The following site-wide plans are required to be updated to take account of the modifications: <ul style="list-style-type: none"> Malbec/Saltwater Development – South West Rocks – Bushfire Constraints Plan. Malbec/Saltwater Development – South West Rocks – Landscaping Plan. Coast Subdivision Plan 4972_N_SHT 02 Rev E. Coast APZ Plan 4972 Rev I. The Department, therefore, recommends a condition requiring the above plans be amended accordingly. | The Department has recommended new Condition A2A requiring the relevant Project Approval plans be updated to take account of the modification. |

8. CONCLUSION

The Department has assessed the modification request and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- the proposal is substantially the same as the original approval
- the change of use for SLD is acceptable and would not have adverse density, amenity, environmental or traffic impacts
- the proposed staging is acceptable subject to a requirement preserving the north-south road corridor
- sufficient open space would be provided to the proposed SLD and other residential development, subject to Council's requirements
- bushfire risk can be appropriately managed and mitigated subject to conditions
- the proposal would continue to comply with the approved FPL for the site

- the Department has recommended the SLD be appropriately managed/operated in accordance with a POM
- construction impacts would be appropriately managed and mitigated in accordance with existing conditions
- developer contributions have been updated to reflect the changes proposed by the modification.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

In accordance with section 75W of the *Environmental Planning and Assessment Act 1979*, it is recommended the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- consider the findings and recommendations of this report
- approve the modification request MP 08_0167 MOD 3
- sign the attached notice of modification and recommended conditions of consent (**Attachment A**).

Recommended by:

Recommended by:

Natasha Harras
Team Leader
Modification Assessments

Anthony Witherdin
Director
Modification Assessments

DECISION

Approved by:

Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8164

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8164

2. Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8164

3. Preferred Project Report

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8164

APPENDIX C: ENVIRONMENTAL PLANNING INSTRUMENTS

Under sections 75I(2)(d) and 75I(2)(e) of the EP&A Act, the assessment report is required to take into consideration the provisions of any Environmental Planning Instruments (EPIs) that substantially govern the carrying out of the project, and/or any EPIs that would (except for the application of Part 3A) substantially govern the carrying out of the project.

The Department assessed the Project Approval against the following EPIs, which were considered relevant to the application:

- State Environmental Planning Policy No.14 – Coastal Wetlands
- State Environmental Planning Policy No.71 – Coastal Projection
- *North Coast Regional Environmental Plan*
- *Mid North Coast Regional Strategy 2006*
- *Draft Saltwater Development Control Plan*
- *NSW Coastal Policy 1997.*

The Department has considered the proposed modification against the above listed EPIs and is satisfied that it remains acceptable in this regard.

The proposed modification includes the change of the eastern portion of the site from residential to SLD and therefore the following EPIs are now relevant to the proposal and are considered within the following section:

- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) including the *Seniors Living Policy: Urban Design Guideline for Infill Development (Seniors Design Guideline)*
- *Kempsey Local Environmental Plan 2013 (clause 6.3).*

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

| Key Principles | Department Response | Compliance |
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| Chapter 1 Preliminary | | |
| (4) Land to which this Policy relates This policy applies to land zoned primarily for urban purposes. | The land is zoned R1 Residential and dwellings and residential flat buildings are permitted with consent. <i>Clause 24 Site Compatibility Certificate</i> is therefore not applicable to the proposal. | Yes |
| Chapter 2 Key Concepts and Part 1 General | | |
| 8 Seniors are any of the following (a) people aged over 55 (b) people resident at a residential aged care facility (c) housing for aged persons provided by a SHP. | The proposal is for SLD and will be occupied by seniors as defined in clause 8. | Yes |
| 18 Restriction on occupation of seniors housing | The Department recommends a condition restricting the occupation of the SLD to seniors. | Yes |
| 21 Subdivision | The modification does not propose to subdivide the SLD lot. | Yes |
| Part 2 Site-Related Requirements | | |
| 24 Location and access to facilities 400 m to community facilities or regular public transport, and Site to have appropriate gradients | The SLD includes on-site community and recreation facilities, including a multi-purpose clubhouse. The Department notes the site is located further than 400 m (between 1.2 to 2 km) away from the nearest off-site community facilities and other services and the site is not currently served by public transport. However, the | Yes |

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| | <p>development includes the provision of a private bus service for SLD residents.</p> <p>The site is flat in nature and appropriate gradients will be provided. The Department recommends conditions requiring the provision of the private bus service and appropriate gradients.</p> | |
| 27 Bushfire prone land | The RFS has been consulted and recommends conditions of consent to address the bushfire prone nature of the site. The Department recommends those conditions accordingly. | Yes |
| 28 Water and Sewer | The Department notes the Proponent has consulted with Council regarding the provision and capacity of services for the site. The Department also noted the maximum population of the development would be consistent with the previously approved residential development. The Department is therefore satisfied appropriate water and sewer services can be provided for the SLD. | Yes |
| 29 Compatibility Criteria | The site is considered compatible with surrounding land uses, will not adversely impact the natural environment, will be appropriately connected to services, and the SLD amenities and indicative SLD dwelling design demonstrates that the that an acceptable built form can be provided on-site. | Yes |
| Part 3 Design Requirements Division 1 General | | |
| 30 Site analysis | The modification has been accompanied by an updated site analysis plan, which satisfactorily addresses the requirement. | Yes |
| 31 Design of in-fill self-care housing (Seniors Design Guidelines) | <p>The Department considers the proposal complies with the Seniors Design Guidelines for the following reasons:</p> <ul style="list-style-type: none"> • The proposed layout provides for an appropriate residential amenity, is consistent with the provisions of the SEPP, and will integrate into the urban character of the broader site. Dwelling sites can accommodate dwellings with appropriate setbacks and landscaping. • An appropriate streetscape is provided, including street trees and planting. • The SLD dwellings will be subject to future development applications. The indicative dwellings demonstrate that an appropriate built environment can be achieved on the site. • Future SLD dwellings can be designed to ensure there are no adverse amenity impacts on neighbouring buildings within the site or the adjoining properties. This matter would be considered further during the assessment of future DAs. • The Department notes the proponent advises future dwellings would be single storey and can be designed to ensure appropriate levels of solar access can be provided. Solar access will be considered in detail as part of future development applications. • The development will be gated and operated under a POM to be approved by Council providing a safe and secure environment for future SLD residents. • The site will be fully wheelchair accessible. • The Department recommends a condition requiring future development applications consider the requirements of the Seniors Design Guideline. | Yes |

| Division 2 Design Principles | | |
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| 33 Neighbourhood amenity and streetscape | The proposed layout is considered acceptable, the site includes appropriate SLD amenities, landscaping (including street-trees) and open spaces. Although the site is gated, it will be residential in appearance and will therefore integrate with the remainder of the site. | Yes |
| 34 Visual and Acoustic Privacy | SLD dwellings will be subject to separate future development applications to be assessed by Council. The indicative dwelling designs demonstrate that they can be appropriately located on the dwelling sites to achieve an amenity standards. | Yes |
| 35 Solar Access | Refer to comment above | Yes |
| 36 Stormwater | The SLD is located wholly within the boundary of the Project Approval, which was considered acceptable in terms of stormwater impacts and mitigation. The application has appropriately considered stormwater. | Yes |
| 37 Crime Prevention | Vehicular and pedestrian entry to the site will be restricted. All dwellings will be self-contained, front the street and provide for passive surveillance. The designs of dwellings will be subject to future development applications. | Yes |
| 38 Accessibility | The SLD layout is considered acceptable and includes roads, paths and linkages to ensure the development is permeable and accessible. The private bus service will provide all residents access off-site services and facilities. | Yes |
| 39 Waste Management | The proposal has been designed to ensure that sufficient space is available for waste storage. The Department notes the Statement of Commitments confirm that a Waste Management Plan will be prepared for the site. The Department recommends the Plan of Management recommended at Section 7.3 include a section addressing waste management. | Yes |
| Part 4 Development Standards to be Complied with | | |
| Division 1 General | | |
| 40 Development Standards Minimum site area 1,000 m ² Minimum site frontage 20 m Height as per KLEP 2013 | The site is 11,100 m ² in area The site frontage is approximately 300 m long Proposed buildings are all single storey and less than the 8.5 m KLEP 2013 height restriction. The SLD dwellings will be subject to future development applications. | Yes |
| Division 3 Hostels and Self-Contained Dwellings | | |
| 41 Standards | The SLD dwelling will be subject to future development applications and BASIX Certificate. The Department recommends a condition requiring compliance with all relevant sections of Schedule 3. | Yes |

Kempsey Local Environmental Plan 2013 (Clause 6.3)

The KLEP 2013 identifies the land to which the original Project Approval relates is an urban release area. Therefore, if the application was not a 'transitional Part 3A project' it would be subject to the requirements of clause 6.3 of the KLEP 2013, which requires development be staged, subject to a development control plan and specific controls.

The Department has considered the proposal against the specific requirements of clause 6.3 below and concludes that the proposal is acceptable overall, is appropriately staged and includes appropriate controls.

| Clause 6.3(3) – requirements | Department Response |
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| (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing, | The modification includes a staging plan for the SLD. As discussed at Section 7.2 , the proposed staging is considered acceptable and appropriate for the site. In addition, the modification includes a revised staging plan for the overall site, which is also considered acceptable. |
| (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists, | The proposed layout of the SLD includes roads, pathways and links, which ensure the site is highly permeable and accessible for future residents. The modification includes appropriate amendments to the residential road and lot layout to the west of the SLD to take account of the overall site layout changes and provide an efficient residential road and lot layout. |
| (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain, | The modification includes a concept landscape plan for the SLD site, including open spaces, landscaping and SLD amenities. As discussed at Section 7.3 , the public park within the residential component of the site has been relocated to a more central location to improve access to it for local residents. The reduction in size is considered acceptable. |
| (d) a network of active and passive recreation areas, | Refer to comment above. |
| (e) stormwater and water quality management controls, | As discussed at Section 7 , the Department considers that the proposed stormwater strategy for the site is acceptable, subject to conditions. |
| (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected, | The SLD is located wholly within the boundary of the Project Approval site. As discussed at Section 7 , flooding and the environment were considered in detail as part of the Department's assessment of the Project Approval. The change of use from residential to SLD is not considered to result in any additional impacts beyond what has already been considered. Further existing and proposed conditions of approval would appropriately manage and mitigate natural and environmental hazards which would potentially impact on the SLD. |
| (g) detailed urban design controls for significant development sites, | The SLD dwellings will be subject to future development applications, which will be submitted to Council for assessment. |
| (h) measures to encourage higher density living around transport, open space and service nodes, | This is not applicable to the site. |
| (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses, | This is not applicable to the site. |
| (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking. | The proposal includes the provision of a private bus service, which will allow residents to access off-site services and facilities. Visitor car parking is provided around the SLD and on-site car parking is likely to be included as part of future development applications for SLD dwellings. |