



South West Rocks

A report with respect to submissions to the
exhibition of the Environmental Assessment &
a Preferred Project Report with
updated Statement of Commitments

PLANNERS NORTH, May 2013

SETTLERS RIDGE, SOUTH WEST ROCKS

COMPLIANCE AND USAGE STATEMENT

This Referred Project Report has been prepared and submitted under Part 4 of the *Environmental Planning and Assessment Act 1979* by:

Preparation

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In respect of: Settlers Ridge Estate, South West Rocks

Application

Proponent: The Settlers Ridge Joint Venture
Address: C/ - PLANNERS NORTH
P.O. Box 538, Lennox Head NSW 2478
Land to be developed: Lot 31 DP 754396, Lot 57 DP 1117398, Lot 223 DP 754396 and certain crown land

Certificate

I certify that I have overseen the preparation of this Preferred Project Report and to the best of my knowledge:

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

Notice

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Job no: 1292-357

1 CONSIDERATIONS OF SUBMISSIONS

1.1 BACKGROUND

The Settlers Ridge Part 3A Application and Environmental Assessment (EA) was prepared by S J CONNELLY CPP PTY LTD. Recently, that firm has merged with the town planning consultancy practice of Kate Singleton Pty Ltd to form the partnership PLANNERS NORTH ACN 291 496 553. PLANNERS NORTH now has carriage of this matter on behalf of the Settlers Ridge Joint Venture.

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

1.2 STRUCTURE OF REPORT AND ITS SCOPE

Sections 2 to 9 of this report review the submissions made by various governmental authorities. Important aspects of the various submissions are quoted in black font. Comments in reply to those submissions are provided in blue coloured font.

Section 10 of this report looks at public submissions made in relation to the project.

The final section of this report contains a description of the Preferred Project, being a modification of the original scheme lodged with the Environmental Assessment, having regard to the various submissions received by the Department of Planning & Infrastructure (the Department) in response to the public exhibition of the EA.

1.3 SITE PLANNING ALTERATIONS

The Preferred Project is described in detail at Section 11 of this report. As explained in that section, the scheme has been altered as a consequence of consideration by the Proponents of submissions received in relation to the exhibition of the Environmental Assessment. **Plan 1.2** illustrates the evolution of the design of the Settlers Ridge Estate. **Plan 1.2A** shows the design of the development as contemplated at the time of lodgement of the Preliminary Assessment and Preliminary Draft of the EA prepared for consideration by the Department prior to exhibition. Following that consultation the footprint of development was reduced. **Plan 1.2B** shows the concept as it was presented in the Environmental Assessment

The final layout submitted with this Preferred Project Report is illustrated in **Plan 1.2C**. This scheme reduces the total number of residential lots to 137 and with the balance land available for BioBanking. The balance lot is a contiguous parcel and has increased in size from 23.2 ha (representing some 58% of the site area) to 29.2 ha involving some 73.7% of the overall site area. Further, the proposed future road reserve intended to connect Steve Eagleton Drive with the western part of South West Rocks has been deleted.

Crown land wedged between the development parcels adjacent to the Keith Andrews Road reservation has been incorporated into the scheme to facilitate interconnectivity and to create a local park. The Land Owner Authority from the Crown Lands Office to permit the inclusion of this land in the Preferred Project Scheme is attached in **Appendix A** to this report.

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Key statistical information comparing each of the schemes is set out in **Table 1.1** below.

Table 1.1 Key Statistical Information

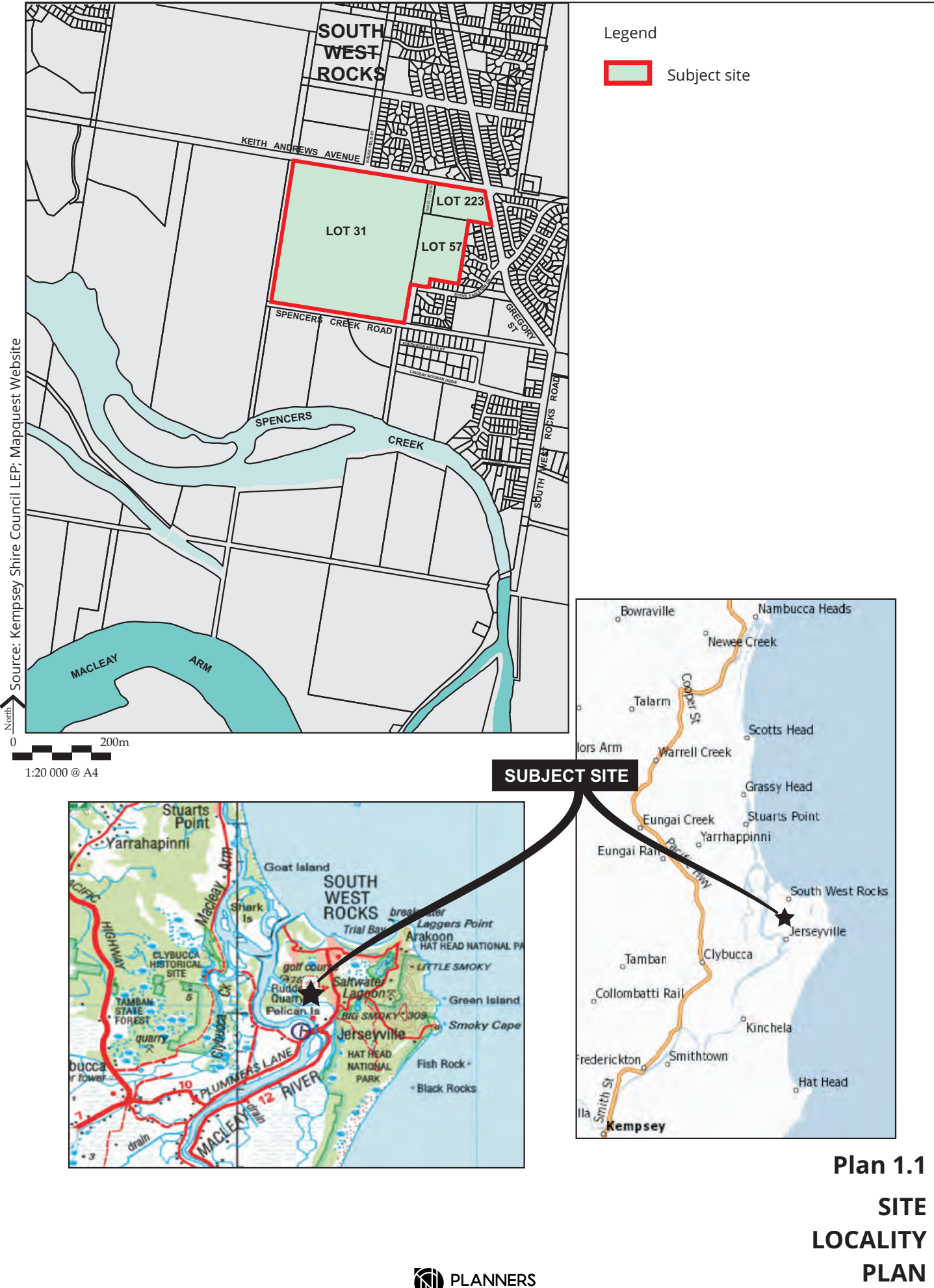
	Initial Scheme	%	EA Scheme	%	Preferred Project	%
No of lots	220 lots		154 lots		137 lots	
Average lot size	614m ²		642m ²		612m ²	
Area of balance land	19.13ha	42.8%	23.2ha	58%	29.18ha	72.3%
Roads	5.253ha	13.1%	5.3ha	13.3%	2.7ha	6.6%
Open Space	1.96ha	4.9%	1.6ha	4%	0.15ha	0.4%

1.4 IMPACT MANAGEMENT ALTERATIONS

Elsewhere in this Preferred Project Report, detailed information is provided in relation to environmental impact management. Key changes to the proposed subdivision proposed as a consequence of consideration of exhibition submissions and mature reflection by the Proponents, are as follows:

- The balance area available for BioBanking ecosystem credit retirements has been significantly enlarged to 72% of the site area;
- The balance land available for ecosystem credit retirements has been amalgamated into a single contiguous area;
- The proposed future arterial road reserve which transected the site from east to west has been eliminated from the scheme;
- The triangular shaped balance Lot No 800 located immediately adjacent to the Keith Andrews Avenue Road Reserve in the north-western corner of the site has been eliminated and now forms part of the balance lot;
- By locating the development component of Lot 31 DP 753496 within the sewerage drainage catchment, a pump station has been eliminated from the scheme;
- The item of Aboriginal Cultural Heritage located within Lot 57 DP 1117398 is situated within land available for BioBanking credits and is intended to be protected as part of the management planning associated with the site BioBank agreement, and
- Open space for the development has been located towards the north of the site which improves its general accessibility to the subject development and also residential land immediately to the north.

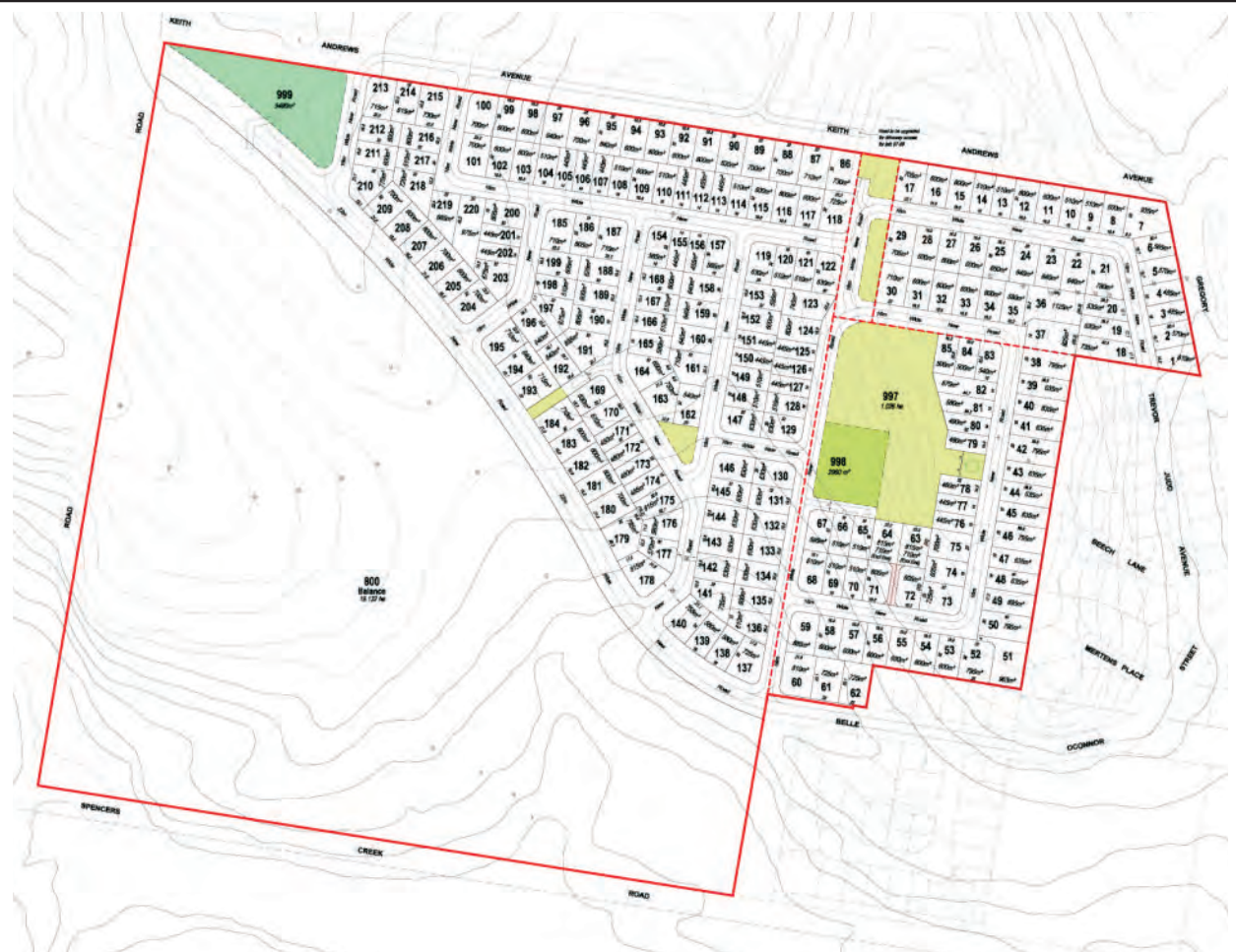
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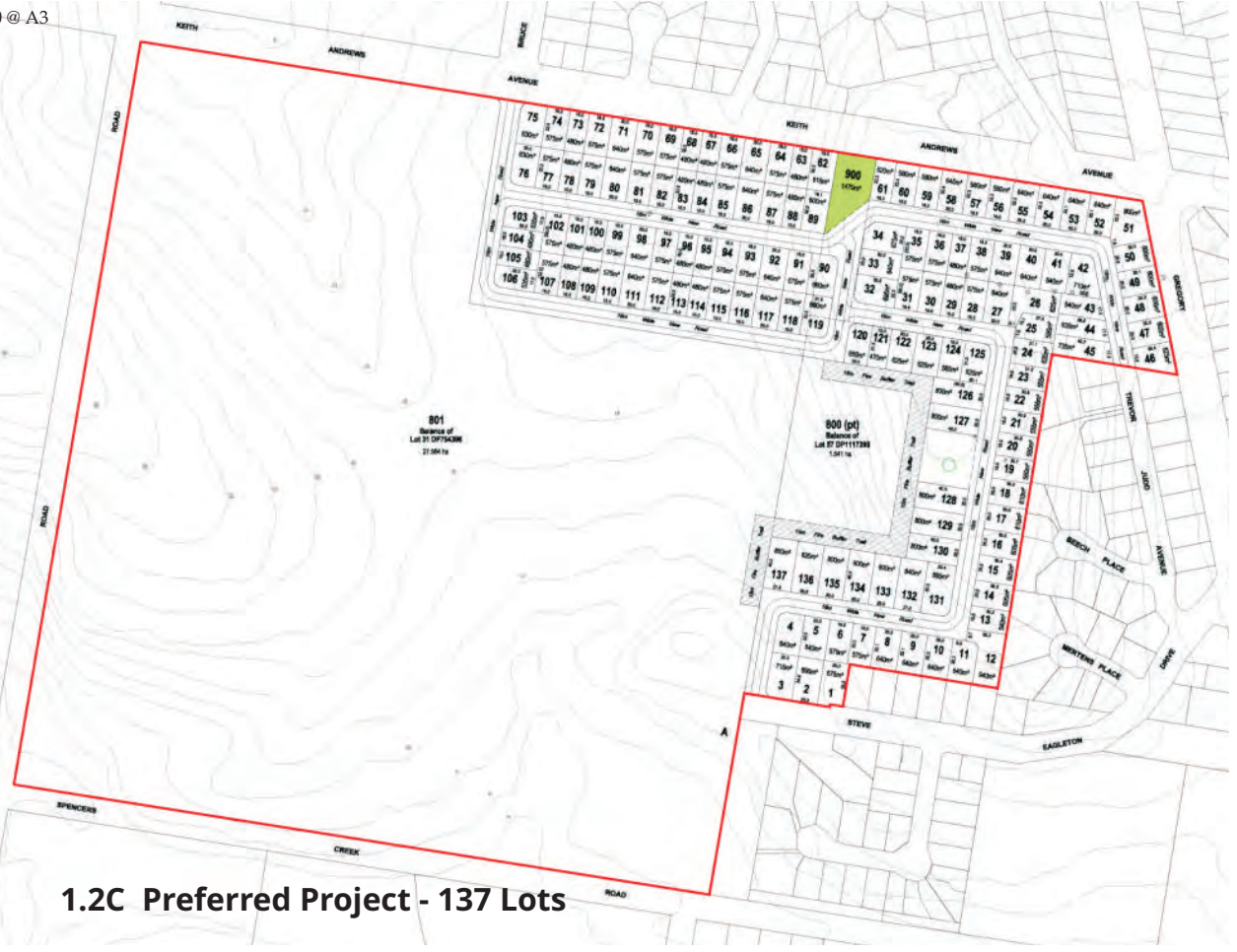
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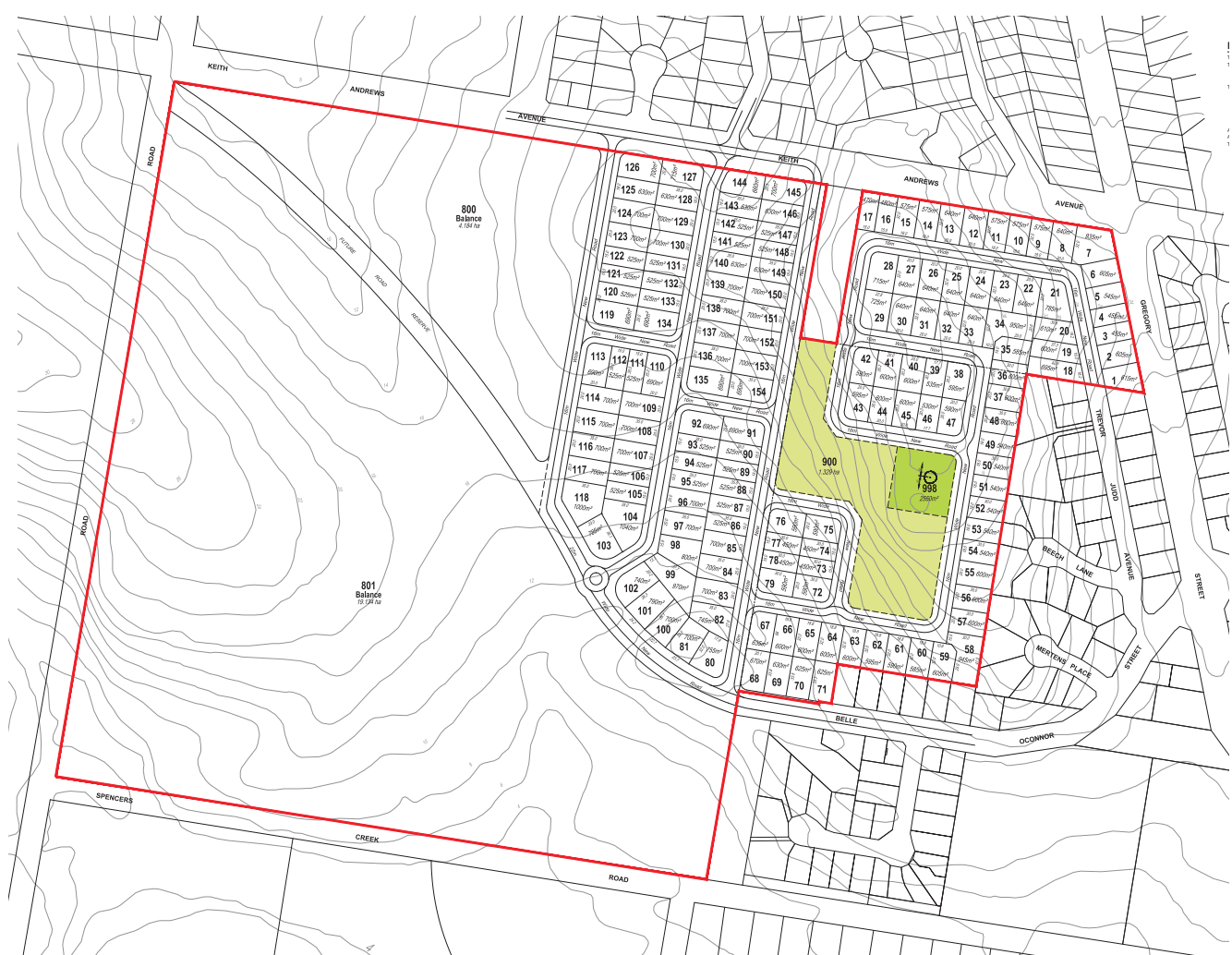
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1.2A Preliminary Assessment and Draft Environmental Assessment - 220 Lots



1.2C Preferred Project - 137 Lots



1.2B Environmental Assessment - 154 Lots

2 DEPARTMENT OF PLANNING AND INFRASTRUCTURE - KEY ISSUES

The Department's key issues on the proposed concept plan relate primarily to the justification for the development (Section 1) and potential impacts on the site's existing ecological values (Section 2). The department requests the proponent respond to the issues raised by the department, other government authorities, and the general public through a Preferred Project Report.

PROPOSAL JUSTIFICATION

The subject site is identified in the Mid North Coast Regional Strategy as being within a proposed future land release area with high level constraints; and is zoned part 2(a) (Residential "A" Zone) under the Kempsey Local Environmental Plan 1987. Whilst the department acknowledges the site is located within an area identified for future residential expansion, the demand for additional residential land in South West Rocks coupled with the site's ecological constraints (refer Section 2 below) raises concern as to whether the proposal is justified in its current form.

The department requests the proponent provide further quantitative research to justify the need/demand for an additional 154 residential lots for South West Rocks in the short to medium term. In providing this justification, consideration should be given to recent approvals for the development of residential land in proximity to the site, including:

- 269 residential lots immediately east of the site ('Saltwater' subdivision) – approved in June 2011;
- 56 residential lots immediately east of the site ('Seascope Grove Stage 1C') – approved in March 2010;
- 45 residential lots to the south ('Rosarii' Subdivision) – approved in December 2007; and,
- 108 residential lots immediately east of the site ('Seascope Grove Stage 1B') – approved in June 2007.

Comment 2.1

The Mid North Coast Regional Strategy is based on the projected population increase in the region to some 427,600 persons by 2031. This involves growing the regional population base by 97,000 persons from 330,600 to 427,600. The strategy aims to provide growth areas (depicted in its growth area maps) to provide enough land to accommodate expected population growth plus an additional capacity to assist with the housing affordability and housing choice.

In terms of Kempsey Shire, South West Rocks is its major source of housing supply in the near and long term future. Settlements like Grassy Head, Stewarts Point, Fishermans Beach, Gladstone, Smithtown and Hat Head, are not slated under the strategy for any future growth. Furthermore, growth is limited in Kempsey and Crescent Head. Accordingly, the Mid North Coast Regional Strategy (and Council's own Residential Land Release Strategies) strategically funnel the bulk of the future residential development in the Kempsey Shire to South West Rocks. This strategic planning approach is illustrated in the Departmental Growth Management Plans for the locality, an extract of which is contained in **Plan 2.1** to this report.

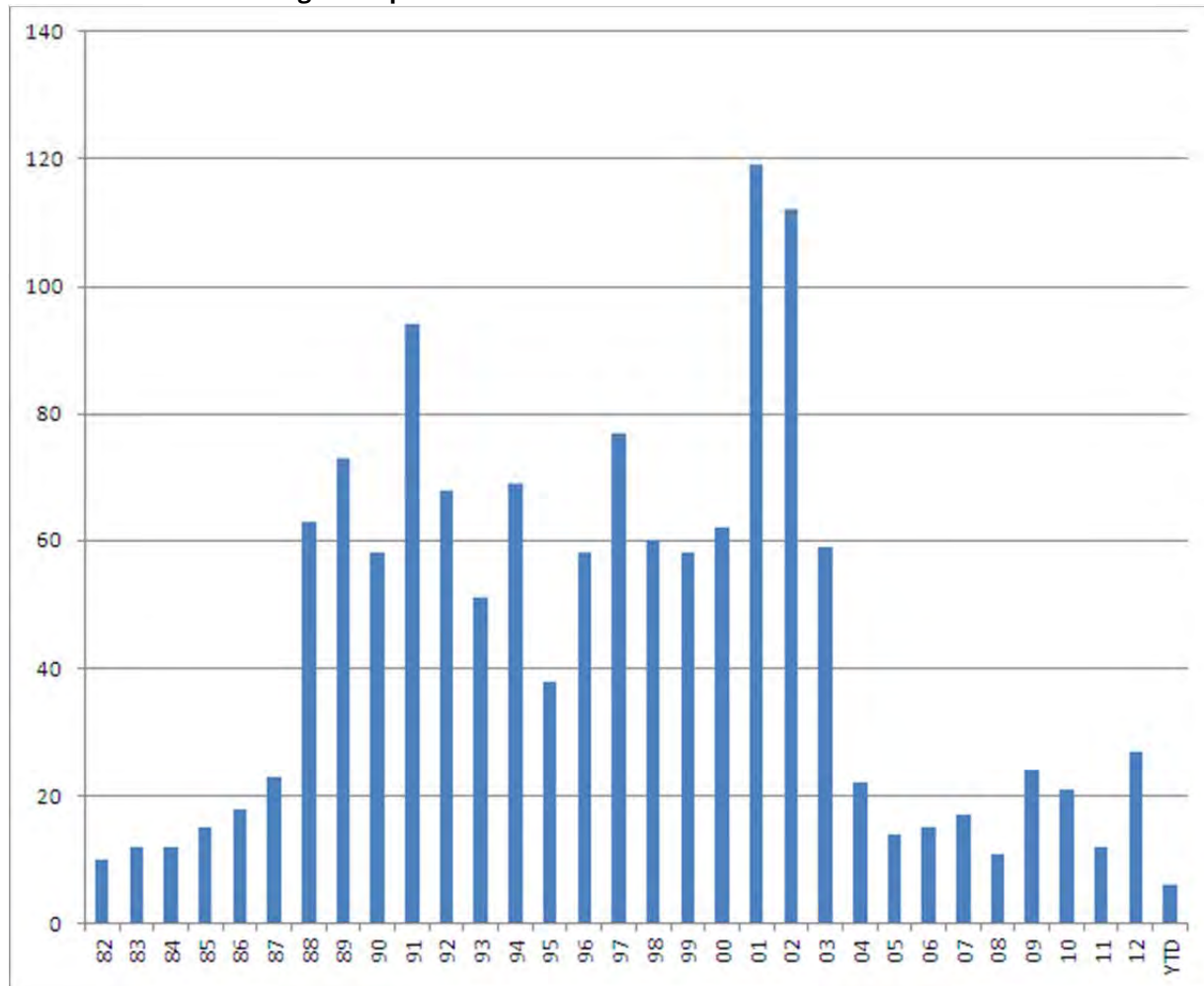
Both Council and the Department are being faithful to the strategy by progressively releasing further land in accordance with the strategy. For example on the 15th March 2013 a rezoning of land at Riverview Place (New Entrance Road) South West Rocks for residential purposes was gazetted. More recently, the gateway approval has been issued for a proposed residential land release at Gilbert Cory Drive South West Rocks. This latter parcel is located immediately to the north-west of the subject site.

In relation to the demand for residential land in South West Rocks, it is fair to say that the take up in residential land is highly linked to the economic cycle. **Table 2.1** below illustrates vacant land sales in the South West Rocks locality over the period 1982 to the current year. As illustrated by this graph, in the early part of the 2000's, vacant lot sales exceeded 110 per year on two occasions. With an average in the order of 50 vacant lot sales per annum over the 30 year period.

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Table 2.1 Historic growth patterns in South West Rocks



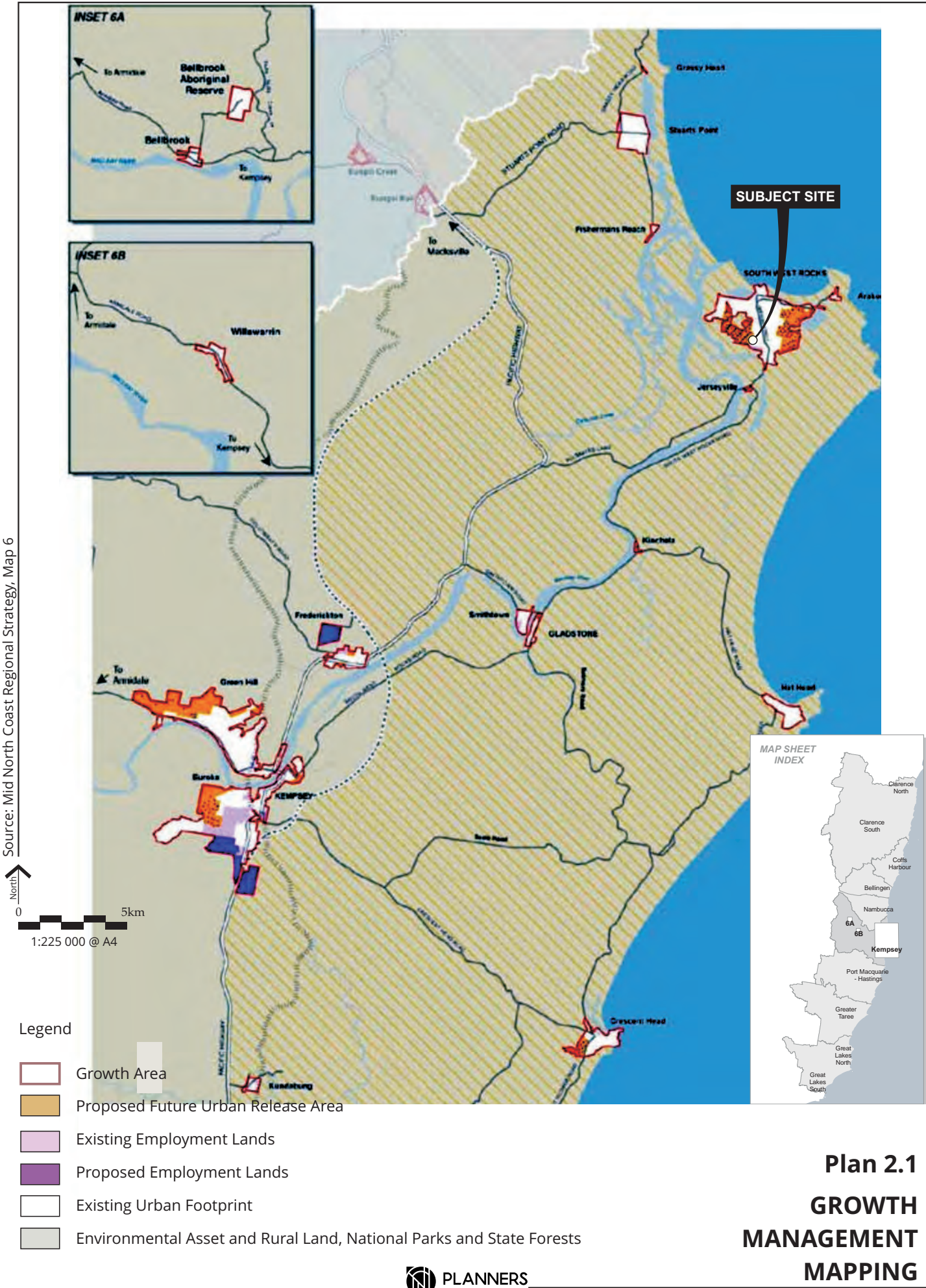
Source: Tim Needs Valuation Services, May 2013.

Clearly, in buoyant economic times, the whole of the Settlers Ridge Estate could be marketed and sold in a single year.

In statutory planning assessments economic competition (i.e. need-v-demand) for a land use is not a matter that is ordinarily considered. This is a matter that resides with the marketplace to determine. Classic decisions of the Court which verify this approach to statutory planning assessment include *Fabcot v Hawkesbury City Council* (1997) 93 LGERA 378 and *Zhang v Canterbury City Council* (2001) NSWCA 167. This principle is further reinforced by the Draft SEPP-Competition.

We submit that supply and demand is a reasonable consideration at the time of rezoning but having regard to the abovementioned Court judgements we respectfully suggest that competition/land availability considerations are not a proper and reasonable consideration at the time of application consideration. In any case, the Department (and the Council) have weighed up supply and demand considerations only quite recently supporting two rezoning proposals in South West Rocks¹ which add additional land supply into the South West Rocks locality.

¹ See gateway proposals pp_2012_KEMPS_002_00 & PP_2011_KEMPS_002_00



IMPACTS ON BIODIVERSITY

The department is concerned with the impact of the proposal on the site's existing ecological values. In particular, the direct and cumulative impacts of future residential development on threatened species known to inhabit the site (and adjoining land), as well as the removal and fragmentation of threatened species habitat.

Comment 2.2

Having regard to comments received by the Department and OEH, the Preferred Project subdivision layout significantly reduces the footprint of the development and provides for a contiguous balance lot available for BioBanking credit retirement. This balance lot utilizes over 72% of the site.

The proponents are acutely aware that the conservation of threatened plants, animals and endangered ecological ecosystems is one of the greatest environmental challenges facing Australia today. The key reason for the historically high extinction rates of these animals, plants and ecosystems is habitat degradation. In response to these pressures, the NSW government introduced the Biodiversity Banking and Offset Scheme. BioBanking is a market based scheme that provides a streamlined biodiversity assessment process for development, a rigorous and credible offsetting scheme, as well as the opportunity for rural land owners to manage land for conservation.

BioBanking provides:

- a transparent, consistent and robust framework for the assessment and management of biodiversity offsets;
- creates opportunities for conservation on privately owned land;
- provides permanent security and management of biodiversity offsets; and
- provides a secure mechanism for investment in biodiversity conservation.

A key aspect of the BioBanking scheme which is easily overlooked is the fact that BioBanking mandates an 'improve or maintain' test for biodiversity values. The offsets are measured in terms of "credits" using the BioBanking assessment methodology. The proponents are committed to participating in the scheme and accordingly they must meet this 'improve or maintain' test. Put simply, the environmental planning principle which is embodied in the proponent's application is founded on a government managed, scientific methodology which guarantees an outcome which will 'improve or maintain' conservation values.

REMOVAL OF THREATENED SPECIES HABITAT AND PROPOSED BIOBANKING SITES

Concern is raised in regards to the clearing of mature forest vegetation and threatened species habitat, particularly given the site is located within a regional wildlife corridor. The Office of Environment and Heritage (OEH) advises that the site contains High Conservation Value old regrowth native vegetation. Vegetation containing Koala feed tree species including Scribbly gum and Tallowwood species is also proposed to be cleared. The department acknowledges the proponent's attempts to offset the impact of vegetation clearing through the establishment of biobanking sites. Notwithstanding, land owners should first consider possible prevention and mitigation measures with compensation through the use of biodiversity offsets only implemented in unavoidable situations. The Environmental Assessment (EA) does not demonstrate sufficient prevention and/or mitigation measures in response to the proposed concept layout. The department acknowledges the proposed subdivision is confined to the 2(a) (Residential "A" Zone). In spite of the site's residential zoning, the department requests the proponent investigate further prevention and/or mitigation measures as part of the concept design. The OEH has also requested the proponent consider further "avoid" options, and recommends reducing the western extent of residential lots, and deleting the proposed distributor road.

Comment 2.3

Notwithstanding what has been said in comment 2.2 above, the proponent has accepted the recommendation of the Department and OEH to reduce the western extent of the residential lots and delete the proposed distributor road corridor. Pursuant to the Preferred Project scheme, some 72.3% of the site (29.18 hectares) is intended to be made available for BioBanking credit offsets. This will not be sufficient to meet all of the offsets and credits will be retired from other land consistent with the BioBanking methodology

VEGETATION ISOLATION AND FRAGMENTATION

The proposed subdivision and road network layout segregates two significant portions of heavily vegetated land (being Lot 800 and Lots 900, 998) contributing to further isolation and fragmentation of threatened species habitat.

1. Lot 800 covers a area of 4.1ha and is segregated by Keith Andrews Avenue to the north, proposed extension of Steve Eagleton Drive to the south and west ("Future Road Reserve"), and proposed new road to the east. The department does not support the segregation of land within proposed Lot 800 and considers this area would better form part of the proposed biobanking site to the south (Lot 801). Subsequently, the extension of Steve Eagleton Drive traversing to the north-western corner of the site is not supported. Should the proponent request the extension of Steve Eagleton Drive remain as part of the application, the department requires additional information regarding the future long term use and/or management of proposed Lot 800.

Comment 2.4

The proponent accepts the criticism of the exhibited EA scheme and its Preferred Project now involves no isolation or fragmentation of habitat as illustrated in **Plan 11.1**, with some 72.3% (29.2 hectares) of the site is now intended to be set aside in the balance lot and made available for BioBanking purposes. No segregation of portions of the site is now proposed and no extension of Steve Eagleton Drive is now contemplated.

2. The department raises concern with the designation of combined Lot 900 (1.3ha) and Lot 998 (0.25ha) as a potential BioBanking site. Principles for the Use of Biodiversity Offsets in NSW note that the "enhancement of biodiversity in offset areas should be equal to or greater than the loss in biodiversity from the impact site" (principle No. 6, refer Appendix A). Lots 900 and 998 are bound by proposed new roads, and Lot 998 is identified as an 'active open space park' on the submitted plans. The proponent should demonstrate how the enhancement of biodiversity values in this location can be achieved. Consideration should also be given to providing a revised concept layout to ensure the connectivity of Lots 900 and 998 with existing vegetation to the west of the site.

Comment 2.5

The preferred project subdivision proposal now ensures full connectivity within the balance lot.

Should the proponent reconsider Lots 900 and 998 as a BioBanking site (as requested above), re-calculation of the total number of BioBanking credits generated from this part of the site will be required.

Comment 2.6

The BioBanking credits available with the utilisation of the balance lots for BioBanking purposes has been recalculated. That recalculation is contained in **Appendix B** to this Preferred Project report. Please note that in the recalculation, the area of the bush fire trails and dwelling house site (marked as "A" on **Plan 11.1**) for the balance land lot have been placed in a separate zone and included in the calculations.

PREVIOUS FAUNA SURVEYING RESULTS

Under Section 2.0 of the Biodiversity Assessment Report, reference is made to a 2003 Species Impact Statement (SIS) accompanying the application for subdivision of Lot 223 DP 754396 and Lot 57 DP 1117398 (DA numbers T6-03-186 and T6-03-191 – ultimately voided by the Land and Environment Court). A supplementary report to this SIS was prepared in July 2007 accompanying Part 3A application 05_0207 involving a proposed 38 lot subdivision of Lot 223 DP 754396 (ultimately revoked). The department requests further information be provided as part of a Preferred Project Report which makes reference to previous fauna surveying efforts and documented threatened species records of the site and adjoining sites, including the 2003 SIS referenced in the Biodiversity Assessment Report. The proponent is also requested to provide greater attention to the OEH Atlas of NSW Wildlife database.

Comment 2.7

Atlas records were reviewed for South West Rocks prior to undertaking the Biodiversity Assessment Report and the fauna assessment methods targeted threatened species potentially occurring at the site. For example, pit-fall traps were used to target the common planigale, play-back calls for forest owls and koala scat searches were undertaken under koala food trees. The BioBanking methodology includes the assessment of flora and fauna species which have been modelled to occur in the South West Rocks area. In using the calculator, the Assessor can exclude some species if they are considered unlikely to occur at the site. This has not been done for any of the “default” species even though the majority were not considered likely to occur based on the history of surveys undertaken and site species surveys reported in the Biodiversity Assessment Report. For example, species included and those for which ecosystem credits are required to be retired that are considered unlikely to occur are the barred cuckoo shrike, brown tree creeper, bush stone curlew, eastern pygmy possum, koala, little lorikeet, regent honeyeater, spotted tail quoll and swift parrot.

Previous fauna surveys at the site were not as comprehensive as that described in the Biodiversity Assessment Report.

Previous reports reviewed include:

- Bray, D. 1999 Threatened species impact assessment and SEPP assessment for proposed subdivision and industrial development Lot 961 (Part of lot 96 DP 754396) off Spencers Creek Road South West Rocks;
- Darkheat eco-consultancy 2000 Threatened species and SEPP 44 koala assessment of proposed residential subdivision of Lot 229 DP 754396 Spencers Creek Road South West Rocks. A report for Hadlow Design Services;
- State Forests 2001 Squirrel glider and brush-tailed phascogale survey South West Rocks Eric Norman development site Lot 224;
- Northern NSW Forestry Services 2002 Draft threatened species management plan Lot 51 DP 1025337 Belle O'Connor Street South West Rocks;
- O, Neill, M. and J. Williams 2003 Species Impact Statement proposed residential subdivision Lot 223 DP 754396 Trevor Judd Avenue and Part Lot 511, DP 1048157 Belle O'Connor Street South West Rocks;
- Umwelt Environmental Consultants 2005 Draft flora and fauna assessment for proposed dwelling, lot 10 DP 754396, Gilbert Corey Street South West Rocks;
- Darkheat eco-consultancy 2006 Commonwealth EPBC Act 1999 NSW Threatened Species Act 1995 assessments, Lot 961 DP 1009907 Frederick Kelly Street South West Rocks. A report for Hadlow Design Services;
- SMEC 2008 South West Rocks landscape ecology specialist study ecological modelling. A report to Kempsey Shire Council

REFUSAL OF SEPP 71 MASTER PLAN (GRA 6323464)

The department makes note of the SEPP 71 draft master plan (GRA 6323464) for 47 residential lots at Lot 57 DP 1117398, which was refused on 23 October 2008. Key grounds for the refusal included:

- the proposed lot layout was considered an overdevelopment of the site; and
- the impact of the development involving the removal of significant mature native forest in the locality sets a precedent for future development of the area.

The department's original concerns resulting in the refusal of the draft Master Plan remain. The proponent is requested to justify the current proposal having considered and addressed the reasons for refusal of draft master plan GRA 6323464.

Comment 2.8

The Master Plan lodged previously for Lot 57 DP 1117398 sought to look at that parcel in isolation, without an examination of the ecological attributes of the surrounding zoned land. This Application is very different from the Master Plan Application for a number of reasons including:

- 1 The Settlers Ridge application looks comprehensively at not just the 5.3 hectare area of Lot 57 but the whole of the zoned but undeveloped land in the area being a parcel of some 40 hectares in size.
- 2 The statutory planning context of assessment has changed dramatically. At the time of the SEPP71 Master Plan request, the Part 3(A) process was not triggered for the subject land. Part 3(A) has a much different statutory regime which requires a quite different examination and assessment of a concept proposal.
- 3 The subject application adopts the BioBanking methodology as a scientific, transparent and robust method of examining the likely impact of the development and quantifying the offset measures that are required.
- 4 At the time of the refusal of the SEPP71 Master Plan Application for Lot 57, the Department did not have the benefit of the strategic planning context work undertaken as part of the Mid North Coast Regional Strategy. The strategy clearly enunciates a policy of providing for the orderly and economic development of the subject land (as part of the urban footprint of South West Rocks) and puts into context the "balancing" of orderly and economic growth with the management of environmental resources.
- 5 At the time of the refusal of the SEPP71 Master Plan Application for Lot 57, the Department did not have the benefit of the comprehensive thinking and analysis which underpins the Kempsey Draft LEP 2012. The Draft LEP maintains the zoning of the land and does not elevate the western component of the site to an Environmental Protection Zone. The Department may have thought an alteration to an Environmental Protection Zone was likely for the land when they refused the SEPP71 Master Plan request.
- 6 Having regard to the comprehensive approach to development and conservation enunciated by this Application; the different legal context; the inclusion of BioBanking as an assessment and offsetting tool and the contextual planning situation, it is respectfully submitted that the subject Application is very different to the earlier SEPP71 Draft Master Plan Application.

REVISED SUBDIVISION DESIGN AND LAYOUT

In respect to the points listed above, the department recommends the proponent consider a revised concept design that better responds to the existing threatened species habitat and provides improved vegetation connectivity. Revision of the concept design should aim to achieve the following outcomes:

- to avoid the fragmentation of land within proposed Lot 800, consideration should be made towards deleting the proposed extension of Steve Eagleton Drive (referred to as 'Future Road Reserve' on Plan 3.1) as part of the concept plan;
- consideration should be given to include Lot 800 as part of the proposed biobanking site to the south (Lot 801), or at the very least, the implementation of a long term management strategy for the protection of this land;

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- in order to avoid the isolation of Lots 900 and 998, a continuous vegetated corridor to land within the western portion of the site (Lots 800 and 801) should be incorporated as part of the design; and,
- an alternative concept layout including a reduced number of lots should be considered. The proponent is requested to give consideration to the preservation of land west of Lot 900 through the deletion of Lots 80 to 154 inclusive in order to avoid the loss of further native vegetation and threatened species habitat.

Comment 2.9

The proponent, having regard to submissions received as a consequence of exhibition of the Environmental Assessment, has modified the concept plan with respect to the following aspects:

- The proposed extension of Steve Eagleton Drive has been deleted;
- Lot 800 and 801 in the EA subdivision plan have been amalgamated into a single balance lot available for BioBanking;
- A contiguous corridor has been created, eliminating the isolation of Lots 900 and 998;
- The subdivision footprint has been significantly reduced in size, and
- The scheme has been reduced from 154 residential lots to only 137 residential lots with the average lot size a generous 612 square metres in area.

3 TRANSPORT ROADS & MARITIME SERVICES

RMS ROLES AND RESPONSIBILITIES

The key interests for RMS are the safety and efficiency of the classified road network. In particular, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

In accordance with the Roads Act 1993, RMS has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Gregory Street forms part of the classified road, 'Clybucca-South West Rocks Road' (MR460). Kempsey Shire Council is the Roads Authority for this road and all other public roads in the area.

Comment 3.1

The Traffic Assessment lodged with EA showed that no additional works are required to enhance the intersection of Steve Eagleton Drive and Gregory Street. Given that the Development has been reduced in size, the traffic impacts will of course reduce accordingly. That aside, because there are no physical alterations required to the above-mentioned intersection there is no concurrence role for the RMS merely a review role if an individual development application (lodged post to the approval of the concept plan) triggers the referral provisions defined in the Infrastructure SEPP.

RMS RESPONSE

RMS has reviewed the information provided and has no objection to the proposed concept plan. The following comments are provided for the Department's consideration in making a determination.

RMS notes that the proposed road network demonstrated by the concept plan will connect to existing residential streets to the north of the subject site with subsequent impacts to the existing Frank Cooper Street I Gregory Street intersection. This is a give-way, priority controlled intersection with limited protection for turning vehicles.

RMS considers that the Traffic Impact Assessment provided in support of the concept plan has provided minimal analysis of the Frank Cooper Street I Gregory Street intersection. The existing and proposed turn movements at affected intersections should be considered against the warrants provided in Section 4.8 of the Austroads Guide to Road Design Part 4A.

Comment 3.2

We are pleased to see that the RMS has no objection to the proposed Concept Plan. At the Development Application stage it may be appropriate to investigate the impact on the Frank Cooper Street/Gregory Street intersection. This matter has been added to the proponents updated Statement of Commitments set out at Section 11.2 to this report.

Where the identified turn volumes meet the specified warrants, consideration should be given to requiring works and/or contributions towards the improvement of this intersection to assist in maintaining the safety and efficiency of Gregory Street as a key arterial route. RMS considers that this issue can be addressed during the assessment of development applications for subdivision.

Comment 3.3

The development does not require any alteration to the intersections connecting to Gregory Street.

All future development applications for the subdivision are to provide suitable connections to existing networks for pedestrians and cyclists. Facilities are to be provided to enable pedestrians to safely cross Gregory Street. Facilities should be provided to encourage the use of public transport.

Comment 3.4

Plans submitted with the Environmental Assessment provide for the interconnection of the pedestrian and cycleway network with the public transport network. Having regard to comments by Kempsey Shire, those plans have been updated with the Preferred Projects Scheme - see **Plan 11.2**.

The necessary road and transport infrastructure improvements required as a direct result of the concept plan should be fully funded by the developer/s undertaking subdivision and/or through Council's Section 94 Contribution Plan. Where necessary the scope of Council's Section 94 Plans should be reviewed to ensure that sufficient funding is acquired to address the cumulative impacts of development upon the wider road network.

Comment 3.5

The subject plan has been “on the books” with Kempsey Shire for some decades and its’ development has been factored into the preparation of Council’s section 94 contribution plans. Previous consents granted for the development of Lots 57 and 223 (since overturned) were attached with conditions appropriately acknowledging the level of Section 94 contributions applicable to this land’s development.

4 NSW RURAL FIRE SERVICE

I refer to your letter dated 6 December 2012 seeking key issue and assessment requirements regarding bush fire protection for the above Part 3A Development in accordance with section 75F (4) of the 'Environmental Planning and Assessment Act 1979'.

The Service has reviewed the environmental assessment and the following conditions are recommended:

- 1 The development proposal is to comply with the Subdivision Layout Plan identified on the drawing prepared by SJ Connelly CPP P/L numbered Plan 3.1, undated (located on page 17 of the Settlers Ridge South West Rocks Environmental Assessment report dated November 2012).

Comment 4.1

Having regard to comments received from the Department and OEH, the Subdivision Layout has been amended. The revised layout has been examined in accordance with the Planning For Bushfire Protection 2006 Guidelines. That assessment is set out at **Appendix C** to this report. As shown in that documentation, the Preferred Project plans fully comply with the revised RFS Guidelines.

- 2 Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Comment 4.2

Compliance with the relevant provisions of the 'Planning For Bushfire Protection 2006' concerning water, electricity and gas are implicit in the application. However, for abundant clarity, those requirements have been updated in the revised Statement of Commitment set out at Section 11.2.

- 3 Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

Comment 4.3

The proponent's Statement of Commitments already contains a requirement for the design of all internal roads to be compliant with the 'Planning for Bush Fire Protection 2006' standard.

- 4 All public landscaping within 100 metres of the remnant forest to the north, south and west, including proposed lots 800 and 801 of the concept subdivision layout plan shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Comment 4.4

The bushfire report concerning the amended layout and its' relationship to public open space is set out in **Appendix C**. No issue is anticipated in relation to this matter.

- 5 Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

Comment 4.5

S.100B is a statutory requirement. The section ensures that before any development of this land a proponent must obtain a Bushfire Authority. For clarity this matter has been added to the proponent's Statement of Commitments.

5 OFFICE OF ENVIRONMENT & HERITAGE

OEH has reviewed the information provided and we have concerns regarding the appropriateness of the proposed development in an area of such high biodiversity significance. Development which necessitates the removal of high conservation value remnant vegetation in good condition is contrary to the Department of Planning and Infrastructure's Mid North Coast Regional Strategy, and the Government's Statewide targets for natural resource management, which include an increase in the extent and condition of native vegetation across the landscape by 2015.

Comment 5.1

The proponent acknowledges the concerns raised by the OEH and has amended its' scheme to reflect those comments and provide for a reasonable balance between the conservation of remnant vegetation and development of the land as envisaged by the Council LEP, Council's strategic planning and Mid North Coast Regional Strategy. The proposal embodies the use of the BioBanking Methodology as an appropriate offsetting technique. The BioBanking Methodology has at its' heart a principle of 'improve or maintain' So that whilst a reduction in biodiversity will occur at the subject site, in net terms biodiversity within the relevant bioregion will be improved or maintained as a consequence of development in the manner proposed.

Should the Department of Planning and Infrastructure (DP&I) decide to approve the proposal OEH recommends amendments to the draft Statement of Commitments, identified in Attachment 1. Attachment 2 contains OEH's assessment of the proposal, including justification for the amendments.

Comment 5.2

The proponent has adopted the suggestions set out by the OEH. More details in relation to those matters are contained in comments 5.4 to 5.1.1.

It is expected that OEH will be given an opportunity to review the draft Director-General's Environmental Assessment Report for this proposal. If the amendments to the draft Statement of Commitments are not included to the satisfaction of OEH, we will be recommending that they are included as Conditions of Approval, if approval is recommended by DP&I. It should be noted that these amendments are important for OEH's ongoing support of the proposal.

Comment 5.3

S J Connelly, Town Planning Consultant to the Development Joint Venture, has endeavoured to meet with the OEH and review alterations envisaged by this Preferred Project report prior to their finalisation. Unfortunately that has not been able to occur. Notwithstanding this situation, comprehensive amendments have been to the Statement Commitments and the overall concept plan to accord with the reasonable requirements of OEH.

ATTACHMENT I — RECOMMENDED STATEMENTS OF COMMITMENT/CONDITIONS OF APPROVAL

OEH recommends that DP&I seek the following Statement of Commitments from the applicant, or apply the following as conditions of approval as appropriate.

BIODIVERSITY MATTERS

- 1 The applicant must prepare an alternative development layout that reduces the size of the development footprint and further avoids the impact to significant environmental values. Amendments to the layout should include reducing the western extent of the residential lots and deleting the proposed distributor road. The revised development layout should also aim to reduce the use of small open space areas for conservation purposes that have large edge effects and limited connectivity.

Comment 5.4

Modifications to the site planning have been to have fulsome regard to the requirements by OEH. The changes to the plan are described at Section 11 of this report. Amendments to the layout include:

- reducing the western extent of residential lots;
- deleting the proposed distributor road;
- reducing the use of small open space areas for conservation purposes; and
- reducing edge effects.

The balance lands are set aside in a manner which permits utilisation for BioBank credit retirement. As part of the process of BioBanking, OEH would be aware that comprehensive management plans must be prepared. Further, monetary arrangements must be entered into at the time of BioBanking credit retirement to ensure the maintenance and protection of the biodiversity characteristics of land the subject of a BioBank Agreement in perpetuity.

- 2 The balance of the property outside of the development footprint is to be afforded long term protection and managed for biodiversity. A management plan is to be prepared to the satisfaction of DP&I in regards to its management and protection prior to stage 1 being approved.

Comment 5.5

A management plan of the type referred to by OEH is a commitment made by the proponent (see the biodiversity Commitment 13 in section 11.2).

- 3 Biobanking calculations are to be amended in accordance with Attachment 2 to the satisfaction of OEH.

Comment 5.6

The BioBanking calculations are attached as an Annexure herewith. The files that were used for these calculations can be seen at <https://www.dropbox.com/sh/6tkbluwmpov6l4n/AU64y0nx>

- 4 The applicant is to finalise all proposed offsets and retire all outstanding biobanking credits prior to physical work commencing on the development site.

Comment 5.7

It is a commitment of the proponent that prior to any work commencing on site that all BioBanking credits shall be retired in the amount and type specified in the BioBanking Credit Report (See commitment 12).

ABORIGINAL CULTURAL HERITAGE

- 5 The proponent must continue to consult with and involve all the registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and provided to the consent authority upon request.

Comment 5.8

The Statement of Commitments have been updated to add this additional requirement (See updated commitment 11.1).

- 6 In the event that ground disturbance identifies a new Aboriginal object/s within the project area, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified cultural heritage specialist and representatives of the local Aboriginal community must be contacted to determine the nature, extent and significance of the finds. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by the OEH) and the management outcome for the site included in the information provided to the AHIMS. The proponent will consult with representatives of the local Aboriginal community, and the cultural specialist to develop and implement and appropriate management strategies for all objects/sites. Any management strategy development must also comply with the appropriate legislative provisions.

Comment 5.9

This matter is already a Commitment on the part of the proponent – see Commitments 9, 10 and 11.

- 7 If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact the OEH's Enviroline on 131 555 and representatives of the local Aboriginal community. No works are to continue until the OEH provides written notification to the proponent.

Comment 5.10

This matter is already a Commitment by the Proponent – see Commitment 10.

- 8 An Aboriginal Cultural Education Induction Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the registered Aboriginal parties.

Comment 5.11

This matter is already an undertaking by the Proponent – see Commitment 7.

OEHS ASSESSMENT OF THE PROPOSAL

BIODIVERSITY MATTERS

AVOIDING/MINIMISING DEVELOPMENT IMPACT

It should be noted that the subject site has very high ecological values and forms part of a larger remnant vegetation area that provides habitat for numerous threatened species and ecological communities. The site also forms part of an identified regional wildlife corridor which incorporates important ecological values for both on and off the site. It is also considered that the subject site has High Conservation Value (HCV) old growth native vegetation providing important habitat requirements for many of the threatened species recorded on site and nearby.

Comment 5.12

The Biodiversity Assessment Report acknowledges the above as matters of fact. And the Applicant has recognised this by adopting the BioBanking Methodology so as to meet the “improve or maintain” test with respect to conserving biodiversity values.

The previous development footprint (presented in the draft EA June 2011) proposed residential development in an area zoned rural investigation. The applicant is no longer proposing a large rezoning of rural land to residential to expand the development in the North West of the property and has instead opted for a small switch in zoning (a "rounding off line") to allow consolidated development. As such the applicant has reduced the development footprint by not pursuing the larger rezoning application and instead relying on the current zonings for the properties. Although the applicant infers that the proposal will result in a reduced impact, this reduction appears only to be relative to the previous rezoning proposal. It is still evident that the vast majority of the residential zoned land will be impacted upon similarly in the current proposal.

Comment 5.13

As discussed elsewhere in this report and set out comprehensively in Section 11.1. The subdivision project has been amended considerably to reduce the footprint of the Project, improve biodiversity values and accord with the sentiments expressed above by the OEH.

OEH previously identified that the draft EA did not consider the "avoid" or "mitigate" options for the development site, specifically with regards to the impacts to threatened species, ecological communities, and their habitats. Considering that the vast majority of the residential zoned land is still proposed to be removed of vegetation, the lack of avoidance to significant environmental values is still a concern for OEH.

Comment 5.14

The EA set out in detail the considerations made in relation to avoid and mitigate options.

In all matters of environmental planning a balance must be struck between competing objectives. The subject land has been set aside for some decades for residential development. Pursuant to the Preferred Project scheme, only some 27% of the land will be utilised for residential land development purposes and the remaining balance taken up for biodiversity protection. Having regard to the onsite and offsite offsets proposed via the BioBanking methodology, the net environmental impact will be to "improve or maintain" the natural environment of the bioregion.

OEH's preferred approach is to avoid impacts. The applicant has sought to pursue OEH's least preferred option of compensating for such impacts. It should be noted that the use of compensation (BioBanking) for impacts should only be used in unavoidable situations and not be taken as a first step in the consideration of a development proposal.

Comment 5.15

The proponent's position is one of endeavouring to balance competing needs. The subject property has been zoned for residential purposes for many decades. The land is identified in strategies at local and regional level for development purposes. The current draft Kempsey Shire LEP continues this trend. The use of the BioBanking system provides for the maintenance and the improvement of biodiversity in the region. In these circumstances, we respectfully submit that the plans described at section 11.1 best meets the needs of the community of South West Rocks, Kempsey Shire and the Mid North Coast Region.

Considering the high ecological values of the site OEH recommends that further "avoid" options are considered. Amendments to the layout should include reducing the western extent of the residential lots and deleting the proposed distributor road.

Comment 5.16

The proponent has taken on board the suggestions of the OEH and explored further “avoid” options, including reducing the extent of residential footprint and deleting the proposed distributor road.

Further, it is unclear what the purpose is of the open space — “passive”. Has this area been proposed to protect environmental values or is it a design feature of the proposed development? Providing a small open space area surrounded by urban development will not assist in ensuring ecological values are protected in the long term. Further effort should be made to redesign the development layout to reduce the use of small open space areas with large edge effect and limited connectivity. The edge effects and indirect impacts will significantly reduce the ecological function of this area.

Comment 5.17

Having regard to the comments of OEH passive open space is now proposed only in the north of the site. The revised design reduces edge effects and improves ecological function. By way of comment, the BioBanking Methodology (as part of its’ algorithm) adjusts its’ credit calculations to have regard to matters relating to connectivity and edge effect.

These recommended changes are consistent with the Mid North Coast Regional Strategy (MNCRS) which states that “the Strategy supports the maintenance and enhancement of the Regions Biodiversity. Urban development will be directed away from areas of known or likely conservation importance, including wildlife corridors”.

Comment 5.18

We respectfully submit that the Mid North Coast Strategy seeks to strike a balance between the orderly and economic development of land to meet the housing needs of all persons in our society and the protection and maintenance of important conservation precincts. We submit that the Preferred Project Plan set out at section 11.1 fulsomely achieve this balance in a way which is consistent with a balanced understanding of the planning and conservation principles which underpin the Mid North Coast Regional Strategy.

Further, the Draft Mid North Coast Regional Conservation Plan has identified that there is a net surplus of unconstrained land (land with native vegetation) in the identified future urban release and employment lands as identified in the MNCRS. Table 9 and 10 of the Draft Mid North Coast Regional Conservation Plan identify that there is no need to clear native vegetation to meet planned future growth needs.

Comment 5.19

A number of aspects of this comment require close scrutiny. Firstly, the Draft Mid North Coast Conservation Plan, despite being publicly exhibited over the period December 2010 to April 2011, has never been formally adopted. Accordingly, the document must have a low weight in comparison to the statutory zoning of the subject site; the strategic importance of the land in Council’s forward planning and the State level importance of the land in the Mid North Coast Regional Planning Strategy. Secondly, Tables 9 and 10 of the draft document relate to “future land release areas”. They simply do not apply in the subject circumstances. The subject site is not a future land urban release area. It is already zoned and has been so zoned for some decades.

The whole of the balance land is now proposed as a parcel available for BioBanking. The proposal is a “Tier 1 criteria” development and accordingly it will meet the “improve and maintain test”. The proponent appreciates the support by OEH in terms of striving to achieve this Tier 1 criteria.

PROTECTING AND REHABILITATING THE BALANCE OF THE PROPERTY

It is noted that only part of the western portion of the property outside of the development footprint has been identified as a biobanking site (Figure 13 of Peter Parker Flora and Fauna Survey and Biobanking Assessment Report). It would appear that the applicant may be considering future development of this portion of land. The balance of any land that will not be part of the development should be afforded long term protection. Ideally, the western portion of the property should be secured by a conservation agreement (Biobanking) or reservation and managed for biodiversity. The current proposal, by leaving the north west portion of the property as a rural zoning (or RU2 under the proposed Kempsey 2012 LEP), does not increase the protection or condition of the existing environmental values. Details should be provided on how this area is to be managed over time. It is noted that Kempsey Shire Council in their correspondence of 20 August 2010 also support this position.

Comment 5.20

The current proposal has been amended to reflect that the western portion of the site has been identified for as part of the potential BioBanking site.

It is acknowledged that the applicant will be using OEH's interim policy on assessing and offsetting biodiversity impacts under Part 3A, State Significant Development (SSD) and State Significant Infrastructure (SSI) projects. The applicant has indicated in the Environmental Assessment that "the proposed development has adopted the Tier 1 criteria and therefore meets the improve and maintain test". This approach is supported and the inclusion of the comments from OEH into the proposed development will ensure the Tier 1 criteria is met.

Comment 5.21

The Applicant acknowledges that Tier 1 is the appropriate criteria due to the high biodiversity value of the site

INCOMPLETE BIOBANKING CALCULATIONS AND ASSESSMENT.

In relation to the BioBanking calculations the following points are made:

- The connectivity assessment appears to be correctly entered into the calculator, however, a map showing the corridors should be provided to explain how the assessment has been made.
- The vegetation zone area (the development footprint/impact area) is identified as 13.97ha. However, this figure has not considered the potential indirect impacts to the proposed open space area within the development footprint and the edge of the development to the retained vegetation to the west of the development footprint. It is clear that there will be some indirect impacts to these vegetated areas for the construction and operation of the proposed development.

Comment 5.22

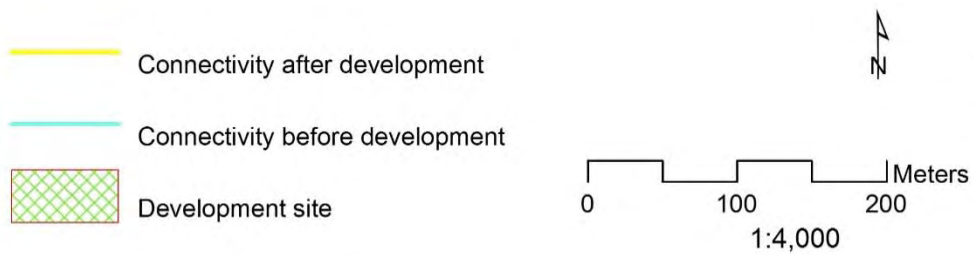
The connectivity map is illustrated below in **Plan 5.1**.

Potential impacts beyond the development site were considered in the project design. The major feature of the previous design was the use of a perimeter road to buffer the development and eliminate the need to APZs. The scheme has been amended to reduce its overall footprint and now includes APZs. New BioBanking calculations have been undertaken to reflect this and are attached as **Appendix B**.

SETTLERS RIDGE, SOUTH WEST ROCKS

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Plan 5.1 Connectivity Map



Section 2.4 of the Biobanking Assessment Methodology and Credit Calculator Manual sets out the approach to assessing indirect impacts of a development on biodiversity values. The manual requires a two-step approach as follows:

- 1 Show that indirect negative effects have been minimised
- 2 Determine biodiversity credits to offset any remaining impact.

Comment 5.23

The new proposal responds to these requirements by reducing the development footprint and by identifying more lands available for biodiversity protection. A credit report has been prepared which identifies the credits required to be obtained to offset impacts.

Potential indirect impacts that could arise from the development include:

- Introduction or establishment of weeds and pathogens through direct disturbance and/or changes to microclimate, drainage or nutrient flows
- Production of noise and dust during the construction phase of the proposed development
- Noise or light spill from the development
- Introduction of weeds and pathogens through the maintenance of the APZ's.

Comment 5.24

It is anticipated that the APZ may be placed into a BioBank site as the mature trees within the APZ will be retained. Management of the APZ will comprise mainly ground fuel reduction and the loss of ground covers and shrub layers of vegetation. This management will therefore form part of a management statement and the management methods (slashing and weed control) will be appropriately described. In the alternative, where the APZ is not part of the BioBank site, the management of weeds etc in the BioBanking site would also form part of the management statement and would be described and funded in accordance moneys sourced from the BioBank Trust Fund.

- It is noted that the site consists of old growth vegetation with little disturbance. It would therefore be expected that the vegetation transect/plot data would be considered to be in a benchmark condition. However, five out of the ten vegetation parameters surveyed are not within benchmark condition. The applicant should be requested to review whether the transects and plots undertaken are representative of the site. The applicant should also be requested to provide further details about the recorded information, analysis and photos of the plots to support the current benchmark values.

Comment 5.25

The vegetation plots were undertaken randomly and are considered to be representative. However, in response to the above comment an additional plot was undertaken on 20 April 2013 which supports the previous data. The results for this plot have been entered into the calculator.

Photos of the plots were contained in the biodiversity assessment report and a photo of the April 2013 plots is included below:

	
<p>Plot undertaken in accordance with the methodology 25 April 2013, location 503763; 6580905</p>	<p>Plot undertaken in accordance with the methodology 25 April 2013, location 503763; 6580905</p>

- The square-tailed kite has been considered by Peter Parker Environmental Consultants as having potential habitat on the property. The square-tailed kite has also been recorded on the site by another ecologist and that record is listed on OEH's Atlas of NSW Wildlife database. However, in the threatened species survey results Peter Parker has indicated that the square-tailed kite is not impacted by the development. The survey Peter Parker has relied upon for the assessment of the square-tailed kite is dated 10/11/2009. It would appear that the current information and site attributes would suggest that the square-tailed kite will be impacted by the proposed development. OEH recommends this aspect of the credit calculator is further considered and justification is provided for the current exclusion of the square-tailed kite.

Comment 5.26

The square-tailed kite and potential nesting sites were not recorded despite successive visits to the site and surrounds. However, it is acknowledged that it has been recorded at South West Rocks and that the site may be part of its home range. However, this species has an extensive home range. This species mainly forages in eucalypt open forest or woodland, in low shrublands, heath, grassland or crops, and the margins between open and timbered country (forest-heath; woodland-heath; forest-open field; mallee-open paddocks; woodland edges; riparian timber; belts of trees in urban or semi-urban areas; and clearings in forests) are especially favoured. Its exclusion was based on the wide range of habitat in which it occurs, that no nesting or breeding sites were recorded and the small area of the site with respect to this species' large home range.

ABORIGINAL CULTURAL HERITAGE MATTERS

A review of the EA, including Sections 5.8 and Technical Paper F entitled: 'Cultural Heritage Assessment South West Rocks - Final' (dated August 2012) ('the CHA'), was undertaken by OEH to assess the—potential impacts of the project on Aboriginal cultural heritage, in accordance with OEH's Aboriginal cultural heritage assessment guidelines and the requirements of Part 6 of the National Parks and Wildlife Act 1974, as amended (NPW Act).

ABORIGINAL CULTURAL HERITAGE ASSESSMENT

OEH acknowledges that the Aboriginal cultural heritage assessment has been undertaken in accordance with the OEH's assessment guidelines. The results of the Aboriginal cultural heritage assessment undertaken for the project area are also acknowledged.

SETTLERS RIDGE, SOUTH WEST ROCKS

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OEH supports the management recommendations provided in Section 9.0 the CHA and the 'Aboriginal Cultural Heritage Management Plan for RPS SWR1' (dated 2 September 2011) prepared by the proponent.

OEH also encourages the proponent to continue to engage with the registered Aboriginal parties in developing and maintaining appropriate cultural heritage outcomes for the life of the proposed development. These discussions should specifically include consultation regarding the appropriate long term management of site 'RPS SWR1'.

CONCLUSION

OEH has no additional concerns with the Aboriginal cultural heritage assessment for the project application and recommends that the following conditions of approval for Aboriginal cultural heritage are reflected in any approval conditions for the project.

Comment 5.27

All of the recommendations the cultural heritage assessment are included as Commitments by the Proponent. Those Commitments include the requirements for a management plan in relation to the item RPSWR1. A further Commitment has been added in relation to continuing cultural heritage engagement as requested by OEH.

6 KEMPSEY SHIRE COUNCIL

GENERAL

The land to be developed is now covered by a Comprehensive Koala Plan of Management (KPoM) which came into force 24 May 2011. The proponent is to provide an assessment against this document which is available on Council's web site at: <http://www.kempsey.nsw.gov.au/environment/biodiversity/koalapom.html>

Comment 6.1

The koala was included in the calculations performed in accordance with the methodology and a SEPP 44 assessment was provided in the Biodiversity Assessment Report. Koala food trees were recorded and mapped at the site but there was no evidence of the koala occurring. A similar assessment was made in the SIS undertaken at the site some 10 years ago where the authors found undertook an extensive literature review, interviewed adjacent landowners, carers and community groups. The SIS looked at historical records and reported a 1983 record in the Smokey Cape area and another record from Arakoon in 1999. The Atlas search undertaken in the Biodiversity Assessment Report noted that six records occur from 1999 to 2007 but that these are all well to the east of the site at Arakoon.

These records are consistent with the mapping undertaken in the Kempsey Shire Comprehensive Koala Plan of Management (KPoM) which shows that no primary koala habitat occurs at the site.

Acoustic Assessment recommendations require a 2.5metre high noise barrier along the lots 1-8 and limit of single storey for lots 1-10 backing onto Gregory Street. The barrier is not in keeping with the streetscape as there are no other similar barriers in this locality. Limiting development to single storey dwellings would require a restriction on the title of the affected new allotments.

Comment 6.2

The recommendation by the Acoustic Consultant has been included as a Commitment. However, based on Council's submission, that Commitment (see Commitment 15) has been amended to include the words "or other mitigation strategy specified by Council in any development consent condition".

It would be desirable to have the Acoustic consultant investigate the use of mitigation measures which are applied to the building rather than restrictions on tile and noise barriers.

Comment 6.3

Having regard to the change in the Commitment specified above, the Proponents will ensure that the Acoustic Consultant examines alternative mitigation techniques prior to the lodgement of any Development Application.

KEY ISSUES

1. INFRASTRUCTURE PROVISION

Traffic (including pedestrian and cycling)

The following comment is provided with respect to the Traffic Impact Assessment (TIA) provided by Roadnet Pty Ltd and details provided in the EA and Civil Engineering Report: -

- i The section of Keith Andrews Avenue from Gregory Street to Rippon Place is a dedicated public road which is not formed and or maintained by Council. The position of the intersection with Gregory Street does not provide adequate sight distance. Council has no immediate plans to construct the unmade section of Keith Andrews Avenue. Therefore all pedestrian and vehicle access for proposed lots 7-17 is to be restricted to the extension of Trevor Judd Street. The proponent is to investigate and identify options for restricting access off Keith Andrews Avenue in consultation with Council; and

Comment 6.4

There is no proposal to utilise Keith Andrews Avenue from Gregory Street to Rippon Place for vehicular access. The location is currently used for informal pedestrian access.

- ii There has been no discussion and or justification in either the EA, Traffic Impact Assessment or 4.1 of the Civil Engineers Report concerning the warrant for creating 3 new intersections with Keith Andrews Avenue having regard for the Traffic Engineer's comment just 10% (138 vehicle movements per day and 13 peak hour movements) of the traffic generated by this development will exit via Keith Andrews/Bruce field Street/ Frank Cooper Street/Gregory Street. There is no engineering warrant in the current standards and or bushfire assessment to create so many intersections for such very low traffic generation. These intersections will upon completion of the development be dedicated to Council which Council will not accept without sufficient warrant.

In the absence of a suitable warrant to establish three new intersections at Keith Andrews Avenue the proponent is to modify the present draft concept plan in consultation with the Traffic Engineer and Council.

Comment 6.5

The revised concept plan now incorporates a sole vehicular access point to Keith Andrews Avenue, which allows for appropriate connectivity and a circulatory traffic route for resident and service vehicles.

The Statement of Commitments includes the creation of a title restriction on proposed lots 46 – 61 inclusive preventing vehicular access to either Gregory St, or Keith Andrews Ave, with Council being the beneficiary.

- iii In the fourth and fifth paragraphs part 4.1 of the Civil Engineers Report it is stated road longitudinal grades have been kept within nominal standards where practicable and the perimeter road (extension of Steve Eagleton Drive) will have one way cross fall as shown at **Appendix A**.

It is inappropriate to "slip in" design parameters in a concept plan document given the standard to be employed here is Kempsey Shire Council's Engineering Guidelines for Subdivision and Development.

This reference is to be removed and or substantiated in consultation with Kempsey Shire Council.

Comment 6.6

At the time of seeking Construction Certificate approval, the concept road design will be further developed in consultation with Kempsey Shire Council engineering staff, and will be in accordance with the standards contained in Kempsey Council DCP36.

- iv The plans contained in the EA and its associated technical papers indicate the existing Crown Road reserve located between existing parent Lots 31 and 223 is not included in the concept plan. In particular the Civil Engineers Report and Traffic Impact Assessment do not address this issue.

In the interests of promoting good urban design for a Greenfield development and given there is ample new street frontage to proposed lot 900 and no available links to surrounding vegetation for fauna species to move through to and from it is recommended the Crown Road reserve be acquired and incorporated into this development.

Comment 6.7

Having regard to Council's comments the Crown Road reserve located between Lots 31 and 223 has been included into the Preferred Project Plan.

- v The EA states "Steve Eagleton Drive serves as a future local collector road, and also connects to the site boundary" and "The concept proposal provides for the dedication of a public road but not its construction westward of the residential lots". There is no supporting documentation in the EA or associated technical papers (particularly the Civil Engineers Report) for locating a future collector road as shown to the northern boundary and beyond to Gilbert Corey Street. Although a collector road has been identified in Council's original growth strategy documents for South West Rocks, past studies have revealed the presence of a significant number of threatened species between the current end Steve Eagleton Drive and Gilbert Corey Street at New Entrance and subsequently uncertainty relating to future development of the 1(d) rural investigation land and thereby putting into question the feasibility of establishing a collector road link with New Entrance.

Comment 6.8

Having regard to comments received from Council (and the Department and OEH) the proposed distributor road has been deleted from the Preferred Project design.

- vi DGR 5.2 requires the Traffic Impact Assessment (TIA) to include a justification for the proposed collector link road. The amended Roadnet TIA does not contain nor address this key issue. The original TIA covering the previous 220 residential lot proposal was not made available to Council.

The proponent is to prepare an addendum to the present amended Traffic Impact Assessment (TIA), Civil Engineering Report and flora and fauna study in consultation with Kempsey Shire Council justifying locating the proposed collector road both within the boundary of the development proposal and from the northern boundary of parent lot 31 to Gilbert Corey Street.

Comment 6.9

Having regard to comments received from Council (and the Department and OEH) the proposed distributor road has been deleted from the Preferred Project design.

- vii All the remaining internal roads are shown at the 16m reserve width standard shown in council's Engineering Guidelines for Subdivision and Development. There are internal roads which could accommodate a reduced pavement width from the local standard shown to an access place thereby reducing the council maintenance burden. The proponent is to investigate utilising the access place standard in consultation with council for adoption in the statement of commitments.

Comment 6.10

The Preferred Project Design provides for road reservation widths of 16 metres through the whole of the Development. Issues associated with pavement width are the province of the Development and Application documentation.

- viii There is an existing pedestrian/cycleway linking the CBD to this locality located on the eastern side of Gregory Street and small section on the west side from Steve Eagleton Drive to the existing shopping centre.

The existing footpath in Steve Eagleton Drive is located on the southern side from Gregory Street to the NSW Health Centre and with an isolated section either side of Yulgilbar Place (south side).

Plan figure 5.5 shows the proposed pedestrian and cycleway layout for the proposed concept plan.

As stated previously in this letter Council has no immediate plans to construct the unmade section of Keith Andrews Avenue from Gregory Street to Rippon Close. Council will not support pedestrian access in this part of Keith Andrews Avenue for the following reasons: -

- there are no links with the existing concrete footpath/cycleway network on the eastern side of Gregory Street; and
- there are issues with sight distance owing to the location of the intersection with Gregory Street; and
- are not in accordance with 2003 Pedestrian Access Mobility Plan Kempsey and South West Rocks and DCP 36 Engineering Guidelines for Subdivision and Development.

The following comment is provided with respect to the concept for a new pathway system shown along Steve Eagleton Drive: -

- Council requires the proponent to investigate and identify relevant road improvements to the adjacent local road network to allow the new pathway system to connect seamlessly to the existing footpath network at the Gregory Street intersection; and
- Council requires the proponent to investigate and identify relevant road improvements to the adjacent local road network to allow the new pathway system to connect seamlessly to the existing footpath off the Yulgilbar Place intersection.

The following comment is provided with respect to the proposed new internal pathway system: -

- Council's Engineering Guidelines for Subdivision and Development D1.16 (5) requires Concrete paths 1.2 m minimum width must be provided in all urban areas, except Access Places less than 75 m in length. The proponent is to amend drawing 5.5 in the EA to correspond to this requirement.

Comment 6.11

The proposed pedestrian cycleway network has been modified to have regard to the Preferred Project Subdivision scheme and to the comments set out from Council's submission. The revised pedestrian/cycleway network is illustrated in **Plan 11.2** at Section 11 of this report.

There will be a 1.2m wide concrete footpath on one side of each new road, and on the southern side of Keith Andrews Ave in front of lots 62 – 75 inclusive. There is no proposal to construct Keith Andrews Ave east of proposed lot 62.

Adjustments at kerbs will be made to link new to existing footpaths at the intersection with Steve Eagleton Drive (SW corner proposed lot 3).

WATER SUPPLY

The existing supply main (single 200mmUPVC) is located within the Steve Eagleton Drive road reserve. A trunk main is located within Keith Andrews Avenue and is a dedicated supply main which services the New Entrance Reservoir and is not available to connect to.

The existing water reticulation assets consist of a combination of 100mm and 150mmUPVC water mains.

There has been no Infrastructure Servicing Strategy for water supply provided by the proponent just the following statements (page 66) and Hopkins Civil Engineering Report:-

- i existing water mains designed for future site development and will be augmented once site development proceeds; and
- ii establishment of a pressure boosting system will be required and is subject to negotiation with Kempsey Shire Council ; and
- iii Concept plan of proposed reticulation network provided technical paper

The statement (page 66) "Water mains surrounding the site have been previously designed in anticipation of the future site development and will be augmented once the site development proceeds" is misleading. No up to date network analysis has been performed and there has been considerable development in this locality since.

There is at least 3 hectares of the site which cannot be adequately supplied utilising the existing reticulation network along the high ridge.

A Network Analysis is required to be undertaken by the proponent in consultation with Council in order to identify and assess options to extend water supply to this development as a whole and not just a single option in the form of a pressure boosting system which does not factor in peak season demand.

There is no mention in the Hopkins Civil Engineering Report dealing with staging of this infrastructure? The proponent has not complied with DGR4.1 requirement to prepare an Infrastructure Servicing Strategy for water supply.

In preparing any Infrastructure Servicing Strategy (Water Supply Element) the proponent will need to liaise with Kempsey Shire Council.

The proponent will be required to connect to Kempsey Shire Councils Recycled Water Supply network in addition to the village potable water supply. Council's Integrated Water Supply Strategy is to be considered and incorporated into this development proposal.

Comment 6.12

A full water supply servicing strategy is not required for this revised and condensed proposal. There are three water main extension points, purposely left from previous developments, to service this development.

1. A 200mm water main at west end of Steve Eagleton Drive opposite proposed lot 3.
2. A 150mm dia water main at north end of Trevor Judd Ave, adjacent to proposed lot 46.
3. A 150mm DICL water main under Keith Andrews Ave, at Bruce Field St intersection, and in front of proposed lot 75.

Internal reticulation will extend from the three locations, designed and constructed to Kempsey Council's DCP36, and, subject to detailed calculations and liaison with Council, may include a booster system for the higher lots in the development.

The concept design accommodates a 200mm main in Steve Eagleton Drive extending north along the new road past proposed Lots 1 – 32, and connect to the Trevor Judd Ave main. A new main connects to the existing pipe adjacent proposed Lot 75, extending to Lots 75 – 89, which links to the aforementioned main, then looped back from 103 – 119.

This is subject to detailed engineering calculations and liaison with Council's Engineers at DA &/or CC stage.

SEWER

There is existing sewer reticulation that services the current allotments in this locality. Existing Sewerage Pump Station R22 services all of the development in Yulgilbar Place and the few existing lots opposite along Steve Eagleton Drive with remaining limited capacity at a maximum of 20ET.

The existing sewerage network located downstream of Keith Andrews Avenue is at full capacity. Council will not agree to additional lots discharging into this system without further investigation demonstrating there is sufficient spare capacity.

The existing sewerage network east of the high ridge has the capacity to accommodate the proposed lots that will drain this way having regard for likely future permissible land uses that will ensue following subdivision.

The sewer reticulation plan (Hopkins technical Paper D) shows the bulk of the subdivision draining to a new sewer pump station located within the proposed bio retention basin.

Approximately 16 lots drain downstream of Keith Andrews Avenue and 48 lots (approx.) drain to the east towards Gregory Street. The plan depicting the future sewer reticulation conflicts with the first paragraph (page 68 of the EA and Hopkins engineering assessment) which states part of parent lot 223, all parent lot 57 and some parent lot 31 will drain to R22 (existing council sewer pump station) at Spencers Creek Road. This represents 31 plus lots draining to R22. There is insufficient capacity in R22 to accommodate all permissible future development likely to be generated on the new lots.

Sewer pump station R22 is a small package unit. From a strategic planning point of view it would be preferable for the proponent to investigate in consultation with Council developing one new sewer pump station and associated rising main at the low point at lot 31 near Spencers Creek Road. This would allow the existing small number of lots draining to R22 to be diverted to it thereby eliminating R22 and providing a rational network for Council to acquire post construction.

There has been no Infrastructure Servicing Strategy as required by DGR 4.1 for sewer reticulation provided by the proponent just broad statements and plan which does not match the written word.

Comment 6.13

Almost the entirety of the new layout can gravity feed to existing manholes. Downstream pump stations may require some augmentation, which would need to be determined at CC stage. Council has a Section 64 upgrade contribution to be paid from the normal Developer's sewer contributions. Lots 105 – 119 will likely require their own individual on-site package unit and a common pressure rising main system to a suitable receiving manhole, which we understand to be part of Council's new preferred strategy for small lots.

A full sewer servicing strategy is not required for this revised and condensed proposal. This is subject to detailed engineering calculations and liaison with Council's Engineers at DA &/or CC stage, but is not required to be detailed for the PPR. All reticulation and pump station design and construction will be in accordance Council's DCP 36.

STORMWATER

There is existing storm water infrastructure which drains the existing urban developments within the catchment are located as follows: -

- i A pipe system with no water retention/detention and or water quality controls drains north along Gregory Street from Keith Andrews Avenue, through the Golf course and into Saltwater Lagoon (ICOLL); and
- ii a pipe system capturing existing developments off Trevor Judd which connects to the stormwater drainage system (incorporating gross pollutant traps) crossing Gregory Street via Belle O'Connor Street to a future detention area located in the Golf Course Reserve before draining into Saltwater Lagoon (ICOLL); and

- iii A piped stormwater drainage system with gross pollutant trap and no retention/ detention facility drains from a small part of Steve Eagleton Drive through Yulgilbar Place to a low point on Spencers Creek Road thence to a wetland protection zone to wetland No.443, Spencers Creek and the Macleay River; and
- iv The piped system which drains from the intersection of Ripon Place and Keith Andrews Avenue to existing wetlands no. 438, thence to Back Creek and Trial Bay has limited retention/detention and no water quality controls.

Comment 6.14

The primary principles include drainage from the project area's NE corner discharging through a shallow swale drain/detention basin off the corner of Lot 52, then into the existing system with no runoff intensity increase and a local water quality improvement device installed. Drainage south from Lots 45 and 46 is to be directed into the existing system with GPT in place, then to an existing detention basin at the northern end of Belle O'Connor street adjacent the Golf Course.

Drainage from the basin between Lots 62 and 71 will drain north down Rippon Place, as the downstream system was designed for this occurrence. A drainage system could go from lot 70 – 75 – 106 – 115 and then into a swale quality improvement arrangement opposite lot 116 – no need for detention, other than to settle for water quality improvement.

The revised concept plan takes into account this infrastructure, and the planned upgrades &/or augmentation to that infrastructure as will be determined by a detailed design at the time of applying for a construction certificate. Importantly, the revised concept layout responds to those comments by Council and will have less influence on any existing systems or sensitive areas. All drainage design and water quality maintenance, and construction, will be in accordance with Kempsey Council's DCP36.

The proposal in the EA and associated technical Paper (Engineers report) appendix D to connect to the abovementioned existing stormwater disposal network has not addressed the following issues: -

a) **Catchment area 1** (1.06Ha) is proposed to drain via the existing Rippon Place stormwater drainage network. The stormwater management strategy is to investigate and identify the following: -

- proposed measures to be deployed to address water quality control having regard for the change in land use and downstream wetland; and
- identify all capacity constraints within the existing drainage network and options (including augmentation) to address the identified constraints; and
- Practical options to mitigate the effect of an increase in water quantity on the downstream wetland.

Comment 6.15

The revised concept layout responds to those comments by Council and will have less influence on any existing systems or sensitive areas. This is subject to detailed engineering calculations and liaison with Council's Engineers at DA &/or CC stage, but is not required to be detailed for the PPR. All design and construction for stormwater disposal, possible retention, and for water quality maintenance, will be in accordance with Kempsey Council's DCP36.

b) **Catchment area 2** (12.54Ha) is proposed to drain via bio retention basin to the existing natural intermittent creek located on the east side of the proposed roundabout (proposed lots 102/103). This creek crosses Spencers Creek Road and drains through the wetlands protection zone to wetland No. 443 to Spencers Creek and finally to the Macleay River.

The proponent proposes to incorporate a bio retention basin to address any water quality issues emanating from this part of the development during low flow events with no capacity for retention or detention. The following main issues with locating and sizing of this basin are described below: -

- i does not address the impacts of increasing the quantity of water flows resulting from urbanisation of this catchment on a sensitive wetland environment downstream of the site; and
- ii is proposed to be located within the main bio-banking area of the development which will conflict with the basins establishment, operation and maintenance given the bio banking agreement requirements; and
- iii The proposed sewer pump station is located within the confines of the basin; and
- iv There are no details on how the basin was sized only percentages figure of 2.5%. The standard is usually 4% of the catchment area; and
- v The EA did not specify who would take on the continuing maintenance role post construction and at what stage of the development?

Comment 6.16

The Preferred Project layout responds to those comments by Council and will have less influence on any existing systems or sensitive areas. This is subject to detailed engineering calculations and liaison with Council's Engineers at DA &/or CC stage, but is not required to be detailed for the PPR. All design and construction for stormwater disposal, possible retention, and for water quality maintenance, will be in accordance with Kempsey Council's DCP36.

The stormwater management strategy is to investigate and identify but not be limited to the following aspects:-

- Relocate the basin to an area not affected by bio-banking; and
- Prepare a strategy to manage this basin; and
- practical options to mitigate the effect of a decrease in water quality on the downstream wetland; and
- practical options to mitigate the effect of an increase in water quantity on the downstream wetland; and
- Augmentation options for the existing rural drainage culvert crossing Spencers Creek Road; and

Comment 6.17

This is a matter for CC plans and will be subject to detailed engineering calculations and liaison with Council's Engineers at DA &/or CC stage, but is not required to be detailed for the PPR. All design and construction for stormwater disposal, possible retention, and for water quality maintenance, will be in accordance with Kempsey Council's DCP36.

The strategy be prepared in consultation with Council.

- c) The drainage system identified in point l) existing storm water infrastructure this part is an older system and is at capacity with overflow issues downstream during design storm events. The stormwater management strategy to be developed by the proponent is to address how it is proposed to drain catchment area 3 (0.76Ha) into this existing system without adding to the existing burden by further overloading the system and identify the proposed system(s) to be put in place to control water quality having regard for the sensitivity of the receiving waters (Saltwater Lagoon: ICOLL).

(Note: the EA states use of pollutant control devices but the Engineers Report technical paper appendix D does not contain any such measures).

Comment 6.18

The revised concept layout responds to those comments by Council and will be subject to detailed engineering calculations and liaison with Council's Engineers at DA &/or CC stage. All design and construction for stormwater disposal, possible retention, and for water quality maintenance, will be in accordance with Kempsey Council's DCP36.

d) Catchment area 4(1.6Ha) drains into the existing stormwater drainage system in Trevor Judd Street. A proposed detention system to be located on the reserve land at the Golf Course could cater for this catchment provided the additional flow generated by the proposed residential development can be accommodated within the existing piped drainage network. However the existing water quality controls in place to service the current residential development were not designed to service this development as well.

Comment 6.19

The Preferred Project Plan responds to those comments by Council. All design and construction for stormwater disposal, possible retention, and for water quality maintenance, will be in accordance with Kempsey Council's DCP36.

The stormwater management strategy is to investigate and identify the following with respect to this catchment:

- proposed measures to be deployed to address water quality control having regard for the change in land use and downstream wetland; and ICOLL (Saltwater Lagoon); and
- proposed measures to be deployed to address water quantity control having regard for the change in land use and downstream wetland; and ICOLL (Saltwater Lagoon); and
- identify all capacity constraints within the existing drainage network and identify appropriate mitigating options (including augmentation) which would permit this part of the development to make use of this existing council drainage system; and

(Note: the EA states use of pollutant control devices but the Engineers Report technical paper appendix D does not).

Comment 6.20

These aspects are subject to detailed engineering calculations and liaison with Council's Engineers at DA &/or CC stage.

Storm water Management Strategy is to be prepared by the proponent in consideration that the runoff from this development proposal discharges indirectly into Saltwater Lagoon and Creek, Back Creek and Spencers Creek, all of which are sensitive environmental areas. Water Sensitive Design principles are to be incorporated into the strategy including stormwater quality and quantity management options. Ensure that there will be adequate available area onsite to accommodate elements of the strategy. Council requires storm water flows emanating from the proposed residential area to be restricted to pre development flows in quality and quantity.

Comment 6.21

The proponent has no issue with this requirement.

2. BUSHFIRE

Reconsider the proposal to use of the Collector road as an APZ to protect the development following comment in this letter that justification for the collector road linking to New Entrance is required.

Any future proposals to mitigate against bushfire needs to have due regard not only for the provisions contained in the current NSW Planning for Bushfire Protection but also the effect those mitigations measures will have on the existing threatened species occurring at this site and the environment as a whole. This aspect has not been addressed in the EA.

Comment 6.22

The proposed collector road has been removed. The road system shown in the Preferred Project report layout has full compliance with the Planning for Bushfire Protection Guidelines.

3. **CULTURAL HERITAGE**

The Archaeological Study uncovered an aboriginal scar tree (proposed lot 998). Plan 3.1 of the EA shows this lot as active open space which conflicts with the recommendation of the Archaeological Report. The proponent is to prepare a plan of management for proposed lot 998 in accordance with the provisions of the National Parks and Wildlife Act 1974 and in association with NSW Office of Environment and Heritage guidelines.

Comment 6.23

The land upon which the scar tree is located is to be incorporated into a BioBank site for its conservation and management pursuant to the BioBanking Scheme. One comprehensive aspect of Biobanking is the preparation of ongoing management plans for sites. It is proposed that management of this archaeological item would form part of the overall site management through the BioBanking process.

4. **PLANNING**

- a) The provisions contained in Draft Kempsey Local Environmental Plan 2012 will need to be considered.

Comment 6.24

At the time of preparation of the EA the Council had not exhibited the Draft Kempsey Local Environmental Plan 2012. The zoning of the land under the draft LEP is not materially altered. Land currently zoned residential is similarly zoned in the draft LEP and the residual land is identified in the Draft LEP as a general rural zone. This Draft LEP zoning of the western part of the site is important to note having regard to what has been said elsewhere in relation to the environmental attributes of the land.

Draft zoning map



SETTLERS RIDGE, SOUTH WEST ROCKS

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Zone

B1	Neighbourhood Centre
B2	Local Centre
B3	Commercial Core
B6	Enterprise Corridor
E1	National Parks and Nature Reserves
E2	Environmental Conservation
E3	Environmental Management
E4	Environmental Living
IN1	General Industrial
IN2	Light Industrial
R1	General Residential
R3	Medium Density Residential
RS	Large Lot Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU2	Rural Landscape
RU3	Forestry
RU4	Primary Production Small Lots
RUS	Village
SP2	Infrastructure
SP3	Tourist
W1	Natural Waterways
W2	Recreational Waterways

Lot size



Minimum Lot Size (m²)

I	500
S	800
U	1400
Y	1ha
Z1	2ha
Z2	3ha
Z3	4ha
AA1	7ha
AA2	8ha
AA3	40ha

Council's lot size mapping provides for a general minimum area of 500 sq m in this area. However clause 4.1A of the draft LEP allows for subdivision of less than 500 sq m in certain circumstances.

Under the Draft LEP the land is not mapped as part of any scenic protection area or a natural resources sensitivity area. Like the whole of South West Rocks the land is mapped as part of Council's Koala Management Plan mapping. No floor space ratio or heritage controls apply to the land under the draft LEP and the zoned

part of the property has a height limit of 8.5m under the draft LEP. The whole of the subject site is a class 5 acid sulfate soil mapped area under the Draft Kempsey Local Environmental Plan 2012. This is the least sensitive mapping category for acid sulfate soil management.

b) The development proposal is to adjust the current zoning to that shown on Plan 4.1. The proponent has decided to apply to rezone the residue rural lot 801 south of the proposed collector road extension 7(a) Wetland Protection. A significant area as shown in figure 4.1 already exists being zoned 7(a) Wetlands Protection Zone. There is no justification to extend this wetlands protection zone. Rezoning Lot 801 7(b) Environmental Protection (habitat) Zone considering its existing environmental qualities and proposed bio banking offsets would be more appropriate. Consideration will need to be given to how this area is to be managed over time (bushfire, access, etc.).

Comment 6.25

The Council recommends a 7(b) Environmental Protection (Habitat) Zone for the balance lands. No objection is raised in relation to this categorisation of zoning should the Department see fit to make a declaration in relation to zoning with the determination of this application.

c) Biodiversity Banking has been applied to this development proposal to provide biodiversity credits so as to offset loss of habitat being the whole of proposed Lots 801, 998 and 900. Lot 801 will contain the bulk of the offset (19.1Ha). This part of the bio banking offset will require the land on which it is located to be adequately managed for such things as limiting of access, bushfire, ongoing vegetation management, regeneration, fencing, control of feral animals, weed control to mention a few.

Comment 6.26

Commitments 12 and 13 make it clear as to how the BioBanking system is proposed to operate and how management planning for the site will operate. For abundant clarity, the Preferred Project Plan illustrates the location of a dwelling house site and curtilage area that will attach to the balanced lot. This dwelling house site is shown as "A" in **Plan 11.1**.

Proposed Bio-banking lots 900 and 998 are proposed to be dedicated (EA 3.1 Pg66) to council as open space passive and active as depicted in plan 3.1 of the EA.

There is a conflict between the roles required of passive/active recreational facilities and bio-banking which require management actions which will prevent the land being used for recreational purposes to service this development.

In addition this action will require Kempsey Shire Council to be bound by any required bio-banking agreement in perpetuity. Council will be responsible on an ongoing basis for the management of these allotments at no cost to the development. This constitutes an unacceptable burden to the new residents in this development and the broader community who will not derive any benefit as the land is to be protected.

Comment 6.27

Having regard to Council's comments no BioBanking land is proposed to be dedicated to Council. The only dedication is proposed Lot 900 being a 1,470 sq m parcel adjacent to Keith Andrews Avenue. This land is proposed as a local park.

d) Retention of ridge-line vegetation views within open space to be dedicated to Council (EA pg66) and plan 3.1 show the 1.6 hectares to be dedicated to council as active and passive open space.

The EA states that the areas to be dedicated to council are well in excess of that required in the current in force council Open Space Strategy. The proposal to dedicate land as open space to service this development as shown in plan 3.1 does not comply with the Council Strategy and is not functional for the following reasons: -

- The area to be dedicated (1.6Ha) is substantially in excess the standard set out in the strategy of 1.13 hectares per 1000 population (0.41Ha). This aspect adds substantially to the cost of maintaining Council assets without corresponding community benefits ; and
- The area to be dedicated is not totally functional for the size of the proposed
- development having regard to the fact any bio-banking agreement being created over the title of the land will severely restrict its use as open space to service this development; and
- No facilities for passive and active recreation investigated or mooted in the EA; and
- There is no linkages with adjacent rural lot 801 and habitat protection or wildlife corridor;
- The land is not gently sloping.

For the reasons stated above the proponent has not meet the essential commitment to allocate sufficient land for active and passive recreation to service this development.

Comment 6.29

Having regard to Council's concerns in relation to open space management, the Preferred Project Plan has been modified to keep land proposed in the EA submission within the balance lot. Thus, this land will be available for utilisation for BioBanking and not Council open space purposes.

7 DEPARTMENT OF PRIMARY INDUSTRIES

1. STORMWATER MANAGEMENT.

The Civil Engineering Report outlines the stormwater treatment measures proposed for the site. It is proposed the smaller catchments on site will drain to existing drainage networks adjacent to the site. However, it is proposed to construct a bio-retention basin on site to 'capture drainage from the western sub-catchment. The basin will have a by-pass facility to allow major storm flows to be diverted directly into down-stream watercourses. It is important that stormwater leaving the site is appropriately treated before entering natural watercourses.

All stormwater treatment measures should be consistent with Water Sensitive Urban Design objectives and consistent with any Council stormwater management guidelines and that all stormwater must be appropriately treated prior to discharge from the site

Comment 7.1

Statement of Commitment 5 ensures that water quality management principles are carried out in accordance with best practice standards.

The primary principles include drainage from the project area's NE corner discharging through a shallow swale drain/detention basin off the corner of Lot 52, then into the existing system with no runoff intensity increase and a local water quality improvement device installed. Drainage south from Lots 45 and 46 is to be directed into the existing system with GPT in place, then to an existing detention basin at the northern end of Belle O'Connor street adjacent the Golf Course.

Drainage from the basin between Lots 62 and 71 will drain north down Rippon Place, as the downstream system was designed for this occurrence. A drainage system could go from lot 70 – 75 – 106 – 115 and then into a swale quality improvement arrangement opposite lot 116 – no need for detention, other than to settle for water quality improvement.

The revised concept plan takes into account this infrastructure, and the planned upgrades &/or augmentation to that infrastructure as will be determined by a detailed design at the time of applying for a construction certificate. Importantly, the revised concept layout responds to those comments by Council and will have less influence on any existing systems or sensitive areas.

2. GROUNDWATER MANAGEMENT

The Environmental assessment (EA) and accompanying documents do not provide detailed information on groundwater and the impacts of the proposed development on groundwater. The geotechnical report mentions groundwater flow was observed at 0.4 metres and 1.2 metres at a few test pits on the site. The Office of Water understands the project involves the construction of a bio-retention basin for stormwater management to act as a "dry sand filter" to capture and treat stormwater prior to discharge, which has the potential to intercept groundwater depending on the design of the basin.

It is difficult for the Office of Water to provide accurate technical advice at this stage as limited information is provided in the EA and accompanying documents. However, it is recommended the proponent be required to determine if the maximum predicted watertable will be intercepted by the works prior to undertaking any excavation. If the maximum predicted watertable will be intercepted as a result of these works, the proponent should be made aware that a licence under the Water Act 1912 or Water Management Act 2000 is required prior to any excavation on the site.

The preference of the Office of Water is that all bio-retention basins are constructed above the watertable and lined' with impermeable material. The Office of Water has significant concerns with any direct discharge of stormwater into an excavation if it intersects the watertable. All works that intersect the watertable require a licence under the Water Act 1912 or Water Management Act 2000. The proponent may need to drill monitoring bores within the area to ascertain the depth of the watertable, if unknown. All monitoring bores, if any, associated with the development must also be licensed with the Office of Water.

Comment 7.2

There are no proposals for ground water extraction and any storm water quality management elements would of course be constructed in a way as to ensure that they do not intersect with ground water.

3. **RIPARIAN MANAGEMENT**

The geotechnical report identifies there are intermittent drainage paths and depressions on the site which flow north-west and to the south of the site. It seems from the Concept Plan that residential blocks will be constructed over these drainage lines. It is important as part of the project planning that drainage on the site is maintained and managed appropriately. The geotechnical report mentions the requirement for culverts where the road crosses gullies on the site. Whilst developments being assessed under the repealed Part 3A of the Environmental Planning and Assessment Act 1979 do not require a Controlled Activity Approval under the Water Management Act 2000 it is important any works within or adjacent to riparian areas, including drainage lines are consistent with State policy including the Office of Water's Guidelines for Controlled Activities. Note that these guidelines have recently been updated (July 2012). For the revised guidelines, please refer to:

<http://www.water.nsw.gov.au/Water-Licensing/Approvals/Controlled-Activities/default.aspx>

Comment 7.3

The matters raised by the Department of Primary Industries in relation riparian matters are at a level of detail which is applicable to development assessment but not concept plan assessment. Accordingly, these matters will be addressed comprehensively at the time of Development Application lodgement.

4. **STATEMENT OF COMMITMENTS**

The proponent should be made aware of the following recommended conditions should the application be approved, and these should be incorporated into the Statement of Commitments:

- To aid in the protection of receiving water source quality, all stormwater runoff must be adequately treated at its source and or diverted through the stormwater treatment process designed for the site, prior to the stormwater being discharged to surface water and groundwater sources.
- All works within or adjacent to riparian lands should be consistent with the NSW Office of Water's Guidelines for Controlled Activities.
- The applicant to obtain the relevant licences under the Water Act 1912 and the Water Management Act 2000 (whichever is relevant at the time application is made) for all activities that intercept or extract groundwater and surface water prior to commencement of these activities.
- The applicant must ensure all monitoring bores and works that intersect groundwater are licensed, if relevant with the NSW Office of Water. All Form A's associated with the bores must be submitted to the NSW Office of Water.
- The applicant must ensure that bio-retention basins are constructed above the groundwater table and/or lined with an impermeable liner to prevent direct infiltration to the groundwater table.

While the Office of Water is satisfied the Concept Plan can be approved, the Office of Water requirements and Government policy have been outlined above to ensure the proponent understands their responsibilities for the management of water on the site and obtains the appropriate licences. Any future project application or development applications associated with the project should be forwarded to the Office of Water so accurate technical advice can be provided on relevant aspects of the development.

Comment 7.4

Each of the matters described in Section 4 of the submission by the Department of Primary Industries is a "statutory matter" i.e. requiring the proponent to obtain the relevant approvals and licences. The requirement to obtain all such licences, permits and approvals is set out in Commitment 2. However, for abundant clarity the

matters raised by the Department have been inserted into the updated version of the Statement of Commitments.

1. The Environmental Assessment (EA) states that Crown Lands had not responded to earlier referencing of the application. (see Sec 5.12 Consultation p.88 Land & Property Management Authority). However, a response was provided in July 2011. The issues raised in that response have not been fully addressed in the EA) and the following comments are offered accordingly.

Comment 7.5

More recently further consultation has been had with the Crown Lands' office. Attached in Appendix A to this report is an authority by the Crown Lands' office to utilise the vacant Crown Land between existing Lots 31 and 223.

2. The EA does not address the likely impacts on the development from the Crown road reserve abutting the western boundary of proposed Lot 17 in regards to bush fire and potential dangerous trees. The Crown road reserve is 30 metres wide comprising 0.39 hectares densely vegetated with tall black butt forest, a species that can be prone to limb drop and aggressive bush fire behaviour. Proposed Lot 17 does not have any set-backs from the Crown road reserve and the consultant bush fire assessment (Appendix E) has failed to consider the bush fire threat posed by the Crown road reserve for Lots 17,28, 29 and Lots 145 to 151.

Comment 7.6

Since the time this Comment was made the circumstances have changed somewhat. The Crown land referred to in comment 2 above is now incorporated into the development and will form part of the road network and local open space.

3. Planning for Bush Fire Protection 2006 states that areas of vegetation less than 1 hectare in size and with a direct fire run of less than 50 m are considered low hazard and should be treated the same as Rainforests - which still require some bush fire protection measures such as Asset Protection Zones.

Comment 7.7

A further assessment in relation to bushfire matters has been undertaken having regard to the Preferred Project layout. That assessment is set out at **Appendix C** to this report.

4. Further, it appears that proposed Lots 900 and 998 (with vegetation contingent to the Crown road reserve) are to be maintained as vegetated passive and active open space and subject to proposed Bio-banking offsets. It is unclear what or if any vegetation maintenance regime is proposed for these lots. Should no vegetation maintenance be guaranteed on Lots 900 and 998 this would increase the potential area of vegetation adjacent to the proposed lots to more than 2 hectares and potential fire runs in excess of 50 metres and should be considered as Forest vegetation for Bush Fire Planning requirements. This would effectively nullify a .large section of the Bush Fire Assessment for the proposed subdivision.

Comment 7.8

Having regard to submissions received from government departments and in particular OEH and the Department of Planning and Infrastructure, the design has changed significantly and the concerns raised by comment 4 above are now no longer applicable.

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5. Accordingly, Crown Lands is concerned about the impost to the future management of the Crown road reserve under the proposed concept plan. Future construction of a formed road is unlikely due to topographical and engineering constraints. As such there may be public benefit in disposal of the Crown road reserve for inclusion as part of the proposed passive and active open space of the development.

Comment 7.9

These comments are now no longer applicable as the existing Crown road reserve has now been subsumed into the overall concept approval plans. Of course it will be necessary for the proponents to acquire that parcel in order to facilitate the further development of the land.

8 DEPARTMENT of PLANNING AND INFRASTRUCTURE, GRAFTON OFFICE**MID NORTH COAST REGIONAL STRATEGY**

It should be noted that, although the site is mapped as a "proposed future urban release area", it is also mapped as a site with significant issues that relate to its development potential. The site is also mapped as having high level constraints.

Comment 8.1

The above statement is factually incorrect. The whole of the zoned part of the subject site is specified in the Mid North Coast Regional Strategy as "existing urban footprint". It is only the rural zoned land westward of the existing zoning boundary that is identified as "proposed future urban release area".

ENVIRONMENTAL ASSESSMENT

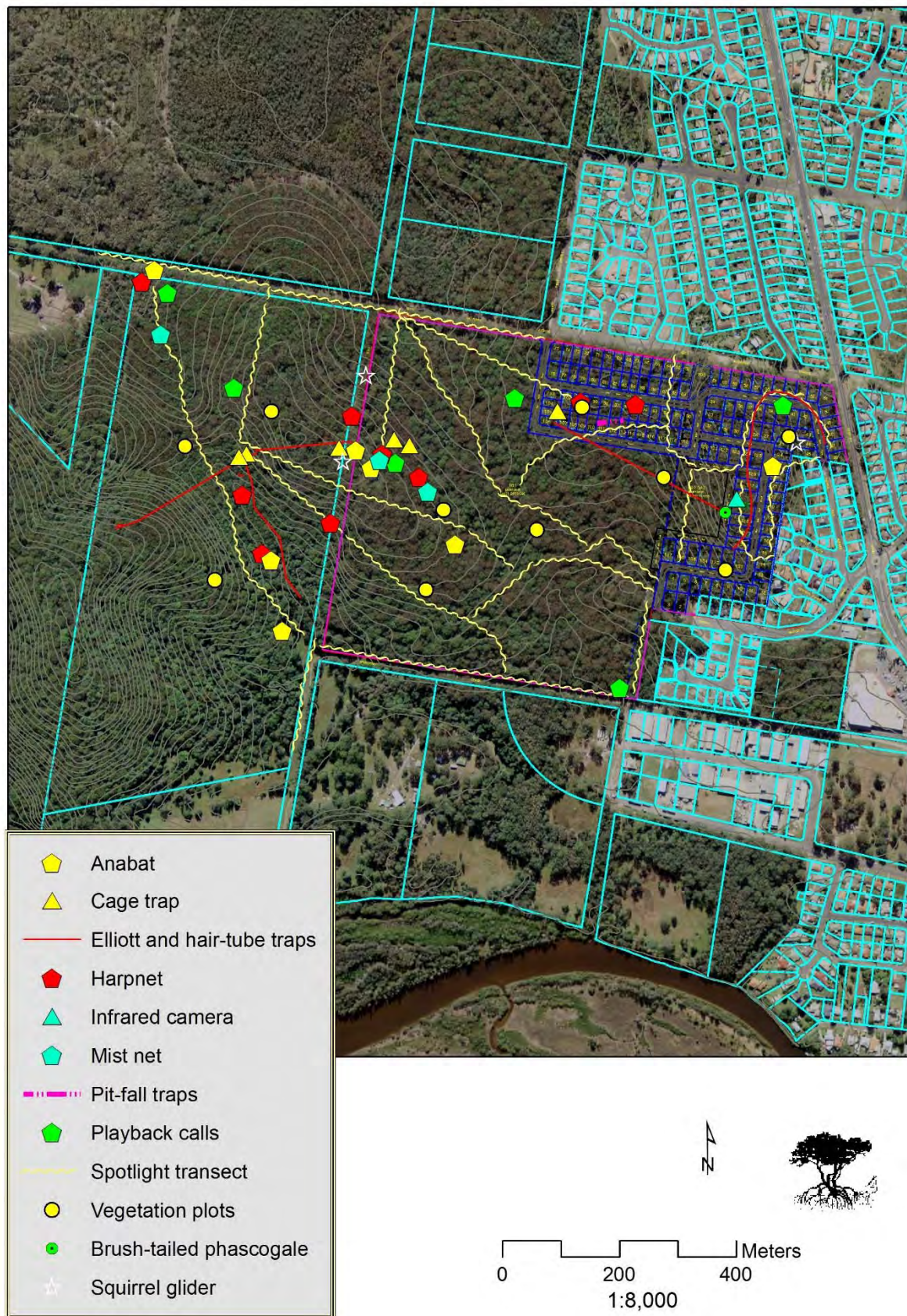
While the survey effort employed may generally be in keeping with OEH requirements, the survey locations within the site do not point to a comprehensive assessment of the fauna present. The survey locations (see Biodiversity Assessment Report, Figure 2) are largely clustered within a limited few areas of the site, which mostly do not correspond with the areas proposed to be developed. The clustering of the survey methods within these small areas may have affected the survey results, as only a small habitat area was sampled, thus reducing the potential for capture of fauna. The results obtained may not provide a representative indication of the fauna on the site in general or within the proposed development area specifically. The assessment does not provide adequate explanation of or justification for the proposed subdivision layout or development scale in terms of biodiversity impacts.

Although the site is recognised as being important for the resident threatened brush-tail phascogale, their location within the site is not disclosed within the reports (see Biodiversity Assessment Report, Figure 5 – Threatened Species records). This makes it difficult for the reader to assess the likely impacts to the population on site and the significance of those impacts. As the population has been detected within this and previous surveys, it is important to know where they occur and in what numbers. The fact that the phascogale is known to occur on site but was difficult to detect within this study may point to the limitations of the survey effort in capturing data on resident fauna populations, including this and other threatened species.

Comment 8.2

The conclusion that the survey locations do not point to a comprehensive assessment of the fauna present is not supportable on the evidence provided. Not only was the site comprehensively surveyed over various seasons and over various years, the adjoining land to the west was also included (see map below). That is the survey locations are not clustered and are do not exclude areas proposed for development. The survey results reflect this comprehensive survey effort, particularly when species recorded are compared to those recorded in previous surveys at or near the site. The brush tail phascogale was recorded in hair tube trapping and the location of these traps was illustrated in the Biodiversity Assessment report. Moreover, the BioBanking methodology has concluded that this species would occur over the whole of the development site making its precise location irrelevant. The credit report (in **Appendix B**) has identified the need to retire credits specifically for this species.

Plan 8.1 Survey Effort Plan



BIODIVERSITY ISSUES

The site has obvious biodiversity value, including high quality threatened species habitat. The EIS refers to the adoption of the "avoid concept" in determining the subdivision layout (page 79). The process applied, however, relates only to the physical features/constraints of the site. It does not relate to the site's biodiversity constraints, such as identified threatened species habitat. It is unclear how the area proposed to be retained for open space relates to the habitat value of the site, particularly for threatened species. Is the area of sufficient size to support viable fauna populations in isolation? Are areas proposed for residential development more or less valuable than the area proposed for retention?

The proposed open space area has no linkages to adjacent habitat areas, such as the land to the west proposed for offset through BioBanking. The open space land will be completely surrounded by development and thus isolated. Fauna inhabiting this area will be subject to major threats, including vehicle strike, when they inevitably attempt to move to and from the remnant area. Predation by domestic pets is also likely to impact on such populations. While the retention of vegetated areas is supported, the lack of linkage of this area to other habitat is not considered to be a satisfactory outcome.

The proposed open space area is intended to count towards the biodiversity offset required for the development. This area and the fauna populations inhabiting it, however, will likely be impacted by the development by way of fire, predation, vehicle strike, human disturbance, habitat loss and edge effects. The area will most likely be maintained with a cleared understorey. All of these potential impacts are likely to diminish its habitat value. It is difficult, therefore, to see how this area can be used to count towards the required biodiversity offsets.

Comment 8.3

The subject land has been identified for urban development for many decades. The proposal submitted with the EA was an attempt to balance the requirements for orderly and economic development of land for human housing against environmental values. With the receipt of comments from EA exhibition, the design has been modified to have regard to some of the concerns raised in the above mentioned text particularly concerning habitat linkages and the conflict between open space usage and biodiversity offset.

RESIDUE LAND

Should the proposal be approved, the residue land in the north-west of the site should be zoned for environmental protection and included as part of the BioBank site. Retention of the 1(d) zone in this area is not considered to be appropriate, given the biodiversity value of the site.

Comment 8.4

The residue parcels from the subdivision are available for BioBanking. Comment 6.25 opines as to the appropriate zoning for the balance land should the Department decide to make a declaration in relation to that matter.

9 CATCHMENT MANAGEMENT AUTHORITY – NORTHERN RIVERS

The Northern Rivers Catchment Management Authority (NRCMA) has brokered a Catchment Action Plan (CAP) for the Northern Rivers (NR) Region, developed through considerable consultation with key stakeholders including local government. We are pleased to note that the EA Report acknowledges the CAP and has referred to and is consistent with a range of CAP targets.

Comment 9.1

It is gratifying to see that the Catchment Management Authority has observed the level of detail the EA sought to delve into in its consideration of the concept planning for the subject site.

The EA takes into account recommendations to reduce urban/rural land use conflict, as outlined in *Living and Working in Rural Areas - A handbook for managing land use conflict issues on the NSW North Coast* (Southern Cross University 2007) which is consistent with the NRCMA CAP.

Comment 9.2

Further refinement of the plan as described in Section 11.1 which further reinforces the principles in the *Living and Working in Rural Areas* handbook.

The NRCMA is also responsible for the dissemination of information and the approval process for the Native Vegetation Act 2003 (NVA 2003). The NRCMA offers the following comments on the EA, in relation to the NR CAP Targets and compliance with the NVA 2003:

Comment 9.3

It is envisaged that a declaration will be made by the Department (as) delegate of the Minister to rezone all of the land identified for subdivision with the balance lot as an environmental protection zone. We concur with the view of the Catchment Management Authority that land zoned for urban purposes does not attract any requirement for approval under the Native Vegetation Act. We also concur with the view that the environmental protection zoning may be applicable to the balance of the property.

- The Native Vegetation Act 2003 applies to rural and rural residential zones and Environmental Protection Zones including lands designated under SEPPs. This development must comply with the NVA (2003) in terms of any native vegetation clearing on such lands, and as a requirement, the applicant must demonstrate how the proposal complies with the Act.
- The EA discusses potential changes to zonings of the area and also state that vegetation removal will be examined in more detail within the Environmental Assessment to be lodged with Project Application. If rezoning of land occurs then the NVA Act 2003 may not apply to those Residential zones. Rezoning of land to a type of Protection Zone 7 would be consistent with NRCMA targets and the NRCMA acknowledges the proposals to enter into BioBanking as one means to manage impacts on habitat.

Comment 9.4

It is thought that the Department will make a declaration to zone the balance land for environmental protection and the urban area residential.

10 PUBLIC SUBMISSIONS

Forty Two (42) private submissions were lodged with the Department in relation to the Settlers Ridge Environmental Assessment exhibition. The proponent facilitated the exhibition by promoting local newspaper exposure of the exhibition and running its' own website (www.settlers-ridge.com.au) to make available all of the Environmental Assessment material.



Photograph of the Open Day held on the site.

In addition, Messrs Connelly and Parker established an Open Day at the site on 2nd February 2013. The Open Day was conducted between 10am and 2pm. At the Open Day town planning and ecological advice was made freely available to any person who attended. Twenty One (21) persons came to the onsite Open Day. Of those the split between supporters of the project and those who were against the development was about 50/50.

Plan 10.1 plots the residential location of persons who made submissions to Departmental exhibition. The residential location of some submissions is not known because they referenced a postal box address or did not wish their identity to be disclosed. The plan shows submitters of this kind clustered in the Central Business District of South West Rocks.

On the plan, persons who were against the project are identified by a red coloured dot. Persons who were in support of the project are identified by a yellow coloured dot. One submitter appeared to be partially supportive but also partially against the subdivision. That submitters dot is coloured both red and yellow.

Of the submissions received, most were in support. Only 13 submissions were received against the project. Of those objections, only 2 have their residential address within the immediate vicinity of the subject site.

The main points raised by persons who submitted objections were as follows:

- the site is part of a critical regional wildlife corridor
- the land is of high conservation value
- the land is important for environmental purposes as illustrated by Land & Environment Court decisions
- the whole of the land should be made available for BioBanking offsets rather than being developed
- the proposal triggers SEPP 44 Koala Habitat management plans
- the locality is an important habitat for threatened species including the Phascogale & Squirrel gliders
- the State Government BioBanking scheme is flawed
- there will still be a major loss in habitat
- if it is necessary to squeeze more people into South West Rocks, then one submitter suggested high-rise development instead of the development of the subject site
- the subject site is important to the local scenery
- the reasons for development including the demand for additional residential development are flawed
- the land will be subject to high bush fire risk
- NPWS and Council are not interested in owning or managing reserves
- the ecological consultant appears to have relied on 2003 data which may have substantially changed due to climatic or anthropogenic incursion
- previous fauna studies confirm the high biodiversity of the site
- there will be highly likely be difficulties managing compliance with the offsets proposed
- the town has only one primary school and no high school, they are already overcrowded and South West Rocks does not need any additional population
- the road system cannot cope with the increased traffic
- the water and sewerage system cannot cope with the increased population
- the development is at odds with the Mid North Coast Regional Planning Strategy
- the proposal involves ribbon development which is not satisfactory
- the proposal is against the Coastal Design Guidelines
- the proposal has lot sizes below the minimum size specified in Council's DCP
- the Kempsey Local Environmental Plan 1987 is out of date

The proponent has never suggested that the subject site is not of important conservation value. However, that value needs to be weighed against the community strategic planning which underpins Council's aspirations for South West Rocks and the Mid North Coast Regional Strategy. Both the abovementioned public policy documents clearly indicate that the bulk of the subject site is appropriate for further residential development. The proponent does not agree that the site forms part of an east west regional wildlife corridor in the vicinity of Keith Andrews Avenue. A cursory examination of aerial photography will show that no such corridor exists, particularly eastward of Gregory Street.

As the Department will be aware, the BioBanking methodology takes into account koala habitat considerations and its key aim is to ensure no net loss in regional habitat value. It appears that most objectors do not understand that the BioBanking system is underpinned by rigorous science and is managed by the NSW Government to operate in perpetuity.

South West Rocks has been planned to provide for development of the subject site and accordingly it is not unexpected that the road system; water and sewerage utilities and community facilities are able to cope with the approval sought.

From the writers analysis of submissions it would appear that those opposed to the subject site development will not be appeased by the Preferred Project layout. In the main, all of the objectors appear to be against the further development of South West Rocks.

SETTLERS RIDGE, SOUTH WEST ROCKS

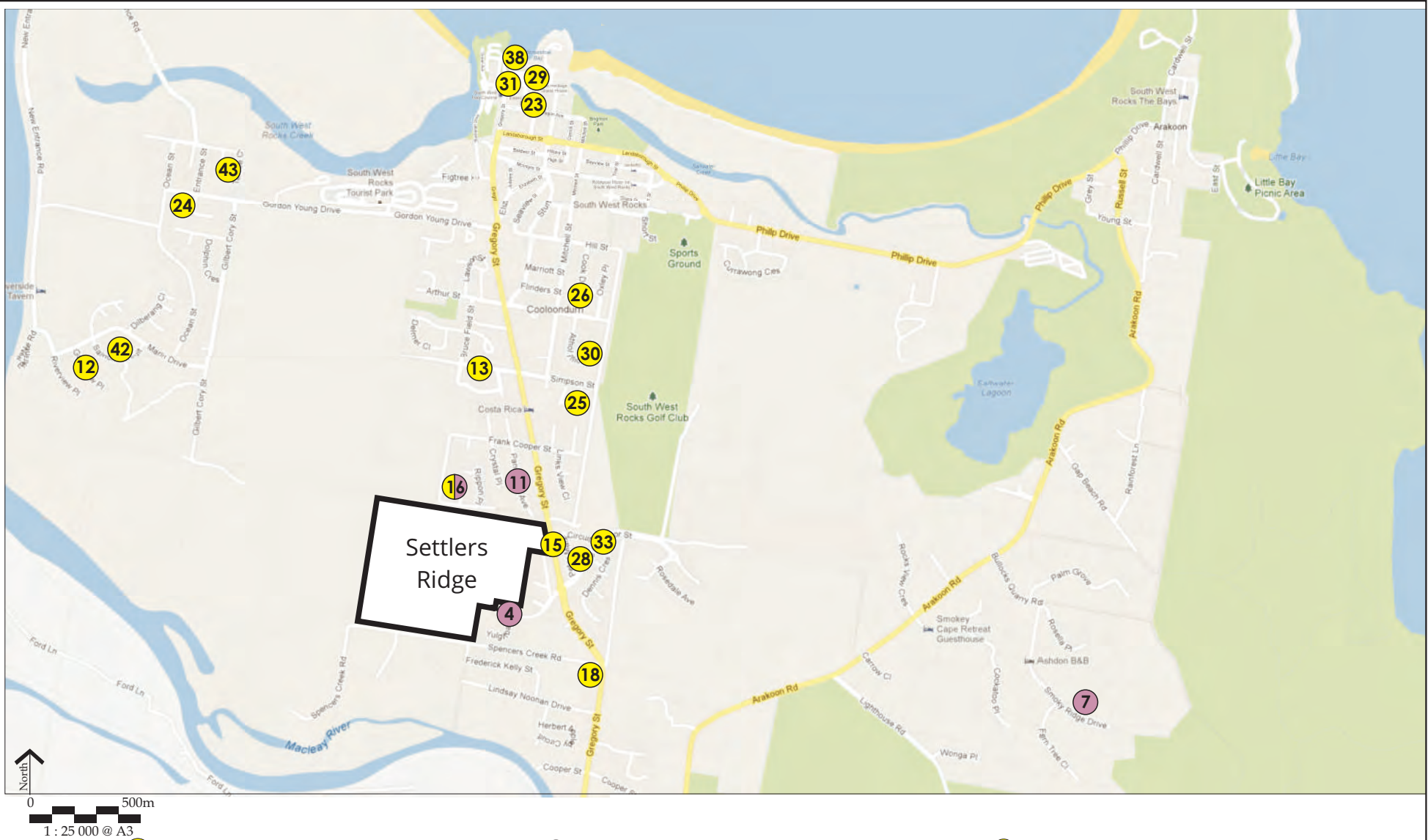
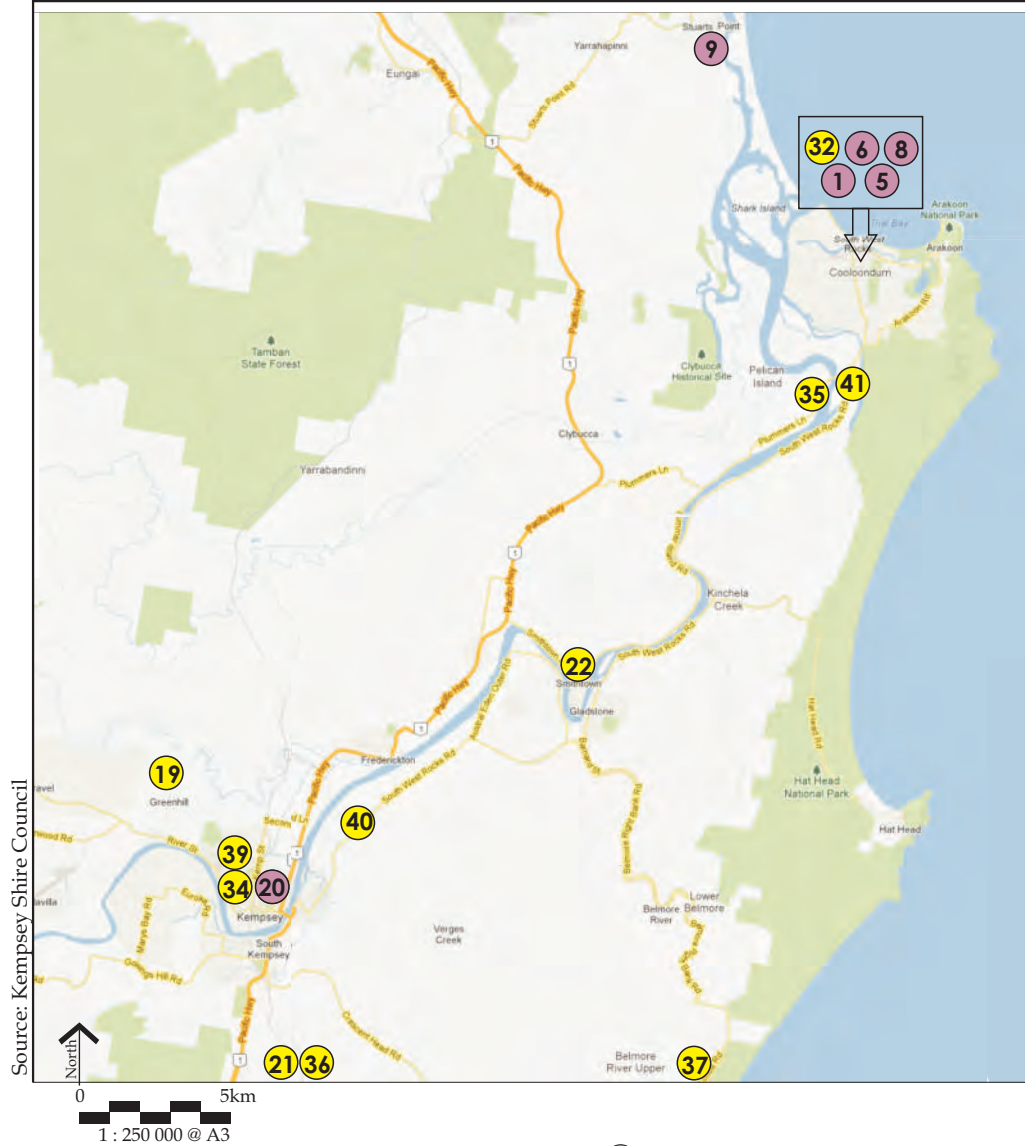
49

Persons who supported the application referred to the following matters in their reason for support:

- the development will assist the building industry in South West Rocks which is in decline
- the developer has prepared a good masterplan for the land
- the Department should support projects which are consistent with its regional strategy
- the proposal will enhance the seaside atmosphere but provide for substantial population away from the beach
- the project is likely to provide employment to the town
- the proprietors of the Rock Shopping Centre purchased on the basis of the increase in population of South West Rocks as identified in the various planning strategies. They want the Department to support the approved residential strategies for the area and maximise the residential density
- the orderly and economic development of South West Rocks must be facilitated
- some fear that unless more development occurs the population will diminish and the range of services (doctors etc) currently enjoyed by the community will be depleted.
- the development is consistent with historical planning for the area and it should be supported

The basic thrust of supportive submissions is that the subject site ought properly be developed in a way which is consistent with the orderly and economic planning of the village of South West Rocks. The proponent concurs with this view and envisages that development in a manner proposed will add to the economic framework of the village of South West Rocks and assist in delivering the prosperity sought by submitters in support of the proposal.

Those in support of the application appear to be amenable to a form of development which both continues the orderly and economic growth of South West Rocks in manner consistent with historical planning but also in a way which maintains the character of the village.



Source: Kempsey Shire Council

- Legend**
- Subject site
 - Submission objecting to subdivision
 - Submission in support of subdivision

Note: Submissions in blue text are outside the mapped area.

- | | | | |
|--|---|---|--|
| 1 Alan Hill
P O Box 444, South West Rocks | 12 Craig Whitby
12 Grandview Pl, South West Rocks | 23 Elders Real Estate (Heath Askew)
12 Prince of Wales Ave, South West Rocks | 34 Sarah Mahoney
3 Druitt St, Kempsey |
| 2 Unknown
Online submission | 13 Jaimi-Leigh Rowlands
2/50 Simpson St, South West Rocks | 24 Greg Ryan
Eric Fittler Pl, South West Rocks | 35 Anne Kirkwood
660 Plummers Lane, Rainbow Beach |
| 3 Unknown? Friends of South West Rocks Assoc.?
No address | 14 Aleta and Jason Stevenson
P O Box 1420, Goulburn | 25 John W. Popple
5 Greenway Close, South West Rocks | 36 Matt Doney
123 Crowther Dr, Kundabung |
| 4 Dennis and Patricia Dwyer
22 Steve Eagleton Drive, South West Rocks | 15 Clarence Property Corporation Limited
Rocks Shopping Fair, South West Rocks | 26 Claire Riley
62 Cyrus Saul Cct, Frederickton | 37 Philip Harvey
4 Stewart St, Crescent Head |
| 5 Sarah Gunn
P O Box 77, South West Rocks | 16 Mary Tuffin
29 Keith Andrews Ave, South West Rocks | 27 B. Picker
3 The Quay, South West Rocks | 38 TNVS (Tim Needs)
2/21 Memorial Ave, South West Rocks |
| 6 Stan Keifer
P O Box 50, South West Rocks | 17 Darkheart Eco-Consultancy
Port Macquarie | 28 T. Alsford
11 Peter Mark Circuit, South West Rocks | 39 Kevin Farrowell
627 Pacific Hwy, Kempsey |
| 7 Stephanie Wilkinson
59 Smoky Ridge Drive, Arakoon | 18 Amanda Fuller
2/287 Gregory St, South West Rocks | 29 Jellies Boutique (Melissa Walker)
Shop 2, 1-7 Prince of Wales Ave, South West Rocks | 40 Bruce Woods
97 South West Rocks Rd, Kempsey |
| 8 South West Rocks Ratepayers & Citizens Assoc.
P O Box 50, South West Rocks | 19 Maurie Fuller
Lot 51 Springfields Dr, Greenhills | 30 Mark Harry
18 Athel Elliot Place, South West Rocks | 41 Steve Mabon
12 Main St, Jerseyville |
| 9 James Tedder
Pavans Access, Stuarts Point | 20 Dr Vanessa Standing
P O Box 147, Kempsey | 31 Wave Wear (Micheal Walker)
Shop 1/15 Livingstone St, South West Rocks | 42 Scott Dederer
15 Salmon Cct, South West Rocks |
| 10 Unknown
Online submission | 21 Nerryl Doney
123 Crowther Dr, Kundabung | 32 R. Andrews
P O Box 212, South West Rocks | 43 Susan Laycock
5 Sirius Close, South West Rocks |
| 11 Wal Kelly
29 Panorama Ave, South West Rocks | 22 Dan Bates
143 Summer Island Rd, Smithtown | 33 Alan Glass
17 Belle O'Connor St, South West Rocks | |

11 PREFERRED PROJECT**11.1 PREFERRED PROJECT DESCRIPTION**

Plan 11.1 illustrates the preferred project subdivision layout. The proposal seeks concept approval to create 137 residential allotments. The allotments will have an average size of 612m². The “development area” including the fire trails is 11.94 hectares in size. The lots are deliberately wide ranging in their size to provide a broad variety of housing choice. 18 lots are traditional dwelling house allotments in the 700m² plus size order. A further 49 lots are of traditional character being in the 600/699 m² size category. Premium courtyard type lots having areas between 500/599m² make up 35% of the range of lots proposed. The total release of this type of lot is 49. Smaller lots in the 445/499m² size range make up only 15% of the proposed subdivision.

1470m² of land is proposed for local park type open space. This represents an open space provision of 0.5 hectares per 1000 persons assuming an average dwelling occupancy of 2.1 as displayed in the 2011 Census. At Development Application stage contributions will be necessary for the offsite provision of active open space.

All roads are proposed to be 16m wide in accordance with Council's DCP standard requirements. The total length of roading is 1.6km. The amount of road as a percentage of the overall residential development is about 24.3%. This is a little higher than the normal rule of thumb, but before this excess occurs as a consequence of a deliberate desire on the part of the Department to have promenade type roads abutting the balance land where practical.

The overall land use budget proposed for the Settlers Ridge project is tabulated below in **Table 11.1**.

Table 11.1 Land Use Budget

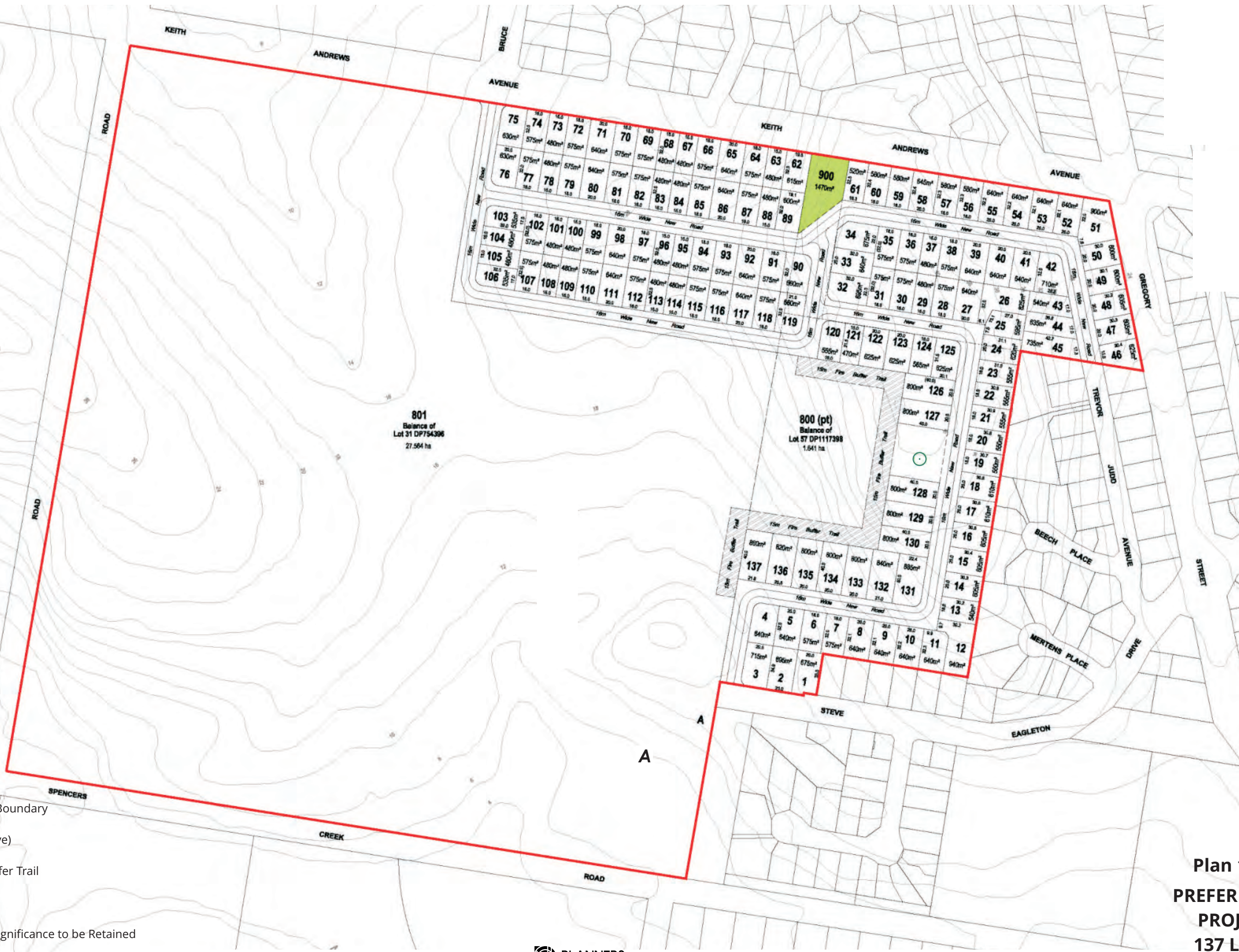
	Area (ha)	%
Site Area	40.4	100
Residential Lots	8.39	20.75
Roads	2.66	6.5
Open Space	0.15	0.36
Balance Land Available for BioBanking	29.18	72.29

Plan 11.2 shows revised details in relation to pedestrian linkages. This revised plan is lodged as a consequence of Council's request for changes to the pedestrian network (see comment 6.11).

Source: RPS Dwg 102457-18A



- Legend
- Subject site
 - Existing Internal Boundary
 - Open Space (active)
 - 15 Metre Fire Buffer Trail
 - Farm House Site
 - Tree of Cultural Significance to be Retained

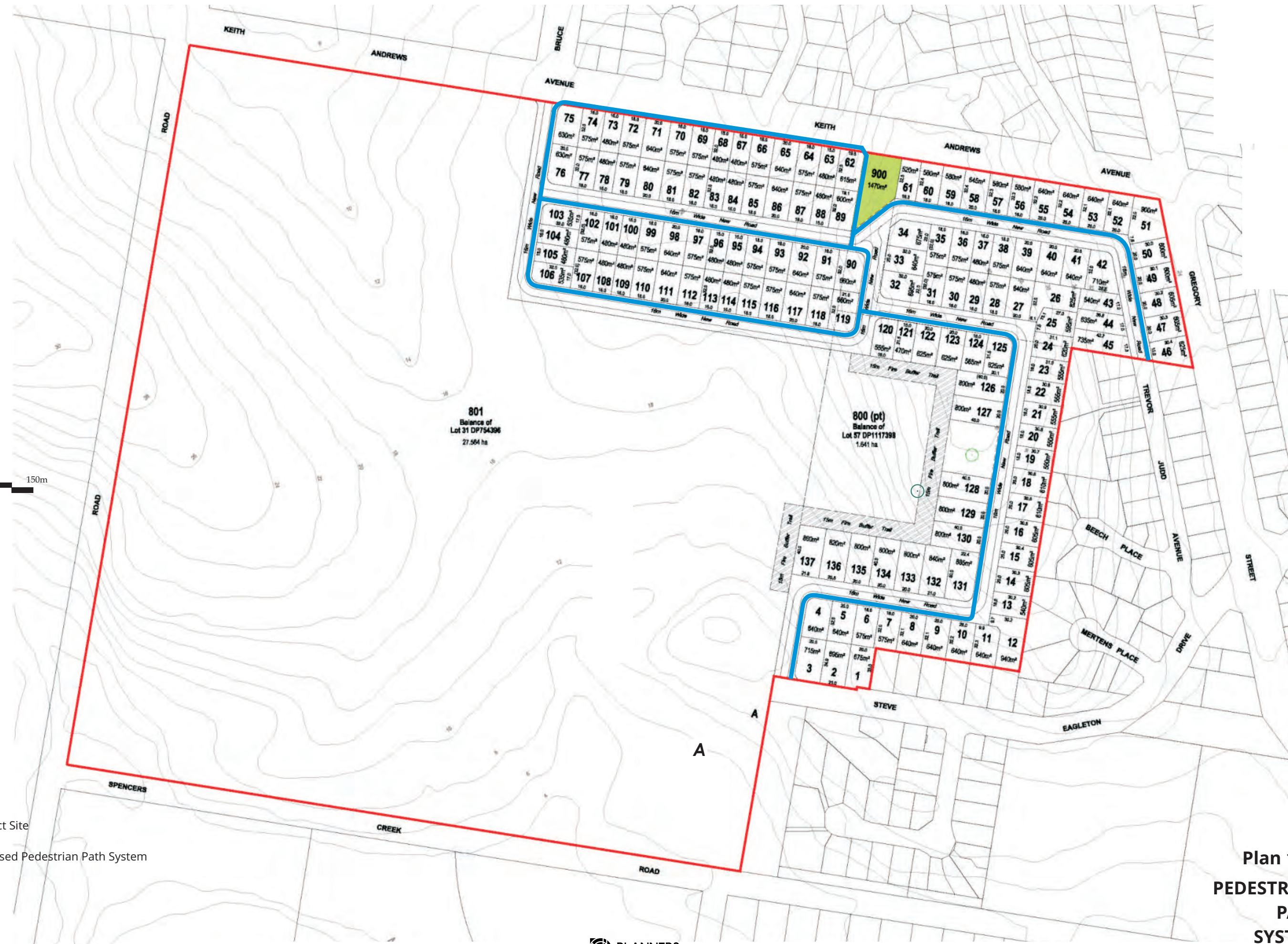


Plan 11.1
PREFERRED
PROJECT
137 LOTS

Source: RPS Dwg 102457-18A



- Legend
- Subject Site
 - Proposed Pedestrian Path System



Plan 11.2
PEDESTRIAN
PATH
SYSTEM

11.2 UPDATED STATEMENT OF COMMITMENTS

The Updated Statement of Commitments as relevant to the Project is contained in **Table 11.2** that follows. The updated Statement of Commitments reflect the various specialist investigations into the project application and subdivision design, and incorporate recommendations made by Government Authorities.

Table 11.2 Updated Statement of Commitments

ITEM		COMMITMENT	ACTION	TIMING
General	1	The proponent will undertake the development in accordance with Plan 3.1 in the Environmental Assessment. Plan 11.1 in the Preferred Project Report.	Proponent	All stages
Statutory Requirements	2	<p>All licences, permits and approvals as necessary will be obtained once project approval is granted and maintained for the development, including:</p> <ul style="list-style-type: none"> Construction Certificates for engineering works (including earthworks, soil and water management, roadworks and drainage) for each stage of the subdivision; Subdivision Certificates for each stage of the subdivision; Section 138 Consent for roadworks (Roads Act 1993); Section 68 approvals for utilities infrastructure (Local Government Act 1993); Electricity Compliance certificate from Origin/Energy; Telstra, National Broadband Network Compliance Certificates; and Water Compliance Certificate from Macleay Water under Section 307 of the Water Management Act 2000; Bushfire Authority under Section 100B of the Rural Fires Act 1997; and The relevant licences under the Water Act 1912 and Water Management Act 2000 (if required). 	Proponent	Stage 1 & ongoing
Infrastructure Provision	3	<p>The following infrastructure is to be provided for all lots in the subdivision:</p> <ul style="list-style-type: none"> Electricity reticulation to each residential lot to the satisfaction of Origin/Energy; Reticulated potable water supply to each residential lot to Council's satisfaction; Telecommunication services to each residential lot to the satisfaction of Telstra and the National Broadband Network. <p>Staging and timing of infrastructure provision is to be established in the final Development</p>	Proponent	All Stages

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		Contract to be approved by Kempsey Shire Council.		
	4	The design and construction of the internal roads; provision of water, electricity, and gas services and APZ's are to comply with Planning for Bushfire Protection, 2006.	Proponent	All Stages
	4.1	With any Development Application the proponent shall lodge an intersection analysis for the Frank Cooper and Gregory Streets intersection.	Proponent	All Stages
Water Management	5	Water quality control measures will be designed and installed in accordance with the principles of the Surface and Storm Water Management Plan described in Technical Paper D . Detailed designs for these works are to be provided with the Construction Certificate relevant to each stage.	Proponent	All Stages
Heritage and Archaeology	6	The site RPS SWR 1, being the "scarred tree" located during the archaeological survey undertaken by RPS Consulting is to be afforded protection with a cordoned off area of 10 metres X 10 metres established around it. Details are to be provided with the Construction Certificate for Stage 1. before any development of Lot 57 DP 1117398.	Proponent	Stage 1
	7	All relevant construction staff are to be made aware of their statutory obligations for heritage under NSW NPW Act (1974) and the NSW Heritage Act (1977), which may be implemented as a heritage induction.	Proponent	All Stages
	8	The location of RPS SWR 1 shall be included in all environmental management plans for the development area, so that all staff are aware that these areas will require management.	Proponent	All Stages
	9	If further Aboriginal site(s) are identified in the study area, then all works in the area should cease, the area cordoned off and contact made with DECCW Enviroline 131 555, a suitably qualified archaeologist and the relevant Aboriginal stakeholders, so that it can be adequately assessed and managed.	Proponent	All Stages
	10	If skeletal remains are identified, work must cease immediately in the vicinity of the remains and the area cordoned off. The proponent will need to contact the NSW Police Coroner to determine if the material is of Aboriginal origin. If determined to be Aboriginal, the proponent must contact the DECCW Enviroline 131 555, a suitably qualified archaeologist and representatives of the local Aboriginal Community Stakeholders to determine an action plan for the management of the skeletal remains, formulate management	Proponent	All Stages

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		recommendations and to ascertain when work can recommence.		
	11	If during the course of clearing work, significant European cultural heritage material is uncovered, work should cease in that vicinity immediately. A significance assessment by a suitably qualified archaeologist adhering to the NSW Heritage Branch Significance Criteria should be carried out and the NSW Heritage Branch should be notified if significant historical items are identified. Works should only recommence when an appropriate and approved management strategy is instigated.	Proponent	All Stages
	11.1	The proponent must continue to consult with and involve all the registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and provided to the consent authority upon request.	Proponent	Stage 1 & Ongoing
	12	Prior to any work commencing on the site credits shall be acquitted in the amount and type specified in the BioBanking Credit Report.	Proponent	Stage 1 & Ongoing
Biodiversity	13	<p>The proponents are to prepare a comprehensive Vegetation Management Plan for all areas of existing vegetation to be retained within the site. Such plan is to include provision for the following management measures:</p> <ul style="list-style-type: none"> ▪ Species-appropriate weed control responses formulated and implemented ▪ Formal protection of existing bushland ▪ Hollow-bearing trees identified and protected by tree protection zones ▪ Feral animal control ▪ Provision of fauna-friendly fencing ▪ Implementation of strict sediment and erosion control plan during all activities where soil is exposed ▪ Control program in conjunction with local Catchment Management Authority ▪ Determination of appropriate fire regime for each vegetation type ▪ Provision of formal paths to minimise trampling of understorey vegetation ▪ No point source delivery of stormwater runoff – use of water sensitive urban design principles such as diffuse water delivery ▪ Monitor all actions on regular basis and report to Council <p>The Vegetation Management Plan is to be submitted to Kempsey Shire Council for approval prior to registration of Stage 1. a plan of</p>	Proponent	Stage 1 & Ongoing

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		subdivision in involving Lot 31 DP 754396 or Lot 57 DP 1117398.		
	14	Plant species used in landscaping of the development area will be of locally-native species.	Proponent	All Stages
Noise Impacts	15	Provide a 2.5 m high acoustic barrier to the boundaries of Lots 1 to 8 as shown in the acoustic assessment prepared by Hunter Acoustics. Details are to be included in the application for a Construction Certificate for Stage 1 . Lot 223 DP754396 or other mitigation as specified by a Council condition of Development Consent.	Proponent	Stage 1
	16	A Construction Noise and Vibration Management Plan that specifies approach distances to residences before action must be taken is to be developed prior to the commencement of construction works. The plan is to be developed in accordance with BS 7385 and the relevant DECCW guidelines and as a minimum will contain the following: a) Limits for Noise and Vibration at affected residences in accordance with the Construction Noise Guide and BS7385; b) A list of machinery to be used for construction; c) Approach distances, "Buffer Zone" for each machine type that will trigger relevant management action for that activity; d) Specific management actions that should be taken for relevant activities inside the "Buffer Zone"; e) Identify the individual responsible for actioning the Management Plan and addressing any complaints; and f) Procedures for receiving, managing and resolving complaints.	Proponent	Stage 1 & ongoing
Construction	17	Prior to the commencement of works on the site, the proponent will submit to Council a Construction Management Plan. The Plan is to address the following: <ul style="list-style-type: none"> • a detailed work program outlining relevant timeframes for activities; • roles and responsibilities for all relevant site workers and employees involved in the construction phase; • waste and debris management measures to be employed during the construction phase; • erosion and sediment control measures during construction; • details of environmental management procedures, monitoring and reporting 	Proponent	All Stages

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		<p>requirements during construction and operation phase;</p> <ul style="list-style-type: none"> • traffic management procedures; and • details of statutory and other obligations that must be met during construction and operation, including all approvals and agreements required from authorities and other stakeholders. 		
	18	Construction work will be confined to 7.00 am to 6.00 pm Monday to Saturdays, with no construction taking place on Sundays or public holidays, unless prior approval is obtained from the relevant authority.	Proponent	All Stages
Developer Contributions	19	<p>Section 94 developer contributions will be paid to Council, at the rate current at the time of payment, towards the provision of the following public services or facilities:</p> <ul style="list-style-type: none"> ▪ Roads ▪ Open Space ▪ Community Services ▪ Bushfire ▪ Administration Levy 	Proponent	All Stages
	20	<p>Section 64 developer contributions will be paid to Macleay Water, at the rate current at the time of payment, towards the provision of the following public services or facilities:</p> <ul style="list-style-type: none"> ▪ Water supply ▪ Sewer services <p>Contributions relevant to each stage of the subdivision (taking into account current credits) are to be paid prior to the registration of subdivision plans for that stage.</p>	Proponent	All Stages
Design Controls	21	Creation of a title restriction on proposed lots 46 – 61 inclusive preventing vehicular access to either Gregory St, or Keith Andrews Ave, with Council being the beneficiary.	Proponent	All Stages

APPENDIX A

Land Owner Authority

Ref: 09/03798 DOC13/037979

Planners North
PO Box 538
LENNOX HEAD NSW 2478

Attention: Steve Connelly

Dear Steve,

Settlers Ridge Residential Subdivision Concept Plan, South West Rocks (DPI Major Project 10_0103)

I refer to your email of the 4 April 2013 requesting landowner's consent to lodge development application with the Department of Planning and Infrastructure and NSW T&I Crown Lands submission of 31 January 2013 to DPI Major Project 10_0103 regarding the unformed Crown reserve. The subject Crown road intersects Keith Andrew Avenue to the north and is bound by Lots 31 and 223 DP 754396 and Lot 57 DP1117398 (to the south).

This letter is to advise that NSW Trade and Investment – Crown Lands authorises the lodgement of an application for development of the subject Crown road reserve as described above. NSW T&I Crown Lands notes that if an application to use this land for road, local park and biobank purposes (in conjunction with the adjoining freehold development) is approved, the adjoining owners are required to make application to NSW T&I Crown Lands to purchase this land prior to commencement of any works or occupation of this land.

Yours faithfully



Cam Cocchini
Area Manager MNC
Crown Lands Division Taree

9 April 2013

APPENDIX B

Updated BioBanking Calculations

BioBanking credit report

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This report identifies the number and type of credits required at a **DEVELOPMENT SITE**.

Date of report: 23/05/2013

Time: 9:55:33PM

Tool version: 2.0

Development details

Proposal ID: 0064/2013/0705D
Proposal name: Settlers Ridge amended May 2013
Proposal address: Gregory Street and Kieth Andrews Drive South West Rocks NSW

Proponent name: SJ Connelly CPP Pty Ltd
Proponent address: PO Box 538 Lennox Head NSW 2478
Proponent phone: 0266877171

Assessor name: Peter Parker
Assessor address: Broken Head Road BROKEN HEAD NSW 2481
Assessor phone: 6685 3148
Assessor accreditation: 0064

Improving or maintaining biodiversity

An application for a red flag determination is required for the following red flag areas

Red flag	Reason
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The application for a red flag determination should address the criteria set out in the BioBanking Assessment Methodology. Please note that a biobanking statement cannot be issued unless the determination is approved.

Additional information required for approval:

- ☐ Change to percent cleared for a vegetation type/s
- ☐ Use of local benchmark
- ☐ Change negligible loss
- ☐ Expert report
- ☐ Predicted threatened species not on site
- ☐ Change threatened species response to gain (Tg value)

Ecosystem credits summary

Vegetation type ⁶³	Area (ha)	Credits required	Red flag
Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the North Coast	9.92	625	No
Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the North Coast	2.00	40	No
Total	11.92	665	

Credit profiles

1. Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the North Coast, (NR228)

Number of ecosystem credits required	665
CMA sub-region	Macleay Hastings - Northern Rivers
Minimum percent native vegetation cover class	31-70%
Minimum adjacent remnant area class	>100 ha

Offset options - vegetation types	Offset options - CMA sub-regions
<p>Scribbly Gum - Red Bloodwood heathy open forest of the coastal lowlands of the North Coast, (NR228)</p> <p>Blackbutt - bloodwood dry heathy open forest on Quaternary sands of the northern North Coast, (NR114)</p> <p>Blackbutt - bloodwood dry heathy open forest on sandstones of the northern North Coast, (NR115)</p> <p>Blackbutt - Needlebark Stringybark shrubby open forest on coastal sands of the North Coast, (NR116)</p> <p>Blackbutt - Spotted Gum shrubby open forest on sandstones of the lower Clarence Valley of the North Coast, (NR118)</p> <p>Pink Bloodwood - Red Mahogany - Smudgy Apple shrubby open forest on sandstone of northern North Coast, (NR218)</p> <p>Pink Bloodwood open forest of the coastal lowlands of the North Coast, (NR220)</p> <p>Scribbly Gum - Needlebark Stringybark heathy open forest of coastal lowlands of the northern North Coast, (NR227)</p>	<p>Macleay Hastings - Northern Rivers</p> <p>Clarence Lowlands</p> <p>Coffs Coast & Escarpment</p> <p>Clarence Sandstones</p>

Species credits

Common name	Scientific name ⁶⁴	Extent of impact	Number of species credits required
Brush-tailed Phascogale	Phascogale tapoatafa	11.92	238

APPENDIX C

Updated Bushfire Assessment

BUSHFIRE HAZARD ASSESSMENT

FOR

SETTLERS RIDGE SOUTHWEST ROCKS NSW 2431 3A PROPOSAL

AT

**LOT 31 (31.81ha), LOT 57 (5.3ha), LOT 223 (3.4ha)
AND VACANT CROWN LAND (0.399ha)
SOUTHWEST ROCKS NSW 2431**

FOR

SJ CONNELLY CPP PTY LTD

6 May 2013

Prepared by:

Barry Eadie Consulting Pty Ltd

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PREFACE

Readers of this report must be aware that the bushfire mitigation recommendations described in this report will not completely remove the risk of bushfire impacting the development site. Recommendations contained herein are designed to improve the bushfire related issues for the existing development. With regard to the application the implementation of recommendations in their entirety, together with the diligent maintenance of Asset Protection Zones, will provide for a reduction of the bushfire threat and the associated risk.

This report caters specifically for the requirements of this project and the Client. No warranty is intended or implied, or responsibility undertaken by Barry Eadie Consulting Pty Ltd for its use on any other project or by any third party.

This report does not include an environmental assessment, Aboriginal heritage assessment or identify endangered species in the area.

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1 EXECUTIVE SUMMARY

Attachment 3 of the Director General's Environmental Assessment Requirements under Section 75F of the EP&A Act 1979 lists relevant technical and Policy Guidelines which may assist in the preparation of the Environmental Assessment. ***'Planning for Bushfire Protection' (2006)*** is listed under Attachment 3 and therefore applicable in this application.

Correspondence from Kempsey Shire Council dated 20 August 2010 to the Department also includes reference to ***'Planning for Bushfire Protection' (2006)***.

The requirements under ***'Planning for Bushfire Protection' (2006)*** are addressed under Bush Fire Protection Measures, which include:

- Asset Protection Zones (APZ).
- Access and Egress; Public Roads, Property Access and Fire Trails.
- Services; Water, electricity and gas.
- Construction requirements for Dwellings.

The bushfire measures proposed comply with the requirements of ***'Planning for Bushfire Protection' (2006)*** in all respects and in particular the Bush Fire Protection Measures. The available Asset Protection Zones will require a minimum BAL 12.5 construction in accordance with AS 3959-2009 for all residential dwellings within 100 metres of unmanaged vegetation.

The landscape areas and the Managed Bush Corridors of the proposed development will comply with the requirements for landscaping and Asset Protection Zones and therefore not contribute to any bushfire hazard.

2 INTRODUCTION

2.1 Report Purpose

This report assesses the capability of the existing sites to be developed for which Concept Plan approval is proposed to be sought includes the creation of 137 Torrens Title Residential allotments, an extension of local roads and infrastructure to service the subdivision and the provision of a variety of open space parcels in accordance with the legislative requirements of *'Planning for Bushfire Protection' (2006)*.

The site, as shown in Annexure A, has frontage to, and is bound by Gregory Street to the east, Belle O'Connor Street to the south and the partly formed Keith Andrews Avenue to the north. A section of unformed crown road adjoins the western boundary of Lot 223 DP 754396. Undeveloped land lies to the west.

The land is located between the "old" town of South West Rocks and recent residential development which has occurred along Belle O'Connor Street, adjacent 'The Rocks' local shopping centre. The South West Rocks industrial area lies to the south.

The land is undulating and contains a mix of dry sclerophyll forest dominated by scribbly gum, blackbutt, tallowwood, pink and red bloodwood and brushbox. The study site is structurally mature to over-mature. There are no permanent or semipermanent water-bodies within the study area.

The Real Property description of the subject land is:

- Lot 31 DP 754396 (Lot 31)
- Lot 57 DP 1117398 (Lot 57)
- Lot 223 DP 754396 (Lot 223)
- Certain vacant Crown Land

These three properties have the following areas:

- Lot 31 – 31.8 hectares
- Lot 57 – 5.3 hectares
- Lot 223 – 3.4 hectares
- Vacant Crown Land – 0.399 hectares

The subject land is partly zoned 2(a) Residential and 1(d) Rural (Investigation) under the provisions of the Kempsey Local Environmental Plan 1987.

The report will form part of the supporting documentation for Major Project Applications to be submitted to the Minister. A Bushfire Hazard Assessment has been undertaken to determine the necessary requirements for the development in accordance with:

- NSW Rural Fire Service, Planning NSW, '*Planning for Bushfire Protection*' (2006); and
- AS 3959-2009: *Construction of Buildings in Bush Fire Prone Areas*.

Barry Eadie Consulting Pty Ltd has been engaged by S. J. Connelly CPP Pty Ltd to prepare the Bushfire Hazard Assessment report, to be used in support of the application.

2.2 BACKGROUND

The subject land consists of 4 parcels in 4 separate ownerships. They are Lot 31 (31.81 ha), Lot 57 (5.3 ha), Lot 223 (3.4 ha) and Vacant Crown Land (0.399 ha). The vacant sites form the last linkage between the older sections of South West Rocks, and the expanding urban development to the south.

This includes a local commercial / shopping precinct approximately 350m to the south of the site known as "The Rocks" shopping village and community centre.

To the north, there are scattered commercial developments randomly located along Gregory Street, before the road merges with the town centre of South West Rocks, some 1.5km away. Recreational facilities such as the South West Rocks Country Club, Surf Club, and South West Roxy Cinema are similarly located to the north of the site.

Development Consent for the subdivision of Lot 223 into 35 lots was granted by Kempsey Shire Council (KSC) on 26th September 2003.

The application was considered concurrently with 2 applications for residential subdivision of Lot 57 into a total of 46 lots. These applications were also granted consent on October 30th 2003. The approvals were subsequently tested in the Land & Environment Court (LEC) in 2004; "Friends of South West Rocks Inc v Machro Pty Ltd and Ors" (Ref: NSWLEC 721). The consents were voided by the Court on matters relating to the then SEPP 71 requirements applying to State Significant Development.

This project involves treating the 4 land parcels as a single integrated development parcel. It is expected that they will however be developed separately.

3 BUSHFIRE LEGISLATION IN NSW

The *Environmental Planning and Assessment Act 1979* and the *Rural Fires Act 1997* were amended via the *Rural Fires and Environmental Assessment Legislation Amendment Act 2002*.

The amendments to the legislation are not retrospective and consequently will not usually apply to development applications which were made, but not necessarily finally determined, before 1 August 2002.

With regard to the *Environmental Planning and Assessment Act 1979*, the amendments:

- a) Require local government councils to record on maps land identified by the Commissioner of the NSW Rural Fire Service as bushfire prone land; and
- b) Prevent development consent being granted for the carrying out of development for certain purposes on bushfire prone land unless the consent authority is satisfied that the development conforms to certain documented bushfire protection specifications and requirements (*'Planning for Bushfire Protection' (2006)* and *AS 3959 – Construction of Buildings in Bushfire-Prone Areas*) or has consulted with the Commissioner;

'Planning for Bushfire Protection' (2006), defines bushfire prone areas as an area that can support a bushfire or is likely to be subject to bushfire attack. In general, a bushfire prone area is an area containing a high, medium or low bushfire hazard, or any area within 100 m of a high or medium bushfire hazard, or within 30 m of a low bushfire hazard. Bushfire hazard areas do not include existing urban areas or water bodies (other than wetland vegetation), and are identified by bushfire hazard mapping produced under an approved Bushfire Risk Management Plan, or other such map certified by the Commissioner of the NSW Rural Fire Service for this purpose.

4 SITE ASSESSMENT – SETTLERS RIDGE

NAME:	S J Connelly CPP Pty Ltd
SITE ADDRESS:	The subject land is Lot 31 (31.81 ha), Lot 57 (5.3 ha), Lot 223 (3.4 ha) and Vacant Crown Land (0.399 ha).
COUNCIL:	Kempsey Shire Council
TYPE of DEVELOPMENT:	Subdivision.

Barry Eadie conducted inspections of the site at South West Rocks site and the surrounding area on 10 January 2011 and 6 May 2013. The following assessment has been undertaken in accordance with the requirements of *'Planning for Bushfire Protection' (2006)*. The proposal is for approval of the Residential Subdivision at Settlers Ridge, South West Rocks.

4.1 Location

The land is located between the “old” town of South West Rocks and recent residential development which has occurred along Steve Eagleton Drive adjacent ‘The Rocks’ local shopping centre. The South West Rocks industrial area lies to the south.

4.2 Vegetation

The vegetation has been assessed over a distance of 140 m from the existing bush vegetation both on and off site in all directions in accordance with Figure A2.1 of *'Planning for Bushfire Protection' (2006)*.

This report will address the proposed development in a number of sections i.e. seven (7) sections. The sections correspond to the proposed subdivision layout shown on the attached plan.

North: Proposed Lots 51-75 fronting Keith Andrews Avenue:

North: Keith Andrews Avenue with residential development further north.

North: Proposed Lots 133-137 back onto proposed fire buffer then Forest.

South: Proposed Lots. 1-3 front Steve Eagleton Drive.

South: Proposed Lots 7-12 back onto existing lots that front Steve Eagleton Drive

South: Proposed Lots 106-119 front proposed road then Forest.

South: Proposed Lots 120-123 back onto proposed fire buffer then Forest.

East: Proposed Lots 12-24 back onto existing residential lots.

East: Proposed Lots 46-51 back onto Gregory Street.

West: Proposed Lots 75, 76, 103-106, proposed road then Forest.

West: Proposed Lots 126-130 and 137 back onto proposed fire buffer then Forest.

West: Proposed Lots 3 and 4 have proposed road to the West then Forest.

Dwelling site 'A' Located in the Southeast corner of the site.

NOTE: All other proposed Lots have adjoining proposed lots or street frontage.



Typical Vegetation

4.3 Slope

Based on the site inspection, the slope of the land over a distance of 100 m from the indicative building lines in all directions has been assessed. In accordance with '**Planning for Bushfire Protection**' (2006), the slope has been assessed based on the gradient that will most significantly influence the fire behaviour of the site. The slope that most significantly influences fire behaviour is as shown in section 4.4 below.

4.4 Asset Protection Zone

The Asset Protection Zone (APZ) acts as a buffer zone between the development and the hazard. The primary purpose of an APZ is to ensure that a progressive reduction of bushfire fuels occurs between the bushfire hazard and any habitable structures. The APZ consists of an Inner Protection Area (IPA) and an Outer Protection Area (OPA). For the IPA the maximum canopy cover is 15% and for the OPA the maximum canopy cover is 30%.

The following tables show the minimum required Asset Protection Zones, which attracts BAL 29 construction for residential dwellings, the table also shows the proposed Asset Protection Zone which will comply with the requirements for BAL 12.5 construction for all dwellings within 100 metres of unmanaged vegetation with and FDI of 80.

Proposed Lots 51-75

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North	Keith Andrews Avenue	N/A	Flat	Nil	N/A
South	Proposed Lots	N/A	0-5 ⁰ Down-slope	Nil	N/A
East	Proposed Lots	N/A	Flat	Nil	N/A
West	Proposed Lots 51-74	N/A	0-5 ⁰ Down-slope	20 m	>27m (Minimum 15m IPA & maximum 5m OPA)
West Lot 75	Forest	Forest	0-5 ⁰ Down-slope	20m	>27m (Minimum 15m IPA & maximum 5m OPA)

Proposed Lots 75, 76 and 103-106

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North	Keith Andrews Avenue Lot 75 & proposed Lots	N/A	Flat	Nil	N/A
South	Proposed Lots	Forest South-west	0-5 ⁰ Down-slope	20m	>20m (Minimum 15m IPA & maximum 5m OPA)
South Lot 106	Forest	Forest	0-5 ⁰ Down-slope	20m	27m (Minimum 15m IPA & maximum 5m OPA)
East	Proposed Lots	N/A	Flat	Nil	N/A
West	Proposed road then Forest	Forest	0-5 ⁰ Down-slope	20m	27m (Minimum 15m IPA & maximum 5m OPA)

Proposed Lots 106-119

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North	Proposed Lots	N/A	Flat	Nil	N/A
South	Proposed road then Forest	Forest	0-5 ⁰ Down-slope South-west	20m	27m (Minimum 15m IPA & maximum 5m OPA)
East	Proposed Lots	N/A	Flat	Nil	N/A
West	Proposed Lots	N/A	0-5 ⁰ Down-slope	20m	>27m (Minimum 15m IPA & maximum 5m OPA)
West proposed Lot 106	Proposed road then Forest	Forest	0-5 ⁰ Down-slope	20m	20m (Minimum 15m IPA & maximum 5m OPA)

Proposed Lots 120-123

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North	Proposed Lots	N/A	Flat	Nil	N/A
South	Proposed fire buffer then Forest	Forest	0-5 ⁰ Down-slope South-west	20m	27m (Minimum 15m IPA & maximum 5m OPA)
East	Proposed Lots	N/A	Flat	Nil	N/A
West	Proposed Lots	N/A	0-5 ⁰ Down-slope	20m	>27m (Minimum 15m IPA & maximum 5m OPA)

Proposed Lots 126-129

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North	Proposed Lots,	N/A	Up-slope	Nil	N/A
South	Proposed Lots,	N/A	0-5 ⁰ Down-slope	Nil	N/A
East	Proposed Lots	N/A	Flat	Nil	N/A
West	Proposed fire buffer then Forest	Forest	0-5 ⁰ Down-slope	20m	27m (Minimum 15m IPA & maximum 5m OPA)

Proposed Lots 133-137

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North	Proposed fire buffer then Forest,	Forest	Up-slope	20m	21m (Minimum 10m IPA & maximum 10m OPA)
South	Proposed Lots	N/A	0-5 ⁰ Down-slope	Nil	N/A
East	Proposed Lots,	N/A	Flat	Nil	N/A
West	Proposed Lots 133-136	Proposed Lots.	0-5 ⁰ Down-slope	>20m	20m (Minimum 15m IPA & maximum 5m OPA)
West Proposed Lot 137	Proposed fire buffer then Forest	Forest	0-5 ⁰ Down-slope	20m	27m (Minimum 15m IPA & maximum 5m OPA)

Proposed Lots 3, 4 and 137

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North proposed Lots 3,4	Proposed road & Lots	N/A	Flat-Up-slope	Nil	N/A
North proposed Lot 137	Proposed fire buffer then Forest	Forest	Up-slope	20m	21m (Minimum 15m IPA & maximum 5m OPA)
South	Proposed and Existing Lots	N/A	0-5 ⁰ Down-slope	Nil	N/A
East	Proposed Lots	N/A	Flat	Nil	N/A
West	Forest	Forest	0-5 ⁰ Down-slope	20m	>27m (Minimum 15m IPA & maximum 5m OPA)

NOTE: All other proposed Lots have adjoining proposed lots or street frontage.

Dwelling Site 'A'

Development Aspect	Hazard / Vegetation within 140m of Development	Predominant Vegetation Class (Table A2.1)	Average Slope of Land	Recommended Width of Asset Protection Zone (IPA + OPA) (Table A2.5)	Proposed Width of Asset Protection Zone (IPA + OPA)
North	Forest	Forest	Flat-Up-slope	20m	>27m(Minimum 15m IPA & maximum 5m OPA)
South	Spencers Creek Road	N/A	0-5 ⁰ Down-slope	Nil	N/A
East	Existing lots	N/A	Flat	Nil	N/A
West	Forest	Forest	0-5 ⁰ Down-slope	20m	>27m(Minimum 15m IPA & maximum 5m OPA)

4.5 Level of Construction

Table 2.4.2 of AS 3959-2009: *Construction of Buildings in Bushfire-Prone Areas* determines the construction requirements based upon vegetation classification and slope.

NOTE: *Construction requirements are detailed in AS 3959-2009 and Addendum Appendix 3 of 'Planning for Bushfire Protection' (2006).*

The construction requirements for the next lower BAL than that determined for the site may be applied to an elevation of the building where the elevation is not exposed to the source of bushfire attack. An elevation is deemed to be not exposed to the source of bushfire attack if all of the straight lines between that elevation and the source of bushfire attack are obstructed by another part of the building.

The construction requirements for a shielded elevation shall be not less than that required for BAL 12.5, except where exposed elevations have been determined as BAL LOW.

All residential dwellings within 100 metres of unmanaged vegetation will be required to be constructed to a Level of construction in accordance with AS 3959-2009; the Tables in section 4.4 of this report are based upon a maximum construction requirement of BAL 29 and a minimum of BAL 12.5 based upon the available Asset Protection Zone.

4.6 Fire Fighting Personnel Access

4.6.1 Public Road Access

Access is provided to each Section directly from Keith Andrews Avenue and Trevor Judd Avenue, all of which are capable of supporting fully loaded fire fighting vehicles.

4.6.2 Property Access

Property Access is available from an internal road network, which are capable of supporting a fully loaded fire-fighting vehicle.

4.7 Electricity Supply

It is proposed that transmission lines providing power to the proposed development should be installed underground.

4.8 Gas

Reticulated or bottled gas shall be installed and maintained in accordance with AS/NZS 1596-2002: *Storage and Handling of LP Gas* and the requirements of the relevant authorities. If gas cylinders are to be kept close to buildings, the release valve must be directed away from the building and away from any hazardous materials such as firewood, so that it does not act as a catalyst to combustion.

4.9 Water Supply

Town reticulated water supply will be available to the development. Hydrants will be located throughout the development. This will ensure that there are hydrants available for fire fighting at the interface between the development and the unmanaged vegetation.

5 RECOMMENDATIONS

Based on Barry Eadies' site inspections and assessment, the following recommendations would be required for future development of dwellings on the lots:

- (a) APZ's be provided in accordance with section 4.4 of this report
- (b) If any trees are to be located within the envisaged APZs, this is considered acceptable, providing the following conditions are met:
 - (i) Canopies are a minimum of 2-5 metres apart

- (ii) Canopies should not overhang buildings. Vegetation is not to touch or overhang dwellings (canopy vegetation must not be within 2-5 metres of any building / dwelling)
 - (iii) Vegetation is not species that retain dead material or deposit excessive quantities of ground fuel in a short period or in a danger period
 - (iv) Vegetation is located far enough away from dwellings so that it will not ignite the dwelling by direct flame contact or radiant heat emission
- (c) Woodpiles, combustible material storage sheds, large areas / quantities of garden mulch and stacked flammable building materials should not be located within IPA of dwellings
- (d) Reticulated or bottled gas shall be installed and maintained in accordance with AS/NZS 1596-2002: ***Storage and Handling of LP Gas*** and the requirements of the relevant authorities.

6 CONCLUSIONS

Barry Eadie has conducted a site inspection and assessment of the existing site. The assessment has been undertaken in accordance with '***Planning for Bushfire Protection***' (2006) and AS 3959-2009: ***Construction of Buildings in Bush Fire Prone Areas***.

Provided the recommendations stated above are implemented in full, Barry Eadie Consulting Pty Ltd is of the opinion that the proposed development achieves the intent of the relevant legislation and in particular the requirements as set out in '***Planning for Bushfire Protection***' (2006).

7 REPORT BASIS INFORMATION

The report is based on the following:

- (i) Site inspections carried out on 10 January 2011 and 6 May 2013 by Barry Eadie;
- (ii) Site Plan

8 REFERENCES

- NSW Rural Fire Service, Planning NSW, '***Planning for Bushfire Protection***' (2006).
- AS 3959-2009: ***Construction of Buildings in Bush Fire Prone Areas***.

[illegible]