



**TRANSITIONAL PART 3A ASSESSMENT:
Concept Plan for 'Riverside at Tea
Gardens', Myall Road, Tea Gardens
(MP10_0136)**



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

June 2013

ABBREVIATIONS

CIV	Capital Investment Value
Council	Great Lakes Council
department	Department of Planning & Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EA	Environmental Assessment
the Act	<i>Environmental Planning and Assessment Act 1979</i>
the Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environment Plan
LGA	Local Government Area
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
NOW	NSW Office of Water
OEH	Office of Environment and Heritage
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PPR	Preferred Project Report
proponent	Crighton Properties Pty Ltd or anybody entitled to act on the approval
receivers and managers	PricewaterhouseCoopers (PWC)
RFS	NSW Rural Fire Service
SEPP	State Environmental Planning Policy

HYPERLINKS

[Hyperlinks](#) (CTRL + click to access) are included in this document to allow quick navigation to explanations and interpretations of commonly used legal, scientific or industry terms / phrases used. The explanations / interpretations appear in the glossary appendix. Be sure to print the relevant glossary appendix to enable interpretation of these terms or phrases when printing the main body of the report.

Cover Photograph: Collage, clockwise from top left: current photograph of proposed development site, aerial photograph of site adjacent to Myall River, recreational vessels on Myall River, Myall Quays residential housing adjacent to site and owned by same developer, proposed concept plan (EA stage) with constraints overlain.

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EXECUTIVE SUMMARY

This is an assessment report on a concept plan by Crighton Properties Pty Ltd¹ ("the proponent") for a residential and tourist subdivision ("the proposal") at Myall Road Tea Gardens. The project is known as Riverside at Tea Gardens. The site is approximately 222.5 hectares in area and is located within the Great Lakes Local Government Area (LGA).

In summary, the concept plan proposal comprises:

- A residential and tourist subdivision under future Community Title, over 14 stages;
- The creation of approximately 880 residential lots;
- The creation of a 'tourist precinct' comprising approximately 55 lodges/units and 10 houses;
- An internal road network and associated open space, wildlife corridors and infrastructure works;
- Upgrading of intersections and associated roadworks at access points from Toonang Drive and Myall Street.
- An integrated Water Management System for the site focussing on 'at source' stormwater treatment measures;
- A future biodiversity offsetting package which will consist of both on-site and off-site conservation lands/offsets to compensate for the proposed development of ecologically valuable parts of the site; and
- Bulk earthworks and filling of parts of the site to address flooding issues.

The estimated capital investment value of the development is \$73,147,850. The proposal will create 1350 full time equivalent construction jobs and 10 full time equivalent operational jobs. The development will assist with current demand for residential housing in a location that is within close proximity to the existing Tea Gardens urban centre which has access to essential services and shopping and recreational facilities.

In 2006, a concept plan for the northern portion of the larger site and a project application (MP06_0010) for the initial stages of the proposal were lodged with the former Department of Planning. The then Minister subsequently directed the Planning Assessment Commission (PAC) to undertake an expert review of the concept and project application.

Following its assessment of the proposal, the PAC determined "*that the proponent needs to reconsider the design of the project*" and strongly suggested that new vegetation mapping and fauna habitat mapping be undertaken with any revised proposal so as to properly inform any impacts upon the site and required mitigation measures. The proponent subsequently withdrew the application prior to determination.

The current concept plan application (MP 10_0136) has substantially reduced the development footprint compared to the previous application considered by the PAC. The revised application also includes new and updated specialist reports and an environmental offset package. The DGRs were issued prior to 1 October 2011 and therefore the proposal is a transitional Part 3A project.

The Environmental Assessment for the proposal was publically exhibited from 8 February, 2012 to 9 March, 2012. The department received a total of 79 submissions from the public, which included 22 objections, 55 letters of support and 2 submissions not objecting but

¹ By letter dated 8 April 2013 the department was advised that PWC has been appointed as joint receivers and managers in relation to that part of the subject site described as Lot 19 and Lot 40 in DP 270100. Lot 10, DP 270100 still remains under the control of Geoffrey J Cox and Part Lot 1 DP 270100 is under the ownership of the Community Association for the adjoining Myall Quays Estate.

raising concerns. Submissions were also received from 12 public authorities including Great Lakes Council.

Following further studies and consultation with government agencies, a Preferred Project Report (PPR) was submitted, which included an amended concept plan for the proposal. The PPR reduced the development footprint by a total of 5.47 hectares (ha) compared with the exhibited concept plan. (This amendment represented a reduction of the development footprint of 25.7 ha from the previous application reviewed by the PAC);The PPR also included a biobanking assessment identifying proposed on-site and off-site conservation offsets and a revised Integrated Water Management strategy.

Key issues considered in the department's assessment include:

- Subdivision Layout and Staging;
- Water Cycle Management (Flooding Assessment, Stormwater Quality Assessment and Groundwater Quality Assessment);
- Impacts on Biodiversity (Consideration of the PAC development footprint, consideration of threatened fauna species, consideration of endangered ecological communities, consideration of SEPP – 14 Coastal Wetlands and management plans);
- Tourist precinct/future development site;
- Traffic, access and public transport;
- Infrastructure and developer contributions;
- Bushfire;
- Acid sulphate soils; and
- Other issues (Aboriginal Cultural Heritage, Affordable Housing, Tea Gardens Quarry and Contamination)

The department has assessed the merits of the proposal and is satisfied that the impacts of the proposed development have been addressed via the proponent's Statement of Commitments and the department's recommended terms of approval and future environmental assessment requirements. The department is satisfied that the impacts can be suitably managed and/or mitigated to ensure a satisfactory level of environmental performance. Key modifications to the project have been a reduction in the development footprint, a revised integrated water management strategy for the site, the provision and maintenance in perpetuity of on-site and off-site conservation lands and the requirement that the tourist precinct be designed as an eco tourist facility. The department is satisfied that the proposed development is suitable for the site and that it will provide a number of benefits to the region, including:

- increased residential housing stock within Tea Gardens with a variety of lot sizes;
- the protection of sensitive environmental areas within and adjoining the site;
- the provision of dedicated public open space and recreation areas;
- pedestrian and cyclist pathway network; and
- employment opportunities throughout construction of the project.

On these grounds, the department is satisfied that the site is suitable for the proposal and that the project will provide environmental, social and economic benefits to the region. The department therefore recommends that the project be approved, subject to recommended terms of approval.

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1. BACKGROUND

1.1 LOCATION AND SITE CONTEXT

The project site is located at Tea Gardens, just north of Port Stephens and adjacent to the Myall River. It is within the Great Lakes local government Area (LGA). Great Lakes LGA is located in the northern Hunter region and forms part of the Mid North Coast.

The location of the project site is shown in **Figure 1 below**.



Figure 1: Site Location
(Source: maps.google.com.au)

The site sits immediately to the west of the Myall River (refer to **Figure 3**) and is accessed via Myall Road, the main arterial road into Tea Gardens from the Pacific Highway which runs north-south and is located to the northwest of the site. The site is located at the entrance to the township of Tea Gardens, and is located on the eastern side of Myall Road.

The surrounding area generally consists of residential development to the south and southwest with rural residential developments to the north. There are some forested areas located to the north and northwest of the site and an industrial estate, proposed to be extended in the future, is located to the northwest of the site.

The area comprises the towns of Tea Gardens and Hawks Nest and is located in close proximity to Myall Lakes National Park to the north of Hawks Nest. The Port Stephens-Great Lakes Marine Park is located adjoining the site in the Myall River.

1.2 SITE DESCRIPTION

The site is legally described as Lot 10, Lot 19, Lot 40 and Part Lot 1 in DP 270100, Myall Road Tea Gardens ("the subject site"). It is owned by three separate landowners, namely:

- Crighton Properties Pty Ltd (Lot 19 and Lot 40)²;
- Geoffrey J. Cox (Lot 10); and
- Community Association D.P. No 270100 (part Lot 1).

The site (refer to photo in **Figure 2**) is approximately 222.5 hectares in area and has a one kilometre frontage to Myall Road, a two kilometre frontage to Toonang Drive and an approximate frontage to the Myall River of two kilometres. A wetland listed under *State Environmental Planning Policy No. 14 – Coastal Wetlands* ("SEPP 14") is located within the eastern portion of the site adjacent to the Myall River.

Situated on a low sand plain, the topography is generally flat and low lying. The site gently slopes towards the south-east to the Myall River, at a gradient of less than 2%. Drainage is generally dispersed via small artificial drainage lines and wetlands to the river. The site is subject to prolonged water logging during wet weather.

Parts of the site were previously used for a pine plantation and were substantially cleared of native vegetation. It is evident from aerial photography, that the pine plantation use ceased in the late 1970s; and that from about 1963, the site has supported predominantly native vegetation. While there are some scattered isolated occurrences of pines still on the site, native regeneration has now comprises several Endangered Ecological Communities ("EECs"). The vegetation on the site consists of a mosaic of open forest types, wetlands and cleared areas.

Figure 2: Subject site (to the left hand side of photo) from entry to Tea Gardens



² Receivers and managers have recently been appointed over that part of the site comprising Lot 19 and Lot 40.

The site was purchased by Crighton Properties in 1991. It is currently used to support a small amount of livestock, confined to the central and western areas. Slashing has been undertaken on the site to facilitate its agricultural use and there is one dwelling occupying the central eastern portion of the subject land.

The concept plan seeks to continue the development of the existing Myall Quays estate (to the south), which comprises approximately 220 residential lots with a further 100 lots currently under construction. This development is surrounded by a 7 hectare artificial water body which was constructed for scenic, water quality and detention purposes. The subject site forms part of a larger development lot which began with the development of the Myall Quays estate and comprises a range of residential, retail, commercial, recreation and tourist developments. The Myall Quays estate is currently managed under a community title which is proposed to be extended to the proposed project.

An aerial photograph of the site identifying some of the above features is illustrated below in **Figure 3**.

Figure 3: Site Context
(Source: www.maps.com.au)



Figure 4 - View from northern edge of existing Myall Quays development north across the site. Typical view of site with ponded water after rain



Figure 5 - View looking north-east from the site of the proposed tourist facilities with Myall River in background.



Figure 6 - Existing Myall Quays estate to the south of the subject site illustrating existing lake

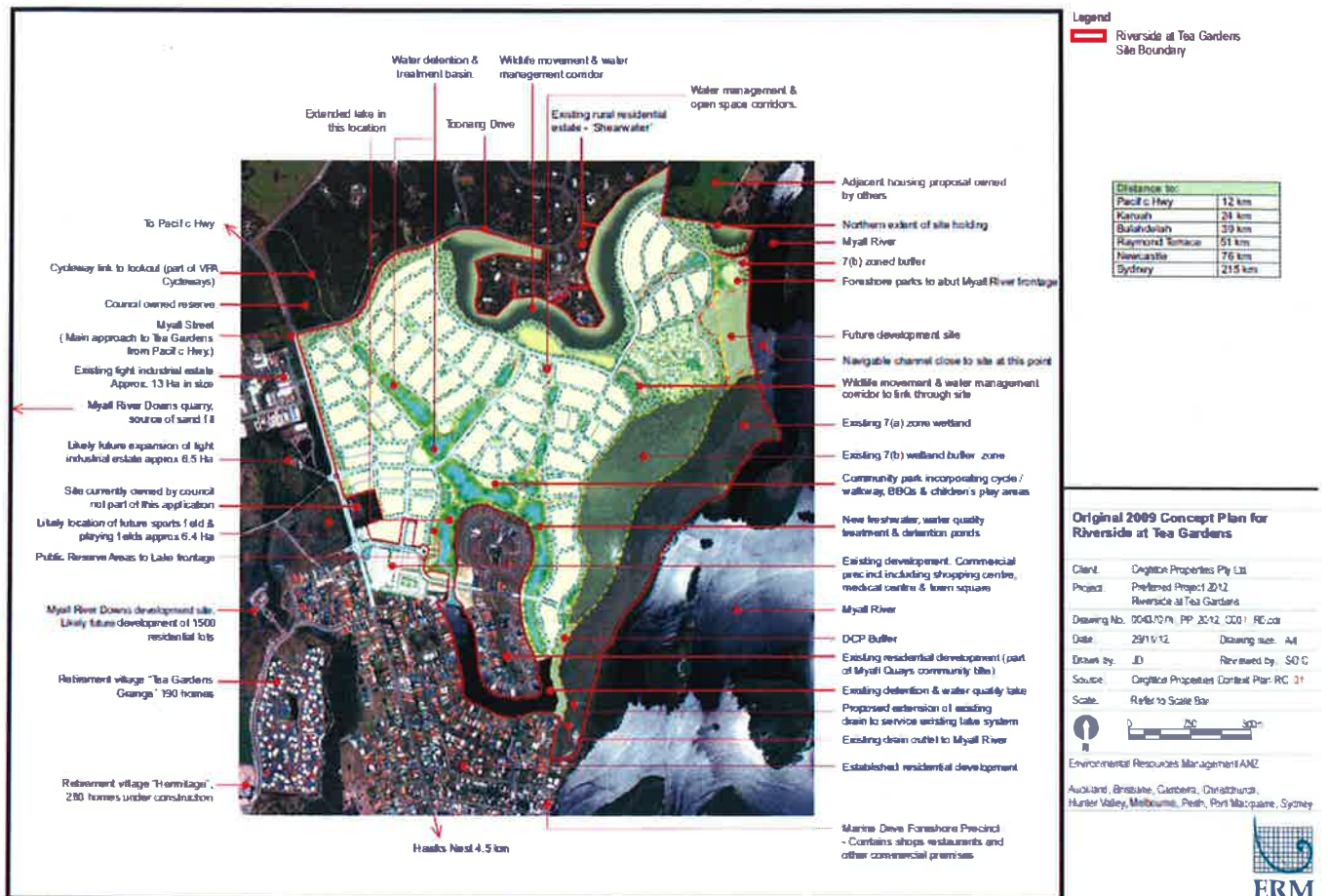


1.3 SITE HISTORY

The site has a complex history involving rezoning and previous development consents since the 1980's. It was rezoned in 2000, under an amendment to the Great Lakes Local Environmental Plan 1996, to permit residential development of a substantial part of the site.

In 2006, a concept plan and first stage project application for subdivision into 346 residential lots and the creation of four super lots for future commercial use (MP 06_0010) were lodged with the former Department of Planning (refer **Figure 7**,over).

The then Minister for Planning appointed an Independent Hearing and Assessment Panel (IHAP), which subsequently became the Planning Assessment Commission (PAC) to undertake an expert review of the proposed development. The terms of reference for the PAC to review were focused on two main areas: the ecological constraints of the site and the hydrological issues associated with groundwater, the SEPP14 wetlands and flooding.

Figure 7 Original MP06 0010 Concept Plan (withdrawn by the Proponent)

The four-member PAC panel could not come to a consensus position, particularly with regard to ecological constraints, and so two reports were issued to the department in July 2009, a majority report, and a minority report. The majority report recommended:

- (i) *The proposals are not considered acceptable in their current form. They should either be refused or the Proponent be requested to review the proposals with a view to submitting a preferred project report consistent with the content of this report.*
- (ii) *That the Proponent be requested to take particular note of the numerous deficiencies identified in both the accuracy and adequacy of the information presented in the EAR and supporting documents and also note the guidance provided in this review report as to the nature and standard of information that will be required for adequate assessment of any future proposal or preferred project report for this site.*
- (iii) *That the relevant government agencies be requested to take an integrated approach to considering the various aspects of development of this site. The Commission recommends that the ecological constraints be considered as the highest priority and that stormwater management and groundwater management be approached with a view to maximizing the residual area available for development without compromising key aspects of stormwater management or impacting groundwater dependent ecosystems."*

The minority report recommended "that the Proponent needs to reconsider the design of the project." The minority report also noted that "The impacts of the current proposal on the ecological values of the site are unacceptable. Significant changes to both the Concept Plan and the Project Applications as presented in the EAR are required to address ecological impacts adequately. Significant reductions of both the extent and intensity of development are required."

The PAC majority view concluded that, despite the inadequate baseline ecological and hydrological information, it was reasonable to provide the proponent with an indication of the developable and non-developable areas. This has since become known as the 'PAC footprint' in subsequent discussions. The extent of the 'PAC footprint' is shown in **Figure 8**. The minority view explicitly did not support this position and steered away from providing a potential development footprint.

Figure 8 'PAC footprint' overlay shown on original concept plan application MP06 0010

Figure 2 Potential Developable Area with Constraints



The PAC strongly suggested that new vegetation and fauna habitat mapping be undertaken with any revised proposal so as to properly inform any impacts upon the site and required mitigation measures. Prior to then Minister for Planning making a determination on the 2006 concept plan and project application, the proponent withdrew the application.

The current concept plan application has reduced the footprint of the development and the proposal now provides for environmental offsets. In addition, a significant change has been made with the deletion of the previous approach to stormwater management from a series of open water bodies and end of line treatment to an 'at source' infiltration methodology.

2. PROPOSED PROJECT

2.1 PROJECT DESCRIPTION

A concept plan approval under section 75O of the Act is sought for the following:

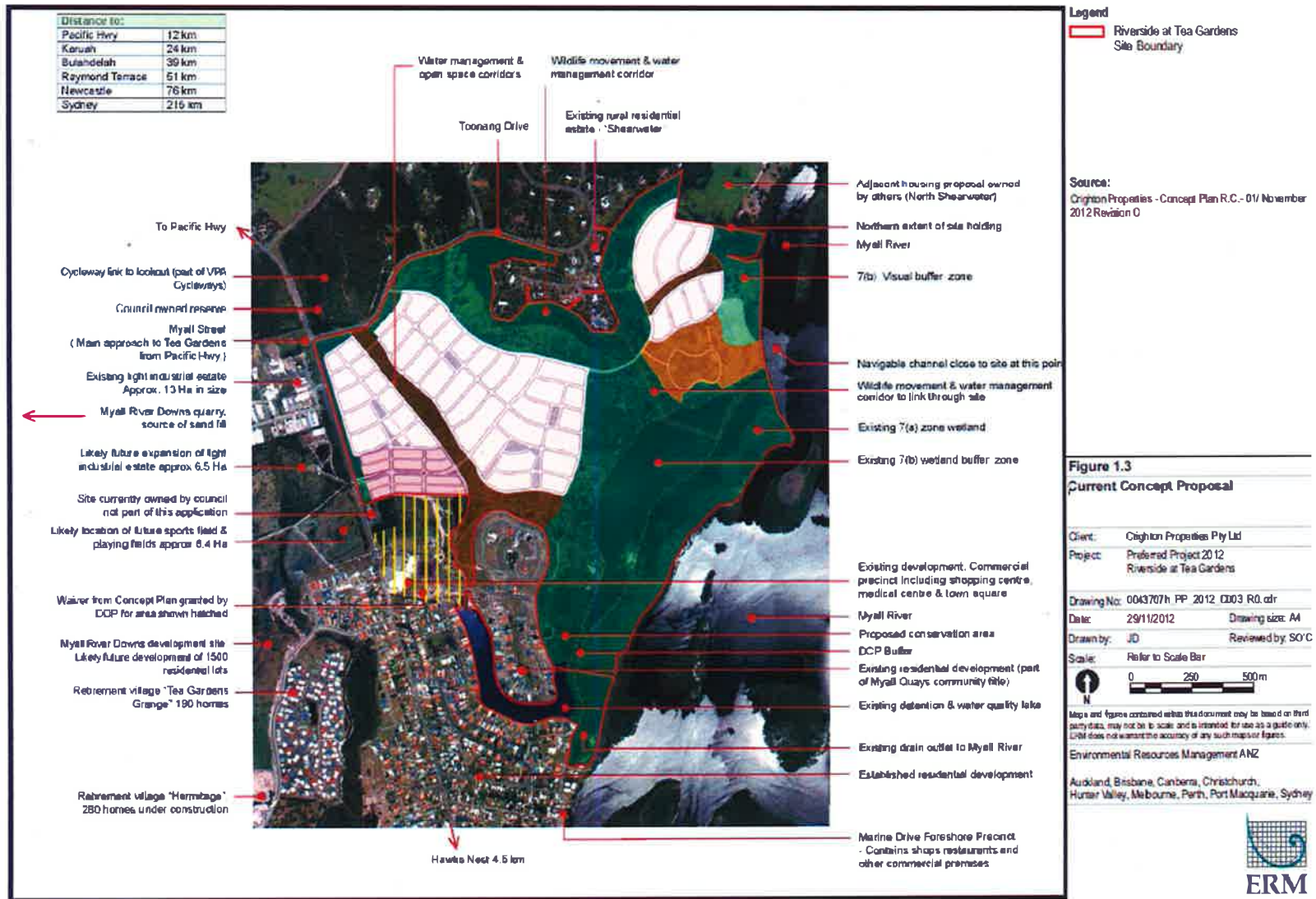
- Residential development (approx 72.5 hectares) to create approximately 945 dwellings consisting of around 880 residential lots; and 55 lodges and 10 houses within a 10.4 ha 'tourist precinct' in the north east portion of the site;
- Future Community Title Subdivision, to occur over 14 stages (outlined in **Table 1**);
- In association with the tourist precinct it is proposed to provide a jetty and boat hire facility, coffee shop/bait hire and bbq area, a restaurant, a 'resort style' swimming pool and a communal amenity building/function centre;
- A new Integrated Water Management system for the site which focuses upon the use of 'at source' treatment and infiltration (through the use of bio-retention devices) rather than the previous proposal to use 'end of line' treatment and infiltration (using wetlands and open water bodies);
- Bulk earthworks including filling of parts of the subject site to address flooding issues;
- Open space network (approx 127 ha) providing for public recreation, stormwater management, wildlife corridor, conservation areas, community facilities and a foreshore park; This open space network comprises a conservation area of 116.1 ha (not including drainage corridors), Open space / Water management (within the development) of 15.4 and the foreshore park of 1.4ha;
- The proponent had initially identified in its Statement of Commitments an offer to enter into a Voluntary Planning Agreement (VPA) with Great Lakes Council for a range of contributions including the dedication of a further 2 ha of structured open space (courts and playing fields) on the site. However, as the site is under receivership it is not possible to finalise the VPA at this stage and therefore the proponent has agreed to pay Section 94 contributions to the Council. Council is open to enter into a VPA at development application stage if required.
- Construction of an internal road network, cycleways/pedestrian paths and upgrading of intersections including two access points from Toonang Drive and two signalised access points from Myall Street; and
- Associated landscaping and infrastructure works.

The concept plan would establish a suitable footprint for the development, and an environment management framework for future development applications, which would be lodged in a series of stages, with the Council.

The exhibited concept plan layout is illustrated in **Figure 9** below.

In addition, although not specifically sought by the proponent, but arising from the department's assessment, a subdivision to excise the future conservation offset lands from the largely residential development lands is recommended. This will be achieved by identifying that no further environmental assessment will be required for the five lot subdivision under section 75(P)(1)(c) of the Act, and by approving that subdivision as a project approval under section 75J of the Act. Giving project approval for the subdivision was identified by the department as the optimal mechanism for securing the offset lands upfront. The lands conservation status will be secured through a future biobanking agreement.

Figure 9 - MP 10 0136 Concept Plan exhibited February - March 2012



2.2 The Proposed Concept Plan Subdivision

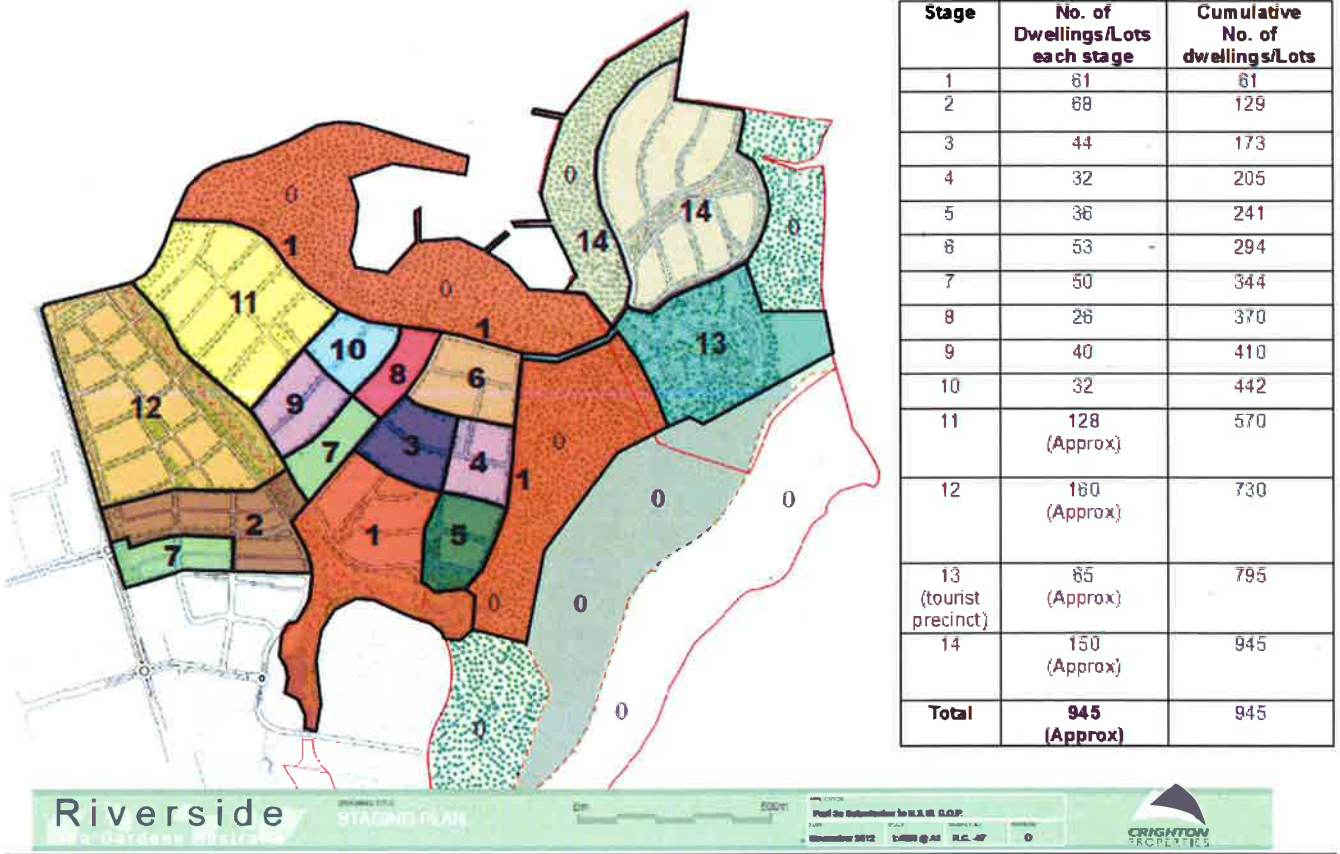
The proponent seeks concept plan approval for the creation of:

- o approximately 880 low density residential lots; and
- o and a 10.4 hectare tourist precinct.

These will be constructed over fourteen (14) stages of development (Refer to **Figure 10** for staging plan). These stages will not necessarily be sequential. Lot sizes range from between approximately 450m² and 900m², with approximately 10% of lots (home equivalents) to be less than 450 sq m in area (these can be represented as duplexes on lots less than 900 sq m). The proposed subdivision would connect with the existing urban development to the south.

In order to comply with the Hawks Nest/Tea Gardens Housing Strategy a minimum net density of 13 dwellings per hectare is proposed for the residential component of the development. The tourist precinct is proposed to have a density of no greater than 6.5 dwellings per hectare.

Figure 10- Staging Plan



The proposed indicative dwelling lot sizes are identified in **Figure 11** below.

**Figure 11 - Proposed Indicative Lot Sizes
(example shown is Stage One)**



2.3 ROAD NETWORK LAYOUT

Vehicular access to the subject site would initially be from the existing intersection on Myall Street. A second intersection to Myall Street (at Stage 7) and two intersections to Toonang Drive are proposed in subsequent stages. The intersection of Myall Street and Myall Quays Boulevard is currently constructed as a give way control. This control would remain in the initial stages of the development, but would be upgraded to a signalised intersection as development occurs (by Stage 11). The second access to Myall Street would also be a give way control initially and upgraded to a signalised intersection in later stages of the development. A commitment has been made by the proponent that the two Myall Street intersections would be signalised prior to the issue of the subdivision certificate for the 500th lot (ie Stage 11), which represents just over half of the total development yield. In addition a commitment has been made to upgrade the Toonang Drive/Myall Street intersection to a seagull type intersection prior to the issue of a subdivision certificate for the 700th Lot (Stage 11). This is supported by the Department’s assessment.

2.4 OPEN SPACE AND WATER MANAGEMENT

The concept plan provides for a number of pocket parks and drainage corridors within the site representing approximately 11% of the site. This includes the provision of a 1.4 hectare woodland foreshore park, adjacent to the proposed tourist precinct.

An extensive cycleway network is also proposed consisting of 2 metre wide pedestrian/cyclists paths throughout the subdivision. The cycleway network would provide cyclists and pedestrians with linkages to both the neighbourhood parks and the woodland foreshore park.

2.5 CONSERVATION AREAS

The current Concept Plan seeks to develop only 37% of the Riverside site for urban/tourist uses, with approximately 52% of the site (116.1 hectares) to be set aside 'in perpetuity' for conservation, with no development works proposed within this zone. All existing native trees and vegetation within the conservation area are to be retained as part of the proposal. The conservation area would also act as a buffer to the SEPP 14 – Coastal Wetlands which extend along the eastern portion of the site. A large proportion of this conservation area is land that is currently zoned for urban uses, and now is proposed to be returned to conservation.

This on-site land is to be secured in perpetuity via a future conservation agreement which could be with either Great Lakes Council or OEH. Great Lakes Council has indicated that they would be prepared to have ultimate ownership of the on-site conservation land, however this would need to be negotiated with the proponent in the terms of an executed VPA, that will need to address the funding, rehabilitation and future management of the conservation land.

In addition to this on-site conservation land, a further 258 hectares (approximately) of better quality, more strategically located habitat would be set aside 'off-site' and conserved and managed within a separate conservation agreement with OEH.

2.6 DEVELOPMENT CONTRIBUTIONS

The EA was exhibited with a draft Voluntary Planning Agreement (VPA) between Crighton Properties Pty Ltd and Great Lakes Council, whereby the proponent offered to provide community facilities in the form of playing fields on another site in Tea Gardens, which was owned by the proponent (that site is also now in receivership) and to undertake certain road works.

However, since exhibition of the EA, the owners of part of the site have gone into receivership. While the benefits that were to have been provided by the VPA are considered to be material public benefits, it is not possible to reach agreement on the contributions at this time due to part of the site going into receivership and the subsequent change in ownership which will occur. Traffic and other impacts will be dealt with through future development applications and those applications will be subject to section 94 monetary contributions; and the proponent and the Council will have an option to enter into a VPA at that time. It is therefore recommended that the concept plan approval will not contain any provisions relating to the need for the proponent to enter into a VPA. Council is satisfied with this new position.

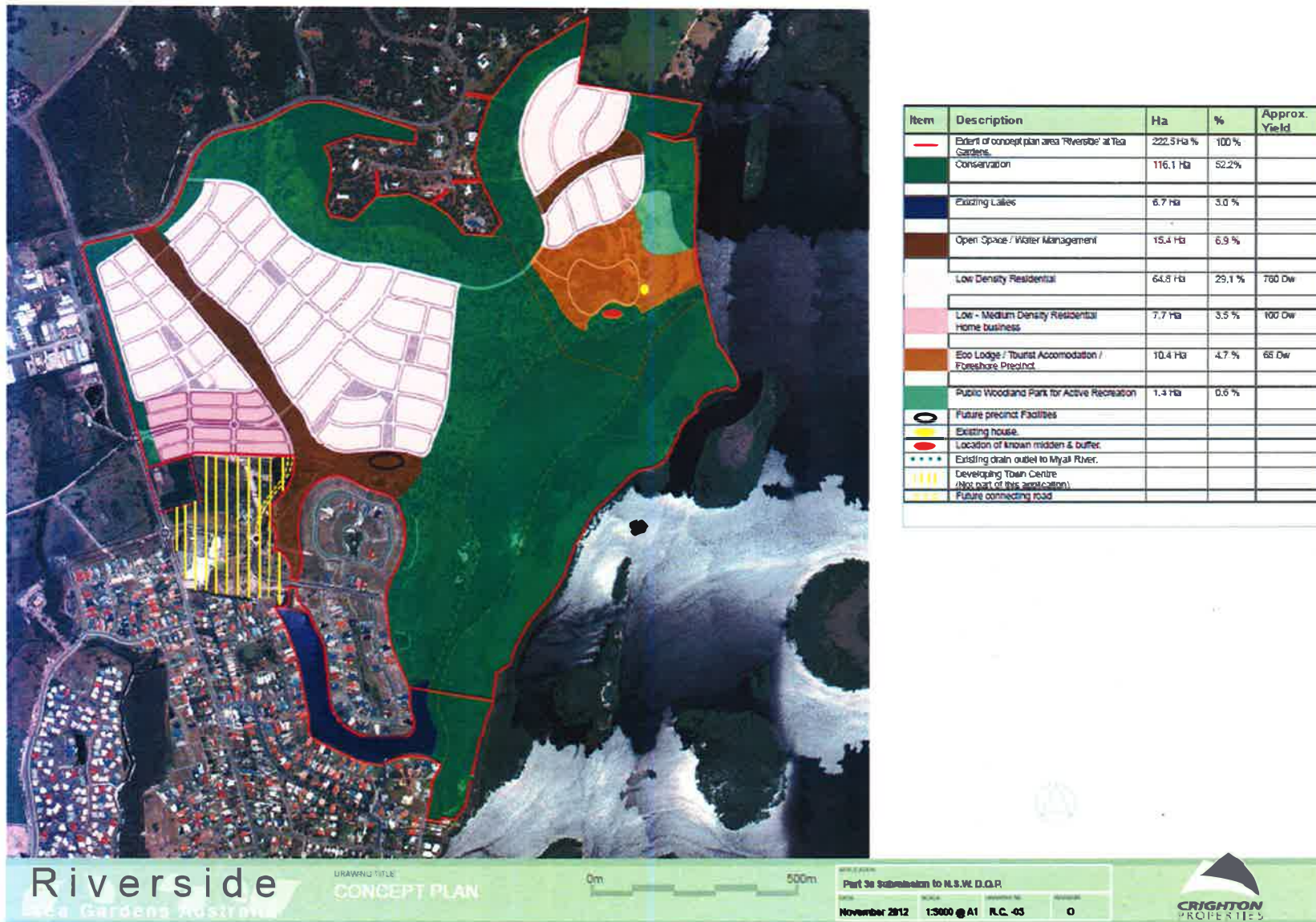
2.7 PROJECT AMENDMENTS

The proponent submitted a Preferred Project Report (PPR) on 25 January 2013, with supplementary material submitted on 12 February 2013. The PPR outlined a number of amendments made to the application in response to issues raised in submissions by the department, government agencies, and the public. Amendments to the project include:

- the development footprint (inclusive of both the development area and water management area) has reduced by a total of 5.47 hectares compared with the exhibited concept plan. This amendment represents a total reduction of the development footprint of 25.7 ha from the previous application reviewed by the PAC;
- further details of proposed uses within an area nominated as the "Future Development Site". This area is now proposed to be a combination of tourist and permanent residential uses and associated recreational uses (jetty, boat hire, swimming pool, park etc);
- the water management concept for the site has been redesigned, following further feedback from the department, NoW and the department's consultant's BMT WBM.
- the revised Integrated Water Management System which focuses on 'at source' treatment and infiltration, rather than the use of 'end of line' treatment and large scale infiltration ponds; and
- the two proposed roundabout accesses to the site have been deleted and instead signal controlled intersections are now proposed (at the request of government agencies). Commitments have also been made within the Statement of Commitments (SOC) to upgrade one of the Toonang Drive intersections.

In addition to the amendments outlined above, the PPR is supported by new/updated specialist reports. The amended Concept Plan included in the PPR is shown in **Figure 12**.

Figure 12 - Modified Concept Proposal submitted with PPR February 2013



3. STATUTORY AND STRATEGIC CONTEXT

3.1 STRATEGIC CONTEXT

The site has been zoned for residential development for over 13 years. The site, and its potential dwelling yield, form an important part of the Great Lakes Council's Residential Development Strategy and is identified in the Council's Strategic Plan 2030. The site has also been identified for future urban development in the Mid North Coast Regional Strategy.

The Mid North Coast is recognised as one of the fastest and most consistent growth areas of NSW. The Mid North Coast Regional Strategy recognises the growing demand for urban development in the Great Lakes and Greater Taree areas. The Strategy aims to cater for a housing demand of up to 59,600 new dwellings by 2031 to accommodate the forecast population increase of 94,000.

Concern has been raised by the general public in relation to the demand for increased residential growth in Tea Gardens which would warrant a development of such scale on the Riverside site. In consideration of this concern it should be noted that the Mid North Coast Regional Strategy expects a minimum of 15,000 dwellings to be developed in the Manning Valley-Great Lakes sub-region to cater for this projected population growth up to 2031; with the large majority of the growth identified under the Regional Strategy expected to occur on the Tea Gardens side of the river, primarily due to greater land availability and fewer environmental constraints. The Riverside site is identified as a growth area in the *Mid North Coast Regional Strategy 2006*.

The Council's *Hawks Nest/Tea Gardens Housing Strategy 2006* identifies an average density for Tea Gardens of 13 dwellings per hectare, with an allowance of 10% for small lot housing dispersed throughout the site. The *Hawks Nest/Tea Gardens Housing Strategy 2006* recommends an update to the Myall Quays Estate – DCP 22 to ensure a mix of dwelling types and densities, encourage tourist development, provide for cycle routes, conserve habitat corridors and environmental protection areas and strengthen links between the town centre and North Shearwater. The proposal is consistent with the density requirements, provides a mix of dwelling types (including some tourist development) and provides for cycle routes and habitat corridors, as outlined in the Council's Housing Strategy.

NSW 2021 is a 10 year vision for the future of New South Wales with specific priorities and targets to be delivered by the NSW Government. Key priorities of the plan include rebuilding the economy; providing quality services; renovating infrastructure and strengthening local environment and communities. The proposal is consistent with these priorities.

3.2 MAJOR DEVELOPMENT SEPP

The proposal is a major project under the transitional provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* because it is development for the purpose of residential subdivision under clause 1(1)(b) of Schedule 2 of *State Environmental Planning Policy (Major Development) 2005*. Therefore the Minister for Planning and Infrastructure is the approval authority. The proposal is a transitional Part 3A project because DGRs were issued prior to 1 October 2011.

3.3 APPROVAL AUTHORITY

The Minister for Planning and Infrastructure has delegated his functions to determine Part 3A applications to the Executive Director, Development Assessment Systems and Approvals, in cases where:

- there are fewer than 25 submissions in the form of objections;
- no political donations have been made; and
- the local council did not object to the proposal.

Having regard to the above, the application can be delegated to the Executive Director, Development Assessment Systems and Approvals, as there were fewer than 25 objections, the Council has not objected and there has been no political donation made.

3.4 STATEMENT OF COMPLIANCE

The department is satisfied that the Director-General's Environmental Assessment Requirements have been complied with.

3.5 PERMISSIBILITY

Great Lakes Local Environmental Plan 1996

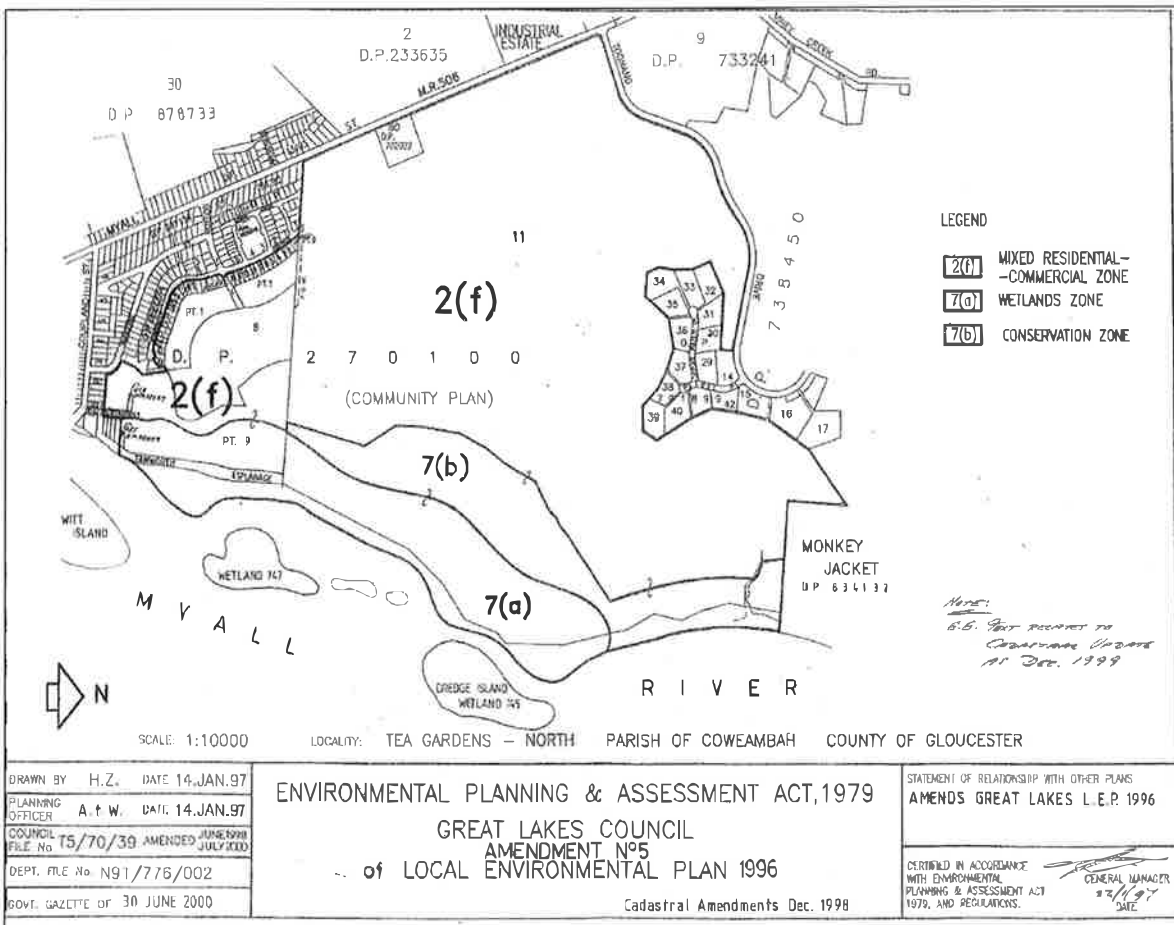
The site is zoned under the *Great Lakes Local Environmental Plan 1996* ("Great Lakes LEP"), as follows:

- Zone No 2(f) (Mixed Residential-Commercial Zone);
- Zone No 7(a) (Wetlands and Littoral Rainforest Zone); and
- Zone No 7(b) (Conservation Zone).

The site's zoning is illustrated in **Figure 13** below.

The majority of the site is zoned 2(f), while the 7(a) portion comprises the SEPP 14 wetland adjoining the Myall River. The 7(b) zone forms the buffer to the wetland. Development proposed in the 2(f) zone includes residential and tourist development and community title subdivision which are permissible in the zone. There is no development proposed in either the 7(a) or the 7(b) zones, apart from the proposed jetty, boardwalk and associated recreational facilities for the tourist precinct which are within the 7(b) zone and are permissible with consent.

Figure 13 - Zoning Plan – Great Lakes LEP 1996



Draft Great Lakes Local Environmental Plan 2012 (LEP 2012)

Great Lakes Council publicly exhibited its draft Standard Instrument LEP between 14 June and 14 August 2012. Council is now in the process of reviewing submissions made on the draft LEP and finalising the mapping.

The proposed zoning for the site is as follows:

- Zone R2 (Low Density Residential);
- Zone E2 (Environmental Conservation); and
- Zone E3 (Environmental Management)

The proposed residential development is permissible under the Draft Great Lakes LEP 2012, although the tourist facility would not be permissible under the proposed R2 Zone. Notwithstanding, under the transitional provisions of the Act (Schedule 6A 3B(2)(a)), once the concept plan is approved, the development will be taken to be development that may be carried out with consent.

3.6 ENVIRONMENTAL PLANNING INSTRUMENTS

Under Sections 75(2)(d) and 75(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy (SEPP) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPI) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The department's consideration of relevant EPIs (including SEPPs) is provided in **Appendix C**. The proposal is generally consistent with the relevant requirements of the EPIs.

3.7 OTHER PLANS AND POLICIES

The proposal has been considered against the following non-statutory documents:

- Myall Quays Estate Development Control Plan No.22;
- NSW Coastal Policy 1997;
- NSW Coastal Design Guidelines;
- Mid North Coast Regional Strategy; and
- NSW 2021.

A detailed assessment against these documents can be found in **Appendix C**. The proposal is generally consistent with the objectives of these plans and policies.

3.8 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the Protection of the Environment Administration Act 1991. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The department has considered the project in relation to the above ESD principles. The Precautionary and Inter-generational Equity Principles have been applied in the decision making process via a thorough and rigorous assessment of the environmental impacts of the project. The proposal is considered to be consistent with ESD principles as described in the proponent's EA, and as discussed as follows:

Precautionary Principle

A variety of opportunities and constraints have been identified across the site, with the residential and tourist component of the development footprint confined to the relatively unconstrained parts of the site. The EA, as submitted, has identified and assessed the range of environmental impacts of the project. The proposed footprint is substantially reduced from the original footprint proposed in the previous 2006 Application which was considered by the PAC and found to be unacceptable.

The project, as modified in the PPR, incorporates the following:

- An Integrated Water Management System which focuses upon the use of 'at source' treatment and infiltration (through the use of bio-retention devices) rather than the previous proposal to use 'end of line' treatment and infiltration (using wetlands and open water bodies);
- Measures aimed at the protection of identified threatened species of flora and fauna, through the provision of onsite and offsite conservation lands under a biobanking agreement; and
- Strategies to ensure adequate bushfire protection, including the provision of asset protection zones (APZ).

Appropriate measures have been identified in the proponent's Statement of Commitments that will manage the potential environmental impacts of the development. Further assessment requirements also specify additional requirements to be met in the implementation of the subdivision in order to adequately protect adjoining environmentally sensitive areas including the wetlands and the Myall River.

Integration Principle

In making its recommendation on the proposed development, the department has taken into consideration environmental, social and economic matters. The development will have a positive impact on the local economy and society through the creation of a range of new residential accommodation and will provide future employment opportunities for the community, consistent with the North Coast Regional Strategy. The proposed subdivision provides a logical extension to the recently developed area of Myall Quays and the Tea Gardens Village.

Inter-Generational Principle

The project will contribute to the supply of housing to meet the needs of current and future generations. The proposal aims to protect the existing threatened species of flora and fauna and provide for future biodiversity through effective management and enhancement of adjacent wetland areas. Other mitigating factors include the provision of wildlife corridors through the site and the establishment of environmental conservation areas which provide a buffer to the wetlands and the Myall River. In particular, measures are included to ensure the health and diversity of the natural environment is maintained and enhanced for future generations at Riverside and the Great Lakes region.

Biodiversity Principle

The proponent has provided an assessment of the impacts on existing flora and fauna on and adjacent to the site. Mitigation measures and management strategies will be implemented to prevent any potential adverse environmental impacts on the adjoining higher value sensitive areas. Proposals for rehabilitation of the on-site conservation areas are included in the Statement of Commitments to ensure effective management of impacts resulting from urban development and to enhance the prospect of survival of threatened species.

The proposed concept plan contributes to the maintenance of, and increased opportunities for, biological diversity on the site. Proposed rehabilitation and management of the existing indigenous vegetation, fauna and water resources also contribute to the site's ecological integrity. The proposal involves setting aside substantial portions of the site as environmental conservation land.

A biobanking assessment of the project has been undertaken by the consultant GHD, in consultation with the Office of Environment and Heritage (OEH), which has identified that (on-site and off-site) offset lands be conserved and managed by the proponent under a Biobanking Agreement 'in perpetuity', to compensate for the impacts of the proposed development (refer to **Section 5.2.3**).

Valuation Principle

The inclusion of infrastructure and measures to ensure a continual and appropriate level of environmental performance during and post construction, have been incorporated into the cost of developing the site. These measures include ongoing monitoring and management requirements that allow for future responses to be developed through review of management plans.

The cost of the development for the proposed concept plan will include the cost of infrastructure and the measures to meet an appropriate level of environmental performance on the site. Further environment and habitat management plans have been incorporated in the proposal to ensure an environmentally sustainable outcome.

The proponent is committed to ESD principles and has reinforced this through the Statement of Commitments and the EA which explores key ESD opportunities to ensure a high level of environmental performance is delivered.

Generally, the proposal is consistent with the requirements and principles for sustainable development.

3.9 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. Therefore, consideration and determination of a concept plan application under Part 3A must be informed by the relevant provisions of the Act, consistent with the objects of the Act, as set out in Section 5 of the Act.

The proposal complies with the objects because it will result in the proper management, development and conservation of the subject site and will promote the social and economic welfare of the local community and create a better environment by conserving ecological communities and their habitats. The proposal will also facilitate the orderly and economic use and development of the land. The proposal is therefore consistent with objects (a)(i), (ii), (iii), (iv), (vi), (vii), (viii) and (b).

The department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the application. The balancing of the project in relation to the Objects is provided in Section 5, particularly in relation to flora and fauna, water management and infrastructure provision.

3.10 Environment Protection and Biodiversity Conservation Act (Commonwealth)

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) states that approval is required under the Act for actions that are likely to have a significant impact on the environment of Commonwealth land and on matters of national environmental significance.

One threatened species, the Grey-headed flying-fox, has been recorded on the subject site and this species is listed as Vulnerable under the EPBC Act. The proponent is therefore required to make a separate referral to the Department of Sustainability, Environment, Water, Population and Communities requesting confirmation that this project does not constitute a controlled action based on its impact on the Grey-headed flying-fox. The Commonwealth will therefore need to undertake its own assessment of the project under the EPBC Act. The proponent has not yet made a referral to the Commonwealth.

4. CONSULTATION AND SUBMISSIONS

4.1 EXHIBITION

Under Section 75H(3) of the EP&A Act, the Director-General is required to make the environmental assessment (EA) of an application publicly available for at least 30 days. This proposal was exhibited for a period of 31 days. The table below summarises details of the public exhibition process undertaken for this proposal:

Table 2 - Exhibition details

Exhibition/Notification	Appearing	From / to
Publicly exhibited	<ul style="list-style-type: none"> • Department of Planning & Infrastructure - Information Centre, 23-33 Bridge Street, Sydney • Department of Planning & Infrastructure - Hunter Regional Office, Price Waterhouse Coopers Centre, Level 2, 26 Honeysuckle Drive, Newcastle • Great Lakes Council - Administration Offices, Breese Parade, Forster • Great Lakes Council - Tea Gardens District Office, Myall Street, Tea Gardens 	8 February 2012 to 9 March 2012 (31 days)
Newspaper notices	Great Lakes Advocate and Myall Coast Nota	8 February 2012
Written notices to	1,020 adjacent or potentially affected landowners, and relevant State and local government authorities	

The department received a total of 79 submissions from the public, which included 22 objections, 55 letters of support and 2 submissions not objecting but raising concerns. The department also received 11 submissions from public authorities.

The PPR (See Modified Concept in **Figure 12**) was not advertised but was placed on the department's website. The PPR was also referred to government agencies and Great Lakes Council. All of these agencies and the council made further submissions. A summary of the issues raised in submissions is provided in Sections 4.2 and 4.3 below.

4.2 PUBLIC AUTHORITY SUBMISSIONS

The department received 11 submissions from public authorities. Submissions were received from:

- Great Lakes Council;
- NSW Office of Environment and Heritage;
- NSW Environment Protection Authority;
- Department of Primary Industries (Marine Parks Authority, Fisheries NSW, Agriculture NSW, Crown Lands and NSW Office of Water);
- Department of Trade and Investment, Regional Infrastructure and Services;
- NSW Roads and Maritime Services (RMS);
- NSW Rural Fire Service;
- Hunter and Central Rivers Catchment Management Authority;
- NSW Education and Communities;
- NSW Mid Coast Water; and
- Northern Rivers Catchment Management Authority.

In addition to the above agencies, a further submission was received from the private bus operator, Busways.

The details of issues raised by public authorities are summarised below.

Great Lakes Council – Original submission dated March 2012**Future Development Site – Tourist Precinct:**

- The proposal does not comply with DCP 22 which provides for a vegetated visual buffer of 150m wide to the Myall River in order to limit the use of the environmentally sensitive river bank to discrete passive recreation areas and to protect the wetlands and the EECs; and
- The DCP recommends an ecological buffer of 40m to the Myall River to protect ecological values and water quality. Concern was expressed over potential impacts of the proposal on downstream Port Stephens Great Lakes Marine Park, the Myall/Corrie Island Ramsar site, oyster production, and existing water quality in the lower Myall River.

Water quality:

- The objectives for the site should be Neutral or Beneficial Effect (NorBE);
- Noted deficiencies with the water quality modelling and recommends the department undertake a technical review of MUSIC modelling;
- Raised concern with the long-term lifecycle cost of stormwater treatment mechanisms on community and ratepayers; and
- The submission also recommended a number of "binding conditions" relating to water quality – this required a revised Water Management Strategy, peer reviewed MUSIC modelling both pre and post-development, and a number of pollution reduction targets.

Ecology:

- Proposed development footprint is substantially beyond the PAC footprint;
- The future development site should be incorporated into the proposed conservation areas;
- BioBanking offsets must be sourced within the Great Lakes LGA so as to provide a benefit for the local area; and
- Consideration should be given to dedicating proposed offsets as public land, including a funding mechanism.

Other:

- The road hierarchy is inconsistent with Council's design specifications;
- A minimum fill level on-site should be RL 2.8m AHD;
- A recommended condition should be included requiring the staged submission of detailed traffic impact assessments for each future development application, ensuring consideration of cumulative impacts; and
- The proposed VPA will require further assessment at a later stage in the proposal's development, particularly with regard to the scale, timing and location of facilities offered in the VPA.

Council's submission in March 2013 to PPR

A further submission was provided which is supportive of the proposed Concept Plan. The submission provided recommended conditions with regard to the tourist precinct and suggested amendments to several of the proponent's Commitments. The proponent has addressed Council's main concerns in relation to water quality and ecology.

NSW Office of Environment and Heritage (previously EPA) – Original submission dated March 2012

The main areas of concern for OEH were flooding, biodiversity and wastewater management.

Flooding:

- Recommended that the assessment should determine the flood hazard in the area and address the impact of flooding on the proposed development – including the Probable Maximum Flood, emergency procedures, the impact of the development (and fill) on flood behaviour, consideration of higher sea levels and climate change, inadequate freeboard, problems with drainage at high tides, recommended giving a time limited consent due to increasing flood risk due to climate change, and concern with the lack of modelling for the northern precincts.

Biodiversity:

- Raised concern that the development was inconsistent with the PAC footprint, raised issues with offsets (including conservation in perpetuity and problems with community title, type of offset in terms of species to be offset, and quantum of offset), indicated there was insufficient information on groundwater drawdown and potential impacts on groundwater dependent ecosystems and EECs, impacts of freshwater discharges on saltmarsh, minor insufficient information in flora and fauna survey, and inconsistencies between various reports submitted.

Wastewater:

- Raised issues with the lack of detail over the installation of a recycled effluent scheme including staging, timing and costing of works required.

Aboriginal cultural heritage:

- Noted that the area contains landforms that have yielded a significant volume of evidence of Aboriginal occupation. Three Aboriginal sites are within the site – two middens and a Potential Archaeological Deposit (PAD) located in the north-east of the site adjacent to the creek and site boundary. OEH noted that the PAD site was likely to be impacted at its western extent and stated a preference for this area to be avoided as a first option.

OEH submission in March 2013 on PPR**Biodiversity:**

- A further submission was made in relation to the proposed biodiversity offsets proposed, providing general support for the draft biodiversity offset strategy (subject to the undertaking of a Biodiversity Agreement). In relation to the offsets (both on-site and off-site) OEH does not support the proposal to manage the offsets by the Community Association and requires all offsets to be provided prior to development occurring to ensure all offsets are available and secured. Refer to Section 5 for further consideration of the biodiversity issue.

Aboriginal cultural heritage

- OEH considers that the Aboriginal cultural heritage report is now satisfactory.

Flooding:

- OEH requires further information on flooding issues with the submission of the first development application for the site. In particular information is requested in relation to ground elevation data, model calibration and sensitivity analysis, refinement of the grid spacing, catchment boundary (Myall Rd), impact of the development on Myall River Flooding, impact of the development at northern boundary and Toonang Drive, the East West Deflector Embankment Levee, Blockage Modelling and Access and Evacuation routes.

NSW Environment Protection Authority - Original submission dated March 2012

The EPA raised a number of concerns with the EA and required further detail and information to properly assess the concept plan. The main areas of concern relate to flooding, biodiversity and wastewater management (see also concerns raised by OEH).

EPA submission in February 2013 to PPR**Wastewater:**

- In relation to wastewater, the EPA provided a condition requiring the installation of a reticulation pipeline system throughout the subdivision which is capable to service each dwelling.

Noise, Waste, Water and Air quality:

Conditions have been proposed by the EPA in relation to noise, waste, water and air quality.

Transport for NSW – Submission in March 2012

TNSW commented on:

- the questionable viability of the proposed bus route through the site;
- the proposed classification of roads under the Roads Act 1993; and
- The need for consistency with NSW Bicycle Guidelines.

Busways – Original Submission in March 2012

- Busways has commented that the bus route shown in the documentation does not follow a Busways suggested route and a two-way link to the local precinct hub is required;
- Appropriate road network connections to Toonang Dr at two points are required. If they are not delivered as part of the program of roadworks, then this would restrict the extent of the bus route network. The Transport and Access Plan (from which my accompanying plan is taken), shows a bus route continuing on to the north-eastern precinct. This will not happen until such time as the road network is completed, including a connection from this north-eastern precinct to Toonang Dr. Therefore, and as an interim solution, a suitably sized roundabout should be constructed at the north-eastern-most intersection of the large central residential precinct;
- The roads earmarked for bus routes should be a minimum of 11m in width, with a shoulder of adequate dimension to shelter a stationary bus from passing traffic; and
- Busways does not support the use of indented bus bays at bus stop locations as they impede the flow of the bus in leaving and re-joining the adjacent carriageway.

Busways submission in February 2013 to PPR

- Raised concerns in relation to the proposed bus route and a plan of the suggested route was included.

Roads and Maritime Services (RMS) – Submission in March 2012

- Myall Street is a classified Regional road, requiring RMS concurrence and Council consent for new connections;
- Requested a revised Traffic Impact Assessment (TIA) with standard rates of trip generation, updated survey data, modelling of all intersections and expected future performance, and staged submission of TIAs for each subsequent development application;
- Expressed a preference for traffic control signals at the second intersection with Myall Street, including pedestrian crossing facilities/refuges, and for this to be provided up-front; and
- Expressed a preference for traffic control signals rather than roundabouts for the second intersection with Myall Street.

RMS submission dated April 2013 to PPR

The RMS provided a further submission and raised no objections to the proposal subject to recommended conditions relating to the design and timing of the proposed intersections in Myall Street and Toonang Drive.

Department of Primary Industries (includes comments by Marine Parks Authority, Fisheries NSW, Agriculture NSW, Crown Lands and NSW Office of Water) – Original submission made in March 2012

NSW Office of Water

The key issues raised by the NSW Office of Water include:

- NOW does not support the proposal in its current form and raised a number of concerns regarding the management of groundwater onsite;
- NOW considers the EA does not adequately address the DGRs, does not reflect the PAC recommendations, contains a number of inconsistencies, and noted that the proponent appeared to have already begun excavation works that intercepted groundwater in the area under the application. These works have resulted in the formation of two basins;
- NOW's main concerns were reflected in a number of bottom line conditions including no extension to the existing brackish lake, no direct connection between the stormwater management system and existing brackish lake, no new excavations below groundwater table, no impact on existing groundwater aquifer quality resulting from development, a preference for stormwater treatment "at source" rather than through use of freshwater "window" lakes and the existing brackish lake, and a requirement for stormwater discharges to result in a Neutral or Beneficial Effect on groundwater quality;
- NOW was also concerned over the pollutant export load to the brackish lake and then the Myall River, particularly the potential for eutrophication of the existing brackish lake; and

- NOW were also concerned with the ongoing cost to the community association of managing the stormwater system (including costs, monitoring, licensing, reporting and compliance), and also noted concerns with the potential for activation of acid sulphate soils.

Submission made by NoW in March 2013 to PPR

- NOW stated that the amended proposal largely addresses the concerns with the redesign of the stormwater management system to incorporate at-source treatment options, rather than relying on open water bodies. No objections have been raised to the Concept Plan subject to recommended conditions in relation to community title maintenance of the stormwater control structures, acid sulphate soils and works within the future development site which are considered to be integrated development;
- NoW' was satisfied that runoff impacts on waterways were sufficiently managed and provided no objection to the proposal;
- NoW requested the department to investigate the feasibility of a monitoring system to ensure the ongoing health and safety of oyster harvesting in the lower estuary; and
- NOW's only remaining concern was in relation to the two existing basins adjacent to the Myall Quays Estate, as no advice had been provided by the proponent in relation to the lining of these basins (See discussion of this issue in **Section 5.1.4**).

Marine Parks Association

Submission made by Marine Parks in March 2013 to PPR

- The Myall River forms part of the Port Stephens- Great Lakes Marine Park. The MPA has concerns about the proposed jetty, coffee shop, and boat hire facility. A board walk intruding into Myall River, a jetty, boat hire facilities, coffee shop, bait and tackle store and BBQ area would detract from the natural values of the area and an assessment of their impact might well find these activities are counter to the objects of the Marine Parks Act 1997. A boat hire service would require a marine park commercial operator's permit under clause 1.32 of the Marine Parks (zoning plans) Regulation 1999; and
- MPA requests that a condition be placed on any approval that a separate development application (DA) be lodged and referred to the MPA for assessment and approval in accordance with the Marine Parks Act 1997.

Crown Lands

- Crown Lands provided comments and raised concern over the potential for a 'boat berthing basin' adjacent to the proposed tourist area – particularly with regard to dredging and bank stabilisation activities.

Submission made by Crown Lands in March 2013 to PPR

Further comment was made on the PPR raising no objections to the proposal subject to submission of a development application for any jetty or boardwalk below MHWM and obtaining of landowners consent from Crown Lands for lodgement of the application.

Fisheries NSW and Agriculture NSW

Submission made by Fisheries and Agriculture NSW in March 2013 to PPR

No further objection was raised in relation to the proposal from either Fisheries or Agriculture NSW.

Mid Coast Water

- Key issues raised were availability of water supply and sewerage infrastructure for the proposal and cumulative impacts on area-wide capacity; and
- Mid Coast Water has endorsed the revised Integrated Water Cycle Management Plan and provided recommended conditions of approval.

Hunter and Central Rivers CMA - Submission made in March 2012

- Concern raised with the clearance of vegetation on-site to be adequately offset to meet the 'improve or maintain' principle;
- CMA supports the use of BioBanking methodology provided offsets are established up-front; and
- CMA requested that a detailed Acid Sulphate Soil Management Plan be submitted with future development applications.

Education and Communities – Submission made in March 2012

Education and Communities noted that there is sufficient capacity in existing schools to meet the demands of the project.

NSW Rural Fire Service – Original submission made in March 2012

An initial letter of 10 February 2012 requested further information regarding Asset Protection Zones (APZs), bushfire protection from revegetation areas, and requiring an APZ in areas adjoining the Grasslands.

Submission made by RFS in March 2013 to PPR

The RFS provided comments on the additional information and PPR and provided recommended conditions with regard to a fire management plan, services, roads, and emergency procedures.

NSW Department of Trade & Investment (DTIRIS)

No submission was made on the EA.

Submission made by DTIRIS in March 2013 to PPR

- The subject area is in close proximity to Tea Gardens Quarry operated by Hunter Quarries Pty. Ltd. This area is partially covered by a transition area which may be subject to impacts from the quarry.
- In order for any development to proceed, the consent authority should satisfy itself that proposed residential zones would not be subject to significant impacts (such as noise, vibration, dust and heavy vehicular movements) from the quarrying operation. The proponent would also need to demonstrate that the presence of residential development would not restrict extraction operations of the quarry.
- The subject quarry is located on the north western side of a steep ridge which physically separates the valley in which the quarry is located from the Riverside site. In the department's view, given the substantial separation distance, noise, traffic and dust impacts are not considered to be a material issue and it is considered that the proposed development would not restrict extraction operations from the quarry. From a land use perspective the proposal to subdivide the site for residential is acceptable and any potential environmental issues can be dealt with at future development application stage.

The issues raised in agency submissions have been addressed by the proponent in its Response to Submissions and PPR. Significant issues raised in submissions requiring further consideration are addressed in **Section 5**.

4.3 PUBLIC SUBMISSIONS

79 submissions were received from the public. This included submissions from the following special interest groups:

- Myall Koala and Environment Group;
- Hawks Nest Tea Gardens Progress Association; and
- Myall Quays Community Title Association.

Of the 79 public submissions, 22 (approx 28%) objected to the project, 55 (approx 69.5%) supported the project and 2 (approx 2.5 %) did not object but raised concerns. A number (33) of submissions in support were received via the proponent's own consultation process and are included in this description. The following concerns were raised in those submissions objecting or raising concern with the proposal:

- the site is flood prone, low-lying land that has significant value as wetland habitat;
- the project would require large amounts of fill to create suitable building platforms;
- questions were raised about the impact of the development on flood behaviour;
- flora and fauna impacts are a major concern (especially on threatened species and EECs);
- the viability of the wildlife corridor is seen as crucial and is of insufficient width as proposed;
- off-site offsets for biodiversity were not supported if not providing local benefit;

- pollution impacts resulting from stormwater flows off the development site were frequently cited as providing a credible threat to the already at risk water quality of the Lower Myall River;
- the additional population base was seen as a threat to the character of Tea Gardens. It was noted by many that the cumulative impacts of development at Myall River downs, Riverside and the North Shearwater/Durness area would compound these problems;
- questioned whether there was sufficient demand for additional housing in the Tea Gardens area to warrant a development of such scale;
- existing infrastructure capacity was frequently cited as an area that needed attention, or would limit development. In particular the safety and capacity of Toonang Drive, the intersection of Toonang Drive and Myall Street and the main road to the Pacific Highway was seen as inadequate in many submissions. Concerns were raised regarding water and sewer capacity, emergency access particularly after rainfall events, lack of medical facilities, and lack of usable open space;
- most submissions requested a review of the proposal by the original PAC in order to address the inadequacies with the development previously identified;
- Acid Sulfate Soils (ASS) soils were seen as a risk during any excavations on-site or associated with the quarrying of fill across Myall St; and
- details of uses within the future development area should be provided.

The key points raised in support of the proposal include:

- benefits to the local economy and businesses;
- improved social structure if more young families move to Tea Gardens;
- completion of what is seen to be a high quality development at Myall Quays;
- an extension of the existing brackish lake would provide additional recreational amenity (no longer proposed)
- an increase in population would bring more much needed infrastructure like medical facilities, banks to the area;
- the proposal would result in better roads and emergency access e.g. for ambulances;
- the good mix of residential development types proposed will be more socially sustainable;
- the proposal would create jobs and bring benefits of greater population, whilst maintaining a good balance with the natural environment; and
- the dedication of open space to the Council was considered to be a positive benefit showing environmental integrity.

The department has fully considered the above issues raised in submissions in its assessment of the project.

4.4 PROPONENT'S RESPONSE TO SUBMISSIONS

The proponent has provided a formal response to the issues raised by agencies, in Table 1 of the Preferred Project Report (PPR) dated January and February 2013 (refer to Appendix N of PPR).