



**MAJOR PROJECT ASSESSMENT:**

**Concept Plan for Settlers Ridge 140 Lot Residential  
Subdivision and BioBanking Proposal  
Steve Eagleton Drive, South West Rocks  
10\_0103**

Proposed by:

Eric Norman Developments Pty Ltd

Jaclesta Pty Ltd

Machro Pty Ltd

Shannon Pacific Pty Ltd



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

June 2013

## ABBREVIATIONS

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APZ	Asset Protection Zone
BHA	Bushfire Hazard Assessment
Biobanking	Biodiversity Banking and Offsets Scheme
CAP	Catchment Action Plan
CMA	Catchment Management Authority
Council	Kempsey Shire Council
Department	Department of Planning and Infrastructure
DGRs	Director-General's Environmental Assessment Requirements
Director-General	Director-General of the Department of Planning and Infrastructure
DPI	Department of Primary Industries
EA	Environmental Assessment
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Kempsey LEP	Kempsey Local Environmental Plan 1987
L&E Court	Land and Environment Court of NSW
LoS	Level of Service
Minister	Minister for Planning and Infrastructure
NOW	NSW Office of Water
OEH	NSW Office of Environment and Heritage
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PFBP	Planning for Bushfire Protection 2006
PPR	Preferred Project Report
Proponent	Eric Norman Developments Pty Ltd; Jaclesta Pty Ltd; Machro Pty Ltd; and Shannon Pacific Pty Ltd
RFS	NSW Rural Fire Service
RMS	NSW Roads and Maritime Services
SEPP	State Environmental Planning Policy
TSC Act	<i>Threatened Species Conservation Act 1995</i>
TIA	Traffic Impact Assessment

Cover Picture: Settlers Ridge Residential Subdivision Site, South West Rocks (source: Environmental Assessment)

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## EXECUTIVE SUMMARY

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Planners North (formerly SJ CONNELLY CPP Pty Ltd) on behalf of Eric Norman Developments, Jaclesta Pty Ltd, Machro Pty Ltd, and Shannon Pacific Pty Ltd (the proponent) is seeking concept plan approval for a 140 lot subdivision and biobanking proposal at Steve Eagleton Drive, South West Rocks, in the Kempsey local government area. The application is pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposal is a transitional Part 3A project involving the following:

- 137 low density residential lots;
- two lots for on-site biodiversity offsetting;
- one active open space lot; and
- internal road network layout.

The proponent estimates the capital investment value of the project at approximately \$5.5 million. The proposal is expected to create 20 full-time jobs during construction of the project.

The Environmental Assessment for the proposal was publicly exhibited for a period of 56 days from 11 December 2012 to 4 February 2013. During the public exhibition period, the department received a total of 49 submissions, including 43 submissions from the general public and six submissions from public authorities. Of the public submission received, 30 were in support, 11 were in objection, and two provided comment on the proposal. The issues raised in the submissions form the key components of the department's assessment. Key issues assessed by the department include;

- subdivision design and layout;
- ecological impacts;
- site zoning;
- bushfire management;
- traffic and access;
- noise impacts;
- public open space provisions;
- cultural heritage; and
- visual impacts.

On 27 May 2013, the proponent amended details of the concept plan application and provided further supplementary supporting documentation through a Preferred Project Report to address issues raised in the agency and public submissions. The amendments include a revised concept design and layout, including a reduced lot yield with less encroachment within the western extremity of the site; increased area set aside for biobanking use; avoidance of habitat isolation and fragmentation through the deletion of the continuation of Steve Eagleton Drive; revision of public open space arrangements; and revision of rezoning considerations.

The department has assessed the merits of the project and is satisfied that the key issues identified throughout exhibition of the proposal can be appropriately managed through the proponent's Statement of Commitments and the recommended terms of approval. The concept plan is expected to provide for the future orderly development of the site, whilst ensuring continued protection of native vegetation and threatened species habitat through the use of biobanking. The proposal will also generate economic activity within the Kempsey Shire. On these grounds, the department recommends the concept plan application be approved, subject to the recommended terms of approval.

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## 1. BACKGROUND

The proposed Settlers Ridge residential subdivision and biobanking proposal is a joint venture involving three adjoining land parcels owned by Eric Norman Developments Pty Ltd; Jaclesta Pty Ltd; Machro Pty Ltd; and Shannon Pacific Pty Ltd (collectively referred to as 'the proponent').

The proponent seeks concept plan approval for 137 residential lots, two lots designated for biobanking purposes, and one active open space lot at Steve Eagleton Drive, South West Rocks, in the Kempsey local government area. **Figures 1** and **2** show the location of the subject site in context to the NSW mid north coast and South West Rocks township. **Figure 3** shows the three adjoining land parcels which make up the development site, referred to as 'Settlers Ridge'.

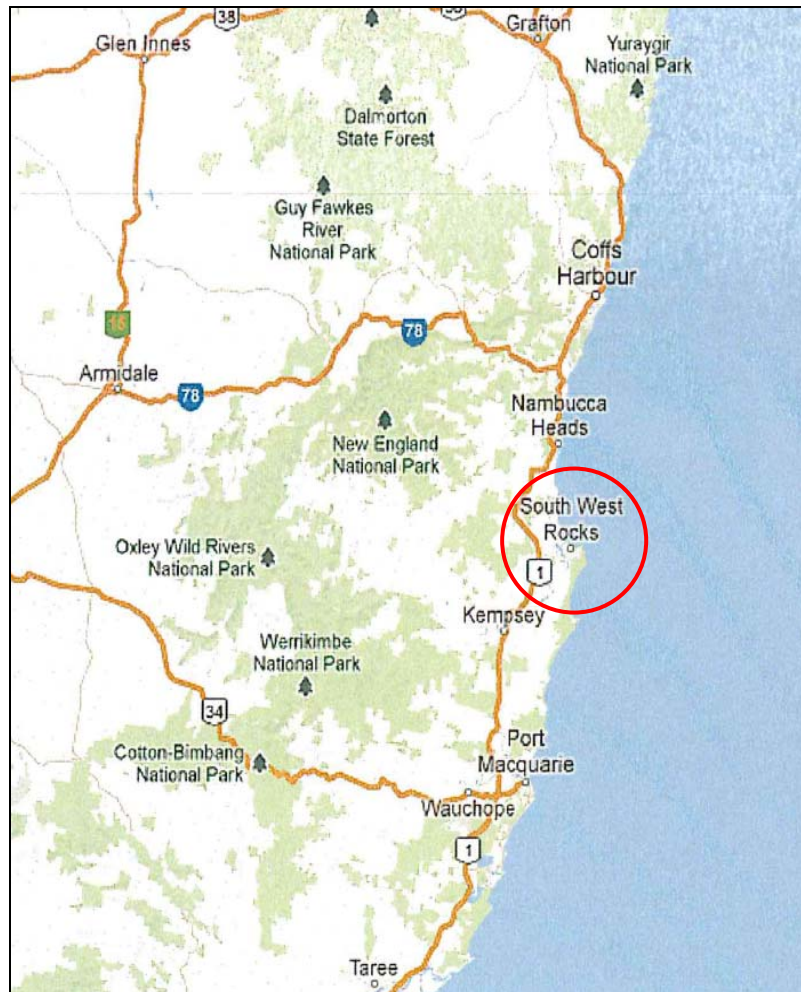


Figure 1: Site Context – NSW Mid North Coast

### 1.1 Site Location and Surrounding Locality

The site covers a total area of approximately 40.4ha comprising three adjoining land parcels being Lot 31 (31.76ha), Lot 57 (5.26ha) and Lot 223 (2.99ha) – refer **Figure 3** below. The site is located at South West Rocks approximately 37km north-east of Kempsey and 65km south of Coffs Harbour. South West Rocks has a resident population of approximately 4,954 (ABS, 2011 census data).

The site is bound by Keith Andrews Avenue and established low density residential development to the north; low density residential development and Steve Eagleton Drive to the south-east; Spencer Creek Road to the south; and an expansive area of bushland directly to the west. The site is undulating with a visible ridge that extends through Lot 57. The entire site is heavily vegetated and consists of a variety of vegetation types and communities.

The only existing structure on the site is a farm house located toward the south-eastern corner of the site.



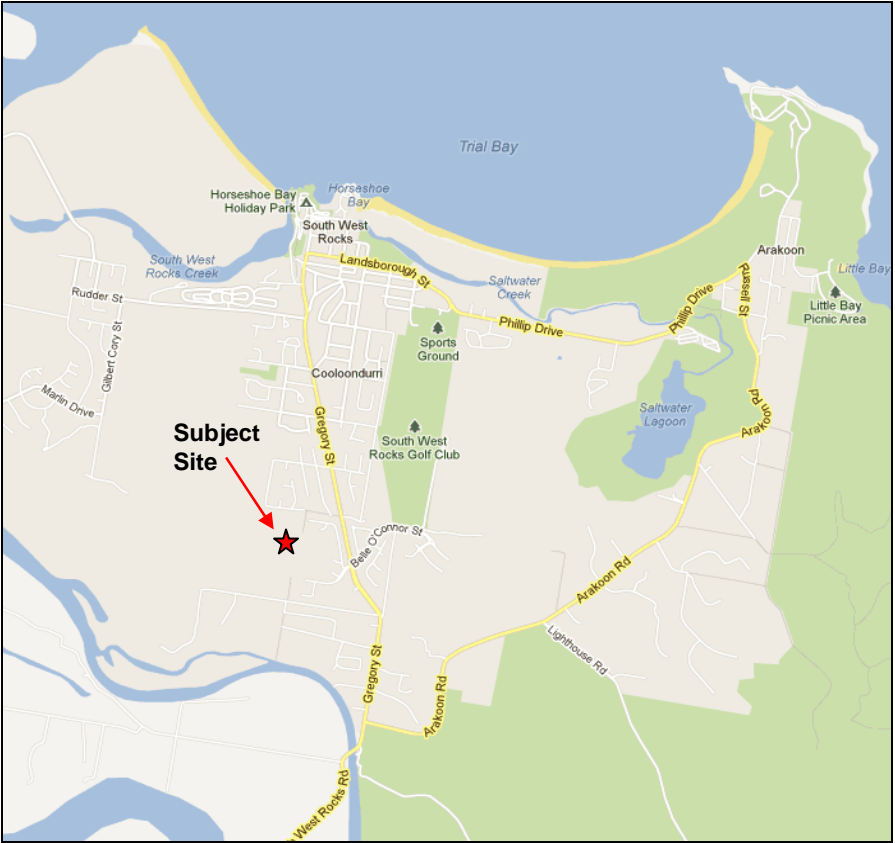


Figure 2: Subject Site – South West Rocks

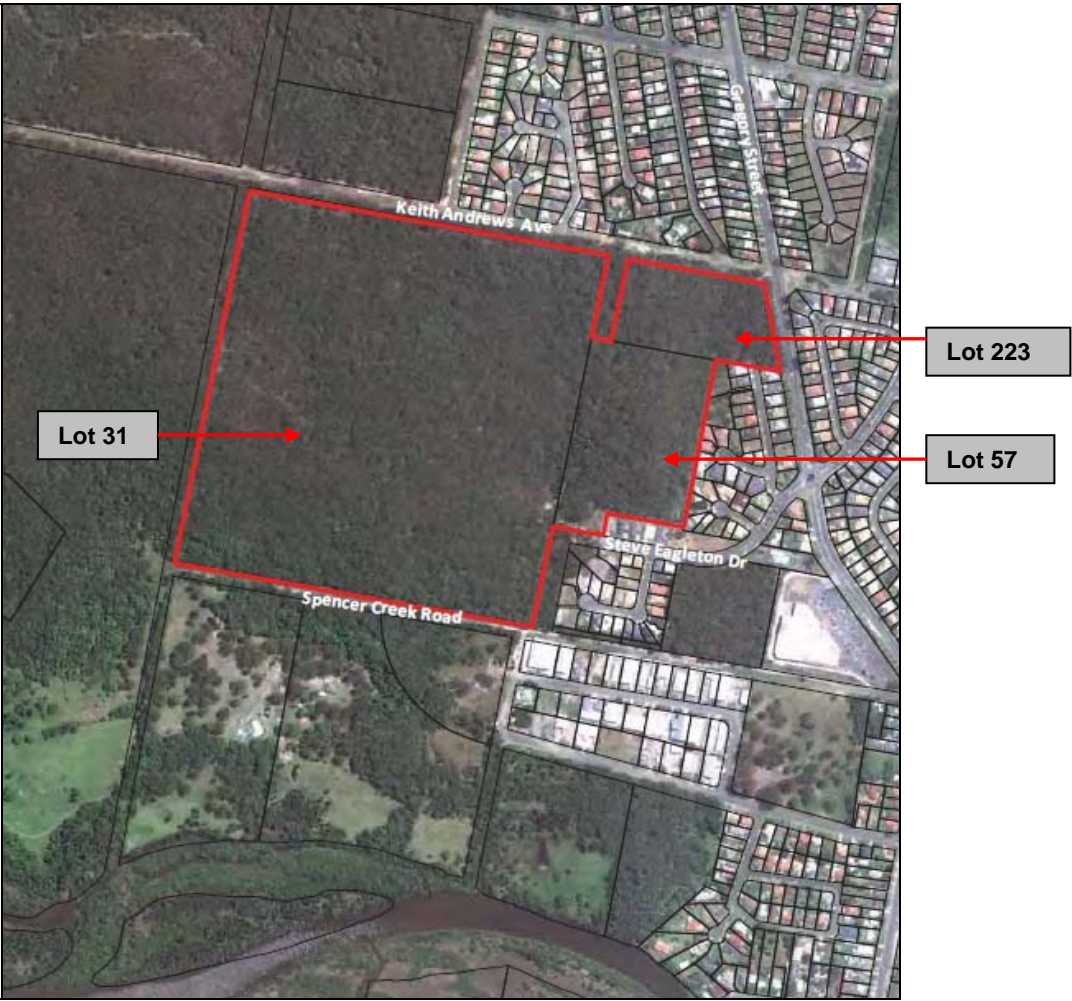


Figure 3: Subject Site – Steve Eagleton Drive, South West Rocks

## **1.2 Site History**

### **Subdivision of Lot 223 and Lot 57**

The subdivision of Lot 223 into 35 residential lots was originally approved by Kempsey Shire Council (council) on 26 September 2003 (DA T6-02-042). The application was considered concurrently with two separate development applications for the subdivision of Lot 57 into 46 residential lots (DA T6-03-186 and DA T6-03-191), both of which were granted consent on 30 October 2003. The validity of all three approvals were challenged in the Land and Environment Court of NSW (L&E Court) by the Friends of South West Rocks Inc.

The L&E Court established that the subdivision of Lot 223 into 35 lots constituted a State significant development pursuant to State Environmental Planning Policy 71 – Coastal Protection (SEPP 71) due to its location within the coastal zone. Therefore, the application had to be determined by the Minister and not council. Development consent for DA T6-02-042 was consequently deemed to be void and of no effect.

In regards to the subdivision applications for Lot 57, the L&E Court ruled that whilst council was the appropriate consent authority for the applications, a determination was unable to be made until such time that a Master Plan had been prepared for the site in accordance with the requirements of SEPP 71. The development consents for DA T6-03-186 and DA T6-03-191 were also deemed to be void and of no effect.

### **Draft Master Plan GRA 6323464**

Subsequent to the L&E Court rulings, a draft Master Plan (GRA 6323464) for the subdivision of Lot 57 was submitted to the department, in accordance with the requirements of SEPP 71. In correspondence to the applicant dated 23 October 2008, the draft Master Plan was rejected by the department on the grounds that the proposed lot layout was considered overdevelopment of the site; that there were potential impacts involving the removal of significant mature native forest; and that the plan was for subdivision only, with minimal consideration of the suitability of the site for such development.

In refusing adoption of the draft Master Plan for Lot 57, the department recommended the proponent consult with the adjoining land owners with a view to developing a concept plan under Part 3A of the EP&A Act encompassing all land parcels to provide a level of development incorporating substantial on-site and off-site habitat compensation to ensure land of the highest conservation value is protected.

### **Proposed Concept Plan for Lot 223 (Trevor Judd Avenue)**

A concept plan application involving a 38 lot residential subdivision of Lot 223 was submitted to the department in December 2005 (MP 05\_0207), pursuant to Part 3A of the EP&A Act. Director General's Environmental Assessment Requirements (DGRs) were issued on 18 July 2006. The application was subsequently revoked on 13 May 2011 after the current concept plan application encompassing Lot 223, and adjoining Lots 57 and 31 was lodged with the department in July 2010 (10\_0103).

## **2. PROPOSED CONCEPT PLAN**

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### **2.3. Concept Plan Description**

The concept plan application proposes a 140 lot subdivision comprising the following:

- 137 low density residential lots;
- two lots for biodiversity offsetting;
- one active open space lot; and
- internal road network layout.

Aspects of the development proposed as part of the concept plan are further outlined in **Sections 2.1.1 and 2.1.2** below.

### 2.1.1 Subdivision Design and Road Network Layout

The proposed concept design incorporates 137 low density residential lots. Individual lot sizes will range from a minimum of 470m<sup>2</sup> to a maximum of 940m<sup>2</sup>, with an average lot size of 612m<sup>2</sup>. A centrally located area of active open space of approximately 1,470m<sup>2</sup> is proposed within the northern portion of the site, adjoining the southern side of the Keith Andrews Avenue.

Three separate access and egress points are proposed, including the continuation of Trevor Judd Avenue at the north-eastern portion of the site, a proposed new connection to Steve Eagleton Drive to the south-east, and a proposed new intersection at Keith Andrews Avenue at the northern boundary. A network of internal roads is proposed as part of the concept design.

**Figure 4** below shows the proposed subdivision design and road network layout.

### 2.1.2 Biodiversity Offsetting

The concept plan application involves both on-site and off-site biodiversity offsetting measures through the use of the Biodiversity Banking and Offsets Scheme (biobanking) as a means of compensating for the impact of native vegetation clearing associated with the development.

The concept plan design proposes an area of 29.1ha (or approximately 72% of the total site area) to be designated for on-site biodiversity offsetting under a biobanking agreement. Adjoining Lots 800 (comprising 1.6ha) and 801 (comprising 27.5ha) are proposed for biodiversity offsetting purposes which will ensure the preservation of this land in perpetuity. The proposal also involves the establishment of biodiversity offsetting areas at an off-site location, as discussed further in **Section 5.2**.

**Figure 4** below shows proposed on-site biodiversity offsetting area comprising adjoining Lots 800 and 801.



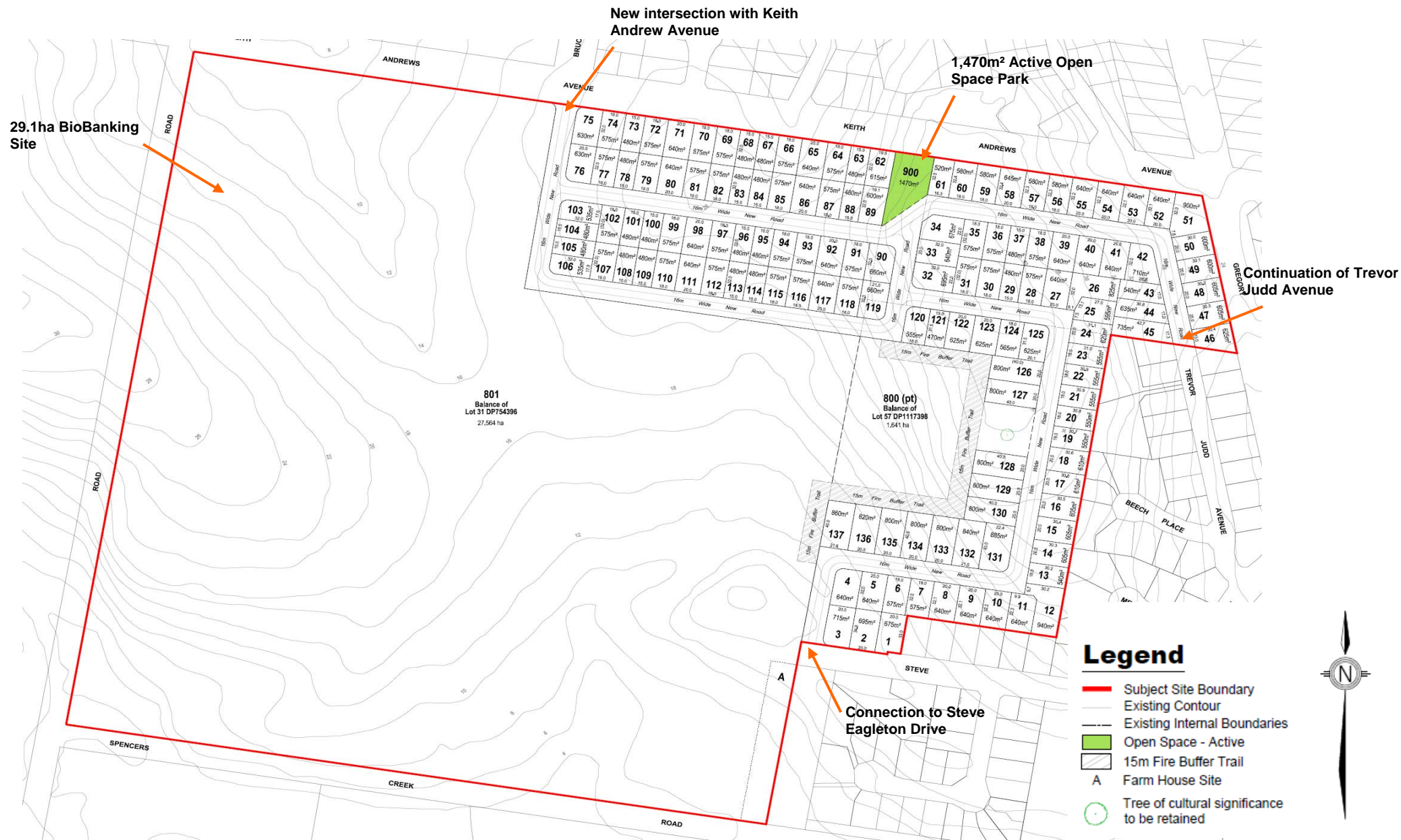


Figure 4: Proposed Concept Design – Settlers Ridge Residential Subdivision – Steve Eagleton Drive, South West Rocks (Preferred Project Report)

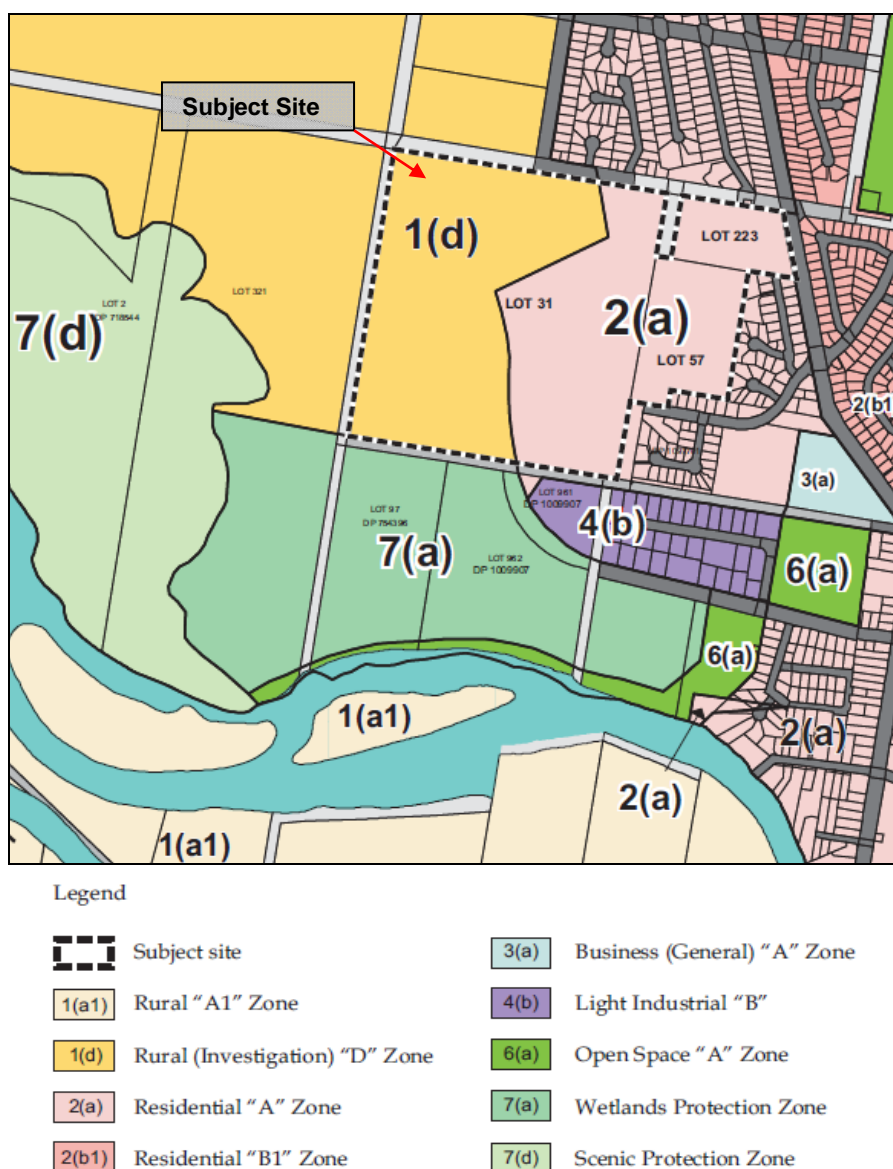
## 2.2. Site Zoning

The proponent has requested the Minister amend the Kempsey LEP as part of the concept plan application through S75R(3A) of the EP&A Act. The amendment is sought in order to establish an appropriate integration of the existing urban footprint with areas of environmental significance.

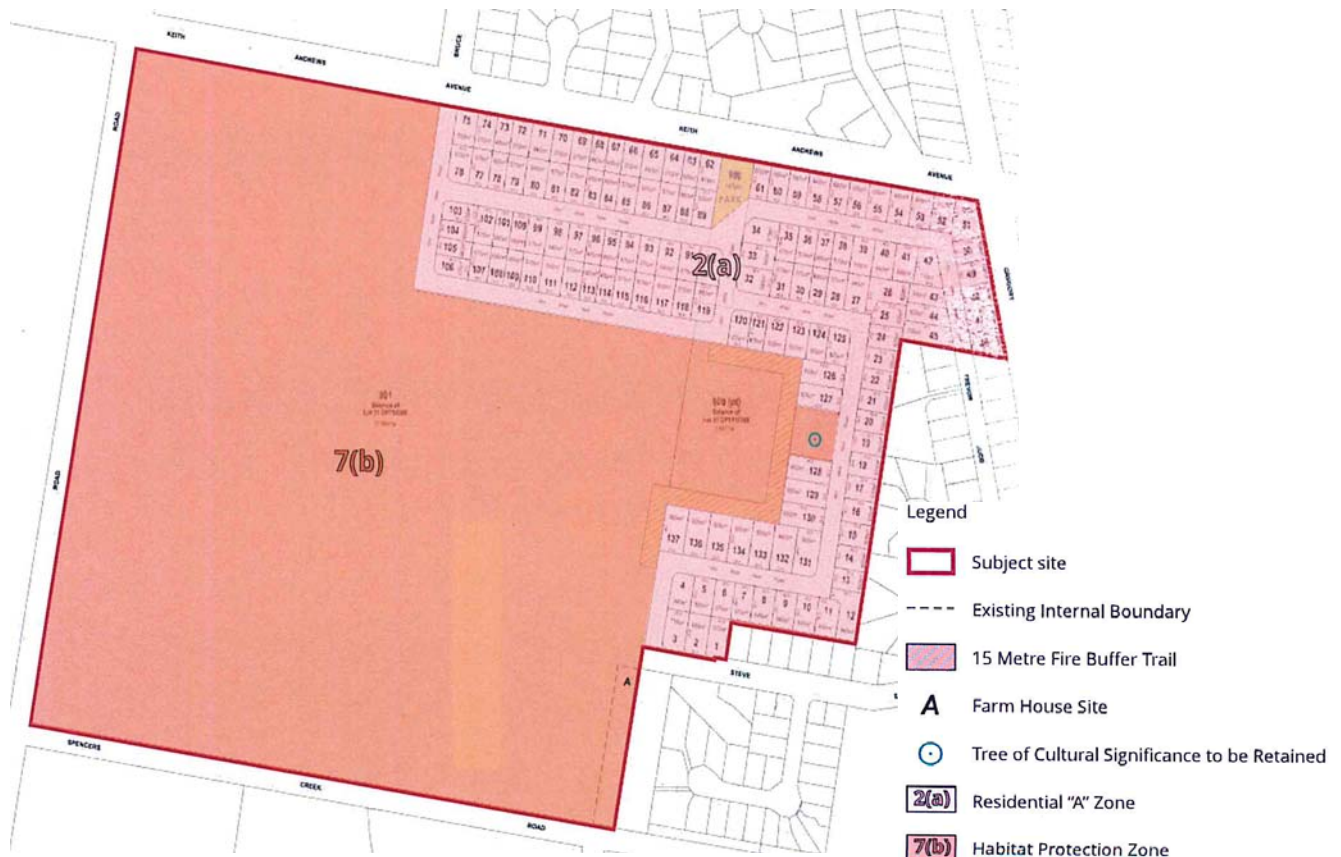
The eastern extent of the site is currently zoned 2(a) (Residential "A" Zone), with the western extent zoned 1(d) (Rural (Investigation) "D" Zone) under the Kempsey Local Environmental Plan 1987 (Kempsey LEP), refer **Figure 5** below.

The proponent seeks to rezone a substantial area of existing 2(a) (Residential "A" Zone) to 7(b) (Environmental Protection (Habitat) Zone), as well as converting a portion of 1(d) (Rural (Investigation) "D" Zone) zone to 2(a) zone. Essentially, the entire site outside of the urban footprint proposed as part of the concept plan application is proposed to be converted to environmental protection zoning 7(b), resulting in a significant reduction of land currently zoned land for residential development. Although the concept plan will prevail over the existing or even future zonings, it is considered appropriate to match the zoning arrangement of the site with the final boundaries of the development footprint.

**Figure 5** shows the existing zoning arrangement. **Figure 6** shows the proposed zoning arrangement of the site, subject to the proposed amendment to the Kempsey LEP proceeding.



**Figure 5: Existing Site Zoning under the Kempsey Local Environmental Plan 1987**



**Figure 6: Proposed Rezoning Arrangement (source: Preferred Project Report)**

### 2.3. Project Need and Justification

Development of the site will provide for additional housing supply in the Kempsey Shire to meet local and regional housing demands, and contribute to the local economy through the provision of employment opportunities created during construction of the development.

The eastern portion of the site is identified within the Kempsey LEP as an appropriate location for future low density residential housing and has subsequently been zoned for this use.

The Mid North Coast Regional Strategy identifies the site as being within a future urban release area with high level constraints, with the extent of any development potential subject to the identification and protection of land with high biodiversity values.

## 3. STATUTORY CONTEXT

### 3.1. Major Project Declaration

Concept plan authorisation was granted under section 75M(1) of the EP&A Act on 8 August 2010. Part 3A of the EP&A Act applies as it is development involving subdivision for residential purposes of land that is not in the metropolitan coastal zone into more than 100 lots, as described under clause 1(1)(b) of Schedule 2 of State Environmental Planning Policy (Major Development) 2005. Therefore, the Minister for Planning and Infrastructure (the Minister) is the approval authority.

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the EP&A Act, continues to apply to transitional Part 3A projects. The Director-General's Environmental Assessment Requirements were issued in respect of the project prior to 1 October 2011. The concept plan application has consequently been assessed as a transitional Part 3A project.



### 3.2. Minister's Delegation

Under the Minister's Instrument of Delegation dated 27 February 2013, the Executive Director – Development Assessment Systems and Approvals may determine the application as:

- the project is consistent (in the opinion of the delegate) with the relevant Regional Strategy or Sub-Regional Strategy prepared by the department and endorsed by the Minister; and
- council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

### 3.3. Statement of Compliance

As of 24 August 2012, transitional Part 3A projects are not required to comply with Section 75I of the EP & A Act. Notwithstanding the department is satisfied that the Director-General's environmental assessment requirements have been complied with. A copy of the DGRs is included in **Appendix B**.

### 3.4. Permissibility

The site is zoned part 2(a) (Residential "A" Zone) and part 1(d) (Rural (Investigation) "D" Zone) under the Kempsey LEP. **Figure 5** in **Section 2.2** shows the zoning arrangement.

The proponent is seeking to make an amendment to the Kempsey LEP to reflect that a larger portion of the site will now be conserved, hence it should be appropriately zoned 7(b) (Environmental Protection (Habitat) Zone), as discussed under **Section 2.2** above.

#### 2(a) (Residential "A" Zone)

In accordance with the Kempsey LEP, the objective of the 2(a) zone is to provide for low density residential development. Subdivision is permissible in the zone, based on a minimum lot size of 0.05ha per lot.

#### 1(d) (Rural (Investigation) "D" Zone)

The objectives of the 1(d) (Rural (Investigation) "D" Zone) is to provide for the future expansion of Kempsey Shire's population; to ensure that such land is not subject to excessive capital investment; and, to enable investigation of land prior to release for development. Subdivision is permissible in the 1(d) zone, based on a minimum lot size of 40ha per lot.

The department considers the concept plan application involving the subdivision of land for residential purposes generally accords with the zoning objectives of the land. However, it is noted that approximately 15% of lots proposed within the 2(a) zone are less than 0.5ha, and all lots within the 1(d) are less than 40ha. Part of the proposed development, therefore, does not comply with the provisions of the Kempsey LEP.

Section 75O(3) of the EP&A Act states that in deciding whether or not to give approval for a concept plan, the Minister may (but is not required to) take into account the provisions of any environmental planning instrument that would not (because of section 75R) apply to the project if approved. Permissibility is, therefore, not strictly relevant as the proposal seeks approval of a concept plan under section 75O of the EP&A Act. The department has, however, considered the merits of the project as part of the assessment of the application, as discussed further under **Section 5.0**.

### 3.5. Environmental Planning Instruments

Under Sections 75I(2)(d) and 75I(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 the relevant SEPPs and EPIs is provided at **Appendix E**. The department considers that the proposal is consistent with the relevant EPIs.

### 3.6. Objects of the EP&A Act

Decisions made under the EP&A Act should have regard to the objects of the Act, as set out in Section 5 of the Act. The relevant objects are:

- (a) *to encourage:*
  - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iv) *the provision of land for public purposes,*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
  - (vii) *ecologically sustainable development, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The proposal is considered to be consistent with the objects of the EP&A Act as listed above. The department has considered the principles of ESD as part of the assessment of the application. The recommended terms of approval and the proponent's Statement of Commitments aim to mitigate the environmental impact of the proposal through on-site and off-site biodiversity offsetting measures, including the dedication of 29.1ha on site (73.7% of the total site area) to be preserved under the biobanking arrangement. The proposed use of the site is considered to promote the economic and orderly use of the land as it seeks to provide low density residential housing whilst also incorporating measures to minimise any associated impacts to an acceptable level.

### 3.7. 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 principles of ESD in its assessment of the proposal and considers the development to be consistent with the principles listed above. A detailed assessment of the potential impacts associated with the proposal is discussed under **Section 5.0**.

### 3.8. NSW 2021

NSW 2021 is a 10 year plan for NSW with specific priorities and targets to be delivered by the NSW government. Priorities include measures to improve the performance of the NSW



### 3.8. NSW 2021

NSW 2021 is a 10 year plan for NSW with specific priorities and targets to be delivered by the NSW government. Priorities include measures to improve the performance of the NSW economy and enhance and protect the natural environment. The Mid North Coast Regional Action Plan has been prepared to complement NSW 2021. The department considers that the proposal is consistent with NSW 2021 and the Mid North Coast Regional Action Plan.

## 4. CONSULTATION AND SUBMISSIONS

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### 4.1. Exhibition

The EA for the project was publicly exhibited in accordance with section 75H(3) of the EP&A Act from 11 December 2012 until 4 February 2013. Notification of the exhibition, including information on how to make a submission was circulated in local publications Kempsey Macleay Argus and Mid Coast Observer. Letters were sent to all adjoining and nearby landowners notifying of the exhibition and inviting a submission. The EA was made available to the public on the department's website, and at the following exhibition locations:

- the Department of Planning and Infrastructure – Information Centre, 23-33 Bridge Street Sydney;
- Kempsey Shire Council – Council Chambers, 22 Tozer Street, West Kempsey; and
- South West Rocks Library – 22 Landsborough Street, South West Rocks.

A Preferred Project Report (PPR) was lodged on 27 May 2013. As the changes to the nature of the project were not considered to be significant, the proposal was not re-exhibited. It was, however, made available to the public on the department's website.

The department received 49 submissions during the exhibition of the EA, including six submissions from public authorities and 43 submissions from the general public and special interest groups. A summary of the issues raised in submissions is provided in **Sections 4.2** and **4.3**.

### 4.2. Public Authority Submissions

The department received six submissions from public authorities during the exhibition period. Submissions were received from:

- Kempsey Shire Council;
- Office of Environment and Heritage;
- Department of Primary Industries;
- Northern Rivers Catchment Management Authority;
- NSW Rural Fire Service; and
- Roads and Maritime Services.

The issues raised by public authorities are summarised under **Sections 4.2.1** to **4.2.6**.

#### 4.2.1 Kempsey Shire Council

Council's submission on the EA raised issues particularly in relation to traffic and access, engineering aspects, and ecological considerations, as detailed below:

##### Traffic and Access

- Vehicle and pedestrians access to proposed Lots 7 to 17 is to be restricted to the proposed extension of Trevor Judd Avenue.
- The EA provides no assessment or justification for the three proposed new intersections with Keith Andrews Avenue.
- It is recommended that the existing Crown road reserve between Lot 31 and Lot 223 be acquired and incorporated as part of the development.

- The EA provides no supporting documentation or justification for the proposed extension of Steve Eagleton Drive to the northern boundary of the site. Although a collector road in this location has been identified in council's original growth strategy documentation, studies have revealed the presence of threatened species throughout the locality, therefore putting into question the feasibility of establishing a collector road in this location.
- Extension of the pedestrian pathway along the currently unsealed section of Keith Andrews Drive from Gregory Street is not supported. Council requests the proponent investigate improvements to the existing road network to allow a new pathway system to connect to the existing pedestrian pathway network. Any new internal pathways are to be provided in accordance with council's engineering guidelines.

#### Water, Sewerage and Drainage Infrastructure

- Further analysis of the existing water supply infrastructure is required, in consultation with council, to identify and assess options to extend water supply to the development.
- Council's Integrated Water Supply Strategy is to be considered and incorporated as part of the development.
- The existing sewerage network located downstream of Keith Andrews Drive is at capacity. Council will not agree to additional lots discharging to this system without further investigation demonstrating there is sufficient capacity.
- A stormwater management strategy is to be prepared by the proponent with consideration given to stormwater discharges indirectly to nearby Saltwater Lagoon and Creek, Back Creek and Spencers Creek. Water Sensitive Urban Design measures are to be incorporated as part of the strategy.
- Stormwater flows emanating from the proposed residential area are to be restricted to pre-development flows in quality and quantity.

#### Ecological

- Proposed Lot 801 is identified as a biobanking site, however, the EA does not specify how the current or future owners will manage the land, or whether an agreement on the title of the property will be entered into.
- Proposed Lots 900 and 998 are proposed biobanking sites as well as open space areas, to be dedicated to council. There is conflict between the roles required of passive/active recreational spaces and biobanking which requires management actions to prevent the land from being used for recreational purposes.
- There is no linkage with adjacent proposed Lot 801 for habitat protection or wildlife corridor.

#### Other Issues

- The proponent should consider the provisions within the Draft Kempsey Local Environmental Plan 2012.
- Land proposed to be dedicated to council is in excess of the standard set out in council's Open Space Strategy, adding substantial costs to maintaining the asset without corresponding community benefit.
- The proponent should reconsider use of the proposed extension to Steve Eagleton Drive as an APZ.
- The land to be developed is covered by a Comprehensive Koala Plan of Management which requires assessment.
- The 2.5m high acoustic noise barrier recommended along Lots 1 to 8 is not in keeping with the existing streetscape.
- A plan of management for proposed Lot 998 should be prepared to protect the Aboriginal scar tree identified in the Cultural Heritage Assessment.

#### **4.2.2 The Office of Environment & Heritage**

The Office of Environment & Heritage (OEH) raised concern regarding the appropriateness of the development in an area of high conservation and biodiversity significance. Key issues raised in OEH's submission included:

- Previous correspondence from OEH on the draft EA noted that 'avoid' or 'mitigate' options for the development site had not been considered. The current proposal will see the vast majority of residential zoned land removed of vegetation – the lack of avoidance to significant environmental values is of concern.
- The proponent has pursued OEH's least preferred option of compensating for impacts. Compensation through use of biobanking should only be used in unavoidable situations. Considering the high ecological values of the site, further avoid options are recommended. Amendments to the concept layout should include reducing the western extent of the subdivision and deleting the proposed continuation of Steve Eagleton Drive.
- In reference to proposed Lots 900 and 998 – providing a small area of open space surrounded by urban development with associated edge effects will not assist in ensuring ecological values are protected in the long term. Redesign of the development layout is recommended.
- The balance of any land which does not form part of the development, namely the western portion of the site outside of the development footprint, should be afforded long term protection. Ideally the western portion of the site should be secured by a conservation agreement (such as biobanking).
- Further clarification is sought in regards to the biobanking calculations and assessment, including:
  - a map showing vegetation corridors to help explain the connectivity assessment;
  - the vegetation zone needs to consider potential indirect impacts on the proposed open space area within the development footprint;
  - the proponent is requested to review whether the vegetation transects/plot data are representative of the site, and provide further details about the recorded information, analysis and photos of the plots; and
  - The Square-Tailed Kite has been considered as having potential habitat on the site and has been recorded on the site in previous surveys. Justification for the exclusion of the species in calculating species credits for the site should be provided.
- Several recommended conditions of approval in relation to biodiversity and Aboriginal cultural heritage were also provided as part of OEH's submission.

#### **4.2.3 Department of Primary Industries**

The submission received from the Department of Primary Industries (DPI) included comments from three separate divisions within the agency including NSW Office of Water (NOW), Crown Lands, and Fisheries NSW.

##### NSW Office of Water

- All stormwater treatment measures should be consistent with Water Sensitive Urban Design principles and consistent with any of council's guidelines to ensure stormwater is appropriately treated prior to discharge from the site.
- The EA provides limited information of potential impacts on groundwater. The proponent should be required to determine if the maximum predicted watertable will be intercepted during development works, and if so, licensing requirements will need to be adhered to prior to excavation on the site.
- Any works within or adjacent to riparian areas, including drainage lines, must be consistent with State policies, including NOW's Guidelines for Controlled Activities.
- Several recommended conditions of approval were provided in relation to stormwater management, works within or adjacent to riparian zones, and groundwater impacts.

### Crown Lands

- The Bushfire Assessment does not consider the threat of bushfire posed by the 30m wide Crown road reserve containing densely vegetated tall black butt forest for adjoining proposed Lots 17, 28, 29, and 145-151.
- It is unclear whether any vegetation management regime is proposed for Lots 900 and 998. Should no vegetation management be guaranteed, this would increase the area of vegetation adjacent to proposed lots to be more than two hectares and potential fire runs in excess of 50m, in which case this area should be considered as Forest vegetation for bushfire planning requirements.
- Concern is raised regarding the future management of the Crown road reserve. Future construction of a formed road is unlikely due to topographical and engineering constraints. There may be benefit in disposal of the Crown road reserve for inclusion as part of the proposed passive and active open space within the development.

### Fisheries NSW

- No issues were raised by Fisheries NSW, with relevant matters of interest covered in the advice prepared by NSW Office of Water.

#### **4.2.4 Northern Rivers Catchment Management Authority**

The Northern Rivers Catchment Management Authority (CMA) advised that the proposal is consistent with a range of targets outlined in the Northern Rivers Catchment Action Plan (CAP). The CMA further advised that the development is required to comply with the *Native Vegetation Act 1993* in regards to the clearing of any native vegetation.

#### **4.2.5 NSW Rural Fire Service**

The NSW Rural Fire Service (RFS) advised that installation of water, electricity and gas; public road access; and public landscaping within 100m of remnant forest to the north, south and west (including proposed Lots 800 and 810) is to comply with the requirements outlined in the document Planning for Bush Fire Protection 2006.

#### **4.2.6 Roads and Maritime Services**

Roads and Maritime Services (RMS) advised that there were no objections to the proposed concept plan, however, provided advice to assist the department in its assessment, including:

- the Traffic Impact Assessment has provided minimal analysis of the Frank Cooper Street/Gregory Street intersection;
- all future development applications should provide suitable connections to existing networks for pedestrians and cyclists; and
- the necessary road and transport infrastructure improvements required as a result of the development should be fully funded by the developer through council's Section 94 contributions plan.

### 4.3. Public Submissions

A total of 43 public submissions were received during the exhibition period. Of these, 30 were in support of the proposal, 11 were in objection, and two provided comments.

Key issues raised in support the proposal include:

- the positive impacts on the building industry and the generation of economic development and employment in South West Rocks;
- the contribution to increasing the permanent residential population of the town;
- the enhancement of the existing seaside atmosphere of the village;
- a variety of residential lot sizes are proposed;
- this type of development has always been envisaged for the area;
- the proposal includes the identification of dedicated habitat preservation areas;
- the proposed biobanking sites are an innovative option to protect existing habitat; and
- the subdivision incorporates a bushfire buffer to protect the existing urban area.

Key issues raised in objection of the proposal include:

- the land proposed to be developed is located within a regional wildlife corridor and is of High Conservation Value;
- the fauna surveying work undertaken is inadequate and no reference has been made to previous surveying work undertaken of the site and surrounding locality;
- existing threatened species habitat is proposed to be cleared;
- the size and design of the development could contribute to the extinction of threatened species, particularly the Brush-tailed Phascogale and Squirrel Glider;
- more detailed information forming part of the biobanking assessment is required;
- the biobanking offset calculations have underestimated the impacts associated with the proposal;
- the biobanking concept is flawed as the offsets proposed will not maintain or improve biodiversity of the immediate area;
- the future park being Lots 900 and 998 are not suitable biobanking sites and are not linked to any existing vegetation;
- the proposed continuation of Steve Eagleton Drive will have adverse ecological impacts on the western remnant habitat;
- the proposed development will be visually destructive. The existing ridge located on the site is an important aspect of the local scenery and is particularly visible upon entering the town;
- the growth of South West Rocks is too slow to justify the development;
- South West Rocks only has one primary school and no high school, one supermarket, and no public transport – the increased housing will place further pressure on the town's existing services;
- road, water, and sewerage infrastructure needs upgrading; and
- the proposed lot sizes do not comply with the Kempsey LEP.

The department has considered the issues raised in submissions in its assessment of the proposal, as discussed further under **Section 5**.



#### **4.4. Proponent's Response to Submissions and Preferred Project Report**

The proponent has provided a response to the issues raised in the submissions through a Preferred Project Report (PPR) (refer **Appendix C**). The PPR outlines the following amendments to the proposal as presented in the EA:

- a revised subdivision and road network layout, including a reduction of 17 residential lots;
- deletion of the proposed future road reserve extension of Steve Eagleton Drive to the north-western corner of the site;
- a single road network connection to Keith Andrews Avenue to the north;
- reduced development encroachment within the western extremity of the site;
- consolidation of the proposed biobanking sites to form a single contiguous lot for biobanking purposes;
- deletion of passive open space use within area dedicated for biobanking purposes;
- the creation of a 1,470m<sup>2</sup> active open space park within the northern portion of the site; and
- rezoning part of the site to 7(b) (Environmental Protection (Habitat) Zone), as opposed to 7(a) (Wetlands Protection Zone).

**Figure 7** below shows the preferred concept designs and illustrates how this has been developed including an initial proposal consisting of 220 residential lots at the preliminary assessment stage (Plan 1.2A), a revised proposal consisting of 154 residential lots as proposed within the EA (Plan 1.2B), and the current concept plan proposal as provided in the PPR consisting of 137 residential lots (Plan 1.2C).

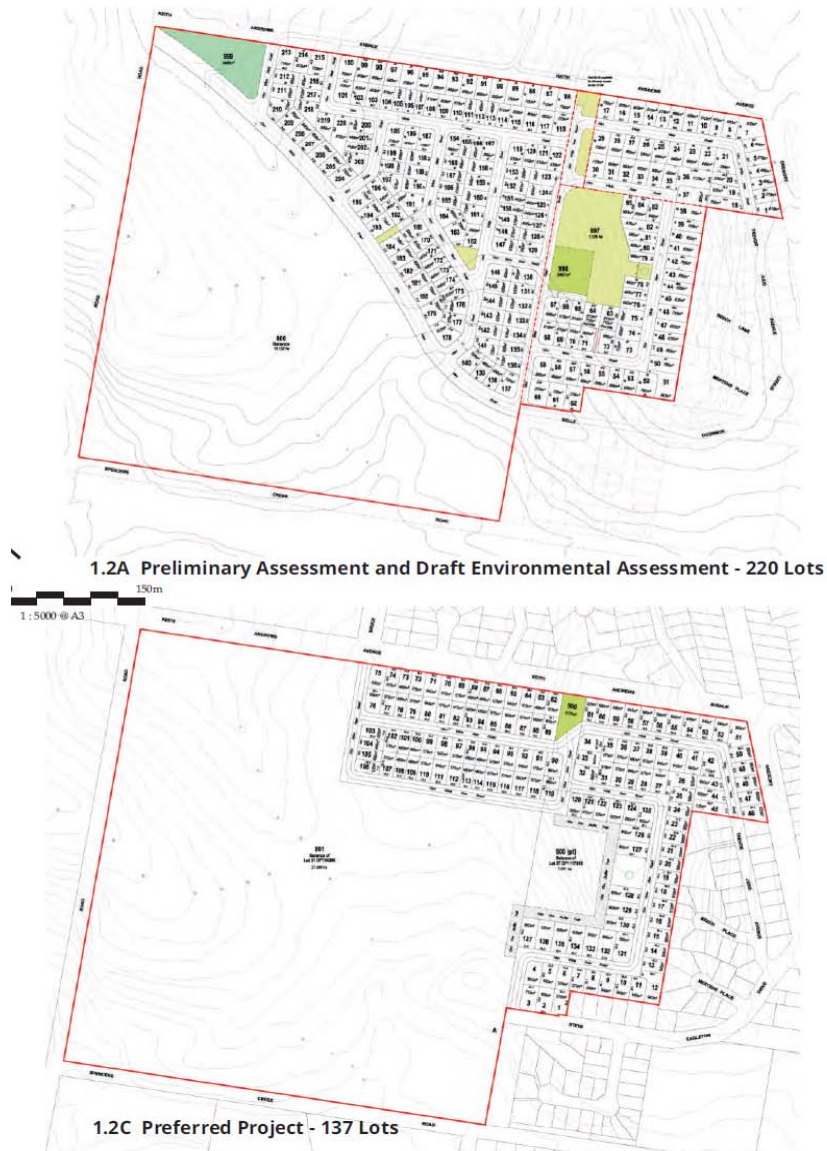


Figure 7: Revised Concept Designs (source: Preferred Project Report)



## 5. ASSESSMENT

Key issues considered in the department's assessment of the proponent's Environmental Assessment (EA) and Preferred Project Report (PPR), and consideration of the proposed Statement of Commitments include the following:

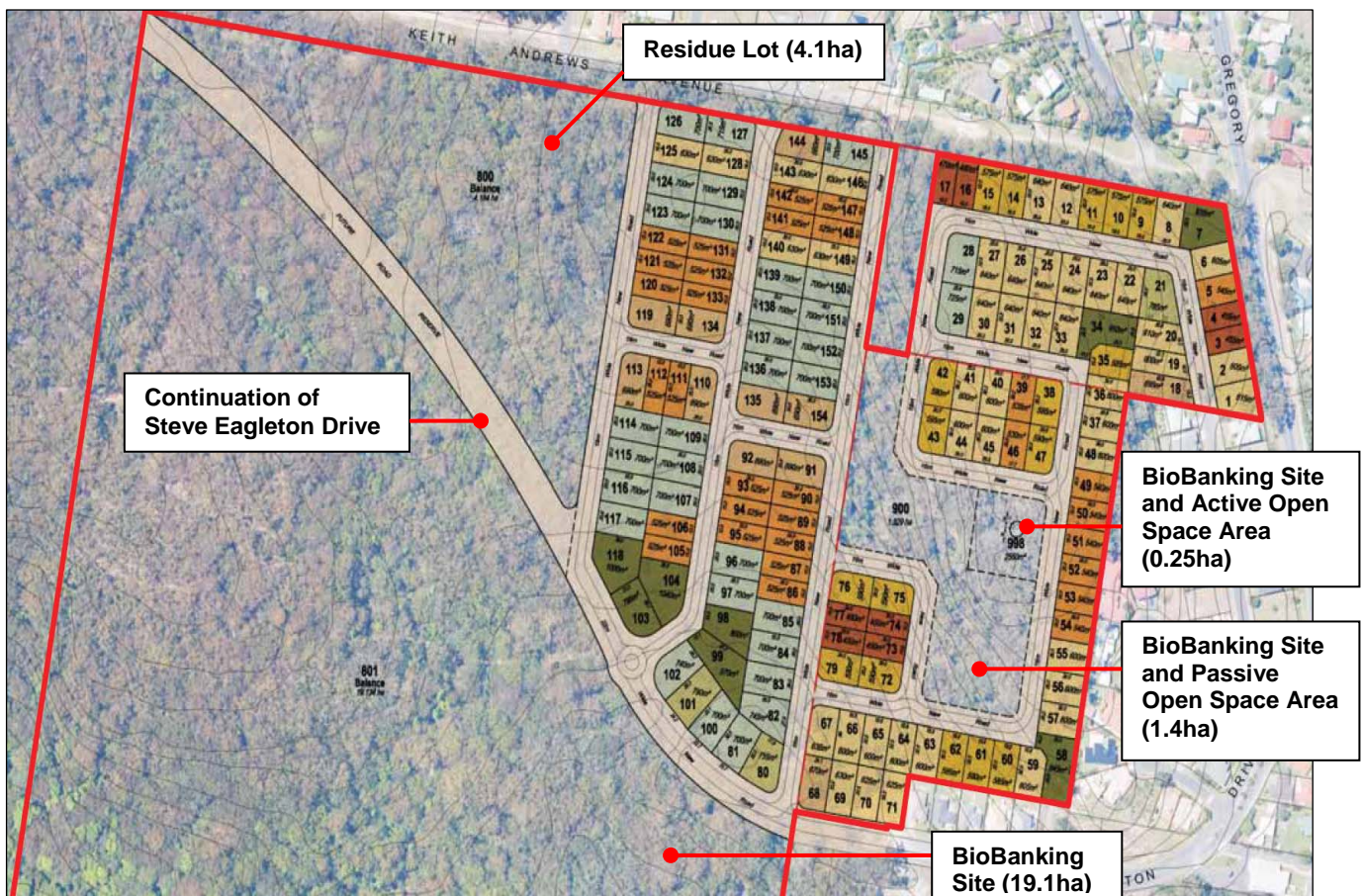
- Subdivision design and layout;
- Ecological impacts;
- Site zoning;
- Traffic and access;
- Bushfire management;
- Cultural heritage;
- Noise impacts;
- Public open space provisions; and
- Visual impacts.

### 5.1 Subdivision Design and Layout

The concept plan design publicly exhibited as part of the EA consisted of:

- 154 low density residential lots;
- a 19.1ha lot for biodiversity offsetting;
- a 0.25ha lot for combined biodiversity offsetting and active open space usage;
- a 1.4ha lot for combined biodiversity offsetting and passive open space usage;
- a 4.1ha residue lot;
- three new intersections with Keith Andrews Avenue to the north; and
- continuation of the Steve Eagleton Drive road reserve to the north-western corner of the site.

**Figure 8** shows the concept design as proposed as part of the EA.



**Figure 8: Proposed Concept Design – Environmental Assessment**

Concern was raised by the department, government authorities, and the general public in response to the subdivision design and layout presented as part of the EA. The concerns raised were primarily in regards to the removal, fragmentation, and isolation of existing native vegetation and threatened species habitat; and associated cumulative impacts on threatened species known to inhabit the site and surrounding locality. The ecological impacts of the proposal are assessed under **Section 5.2** below.

OEH requested an alternative subdivision layout be prepared to reduce the size of the development footprint, including a reduction of the western extent of residential lots, and deleting the proposed continuation of the Steve Eagleton Drive road reserve.

The department requested the proponent consider a revised concept design which better responds to the existing threatened species habitat and provides improved vegetation connectivity throughout the site. The department advised that a revised concept design should aim to achieve the following outcomes:

- deletion of the proposed continuation of the Steve Eagleton Drive road reserve to avoid the fragmentation and isolation of vegetated land parcels;
- the proposed 4.1ha residue lot should form part of the biodiversity offsetting area, or alternatively be afforded ongoing protection through the preparation of a long term management strategy;
- the provision of two on-site biodiversity offsetting areas in isolation of one another is not supported. A continuous vegetated corridor and single biobanking lot within the site should be provided; and
- a reduction in lot yield should be considered that minimises the loss of native vegetation and threatened species habitat.

In response to the issues raised during the public exhibition period, the proponent submitted a revised concept design for the site as part of the PPR. Amendments made to the original proposal include:

- a reduced lot yield, including 17 fewer residential lots;
- deleting the continuation of the Steve Eagleton Drive road reserve, which consequently avoids the fragmentation and isolation of land to the north-west of the site (the proposed 4.1ha residue lot);
- the 4.1ha residue lot is proposed to be included as part of the biodiversity offsetting area within proposed Lots 800 and 801;
- a 6ha increase in the total area proposed for on-site biodiversity offsetting;
- public open space is no longer proposed within areas identified for biodiversity offsetting; and
- the development footprint has been reduced, including less encroachment towards the western extremity of the site.

**Figure 4** at **Section 2.1** above illustrates the revised concept design.

OEH's response to the revised design acknowledged the reduced development footprint compared to previous larger proposals. However, it was advised that there may be further opportunities to reduce the development footprint given the high conservation values of the site. Further reduction of the western extent of the development was therefore recommended.

The department considers the revised concept design has addressed the primary concerns raised during exhibition in response to the proposed site layout. The amendments made to the subdivision design ensure that the area proposed for biodiversity offsetting is contained within a single contiguous lot, consequently avoiding the fragmentation and isolation of existing habitat. The western extent of the development footprint has been reduced (including a reduced lot yield) in order to minimise the loss of native vegetation and

threatened species habitat. Public open space is no longer proposed within the area set aside for biobanking, and an additional 6ha of land has been provided for on-site biodiversity offsetting.

Whilst the department acknowledges OEH's recommendation to further reduce the development footprint, it is considered that the revised concept design achieves a satisfactory balance between sustainable urban development and the protection of existing native vegetation. It is noted that the site has been primarily zoned for residential use and the proposed subdivision will be an extension to existing residential development. A large portion of the site currently zoned for potential future residential development is proposed to be utilised as biodiversity offsetting as part of the application, effectively ensuring the ongoing protection of this land in perpetuity.

## 5.2 Ecological Impacts

The proposed development is located on a site considered to be of high biodiversity and ecological significance containing mature native forest vegetation, threatened species habitat, and EECs. The proponent engaged Peter Parker Environmental Consultants Pty Ltd to prepare a Biodiversity Assessment Report as part of the EA.

The impact of future development on the site's existing ecological values and biodiversity was a key issue raised in both the government agency and public submissions (summarised at **Sections 4.2** and **4.3** respectively).

The department's assessment of the development's ecological impact has considered:

- impacts associated with the removal of native vegetation, habitat fragmentation, and associated impacts on threatened species (discussed at **Section 5.2.1**); and
- biodiversity off-setting measures (biobanking) proposed as a means of compensating for the impacts on existing ecological values (discussed at **Section 5.2.2**).

### 5.2.1 Removal of Native Vegetation, Habitat Fragmentation and Impacts on Threatened Species

Future development of the site will result in the clearing of existing mature native vegetation, including areas of threatened species habitat and EEC. Approximately 11.2ha (or 27.7% of the total site area) is proposed to be cleared for future residential development under the preferred concept design. The remaining site area of 29.1ha is proposed for biodiversity offsetting and conservation under a biobanking agreement (discussed further at **Section 5.2.3**).

Threatened species known to inhabit the site include the Masked Owl, Squirrel Glider, and Brush-tailed Phascogale – all listed as vulnerable species under the *NSW Threatened Species Conservation Act 1995* (TSC Act). The removal and fragmentation of established habitat for these species is the primary concern in relation to impacts on threatened species.

OEH raised concern regarding the appropriateness of the development, including the clearance of mature native forest and threatened species habitat in an area of high biodiversity significance. A key point of OEH's submission was that the proponent has pursued the least preferred option of compensating for ecological impacts through the use of biobanking. OEH considered further avoid options should be considered and recommended that the proponent prepare an alternative development layout that reduces the development footprint and further avoids the impact to significant native vegetation (a detailed summary of OEH's submission on the EA is provided at **Section 4.2.2** above).

In response to the issues raised during the exhibition period, the proponent submitted a revised concept design as part of the PPR which aims to lessen the overall impact of the proposal, including a reduction in the amount of vegetation clearing. Key amendments made to the proposal include:



- a reduced lot yield from 154 lots to 137 lots;
- a reduced development footprint, including less encroachment within the western extremity of the site;
- removal of the proposed continuation of Steve Eagleton Drive to the north-west corner of the site, which ultimately avoids the isolation of the 4.1ha residue lot;
- a 6ha increase of the total on-site area proposed for biobanking use, as well as proposing all on-site offsetting area within a single contiguous lot;
- no isolated pockets or fragmentation of habitat area; and
- the removal of public open space and recreational use within any area proposed for biodiversity offsetting.

The proponent seeks to offset the impact of vegetation removal and associated impacts on threatened species through the use of biobanking, which will ensure the ongoing protection and management of some 29.1ha of land on-site. The revised concept design avoids the isolation or fragmentation of habitat area through the deletion of the proposed continuation of Steve Eagleton Drive. The proposed biobanking Lots 800 and 801 are adjoining land parcels that are connected to an extensive area of vegetated land that extends westwards to the Macleay River.

Whilst the department acknowledges that there may be scope to further reduce the site's development footprint, it is also noted that the site is appropriately zoned for residential use, and that a reasonable balance between the provision of sustainable residential development and protection of existing biodiversity values is required. In order to mitigate against the ecological impacts of future development on the site, the department has recommended a Vegetation Management and Fauna Protection Plan, prepared by a suitably qualified ecologist, be prepared as part of any future development application lodged. The plan is required to include measures to manage vegetation clearing and protect native fauna species during construction of the development. The following measures are required to be included as part of the plan:

- a suitably qualified ecological consultant must be present during any vegetation clearing to monitor works in sensitive areas, offer advice during the clearance process, and supervise recovery procedures in the event of accidental harm to wildlife;
- non-hollow bearing trees are to be felled first. At least 24 hours is required between clearing of non-hollow bearing trees and hollow-bearing trees to allow any fauna species present time to vacate and relocate;
- all tree hollows are to be salvaged and re-used by means of permanent attachment, at an appropriate height, to suitable trees within land that forms part of the on-site biodiversity offsetting area;
- tree felling is to be supervised by a qualified fauna specialist appropriately licenced under the *NSW National Parks and Wildlife Act 1974* for the purpose of rescuing and relocating displaced native fauna species; and
- a search for the presence of native fauna species is to be carried out by a suitably qualified ecologist prior to the commencement of tree felling or vegetation removal.

In addition, the department has recommended a term of approval requiring all future earthworks and vegetation clearing to be limited to the staging of the subdivision, and may only occur in sequence with approval for the creation of residential lots.

The proponent has further included a Statement of Commitment to prepare a comprehensive Vegetation Management Plan for all areas of existing vegetation to be retained within the site, to be submitted to and approved by council prior to registration of a plan of subdivision. The Plan proposes management measures including protection of hollow-bearing trees,

weed control, feral animal control, water sensitive urban design measures, and monitoring and reporting actions.

### Koala Assessment

The site is greater than 1ha in area and contains koala food tree species including Scribbly Gum, Tallowwood and Swamp Mahogany. The Biodiversity Assessment Report submitted with the EA incorporated a koala habitat assessment to determine whether the site contained core koala habitat, in accordance with State Environmental Planning Policy No. 44 – Koala Habitat Protection. For habitat to be considered core koala habitat there needs to be a resident population of koalas, evidenced by attributes such as breeding females (females with young) and recent sightings of and historical records of a population.

A fauna survey was undertaken over four nights which included fauna trapping, spotlighting, play-back calls and searches for tracks and scats. The survey found no evidence of koalas at the site, and no anecdotal records of koala sightings were obtained. The department is satisfied that a koala plan of management for the site is not required.

In summary, the department acknowledges the site's significant ecological values and presence of threatened species. It is considered that the proposed subdivision layout prepared as part of the PPR achieves a reasonable balance between the provision of residential development and protection of the existing environment. The department is satisfied that a significant portion of the site (approximately 70%) will be afforded protection through the establishment of a biobanking agreement over the land, and that the recommended future assessments requirements will minimise the impacts on threatened species during any construction works on the site.

### **5.2.2 BioBanking Proposal**

The biobanking scheme is set out under Part 7A of the TSC Act and was introduced by the NSW government to help address the loss of biodiversity values, including threatened species. Under the biobanking scheme, the impacts of a development on existing biodiversity including the removal of native vegetation, removal of habitat of threatened species, and also threatened species themselves can be offset through the gain in biodiversity values from undertaking management actions on a biobanking site.

The concept plan application proposes both on-site and off-site biodiversity offsetting measures to mitigate against the loss of biodiversity from future vegetation clearing and development of the site. A biobanking statement was submitted as part of the EA outlining a requirement of 883 ecosystem credits and 279 species credits to be sourced in order to compensate for the loss of biodiversity values. It is noted that the proposal does not include the clearing of any "red flag" areas which are defined as being one or more of the following:

- vegetation type that has greater than 70% cleared in the Vegetation Types Database, and the vegetation is not in low condition;
- a critically endangered or endangered ecological community listed under the TSC Act or the *Environment Protection and Biodiversity Conservation Act 1999*, and the vegetation is not in low condition; and/or
- one or more threatened species identified in the Threatened Species Profile Database that cannot withstand further loss in the catchment management authority area.

The proposal as presented in the EA included two individual on-site biobanking lots of 19.1ha and 2.8ha in size, as shown in **Figure 9** below.



**Figure 9: Biobanking Sites proposed as part of the Environmental Assessment**

Having regard for the subdivision layout proposed as part of the EA, the site has the potential to generate 152 ecosystem credits and 31 species credits. A shortfall of 731 ecosystem credits and 248 species credits exists. The proponent, therefore, proposes to secure an appropriate off-site location for biobanking use to compensate for the shortfall of available on-site credits.

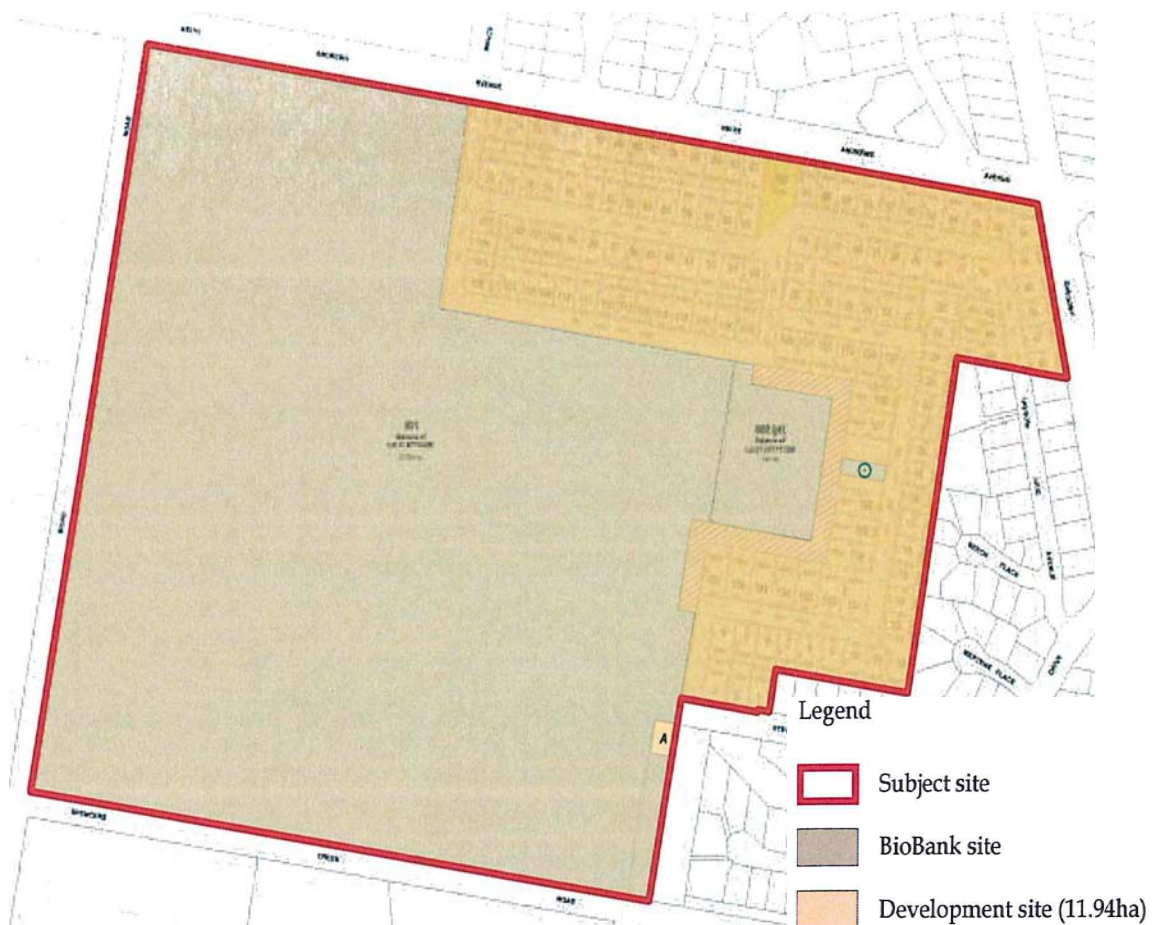
The proponent engaged GHD Pty Ltd (GHD) to investigate and source potential off-site locations containing vegetation types and communities that would be appropriate for biobanking use. Three potential off-site locations were identified whereby landowners indicated a willingness to proceed with a biobanking agreement over their land. Characteristics of the three potential sites, as described by GHD, are outlined within the Biodiversity Assessment Report (Appendix B2 of the EA – refer **Appendix C**).

The department's submission on the EA raised concern with the 2.8ha biobanking lot within the eastern portion of the site given it was proposed to be surrounded by perimeter roads and residential lots on all sides, and was also to be utilised as active and passive open space. As discussed under **Sections 5.1** and **5.2.1** above, the department requested the proponent submit a revised concept design with the aim of avoiding the fragmentation and isolation of vegetated land, and to provide a contiguous vegetated lot for on-site biodiversity offsetting. In addition, the department requested the proponent consider incorporating the 4.1ha residue lot as part of the on-site biodiversity offsetting area.

OEH advised in its submission that the proponent had pursued the least preferred option of compensating for impacts through the use of biobanking, and that further avoid options should be explored. OEH also sought further clarification in regards to the biobanking calculations.



The revised concept design submitted as part of the PPR incorporates adjoining Lots 800 and 801 to form a single contiguous area of 29.1ha for biodiversity offsetting. **Figure 10** below shows the proposed on-site biodiversity offsetting area.



**Figure 10: On-Site Biodiversity Offsetting Area (source: Preferred Project Report)**

The revised proposal submitted as part of the PPR also includes an overall increase of 6ha for on-site biodiversity offsetting. The 6ha increase subsequently required a re-calculation of the number of biodiversity credits the site could provide. A revised biobanking statement was submitted as part of the PPR which included a total of 665 ecosystem credits and 238 species credits required to be sourced in order to offset the impact of the revised proposal.

OEH advised in its submission on the PPR that a number of variations to the biobanking calculations were required. Variations related to the data entered into the biobanking credit calculator to obtain an accurate number of credits the site is capable of generating. In order to address this issue, the department recommends a modification to the concept plan requiring the re-calculation of biodiversity credits, to be carried out in consultation with OEH. It is recommended that OEH review, and indicate support in writing, of the re-calculated biodiversity credits prior to final concept approval being provided.

Having regard to the re-calculated on-site credits, the department further recommends the implementation of two distinct development phases for the site – described in the recommended terms of approval as:

- Phase 1 – relating to the number of lots capable of being developed based on the number of biodiversity credits generated by the on-site offsets; and
- Phase 2 – relating to the number of lots capable of being developed based on the number of biodiversity credits generated by the off-site offsets.

A recommended limit to the approval restricts the number of lots capable of being developed under Phase 1 until such time that satisfactory arrangements have been made for the securing of the on-site offsets. Similarly, a recommended limit to the approval restricts the number of lots capable of being developed under Phase 2 until such time that satisfactory arrangements have been made for the securing of the off-site offsets. The department considers that the recommended phasing arrangement ensures that the site will only be developed in sequence with the finalisation of biodiversity credits.

### 5.3 Site Zoning

The site is currently zoned part 2(a) (Residential "A" Zone) and part 1(d) (Rural (Investigation) "D" Zone). The proponent considers the site's current zoning arrangement has no regards for existing environmental features. Therefore, a more appropriate zoning arrangement for the site is proposed as part of the application by seeking that the Minister use the powers under section 75R(3) once the concept plan has been approved to amend the Kempsey LEP in order to reflect the concept plan as approved.

The rezoning as presented in the EA proposed to rezone a substantial area of existing 2(a) and 1(d) zoned land to 7(a) (Wetlands Protection Zone). Council advised in its submission on the EA that there is no justification to extend the 7(a) (Wetlands Protection Zone) which is located immediately to the south of the site. Council considered the 7(b) (Environmental Protection (Habitat) Zone) would be a more appropriate zoning considering the site's existing environmental qualities.

As part of the PPR, the proponent submitted a revised plan which has incorporated council's recommendation to designate the area proposed for biodiversity offsetting to 7(b), as opposed to 7(a). The department is supportive of the proposed amendment to the Kempsey LEP. **Figure 6** at **Section 2.2** above shows the current zoning arrangement of the site and proposed amendments, to be referred separately to the Minister once the concept plan is approved.

### 5.4 Bushfire Management

The subject site is located in a bushfire prone area with proposed future lots directly adjoining an expansive area of mature native forest vegetation. The proponent engaged Barry Eadie Consulting Pty Ltd to undertake a site inspection and prepare a Bushfire Hazard Assessment (BHA). The BHA was submitted as part of the EA, and was undertaken in accordance with the requirements of Planning for Bushfire Protection 2006 (PFBP) and AS 3959-2009: Construction of Buildings in Bush Fire Prone Areas.

The BHA provided several recommendations for any future residential development on the site, particularly in regards to appropriate Asset Protection Zones (APZs) and vegetation management within the proposed APZs.

The RFS did not raise concern with the proposed concept plan exhibited as part of the EA, however, it advised that any future development of the site should be subject to the requirements set out in PFBP.

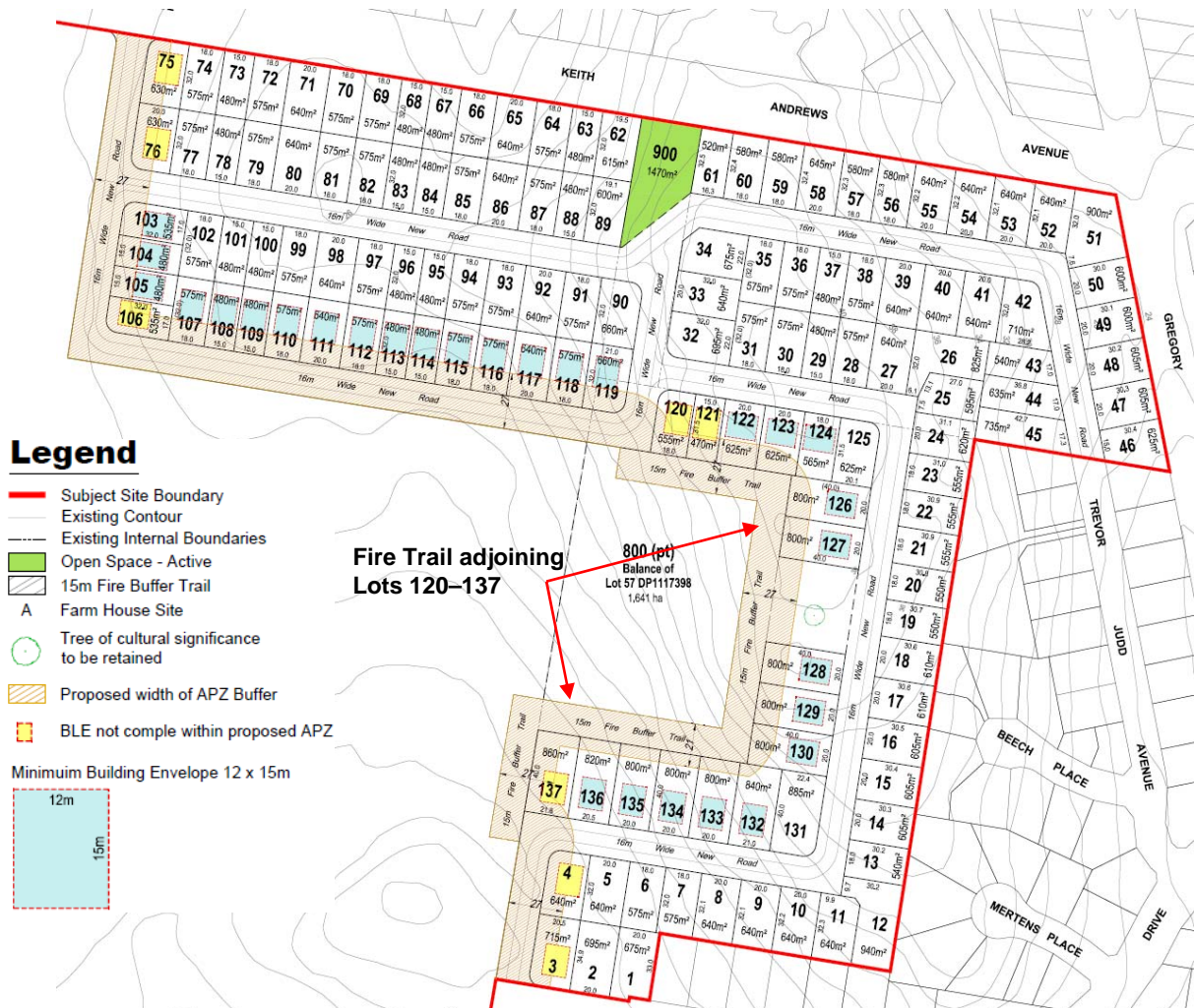
The revised subdivision layout submitted as part of the PPR aims to avoid the provision of any lots with dual road frontage. For those lots where there is no physical buffer to adjoining vegetation in the form of a perimeter road, a 15m wide fire trail buffer is proposed. **Figure 11** below shows the location of the proposed fire trail adjoining the rear boundaries of Lots 120 to 137.



An updated BHA was provided in response to the preferred concept design. The updated BHA provided the following recommendations:

- APZs be provided in accordance with section 4.4 of the updated BHA (provided at Appendix C of the PPR);
- any trees located within APZs should have canopies at a minimum of 2-5m apart, and not be within 2-5m of any building or dwelling;
- woodpiles, combustible material storage sheds, large quantities of garden mulch, and stacked flammable building materials should not be located within the Inner Protection Area of dwellings; and
- 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.

The department requested the proponent provide a plan of subdivision illustrating the recommended APZs and potential for a future building envelope on each lot – refer **Figure 11** below. It is noted that eight proposed lots are unable to contain a dwelling without encroachment within the APZ.



**Figure 11: Recommended Asset Protection Zones (source: RPS)**

In response to the revised concept design, the RFS advised that further information would be required upon assessment for any future residential development on the site. The RFS specifically requested a land survey report be prepared that identifies the effective slope under the bushfire hazard for a distance of 100m from proposed residential lots, as well as

subdivision plans that identify the required APZs to achieve a bushfire attack level (BAL) 29 in accordance with AS3959–2009: Construction of buildings in bushfire-prone areas.

The department notes that the proponent is seeking concept plan approval only, and that the definitive subdivision layout will be determined following an assessment of any future development application lodged. The department has therefore included, as recommended terms of approval, the requirements requested by the RFS to form part of any future development application. The recommended terms of approval in regards to bushfire management specifically require:

- a detailed bushfire hazard assessment be provided as part of any future application lodged, to be prepared in consultation with the RFS;
- future development of the site to be designed in accordance with PFBF and the recommendations provided in the updated Bushfire Hazard Assessment submitted as part of the PPR;
- the construction of dwellings within APZs is not permitted;
- all lots requiring APZs be encumbered to this effect with a Section 88B instrument under the *Conveyancing Act 1919*;
- a land survey report be prepared (in consultation with the RFS) that determines the effective slope of the land under the bushfire hazard for a distance of 100m from any lots;
- having regard for the surveyed effective slope, a plan is to be prepared that identifies the required APZ from the bush fire hazard to achieve a BAL 29 maximum construction standard; and
- a 15m wide fire trail buffer is required to the rear boundaries of Lots 120 to 137 inclusive, with information on how the fire trail is to be managed over the long term.

In addition, the department recommends a modification to the concept plan requiring the proposed subdivision layout to be reconfigured to ensure all lots are capable of containing a dwelling outside of the identified APZ. Lots 3, 4, 75, 76, 106, 120, 121, and 137 are therefore not approved as part of the application.

The department is satisfied that the recommended requirements for future applications will ensure that any future residential lots developed on the site will be provided with an appropriate level of bushfire protection.

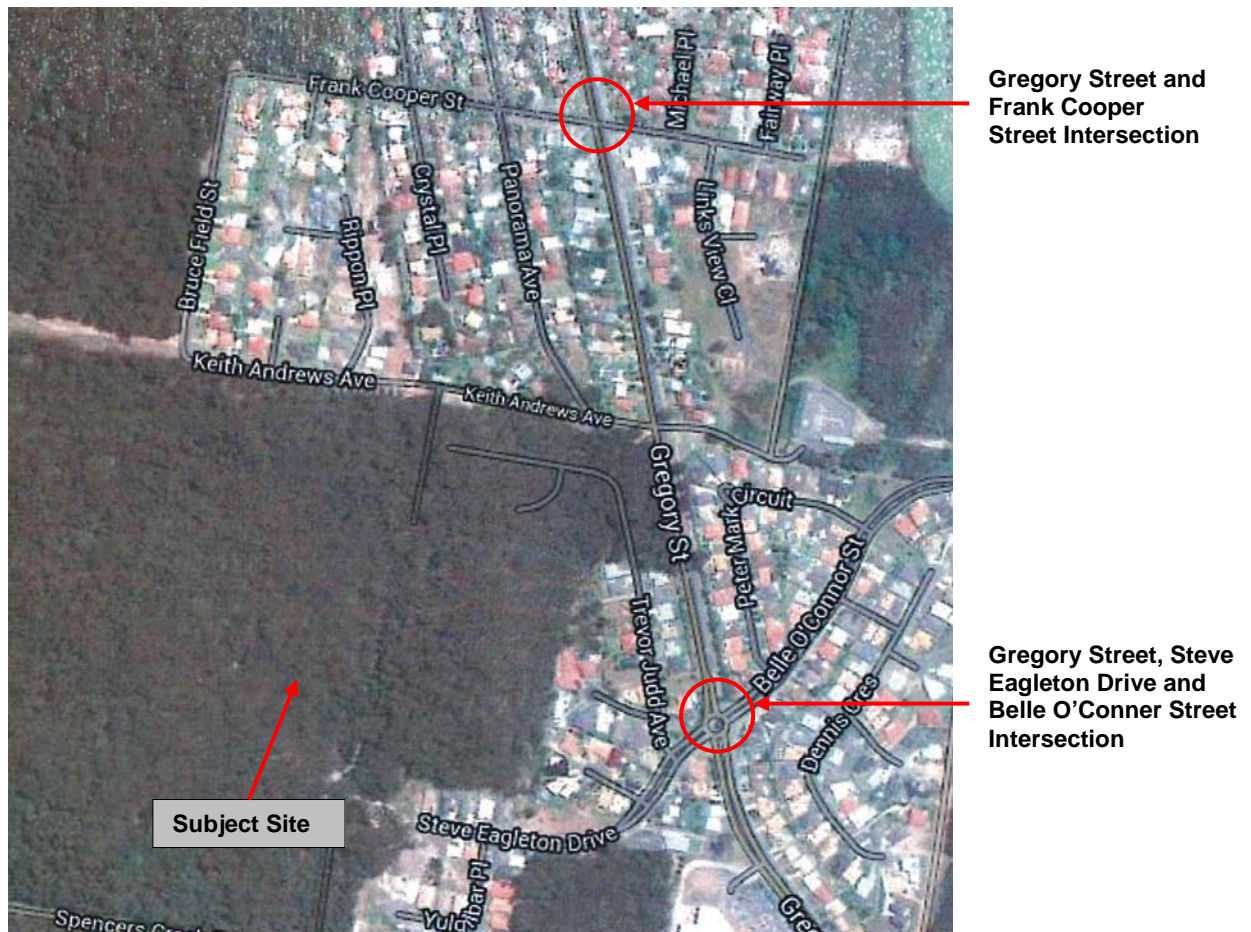
## 5.5 Traffic and Access

Access to the site is proposed via the continuation of Trevor Judd Avenue, and new road network connections with Steve Eagleton Drive and Keith Andrews Avenue. The proponent engaged RoadNet Pty Ltd to prepare a Traffic Impact Assessment (TIA) for the proposal.

The TIA assessed the impact of predicted traffic volumes on existing intersections with Gregory Street, as well as the road network capacity of both Gregory Street and Steve Eagleton Drive. Vehicle movements were predicted by RoadNet following a manual traffic count undertaken in December 2010.

The TIA was prepared for a proposal consisting 154 residential lots. The PPR proposes a reduced yield of 137 lots. Given there are 17 fewer lots proposed as part of the application, the predicted traffic volumes generated by the development are, therefore, predicted to be marginally less than those predicted within the TIA.

**Figure 12** below shows the location of the two existing intersections assessed as part of the TIA. It is noted that Keith Andrews Avenue between Rippon Place and Gregory Street is a section of unmade road, and therefore, the intersection of Gregory Street with Keith Andrews Avenue did not require assessment.



**Figure 12: Gregory Street Intersections with Frank Cooper Street and Steve Eagleton Drive (Source: Google Maps)**

### Intersection Analysis

The intersection of Gregory Street, Steve Eagleton Drive and Belle O'Connor Street is controlled by an existing four-leg roundabout. Traffic scenarios for the AM and PM peak periods at the intersection were modelled using SIDRA analysis. Modelling of the following scenarios was undertaken:

- the existing traffic volumes (2010 volumes);
- the predicted 2027 traffic volumes without the proposed development; and
- the predicted 2027 traffic volumes with the proposed development.

According to the TIA, a current volume of 645 vehicles (AM peak) and 747 vehicles (PM peak) exists at the Gregory Street, Steve Eagleton Drive, and Belle O'Connor Street roundabout, resulting in a Level of Service (LoS) 'A'. The predicted traffic volume generated by the fully developed site (assessed for a proposal consisting of 154 lots) is 1,386 vehicle movements per day, adding approximately 390 additional vehicle movements through the roundabout during AM and PM peak periods. The SIDRA modelling undertaken as part of the TIA indicates that even with future traffic numbers generated by the proposal (once fully developed), the roundabout is expected to continue to operate at a LoS 'A'.

The intersection of Gregory Street with Frank Cooper Street to the north of the site is controlled by 'Give Way' signs with priority given to through traffic on Gregory Street. The existing residential catchment (bound by Keith Andrews Avenue, Bruce Field Street, Frank Cooper Street and Gregory Street) consists of approximately 90 residential lots, generating approximately 810 vehicle trips per day. The proposed development is predicted to generate an additional 140 trips per day along Frank Cooper Street via Bruce Field Street. The TIA has considered the Austroads Guide to Traffic Management in assessing predicted traffic volumes of the Gregory Street / Frank Cooper Street intersection. The TIA states that the



current traffic volumes are not significant, and that the Austroads guidelines indicate adequate capacity of the intersection to cater for future traffic volumes generated by the development.

In summary, the TIA considered there to be adequate capacity at both intersections to cater for additional traffic generated by the proposed development, without the need for road widening works or road network upgrades.

#### Road Network Capacity

The TIA assessed the capacity of both Gregory Street and Steve Eagleton Drive to cater for future traffic volumes generated by the development.

Gregory Street currently operates at a LoS 'A' during the PM peak with traffic counts of 388 vehicles (southbound). Future traffic volumes generated by the proposed development, combined with a predicted population growth for South West Rocks of 2% annually, will result in Gregory Street operating at a LoS 'B' during peak periods.

Steve Eagleton Drive is a collector road with capacity of approximately 1,500 vehicles per hour, per lane.

The TIA considered there to be adequate capacity for both Gregory Street and Steve Eagleton Drive to cater for current and future traffic volumes generated by the development, without the need for road widening works or road network upgrades.

RMS advised that there were no objections to the proposed concept plan. It was, however, considered that the TIA provided only minimal analysis of the Gregory Street / Frank Cooper Street intersection. RMS subsequently provided a number of recommendations for any future development applications, including:

- existing and proposed turn movements at all affected intersections be considered against the warrants provided in the Austroads Guide to Road Design Part 4A;
- consideration be given to additional works and/or contributions made toward improvement of the Gregory Street / Frank Cooper Street intersection;
- suitable connections to existing pedestrian and cyclists networks be provided; and
- road and transport infrastructure improvements be fully funded by the proponent though council's Section 94 contributions plan.

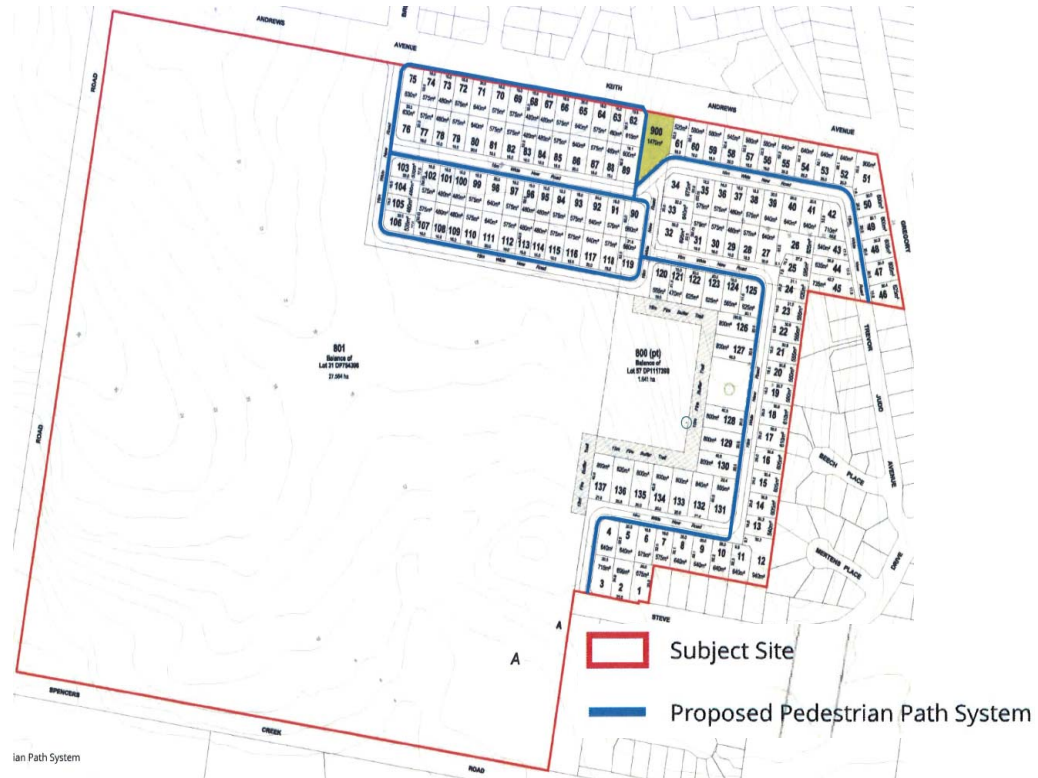
In response to the revised proposal presented in the PPR, RMS maintained its position that further consideration is required to assess the level of impact of increased traffic on the identified intersections, particularly the intersection of Frank Cooper Street with Gregory Street.

In order to address the concerns raised by RMS, the department has recommended the following terms of approval, required as part of a traffic assessment to be submitted with any future development application;

- consideration to the impacts of traffic generated by the developed site on the intersection of Trevor Judd Avenue with Steve Eagleton Drive, including cumulative impacts on the functioning of the existing Steve Eagleton Drive, Gregory Street, and Belle O'Conner Street roundabout;
- for any application that proposes to establish a road network connection to Keith Andrews Avenue, further investigation with regards to the level of impact likely to occur at the intersection of Gregory Street with Frank Cooper Street having regard to the warrants provided in Austroads Guide to Road Design Part 4A; and
- an analysis of the potential implications of Bruce Field Street becoming a rat-run for future traffic accessing Gregory Street via Frank Cooper Street.

In response to future road and transport infrastructure improvements, the department is satisfied that the proponent will be required to pay monetary contributions towards traffic and transport management under the South West Rocks Section 94 Contributions Plan (February 2008) as part of any future development approval .

In response to pedestrian and cyclist connections, **Figure 13** below illustrates the proposed pedestrian pathway network throughout the site. A recommended term of approval requires any future development applications to make provisions for pedestrian pathways, in accordance with the plan shown at **Figure 13**.



**Figure 13: Proposed Pedestrian Pathway Network (Source: Preferred Project Report)**

The department is satisfied that the surrounding road network has capacity to cater for the increased traffic generated by the developed site. Nonetheless, it is considered that the proponent should be required to undertake a more detailed analysis of potential implications on the functioning of existing intersections to determine whether road network upgrades should be conditioned as part of any future approval of residential lots. This requirement is reflected in the department's recommended terms of approval, to be included as part of any future development application to develop the site.

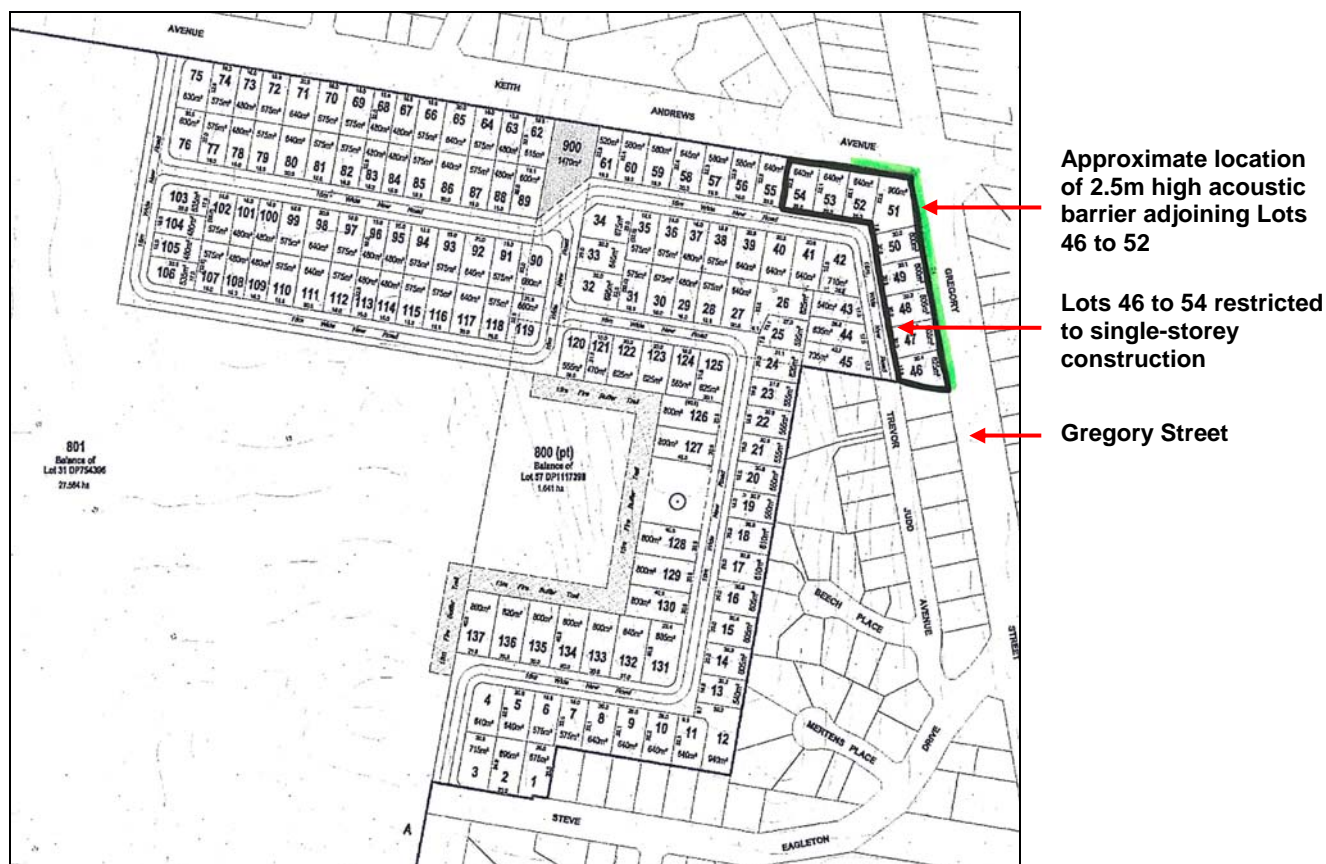
## 5.6 Noise Impacts

Potential noise impacts upon future residents of the subdivision were assessed in an Acoustic Assessment prepared by Hunter Acoustic and provided as part of the EA.

The Acoustic Assessment identified road traffic noise emanating from Gregory Street (a sub-arterial road) as the primary noise impact upon future residents within the subdivision. In order to address this concern, it was recommended that:

- a 2.5m high acoustic barrier be provided along the rear boundaries of proposed lots adjoining Gregory Street; and
- a single-storey construction limit be applied to proposed Lots 1 to 10 (the equivalent of Lots 46 to 54 on plans submitted as part of the PPR).

**Figure 14** below shows the approximate location of the acoustic barrier (in green) as recommended in the Acoustic Assessment, and those lots which are recommended for single-storey construction only.



## 5.7 Public Open Space Provisions

The concept plan layout, as presented in the EA, proposed 1.6ha of public open space including a 0.25ha active open space park, and 1.4ha of adjoining land designated as passive open space. All 1.6ha of proposed open space was also nominated for biodiversity offsetting. **Figure 7** under **Section 5.1** shows the location of public open space proposed as part of the EA.

Concern was raised by the department, council and the general public regarding the provision of open space and recreational usage within area also designated for biodiversity offsetting. The department did not consider this to be an environmentally sustainable outcome for the site. Council advised that the proposed biobanking agreement over the land severely restricts its use as public open space. The proponent was subsequently requested to reconsider the public open space provisions proposed as part of the application.

The revised subdivision layout presented in the PPR proposes an alternative 1,470m<sup>2</sup> active open space park, located in the northern portion of the site and adjoining the southern side of Keith Andrews Avenue – as shown at **Figure 4** under **Section 2.1** above. It is noted that the proposed parkland is not included as part of the site's proposed on-site biodiversity offsetting area.

In response to the PPR, council advised that the amount of open space proposed is insufficient to service the future population of the site. Council's Open Space Strategy requires a minimum area of 1.13ha of open space per 1000 head of population, effectively requiring the provision of 3,405m<sup>2</sup> of open space (based on 137 residential lots and a rate of 2.2 persons per household). Council also advised that the grading of Lot 900 (with a fall of 17%) is considered too steep to be an effective neighbourhood park, and that there were no public facilities proposed.

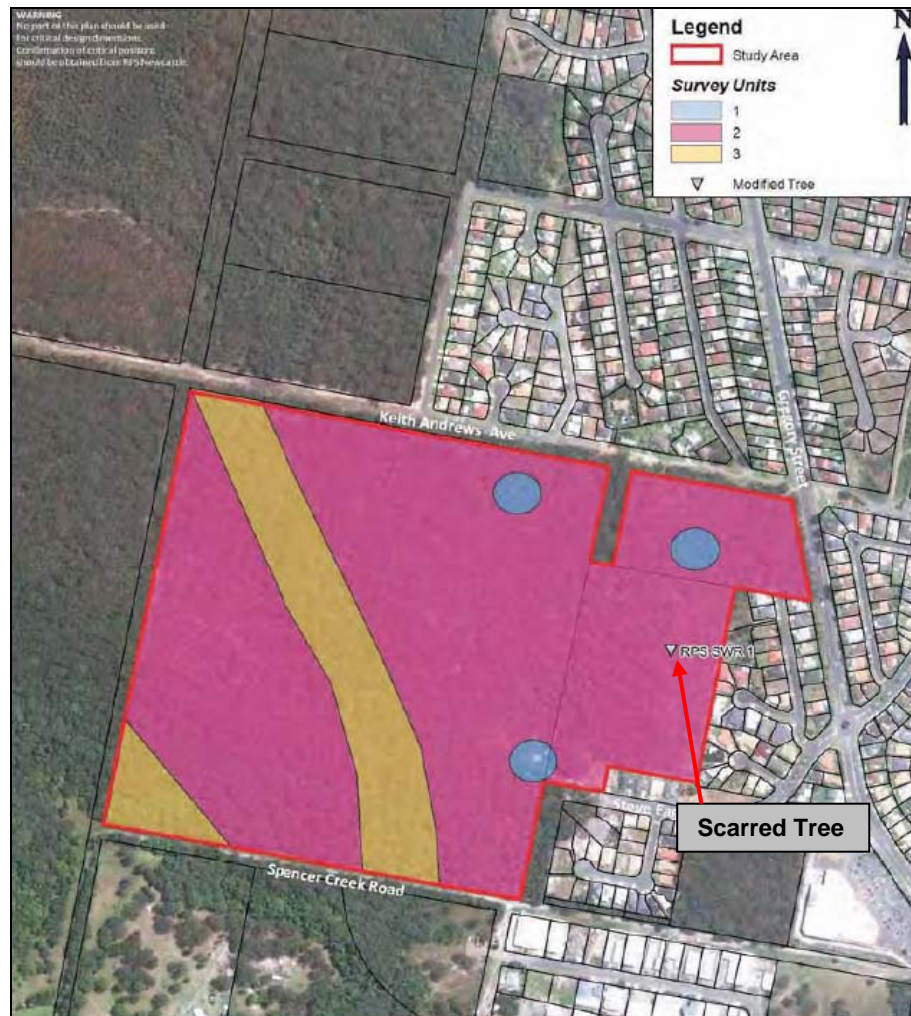
To address the issues associated with the proposed public open space provisions, the department has recommended the following modifications to the concept plan:

- proposed Lot 900 (active open space park) be deleted;
- an alternative location for public open space be provided in a centrally-located area, with the specific size and location of parkland to be determined in consultation with council;
- all open space be provided within the development footprint proposed as part of the PPR, with no further encroachment upon areas of existing vegetation; and
- all open space be provided with appropriate connections to pedestrian and cyclists networks, and contain public facilities.

## 5.8 Cultural Heritage

The proponent engaged RPS to undertake a Cultural Heritage Assessment of the site. A scarred tree consistent with the removal of bark by Aboriginal people was located within the eastern portion of the site, shown at **Figure 15** below. It is noted that there were no items of European cultural heritage significance identified within the study area.





**Figure 15: Location of Scarred Tree (source: RPS, Cultural Heritage Assessment, 2012)**

RPS recommended the scarred tree be afforded protection through a sectioned off area of 10m by 10m established around it. To ensure the scarred tree is afforded protection once the site is to be developed, the department has recommended a term of approval requiring an Aboriginal Cultural Heritage Management Plan be prepared for the scarred tree, to be submitted as part of the first development application for any physical works proposed on the site. The Plan is required to incorporate the recommendations outlined in the Cultural Heritage Assessment prepared by RPS, and include details of the 10m by 10m sectioned off area established around the site.

OEH raised no concerns with regard to the Aboriginal cultural heritage assessment, however, recommended a number of standard terms of approval, including requirements to:

- consult with and involve all registered Aboriginal representatives of the project in the ongoing management the site's Aboriginal cultural heritage values;
- halt all works in the immediate area should ground disturbances identify any new Aboriginal object(s), with a suitably qualified cultural heritage specialist and representatives of the Aboriginal community contacted to determine the significance of the find;
- halt all works in the event that human remains are located, with no action to be undertaken until NSW Police have provided written notification. If the remains are identified as Aboriginal, the proponent must contact OEH and registered Aboriginal representatives of the project; and
- develop an Aboriginal Cultural Education Induction Program must be developed for the induction of all personnel and contractors involved in the construction of the project.

The proponent has included OEH's recommended terms of approval as part of the Statement of Commitments.

The department is satisfied that the proposed subdivision layout has been designed having regard for the existing heritage site. The preparation of an Aboriginal Cultural Heritage Management Plan and implementation of OEH's recommended terms of approval as listed above will ensure the site's existing cultural heritage values are maintained.

## **5.9 Visual Impacts**

The visual impact of the proposed subdivision, particularly upon view when entering the South West Rocks township from the south was a concern raised in the public submissions. The site contains a prominent vegetated ridge extending through the eastern portion of the site. The proponent has advised that the existing ridgeline has been retained as part of the proposal to act as a backdrop to future residential development. **Figure 16** below shows views of the site from a number of nearby surrounding localities, including views of the existing ridgeline.



Photo 1: Looking towards the site from Gregory Street north of Frank Cooper Street



Photo 2: Looking towards the site from the intersection of Gregory Street and Keith Andrews Avenue



Photo 3: Looking towards the site from Trevor Judd Ave



Photo 4: Looking towards the site from Beech Lane

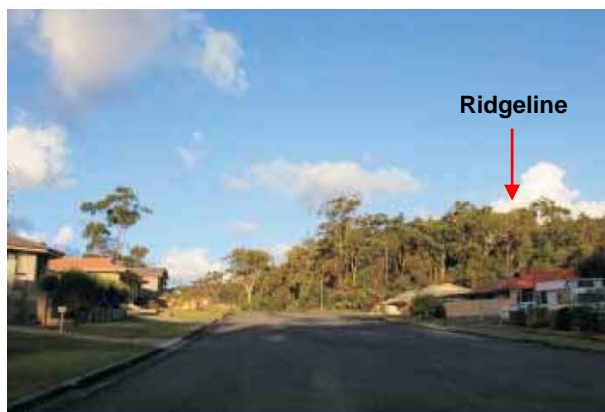


Photo 5: Looking towards the site from Steve Eagleton Drive



**Figure 16: Views of the Site from Surrounding Localities (Source: Environmental Assessment)**

The department acknowledges that the development will likely be visible from the surrounding locality given its location on undulating terrain. However, it is also noted that the proposed subdivision will be an extension to the existing residential settlement and is not out of character with the surrounding locality. The highest part of the ridgeline which is visible upon entering the township from the south is to be maintained as part of the proposal. The department is satisfied that the proposed development will not detract from the existing low density residential character of the surrounding area, and considers that a satisfactory level of visual amenity will be maintained.

## 6. MODIFICATIONS TO THE CONCEPT PLAN AND FUTURE DEVELOPMENT ASSESSMENT REQUIREMENTS

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The department has recommended a number of modifications to the concept plan proposed as part of the PPR. The recommended modifications include:

- re-calculation and finalisation of biodiversity offsets, in consultation with OEH. Having regard to the re-calculated credits, satisfactory arrangements are required toward securing an appropriate off-site biodiversity offsetting location;
- deleting Lots 3, 4, 75, 76, 106, 120, 121, and 137. Consolidation of these lots or reconfiguration of the subdivision layout is required to ensure all lots are capable of containing a dwelling outside of the identified APZs; and
- deleting Lot 900 (active open space lot). A alternative centrally-located open space park is to be provided with the size and location of the park determined in consultation with council, and in accordance with council's Location Criteria – South West Rocks Open Space Strategy.

In order to ensure that the future subdivision of the site is carried out in a manner that is consistent with the concept plan, the department has recommended a number of future development assessment requirements, required to be included and considered as part of any future development application lodged. The requirements have regard to the following:

- bushfire management, including provision of fire trails and APZs;
- increased traffic generation, including an assessment of impacts at affected intersections;
- traffic noise attenuation measures;
- stormwater management, including the implementation of water sensitive urban design measures, erosion and sediment control measures, and water quality monitoring;
- earthworks and vegetation clearing;
- conservation of Aboriginal cultural heritage;
- public opens space provisions;
- provision of reticulated services; and
- affordable housing opportunities.

The recommended modifications to the concept plan and requirements for future development applications are detailed in the terms of approval included at **Appendix A**.



## 7. CONCLUSION

The department has assessed the concept plan application on its merits and has considered the issues raised in public and agency submissions. The key issues raised during the exhibition of the proposal have been thoroughly assessed and the department is satisfied that an acceptable level of environmental performance and sustainability can be achieved. The recommended terms of approval and the proponent's Statement of Commitments ensures that any detrimental impacts associated with the proposal are mitigated or appropriately managed.

## 8. RECOMMENDATION

The concept plan proposal has largely demonstrated consistency with the applicable environmental planning instruments and is consistent with the Mid North Coast Regional Strategy. The department considers the proposal will achieve a satisfactory level of environmental performance and is in the public interest. On these grounds, it is recommended the concept plan application (10\_0103) be approved, subject to the recommended terms of approval provided at **Appendix A**.

Prepared by Brent Devine  
A/Senior Environmental Planner  
Metropolitan and Regional Projects North

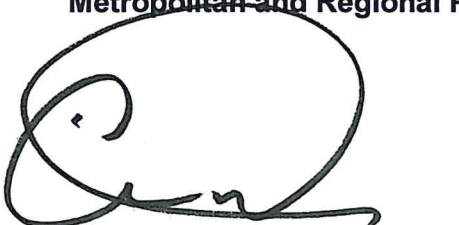
Endorsed by:



Joanna Bakopanos  
**Team Leader**  
**Metropolitan and Regional Projects North**



Heather Warton  
**Director**  
**Metropolitan and Regional Projects North**



CHRIS WILSON

ED DASA

25.7.13



**APPENDIX A    INSTRUMENT OF APPROVAL – CONCEPT PLAN  
APPLICATION 10\_0103**

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## APPENDIX B     DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

### Attachment 1 Director-General's Environmental Assessment Requirements

#### Section 75F of the *Environmental Planning and Assessment Act 1979*

<b>Application number</b>
10_0103
<b>Project</b>
'Settlers Ridge' Concept Plan for 220 lot residential and 19 hectare rural lot Subdivision and Biobanking Proposal, Steve Eagleton Drive, South West Rocks.
<b>Location</b>
Lot 223 DP754396, Lot 57 DP 1117398 and Lot 31 DP 754396, Gregory Street and Steve Eagleton Drive, Settlers Ridge, South West Rocks, Kempsey LGA.
<b>Proponent</b>
SJ Connelly CPP Pty Ltd
<b>Date issued</b>
27 August 2010
<b>General requirements</b>
<p>The Environmental Assessment (EA) for the <b>Concept Plan Application</b> must include:</p> <ol style="list-style-type: none"><li>1. An executive summary;</li><li>2. An outline of the scope of the project including:<ul style="list-style-type: none"><li>• any development options;</li><li>• justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest;</li><li>• outline of the staged implementation of the project if applicable;</li></ul></li><li>3. A thorough site analysis including constraints mapping and description of the existing environment;</li><li>4. Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans;</li><li>5. Consideration of the consistency of the project with the objects of the <i>Environmental Planning and Assessment Act 1979</i>;</li><li>6. Consideration of impacts, if any, on matters of National Environmental Significance under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>;</li><li>7. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation including biobanking proposals and monitoring measures to be implemented to minimise any potential impacts of the project;</li><li>8. The plans and documents outlined in <b>Attachment 2</b>;</li><li>9. A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading; and</li><li>10. An assessment of the key issues specified below and a table outlining where in the EA these key issues have been addressed.</li></ol>

Key Issues	
The EA must address the following key issues:	
1. Strategic Planning	
1.1	Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.
1.2	Provide a planning proposal for the proposed re-zoning. In particular provide detail on why part of the site is proposed to be rezoned as Rural rather than Environmental Protection under the <i>Kempsey Local Environmental Plan 1987</i> considering the environmental qualities contained in that part of the site.
2. Subdivision Design, Layout and Desired Future Character	
2.1	Demonstrate the consistency of the proposal with the character of existing development in terms of the locality, street frontage, scale, future built form controls, aesthetics, energy and water efficiency and safety. Reference should be made to Council's <i>Development Control Plan No. 31 Energy Smart Homes</i> (subdivision component), <i>Development Control Plan Crime Prevention through Environmental Design</i> and <i>Development Control Plan No.22 Local Housing Strategy</i> .
2.2	Demonstrate the consistency of the proposed subdivision design and layout with the <i>Coastal Design Guidelines for NSW</i> , <i>NSW Coastal Policy 1997</i> and <i>SEPP 71 – Coastal Protection</i> .
2.3	In terms of minimum lot sizes demonstrate consistency with the <i>Kempsey Local Environmental Plan 1987</i> .
2.4	Demonstrate that the provision of both passive and active open space is consistent with the <i>South West Rocks Open Space Strategy</i> .
2.5	Demonstrate consistency with recommendations to reduce urban/rural land use conflict as outlined in <i>Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast</i> (Southern Cross University 2007).
3. Visual Impact	
3.1	Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular address loss of views from public places and cumulative impacts.
4. Infrastructure Provision	
4.1	Prepare an Infrastructure Servicing Strategy that addresses existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.
4.2	Address and provide the likely scope of any planning agreements and/or development contributions with Council/ Government agencies (including relevant community/state infrastructure contributions).
5. Traffic and Access	
5.1	Prepare a Traffic Impact Study in accordance with Table 2.1 of the RTA's <i>Guide to Traffic Generating Developments</i> .
5.2	The Traffic Impact Study should include a justification for the proposed collector/link road.
5.3	The Traffic Impact Study is to provide a conceptual plan depicting potential pedestrian and cyclist movement, public transport and relevant road improvements to the adjacent local road network. Reference should be made to Council's <i>2003 Pedestrian Access Mobility Plan</i> , <i>Kempsey and South West Rocks</i> and <i>DCP 36 Engineering Guidelines for Subdivision and Development</i> .

<b>6. Hazard Management and Mitigation</b>	
<i>Contamination</i>	
6.1	Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of <i>SEPP 55 – Remediation of Land</i> .
<i>Bushfire</i>	
6.2	Address the requirements of <i>Planning for Bush Fire Protection 2006</i> (RFS).
<i>Geotechnical</i>	
6.3	Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.
<i>Flooding</i>	
6.4	Provide an assessment of any flood risk on site.
<b>7. Water Management</b>	
7.1	The EA should demonstrate consistency with the intent and targets outlined in the <i>Northern Rivers Catchment Action Plan</i> . Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles which addresses impacts on the surrounding environment, including Spencers Creek and indirectly Saltwater Lagoon and Creek, drainage and water quality controls for the catchment, and erosion and sedimentation controls at construction and operational stages.
7.2	Prepare a conceptual design layout plan for the preferred stormwater treatment train showing location, size and key functional elements of each part of the system and that post development flows reflect pre-development flows in terms of quality and quantity.
7.3	Assess the impacts of the proposal on surface water hydrology and quality during both construction and occupation of the site.
7.4	Consider the nature and profile of the groundwater regime under the site, including any hydrologic impacts which would affect its depth or water quality, result in increased groundwater discharge, impact on the stability of potential acid sulfate soils in the vicinity, or affect groundwater dependent native vegetation.
<b>8. Heritage and Archaeology</b>	
8.1	Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance. The assessment must address the information and consultation requirements of the draft <i>Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation</i> (DEC 2005).
<b>9. Biodiversity</b>	
9.1	<p>A Biodiversity Assessment Report should be prepared which includes an assessment of the development site and the proposed Biobanking site with respect to biodiversity values. All components of the biodiversity assessment must be undertaken in accordance with the <i>BioBanking Assessment Methodology and Credit Calculator Operational Manual</i> (DECCW, 2008) and be undertaken by an accredited BioBanking Assessor. The Biodiversity Assessment Report should (but not be limited to):</p> <ul style="list-style-type: none"> <li>• set out the ecosystem credits and species credits required to be offset;</li> <li>• set out how the ecosystem and/or species credits are going to be secured and obtained and the intended mechanism/s by which offsets are proposed to be provided e.g. through retirement of biodiversity credits, reservation of land, or other mechanisms;</li> <li>• demonstrate how all options have been explored to avoid red flag areas;</li> <li>• if the ecosystem or species credits cannot be obtained, provides appropriate alternative options to offset expected impacts; and</li> <li>• include all relevant BioBanking files (e.g. *.xml output files), data sheets and documentation (including maps, aerial photographs, GIS shape files, other remote sensing</li> </ul>

9.2	imagery etc.) to ensure DECCW can conduct an appropriate review of the assessment. Where appropriate, likely impacts (both direct and indirect) on any adjoining and/or nearby DECCW estate reserved under the <i>National Parks and Wildlife Act 1974</i> or any marine and estuarine protected areas under the <i>Fisheries Management Act 1994</i> or the <i>Marine Parks Act 1997</i> should be considered. Refer to the <i>Guidelines for developments adjoining land and water managed by the Department of Environment, Climate Change and Water</i> (DECCW, 2010).
<b>10. Noise</b>	
10.1	The EA should address potential noise impacts, in particular road traffic noise, for future residents and appropriate mitigation measures. The proposal must be designed, constructed, operated and maintained so that there are no adverse impacts from noise (including traffic noise).
<b>11. Socio-economic Impacts</b>	
11.1	Provide a social impact assessment for the project. Address the social and economic context of the development in terms of infrastructure requirements, public transport, affordable housing, community services and facilities (including schools and medical services).
<b>Consultation</b>	
You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment:	
(a) <i>Agencies or other authorities:</i>	
<ul style="list-style-type: none"> <li>• Kempsey Shire Council;</li> <li>• Department of Planning North Coast Office (Grafton);</li> <li>• Department of Environment, Climate Change and Water;</li> <li>• NSW Rural Fire Service;</li> <li>• Department of Water and Energy;</li> <li>• Roads and Traffic Authority;</li> <li>• Land and Property Management Authority;</li> <li>• Northern Rivers Catchment Management Authority;</li> <li>• Kempsey Local Aboriginal Land Council; and</li> <li>• infrastructure providers.</li> </ul>	
(b) <i>Public:</i>	
Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.	
The consultation process and the issues raised should be described in the Environmental Assessment.	
<b>Deemed Refusal Period</b>	
120 days	



## **APPENDIX C    ENVIRONMENTAL ASSESSMENT**

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See also the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=4145](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4145)

## **APPENDIX D    PREFERRED PROJECT REPORT**

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See also the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=4145](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4145)

## APPENDIX E      CONSIDERATION   OF   ENVIRONMENTAL   PLANNING INSTRUMENTS

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The concept plan application has been assessed against the following Environmental Planning Instruments:

### **State Environmental Planning Policy (Major Development) 2005**

Concept plan authorisation was granted under State Environmental Planning Policy (Major Development) 2005 on 8 August 2010. Authorisation was granted by the Deputy Director-General, Development Assessment & Systems Performance as delegate of the Minister. The Major Development SEPP is been further discussed under **Section 3.1**.

### **State Environmental Planning Policy No. 44 – Koala Habitat Protection**

State Environmental Planning Policy No. 44 – Koala Habitat Protection aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas.

The Biodiversity Assessment Report submitted with the EA included a Koala habitat assessment. It was determined that the site does not contain core Koala habitat as defined under Section 8(3) of SEPP 44. The department has considered SEPP 44 as part of the assessment of the proposal and it is determined that a Koala Plan of Management is not required for the site. SEPP 44 is further discussed under **Section 5.2.1**.

### **State Environmental Planning Policy No. 71 – Coastal Protection**

The site is located within the coastal zone and therefore the provisions of State Environmental Planning Policy No. 71 – Coastal Protection apply. SEPP 71 aims to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast. The following matters of consideration have been assessed as part of the application (as discussed further under **Section 5**):

- measures to conserve animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats;
- existing wildlife corridors and the impact of development on these corridors; and
- measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.

## **APPENDIX F      PUBLIC SUBMISSIONS**

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See the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=4145](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4145)

## **APPENDIX G    POLITICAL DONATIONS DISCLOSURE**

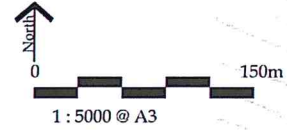
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




## **APPENDIX H    CONCEPT PLANS SUBMITTED FOR APPROVAL**

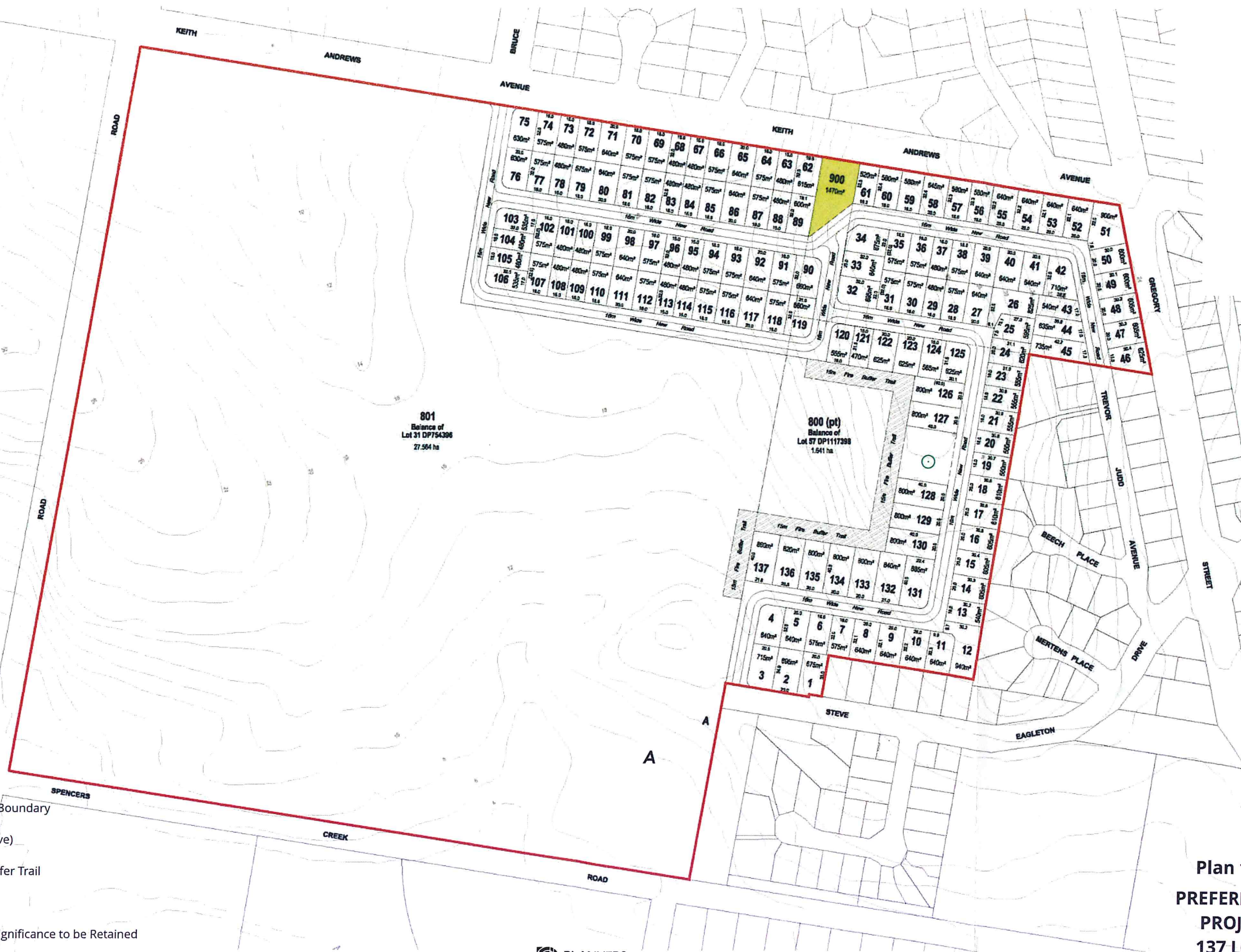
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Source: RPS Dwg 102457-18A



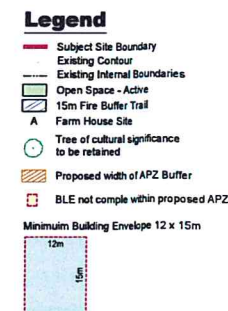
Legend

-  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





REVISION

**Note**  
All dimensions and areas are approximate only, and are subject to survey and Council approval.  
Dimensions have been rounded to the nearest 0.1 metres.  
The boundaries shown on this plan should not be used for final detailed engineers design.  
Contours and adjoining information digitized from Kempsay Shire Council Map of South West Rocks.

CLIENT	<b>SETTLERS RIDGE JOINT VENTURE</b>
PROJECT	<b>SETTLERS RIDGE</b>

PROPOSED LAYOUT OVER  
LOTS 31 & 223 ON DP 754396, LOT 57 ON  
DP 1117398 & CERTAIN CROWN LAND  
SOUTH WEST ROCKS

Level Datum	
Origin	

Date	21 JUNE 2013	
Comp By	FK	
DWG Name	102457-20 APZ Proposed	
Local Authority	KEMPSEY SHIRE COUNCIL	
Locality	SOUTH WEST ROCKS	
JOB Reference	102457	
Scale	1 : 1000	Sheet A0
Plan Ref	102457-20	Rev

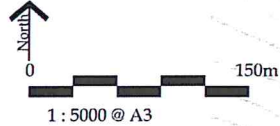
RPS

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W [resorps.com.au](http://resorps.com.au)

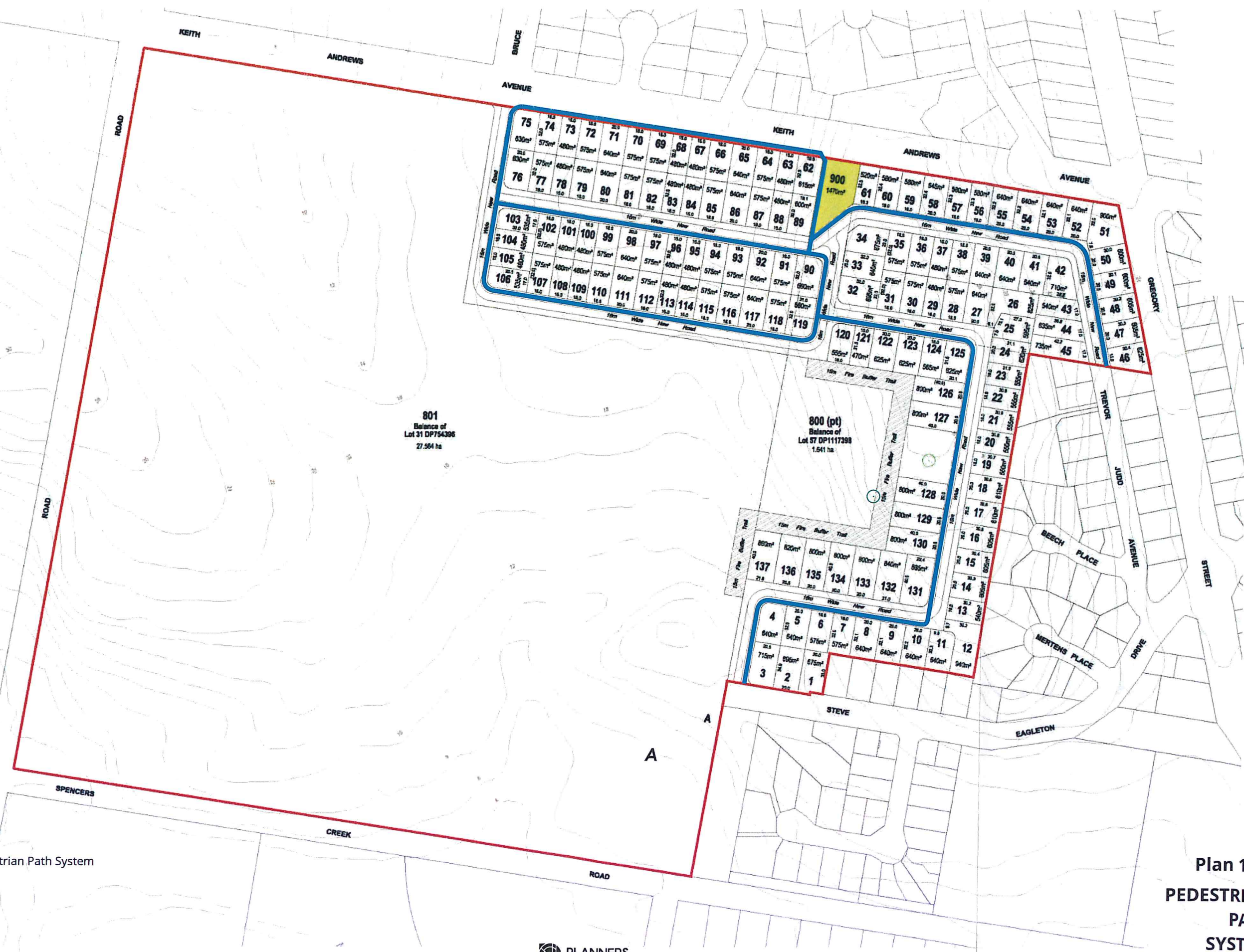
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Source: RPS Dwg 102457-18A



- Legend
-  Subject Site
  -  Proposed Pedestrian Path System



Plan 11.2  
PEDESTRIAN  
PATH  
SYSTEM