



## COMPLIANCE AND USAGE STATEMENT

This S.75W Modification Application has been prepared and submitted under the *Environmental Planning and Assessment Act 1979* by:

### Preparation

Name: Stephen Connelly  
Company: PLANNERS NORTH  
Address: P.O. Box 538  
Lennox Head NSW 2478  
In respect of: Concept Approval 10\_0103

### Application

Proponent: Eric Norman Developments Pty Ltd, Jaclesta Pty Ltd, Machro Pty Ltd & Shannon Pacific Pty Ltd.  
Address: C/ - PLANNERS NORTH  
P.O. Box 538, Lennox Head NSW 2478  
Land to be developed: Lots 31 and 223 DP 754396 and Lot 57 DP 1117398, Steve Eagleton Drive, South West Rocks.  
Proposed development: 140 lot residential subdivision and BioBanking project.  
Environmental Assessment: S.75W Modification.

### Certificate

I certify that I have prepared the content of this Modification Application and to the best of my knowledge:

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

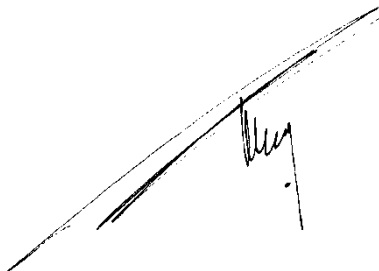
### Notice

The plans to this document were prepared for the exclusive use of the proponent and are not to be used for any other purpose or by any other person or corporation. PLANNERS NORTH accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for purposes other than the proposed development.

Plans accompanying this document may not be reproduced, stored or transmitted in any form unless this note is included.

PLANNERS NORTH declares that it does not have, nor expects to have, a beneficial interest in the subject project. Nor does it have any reportable political donations within the meaning of Section 147(3) of the Act to declare.

No extract of text from this document may be reproduced, stored or transmitted in any form without the prior consent of PLANNERS NORTH.



Stephen Connelly FPIA CPP



ABN 56 291 496 553  
6 Byron Street, PO Box 538  
Lennox Head NSW 2478

T: 1300 66 00 87  
E: [steve@plannersnorth.com.au](mailto:steve@plannersnorth.com.au)  
W: [plannersnorth.com.au](http://plannersnorth.com.au)

Ref: 1292-797

Date: October 2014

## TABLE OF CONTENTS

1.	INTRODUCTION	1
1.1	Preamble	1
1.2	Structure of the Report and its Scope	1
1.3	History of Application	1
1.4	Need for the Modification	1
1.5	Repeal of Part 3A	2
1.6	Site Inspection	3
1.7	Further Information	3
2.	MODIFICATION SOUGHT	4
2.1	General Description of Modification	4
2.2	Specific Details of Modification Sought	4
2.3	Schedule 1	4
2.4	PART A – NOTES RELATING TO THE DETERMINATION OF 10_0103	5
2.5	PART B – DEFINITIONS	5
2.6	Schedule 2	6
2.7	PART B . MODIFICATIONS TO THE CONCEPT PLAN	8
2.8	PART C . REQUIREMENTS FOR FUTURE APPLICATIONS	9
2.9	SCHEDULE 3 - STATEMENT OF COMMITMENTS	14
3.	CONSULTATION	19
3.1	Department of Planning & Infrastructure	19
3.2	Kempsey Shire Council	19
3.3	Local Aboriginal Community	19
3.4	Office of Environment & Heritage	19
3.5	BioBank Credit Suppliers	20
4.	CONCLUSION	21

## ANNEXURES

ANNEXURE A	Land Owner Authorities	22
ANNEXURE B	Revised Plans	27
ANNEXURE C	Development agreement	31
ANNEXURE D	Confirmation letter from OEH concerning BioBank calculations	48
ANNEXURE E	Updated Bushfire Report	57
ANNEXURE F	Updated Traffic Report	70
ANNEXURE G	Updated Civil Engineering Report	92
ANNEXURE H	Updated Geotechnical Report	116
ANNEXURE I	Cultural and Heritage Management Plan	136
ANNEXURE J	Advice in relation to the availability of offsite credits	188

## 1. INTRODUCTION

---

*This section of the report identifies the nature of our instructions, relevant background information and the structure of the report.*

### 1.1 PREAMBLE

PLANNERS NORTH have been engaged by the proponents of "Settlers Ridge Estate", South West Rocks, to provide town planning advice with respect to the preparation and lodgement of a S.75W Modification Application concerning Concept Approval 10\_0103.



*View from north eastern corner of the site looking along Gregory Street.*

### 1.2 STRUCTURE OF THE REPORT AND ITS SCOPE

Section 2 describes the modification sought. The first part of the section provides a general description of the modification and the second part of Section 2 defines various elements in the consent which are sought to be amended. Section 3 describes consultation carried out with the various parties for the purposes of preparing this Modification Application. The final section is a conclusion which outlines the positive outcomes associated with the amendment of the consent in the manner proposed.

Land Owner Authorities authorising the lodgement of the subject application are contained in **Annexure A** to this report. Various Expert Reports in support of the application are provided in **Annexures B to J**.

### 1.3 HISTORY OF APPLICATION

On the 8<sup>th</sup> August 2010 the delegate of the Minister formed the opinion that the Settlers Ridge project was a Major Project and authorised the lodgement of a Concept Plan pursuant to Section 75M of the then Act. At that time the development envisaged was for 220 lots.

The Director General's requirements pursuant to Part 3A of the Environmental Planning and Assessment Act were issued on 27 August 2010 for the development of the subject site. On 30 November 2012 a formal Environmental Assessment (EA) report for a 154 lot project was lodged and the proposal was publically exhibited during December 2012 through January and early February 2013. Having regard to submissions received, the Proponent lodged a Preferred Project Report on the 23<sup>rd</sup> May 2013. The Preferred Project Report reduced the Settlers Ridge Estate development yield from 154 lots to 137 lots and considerably increased the land to be set aside for BioBanking.

The Director General's Environmental Assessment report was completed in June 2013 and the approval issued by the Minister's delegate on the 25<sup>th</sup> July 2013.

### 1.4 NEED FOR THE MODIFICATION

The terms of the Part 3A Concept Approval require clarification of a number of matters including Asset Protection Zones; the location of open space to serve the development; calculation of biodiversity credits; arrangements in relation to onsite BioBank credits and the acquisition of offsite credits; traffic generation, further geotechnical work; planning for the management of Aboriginal heritage site "RPS SWR 1" and certain miscellaneous matters. Following from the resolution of the abovementioned matters, a clear pathway concerning exactly how development can proceed has been established. This modification seeks to amend the consent to provide for the orderly and efficient implementation of the approval.

## 1.5 REPEAL OF PART 3A

The Environmental Planning and Assessment Amendment (Repeal of Part 3A) Act 2011 replaced Part 3A with an alternative system for the assessment of projects of State significance and provided appropriate transitional provisions for projects already being assessed under the provisions of Part 3A.

The amended Act contains provisions for the assessment of further applications for development to which Part 3A does not continue to apply. Under these provisions, and subject to the new Regulations, development which is covered by a Concept Plan approved under Part 3A but is subject to assessment under Part 4:

- is taken to be development which may be carried out under Part 4, despite anything to the contrary in an environmental planning instrument;
- must be consistent with any development standard within the terms of the Concept Plan approval;
- must be generally consistent with the terms of approval for the Concept Plan; and
- the provisions of any environmental planning instrument or development control plan do not have effect to the extent of any inconsistency with the approved Concept Plan.

Future applications for Settlers Ridge will be assessed by Kempsey Shire Council under Part 4 in accordance with the Concept Approval (MP10\_0103). The Concept Approval is subject to transitional provisions and therefore continues to be assessed by the NSW Department of Planning and Environment.

Clause 3C(2) of Schedule 6A of the Environmental Planning and Assessment Act (EP&A Act) stipulates that Section 75W continues to apply for the purpose of modifying Concept Approvals granted before or after the repeal of Part 3A. Accordingly, the subject modification is submitted in accordance with the provisions of Section 75W of the EP&A Act, 1979. Section 75W which provides:

### ***“75W Modification of Minister’s approval***

*(1) In this section:*

***Minister’s approval*** means an approval to carry out a project under this Part, and includes an approval of a concept plan.

***modification of approval*** means changing the terms of a Minister’s approval, including:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
- (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*
- (2) The proponent may request the Minister to modify the Minister’s approval for a project. The Minister’s approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*
- (3) The request for the Minister’s approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.*
- (4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.*
- (5) The proponent of a project to which section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request within 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.*



- (6) *Subsection (5) does not apply to a request to modify:*
- (a) *an approval granted by or as directed by the Court on appeal, or*
  - (b) *a determination made by the Minister under Division 3 in connection with the approval of a concept plan.*
- (7) *This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."*

This application relies on the provisions of Section 75W (1)(a) to change the terms of the current determination.

The relevant application form and Land Owners Authority permitting lodgement of this application is contained at **Annexure A** herewith.

## **1.6 SITE INSPECTION**

Should the Department wish to carry out an onsite inspection in relation to this modification application, please consult PLANNERS NORTH to arrange for the necessary access from individual owners. To facilitate onsite inspection, PLANNERS NORTH is able to provide the Department with a Geospatial PDF of the modification application layout plan suitable for field use on an Apple iOS or android tablet. Using this system it is possible to determine your location on the site, record GPS tracks, place digital marks on the PDF file and find specific locations on the land.

## **1.7 FURTHER INFORMATION**

Should the Minister or Department require any additional information or wish to clarify any matter raised by this modification proposal, the Department is request to consult with Stephen Connolly of PLANNERS NORTH prior to determination of this application.

## 2. MODIFICATION SOUGHT

*This Section defines the nature of modifications to Concept Approval 10\_0103.*

### 2.1 GENERAL DESCRIPTION OF MODIFICATION

This modification seeks to provide revised plans for a 140 lot residential subdivision and associated BioBanking project on the site. Further, the application proposes to:

- remove provisions relating to the submission of BioBanking calculations as a consequence of further information supplied with the Modification Application;
- delete superfluous conditions in relation to bushfire management having regard to further consultation with Council and additional technical information supplied with the modification application;
- delete conditions in relation to open space provision having regard to further consultation with Council and additional material supplied with the Modification Application;
- delete redundant conditions in relation to traffic generation having regard to additional traffic assessment reporting annexed to this application;
- remove conditions in relation to geotechnical assessments having regard to further geotechnical reporting annexed to this application; and
- remove superfluous conditions associated with the management of a specific aboriginal cultural heritage item having regard to the provision of an Aboriginal Cultural Heritage Management Plan for the item known as "RPS SW R1".



*View towards Pacific Ocean near South West Rocks Surf Life Saving Club.*

### 2.2 SPECIFIC DETAILS OF MODIFICATION SOUGHT

To give effect to the amendments described in Section 2.1 above, the following modifications to the Concept Approval are proposed. Words proposed to be deleted are shown as ~~strike through~~ and words to be inserted are shown in **blue font**. Commentary, pointing to references or additional information in relation to each of these specific amendments, is located immediately following amendments proposed and is **blue font**.

### 2.3 SCHEDULE 1

Application No.:	10_0103
Proponent:	Eric Norman Developments Pty Ltd Jaclesta Pty Ltd Machro Pty Ltd Shannon Pacific Pty Ltd
Approval Authority:	Minister for Planning and Infrastructure

## Settlers Ridge, Mod 1

5

Land:	Lots 31 and 223 DP 754396 and Lot 57 DP 1117398, Steve Eagleton Drive, South West Rocks - Kempsey local government area
Concept Plan:	<p>Residential subdivision, comprising:</p> <ul style="list-style-type: none"> <li>• <del>137</del> 140 residential lots;</li> </ul> <p><b>Comment: Annexure B</b> contains revised plans for which modified Concept Approval is sought.</p> <ul style="list-style-type: none"> <li>• On-site and off-site biodiversity offsetting (biobanking);</li> <li>• Active open space;</li> <li>• Road network continuation of Trevor Judd Avenue;</li> <li>• Road network connections to Steve Eagleton Drive and</li> <li>• Keith Andrews Avenue; and</li> <li>• Internal road network.</li> </ul>

### 2.4 PART A – NOTES RELATING TO THE DETERMINATION OF 10\_0103

#### Responsibility for other consents/ agreements

The proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

#### Appeals

The proponent has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

### 2.5 PART B – DEFINITIONS

In this approval,

**Act** means the *Environmental Planning and Assessment Act 1979*.

**APZ** means Asset Protection Zone **BCA** means Building Code of Australia **Council** means Kempsey Shire Council

**DCP** means Development Control Plan.

**Department** means the Department of Planning and Infrastructure, or its successors.

**Director-General** means the Director-General of the Department.

**Environmental Assessment** means Environmental Assessment prepared by SJ CONNELLY CPP Pty Ltd (including all appendices) titled *Concept Plan for a Proposed Residential Subdivision and BioBanking proposal, Steve Eagleton Drive, South West Rocks*, dated November 2012.

**OEH** means the Office of Environment and Heritage, or its successors.

**Phase 1** means lots numbered 64-76 inclusive (total 13 lots) and the Biobank Lot 802 shown in the plan prepared by RPS numbered 102457-22A entitled: 'Phase 1 Allotment Layout ~~Subdivision Plan~~ the number of



## Settlers Ridge, Mod 1

6

~~development lots equal to the number of biodiversity credits generated by the on-site offsets (determined in accordance with Term B1 of this approval).~~

~~**Phase 2** means the number of development lots other than the phase 1 lots equal to the number of biodiversity credits generated by the off-site offsets (determined in accordance with Term B1 of this approval).~~

**Comment:** As illustrated in **Annexure C** the Office of Environment and Heritage have now checked and approved the BioBanking credits relevant to the site. Developing 15.49ha (14.59ha development site + 0.9ha APZ) requires the retirement of 1157 eco system credits or 74.69 credits per ha. The BioBank site of 27.9ha generates 223 Ecosystem credits or 9.77 credits per ha. That is, the retirement of 223 credits at the BioBank site will only allow for the development of 2.99ha ( $223 \times 15.49/1157$ ) in Phase 1 of the project. The 223 Ecosystem credits are available from the BioBanking part of the land and are broken up approximately as follows:

Jaclesta Group Pty Ltd	211 Credits
Eric Norman Developments Pty Ltd	12 Credits
Machro Pty Ltd	0 Credits
<b>Total</b>	<b>223 Credits.</b>

Developing 15.49ha (14.59ha development site + 0.9ha APZ) requires the retirement of 310 species credits or 20.01 credits per ha. The BioBank site of 27.9 ha generates 31 species credits or 131 credits per ha. That is, the retirement of 31 credits at the BioBank site will only allow for the development of 1.5 ha ( $31 \times 15.49/310$ ) in Phase 1 of the project. The 31 species credits are available from the BioBanking part of the land and are broken up approximately as follows:

Jaclesta Group Pty Ltd	29 Credits
Eric Norman Developments Pty Ltd	1 Credits
Machro Pty Ltd	0 Credits
<b>Total</b>	<b>31 Credits.</b>

The Joint venture has entered into a Deed of Agreement whereby the Jaclesta Group and the Eric Norman BioBanking area will be subsumed into the Jaclesta Group BioBank parcel creating a situation where the Jaclesta Group will enjoy a total of 223 Ecosystem and 31 species credits. On this basis Jaclesta are able to develop up to 1.55ha. RPS Plan 102457-22A shows this Phase 1 release area.

**Project** means the project as described in Term A1 to this approval.

**Preferred Project Report** means the Preferred Project Report prepared by Planners North (including all appendices) titled *A report with respect to submissions to the exhibition of the Environmental Assessment & a Preferred Project Report with updated Statement of Commitments* prepared by Planners North, dated May 2013.

**Proponent** means Eric Norman Developments Pty Ltd, Jaclesta Pty Ltd, Machro Pty Ltd, Shannon Pacific Pty Ltd, or any party acting upon this approval.

**RFS** means the NSW Rural Fire Service, or its successors **RMS** means Roads and Maritime Services, or its successors **Site** has the same meaning as the land identified in Schedule 1.

**WSUD** means Water Sensitive Urban Design.

## 2.6 SCHEDULE 2

### PART A . TERMS OF APPROVAL

#### A1 Concept Plan Description

Concept plan approval is granted for the site generally as described below:

- a) Residential subdivision incorporating approximately 137 140 low density residential lots;

## Settlers Ridge, Mod 1

7

**Comment:** The plans in **Annexure B** illustrate a revised layout having regard to the Conditions of Consent set out in the Concept Approval. The plans also illustrate the relocation of the dwelling house site for the BioBanking lot. This house site is illustrated as "A" adjoining the proposed road meeting Keith Andrews Ave.

- b) On-site and off-site biodiversity offsetting (biobanking);
- c) Public open space;
- d) Continuation of Trevor Judd Avenue; and
- e) New road network connections to Steve Eagleton Drive and Keith Andrews Avenue. As modified by the modifications described in Part B of Schedule 2 of this approval.

### A2 Project in Accordance with Plans

The proponent shall carry out the concept plan and any related future development application(s) generally in accordance with the following plans:

Concept Plan Drawings prepared by RPS	
Drawing No.	Name of Plan
102457-18A	Plan 11.1 Preferred Project 137 Lots
102457-20	102457-20 APZ Proposed
102457-18A	Plan 11.2 Pedestrian Path System
102457-20B	Proposed layout over lots 31 & 223 on DP 754386, Lot 57 on DP 111387 and certain Crown Land, South West Rocks. [APZ Plan]
102457-18C	Proposed layout over lots 31 & 223 on DP 754386, Lot 57 on DP 111387 and certain Crown Land, South West Rocks. [Layout Plan]
102457-22A	Proposed subdivision Phase 1 Allotment Layout [Phase 1 Plan]

**Comment: Annexure B** contains copies of the updated plans.

except for:

- 1) any modifications which may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- 2) otherwise provided by the terms of this approval.

### A3 Project in Accordance with Documentation

The proponent shall carry out the concept plan and all related future applications generally in accordance with the following documents:

- 1) **Environmental Assessment** prepared by SJ Connelly CPP Pty Ltd, titled *Concept Plan for a Proposed Residential Subdivision and BioBanking proposal, Steve Eagleton Drive, South West Rocks*, dated November 2012; and

## Settlers Ridge, Mod 1

8

- 2) **Preferred Project Report** prepared by Planners North, titled *A report with respect to submissions to the exhibition of the Environmental Assessment & a Preferred Project Report with updated Statement of Commitments*, dated May 2013.

### **A4 Consistency of Future Development**

- 1) In the event of any inconsistency between:
  - a) the modifications of this approval and the drawings/documents referred to in terms A2 and A3, the modifications of this approval shall prevail to the extent of the inconsistency;
  - b) any drawing/document listed in terms A2 and A3 and any other drawing/document listed in terms A2 and A3, the most recent document/ drawing shall prevail to the extent of the inconsistency; and
  - c) the modifications of this approval and the Statement of Commitments (at Schedule 3), the modifications of this approval prevail to the extent of the inconsistency.
- 2) If there is any inconsistency between this concept plan approval and any future application, this concept plan approval shall prevail to the extent of the inconsistency.

### **A5 Limits of Approval**

- 1) This concept plan approval shall lapse five (5) years after the date of this concept plan approval, unless works the subject of any related application are physically commenced, on or before the lapse date.
- 2) To avoid any doubt, this approval does not permit the construction of any component of the concept plan (including any clearing of vegetation), which will be subject to separate approval(s).
- ~~3) Notwithstanding anything else in this concept plan approval and in accordance with section 75O(5) of the Act, final concept plan approval is given for each of Phase 1 and Phase 2 only when the Director General is satisfied of the following:~~
  - ~~a) The Office of Environment and Heritage (OEH) have reviewed, and indicated support in writing for the re-calculated biodiversity credits required under Term B1;~~
  - ~~b) for Phase 1, satisfactory arrangements have been made for the securing of the on-site offsets; and~~
  - ~~c) for Phase 2, satisfactory arrangements have been made for the securing of the off-site offsets.~~

~~Note: A development application for each phase of the development cannot be lodged until final concept plan approval is given for the relevant phase in accordance with this term~~
- 3) This Concept Approval approves a maximum of 1.55 ha disturbance to create the lots and associated public roads for Phase 1 but only with the retirement of the on-site BioBank credits. All other lots and roads are in Phase 2 (and can only be released after retirement of the off-site BioBank credits).

**Comment:** To make clear how onsite credits will be dealt with and how offsite credits will be satisfactorily secured the three individual landowners have entered in to a Deed of Agreement. That Deed covers issues associated with BioBanking acquittal and various other administrative arrangements. The Deed is to be found at **Annexure C** herewith.

## **2.7 PART B . MODIFICATIONS TO THE CONCEPT PLAN**

### **B1 BioBanking Calculations**

~~Re-calculation of biodiversity credits is required. The proponent is to consult with OEH regarding the re-calculation and finalisation of biodiversity credits. Re-calculation of biodiversity credits is required to be undertaken in accordance with the following:~~

- ~~1) the overstorey vegetation condition after development should be 'no overstorey' (this function is under the landscape tab);~~
- ~~2) within the geographic/habitat feature tab, the Common Planigale is to be selected;~~

## Settlers Ridge, Mod 1

9

- ~~3) plot data is required to be revised, including the conversion of all plot data to percentages;~~
- 4) Asset Protection Zones (APZs) must be included as part of the development infrastructure, to be calculated in accordance with Appendix 4 of the BioBanking Assessment Methodology and Credit Calculator Operational Manual; and
- 5) the dedicated area around Aboriginal heritage item 'RPS SWR 1' between Lots 127 and 128 must be included as part of the development infrastructure.

Having regard to the re-calculated biodiversity credits required under clauses (1) to (5) above, the proponent is to provide a plan that shows:

- ~~6) the lots capable of being developed based on the number of biodiversity credits generated by the on-site offsets (Phase 1); and~~
- ~~7) the lots capable of being developed based on the number of biodiversity credits generated by the off-site offsets (Phase 2).~~

~~The plan is to be submitted for the Director-General's approval prior to the lodgement of any development application(s).~~

**Comment: Annexure D** contains an advice received from the Office of Environment and Heritage in relation to certifying the accuracy of calculation of BioBanking credits.

### B2 Bushfire Management

~~Lots 3, 4, 75, 76, 106, 120, 121, and 137 are not approved. 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, as identified on the APZ plan(s) required under Term C4.~~

**Comment: Annexure E** contains an updated Bushfire Assessment report which confirms compliance with the relevant bushfire requirements for the project as a whole.

### B3 Public Open Space

~~Lot 900 (public open space lot) is not approved. A revised subdivision plan is to be provided with the first development application lodged which identifies an appropriate location for the provision of public open space to service the future population of the site. Public open space is required to:~~

- ~~1) be provided in a centrally located area and contained wholly within the development footprint proposed as part of the PPR; and~~
- ~~2) be designed consistent with the requirements of council's Location Criteria – South West Rocks Open Space Strategy.~~

~~The proponent is required to consult with council regarding the specific size and location of public open space required~~

**Comment:** As illustrated in the revised plans Lot 900 has an area of 2,295m<sup>2</sup>. Council have been consulted in relation to the size and location of this open space parcel. As illustrated in the Joint Venture Deed of Agreement certain of the developers as a whole will fund the dedication and embellishment of this parcel.

## 2.8 PART C . REQUIREMENTS FOR FUTURE APPLICATIONS

Pursuant to sections 75P(2)(c) of the Act the following requirements apply, as relevant, with respect to future development of the site to be assessed under Part 4 or 5, as relevant, of the Act:

### C1 Crown Road Reserve

As part of any development application involving the Crown road reserve which intersects Keith Andrews Avenue to the north and is bound by Lots 31 and 223 DP 754396 and Lot 57 DP 1117398, the proponent is

# Settlers Ridge, Mod 1

10

required to provide evidence of lodgment of an application with NSW Trade & Investment (Crown Lands) to purchase the land.

Note: written consent from NSW Trade & Investment (Crown Lands) is required prior to the commencement of any physical works upon the Crown road reserve.

**Comment:** Please note that the proponents have made written application to the Crown Lands for closure and purchase of this road reserve.

## C2 Bushfire Management

All future development application(s) must include a detailed Bushfire Hazard Assessment prepared by a suitably qualified person, and in consultation with the RFS. Any future development of the site must have consideration for, and be designed in accordance with:

- 1) Planning for Bushfire Protection 2006 (RFS); and
- 2) the recommendations provided in the updated Bushfire Hazard Assessment prepared by Barry Eadie Consulting Pty Ltd, dated 6 May 2013 and submitted as Appendix C of the PPR. 4<sup>th</sup> November, 2013

**Comment:** This condition is sought to be amended so as to refer to the Bushfire Hazard Assessment report accompanying this Modification Application.

## C3 Bushfire Management . Lots 120 to 137

~~In addition to requirements of Term C2, any development application(s) involving the creation of Lots 120 to 137 inclusive must also include the following as part of the Bushfire Hazard Assessment:~~

- ~~1) a land survey report prepared by a suitably qualified person and in consultation with the RFS, that determines the effective slope of the land under the bushfire hazard for a distance of 100m from the lots;~~
- ~~2) having regard for the surveyed effective slope required under Term C3(1), a site subdivision plan is to be prepared that identifies the required APZ from the bush fire hazard to achieve a BAL 29 maximum construction standard, as per AS3959-2009: Construction of buildings in bushfire prone areas;~~
- ~~3) details of a required 15m wide fire trail buffer between the rear boundaries of the subject lots and adjoining vegetation;~~
- ~~4) information regarding any proposed dedication of land within the 15m wide fire trail, and how this land is to be managed over the long term; and~~
- ~~5) any proposed management measures for vegetation contained within part Lot 800.~~

## C4 Bushfire Management . Asset Protection Zones

All future development application(s) must include details (including drawings/plans) outlining the location of APZs, in accordance with the recommendations under Section 4.4 of the updated Bushfire Hazard Assessment prepared by Barry Eadie Consulting Pty Ltd, dated 6 May 2013 4<sup>th</sup> November 2013. All APZs must be clearly identified and all affected lots are to be encumbered to this effect with a Section 88B instrument under the *Conveyancing Act 1919*.

Note: The construction of dwellings within APZs is not permitted.

**Comment: Annexure E** contains an updated bushfire report for the site dated 4<sup>th</sup> November 2013.

## C5 Traffic Generation

~~As part of any future development application(s) lodged, a detailed traffic assessment prepared by a suitably qualified traffic engineer and in consultation with RMS and council must be submitted. The traffic assessment is required to:~~

- ~~1) consider the impacts of traffic generated by the site on the intersection of Trevor Judd Avenue with Steve Eagleton Drive, including cumulative impacts on the functioning of the Steve Eagleton Drive, Gregory Street, and Belle O'Connor Street roundabout; and~~

## Settlers Ridge, Mod 1

11

~~2) be prepared in accordance with the RMS' Guide to Traffic Generating Developments.~~

~~In addition to the requirements of Terms C5(1) and C5(2), any development application that proposes to establish a road network connection to Keith Andrews Avenue is required to:~~

- ~~3) investigate the level of impact likely to occur at the intersection of Gregory Street with Frank Cooper Street having regard to the warrants provided under section 4.8 of Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections; and~~
- ~~4) provide analysis and consideration of the implications of Bruce Field Street potentially becoming a rat-run for future traffic accessing Gregory Street via Frank Cooper Street.~~

**Comment:** An updated traffic assessment has been carried out. That traffic assessment confirms the suitability of the project. The subject report is to be found at **Annexure F**.

### C6 Access Arrangements

For any future development application(s) involving the creation Lots 46 to 61 inclusive, the proponent is to demonstrate the following Restrictions as to Users under Section 88B of the *Conveyancing Act 1919* can be applied:

- 1) Restriction as to User burdening Lots 46 to 50 inclusive: prohibiting direct vehicle access to Gregory Street.
- 2) Restriction as to User burdening Lot 51: prohibiting direct vehicle access to Gregory Street and Keith Andrews Avenue.
- 3) Restriction as to User burdening Lots 52 to 61 inclusive: prohibiting direct vehicle access to Keith Andrews Avenue.

### C7 Road Traffic Noise

The proponent is to investigate potential road traffic noise attenuation measures as part of any future development application(s) involving lots that directly adjoin Gregory Street.

- 1) Noise attenuation measures may be in the form of building restrictions placed on future dwellings (double glazing, insulation, etc) or via the erection of a suitable designed noise barrier constructed wholly within the site boundary, to be designed in consultation with council.
- 2) Any future dwellings proposed on Lots 46 to 54 inclusive are restricted to single- storey construction, to be encumbered to this effect with a Section 88B instrument under the *Conveyancing Act 1919*.

### C8 Stormwater Management

All future development application(s) must include a detailed Stormwater Management Plan, prepared by a suitably qualified person and in consultation with council and the NSW Office of Water. The Plan is to be prepared having regard to Section 4.2 of the Civil Engineering Report prepared by Hopkins Consultants, dated August 2012 and submitted as Appendix D of the EA, and Council's DCP 36 - Guidelines for Engineering and Subdivision. The Plan is required to include the following:

- 1) proposed measures based on Water Sensitive Urban Design (WSUD) principles to address any foreseeable or potential impacts on the site and surrounding environment, including consideration of potential stormwater run-off discharging to Spencers Creek, Back Creek, and/or Saltwater Creek and Lagoon;
- 2) outline drainage and water quality control measures for the site;
- 3) outline erosion and sediment control measures during both construction and occupation stages;
- 4) a detailed design layout plan(s) for the preferred stormwater treatment train showing the location, size and key functional elements of each part of the system.
- 5) MUSIC modelling must be undertaken to demonstrate that appropriate water quality objectives can be achieved with the quality of post-development stormwater flows to not exceed the quality of pre-development flows. Details of the MUSIC modelling must be included as part of the Plan; and



## Settlers Ridge, Mod 1

12

- 6) any provisions for ongoing water quality monitoring and/or implementation of relevant management plans.

**Comment:** Council have been consulted in relation to the stormwater and civil engineering principles to be developed as part of a pre Development Application lodgement consultation. Advice in relation to civil engineering matters and a consultation with Council is set out at **Annexure G**.

### C9 Earthworks

On-site earthworks and vegetation clearing is limited to the staging of the subdivision, and may only occur in sequence with approval for the creation of residential lots.

### C10 Vegetation Clearing and Fauna Protection Measures

Any future development application(s) must include a Vegetation Management and Fauna Protection Plan, prepared by a suitable qualified ecologist. The Plan is required to detail measures to manage vegetation clearing and protect of native fauna during construction of the development. The following measures are to be included as part of the Plan:

- 1) a suitably qualified ecological consultant must to be present on site during any vegetation clearing works who is required to monitor works in sensitive areas, offer advice during the clearance process, and be present to supervise recovery procedures in the event of accidental harm to wildlife;
- 2) trees should be retained within the development footprint wherever possible;
- 3) 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;
- 4) a search for the presence of native fauna species, carried out by a suitably qualified ecologist is required prior to the commencement of any tree felling or vegetation removal;
- 5) 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; and
- 6) 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.

### C11 Geotechnical Assessments

~~In order to ensure the stability of development lots, all future development application(s) must include a detailed geotechnical assessment, prepared by a suitably qualified person. The assessment is required to include the following:~~

- ~~1) a geotechnical map of the site clearing showing ground surface contours, geotechnical engineering soil types and any geotechnical hazards. The delineation of hazards should include hazard locations and possible hazard impact areas. The map should be occupied by explanatory text describing the nature and delineation of soil types and hazard types. The map and text should be prepared by a suitably qualified geotechnical practitioner; and~~
- ~~2) a synthesis site plan clearing showing ground surface contours and the location of all test pits, boreholes and monitoring wells drilled on to the site to date.~~

**Comment:** Further geotechnical assessment has been completed for the site. That assessment is to be found at **Annexure H**. The assessment confirms the suitability off all lots within the revised lot layout for residential dwelling house construction purposes.

### C12 Aboriginal Cultural Heritage Item

~~As part of the first development application lodged, an~~ Development must be carried out in accordance with the Aboriginal Cultural Heritage Management Plan ~~must be prepared for the Aboriginal heritage site referred to as 'RPS SWR 1' in the Cultural Heritage Assessment prepared by RPS report PR119347 dated November 2013, dated August 2012 and included as Appendix F of the EA. The Plan is required to:~~

## Settlers Ridge, Mod 1

13

- ~~1) be prepared by a suitably qualified person and in consultation with the OEH;~~
- ~~2) incorporate the recommendations provided within the Cultural Heritage Assessment prepared by RPS, including details of the recommended 10m by 10m sectioned off area to be established around RPS SWR 1; and~~
- ~~3) outline any proposed management actions for land within the sectioned off area required to be established around RPS SWR 1.~~

**Comment:** Annexure I contains an updated Aboriginal Cultural Heritage Management Plan involving the long term protection of the site RPS SW R1.

### **C13 Public Open Space**

With the development of Lot 57, DP 1117398 open space at Lot ~~49~~ 900 shall be embellished and dedicated free of cost to the Council.

~~As part of the first development application lodged, the proponent is required to:~~

- ~~1) provide a plan identifying the location of public open space, in accordance with Term B2; and~~
- ~~2) ensure all public open space is provided with appropriate connections to pedestrian and cyclist's networks.~~

**Comment:** The location of Lot 900 has been discussed and agreed with Council. Certain of the developers will jointly fund the dedication and embellishment of this new park.

### **C14 Street Tree Plantings**

All future development application(s) must include a Landscaping Plan, prepared by a suitably qualified person detailing proposed street-tree plantings. Any species nominated must be predominantly local native flora and include trees, shrubs and groundcovers.

### **C15 Reticulated Services**

All future development application(s) are to demonstrate that each residential lot will be provided with reticulated water supply, sewerage, telecommunications, and underground electricity. An Infrastructure Servicing Strategy, prepared in consultation with council, must be submitted as part of any future development application(s) lodged.

### **C16 Affordable Housing**

All future development application(s) must investigate the potential for affordable housing to be incorporated as part of the development.

**2.9 SCHEDULE 3 - STATEMENT OF COMMITMENTS****10\_0103**

**SETTLERS RIDGE RESIDENTIAL SUBDIVISION  
STEVE EAGLETON DRIVE, SOUTH WEST ROCKS**

ITEM		COMMITMENT	ACTION	TIMING
<b>General</b>	<b>1</b>	The proponent will undertake the development in accordance with <del>Plan 3.1 in the Environmental Assessment</del> Plan 11.1 in the Preferred Project Report and RPS Plan 102457-20B, dated 30/10/13.	Proponent	All stages
<b>Statutory Requirements</b>	<b>2</b>	All licences, permits and approvals as necessary will be obtained once project approval is granted and maintained for the development, including: <ul style="list-style-type: none"> <li>Construction Certificates for engineering works (including earthworks, soil and water management, roadworks and drainage) for each stage of the subdivision;</li> <li>Subdivision Certificates for each stage of the subdivision;</li> <li>Section 138 Consent for roadworks (Roads Act 1993);</li> <li>Section 68 approvals for utilities infrastructure (Local Government Act 1993);</li> <li>Electricity Compliance certificate from Origin/Energy;</li> <li>Telstra, National Broadband Network Compliance Certificates; and</li> <li>Water Compliance Certificate from Macleay Water under Section 307 of the Water Management Act 2000;</li> <li>Bushfire Authority under Section 100B of the Rural Fires Act 1997; and</li> <li>The relevant licences under the Water Act 1912 and Water Management Act 2000 (if required).</li> </ul>	Proponent	Stage 1 & ongoing
<b>Infrastructure Provision</b>	<b>3</b>	The following infrastructure is to be provided for all lots in the subdivision: <ul style="list-style-type: none"> <li>Electricity reticulation to each residential lot to the satisfaction of Origin/Energy;</li> <li>Reticulated potable water supply to each residential lot to Council's satisfaction;</li> <li>Telecommunication services to each residential lot to the satisfaction of Telstra and the National Broadband</li> </ul>	Proponent	All Stages



# Settlers Ridge, Mod 1

15

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



**PLANNERS  
NORTH**

1292-797

# Settlers Ridge, Mod 1

16

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

# Settlers Ridge, Mod 1

17

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



# Settlers Ridge, Mod 1

18

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



**PLANNERS  
NORTH**

1292-797

### 3. CONSULTATION

---

*This section describes consultation carried out with various parties to facilitate the lodgement of this Modification Application.*

#### 3.1 DEPARTMENT OF PLANNING & INFRASTRUCTURE

Having regard to the need for improvements to bushfire management via APZ controls and the concern raised by the Department in relation to the provision of open space in its report of June 2013, an early version of the revised plans were submitted for consideration by Departmental officers undercover of email 27<sup>th</sup> September 2013. Advice received from the Department on 1<sup>st</sup> October 2013 (pers. coms. Ray Lawlor) indicated that a Modification Application would need to be submitted to permit the changes proposed.

#### 3.2 KEMPSEY SHIRE COUNCIL

Kempsey Shire Council have been consulted on a range of matters for the project. Firstly, SJ Connelly consulted Kate Alberry and Tony Castle of the Kempsey Shire in relation to the appropriate provision of open space on 13<sup>th</sup> September, 2013. After gaining an in principle agreement about the size and location of the proposed open space, layout sketches were refined to provide a park of 2,295m<sup>2</sup>. Utilising that design consultation occurred with the Local Aboriginal Land Council in relation to the management of the cultural item with the proposed open space lot.



*Photograph of persons attending the onsite open day held during the exhibition of the Environmental Assessment.*

During the period January 2014 civil engineers for the project Hopkins Consultants Pty Ltd consulted with officers of Kempsey Shire Council in relation to the updated layout and associated engineering matters. Behind the updated civil engineering report at **Annexure G** is an advice received from Hopkins Consultants Pty Ltd confirming positive consultations with Council officers of the Council.

#### 3.3 LOCAL ABORIGINAL COMMUNITY

Before proceeding with Development Application lodgement it was thought appropriate to consult with the local aboriginal community and prepare a formal aboriginal Cultural Heritage Management Plan specifically with respect to the aboriginal heritage site "RPS SW R1". Details in relation to consultation with the local aboriginal community are to be found at section 3.2 of the RPS report at **Annexure I**.

#### 3.4 OFFICE OF ENVIRONMENT & HERITAGE

Condition B1 of the approval required "recalculation" of biodiversity credits and certification by the Office of Environment and Heritage as to the credit calculation. That work was carried out for the Proponent by Mr Peter Parker. By letter dated 15<sup>th</sup> April, 2014 OEH confirmed Mr Parker's calculations. That advice is to be found at **Annexure C** herewith.

### 3.5 BIOBANK CREDIT SUPPLIERS

The Settlers Ridge project requires the acquisition and retirement of 1,157 Ecosystem credits and 310 Species credits. 1.55ha can be developed at the site by retirement of credits associated with the onsite management of land in perpetuity for BioBanking purposes. To give the Proponents confidence to enter into a management Deed of Agreement, it was felt necessary to liaise with persons expert in the acquisition of BioBanking credits. The consulting practice GHD is an eminent practitioner in this field. That company provides advice to a range of persons throughout NSW but has worked with a number of credit suppliers in the region of the subject site. By letter dated 29<sup>th</sup> May 2014 GHD have confirmed the availability of BioBanking credits to satisfy the needs of this project. That advice from GHD is to be found at **Annexure J** to this application.



*Photograph of development in the vicinity of the subject site.*

#### 4. CONCLUSION

---

The proposed modification is sought to refine the original Concept Approval having regard to further research and consultation. Amendments to the Concept Plan provide positive outcomes and opportunities including:

- confirmation by way of a legal Deed of Agreement, with the individual developers of the site, to ensure the orderly provision of BioBanking credits, open space and key infrastructure;
- clarification with respect to management arrangements and availability of BioBanking credits to serve the needs of the development;
- the provision of fulsome bushfire management approach;
- the setting aside of an area of 2,295m<sup>2</sup> for public open space near to the centroid of the development;
- confirmation in relation to appropriate traffic management;
- confirmation in relation to geotechnical assessment, and
- ensuring of protection of aboriginal site "RPS SW R1" via an Aboriginal Cultural Heritage Management Plan.

Overall the proposed modifications maintain the Settlers Ridge project commitments to strengthened biodiversity; implementation of the BioBanking legislation; improvements to the public domain and implementation of utility services in a fashion consistent with Council's relevant Development Control Plans.

The modified proposal has been assessed against the relevant provisions under Section 75W. The modifications proposed merely refine the conditions consistent with all relevant Regional and State planning objectives as well as the provisions of Council's Local Environmental Plan 2013.



Stephen Connelly FPIA  
Certified Practising Planner

---

**ANNEXURE A**

Land Owner Authority

**LAND OWNER AUTHORITY****TO WHOM IT MAY CONCERN**

This is to advise that S.J CONNELLY CPP PTY LTD has been engaged by:

Client Name: ERIC NORMAN DEVELOPMENTS PTY LTD.

Client Address: 4/- RAINE & HORNE PARAGON AVE SWR.

Dated 26 MAY 2010

in respect to land described as: .....

No: ..... Street: STEVE EAGLETON DR.

Locality/Suburb: SOUTH WEST ROCKS.

Real Property Description: 57/1117398

The owner of the abovementioned land hereby authorises S.J CONNELLY CPP PTY LTD or its agents to:

1. Inspect Records
2. Carry out searches and site inspections
3. Take Site Samples
4. Lodge applications, objections or appeals

Signed:

*[Signature]*

NAME E.C. SUSSMAN

TITLE DIRECTOR.

Received 11/11/10  
Project SWR West Rocks  
☐ to be returned  
☒ reviewed  
☒ approved for use  
☐ noted, file - no action required  
☐ approved for payment ledger # .....  
☐ action as follows

*[Signature]* 11/11/10



**LAND OWNER AUTHORITY****TO WHOM IT MAY CONCERN**

This is to advise that S.J CONNELLY CPP PTY LTD has been engaged by:

Client Name: *SHANNON PACIFIC PTY LTD* *ABN 370016871145*  
Client Address: *P.O. BOX 52 SOUTH WEST ROCKS 2431*  
Dated *26 MAY 2010*  
in respect to land described as: .....  
No: ..... Street: *SPENCERS CREEK ROAD*  
Locality/Suburb: *SOUTH WEST ROCKS*  
Real Property Description: *31/ 754396*

*PART.*

The owner of the abovementioned land hereby authorises S.J CONNELLY CPP PTY LTD or its agents to:

1. Inspect Records
2. Carry out searches and site inspections
3. Take Site Samples
4. Lodge applications, objections or appeals

Signed:

*STEPHEN McEVY DIRECTOR*

**LAND OWNER AUTHORITY****TO WHOM IT MAY CONCERN**

This is to advise that S.J CONNELLY CPP PTY LTD has been engaged by:

Client Name: SACLESTA PTY LTD. ALN07917A002.

Client Address: 26 KOOLA AVENUE, EAST KILLARA

Dated 26 MAY 2010 2011.

in respect to land described as: .....

No: ..... Street: SPENCERS CREEK ROAD

Locality/Suburb: SOUTH WEST ROCKS

Real Property Description: 31/ 754396

**PART**

The owner of the abovementioned land hereby authorises S.J CONNELLY CPP PTY LTD or its agents to:

1. Inspect Records
2. Carry out searches and site inspections
3. Take Site Samples
4. Lodge applications, objections or appeals

Signed: X

VINCE TESORIERO  
DIRECTOR.

**LAND OWNER AUTHORITY****TO WHOM IT MAY CONCERN**

This is to advise that S.J CONNELLY CPP PTY LTD has been engaged by:

Client Name: MACHAD PTY LTD ABN 38100 537 988  
Client Address: PRINCE OF WALES AVE SOUTH WEST ROCKS  
Dated 26 MAY 2010  
in respect to land described as: .....  
No: ..... Street: CARROLL ST  
Locality/Suburb: SOUTH WEST ROCKS.  
Real Property Description: 223 / 754396

The owner of the abovementioned land hereby authorises S.J CONNELLY CPP PTY LTD or its agents to:

1. Inspect Records
2. Carry out searches and site inspections
3. Take Site Samples
4. Lodge applications, objections or appeals

Signed:

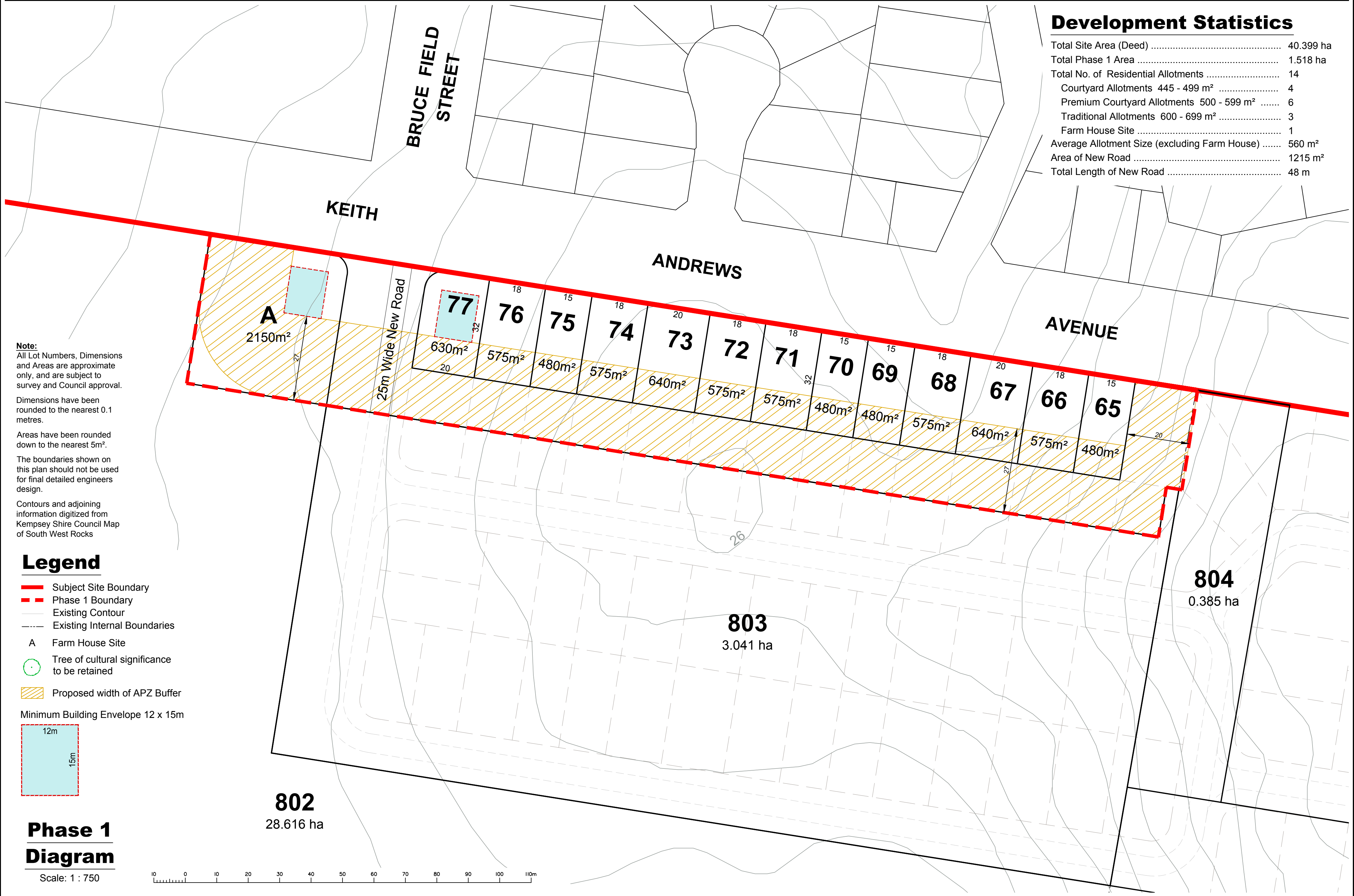
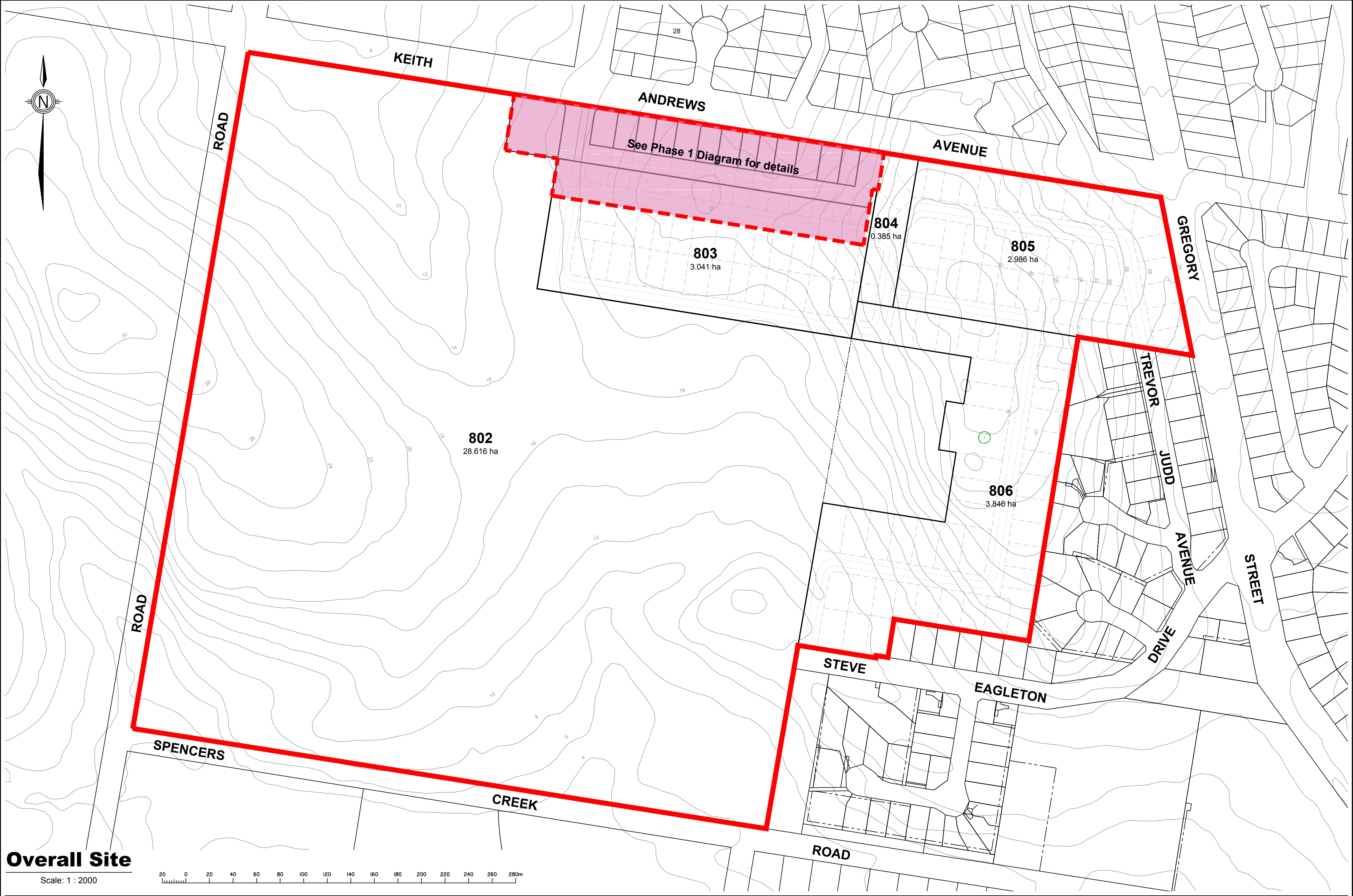
Mark Jordan  
MARK JORDAN, DIRECTOR.

---

**ANNEXURE B**

Revised Plans





**Development Statistics**

Total Site Area (Deed) .....	40.399 ha
Total Phase 1 Area .....	1.518 ha
Total No. of Residential Allotments .....	14
Courtyard Allotments 445 - 499 m <sup>2</sup> .....	4
Premium Courtyard Allotments 500 - 599 m <sup>2</sup> .....	6
Traditional Allotments 600 - 699 m <sup>2</sup> .....	3
Farm House Site .....	1
Average Allotment Size (excluding Farm House) .....	560 m <sup>2</sup>
Area of New Road .....	1215 m <sup>2</sup>
Total Length of New Road .....	48 m

**Note:**  
All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.

Dimensions have been rounded to the nearest 0.1 metres.

Areas have been rounded down to the nearest 5m<sup>2</sup>.

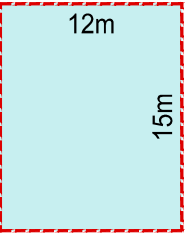
The boundaries shown on this plan should not be used for final detailed engineers design.

Contours and adjoining information digitized from Kempsey Shire Council Map of South West Rocks

**Legend**

- Subject Site Boundary
- Phase 1 Boundary
- Existing Contour
- Existing Internal Boundaries
- A Farm House Site
- Tree of cultural significance to be retained
- Proposed width of APZ Buffer

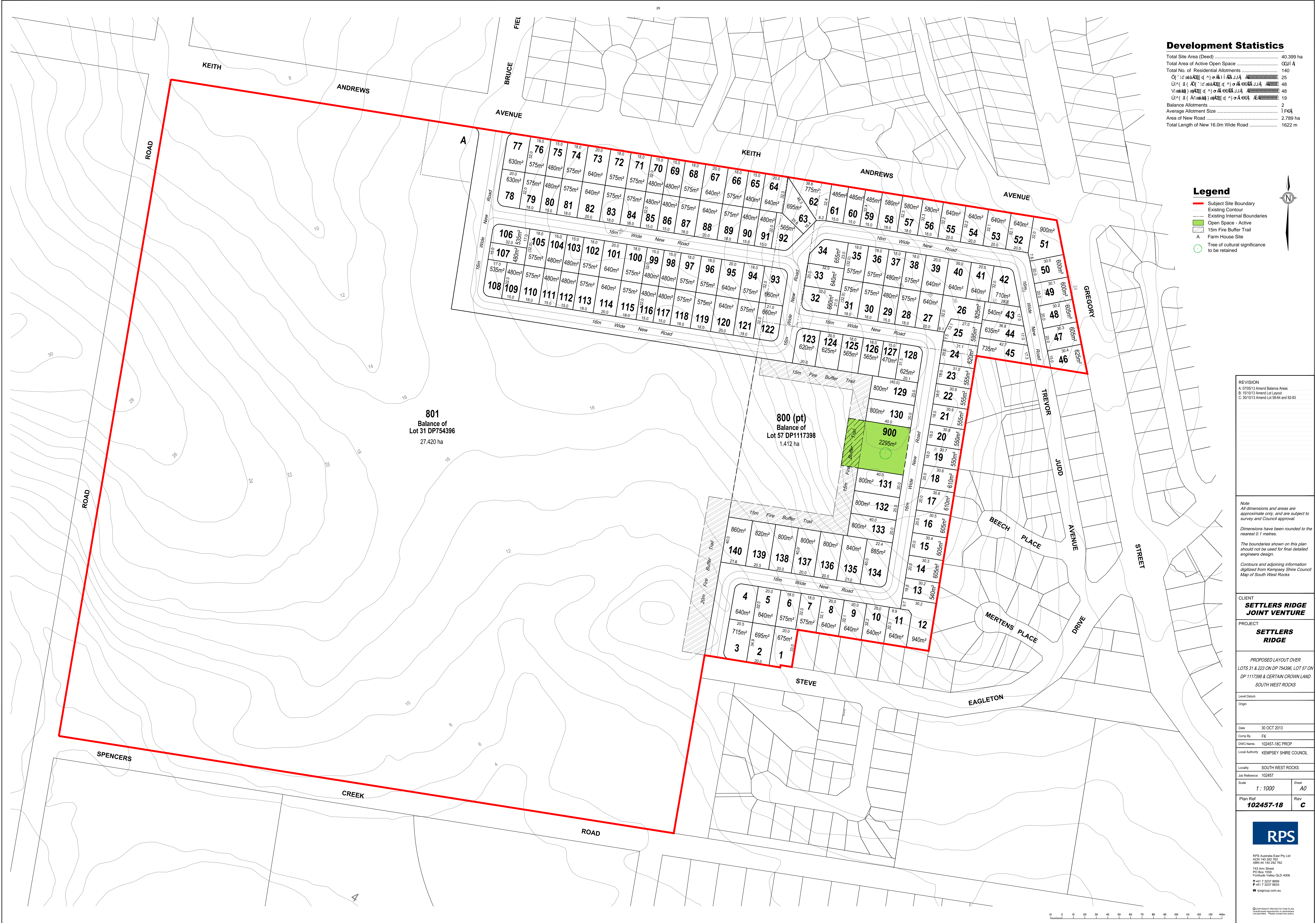
Minimum Building Envelope 12 x 15m



**Phase 1 Diagram**

<div>REVISION</div> <div>A: 12/08/14 Phase 1 area and layout updated</div> <div>B: 02/10/14 Amend Lot Numbers</div>	<div>PROJECT</div> <div>SETTLERS RIDGE</div>		<div>CLIENT</div> <div>SETTLERS RIDGE JOINT VENTURE</div>	<div><div><div>RPS</div></div><div><div>RPS Australia East Pty Ltd</div><div>ACN 140 292 762</div><div>ABN 44 140 292 762</div></div><div><div>Urban Design</div><div>Brisbane Design Studio</div><div>455 Brunswick Street</div><div>Fortitude Valley QLD 4006</div></div><div><div>T +61 7 3124 9300</div><div>F +61 7 3124 9399</div><div>W rpsgroup.com.au</div></div><div><div>©COPYRIGHT PROTECTS THIS PLAN</div><div>Unauthorised reproduction or amendment</div><div>not permitted. Please contact the author.</div></div></div>	
	<div>Job Ref.</div> <div>102457</div>	<div>Date</div> <div>02 October 2014</div>	<div>PROPOSED SUBDIVISION</div> <div>PHASE 1</div> <div>ALLOTMENT LAYOUT</div>		
	<div>Comp By.</div> <div>WNW</div>	<div>DWG Name.</div> <div>102457-22 Phase 1</div>			
	<div>Checked By.</div> <div>PHE</div>	<div>Locality</div> <div>SOUTH WEST ROCKS</div>			
	<div>Local Authority</div> <div>KEMPSEY SHIRE COUNCIL</div>				
<div>Scale</div> <div>AS SHOWN</div>		<div>Sheet</div> <div>A1</div>	<div>Plan Ref</div> <div>102457 - 22</div>	<div>Rev</div> <div>B</div>	





Development Statistics

Total Site Area (Deed)	40.399 ha
Total Area of Active Open Space	140
Total No. of Residential Allotments	140
Balance Allotments	25
Open Space - Active	48
Balance Allotments	48
Average Allotment Size	19
Area of New Road	2.789 ha
Total Length of New 16.0m Wide Road	1622 m

Legend

- Subject Site Boundary
- Existing Contour
- Existing Internal Boundaries
- Open Space - Active
- 15m Fire Buffer Trail
- Farm House Site
- Tree of cultural significance to be retained



REVISION  
A: 07/05/13 Amend Balance Areas  
B: 15/10/13 Amend Lot Layout  
C: 30/10/13 Amend Lot 58-64 and 92-93

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 Kempsey Shire Council Map of South West Rocks

CLIENT  
**SETTLERS RIDGE JOINT VENTURE**

PROJECT  
**SETTLERS RIDGE**

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

Level Datum  
Origin

Date  
30 OCT 2013  
Comp By  
FK  
DWG Name  
102457-18C PROP  
Local Authority  
KEMPSEY SHIRE COUNCIL

Locality  
SOUTH WEST ROCKS

Job Reference  
102457

Scale  
1 : 1000

Plan Ref  
102457-18

Sheet  
A0

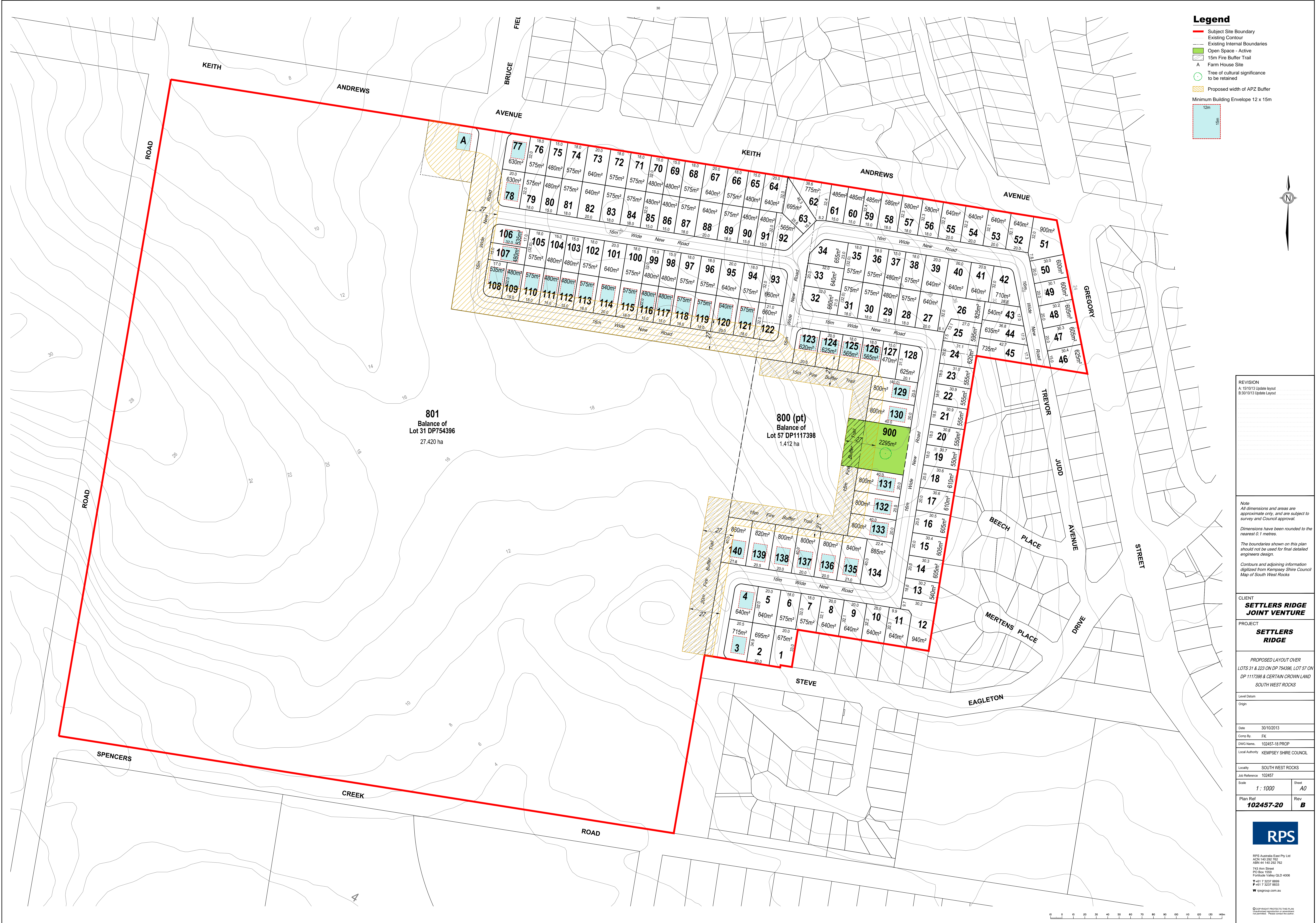
Rev  
C



RPS Australia East Pty Ltd  
ACN 140 292 702  
ABN 44 140 292 702  
743 Ann Street  
PO Box 1059  
Fortitude Valley QLD 4008  
T +61 7 3237 8899  
F +61 7 3237 8633  
W rpsgroup.com.au

©COPYRIGHT PROTECTS THIS PLAN  
Unauthorized reproduction is prohibited  
not permitted. Please contact the author





REVISION  
A: 15/10/13 Update layout  
B: 30/10/13 Update Layout

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 Kempsey Shire Council Map of South West Rocks

CLIENT  
**SETTLERS RIDGE JOINT VENTURE**

PROJECT  
**SETTLERS RIDGE**

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

Level Datum  
Origin

Date: 30/10/2013  
Comp By: FK  
DWG Name: 102457-18 PROP  
Local Authority: KEMPSEY SHIRE COUNCIL

Locality: SOUTH WEST ROCKS  
Job Reference: 102457

Scale: 1 : 1000  
Sheet: A0

Plan Ref: 102457-20  
Rev: B

**RPS**  
RPS Australia East Pty Ltd  
ACN 140 292 702  
ABN 44 140 292 702  
743 Ann Street  
PO Box 1059  
Fortitude Valley QLD 4006  
T +61 7 3237 8899  
F +61 7 3237 8633  
W rpsgroup.com.au

©COPYRIGHT PROTECTS THIS PLAN  
Unauthorised reproduction is prohibited  
not permitted. Please contact the author



---

**ANNEXURE C**

Development agreement

AGREEMENT dated the 30 day of September two thousand and fourteen.

## PARTIES

1. The parties to this agreement are

Machro Pty. Limited ACN 100 537 988,

Eric Norman Development Pty. Limited ACN 000 337 655,

Jaclesta Pty. Limited ACN 079 174 002,

Shannon Pacific Pty. Limited ACN 001 687 145,

Eastland Constructions Pty. Limited ACN 002 523 079.

## DEFINITIONS

2. In this agreement the following expressions have the following meanings:

“Biobank Credit” means Ecosystem credits and species credits as referred to in Clause 7 and advised by Planners North.

“the Agreed Shares” means Jaclesta Group forty two point three four percent (42.34%) Machro twenty seven percent (27%) and Eric Norman thirty point six six percent (30.66%).

“the Approval Plan” means the plan 11.1 which forms part of the assessment by the Department of the proposal for the parties lands being the plan described as Drawing No. 102457-18A Plan 11.1 Preferred Project 137 lots.

“the Biobank site” means the land the subject of the Approval Plan of 27.9 HA

“the Concept Plan Approval” means the Concept Plan Approval dated 25 July 2013 issued by The Minister for Planning and Infrastructure.

“the Council” means Kempsey Shire Council.

“the Crown Reserve” means the land shown as Lot 900 on the Approved Plan.

“the Department” means the Department of Planning & Infrastructure of the Government of New South Wales.

“Eastland Constructions” means Eastland Constructions Pty. Limited ACN 002 523 079.

“Eric Norman” means Eric Norman Development Pty. Limited ACN 000 337 655.

“the Eric Norman Bio Banking Credits” means the twelve (12) Bio banking credits applicable to the Eric Norman BioBanking Land or such other number of credits as may be held in the future with respect to the Eric Norman BioBanking Land.

“the Eric Norman Land” means Lot 57 Deposited Plan 1117398.

“the Eric Norman BioBanking Land” means the land shown as Lot 80 on the plan annexed hereto being part of the Eric Norman Land.

“GHD” means the environmental consultant firm GHD Australia.

“Hadlow” means Hadlow Design Services of South West Rocks .

“Jaclesta” means Jaclesta Pty. Limited ACN 079 174 002



"the Jaclesta Group" means Jaclesta, Shannon Pacific and Eastland Constructions.

"the Jaclesta Group Land" means Lot 31 Deposited Plan 754396 owned by Jaclesta owning a one half share Shannon Pacific owning a one quarter share and Eastland Constructions owing the remaining one quarter share.

"Machro" means Machro Pty. Limited ACN 100 537 988.

"the Machro Land" means Lot 223 Deposited Plan 75439.

"the Open Space Land" means lot 900 on the Approval Plan.

"Planners North" means Planners North of 6 Byron Street Lennox Head NSW.

"Shannon Pacific" means Shannon Pacific Pty. Limited ACN 001 687 145.

## **INTERPRETATION**

### **Terms**

- 3.1 (a) Words expressed in the singular include the plural and vice versa.
- (b) Words expressed in one gender include the other genders as is appropriate in the context.
- (c) The reference to "person" includes a corporation.

### **Headings**

- 3.2 Any headings or subheadings in the Deed are inserted for guidance only and do not govern the meaning or construction of the Deed or of any provision contained in the Deed.

*Acj*

### **Statutes**

3.3 References to statutes regulations ordinances and by-laws when contained in the Deed include amendments re-enactments or consolidations of any of them.

### **Severance**

3.4 If any provision contained in the Deed is or becomes legally ineffective under the general law or by force of legislation the ineffective provision shall be severed from the Deed which otherwise continues to be valid and operative.

### **RECITALS OF AGREED FACTS**

4.1 The parties have engaged and continue to engage Planners North and Hadlow to assist the parties to achieve the approval of the Department to permit the residential development of the Eric Norman Land the Jaclesta Group Land and the Machro Land.

4.2 The Concept Plan Approval dated 25 July 2013 has been issued by the Department approving the creation of one hundred and thirty seven (137) residential lots within the lands of the parties at South West Rocks NSW.

### **MATTERS AGREED BY THIS AGREEMENT**

#### **Compliance with Concept Plan Approval**

5.1 All parties must promptly do all things necessary to comply with the conditions of the Concept Plan Approval. The cost of all matters and works required to comply with the conditions of the Concept Plan Approval and all other and subsequent approvals must be paid by the parties in the Agreed Shares.

5.2 The costs and fees of Planners North must be shared by the parties in the Agreed Shares. The costs and fees of Hadlow must be shared by the parties in the Agreed Shares except for the costs

19

arising out of clause 15 hereof which costs and fees must be met as provided for in that clause hereof.

6. The Jaclesta Group and Eric Norman must cause a plan to be prepared to comply with Condition B1 (6) of the Concept Plan Approval and thereby provide for the Department the plan identified in such condition and must promptly nominate the lots each wish to include in the Phase 1 plan.

#### **As to On Site Credits**

7. The parties accept and agree that arising out of the issue of the Concept Plan Approval Planners North has advised that the BioBank site of 27.9ha generates 223 **Ecosystem credits** or 9.77 credits per ha. That is, the retirement of 223 credits at the BioBank site will only allow for the development of 2.99ha ( $223 \times 15.49/1157$ ) in Phase 1 of the project. The 223 Ecosystem credits are available from the BioBanking part of the land and are broken up approximately as follows:

Jaclesta Group Pty Ltd	211 Credits
Eric Norman Developments Pty Ltd	12 Credits
Machro Pty Ltd	0 Credits
<b>Total</b>	<b>223 Credits.</b>

The BioBank site of 27.9 ha generates 31 **Species credits** or 131credits per ha. That is, the retirement of 31 credits at the BioBank site will only allow for the development of 1.5 ha ( $31 \times 15.49/310$ ) in Phase 1 of the project. The 31 species credits are available from the BioBanking part of the land and are broken up approximately as follows:

Jaclesta Group Pty Ltd	29 Credits
Eric Norman Developments Pty Ltd	2 Credits
Machro Pty Ltd	0 Credits
<b>Total</b>	<b>31 Credits.</b>

29

8 As Machro provides no biobank lands from within the Machro Lands Machro acknowledges that it is not entitled to any share of the BioBank credits applicable to either or both of the Eric Norman Land or the Jaclesta Group land.

### **As to OnSite Credits**

9.1 Conditional upon the Jaclesta Group obtaining a development consent, subsequent to the issue of a Concept Approval in final form, for the subdivision development of the Jaclesta Group Land in principle in accordance with the Concept Approval then in consideration of the amount determined in accordance with clause 9.3 hereof Eric Norman agrees to transfer the Eric Norman BioBanking Credits to the Jaclesta Group.

9.2 The price payable to Eric Norman for each Eric Norman BioBank Credit shall be the sum advised by GHD as the reasonable market value of a BioBank Credit similar to that which is the subject of the transfer to which this provision relates at the time of such transfer.

9.3 The amount payable by the Jaclesta Group to Eric Norman pursuant to clause 9.1 hereof shall be the sum calculated in accordance with the following formulae

$$AP = N \times P$$

where

AP means the amount payable to Eric Norman, and

N means the number of the Eric Norman BioBanking Credits which are the subject of the transfer, and

P means the price for each BioBanking Credit which is the subject of the transfer determined pursuant to clause 9.2 hereof.

9.4 If it becomes necessary to satisfy any condition imposed by the Department for the Eric Norman BioBanking land to be



transferred to and consolidated with the Jaclesta Group Land such transfer must be effected and the legal costs and all associated subdivision and other fees must be paid by the parties in the Agreed Shares.

9.5 The parties anticipate that the issue of a Concept Approval in final form will require the registered proprietor for the time being to enter into a BioBanking Conservation Covenant restricting the future use of the Eric Norman BioBanking Land. If Jaclesta Group is the registered proprietor of the Eric Norman BioBanking Land on the issue of such Concept Approval it must enter into such covenant and Eric Norman shall not be entitled to any payment or compensation of any kind from the Jaclesta Group on this account.

#### **As to Acquisition of Off Site Credits**

10.1 Machro acknowledges that it must purchase at its cost any and all BioBank Credits that it requires to develop its land on such terms and as and when it may choose.

10.2 Jaclesta Group acknowledge that it must purchase at its cost any additional BioBank Credits required for its lands on such terms and as and when it may choose.

10.3 Eric Norman acknowledge that it must purchase at its cost any additional BioBank Credits required for its lands on such terms and as and when it may choose.

11. No adjustments or allowances will be made between the three land owners on account parties entitlement to credits or the individual parties costs of purchase of such credits.

#### **The Open Space land**

12. Eric Norman must dedicate and embellish as required the Open Space Land now shown on the Approval Plan or as may be varied before final approval from Minister and/or Development Consent approval from the Council.

44

13. The Jaclesta Group are and shall not be not be required to contribute to any compensation to Eric Norman or otherwise on account of such dedication of the Open Space Land by Eric Norman or the loss of such land by Eric Norman.

14. Machro is and shall not be not be required to contribute to any compensation to Eric Norman or otherwise on account of such dedication of the Open Space Land by Eric Norman or the loss of such land by Eric Norman.

15. The cost of the dedication and embellishment of the Open Space Land shall be calculated by Hadlow taking into account all information available to it at the time and such cost must be paid to Eric Norman by Machro at the time of an application to the Council for the issue of a construction certificate pursuant to a development consent for the subdivision of the Eric Norman Land PROVIDED HOWEVER that such payment shall only be required to be made by Machro if the Council does not require dedication as open space of any part of the Machro Land or the payment of a contribution for open space under Section 94 of the Environmental Planning and Assessment Act 1979 as a condition of approval of any development consent issued by the Council for the subdivision of the Machro Land which cannot be satisfied by Macho's contribution to the dedication and embellishment of the Open Space Land.

16. Jaclesta Group are and shall not be not be required to contribute to any compensation to Eric Norman or otherwise on account of such embellishment of the Open Space Land by Eric Norman or the cost of such embellishment borne by Eric Norman or Machro or either or both of them.

### **The Scar Tree**

17. Eric Norman must ensure that The Scar Tree on the Eric Norman Land is preserved and maintained. Eric Norman and Machro must install around The Scar Tree such fencing as is required by the Council as part of the embellishment of the Open Space Land within which The Scar Tree is located PROVIDED

24

HOWEVER that Machro shall not be required to contribute to the cost of such fencing if the proviso to clause 14 hereof applies.

### **The Crown Reserve**

18.1 Machro holds an Enclosure Permit 39330 in relation to the Crown Road.

18.2 Machro has lodged an application for the purchase of the unmade Crown Road with Trade & Investment Crown Lands NSW ("Crown Lands") and both the Jaclesta Group and Eric Norman as nearby landowners had agreed to provide letters of consent and support as the case may be to Crown Lands for the application by Machro.

18.3 Jaclesta Group have advised that they intend to lodge an application for the purchase of the Crown Road. In the event that they do then Machro agrees to provide a letter of consent to that application. The Machro application will be withdrawn conditional upon Crown Lands advising that they are prepared to close the Crown road and transfer same to the Jaclesta Group and Jaclesta Group agreeing to take the transfer from Crown Lands on the terms required by Crown Lands.

### **The Water Pressure Booster Pump**

The parties agree that a water pressure booster pump may be required to facilitate the residential development of the parties lands. The parties agree to work together towards the design on such a pump which has the approval of the Council. The parties acknowledge that the Council will assess the contribution of each party towards the installation of the water pressure booster pump at the time of issue of a development consent for each individual development or stage of a development issued pursuant to the Concept Approval.

129

**Decisions in Management of the Project**

20. Subject to the terms of this agreement all decisions relating to the project must be unanimous decisions of the parties

**Completion of this Agreement**

21. This agreement will be completed when all parties to it so agree in writing PROVIDED HOWEVER that the provisions hereof shall not merge on completion of this agreement

EXECUTED AS AN AGREEMENT

**Executed by Machro Pty. Limited** ACN 100 537 988 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2

**Executed by Eric Norman Development Pty. Limited** ACN 000 337 655 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2


**Executed by Jaclesta Pty. Limited** ACN 079 174 002 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2

**Executed by Shannon Pacific Pty. Limited** ACN 001 687 145  
in accordance with Section 127 of the Corporations Act 2001.

  
-----  
Signature of authorised person

Name of authorised person      Stephen Gerard McEvoy

Office of authorised person      Sole director and secretary

**Executed by Eastland Constructions Pty. Limited** ACN 002  
523 079 in accordance with Section 127 of the Corporations Act  
2001.

-----  
Signature of authorised person

Name of authorised person      Christopher John McEvoy

Office of authorised person      Sole director and secretary

**Executed by Shannon Pacific Pty. Limited ACN 001 687 145**  
in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person

Name of authorised person      Stephen Gerard McEvoy

Office of authorised person      Sole director and secretary

**Executed by Eastland Constructions Pty. Limited ACN 002**  
523 079 in accordance with Section 127 of the Corporations Act  
2001.

  
-----  
Signature of authorised person

Name of authorised person      Christopher John McEvoy

Office of authorised person      Sole director and secretary

# EXECUTED AS AN AGREEMENT

**Executed by Machro Pty. Limited** ACN 100 537 988 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2

**Executed by Eric Norman Development Pty. Limited** ACN 000 337 655 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2

**Executed by Jaclesta Pty. Limited** ACN 079 174 002 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2



EXECUTED AS AN AGREEMENT<sup>46</sup>

**Executed by Machro Pty. Limited** ACN 100 537 988 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
CHRISTOPHER COONEY      MARK JACQUES JORDAN.

-----  
Name of authorised person 1      Name of authorised person 2

-----  
DIRECTOR      DIRECTOR

-----  
Office of authorised person 1      Office of authorised person 2

**Executed by Eric Norman Development Pty. Limited** ACN 000 337 655 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2

**Executed by Jaclesta Pty. Limited** ACN 079 174 002 in accordance with Section 127 of the Corporations Act 2001.

-----  
Signature of authorised person 1      Signature of authorised person 2

-----  
Name of authorised person 1      Name of authorised person 2

-----  
Office of authorised person 1      Office of authorised person 2

Executed by Eric Norman Development  
Pty Limited ACN 000 337 665 by its  
Attorney Paul Anthony Gleeson pursuant  
to General Power of Attorney dated 17  
August 2011 of which the Attorney has  
no notice of revocation before me



.....  
*Witness Signature*

*Eliza Rees*  
.....

*Name of Witness*



.....  
*Attorney Signature*

Paul Anthony Gleeson  
*Name of Attorney*